**South Carolina General Assembly**

125th Session, 2023-2024

**S. 615**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hutto, Setzler, Jackson, Allen, McLeod, Devine and Tedder

Companion/Similar bill(s): 3, 296, 3005, 3014, 3020

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Introduced in the Senate on March 9, 2023

Currently residing in the Senate

Summary: Hate Crimes

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/9/2023 Senate Introduced and read first time (Senate Journal‑page 3)

 3/9/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 3)

 3/24/2023 Senate Referred to Subcommittee: Sabb (ch), Hutto, Senn,
 Garrett, Gustafson

 2/21/2024 Senate Committee report: Favorable **Judiciary** (Senate Journal‑page 8)

 2/22/2024 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=615&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[03/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/615_20230309.docx)

[02/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/615_20240221.docx)

[02/22/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/615_20240222.docx)

Committee Report

February 21, 2024

S. 615

Introduced by Senators Hutto, Setzler, Jackson, Allen, McLeod and Devine

S. Printed 02/21/24--S. [SEC 2/22/2024 4:38 PM]

Read the first time March 09, 2023

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The committee on Senate Judiciary

To whom was referred a Bill (S. 615) to amend the South Carolina Code of Laws by adding Section 16‑3‑2410 so as to provide additional penalties for persons who commit certain delineated crimes, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass:

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill provides for an enhanced penalty for certain violent crimes when the offender intentionally selects a victim due to the offender’s belief or perception regarding the victim’s race, color, religion, sex, gender, national origin, sexual orientation, or physical or mental disability. The enhanced penalty, consisting of an additional fine of not more than $10,000 and an additional term of imprisonment of up to five years, may only be applied to the penalty for the underlying offense under certain circumstances.

Judicial. Judicial reports that implementation of this bill is likely to extend the length of certain trials. However, Judicial expects to manage any expenditure impact using existing staff and General Fund appropriations.

Commission on Prosecution Coordination. The commission reports that implementation of the bill may increase the workloads in the Offices of the Circuit Solicitor. However, the agency intends to use existing staff and General Fund appropriations to manage any increase in expenditures.

Commission on Indigent Defense. The commission reports that the expenditure impact will depend upon the number of offenses charged pursuant to the bill. However, the agency intends to use existing staff and General Fund appropriations to manage any increase in expenditures.

Department of Corrections. SCDC reports that implementation of the bill is expected to affect the inmate population by extending the terms of imprisonment for certain inmates. In FY 2021-22, the annual total cost per inmate was $32,247, of which $30,044 was state funded, and the marginal cost per inmate was $4,836, of which $4,829 was state funded. However, as there are no data to determine the number of inmates whose terms of imprisonment would be affected, the expenditure impact of the bill on SCDC in FY 2023-24 is undetermined. SCDC further indicates that it will likely request an increase in General Fund appropriations if there is a substantial increase in the inmate population due to the provisions of this bill.

State Revenue

This bill may result in an increase in the amount of fines collected by the court. Court fines are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue and Other Funds revenue due to the increase in fine collections by the court.

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 SECTION 16‑3‑2410 SO AS TO PROVIDE ADDITIONAL PENALTIES FOR PERSONS WHO COMMIT CERTAIN DELINEATED CRIMES WHEN THE VICTIM WAS INTENTIONALLY SELECTED BASED ON CERTAIN FACTORs.

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

SECTION 1. Chapter 3, Title 16 of the S.C. Code is amended by adding:

 Article 22

 Penalty Enhancements for Certain Crimes

 Section 16‑3‑2410. (A)(1) When a person commits a violent crime as defined in Section 16‑1‑60 or commits assault by mob in the second degree as defined in Section 16‑3‑210(C) and the trier of fact determines beyond a reasonable doubt that the offense was committed against a victim who was intentionally selected, in whole or in part, because of the person’s belief or perception regarding the victim’s race, color, religion, sex, gender, national origin, sexual orientation, or physical or mental disability, whether or not the perception is correct, the person is subject to additional penalties as provided in subsection (B).

 (2) For purposes of this article, the definition of “sex” shall conform to the definition as set forth in the majority’s holding in Bostock v. Clayton County, Georgia, 140 S.Ct. 1731 (2020).

 (B) A person who violates the provisions of subsection (A) and commits a violent crime as defined in Section 16‑1‑60 or commits assault by mob in the second degree as defined in Section 16‑3‑210(C), upon conviction, is subject to an additional fine of not more than ten thousand dollars and an additional term of imprisonment of up to five years;

 (C) The provisions of this section provide for the enhancement of the penalties applicable to underlying offenses. The court shall permit the prosecuting agency and the defense to present evidence relevant to the determination of whether the defendant intentionally selected the person against whom the offense is committed, in whole or in part, because of the person’s belief or perception regarding one or more of the factors provided in subsection (A), whether or not the perception is correct. The court with competent jurisdiction over the underlying offense shall instruct the trier of fact to find a special verdict as to a violation of the provisions of this section.

 (D) The additional penalties described in subsection (B) may not be imposed unless the person was indicted, either separately or as a separate count in the indictment for the underlying offense, for the offense pursuant to this section committed against the victim who was intentionally selected, in whole or in part, because of the person’s belief or perception regarding one or more of the factors provided in subsection (A), whether or not the perception is correct, and the person was found guilty of the underlying offense.

SECTION 2. Nothing in this section shall be construed to violate or abridge the freedom of speech and expression as contained in Article 1, Section 2 of the South Carolina Constitution or as contained in Amendment 1 of the U.S. Constitution.

SECTION 3. This act takes effect upon approval by the Governor.

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