



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.

Bill Number:	S. 0224	Introduced on January 12, 2021
Author:	Shealy	
Subject:	Increase in Penalties for Solicitation of Prostitution	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner	
Impact Date:	April 19, 2021	

Fiscal Impact Summary

The Judicial Department indicates that the implementation of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of the agency.

The revenue impact of the bill on local governments is undetermined because it is dependent upon the number of future violations.

Explanation of Fiscal Impact

Introduced on January 12, 2021

State Expenditure

This bill revises provisions related to offenses involving prostitution and establishing or maintaining a brothel. The bill creates the misdemeanor offense of prostitution or exposing indecently the private person for the purpose of prostitution or other indecency, both of which are punishable by a fine of not more than \$200, imprisonment for not more than 30 days, or both for a first offense; a fine of not more than \$1,000, imprisonment for not more than six months, or both for a second offense; and a fine of not more than \$3,000, imprisonment for not more than one year, or both for a third or subsequent offense. In addition, the bill creates an affirmative defense for a defendant who was a victim of trafficking in persons when the offense was committed.

The bill also adds the following offenses to the list of existing unlawful acts related to prostitution:

- Residing in, entering, or remaining in a place, structure, building, vehicle, trailer, or conveyance for the purpose of lewdness, assignation, or prostitution;
- Keeping or establishing a house of ill fame, brothel, or bawdyhouse;
- Receiving a person for the purpose of lewdness, assignation, or prostitution into a vehicle, conveyance, trailer, place, structure, or building;
- Permitting a person to remain for the purpose of lewdness, assignation, or prostitution in a vehicle, conveyance, trailer, place, structure, or building;
- Directing, taking, or transporting, offering or agreeing to take or transport, or aiding or assisting in transporting a person to a vehicle, conveyance, trailer, place, structure,

- or building, or to another person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; and
- Leasing, renting, or contracting to lease or rent a vehicle, conveyance, trailer, place, structure, building, or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the above acts.

Persons who violate any of the above provisions or who perform other unlawful acts of prostitution outlined in existing provisions are guilty of a misdemeanor offense punishable by a fine of not less than \$250 nor more than \$1,000, imprisonment for not more than 30 days, or both for a first offense (which may be tried in magistrate or municipal court); a fine of not less than \$500 nor more than \$3,000, imprisonment for not more than six months, or both for a second offense; and a fine of not less than \$1,500 nor more than \$5,000, imprisonment for not more than one year, or both for a third or subsequent offense. The bill also adds to the noted violations an aggravating factor where a prostitute has been adjudicated or meets the definition of being severely or profoundly mentally disabled beyond a reasonable doubt; this renders the offense a felony punishable by a fine of not less than \$1,500 nor more than \$5,000, imprisonment for not more than two years, or both.

The bill also repeals the prior penalty structure, which was as follows:

- First offense – a fine of not more than \$200 or confinement in prison for a period of not more than 30 days;
- Second offense – a fine of not more than \$1,000 or imprisonment for not more than six months, or both;
- Third or subsequent offense – a fine of not more than \$3,000 or imprisonment for not less than one year, or both.

The bill, which takes effect upon approval by the Governor, also adds a severability clause.

Judicial Department. The department reports that the bill will impact general sessions, magistrate, and municipal courts. As the bill amends elements and structures of the offenses and creates a new offense, there is no data with which to estimate the number of filings, hearings, or trials that may result. However, in FY 2019-20, there were 984 filings for prostitution-related offenses:

CDR Code - Description	Total Filings in FY 19-20
0323 - Sex / Prostitution - 2nd offense	16
0324 - Sex / Prostitution, further acts - 3rd or sub. offense	1
0640 - Sex / Prostitution - 1st offense	951
0744 - Sex / Prostitution - 3rd or sub. offense	6
1208 - Sex / Prostitution, further acts - 1st offense	8
1209 - Sex / Prostitution, further acts - 2nd offense	2

Implementation of the bill may increase the number of hearings held in general sessions courts, which may lead to an increased backlog for the Circuit Court as a whole. The department intends to use existing General Fund resources to manage any increase in caseloads.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

The bill increases the penalties for solicitation of prostitution, establishing or keeping a brothel, or causing or inducing another person to participate in prostitution. The increase in local revenue from the higher fines proposed by the bill is dependent upon the number of violations. Because the bill increases the current fines for which there is no historical data, the increase in revenue for local governments is undetermined.



Frank A. Rainwater, Executive Director