COMMITTEE AMENDMENT ADOPTED AND AMENDED

May 9, 2017

**H. 3215**

Introduced by Rep. J.E. Smith

S. Printed 5/9/17--S.

Read the first time March 29, 2017.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**State Expenditure**

This bill makes it unlawful for a person other than a lawyer, who is licensed to practice law in this state, another state, jurisdiction in the United States and in good standing, to represent to any person that he is a lawyer for the purpose of soliciting business, obtaining anything of value, or providing legal advice or assistance. A person convicted of a first offense is guilty of a misdemeanor and must be fined not more than $5,000 or imprisoned for not more than two years. A person convicted of a second offense is guilty of a misdemeanor and must be imprisoned for not more than three years. A person convicted of a third or subsequent offense is guilty of a felony and must be imprisoned for not more than five years.

**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 expenditure impact on the general fund, other funds, or federal funds.

**Commission on Indigent Defense.** The commission indicates that any additional expenditures can be managed within existing resources. The implementation of this bill will have no expenditure impact on the general fund, other funds, or federal funds.

**Judicial Department.**  This bill creates the offense of impersonating a lawyer and provides graduated penalties. Any hearings or trials related to this new criminal offense would be held in general sessions court. In FY 2015-16, there were seven charges in state court for the unauthorized practice of law which resulted in three convictions. While there is no data to estimate the number of additional hearings and trials which may result because of this crime, the department expects to manage any additional costs within current resources. Should the bill result in a significant number of additional hearings and trials, it could lead to an increased backlog for common pleas and general sessions courts.

**Department of Corrections.** The expenditure impact is pending, contingent upon a response from the department**.**

**State Revenue**

This bill makes a first offense conviction for impersonating a lawyer a misdemeanor punishable by a fine of not more than $5,000 or imprisonment for not more than two years. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to estimate the number of convictions that may result from this bill, the Revenue and Fiscal Affairs Office does not expect the state’s share of any revenue to be significant.

**Local Expenditure**

This bill makes it a crime for a person to impersonate a lawyer. The number of such offenses that may occur is unknown. However, the bill’s effect on local law enforcement is not expected to be significant.

**Local Revenue**

This bill makes a first offense conviction for impersonating a lawyer a misdemeanor punishable by a fine of not more than $5,000 or imprisonment for not more than two years. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to estimate the number of convictions that may result from this bill, the Revenue and Fiscal Affairs Office does not expect local governments’ share of any revenue to be significant.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑17‑770 SO AS TO CREATE THE OFFENSE OF IMPERSONATING A LAWYER AND PROVIDE GRADUATED PENALTIES.

Amend Title To Conform

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

SECTION 1. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑770. (A) It is unlawful for a person other than a lawyer, who is licensed to practice law in this State or in another state or jurisdiction in the United States and not disbarred or suspended from the practice of law in any state or jurisdiction, to represent to any person that he is a lawyer for the purpose of soliciting business, obtaining anything of value, or providing legal advice or assistance. A person who violates the provisions of this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(B) The provisions of this section do not alter the provisions of Chapter 5, Title 40, regulating the practice of law.”

SECTION 2. This act takes effect upon approval by the Governor.

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