**South Carolina General Assembly**

126th Session, 2025-2026

**H. 3974**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Calhoon, Bernstein, Erickson, Schuessler, Bauer, Guffey and McGinnis

Companion/Similar bill(s): 430, 4068

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Introduced in the House on February 12, 2025

Introduced in the Senate on May 7, 2025

Last Amended on May 6, 2025

Currently residing in the Senate Committee on **Education**

Summary: Private Providers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/12/2025 House Introduced and read first time ([House Journal‑page 17](h:\hj\20250212.docx))

2/12/2025 House Referred to Committee on **Education and Public Works** ([House Journal‑page 17](h:\hj\20250212.docx))

3/5/2025 House Member(s) request name added as sponsor: Schuessler

4/8/2025 House Member(s) request name added as sponsor: Bauer

4/9/2025 House Member(s) request name added as sponsor: Guffey,
McGinnis

5/1/2025 House Committee report: Favorable with amendment **Education and Public Works** ([House Journal‑page 125](h:\hj\20250501.docx))

5/5/2025 Scrivener's error corrected

5/6/2025 Scrivener's error corrected

5/6/2025 House Amended ([House Journal‑page 25](h:\hj\20250506.docx))

5/6/2025 House Read second time ([House Journal‑page 25](h:\hj\20250506.docx))

5/6/2025 House Roll call Yeas-99 Nays-9 ([House Journal‑page 31](h:\hj\20250506.docx))

5/7/2025 House Read third time and sent to Senate ([House Journal‑page 6](h:\hj\20250507.docx))

5/7/2025 Scrivener's error corrected

5/7/2025 Senate Introduced and read first time ([Senate Journal‑page 8](h:\sj\20250507.docx))

5/7/2025 Senate Referred to Committee on **Education** ([Senate Journal‑page 8](h:\sj\20250507.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3974&session=126&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/12/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250212.docx)

[05/01/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250501.docx)

[05/05/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250505.docx)

[05/06/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250506.docx)

[05/06/2025-A](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250506a.docx)

[05/07/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3974_20250507.docx)

Amended

May 6, 2025

H. 3974

Introduced by Reps. Calhoon, Bernstein, Erickson, Schuessler, Bauer, Guffey and McGinnis

S. Printed 5/6/25--H. [SEC 5/7/2025 12:35 PM]

Read the first time February 12, 2025

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statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill requires local school districts to consider on a case-by-case basis a request from a parent or legal guardian of a student for a private provider to provide medically necessary services authorized by an independent third-party payor to a student at a public school during school hours. The bill also requires the State Board of Education to develop and adopt a model policy setting parameters for private providers to observe and evaluate a student or provide medically necessary services during the school day, including during instructional time. At a minimum, the model policy must:

require districts to adopt a case‑by‑case review process for requests made by parents or guardians for a private provider to serve a child at a school during school hours;

set forth a process for evaluating a request for medically necessary, disability-based services and supports pursuant to the Americans with Disabilities Act (ADA);

require private providers to submit documentation of completed background checks to the district prior to entering a school building;

determine the appropriate amount of professional liability insurance coverage for private providers and require them to maintain professional liability insurance coverage;

allow for services to be provided during instructional time if the team, committee, or group convened to review the ADA request determines those services appropriate at that time, and services can be provided in a manner that does not interfere with the delivery of instruction to other students or otherwise prevent a classroom teacher from effectively managing and implementing classroom policies and procedures;

require the parent or legal guardian of a student receiving a service from a private provider to execute and submit to the district a written confirmation of the funding source for services provided by the private provider; a parent or guardian authorization for the provision of services at school during the school day; and a consent to release information form between the private provider and the school district;

require private providers to complete a written agreement with a school district that satisfies certain specified conditions; and

provide procedures for a school district to establish sanctions, including termination of the authorization to provide services on any school campus, against a private provider for failure to comply with the policies of the district.

The State Board of Education must finalize its model policy by January 6, 2026. Districts must adopt the model policy or develop their own policy that meets the minimum requirements of the model policy, subject to department approval, by July 1, 2026.

**S.C. Department of Education.** This bill will have no expenditure impact on SCDE. The department indicates that it can manage the provisions of the bill with existing appropriations.

**State Agency Schools.** The Governor’s School for Agriculture at John de la Howe, the Governor’s School for the Arts and Humanities, the Governor's School for Science and Mathematics, and the Wil Lou Gray Opportunity School indicate that this bill will have no expenditure impact since they can manage the provisions of the bill with existing appropriations. The School for the Deaf and the Blind previously indicated that the bill as introduced may impact expenditures due to the potential loss of instructional time, a decrease in reimbursable services previously provided by the district, and expenses associated with the district having to provide services that were previously covered by an outside entity. However, the School for the Deaf and the Blind reported that the cost was currently undetermined based on the bill as introduced.

**Department of Disabilities and Special Needs.** This bill will have no expenditure impact on DDSN. The agency indicates that it can manage the provisions of the bill with existing appropriations.

**Department of Health and Human Services.** DHHS operates South Carolina’s Medicaid program, which pays medical bills for eligible low-income families and individuals. If the same services currently provided in schools were extended to private providers, DHHS estimates the number of individuals served in a school setting will increase by 5 percent. Assuming these new individuals would receive the same average number of services as the current population and based on current utilization data, the agency estimates this would increase expenses by $1,300,000, of which $385,000 would be General Funds and $915,000 would be Federal Funds.

**Department of Mental Health.** This bill will have no expenditure impact on DMH because it does not impact the agency’s normal business operations.

**Department of Insurance.** DOI indicates that this bill is not expected to have a significant impact and any changes to workload will be managed within existing resources. Therefore, the bill will have no impact on DOI expenditures.

State Revenue

The State Board of Education will provide a model policy regarding the appropriate amount of professional liability insurance coverage for private providers. Liability insurance premiums are taxed at a 1.25 percent rate as insurance premiums revenue and 97.75 percent of this revenue is distributed to the General Fund. The remaining 2.25 percent is allocated to Other Funds of the SC Forestry Commission, Aid to Fire Districts and the VSAFE program, and Aid to Emergency Medical Services regional councils under the Department of Public Health. The amount of liability insurance coverage that will be written for private providers as a result of this bill is unknown. Therefore, the impact to General Fund and Other Funds revenue for potential additional insurance coverage is undetermined.

Local Expenditure

This bill requires local school districts to consider on a case-by-case basis a request from a parent or legal guardian of a student for a private provider to provide medically necessary services authorized by an independent third-party payor to a student at a public school during school hours. The bill also requires the State Board of Education to develop and adopt a model policy setting parameters for private providers to observe and evaluate a student or provide medically necessary services during the school day, including during instructional time. provision of

The State Board of Education must finalize its model policy by January 6, 2026. Districts must adopt the model policy or develop their own policy that meets the minimum requirements of the model policy, subject to department approval, by July 1, 2026.

The overall expenditure impact of this bill on local school districts will vary. SCDE surveyed the seventy-two regular school districts and three charter school districts and received responses from eleven districts. Three of the responding districts indicate that the bill will have no expenditure impact. Three districts anticipate the need to provide new facilities for providers and spend additional staff time conducting case evaluations, but report that the cost is currently undetermined. Three districts indicate that implementing the provisions of the bill will increase expenses by an amount ranging from $500 to $673,000 to conduct case evaluations, perform background checks, and accommodate private providers. One district reports it will cost approximately $2,500 per pupil to conduct comprehensive case evaluations and estimates that it may need to conduct up to 2,583 evaluations based on the current number of students with IEPs and Section 504 plans. Additionally, one district believes it would be best practices to provide separate facilities for private providers to ensure privacy and compliance with HIPAA and FERPA. This district also notes that it may need to offset the cost of Medicaid non-reimbursable services for private providers. Several districts also anticipate the need to hire additional staff due to an increase in demand for services.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 5 TO CHAPTER 10, TITLE 59 SO AS TO AUTHORIZE EVALUATORS TO EVALUATE PUBLIC SCHOOL STUDENTS FOR HEALTH, BEHAVIORAL HEALTH, OR THERAPEUTIC NEEDS, TO AUTHORIZE PRIVATE PROVIDERS TO PROVIDE RELATED SERVICES AT SCHOOLS DURING THE SCHOOL DAY, TO SPECIFY THESE EVALUATIONS AND SERVICES ONLY MAY OCCUR UPON REQUEST OF THE PARENT OR GUARDIAN OF THE STUDENT, TO PROVIDE SCHOOL DISTRICTS MAY NOT PROHIBIT SUCH EVALUATIONS OR SERVICES IN SCHOOLS DURING THE SCHOOL DAY, TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL ADOPT A RELATED MODEL POLICY, TO PROVIDE REQUIREMENTS FOR THE MODEL POLICY, TO PROVIDE SCHOOL DISTRICTS SHALL ADOPT RELATED POLICIES, AND TO DEFINE NECESSARY TERMS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 10, Title 59 of the S.C. Code is amended by adding:

Article 5

Private Providers

Section 59‑10‑510. For purposes of this article:

(a) renders Applied Behavior Analysis therapy or performs an evaluation or observation pursuant to such therapy, and includes:

(i) board certified behavior analysts;

(ii) board certified assistant behavior analysts;

(iii) board certified behavior analyst-doctoral; and

(iv) registered behavior technicians under the appropriate supervision of a board certified behavior analyst or board certified assistant behavior analyst;

(b) provides or seeks to provide services in a South Carolina public school;

(c) is licensed by this State and in good standing or, if state licensure is not available, is certified by and in good standing with a national certification or accreditation organization; and

(d) is not an employee of a public school district or the State Department of Education.

(2) “Medically necessary service” means services that meet the following requirements:

(a) ordered by a healthcare provider within the scope of the healthcare provider’s license for the treatment or remediation of functional impairments associated with a diagnosis of autism spectrum disorder;

(b) not for experimental or investigational purposes;

(c) within the generally accepted standards of medical care in the community;

(d) not solely for the convenience or personal preference of the insured, the insured’s family, or the provider; and

(e) is medically necessary during school hours in the school setting.

(3) “Third-party payor” includes, but is not limited to, Medicaid, self-funded health plans, and commercial insurance.

(4) “Undue burden” has the same meaning as Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 793, as amended, and Title II of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. section 12101, et seq., as amended.

(5) “Fundamental alteration” has the same meaning as Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 793, as amended, and Title II of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. section 12101, et seq., as amended.

Section 59‑10‑520. Districts must consider on a case-by-case basis a request from a parent or legal guardian of a student for a private provider to provide medically necessary services authorized by an independent third-party payor to a student at a public school during school hours, including the ability of a private provider to observe or evaluate the student and the environment where services will be provided.

(1) If a parent or legal guardian of a student requests medically necessary services in excess of what the district has determined is appropriate pursuant to its obligations under the IDEA and the child’s IEP and is providing to the student, the school must review the medically necessary service pursuant to an ADA analysis, which would allow a private provider to render the service as a reasonable accommodation as long as it does not impose an undue burden on or fundamental alteration to school operations as contemplated by the ADA and Section 504 of the Rehabilitation Act.

(2) The collaboration of school personnel and private providers is intended to enhance but not supplant or replace the obligations or responsibilities of districts under the IDEA.

(3) Districts may not apply or use a district’s determination about its obligations in a child’s IEP pursuant to the IDEA to deny or limit a student’s access to medically necessary services from a private provider pursuant to the ADA.

(4) Districts may utilize existing review processes or create new ones to review a request for medically necessary services pursuant to the ADA. Requests may be reviewed by a student’s IEP team or 504 committee or another group convened to review the request; however, the participants must apply the appropriate ADA standards to review a request for medically necessary services.

(5) If a parent or legal guardian requests a medically necessary service pursuant to the ADA for a student who does not currently have an IEP or 504 plan, the district must initiate the appropriate evaluation to determine if the child is entitled to services under the IDEA or Section 504 in addition to evaluating the ADA request.

Section 59‑10‑530. (A) The State Board of Education shall develop a model policy setting the parameters for private providers to observe and evaluate a student or to provide medically necessary services during the school day, including during instructional time, in compliance with this chapter.

(B) At a minimum, the model policy must:

(1) require districts adopt a case‑by‑case review process for requests made by parents or guardians for a private provider to serve a child at a school during school hours;

(2) set forth a process for evaluating a request for medically necessary, disability-based services and supports pursuant to the ADA, which is a separate determination not limited to or determined by what is necessary for a Free and Appropriate Public Education (FAPE) under the IDEA or Section 504;

(3) require private providers to submit documentation of completed background checks to the district prior to entering a school building;

(4) determine the appropriate amount of professional liability insurance coverage for private providers and require them to maintain professional liability insurance coverage;

(5) allow for services to be provided during instructional time if:

(a) the team, committee, or group convened to review the ADA request determines those services appropriate at that time; and

(b) services can be provided in a manner that does not interfere with the delivery of instruction to other students or otherwise prevent a classroom teacher from effectively managing and implementing classroom policies and procedures;

(6) require the parent or legal guardian of a student receiving a service from a private provider to execute and submit to the district:

(a) a written confirmation of the funding source for services provided by the private provider;

(b) a parent or guardian authorization for the provision of services at school during the school day; and

(c) a consent to release information form between the private provider and the school district;

(7) require private providers to complete a written agreement with a school district that, at minimum, outlines:

(a) the school, teacher, and district’s responsibilities;

(b) the duration and type of services to be provided;

(c) that the medically necessary services do not interfere with or impede other mandated services without collaboration and agreement between the service providers;

(d) expectations and requirements related to FERPA and any other applicable state and federal law;

(e) guidelines for any missed instructional time and assignments;

(f) expectations and guidelines for providers when interacting with students other than those receiving services with a goal of minimizing such interactions to the greatest extent possible;

(g) that a private provider must not be listed on a federal, state, or other child abuse or sex offender registries or otherwise be prohibited by state law from working in a school;

(h) expectations that the private provider must follow school policies and procedures; and

(i) allocation of liability between or among the parties; and

(8) provide procedures for a school district to establish sanctions, including termination of the authorization to provide services on any school campus, against a private provider for failure to comply with the policy of the district.

Section 59‑10‑540. The board shall finalize its model policy by January 6, 2026. Districts must adopt the model policy or develop their own policy that meets the minimum requirements of the model policy and is subject to department approval by July 1, 2026.

SECTION 2. This act takes effect upon approval by the Governor.

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