

## Department of Planning and Budget 2020 Special Session I - Fiscal Impact Statement

**1. Bill Number:** HB 5042

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Head

**3. Committee:** Health, Welfare and Institutions

**4. Title:** Adult protective services; creates central registry

**5. Summary:** The proposed legislation creates a public-facing central registry of founded complaints of adult abuse, neglect, and exploitation that is maintained by the Department for Aging and Rehabilitative Services (DARS). The bill establishes (i) investigation requirements for local departments of social services (LDSS) related to complaints of adult abuse, neglect, and exploitation; (ii) record retention and disclosure requirements for the Department and local departments; (iii) notice requirements related to findings by LDSS and central registry entries; and (iv) an appeals process to contest the findings of a LDSS related to founded reports of adult abuse, neglect, or exploitation.

**6. Budget Amendment Necessary:** Yes

**7. Fiscal Impact Estimates:** Preliminary

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	-	-	-
2021	\$1,144,351	6.0	General
2022	\$1,286,349	6.0	General
2023	\$1,286,349	6.0	General
2024	\$1,286,349	6.0	General
2025	\$1,286,349	6.0	General
2026	\$1,286,349	6.0	General

\*Additionally, a local match of \$46,271 in FY 2021 and \$82,939 in subsequent years is required for the LDSS portion of this bill. This amount may increase if additional investigations associated with deaths and missing persons are required.

**8. Fiscal Implications:** The proposed bill is expected to have fiscal implications on both the Department for Aging and Rehabilitative Services (DARS) and the local adult protective services (APS) workers employed by local departments of social services (LDSS).

### Adult Central Registry Information System

The legislation requires DARS to maintain an adult abuse, neglect, and exploitation information system that includes a public-facing central registry of founded complaints. DARS utilizes an APS case management system called PeerPlace. The agency believes that PeerPlace already includes much of the data necessary to populate the required registry; however, moderate system enhancements would need to be made including the establishment of an interface with the new central registry. Additionally, DARS would need to create a public-facing registry on the agency's website. DARS estimates the one-time cost of the necessary Peer Place modifications and website creation to be approximately \$500,000. Ongoing additional systems operating cost are estimated at \$50,000 annually.

The cost of registry staff who would act as customer service/information technology representatives for the public, private organizations and governmental organizations to ensure that information is loaded to the website properly and coordinate systems and operational updates, would be approximately \$102,500 for salary, benefits, and associated nonpersonal services. First year salary estimates are reduced to fifty percent (to \$51,250) to reflect the proration of costs based upon the enactment date of this legislation if passed.

### Appeals Process

The bill calls for an appeals process that allows individuals to contest the findings of the LDSS related to founded reports of adult abuse, neglect, or exploitation. Any individual with a founded complaint resulting from an APS investigation will have a right to review and request that the LDSS amend its determination and records. Those individuals who do not receive a favorable decision from the LDSS can appeal to DARS. These requirements will have an impact on both local department of social services (LDSS) staff as well as DARS.

Currently, the subject of an APS investigation can only request a local review if there was a founded complaint and if the LDSS sent information about that person to a licensing, regulatory, or legal authority. However, the legislation permits a wider scope for alleged perpetrators to request a local conference to dispute their identification and request that related records be amended. Further, the public-facing nature of the proposed APS registry, as required by this bill, is likely to increase the motivation for those with founded cases to request a local conference since their name would be easily available on the agency website.

There are approximately 12,000 substantiated reports of abuse and neglect each year. Of these substantiated reports, DARS estimates that ten percent or 1,200 (10% x 12,000) would result in a request to review the case from individuals who would have not been eligible for a case review without this legislation. The estimate also reflects the potential for more local conferences based on the public registry. DARS estimates that each APS review requires an average of seven hours to respond. Therefore, 8,400 (1,200 reviews x 7 hours) additional local staff hours will be required. Given an average of 1,500 productive hours per local staff annually, the equivalent of approximately six (8,400 hours / 1,500 hours) additional local departmental staff are required at an annual cost \$535,092 (6 x \$89,182). In addition, onboarding expenses of \$30,978 (\$5,163 per full-time equivalent employee) are necessary in the first year. First year salary estimates are reduced by fifty percent to reflect the proration

of costs in FY 2021. Based on these assumptions, local conference costs are expected to increase by \$298,524 in FY 2021 and \$535,092 in subsequent years. Localities would fund 15.5 percent of these costs (\$46,271 in FY 2021 and \$82,939 in FY 2022) and the rest (\$252,253 in FY 2021 and \$452,153 in FY 2022) would be funded by the Department of Social Services, which allocates administration funding to LDSS. The localities also may incur an indeterminate amount of legal costs during this review process.

In addition to local costs, DARS would require additional staff to handle the appeals of local conferences as required by the bill. DARS does not currently employ or contract with hearing officers who could handle the significant volume of appeal requests. If one-third of local reviews are appealed to DARS, agency hearing officers would need to handle approximately 364 appeals annually. As such, the agency would initially require, at a minimum, two hearing officers and a full-time support position.

The estimated cost of these positions, including salary, benefits and nonpersonal services is \$374,500. DARS also would incur costs associated with legal representation when the perpetrator appeals the DARS hearing officer's decision to circuit court as provided for in the bill. The cost of these appeals is estimated at \$30,000 annually; however, there is no clear way to estimate the number of court cases and the cost of legal representation. It is assumed the agency would require half these amounts in FY 2021. As such the cost for DARS to handle appeals is estimated at \$202,250 in FY 2021 and \$404,500 in FY 2022.

The outcome of the DARS appeal would be a final case decision under the Administrative Process Act and could be appealed to circuit court. The Office of Attorney General (OAG) would be responsible for handling these appeals. Assuming DARS upheld most of the local decisions, OAG estimates that two attorneys at an annual cost of \$277,196 (\$138,598 per attorney) would be necessary. The first year cost \$138,598 is prorated for the first year.

#### Local Adult Protective Services (APS) Staff

There may be an indeterminate impact on local staffing if the provisions of this bill are interpreted to require additional staff work for those cases involving reports of deaths and/or missing victims, which potentially exposes everyone in the case record to an appeal process. Typically, APS workers do not investigate deaths and an investigation ceases if the adult cannot be located. Any provision of this bill that increases investigatory time in these cases, increases staff expenses.

The Department of Social Services currently is examining the bill to determine the impact on local investigation. This statement will be revised once additional information is provided by the agency. However, for illustrative purposes, it can be assumed that for every increase of 1,000 new investigations, the equivalent of 23 APS case workers and four supervisors would need to be employed across LDSS. Additionally, for every increase of 1,000 new investigations, the approximate cost increase is estimated at \$2,500,000 annually. These costs would need to be appropriated in the Department of Social Services and would be split 84.5 percent general fund and 15.5 percent local match.

### **9. Specific Agency or Political Subdivisions Affected:**

Department of Social Services  
Local departments of social services  
Department for Aging and Rehabilitative Services  
Office of the Attorney General

**10. Technical Amendment Necessary:** No

**11. Other Comments:** This fiscal impact statement has been revised to include input from the Office of Attorney General.