



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** S. 0580 Introduced on March 23, 2017  
**Author:** Hutto  
**Subject:** Children in Adult Jails  
**Requestor:** Senate Judiciary  
**RFA Analyst(s):** Gardner  
**Impact Date:** May 4, 2017

**Estimate of Fiscal Impact**

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

**Fiscal Impact Summary**

The bill, which de-institutionalizes status offenders, is not expected to have a significant expenditure impact on the General Fund, Other Funds, or Federal Funds. The expenditure impact on local government is undetermined because the number of local governments responding is insufficient to make a determination.

**Explanation of Fiscal Impact**

**Introduced on March 23, 2017**

**State Expenditure**

Currently, children may not be placed in an adult jail for any longer than six hours and must be separated from the adult population by sight and sound, unless the child has been waived to trial as an adult in general sessions court. This bill deletes this exception so that children who are waived to trial as adults also must not be detained in an adult jail for more than six hours and must be separated from confined adults by sight and sound during that time.

The bill also prohibits the detention of a juvenile in a juvenile detention facility when the child has been taken into custody for a violation that would not be considered a criminal offense under state law if committed by an adult (i.e., a status offense). Currently, detention for twenty-four hours is allowed. The only exception to this provision is when an order has been issued by the court previously, the child has been given notice of the order, and the order notifies the child that further violation of the order may result in his secure detention in a juvenile detention facility. In these cases, the maximum time the juvenile may be held in confinement in a juvenile detention

facility is forty-eight hours. This has been reduced from a maximum detention time of seventy-two hours.

The bill also requires persons or entities authorized to institute a proceeding for the status offense of incorrigibility to provide documentation that the family has made reasonable efforts to resolve its challenges through counseling, classes, or other family therapy services before filing a petition. This documentation must also be provided before the Department of Juvenile Justice may accept a referral based on incorrigibility.

Additionally, the bill prohibits commitment of a child to the custody of the department, a juvenile detention center, or a secure evaluation center operated by the department for a status offense or violation of a court order related to the adjudication of delinquency for a status offense. Currently, a child may be committed to these facilities for a determinate period not to exceed ninety days for a status offense, excluding truancy, and for contempt of a court order or violation of probation related to a status offense, including truancy.

The bill also allows for the automatic expungement of records related to the commission of a status offense, provided the child does not have a subsequent conviction for a crime, or subsequent adjudication of delinquency other than for a probation violation or contempt of court arising from a status offense. Expungement must occur as soon as the juvenile reaches the age of seventeen and successfully completes any dispositional sentences.

**Commission on Prosecution Coordination.** The commission indicates that any additional expenditures can be managed within existing resources. The implementation of this bill will have no impact on the General Fund, Other Funds, or Federal Funds.

**Commission on Indigent Defense.** The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, as the agency expects to manage any increase in caseloads within current resources.

**Judicial Department.** This bill prohibits a child who is to be tried as an adult from being detained in an adult jail as an adult and decreases the time a child may be held in a juvenile detention facility for committing a status offense or for violating a related court order. The bill also provides for the automatic expungement of a juvenile's record for status offenses, with exceptions. As the bill requires no new operating procedures from the department, there will be no expenditure impact on General Funds, Other Funds, or Federal Funds as a result of the bill.

**Department of Juvenile Justice.** The department indicates that the bill, which will de-institutionalize status offenders, may result in a minimal increase in the number of youth evaluations conducted in the community. However, the department indicates any increase can be managed with existing resources. The department also does not anticipate a significant expenditure impact as a result of holding juveniles who are to be tried as adults. The department has housed as many as seven in years past and, on occasion, housed youth age sixteen and older charged with A, B, C, or D felonies. The department does not expect the bill to increase these numbers sufficiently to affect expenditures.

The department also does not anticipate the bill generating significant cost savings. The number of cases instituted for incorrigibility may decrease, but the reduction is expected to be negligible. Further, the department does not expect any reduction in youth committed to the department as a result of de-institutionalization to be enough to produce significant cost savings. Typically, status offenders committed to the department are distributed among the lower cost wilderness camps. With only thirty-four status offenders committed to the department in FY 2015-16, a reduction in this population would not be sufficient to close a camp or dorm. Similarly, the number of status offenders with a temporary commitment to one of the department's evaluation centers is insufficient to produce any sizable operational savings for those centers. In FY 2015-16, the department evaluated sixty-six status offenders who were temporarily committed for evaluation. With an average stay of forty days, eliminating this group would reduce the population at the department's evaluation centers by an average of 2.5 youth a day at each center.

Therefore, the bill is not expected to have a significant expenditure impact for the department from increased expenditures or cost savings.

### **State Revenue**

N/A

### **Local Expenditure**

The Revenue and Fiscal Affairs Office (RFA) contacted twenty-three county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill. Florence County indicates this bill is not expected to impact the county. Lancaster County indicates the expenditure impact is undetermined, because the cost of paying DJJ to hold a juvenile who has been waived into general sessions court is not known. Those juveniles would be held in the local detention facility now. MASC indicates there will be a minimal fiscal impact since very few municipalities run their own detention facility, and of the municipalities that do, a modification of facilities should not be required as the Prison Rape Elimination Act (PREA) already requires juveniles to be separated from adults. Therefore, the bill should not impose an additional burden upon municipalities. Because of the few county responses received, the expenditure impact of this bill on local government is undetermined.

### **Local Revenue**

N/A



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Frank A. Rainwater, Executive Director