



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 49 of the 130th G.A.](#)

Date: March 12, 2013

Status: As Introduced

Sponsor: Reps. Dovilla and Retherford

Local Impact Statement Procedure Required: Yes

Contents: To revise the laws governing the provision of adult protective services

State Fiscal Highlights

- The bill requires the Ohio Department of Job and Family Services (ODJFS) to establish a registry of reports of abuse, neglect, or exploitation of adults. According to ODJFS, the cost of developing and implementing the registry could be in the millions of dollars.
- The bill allows a person alleged to have abused, neglected, or exploited an adult to appeal the findings of an investigation of a report of abuse, neglect, or exploitation to the county department of job and family services (CDJFS) or its designated agency. As a result, there could be an increase in workload and costs for ODJFS depending on the number of appeals filed since ODJFS would outline the appeals process and provide hearing staff.

Local Fiscal Highlights

- The bill modifies several definitions used in the Adult Protective Services Law. According to the Ohio Job and Family Services Directors' Association (OJFSDA) and ODJFS, this could significantly increase the number of adult protective services abuse reports filed, and thus significantly increase the workload and costs of CDJFSs.
- The bill allows a person alleged to have abused, neglected, or exploited an adult to appeal the findings of an investigation of a report of abuse, neglect, or exploitation to the CDJFS or its designated agency. As a result, there could be an increase in workload and costs for CDJFSs, depending on the number of appeals filed.
- The bill requires a CDJFS to transcribe all oral reports of suspected abuse, neglect, or exploitation of adults and to transmit copies of all reports to the ODJFS registry. This change could significantly increase the number of written reports CDJFSs will have to complete, and thus could significantly increase CDJFS workloads and costs.

Detailed Fiscal Analysis

Ohio Department of Job and Family Services

The bill requires the Ohio Department of Job and Family Services (ODJFS), not later than two years after the bill's effective date, to establish a registry of reports of abuse, neglect, or exploitation of adults and to release information in the registry to a county department of job and family services (CDJFS) that is investigating the need for protective services for an adult, and authorizes ODJFS to release information in the registry to law enforcement agencies through the Ohio Law Enforcement Gateway. The bill also requires ODJFS to develop a plan to implement the registry, to provide an opportunity for public comment on the plan, and to present the plan to the Elder Abuse Commission (created by the bill) within six months after the bill's effective date. According to ODJFS, the cost of developing and implementing the registry could be in the millions of dollars.

The bill makes ODJFS responsible for implementing the statutory provisions on adult protective services and specifies the educational, data maintenance, and other duties of ODJFS in implementing the law. The bill requires ODJFS to adopt rules and create policies such as a list of core adult protective services each county must offer. ODJFS will incur costs to adopt these rules and implement the provisions.

In addition, the bill allows a person alleged to have abused, neglected, or exploited an adult to appeal the findings of an investigation of a report of abuse, neglect, or exploitation to the CDJFS or its designated agency. As a result, there could be an increase in workload and costs for CDJFSs and ODJFS, depending on the number of appeals filed. According to ODJFS, their Department would outline the appeals process and would provide hearing staff.

Definitions

The bill retains the existing definition of abuse (the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish) but modifies the definitions of neglect and exploitation. Under existing law, "neglect" means the failure of an adult to provide for himself or herself the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. The bill adds abandonment as another form of neglect but otherwise retains the definition of "neglect." A "caretaker" is the person assuming responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by court order. The bill inserts "primary" before "responsibility" in the definition of caretaker. The bill defines "abandonment" to mean desertion of an adult by a caretaker without having made provision for transfer of the adult's care.

Current law defines "exploitation" to mean the unlawful or improper act of a *caretaker* using an adult or an adult's resources for monetary or personal benefit, profit, or gain. Under the bill, "exploitation" means the unlawful or improper act of a *person that has an ongoing relationship with an adult* using, *in one or more transactions*, an adult or an adult's resources for monetary or personal benefit, profit, or gain. The bill requires the Attorney General to adopt rules that establish the definition of "ongoing relationship."

According to the Ohio Job and Family Services Directors' Association (OJFSDA) and ODJFS, the modifications of these definitions could significantly increase the number of adult protective services abuse reports filed, and thus significantly increase the workload and costs of CDJFSs.

County departments of job and family services

The bill requires a CDJFS to transcribe all oral reports of suspected abuse, neglect, or exploitation of adults and to transmit copies of all reports to the ODJFS registry. This change could significantly increase the number of written reports CDJFSs will have to complete, and thus could significantly increase CDJFS workloads and costs.

The bill authorizes an adult in need of protective services or a representative of the adult to file a complaint with the CDJFS or its designated agency alleging that protective services were not provided to the adult or that the protective services were inadequate to address the adult's needs. The bill requires the CDJFS or agency to investigate and attempt to resolve the complaint and also requires the Director of ODJFS to adopt rules regarding the investigation and resolution of complaints. There will likely be additional costs to a CDJFS to investigate the complaint and to participate in the appeal process and, as stated above, additional costs to ODJFS to administer the appeal process.

The bill requires a CDJFS or its designated agency, in conjunction with the local area agency on aging, to prepare a memorandum of understanding (MOU) establishing the guidelines to be employed in the investigation of a report of adult abuse, neglect, or exploitation; sets forth the requirements for an MOU; and provides that a failure to follow the guidelines set forth in an MOU is not grounds for the dismissal of any charge or complaint arising from a report or the suppression of any evidence obtained as a result of a report and does not give any rights or grounds for appeal or post-conviction relief to any person. If a CDJFS does not have an MOU currently in place, there would be additional administrative costs to the CDJFS and the other local entities required to sign the MOU.

The bill makes mandatory adult protective services trainings that are currently optional. According to ODJFS, these trainings are held in regional training centers and would continue to be provided in regional training centers under the bill. There would likely be additional costs to CDJFSs to release staff for mandatory training and travel costs to attend the trainings.

Reporting of abuse, neglect, or exploitation of adults

The bill expands and modifies the list of persons required to report to a CDJFS that they have reasonable cause to believe that a person 60 or older who is handicapped by age-related infirmities or has certain physical or mental impairments is being or has been abused, neglected, or exploited. According to OJFSDA, increasing the list of persons required to report could result in an increase in the number of reports filed, and thus could result in an increase in CDJFS workloads and costs.

The bill requires each entity that employs or is responsible for licensing or regulating mandatory reporters of abuse, neglect, or exploitation of adults to ensure that those individuals have access to the relevant educational materials developed by ODJFS. If the licensing or regulating entity is a state or local agency, there may be a cost to provide these materials to these mandatory reporters.

Elder Abuse Commission

The bill creates the Elder Abuse Commission to formulate and recommend strategies on matters related to elder abuse and to issue a biennial report on a plan of action that may be used by local communities to aid in the development of efforts to combat elder abuse. The members of the Elder Abuse Commission are uncompensated, except for reimbursement of travel costs. In addition, there may be minimal costs to the Ohio Attorney General to assist with any administrative functions of the Commission.