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Indicates New Matter

COMMITTEE REPORT

April 13, 2016

**H. 4763**

Introduced by Reps. Pope, D.C. Moss, Yow, Hardee, Duckworth, Johnson, Goldfinch, Southard, Long, Felder, Taylor, George, Simrill, Jordan, Chumley, Clemmons, Sandifer, Wells, Whitmire, Funderburk and Tallon

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Read the first time January 27, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4763) to amend the Code of Laws of South Carolina, 1976, by adding Section 1‑7‑180 so as to create the Internet Crimes Against Children Fund to investigate, etc., respectfully

**REPORT:**

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

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑7‑180 SO AS TO CREATE THE INTERNET CRIMES AGAINST CHILDREN FUND TO INVESTIGATE, PROSECUTE, AND PREVENT INTERNET CRIMES AGAINST CHILDREN; AND TO AMEND SECTIONS 14‑1‑206, 14‑1‑207, AND 14‑1‑208, ALL AS AMENDED, ALL RELATING TO ADDITIONAL ASSESSMENTS IMPOSED BY CERTAIN COURTS, SO AS TO REVISE THE AMOUNT OF AN ASSESSMENT THAT A PERSON MUST PAY.

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

SECTION 1. Article 1, Chapter 7, Title 1 of the 1976 Code is amended by adding:

“Section 1‑7‑180. There is created in the State Treasury the Internet Crimes Against Children Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund, and any subfund to which it’s funds are credited, must be credited to the fund and any balance in the fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The funds only may be used to investigate, prosecute, and prevent Internet crimes against children, such as cyberenticement and child pornography, including the necessary staffing, training, and equipment. Of the revenue credited to the fund each year, sixty percent must be allocated to a subfund for the Attorney General to operate the Internet Crimes Against Children Task Force, and the remaining forty percent must be transferred to a subfund of the Department of Public Safety to provide grants to local law enforcement agencies to be expended in accordance with the purpose of the fund.”

SECTION 2. A. Section 14‑1‑206(A) and (C) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in general sessions court must pay an amount equal to ~~107.5~~ 113.6 percent of the fine imposed as an assessment. This assessment must be paid to the clerk of court in the county in which the criminal judgment is rendered for remittance to the State Treasurer by the county treasurer. The assessment is based upon that portion of the fine that is not suspended and assessments must not be waived, reduced, or suspended.

(C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of assessments received as follows:

(1) 42.08 percent for programs established pursuant to Chapter 21, ~~of~~ Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13, ~~of~~ Title 24;

(2) 14.74 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

(3) .45 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;

(4) 14.46 percent to the Office of Indigent Defense for the defense of indigents;

(5) 11.83 percent for the State Office of Victim Assistance;

(6) 15.39 percent to the general fund;

(7) .89 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, ‘complex criminal litigation’ means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel, and the county involved has expended more than two hundred fifty thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a ‘first received, first paid’ basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year; ~~and~~

(8) .16 percent to the Office of the State Treasurer to defray the administrative expenses associated with collecting and distributing the revenue of these assessments; and

(9) 6.1 percent to the Internet Crimes Against Children Fund established pursuant to Section 1‑7‑180.”

B. Section 14‑1‑207(A) and (C) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in magistrates court must pay an amount equal to ~~107.5~~ 113.6 percent of the fine imposed as an assessment. This assessment must be paid to the magistrate and deposited as required by Section 22‑1‑70 in the county in which the criminal judgment is rendered for remittance to the State Treasurer by the county treasurer. The assessment is based upon that portion of the fine that is not suspended and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56‑3‑1970, 56‑5‑2510, and 56‑5‑2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

(C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of the assessments received as follows:

(1) 32.36 percent for programs established pursuant to Chapter 21, ~~of~~ Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13, ~~of~~ Title 24;

(2) 20.72 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

(3) .60 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;

(4) 18.82 percent for the State Office of Victim Assistance;

(5) 15.93 percent to the general fund;

(6) 10.49 percent to the Office of Indigent Defense for the defense of indigents;

(7) .92 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, ‘complex criminal litigation’ means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel and the county involved has expended more than two hundred fifty thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a ‘first received, first paid’ basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year; ~~and~~

(8) .16 percent to the Office of the State Treasurer to defray the administrative expenses associated with collecting and distributing the revenue of these assessments; and

(9) 6.1 percent to the Internet Crimes Against Children Fund established pursuant to Section 1‑7‑180.”

C. Section 14‑1‑208(A) and (C) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(A) A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to ~~107.5~~ 113.6 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56‑3‑1970, 56‑5‑2510, and 56‑5‑2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

(C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of the assessments received as follows:

(1) 14.04 percent for programs established pursuant to Chapter 21, ~~of~~ Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13, ~~of~~ Title 24;

(2) 13.89 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

(3) .36 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus for the purpose of defraying the costs of maintaining and operating the Hall of Fame;

(4) 10.38 percent for the State Office of Victim Assistance;

(5) 11.53 percent to the general fund;

(6) 10.56 percent to the Office of Indigent Defense for the defense of indigents;

(7) .89 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities;

(8) .54 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, ‘complex criminal litigation’ means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel and the county involved has expended more than one hundred thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a ‘first received, first paid’ basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year;

(9)(a) 9.16 percent to the Department of Public Safety for the programs established pursuant to Section 56‑5‑2953(E); and

(b) 1.31 percent to SLED for the programs established pursuant to Section 56‑5‑2953(E);

(10) 13.61 percent to the Governor’s Task Force on Litter and in the expenditure of these funds, the provisions of Chapter 35, ~~of~~ Title 11 do not apply;

(11) 13.61 percent to the Department of Juvenile Justice. The Department of Juvenile Justice must apply the funds generated by this item to offset the nonstate share of allowable costs of operating juvenile detention centers so that per diem costs charged to local governments utilizing the juvenile detention centers do not exceed twenty‑five dollars a day. Notwithstanding this provision of law, the director of the department may waive, reduce, defer, or reimburse the charges paid by local governments for juvenile detention placements. The department may apply the remainder of the funds generated by this item, if any, to operational or capital expenses associated with regional evaluation centers; ~~and~~

(12) .12 percent to the Office of the State Treasurer to defray the administrative expenses associated with collecting and distributing the revenue of these assessments; and

(13) 6.1 percent to the Internet Crimes Against Children Fund established pursuant to Section 1‑7‑180.”

SECTION 3. This act takes effect July 1, 2016.

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