



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** S. 0580 Amended by Senate Judiciary on March 22, 2018  
**Author:** Hutto  
**Subject:** Children in Adult Jails  
**Requestor:** Senate Judiciary  
**RFA Analyst(s):** Gardner  
**Impact Date:** May 22, 2018 - Updated for Additional Agency Response

**Estimate of Fiscal Impact**

	<b>FY 2018-19</b>	<b>FY 2019-20</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**

This bill as amended establishes the conditions under which a child may be placed in a juvenile detention facility and allows for alternative placement depending on the age of the child and the nature of the offense. It is not expected to have an expenditure impact on the General Fund, Other Funds, or Federal Funds because the bill increases efforts to place children in an appropriate corrective environment instead of placement at a Department of Juvenile Justice (DJJ) facility or an adult jail.

The expenditure impact on local government is undetermined because the amount of data received is insufficient to yield an estimate of the potential impact on local governments.

This fiscal impact statement has been updated to include a response from DJJ.

**Explanation of Fiscal Impact**

**Amended by Senate Judiciary on March 22, 2018**

**Updated for Additional Agency Response**

**State Expenditure**

This bill as amended establishes prescriptive guidelines that determine whether a juvenile may be placed in custody at DJJ facility. If DJJ staff determine a child must be placed outside the home, they must opt to place the juvenile in an approved home, program, or facility when these alternatives are appropriate and available. A child may be placed at a DJJ facility if he is charged with a violent crime or charged with a crime other than a violent crime that would be a felony or misdemeanor if committed by an adult when certain conditions exist. Even under these

circumstances, however, detention at a DJJ facility is not required if the juvenile can be supervised adequately at home or in a less secure setting or program. If a DJJ officer does not consent to the release of a child, the parent(s) or guardian(s) may petition the family court for an ex parte order of release of the child.

A child may not be detained at an adult jail for longer than six hours, and during that time he may not be housed in an area where he can see or hear adults similarly confined. A juvenile may be detained temporarily at a holdover facility for a period of up to forty-eight hours. Juveniles charged with status offenses may not be held in an adult detention facility unless a court order has previously been issued that notifies the child that further violation of the order may result in his secure detention. In this case, the juvenile may not be held at a DJJ facility longer than forty-eight hours. This has been reduced from a maximum detention time of seventy-two hours. Law enforcement officers retain the right to take any status offender into custody. Children under the age of ten may not be placed in a jail or detention facility. However, children who are eleven or twelve years of age who are in custody for violations considered criminal offenses if committed by an adult, or who are in custody for violating conditions of probation for criminal offenses, may be placed in a jail or detention facility upon order of the family court.

The amended 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 DJJ may accept a referral based on incorrigibility.

The provisions described in this paragraph take effect upon approval by the Governor and are effective until July 1, 2019. Children who are twelve years of age but are not yet seventeen years of age, or those who are under the jurisdiction of family court for disposition of a criminal offense that occurred prior to the child's seventeenth birthday, or those who have violated probation or a court order stemming from adjudication of a criminal offense, may be committed to DJJ for placement in a suitable corrective environment. Children under the age of twelve years may only be committed to the custody of DJJ for appropriate placement in a suitable corrective environment. No child under the age of seventeen years may be committed to any other penal or correctional institution in the state. A child may be committed to the custody of a DJJ facility for a period not to exceed ninety days if (1) he has been adjudicated delinquent by the family court for one or more status offenses except truancy and (2) he has been unsuccessfully discharged from placement in a suitable corrective environment other than institutional confinement and has been adjudicated delinquent for violation of a court order to cooperate and successfully complete that placement. Nothing precludes the commitment of a child charged with, adjudicated of, or convicted of a criminal offense.

The provisions described in this paragraph take effect on July 1, 2019. Children who are twelve years of age but are not yet eighteen years of age, or those who are under the jurisdiction of the family court for disposition of a criminal offense that occurred prior to the child's eighteenth birthday, or those who have violated probation or are in contempt of court for a prior order of probation or a court order stemming from adjudication for a criminal offense, may be committed to DJJ for placement in a suitable corrective environment. Children under the age of twelve

years may only be committed to the custody of DJJ for appropriate placement in a suitable corrective environment other than institutional confinement. No child under the age of eighteen may be committed or sentenced to any other penal or correctional institution of the state. A child may be committed to the custody of a DJJ facility for a period not to exceed ninety days if (1) he has been adjudicated delinquent by the family court for one or more status offenses except truancy and (2) he has been unsuccessfully discharged from placement in a suitable corrective environment other than institutional confinement and has been adjudicated delinquent for violation of a court order to cooperate and successfully complete that placement. Nothing precludes the commitment of a child charged with, adjudicated of, or convicted of a criminal offense.

**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.

**Commission on Prosecution Coordination.** The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, because it does not alter the oversight or regulatory activities of the agency.

**Commission on Indigent Defense.** The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, because it does not alter the oversight or regulatory activities of the agency.

**Department of Juvenile Justice.** The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds because the bill increases efforts to place children in an appropriate corrective environment instead of placement at a DJJ facility or an adult jail. This bill is not expected to increase the agency's caseload. This section of the fiscal impact statement has been updated to include a response from DJJ.

## **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. Pursuant to this bill juveniles would be held in the county detention facilities. 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

### **Amended by Senate Judiciary on March 22, 2018**

#### **State Expenditure**

This bill as amended establishes prescriptive guidelines that determine whether a juvenile may be placed in custody at a Department of Juvenile Justice (DJJ) facility. If DJJ staff determine a child must be placed outside the home, they must opt to place the juvenile in an approved home, program, or facility when these alternatives are appropriate and available. A child may be placed at a DJJ facility if he is charged with a violent crime or charged with a crime other than a violent crime that would be a felony or misdemeanor if committed by an adult when certain conditions exist. Even under these circumstances, however, detention at a DJJ facility is not required if the juvenile can be supervised adequately at home or in a less secure setting or program. If a DJJ officer does not consent to the release of a child, the parent(s) or guardian(s) may petition the family court for an ex parte order of release of the child.

A child may not be detained at an adult jail for longer than six hours, and during that time he may not be housed in an area where he can see or hear adults similarly confined. A juvenile may be detained temporarily at a holdover facility for a period of up to forty-eight hours. Juveniles charged with status offenses may not be held in an adult detention facility unless a court order has previously been issued that notifies the child that further violation of the order may result in his secure detention. In this case, the juvenile may not be held at a DJJ facility longer than forty-eight hours. This has been reduced from a maximum detention time of seventy-two hours. Law enforcement officers retain the right to take any status offender into custody. Children under the age of ten may not be placed in a jail or detention facility. However, children who are eleven or twelve years of age who are in custody for violations considered criminal offenses if committed by an adult, or who are in custody for violating conditions of probation for criminal offenses, may be placed in a jail or detention facility upon order of the family court.

The amended 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 DJJ may accept a referral based on incorrigibility.

The provisions described in this paragraph take effect upon approval by the Governor and are effective until July 1, 2019. Children who are twelve years of age but are not yet seventeen years of age, or those who are under the jurisdiction of family court for disposition of a criminal offense that occurred prior to the child's seventeenth birthday, or those who have violated probation or a court order stemming from adjudication of a criminal offense, may be committed to DJJ for placement in a suitable corrective environment. Children under the age of twelve years may only be committed to the custody of DJJ for appropriate placement in a suitable corrective environment. No child under the age of seventeen years may be committed to any

other penal or correctional institution in the state. A child may be committed to the custody of a DJJ facility for a period not to exceed ninety days if (1) he has been adjudicated delinquent by the family court for one or more status offenses except truancy and (2) he has been unsuccessfully discharged from placement in a suitable corrective environment other than institutional confinement and has been adjudicated delinquent for violation of a court order to cooperate and successfully complete that placement. Nothing precludes the commitment of a child charged with, adjudicated of, or convicted of a criminal offense.

The provisions described in this paragraph take effect on July 1, 2019. Children who are twelve years of age but are not yet eighteen years of age, or those who are under the jurisdiction of the family court for disposition of a criminal offense that occurred prior to the child's eighteenth birthday, or those who have violated probation or are in contempt of court for a prior order of probation or a court order stemming from adjudication for a criminal offense, may be committed to DJJ for placement in a suitable corrective environment. Children under the age of twelve years may only be committed to the custody of DJJ for appropriate placement in a suitable corrective environment other than institutional confinement. No child under the age of eighteen may be committed or sentenced to any other penal or correctional institution of the state. A child may be committed to the custody of a DJJ facility for a period not to exceed ninety days if (1) he has been adjudicated delinquent by the family court for one or more status offenses except truancy and (2) he has been unsuccessfully discharged from placement in a suitable corrective environment other than institutional confinement and has been adjudicated delinquent for violation of a court order to cooperate and successfully complete that placement. Nothing precludes the commitment of a child charged with, adjudicated of, or convicted of a criminal offense.

**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.

**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.

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

**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. Pursuant to this bill juveniles would be held in the county detention facilities. 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

### **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