

March 6, 2006

2005-2006 Legislative Session

*Legislative News* is a bi-weekly publication prepared and distributed by the SCDMH Office of Public and Legislative Affairs to keep you informed of bills that introduced in the General Assembly that may affect DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR by visiting [www.scstatehouse.net](http://www.scstatehouse.net).

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills/budgets or other legislative issues, contact Alyce McEachern in the Office of Public and Legislative Affairs by email at [acm83@scdmh.org](mailto:acm83@scdmh.org), or by phone at (803) 898-8585.

## Budget Update

The House Ways & Means Committee met again last week to further deliberate on the state budget. They are expected to pass the bill Tuesday, March 7. The subcommittee's recommendations were adopted with two changes: both the \$1.5 million recommended for 100 TLC beds and the \$90,000 for the nurturing center were moved from a recurring source of funding to a non-recurring source of funding.

The next stage in the budget process is for the full House of Representatives to debate the bill. The House debate is anticipated to take place during the last week of March.

Also, please note that the health subcommittee of the Senate Finance Committee has scheduled DMH's budget hearing to take place on Thursday, **March 9** at 9:30 am in Room 307 of the Gressette Building. For more information about the appropriations process or legislative schedule, please contact Sharon Mancuso by e-mail at [spm12@scdmh.org](mailto:spm12@scdmh.org) or by phone at (803) 898-8513.

## Senate Bills

### **S 14 Punishment for Sexual Contact with Patients**

A bill to punish psychotherapists, alcohol and drug abuse counselors, and other confidants who have sexual contact with a patient.

[View full text](#)

Referred to Committee on Judiciary

### **S 15 Victim Notification to DMH and DDSN**

A bill to require the victim to provide his name and other pertinent information to the Department of Mental Health and the Department of Disabilities and Special Needs for notification purposes. **Impact on DMH: DMH anticipates a cost to the General Fund of the state with the passage of the proposed legislation. It is expected that the extra duties involved in notifying victims would create a full workload for at least two administrative coordinators at a minimum salary of \$26,378 per coordinator. Fringe benefits for each coordinator are estimated at \$9,153. Total**

cost for two additional coordinators is estimated at \$71,062. It is unlikely that there would be any significant increase in other operating expenses based on the work generated.

[View full text](#)

Read third time and sent to House Judiciary

### **S 59 Termination of TERI Plan to New Participants**

#### **Similar (H 3036)**

A bill to close the Teacher and Employee Retention Incentive (TERI) program to new participants effective July 1, 2005.

[View full text](#)

Referred to Committee on Finance

### **S 80 Restructuring Bill of 2005**

A bill to establish the Department of Behavioral Health Services and to establish within this department the divisions of Alcohol and Other Drug Abuse Services, Continuum of Care, and Mental Health by transferring to the Department of Behavioral Health Services the operations of the Department of Alcohol and Other Drug Abuse Services, the operations of the Continuum of Care for Emotionally Disturbed Children from the Governor's office, and the operations of the Department of Mental Health.

[View full text](#)

Senate read third time and sent to House Committee on Ways and Means.

### **S 93 Stalking and Harassment**

A bill to clarify penalties for stalking and harassment; to require that a mental evaluation must be made before bail is set on a stalking or harassment.

[View full text](#)

Referred to Committee on Judiciary

### **S 99 Establishing the South Carolina Sunset Commission and Sunset Review Division of the Legislative Audit Council**

#### **Similar (H 3022, H 3150)**

A bill to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

[View full text](#)

Referred to Committee on Judiciary

### **S 174 Purchase of Retirement Service Credit for Eligible Employees**

A bill to require agencies to purchase retirement service credit of up to three years for employees that would have been eligible, under normal circumstances, to retire within three years after being terminated as a result of an agency reduction in force caused by a mandated reduction in the agency budget and to provide that employees terminated as a result of a mandated reduction in the agency budget are eligible for state health and dental insurance and require that the employee and employer share of state health and dental insurance be provided to terminated employees for up to one year, to require that terminated employees returning to service within a two-year period have their benefits calculated as if there had been no break in service, and to permit these employees to purchase back retirement and leave benefits.

[View full text](#)

Referred to Committee on Finance

### **S 247 Mental Retardation, Related Disabilities, Epilepsy, Head Injuries, and Spinal Cord Injuries Act**

#### **Similar (H 3154)**

A bill to make technical corrections, and to rename chapter 20, title 44 "South Carolina Mental Retardation, Related Disabilities, Epilepsy, Head Injuries, and Spinal Cord Injuries Act". 'Related disability' is a severe, chronic condition found to be closely related to mental retardation or to require treatment similar to that required for persons with mental retardation and must meet the following conditions:

(a) It is attributable to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation and requires treatment or services similar to those required for these persons.

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Referred to Committee on Medical Affairs

### **S262 Pretrial Intervention Program: Some funding for DMH**

Create the Traffic Diversion Program, to provide that each solicitor has the authority to establish a program for persons who commit traffic-related offenses punishable by a fine or loss of points. With .65% going to the Department of Mental Health.

[View full text](#)

Senate Committee report: Majority favorable with amendments, minority unfavorable - Judiciary

### **S 305 Medicaid Modernization Act**

A bill to establish the Office of Behavioral Health Services within DHEC, which would include DMH and abolish the Mental Health Commission.

[View full text](#)

Read three times in both House and Senate. Now in Conference Committee

### **S 344 DSS, Education Department and Interagency System of Care for Emotionally Disturbed Children**

A bill to specify that the Department of Education and the Department of Juvenile Justice are among the agencies responsible for developing this system, to specify that the goal of the system is to support children who are at risk for placement in an out-of-home treatment setting, and to further clarify the responsibilities of the system; and to clarify the payment method for the Department of Education's share of costs for children in the system.

[View full text](#)

Referred to Committee on Judiciary

### **S 350 License plates' fees to go to SCDMH**

**Similar (S 329, H 3382)**

Relating to motor vehicle registration and licensing to provide that the Department of Motor Vehicles shall issue "Choose Life" special license plates and to provide for the distribution of fees collected for these special license plates to the South Carolina Department of Mental Health to use for counseling post abortion trauma in females who have had abortions.

[View full text](#)

Referred to Committee on Transportation

### **S 357 Retirement**

A bill relating to retirement and early retirement, calculation of retirement benefits, survivors' annuities, death benefits, and service purchase for purposes of the South Carolina Retirement System to increase from twenty-eight to thirty years the service credit required for a member of that system to retire at any age without a reduction in benefits and to make the appropriate conforming amendments.

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Referred to Committee on Finance

### **S 505 Delete the Division of Veterans' Affairs from Governor's Office**

**Similar (H 3668)**

A bill to delete the Division of Veterans' Affairs as a division of the Governor's Office and to provide that the division shall become a separate and autonomous department of state government. This bill provides that SCDMH will continue to operate veterans' homes.

[View full text](#)

Referred to Committee on Judiciary

### **S 601 Create SC Parole and Pardon Authority**

A bill to amend SECTION 20, Section 24-23-30(3) and (4) of the 1976 Code to read: "(3) a contract rehabilitation services program whereby private and public agencies, such as including, but not limited to, the Department of Vocational Rehabilitation, the Department of Mental Health, and the various county commissions on alcohol and drug abuse, provide diagnostic and rehabilitative services to offenders who are under the board's South Carolina Parole and Pardon Authority's jurisdiction.

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Senate Committee Report: Majority favorable, minority unfavorable - Corrections and Penology

**S 683 Seclusion and Restraint**

A bill relating to the use of restraints and seclusion on patients committed to the Department of Mental Health. Authorizes “licensed independent practitioners” to authorize use of restraint/seclusion in a mental health or alcohol/drug facility. This is in addition to the attending or on-call physician.

[View full text](#)

Referred to Committee on Medical Affairs

**S 684 Immunity from Civil and Criminal Actions**

A bill relating to persons immune from liability for lawfully releasing or discharging a patient from the Department of Mental Health. Expands immunity from civil or criminal action involving release/discharge of mental health patients to include licensed physician, healthcare provider, designated examiner, interested person or law enforcement officer.

[View full text](#)

Referred to Committee on Medical Affairs

**S 685 DMH Technical Changes**

DMH’s “technical changes”, mainly relating to word usage.

[View full text](#)

Referred to Committee on Medical Affairs

**S 686 Homeshare Enhanced Respite Exemption**

To permit a DMH Homeshare Enhanced Respite program serving no more than two persons for no more than 14 consecutive days to be exempt from a DHEC license requirement regarding Community Residential Care Facilities.

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Referred to Committee on Medical Affairs

**S 881 Examination for Licensee Adjudged Mentally Ill****Similar (H 3784)**

A bill relating to the practice of physicians, surgeons, and osteopaths, so as to provide for a licensee who has been adjudged mentally ill; provide for a professional competency, mental, or physical examination and the confidentiality of the examination.

[View full text](#)

Referred to Committee on Medical Affairs

**S 1002 Payment of Costs by Prisoners**

A bill relating to the payment of certain cost by prisoners, so as to authorize a booking fee to be collected from prisoners when incarcerated in a detention facility, as a result of a mental health hold.

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Referred to Committee on Corrections & Penology

**S 1110 Proceeds of Land Sales to SCDMH**

A bill to provide that South Carolina State Hospital property owned or held by the Department of Mental Health that is not in use may be sold or leased, to create a special trust fund for the deposit of proceeds from the sale or lease of such property, to provide that these funds must be used to replace adult long-term hospitalization services and forensic services, and to prohibit the department from using these funds to supplant its current level of appropriated funding.

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Referred to Committee on Finance

**S 1116 Establish Special Investigations Unit in SLED**

A bill to establish the Special Investigations Unit within SLED to investigate abuse, neglect, and exploitation of vulnerable adults and vulnerable adult fatalities instead of being investigated by the Long Term Care Ombudsman’s Office; and to provide that all deaths involving a vulnerable adult in a facility operated by or contracted with the SCDMH and DDSN, their contractors or a disabilities board established pursuant to Section 44-20-375 must be referred to the Special Investigations Unit in accordance with Article 5.

[View full text](#)

Referred to Committee on Judiciary. Favorable with amendment.

### **S 1137 "Nurse Faculty Scholars Act"**

C) The Nurse Manpower Utilization Advisory Committee to the South Carolina Center for Professional Nurse Retention and Recruitment is established and comprised of the director or a designee of:

- (1) the Department of Health and Environmental Control;
- (2) the Department of Health and Human Services;
- (3) the Department of Mental Health;

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Referred To Committee on Medical Affairs

### **S 1153 Criminal Sexual Conduct with Minors**

A bill to require the Department of Mental Health to establish a certification process for sex offender treatment providers and to provide that sex offender treatment ordered by the court or provided by the state must be provided by a certified treatment provider; and to provide that the Department of Mental Health convene a committee to study the Sexually Violent Predator Act to review and evaluate the operation and effectiveness of the Act and submit a report and recommendations to the General Assembly before January 1, 2008.

[View full text.](#)

Referred to Committee on Judiciary.

## **House Bills**

### **H 3009 South Carolina Restructuring Act of 2005**

A provision of this bill makes the Lieutenant Governor's Office, Division on Aging, not the SCDMH, responsible for oversight of the Veterans' Administration Nursing Homes.

[View full text](#)

Referred to Committee on Ways and Means

### **H 3013 Medical Malpractice and Patient Safety Reform Act**

To establish the medical claims review office within the Department of Insurance to review claims for damages allegedly resulting from medical malpractice and to establish the powers, duties, and procedures of this office.

[View full text](#)

Referred to Committee on Judiciary

### **H 3022 Establishing the South Carolina Sunset Commission**

**Similar (S 99, H 3150)**

A bill to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

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Referred to Committee on Ways and Means

### **H 3028 Establishing the Mobility Development Authority as a Division within the State Budget and Control Board.**

A bill to delete the Mass Transit Division. All public transportation duties, responsibilities, and funding of the State Department of Social Services, the State Department of Mental Health, the South Carolina Department of Disabilities and Special Needs, and the State Department of Health and Human Services are devolved upon the Mobility Development Authority.

[View full text](#)

Referred to Committee on Education and Public Works

### **H 3033 Criminal Sexual Conduct Penalties**

A bill relating to criminal sexual conduct and the penalties imposed.

[View full text](#)

Referred to Committee on Judiciary

### **H 3035 TERI Program and Unused Annual Leave Lump Sum Payment**

A bill to say that a TERI participant is not eligible to receive a lump-sum payment for unused annual leave earned while participating in the TERI program.

[View full text](#)

Referred to Committee on Ways and Means

### **H 3036 Terminating the TERI Program to New Participants**

**Similar (S 0059)**

A bill to close the TERI program to new participants effective July 1, 2005.

[View full text](#)

Referred to Committee on Ways and Means

### **H 3059 Training Program for Patient Assistants in Nursing Homes**

A bill to authorize a patient assistant to provide feeding and hydration services to patients in nursing homes under the onsite supervision of a licensed healthcare professional if the assistant has successfully completed a training program and competency evaluation conducted by the nursing home.

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

### **H 3089 Definition of Governmental Health Care Facility**

A bill relating to definitions of terms in the tort claims act, to include in the definition of "governmental health care facility" a nursing home that provides services through Medicaid, Medicare, or by contract with the Veterans' Administration and those services constitute at least twenty-five percent of the gross revenue.

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Referred to Committee on Medical, Military, Public and Municipal Affairs

### **H 3090, Civil Lawsuit Protection for Those Who Prescribe FDA Approved Drugs**

A bill to provide civil lawsuit protection for physicians, optometrists, nurse practitioners, and physician assistants who prescribe FDA approved drugs.

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Referred to Committee on Judiciary

### **H 3099 Inclusion of Magistrate's Court in Determination of Capacity to Stand Trial**

A bill relating to the determination of capacity to stand trial of persons charged with a crime or civil contempt, to provide that this provision applies to magistrates' court.

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Referred to Committee on Judiciary

### **H 3121 Review of Medicaid Reimbursement Rates**

A bill to require the Department of Health and Human Services to review Medicaid reimbursement rates annually and adjust these rates to equal at least ninety percent of Medicare reimbursement rates for like services.

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Referred to Committee on Ways and Means

### **H 3135 State of Emergency Absences by State Employees**

A bill to provide that an absence from work by a state employee solely due to a workplace closing or staffing reduction ordered by the Governor in the declaration of a state of emergency is not considered an absence for purposes of annual or other categories of leave allowed state employees.

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Referred to Committee on Ways and Means

### **H 3150 South Carolina Sunset Commission**

**Similar (S 99, H 3022)**

A bill to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

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Referred to Committee on Judiciary

### **H 3154 Mental Retardation, Related Disabilities, Epilepsy, Head Injuries, and Spinal Cord Injuries Act**

**Similar (S 247)**

A bill relating to persons with mental retardation, related disabilities, head injuries, and spinal cord injuries, so as to also apply this chapter to persons with epilepsy, to conform references throughout the chapter, to make technical corrections,



and to rename chapter 20, title 44 "South Carolina Mental Retardation, Related Disabilities, Epilepsy, Head Injuries, and Spinal Cord Injuries Act".

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

#### **H 3194 Increase Cigarette Tax**

A bill to impose an additional license tax on each cigarette subject to the license tax on cigarettes in an amount equal to 1.5 cents on each cigarette, to establish the health care and prevention fund to receive the revenue of this tax and provide for the use of this fund for public health purposes, designating certain agencies and programs as recipients.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 3214 Establishing the Joint Legislative Oversight Committee on Medicaid and Health Care**

A bill to establish the joint legislative oversight Committee on Medicaid and Health Care and to review the state Medicaid plan.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 3218 Establishing the State Office of Medicaid and Health Care Audits**

A bill to establish the state Office of Medicaid and Health Care audits for the Department of Health and Human Services.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 3219 Establishing the Department of Information Technology for Health and Human Services Agencies, including SCDMH**

A bill to establish the Department of Information Technology for Health and Human Services.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 3287 Enacting the Medicaid Accountability and Improvement Act**

A bill to specify Medicaid eligibility determination criteria.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 3566 72 Hour Supply of Medications**

##### **Similar (H 3630)**

A bill to require a hospital to give patients being discharged from the emergency room, the option of receiving a seventy-two hour supply of any medications being prescribed.

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

#### **H 3630 72 Hour Supply of Medications**

##### **Similar (H 3566)**

To require a hospital to give patients being discharged from the Emergency Room, the option of receiving at least a twenty-four hour supply of any medications being prescribed.

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

Recalled from committee and debate adjourned until March 21.

#### **H 3668 Delete Division of Veterans' Affairs from Governor's Office**

##### **Similar (S 505)**

A bill to delete the Division of Veterans' Affairs as a division of the Governor's Office and provide that the division shall become a separate and autonomous department of state government with a governing board to consist of nine persons and a department director appointed by the board.

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Referred to Committee on Medical, Military, Public and Municipal Affairs

#### **H 3729 Establish Health Care Provider Liens**

B) A lien arising under this chapter is subordinate to the subrogation interests of the state Medicaid agency pursuant to Section 43-7-440 and the lien created in favor of the Department of Mental Health pursuant to Section 44-23-1140.

[View full text](#)

Referred to Committee on Judiciary

#### **H 3784 Examination for Licensee Adjudged Mentally Ill**

##### **Similar (S 881)**

Relating to the practice of physicians, surgeons, and osteopaths, to provide for a licensee who has been adjudged mentally ill; provide for a professional competency, mental, or physical examination and the confidentiality of the examination.

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

#### **H 4034 Enact “South Carolina Medicaid Accountability and Health And Human Service Agencies Reorganization Act of 2005”.**

To Establish the Office of Behavioral Health Services in the Department of Health and Environmental Control and to transfer to this office the Department of Alcohol and Other Drug Abuse Services, the Continuum of Care for Emotionally Disturbed Children, and the Department of Mental Health and to abolish the South Carolina Mental Health Commission.

[View full text](#)

Referred to Committee on Ways and Means

#### **H 4191 Create Volunteer Long Term Care Advocate Program**

To create the Volunteer Long Term Care Advocate Program under the Long Term Care Ombudsman program within the department of Health and Human Services. Whereas, the Ombudsman Program is responsible for approximately 39,005 residents in 879 long-term care facilities and is required to investigate complaints in certain facilities operated by or through contract with the Department of Mental Health and the Department of Disabilities and Special Needs.

[View full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

#### **H 4194 Health Care Facilities**

Section 44-7-170(B) (2) of the 1976 code is amended to read:

“(2) facilities owned and operated by the South Carolina Department of Mental Health and the South Carolina Department of Disabilities and Special needs, except an addition of one or more beds to the total number of beds of the departments’ health care facilities existing on July 1, 1988;”

[View full text](#)

Residing in Committee on Medical, Military Public and Municipal Affairs

#### **H 4383**

A bill relating to the confidentiality, maintenance, and interagency sharing of juvenile records by law enforcement agencies and to juvenile fingerprint records; to share information or records with the DMH for criminal justice purposes without a court order.

[View full text](#)

Referred to Committee on Judiciary

#### **H 4489 Public School Enrollment Choice**

A bill to provide for the public school Enrollment Choice Program in the public school system of this state.

Section 59-62-20 uses the words ‘Good Cause’. ‘Good Cause’ means a change in a child’s residence due to a change in parent or guardian’s residence, a change in a child’s parent’s marital status, a change caused by a guardianship or custody proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, or participation by a child in a substance abuse or mental health treatment program, revocation of a charter school contract, or a set of circumstances consistent with this definition of ‘Good Cause’.

[View full text](#)

Referred to Committee on Education and Public Works



## **H 4682 Establish Special Investigations Unit in SLED**

### **Similar (S 1116)**

A bill to establish the Special Investigations Unit within SLED to investigate abuse, neglect, and exploitation of vulnerable adults and vulnerable adult fatalities instead of being investigated by the Long Term Care Ombudsman's Office; and to provide that all deaths involving a vulnerable adult in a facility operated by or contracted with the SCDMH and DDSN, their contractors or a disabilities board established pursuant to Section 44-20-375 must be referred to the Special Investigations Unit in accordance with Article 5.

[View full text](#)

Referred to Committee on Judiciary

## **H 4735 Determining the fitness of a person charged with a crime to stand trial, so as to increase from fifteen days to sixty days the time within which the mental health evaluation of the person must be completed and to authorize the court on good cause shown to grant an extension of up to thirty days;**

This bill relates to the fitness to stand trial report of a mental health evaluation examiner, to increase from five to ten days the time within which the examiner must submit his report; also relates to competency hearings and disposition of cases in such hearings, so as to decrease from sixty days to fourteen days the time within which the solicitor must initiate judicial commitment proceedings for a person found to be unfit to stand trial and in addition to hospitalizing the person, to authorize the court in such a proceeding to continue the person in detention or on bond.

[View full text](#)

Referred to Committee on Judiciary