



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 24 of the 131st G.A.  
(LSC 131 0225-2)

**Date:** May 5, 2016

**Status:** In Senate Health & Human Services

**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), upon request, to release information in the uniform statewide automated adult protective services information system to county departments of job and family services (CDJFSs) and to local law enforcement agencies conducting criminal investigations. There could be a cost to ODJFS to make this information available. The cost will depend on the number of information requests received.
- The bill permits ODJFS to reimburse local law enforcement agencies and county prosecutors for all or part of the costs incurred in implementing adult protective services laws.

### 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 and ODJFS, this could significantly increase the number of adult protective services abuse reports filed, and thus significantly increase the workload and costs of county departments of job and family services (CDJFSs).
- The bill requires a CDJFS under certain circumstances to notify a local law enforcement agency regarding a subject of an adult protective services report or investigation, who has been criminally exploited. There could be a minimal cost to CDJFSs to notify a local law enforcement agency. Additionally, there could be a cost to local law enforcement agencies to investigate any criminal exploitation cases.
- The bill permits ODJFS to reimburse local law enforcement agencies and county prosecutors for all or part of the costs of implementing the adult protective services law.
- The bill permits a county prosecutor to file a petition in court for a temporary restraining order to prevent the interference or obstruction of an adult protective

services investigation. There could be a minimal cost to county prosecutors to file a petition if a restraining order is required.

- The bill permits a county prosecutor to petition the court for an order authorizing the provision of adult protective services on an emergency basis. There could be a minimal cost to a county prosecutor to file any emergency adult protective services orders.
  - The bill modifies the requirement that an adult be given notice of a petition for the provision of court-ordered protective services by permitting the notice to be given either orally or in writing instead of both orally and in writing. This might result in a minimal decrease in administrative costs to local court systems.
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## Detailed Fiscal Analysis

### Ohio Department of Job and Family Services

The bill requires the Ohio Department of Job and Family Services (ODJFS), upon request, to release information in the uniform statewide automated adult protective services information system to county departments of job and family services (CDJFSs) and to local law enforcement agencies conducting criminal investigations. Under the bill, ODJFS may release information in the information system to law enforcement agencies through the Ohio Law Enforcement Gateway. There could be a cost to ODJFS to make this information available. The cost will depend on the number of information requests received.

### 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*

using, *in one or more transactions*, an adult or an adult's resources for monetary or personal benefit, profit, or gain in specified circumstances.

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 and local agencies**

The bill requires, if a CDJFS knows or has reasonable cause to believe that the subject of an adult protective services report or of an adult protective services investigation is being or has been criminally exploited, the CDJFS to notify a local law enforcement agency with jurisdiction over the area where the subject resides. There could be a minimal cost to CDJFSs to notify a local law enforcement agency if an investigation reveals potential criminal exploitation. The cost would depend on the number of cases requiring referral. There could be a cost to local law enforcement agencies to investigate any criminal exploitation cases received if these cases are not already investigated by local law enforcement. The cost would depend on the number of additional cases brought forward.

The bill repeals a provision of law that required each CDJFS to prepare a memorandum of understanding signed by specified mandatory and optional local officials and interested parties that establishes the procedures to be followed by local officials regarding cases of elder abuse, neglect, and exploitation. There could be a decrease in administrative costs as a result.

The bill permits ODJFS to reimburse local law enforcement agencies and county prosecutors for all or part of the costs incurred in implementing adult protective services laws. The bill additionally requires local law enforcement agencies and county prosecutors to collect and to submit to ODJFS or ensure that a designated agency collects and submits to ODJFS data concerning the implementation of adult protective services law.

The bill permits a county prosecutor, in addition to a CDJFS or its designee, to petition the court for an order authorizing the provision of adult protective services on an emergency basis. The bill also permits a county prosecutor to petition to a court for a renewal of an emergency adult protective services order. There could be a minimal cost to a county prosecutor to file any emergency adult protective services orders.

If, during the course of an investigation by a local law enforcement agency of criminal exploitation, any person, including the adult who is the alleged victim, denies or obstructs access to the residence of the adult, the bill permits a county prosecutor to file a petition in court for a temporary restraining order to prevent the interference or obstruction. There could be a minimal cost to county prosecutors to file a petition if a restraining order is required.

Additionally, the bill extends to the county prosecutor the authority to petition a court for a temporary restraining order against a person who refuses to allow the provision of protective services for an adult who has consented to the provision.

Lastly, the bill modifies the requirement that an adult be given notice of a petition for the provision of court-ordered protective services by permitting the notice to be given either orally or in writing, as opposed to requiring the notice be give both orally and in writing. This might result in a minimal decrease in administrative costs to local court systems.

### **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 bill also requires that the Commission's biennial report include information on current funding of adult protective services and the costs to ODJFS and CDJFSs to implement the Commission's recommendations. 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.

### **Delayed effective date**

The bill delays the effective date of the bill by one year. As a result, the fiscal effects of the bill will be delayed by one year.