



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

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| Bill Number: | H. 3620 | Amended by House Judiciary on March 17, 2021 |
| Author: | Gilliard | |
| Subject: | Clementa C. Pinckney Hate Crimes Act | |
| Requestor: | House Judiciary | |
| RFA Analyst(s): | Gardner | |
| Impact Date: | April 7, 2021 | |

Fiscal Impact Summary

This bill creates the “Clementa C. Pinckney Hate Crimes Act,” which provides for an enhanced fine of not more than \$10,000 and an additional term of imprisonment of no up to five years to be applied to any penalty for an underlying violent offense when the defendant has intentionally selected his victim based on the defendant’s belief or perception of the victim’s race, color, sex, gender, national origin, sexual orientation, or physical or mental disability.

This bill may increase the length of imprisonment for offenders who qualify for the enhanced penalty by up to five years. However, due to the variability in the number of such offenses that might occur in a given year, the expenditure impact on the agency’s General Fund, Other Funds, or Federal Funds of the Department of Corrections cannot be determined.

This bill has the potential to increase General Fund revenue from fines, as well as Other Funds revenue of the Judicial Department and any other applicable agency who would otherwise receive a distribution from fine revenue for such an offense, due to the increased fine for offenders who qualify for the enhanced penalty. However, due to the variability in the number of such offenses that might occur in a given year, the revenue impact cannot be determined.

Explanation of Fiscal Impact

Amended by House Judiciary on March 17, 2021

State Expenditure

This bill creates the “Clementa C. Pinckney Hate Crimes Act,” which requires an enhanced penalty for specific crimes committed against a victim who was intentionally selected (in whole or in part) by an offender because of the offender’s belief or perception regarding the victim’s race, color, sex, gender, national origin, sexual orientation, or physical or mental disability, regardless of whether the offender’s belief or perception is correct. Offenses to which the enhanced penalty may be applied include violent crimes (Classes A through F felonies, and Classes A through C misdemeanors) and assault by mob in the second degree. The enhanced penalty will be added to the penalty for the underlying offense and will consist of an additional fine of not more than \$10,000 and an additional term of imprisonment of up to five years.

The prosecuting agency and the defense may present evidence relevant to the determination of whether the defendant intentionally selected the person against whom the offense was committed. The court with competent jurisdiction over the underlying offense shall instruct the trier of fact to find a special verdict as to whether the defendant intentionally selected the victim, and the trier of fact must determine beyond a reasonable doubt that the offense was indeed a hate crime. The enhanced penalty does not apply unless the defendant was indicted (either separately or as a separate count in the indictment for the underlying offense) for the hate crime and he was found guilty of the underlying offense. According to the United States Department of Justice, there were 68 hate crime incidents reported in South Carolina in 2019.

Judicial Department. We anticipate this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds, as its purpose is to enhance the penalties for the offenders convicted of existing offenses.

Department of Corrections. This bill provides penalty enhancements for specific crimes committed against a person when those crimes are motivated by the offender's discriminatory beliefs or perceptions. We anticipate this bill may increase the length of imprisonment for offenders who qualify for the enhanced penalty by up to five years, thereby increasing the expenditures of the Department of Corrections. However, due to the variability in the number of such offenses that might occur in a given year, the expenditure impact on the agency's General Fund, Other Funds, or Federal Funds of the Department of Corrections cannot be determined.

State Revenue

This bill has the potential to increase General Fund revenue from fines, as well as Other Funds revenue of the Judicial Department and any other applicable agency who would otherwise receive a distribution from fine revenue for such an offense, due to the increased fine for offenders who qualify for the enhanced penalty. However, due to the variability in the number of such offenses that might occur in a given year, the revenue impact cannot be determined.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director