



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0131 Amended by the Senate on April 5, 2017
Author: McLeod
Subject: Disturbing Schools
Requestor: Senate Judiciary
RFA Analyst(s): Gardner
Impact Date: May 11, 2017

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

The amended bill, which restructures the crime and punishment for disturbing schools and creates a new crime making certain threatening communications by students illegal, is not expected to have a significant expenditure impact on the General Fund, Other Funds, or Federal Funds. The state share of revenue generated from fines, assessments and surcharges for convictions of the crimes is also not expected to be significant. The amended bill's expenditure and revenue impact on local government is not expected to be significant.

Explanation of Fiscal Impact

Amended by the Senate on April 5, 2017

State Expenditure

The amended bill restructures the misdemeanor offense of disturbing schools. Presently, it is illegal for any person to willfully or unnecessarily interfere with or disturb in any way the students or teachers of any school or college, or loiter or act obnoxiously about the school or college. It is also currently unlawful to enter or loiter on school or college premises except on business and with the principal or president's permission. Punishment is by a fine of not more than \$1,000 or imprisonment in county jail for not more than 90 days. Jurisdiction over cases is currently vested in the summary courts and, when a child is involved, the family court.

The amended bill makes the crime applicable only to persons who are not students, meaning persons who are not enrolled at the school or college, or who are suspended or expelled from the school or college where the disturbance occurs. The bill also more specifically delineates conduct that constitutes disturbing schools or colleges. The bill makes it illegal for a person, who

is not a student or who is suspended or expelled from the particular school, to willfully interfere with, disrupt, or disturb the normal operations of a school or college by: (1) entering the property without permission, (2) loitering after notice is given to vacate, (3) initiating a physical assault on the property, (4) being loud or boisterous after receiving instruction to refrain from the conduct, (5) threatening physical harm to a student or school employee while on school property, or (6) threatening deadly force when the person can or is reasonably believed to have the present ability to carry out the threat.

The amended bill increases the maximum punishment for an offense from a fine of not more than \$1,000 to a fine of not more than \$2,000, or imprisonment for not more than 90 days to not more than one year. The amended bill also allows punishment by both a fine and imprisonment, whereas current law allows only one or the other. The amended bill deletes existing provisions vesting jurisdiction over disturbing schools offenses in summary courts and, for children, in family courts.

In addition to restructuring the offense of disturbing schools, the amended bill establishes a new criminal offense, making it unlawful for a student of a school or college to make threats to take the life or inflict bodily harm on another using any form of communication. The new crime does not repeal, replace, or preclude application of any other criminal statute. Punishment for a violation is not provided by the bill, which makes the provisions of Section 17-25-20 or Section 17-25-30, governing punishment when none is specifically prescribed, applicable. Section 17-25-30 allows the court to impose such punishment for lesser offenses as conforms to common usage and practice in the state, according to the nature of the offense and limitations of the Constitution. Punishment may be by fine, imprisonment, or both. Section 17-25-20, dealing with felonies without a prescribed sentence, does not provide for imposition of a fine, but it authorizes confinement for not less than three months nor more than ten years.

Commission on Prosecution Coordination. The commission does not anticipate the bill will result in a significant change in prosecutors' caseloads. Therefore, the bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

Commission on Indigent Defense. The commission does not anticipate the bill will result in a significant change in public defenders' caseloads. Therefore, the bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

Judicial Department. The bill restructures the offense of disturbing schools by more specifically delineating activities that constitute the crime, and by making those activities an illegal disturbance of schools only when committed by persons who are not enrolled or are suspended or expelled from the school where the disturbance occurs. The department indicates there were 132 convictions for disturbing schools during FY 2015-16, based on incomplete data. Magistrate courts, circuit courts, and family courts, but only 27% of municipal courts provided data. In addition to being incomplete, the data reflects convictions for violations of existing law, which applies to persons who are students as well as those who are not enrolled or are suspended or expelled. The data also reflects convictions for disturbing schools as the violation is currently defined and punished. Due to the limitations of the data, the department cannot determine the

specific effect this bill will have on court caseloads because of changes to the crime of disturbing schools.

In addition, the bill makes it illegal for a student of a South Carolina school or college to make threats to take the life or inflict bodily harm on another using any form of communication. The bill does not prescribe the punishment for this new crime, making it punishable according to the provisions of Section 17-25-20 or Section 17-25-30. Because there is not any data on the frequency of the conduct that is made illegal and the punishment is not more specifically defined, the department cannot estimate the impact of the new crime on court caseloads.

Although the specific effect of the restructured disturbing schools offense and of the new crime cannot be estimated, the department anticipates managing any change in caseloads within the department's existing resources. However, if a significant increase in cases occurs, the circuit court backlog may increase.

Department of Corrections. This bill increases the penalty for disturbing schools from not more than ninety days of imprisonment to not more than one year of imprisonment. Sentences of ninety days or less are served in the county jail, while sentences exceeding ninety days are served in South Carolina Department of Corrections (SCDC) facilities. The bill also makes it illegal for a student of a South Carolina school or college to make threats to take the life of or inflict bodily harm on another using any form of communication. Punishment for this crime is according to the provisions of Section 17-25-20 or Section 17-25-30. While the bill has the potential to increase commitments to SCDC facilities, the department does not expect the bill to add a significant number of inmates to the department's population.

Department of Juvenile Justice. The bill restructures the offense of disturbing schools to make the crime applicable only to persons who are not enrolled, or are suspended or expelled. It also establishes a new criminal offense to make it unlawful for a student to make threats to take the life of or inflict bodily harm on another using any form of communication. The department indicates the majority of youth whose most serious charge is disturbing a school do not stay for an extended time in the department's facilities. Each year, the department typically places around 200 youth on probation and only a handful are committed to its custody for the offense of disturbing a school. Therefore, making the crime of disturbing schools applicable to only non-students and those students who are suspended or expelled is expected to have minimal, if any, impact on the General Fund and Other Funds.

State Revenue

The amended bill restructures the crime of disturbing schools and increases the maximum fine for the offense from \$1,000 to \$2,000, increases the maximum term of imprisonment from 90 days to one year, and authorizes both a fine and imprisonment. Punishment for the new crime of a student communicating threats on a person's life or to inflict bodily harm is not provided by the bill, and would therefore be subject to punishment as authorized by Section 17-25-30 or Section 17-25-20.

Existing law distributes revenue from fines, assessments on fines, and surcharges on convictions among the General Fund, specified state agencies and programs, and local government. Because

this bill creates a new crime without specifying punishment, and restructures an existing crime and its punishment, data does not exist to estimate the number of convictions or punishments that may be imposed. Without this data, the revenue that may be generated from fines, assessments, and surcharges cannot be estimated. However, the state share of any revenue is not expected to be significant.

Local Expenditure

The Revenue and Fiscal Affairs Office does not anticipate this amended bill will have a significant impact on local government expenditures for the restructured disturbing schools offense. According to the preamble, the bill is intended to reduce student arrests for disturbing schools and law enforcement involvement in incidents on school grounds. Further, summary courts would no longer have vested jurisdiction in cases involving adults disturbing schools, and imprisonment for terms of more than 90 days would not be served in local detention facilities. Therefore, this bill is not expected to have a significant expenditure impact on local government due to changes in the crime of disturbing schools. The expenditure impact on local government associated with the new crime is undetermined, as the level of illegal activity, prosecution, and type and terms of punishment cannot be estimated. However, the impact on local government resulting from the new crime is not expected to be significant.

Local Revenue

The amended bill restructures the crime of disturbing schools and increases the maximum fine for the offense from \$1,000 to \$2,000, the maximum term of imprisonment from 90 days to one year, and authorizes both a fine and imprisonment. Punishment for the new crime of a student communicating threats on a person's life or to inflict bodily harm is not provided by the bill, and would therefore be subject to punishment as authorized by Section 17-25-30 or Section 17-25-20.

Existing law distributes revenue from fines, assessments on fines, and surcharges on convictions among the General Fund, specified state agencies and programs, and local government. Because this bill creates a new crime without specifying punishment and restructures an existing crime and its punishment, data does not exist to estimate the number of convictions or punishment that may be imposed. Without this data, the revenue that may be generated from fines, assessments, and surcharges cannot be estimated. However, the local government share of revenue is not expected to be significant.

Introduced on January 10, 2017

State Expenditure

This bill relates to offenses involving the disturbance of schools and restructures the list of actions that constitute an offense. For persons who are not students, these actions are considered offenses: entry of a school or college without administrative permission, loitering on school grounds after receiving notice to vacate, initiating a physical assault on or fighting with another person on school grounds, continuing to be loud or boisterous after receiving instructions to cease, and threatening physical harm or the use of deadly force. The bill also increases the fines and imprisonment terms for convictions of these offenses from not more than one thousand dollars to not more than two thousand dollars, and not more than 90 days to not more than one year. Additionally, the bill vests the summary court with exclusive jurisdiction over school

disturbance cases except in instances when the offender is a child; in this circumstance, the case will be heard in family court. These provisions do not apply during school-sponsored athletic events.

Judicial Department. Cases involving school disturbances are currently heard in summary court, circuit court, and family court, while the bill vests exclusive jurisdiction over these cases with the summary court. Data that was collected from all general sessions courts, all magistrates courts, and approximately 27% of the municipal courts indicate that there were 132 convictions for disturbing schools in South Carolina in FY 2015-16. The department reports it is unable to determine whether there will be an increase or decrease in the number of hearings held in summary or family courts as a result of the bill. Therefore, the expenditure impact is undetermined.

Commission on Indigent Defense. A determination of the bill's fiscal impact is pending, as the agency is still reviewing the bill.

Commission on Prosecution Coordination. A determination of the bill's fiscal impact is pending, as the agency is still reviewing the bill.

Department of Corrections. A determination of the bill's fiscal impact is pending, as the agency is still reviewing the bill.

State Revenue

N/A

Local Expenditure

A determination of the bill's fiscal impact is pending, as the agency is still reviewing the bill.

Local Revenue

N/A



Frank A. Rainwater, Executive Director