~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 27, 2019

**S. 640**

Introduced by Senator Malloy

S. Printed 3/27/19--S.

Read the first time March 12, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 640) to amend Section 14‑17‑325 of the 1976 Code, relating to the clerk of court reporting the disposition of each case in the court of general sessions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTIONS 1-3, beginning on page 2, line 31 and ending on page 4, line 22 and inserting:

/ SECTION 1. A. Section 14-17-325 of the 1976 Code is amended to read:

“Section 14-17-325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within ~~thirty~~ ten days of disposition, weekends and holidays excluded.

(B) The clerk of court shall also report to the State Law Enforcement Division, within forty-eight hours, the receipt of:

(1) any permanent restraining orders;

(2) any orders of state firearms prohibition pursuant to Section 16-25-30; and

(3) any orders if directed to be transmitted to the State Law Enforcement Division by the judge, to include any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm.

(C) ~~The disposition report must be in a format approved by representatives of~~ The reporting required by this section must be in a format approved by the State Law Enforcement Division and the ~~office of court administration~~ Office of Court Administration. ~~With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration.~~”

B. This SECTION takes effect July 1, 2020.

SECTION 2. A. Chapter 1, Title 22 of the 1976 Code is amended by adding:

“Section 22-1-200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded.

(B) Magistrates shall also report to the State Law Enforcement Division, within forty-eight hours, the issuance of:

(1) any restraining orders and emergency restraining orders;

(2) any magistrate court orders of protection from domestic abuse act orders;

(3) any orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any orders that the magistrate directs to be transmitted to the State Law Enforcement Division, to include any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and the Office of Court Administration.”

B. This SECTION takes effect July 1, 2020.

SECTION 3. A. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14-25-250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded:

(B) A municipal judge shall also report to the State Law Enforcement Division, within forty-eight hours, the issuance of:

(1) any restraining orders and emergency restraining orders;

(2) any municipal court orders of protection from domestic abuse act orders;

(3) any orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any orders that the municipal judge directs to be transmitted to the State Law Enforcement Division, to include any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and the Office of Court Administration.”

B. This SECTION takes effect July 1, 2020. /

Amend the bill further, as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_. A. Article 5, Chapter 3, Title 63 of the 1976 Code is amended by adding:

“Section 63-3-545. (A) The clerk of the family court shall report to the State Law Enforcement Division, within forty-eight hours the receipt of:

(1) any permanent restraining orders;

(2) any family court orders of protection from domestic abuse act orders; or

(3) any orders if directed to be transmitted to the State Law Enforcement Division by the judge, to include any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm including any and all orders referenced in Section 16-25-30.

(B) The reporting required by this section must be made in a format approved by the State Law Enforcement Division and the Office of Court Administration.”

B. This SECTION takes effect July 1, 2020. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on March 12, 2019**

**State Expenditure**

This bill establishes new timeframes within which courts, certain judges, and law enforcement agencies must notify the State Law Enforcement Division (SLED) of the disposition of specific types of cases. Clerks of court in general sessions, magistrates, and municipal courts must report the disposition of each case to SLED within 10 days of disposition. These same parties must also notify SLED within 48 hours of the issuance of any restraining order; order of protection; order preventing a person from possessing a firearm; conviction or order issued to prevent acts of domestic violence; order issued related to stalking, intimidation, or harassment; or order for bond with any related limitations. Law enforcement agencies must report to SLED within 24 hours the filing of an incident report for each criminal case; the filing of an order of protection, restraining order, or any order or report related to a domestic violence incident; or any incident in which a person may be prohibited from obtaining or purchasing a firearm by state or federal law. The reporting requirements will commence on July 1, 2020.

The bill also establishes an 8-member Judicial Criminal Information Technology Committee. Committee members will serve 3-year terms and may be reappointed, and they must meet at least annually. The committee is tasked with assessing technology and funding needs of the judicial system and state and local law enforcement agencies to ensure that a centralized court reporting system with specific reporting deadlines is established. Committee members will receive mileage, subsistence, and per diem as allowed under state law but may also apply for or expend any grants, gifts, or federal funds to fulfill required duties. By December 15, 2019, the committee must provide to the Chairmen of the House of Representatives and the Senate Judiciary Committees an initial report of findings.

**Judicial Department.** This bill requires every clerk of court, which includes general sessions, magistrate, and municipal courts, to report case dispositions to SLED within 10 days. In addition, those same courts must report within 48 hours the issuance of a restraining order, order of protection, order for the prevention of possession of a firearm, convictions or orders related to domestic violence, orders related to stalking, intimidation, harassment, and related bond orders. The bill will also impose reporting requirements upon law enforcement agencies and will create the Judicial Criminal Information Technology Committee. The department reports that it, along with counties and municipalities, may incur a cost associated with shortened reporting deadlines. The department expects to manage any increase in costs using existing general fund resources.

**South Carolina Law Enforcement Division.** A determination of the bill’s fiscal impact is pending, as the agency is still reviewing the bill.

**Local Expenditure**

Of the counties and municipal organizations surveyed, Clarendon, Florence, Horry, and Lancaster Counties provided responses on the expected expenditure impact of the bill. All parties report the bill is expected to have no expenditure impact on county or municipal governments. Charleston County anticipates they will need to hire additional staff in order to meet the requirements of this bill. However, they were not able to provide an exact estimate of the impact and are currently reviewing the bill.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 14‑17‑325 OF THE 1976 CODE, RELATING TO THE CLERK OF COURT REPORTING THE DISPOSITION OF EACH CASE IN THE COURT OF GENERAL SESSIONS, TO REQUIRE EVERY CLERK OF COURT TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CASE IN GENERAL SESSIONS AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND CHAPTER 1, TITLE 22 OF THE 1976 CODE, RELATING TO MAGISTRATES GENERALLY, BY ADDING SECTION 22‑1‑200, TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND ARTICLE 1, CHAPTER 25, TITLE 14 OF THE 1976 CODE, RELATING TO MUNICIPAL COURTS, BY ADDING SECTION 14‑25‑250, TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND CHAPTER 1, TITLE 23 OF THE 1976 CODE, RELATING TO LAW ENFORCEMENT AND PUBLIC SAFETY, BY ADDING SECTION 23‑1‑250, TO REQUIRE EACH LAW ENFORCEMENT AGENCY TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TWENTY‑FOUR HOURS THE FILING OF EACH INCIDENT REPORT, ORDER OF PROTECTION, RESTRAINING ORDER, ANY ORDER OR REPORT RELATING TO AN INCIDENT OF DOMESTIC VIOLENCE, OR ANY INCIDENT IN WHICH A PERSON MAY BE PROHIBITED FROM OBTAINING OR POSSESSING A FIREARM BY STATE OR FEDERAL LAW; AND TO AMEND TITLE 14 OF THE 1976 CODE, RELATING TO THE COURTS, BY ADDING CHAPTER 32, TO CREATE THE JUDICIAL CRIMINAL INFORMATION TECHNOLOGY COMMITTEE AND TO ESTABLISH ITS MEMBERSHIP, DUTIES, AND RESPONSIBILITIES, INCLUDING THE STUDY OF AND RECOMMENDATIONS FOR THE IMPROVEMENT OF JUDICIAL AND LAW ENFORCEMENT INFORMATION TECHNOLOGY AND REPORTING.

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

SECTION 1. A. Section 14‑17‑325 of the 1976 Code is amended to read:

“Section 14‑17‑325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within ~~thirty~~ ten days of disposition, weekends and holidays excluded.

(B) The clerk of court shall report to the State Law Enforcement Division, within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) orders issued related to the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The ~~disposition report~~ reports required by this section must be in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration.”

B. This SECTION takes effect July 1, 2020.

SECTION 2. A. Chapter 1, Title 22 of the 1976 Code is amended by adding:

“Section 22‑1‑200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded.

(B) Magistrates shall report to the State Law Enforcement Division, within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) orders issued or convictions related to, or to prevent, the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of docket information transmitted to the office of the court administration.”

B. This SECTION takes effect July 1, 2020.

SECTION 3. A. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14‑25‑250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded.

(B) A municipal judge shall report to the State Law Enforcement Division, within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) convictions related to or orders issued to prevent the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of docket information transmitted to the office of the court administration.”

B. This SECTION takes effect July 1, 2020.

SECTION 4. A. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) Each law enforcement agency must report to the State Law Enforcement Division within twenty‑four hours:

(1) the filing of an incident report for each criminal case;

(2) the filing of an order of protection, a restraining order, or any order or report relating to an incident of domestic violence;

(3) any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law.

(B) The report must be made in a format approved by representatives of the State Law Enforcement Division.”

B. This SECTION takes effect July 1, 2020.

SECTION 5. Title 14 of the 1976 Code is amended by adding:

“CHAPTER 32

Judicial Criminal Information Technology Committee

Section 14‑32‑10. There is hereby established the Judicial Criminal Information Technology Committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 14‑32‑20. (A) The committee is composed of the following:

(1) a member of the Senate, appointed by the Chair of the Senate Judiciary Committee;

(2) a member of the House of Representatives, appointed by the Chair of the House of Representatives Judiciary Committee;

(3) the Chief Justice of the Supreme Court, who shall serve ex officio;

(4) one member who is a judge of the State, appointed by the Chief Justice of the Supreme Court;

(5) one member who is a clerk of court, appointed by the Chief Justice of the Supreme Court;

(6) one member who is a circuit solicitor, appointed by the Attorney General;

(7) one member who is a circuit public defender, appointed by the Chief Justice of the Supreme Court; and

(8) one member who is a sheriff or municipal chief of police, appointed by the Governor.

(B) The committee members serve terms of three years and until their successors are appointed. Members of the committee may be reappointed.

(C) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the committee may consider necessary. Thereafter, the committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of five members.

Section 14‑32‑30. The committee has the following powers and duties:

(1) to review the current state of law enforcement information technology and reporting, including but not limited to, the timeframe and accuracy of the filing of reports, fingerprints and related offender information, and evidence discovery to prosecutors, courts, and the State Law Enforcement Division criminal information database;

(2) to review the current state of judicial information technology, including but not limited to, the technology and funding needs of state and local court systems, the technology and funding needs of state and local law enforcement agencies, and the current efficiency, timeliness, and accuracy of filings;

(3) to recommend the implementation of an accurate and secure centralized court reporting system for all courts in the State and to explore funding options and recommend legislation, rules, or regulations to enhance the overall efficiency of the judicial system and criminal reporting by law enforcement; and

(4) to recommend, to the Supreme Court, changes to the court rules to effectuate the adoption of a centralized court reporting system and the implementation of, and full compliance with, reporting deadlines.

Section 14‑32‑40. (A) The committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions.

(B) The committee is encouraged to apply for and may expend any grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.”

SECTION 6. An initial report pursuant to Section 14-32-30(3), as added by this act, shall be given to the Chairmen of the House of Representatives and the Senate Judiciary Committees no later than December 15, 2019, detailing the current status of agency needs, funding requirements, and recommendations and findings of the Judicial Criminal Information Technology Committee.

SECTION 7. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. Except where provided otherwise, this act takes effect upon approval by the Governor.

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