



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3601	Amended by the House of Representatives on February 28, 2019
Author:	Rose	
Subject:	Disorderly Conduct	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner	
Impact Date:	April 24, 2019	

Fiscal Impact Summary

This amended bill expands the availability of conditional discharges for charges brought against a defendant for any state or federal statute related to drunk or disorderly conduct. The Judicial Department reports the implementation of this bill will not result in any expenditure impact to the agency's General Fund, Other Funds, or Federal Funds since the additional hearings will be handled in magistrate or municipal courts.

The Commission on Prosecution Coordination reports that there is no data with which to determine how many additional expungement requests may result from the bill. Therefore, the amount of the expenditure impact is undetermined.

The Commission on Indigent Defense indicates that this bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

This bill would require additional hearings in magistrate and municipal courts for individuals who participate in a post-trial or plea conditional discharge program. Since the Judicial Department does not keep statistics on the number of prior offenses of an individual convicted of disorderly conduct, there is no historical data to use to estimate a local impact. Therefore, the impact of the bill is undetermined.

State and local revenue is undetermined, because there are no statistics to estimate the number of additional expungement requests that will be requested. However, a defendant must remit payment of a \$150 fee, unless waived by the court, to a magistrate or municipal court. Collected fees are to be remitted to the Prosecution Coordination Commission by the State Treasurer for apportionment and distribution on a per capita basis to the 16 judicial circuits for drug court treatment programs. In addition, the required fee may be waived by the court upon a determination of indigency.

Explanation of Fiscal Impact

Amended by the House of Representatives on February 28, 2019

State Expenditure

This amended bill expands the availability of conditional discharges for charges brought against a defendant for any state or federal statute related to drunk or disorderly conduct. Eligible

defendants must never have been convicted of a previous offense for a similar charge. The bill provides that the court may hold in abeyance an eligible defendant's judgment of guilt, pending his successful completion of a term of probation requiring specific actions and treatment or rehabilitation. A conditional discharge may only be granted once for any specific violation.

A defendant's eligibility for a conditional discharge must be verified through court records, though no database currently exists to track whether he has received a prior conditional discharge for any specific offense. Upon a defendant's successful completion of the court-imposed terms and conditions, the court must discharge the defendant and dismiss the case, which shall not be treated as a conviction against the defendant. Once the court has issued a dismissal order, the defendant may apply for an expungement of the associated public records. Records of conditional discharge dismissals are not subject to the Freedom of Information Act but must be retained by the South Carolina Law Enforcement Division (SLED).

Judicial Department. During FY 2017-18 there were 261 disorderly conduct dispositions in general sessions court. However, this bill will result in additional hearings in magistrate and municipal courts. Since the bill will not operationally or fiscally affect the Judicial Department, there will be no expenditure impact on the agency's General Fund, Other Funds, or Federal Funds.

Commission on Prosecution Coordination. The commission reports that during the processing of a court-ordered discharge, a solicitor is not involved until a defendant applies for an expungement. Where the court enters a conditional discharge disposition on a case and assumes responsibility for determining eligibility, determining whether terms and conditions imposed have been fulfilled, and entering a dismissal order where appropriate, the case is no longer a pending matter and the circuit solicitor has no ability to monitor progress or completion. Once the court enters a dismissal order on a conditional discharge, the defendant may apply for an expungement with the circuit solicitor and is exempt from paying the solicitor the administrative fee for processing the application, which includes determining expungement eligibility since a court's dismissal order on conditional discharge cases does not include an attestation of eligibility for expungement. No database is available that allows circuit solicitors to determine whether a defendant has received an earlier conditional discharge for a similar offense; therefore, researching determining eligibility for expungement on conditional discharge cases takes weeks or months longer than for other expungement applications. The number of general expungement requests received since new state expungement laws became effective (December 2018) has increased significantly. This bill's expansion of charges eligible for conditional discharge dispositions, will result in a further increase in expungement requests. In order to meet the increased workload from additional expungement requests without additional processing delays, funding for new expungement coordinators for each of the 16 judicial circuits would be needed.

There is no data with which to determine how many additional expungement requests may result from the bill, and court and SLED plans for development of a conditional discharge database that may decrease the circuit solicitors' processing time for expungement applications on conditional discharge cases are unknown. Therefore, the amount of the expenditure impact is undetermined for the Commission on Prosecution Coordination.

Commission on Indigent Defense. This bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds of the agency.

State Revenue

Prior to the court entering a dismissal order upon completion of all terms and conditions of a conditional discharge disposition, a defendant must remit payment of a \$150 fee, unless waived by the court, to a magistrate or municipal court. Collected fees are to be remitted to the Prosecution Coordination Commission by the State Treasurer for apportionment and distribution on a per capita basis to the 16 judicial circuits for drug court treatment programs. The required fee may be waived by the court upon a determination of indigency.

Local Expenditure

This bill would require additional hearings in magistrate and municipal courts for individuals who participate in a post-trial or plea conditional discharge program. Currently, there is no historical data upon which to project the number of individuals who would be eligible to participate in the conditional discharge program. Therefore, the local expenditure impact of the bill is undetermined.

Local Revenue

Prior to the court entering a dismissal order upon completion of all terms and conditions of a conditional discharge disposition, a defendant must remit payment of a \$150 fee, unless waived by the court, to a magistrate or municipal court. Collected fees are to be remitted to the Prosecution Coordination Commission by the State Treasurer for apportionment and distribution on a per capita basis to the 16 judicial circuits for drug court treatment programs. The required fee may be waived by the court upon a determination of indigency.



Frank A. Rainwater, Executive Director