



**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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<b>Bill Number:</b>	S. 0001	Amended by the Senate on January 27, 2021
<b>Author:</b>	Grooms	
<b>Subject:</b>	SC Fetal Heartbeat Protection from Abortion Act	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Griffith and Gardener	
<b>Impact Date:</b>	February 12, 2021	

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### **Fiscal Impact Summary**

This bill, as amended will have no impact on the Department of Health and Environmental Control (DHEC), the Commission on Prosecution Coordination, the Commission on Indigent Defense, or the Judicial Department because any additional expenditures or duties will be managed within the agencies' existing appropriations.

### **Explanation of Fiscal Impact**

#### **Amended by the Senate on January 27, 2021**

#### **State Expenditure**

This bill, as amended, requires an abortion provider to test for a detectable fetal heartbeat before performing an abortion. If a fetal heartbeat is detected, an abortion will be prohibited unless:

- the pregnancy is a result of rape, and the probable post-fertilization age of the fetus is fewer than twenty weeks,
- the pregnancy is the result of incest, and the probable post-fertilization age of the fetus is fewer than twenty weeks,
- it is performed to prevent the death or serious impairment of a pregnant woman, or
- there exists a fetal anomaly.

The physician intending to perform the abortion must inform the pregnant woman in writing of that a fetal heartbeat has been detected and the statistical probability of bringing the human fetus to term based on the gestational age of the fetus.

**Department of Health and Environmental Control.** The bill allows DHEC to promulgate regulations that specify the statistical probability of bringing an unborn human individual possessing a detectable heartbeat to term based on its gestational age. In addition, the amended bill requires the physician who performs an abortion due to the exceptions specified in the bill to report which exception the physician relied upon in performing or inducing the abortion. The agency indicates that any additional expenditures relating to promulgating regulations and accepting additional reporting requirements can be managed within its existing appropriations. Therefore, there is no expenditure impact to the agency.

**Judicial Department.** The bill would permit the Attorney General to bring a civil action under certain circumstances and would create a new civil cause of action for certain women who have

an abortion. The felonies created by this bill would be heard in general sessions court, and the civil actions would be heard in the court of common pleas. Since this bill would create new criminal offenses and new civil causes of action, there is no data upon which to predict the impact on the caseload in circuit court. The Judicial Department anticipates that any expenditure impact from the increased caseload would be managed within its existing appropriations.

**Commission on Prosecution Coordination.** The agency reports the implementation of this bill will be handled by the agency's existing personnel and will not result in any expenditure impact.

**Commission on Indigent Defense.** The agency reports the implementation of this bill will be handled by the agency's existing personnel and will not result in any expenditure impact.

#### **State Revenue**

N/A

#### **Local Expenditure**

N/A

#### **Local Revenue**

N/A

#### **Amended by Senate Medical Affairs on January 21, 2021**

##### **State Expenditure**

This bill requires an abortion provider to test for a detectable fetal heartbeat before performing an abortion. If a fetal heartbeat is detected, an abortion will be prohibited unless a medical emergency exists, and the physician intending to perform the abortion must inform the pregnant woman in writing of the following:

- 1) that a fetal heartbeat has been detected and
- 2) the statistical probability of bringing the human fetus to term based on the gestational age of the fetus.

**Department of Health and Environmental Control.** The bill allows DHEC to promulgate regulations that specify the statistical probability of bringing an unborn human individual possessing a detectable heartbeat to term based on its gestational age. The agency indicates that any additional expenditures relating to promulgating regulations can be managed within its existing appropriations. Therefore, there is no expenditure impact to the agency.

**Department of Health and Human Services.** The bill requires DHHS to reimburse a practitioner who provides prenatal care; delivery, neonatal, or post-natal care; or any other medically necessary services related to a pregnancy that are covered by Medicaid to an uninsured woman. The amount reimbursed must be the costs of the care at the same rate that the practitioner would be reimbursed by Medicaid. DHHS also shall promulgate regulations concerning the reimbursement process and shall provide practitioners with reimbursement rates for reimbursable procedures.

Based on historical Medicaid reimbursements for similar services, DHHS estimates the per birth reimbursement amount to be \$4,800. DHHS provided data from a Medicaid and CHIP Payment and Access Commission report that indicates there were 1,626 uninsured births in the state of South Carolina in 2018, the most recent year for which data are available. Applying the estimated per birth cost of \$4,800 to the estimated 2018 uninsured births of 1,626 results in total estimated expenses of \$7,804,800 annually beginning in FY 2021-22. DHHS indicates the reimbursements would be paid from a combination of current General Funds appropriations and Other Funds such as the Indigent Care Assessment Tax. The reimbursements may not be paid with federal Medicaid funds because the individuals are not Medicaid eligible. DHHS does not anticipate they would not need additional General Fund appropriations.

**Judicial Department.** The bill would permit the Attorney General to bring a civil action under certain circumstances and would create a new civil cause of action for certain women who have an abortion. The felonies created by this bill would be heard in general sessions court, and the civil actions would be heard in the court of common pleas. Since this bill would create new criminal offenses and new civil causes of action, there is no data upon which to predict the impact on the caseload in circuit court. The Judicial Department anticipates that any expenditure impact from the increased caseload would be managed within its existing appropriations.

**Commission on Prosecution Coordination.** The agency reports the implementation of this bill will be handled by the agency's existing personnel and will not result in any expenditure impact.

**Commission on Indigent Defense.** The agency reports the implementation of this bill will be handled by the agency's existing personnel and will not result in any expenditure impact.

**State Revenue**

N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director