



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	S. 0188	Introduced on January 8, 2019
Author:	Shealy	
Subject:	Safe Harbor for Exploited Minors Act	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner and Mitchell	
Impact Date:	January 22, 2019	

Fiscal Impact Summary

The Judicial Department indicates it will manage any increased costs in family or circuit courts using current General Funds.

The Commission on Prosecution Coordination and Commission on Indigent Defense report that any increase in cases regarding the bill can be managed with existing appropriations.

The Department of Social Services reports that the provisions of the bill do not fiscally or materially amend the department's intake policy for victims of sex trafficking.

The implementation of this bill will have no expenditure impact on magistrate and municipal courts.

Explanation of Fiscal Impact

Introduced on January 8, 2019

State Expenditure

This bill creates the "Safe Harbor for Exploited Minors Act" to enable minors under the age of eighteen who are residing in or visiting the state and are engaged in commercial sexual acts or sex trafficking to be presumed as crime victims. The act protects these minors from civil and criminal liability and provides immunity from prosecution. Officers and employees of a court that prosecutes a minor victim of sex trafficking may not disclose the identity of the minor to the public. Case information in such instances is not subject to disclosure under the Freedom of Information Act.

The bill also provides that minors under the age of eighteen who are charged with prostitution and related offenses may, during a pretrial hearing, offer a defense of coercion or reasonable fear resulting from the use of or a threat to use unlawful force against the person or against another. This defense may result in the court's dismissal of the charges. Minors under eighteen who are engaged in commercial sexual acts or sex trafficking are presumed to be doing so due to reasonable fear of a threat or coercion. While no official documentation is required to grant a motion to consider a minor charged with prostitution or related crimes as a victim, official documentation from a federal, state, or local government agency attesting to this constitutes a presumption that the minor's participation in the offense was directly due to being a victim. A court will grant such motion if the minor was indeed under the age of eighteen when he or she

engaged in commercial sexual acts or sex trafficking and if there are no circumstances that would undo the presumption of coercion.

Minors under eighteen who are charged with trespassing, loitering, obstruction of a highway, disorderly conduct, or simple possession of a controlled substance must be considered for pretrial diversionary programs by the local judicial authority and have their charges expunged upon successful completion of such a program. Law enforcement agencies must contact the Department of Social Services in a timely manner when investigating cases of prostitution or sex trafficking involving minors under the age of eighteen. Prostitution or related charges in this instance would be vacated. Excluded from these provisions are minors under the age of eighteen who induce, encourage, facilitate, or enable the sexual exploitation of another person. It is not required that a victim of trafficking in persons reside in a shelter or other facility, though the victim's admission to a shelter must be made without regard to race, religion, ethnic background, sexual orientation, country of origin, or culture and may not be conditioned on the victim's level of cooperation with an investigating agency.

Judicial Department. This bill enacts the "Safe Harbor for Exploited Minors Act" to provide a pretrial hearing for minors under the age of eighteen charged with a prostitution offense who wish to offer a defense that they were compelled to engage in the offense due to coercion or reasonable fear. The bill provides that a court will dismiss such charges if it finds by a preponderance of evidence that a minor defendant was compelled, coerced, or threatened into such an act. Further, the bill provides that minors charged with certain first offenses as a direct result of being a victim of sex trafficking be given first consideration by judicial authorities for participation in pretrial diversionary programs.

First offense prostitution violations are heard in magistrate and municipal courts, while second or subsequent offenses are heard in general sessions courts. As the bill pertains to minor defendants, it is likely that some cases could be adjudicated in family courts. Also, as the bill creates a new defense, it may increase the number of hearings in magistrate and municipal courts, general sessions, and family courts. The department does not track the status of a defendant, so there is no existing data with which to estimate the number of cases that would be affected by the proposed bill. However, the department indicates it will manage any increased costs in family or circuit courts using current General Funds. Increased costs associated with an increase in magistrate and municipal court caseloads would be managed by counties and municipalities.

Should a significant number of minor defendants be eligible for pretrial diversionary programs, it may reduce the number of defendants whose cases are heard in magistrate and municipal courts, family, or circuit courts. The department anticipates that any decrease in caseloads for family or circuit courts would be minimal.

Commission on Prosecution Coordination. The agency reports that any increase in hearings related to the bill will have no expenditure impact to the General Fund, Other Fund, or Federal Funds.

Commission on Indigent Defense. The agency reports that any increase in hearings related to the bill will have no expenditure impact to the General Fund, Other Fund, or Federal Funds.

Department of Social Services. The department indicates that the bill will have no impact on the General Fund, Other Funds, or Federal Funds for the Department of Social Services, as the provisions of the bill do not fiscally or materially amend the department's intake policy for victims of sex trafficking.

State Revenue

N/A

Local Expenditure

The Revenue and Fiscal Affairs Office contacted the Municipal Association of South Carolina and they reported that the implementation of this bill will have no significant impact on the 271 incorporated municipalities in South Carolina.

Local Revenue

N/A



Frank A. Rainwater, Executive Director