~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 20, 2022

**H. 4075**

Introduced by Reps. Wetmore, Stavrinakis and Weeks

S. Printed 4/20/22--S.

Read the first time April 28, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4075) to amend Section 23‑3‑430, Code of Laws of South Carolina, 1976, relating to the sex offender registry, so as to conform the registration provisions for, etc., respectfully

**REPORT:**

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

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill provides circumstances under which a person convicted of third degree criminal sexual conduct with a minor is not required to have his name placed on the state sex offender registry. Should the court make a specific finding that the conviction obtained for the offense resulted from consensual sexual conduct, provided that the offender was eighteen years of age or younger or the conduct was between persons under sixteen years of age, the convicted person is not an offender and will not be required to have his name placed on the registry.

**Judicial.** This bill may result in an increase in the amount of time certain cases take to litigate in Family Court and General Sessions to allow the court to have sufficient evidence to make a determination that the offense resulted from consensual sexual conduct. There is no data available to estimate the number of filings, hearings, or trials that may be impacted because of the implementation of this bill. However, Judicial estimates that any changes the bill creates will have minimum impact and can be absorbed within existing appropriations. Therefore, this bill will have no expenditure impact for Judicial.

**State Law Enforcement Division.** The sex offender registry is under the direction of SLED. The bill exempts certain persons from having to register. Maintaining the registry is within the normal course of business for SLED. Therefore, this bill will have no impact for SLED.

**Commission on Prosecution Coordination.** The implementation of this bill will have no expenditure impact on PCC, as the department expects to manage any increase in caseloads within current resources.

*This impact statement has been updated to include a response from PCC.*

**Amended by the House of Representatives on April 27, 2021**

**State Expenditure**

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**Department of Probation, Parole, and Pardon Services.** A determination of the bill’s impact is pending, contingent upon a response from the agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 23‑3‑430, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO CONFORM THE REGISTRATION PROVISIONS FOR SECOND DEGREE CRIMINAL SEXUAL CONDUCT WITH A MINOR TO THIRD DEGREE CRIMINAL SEXUAL CONDUCT WITH A MINOR.

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

SECTION 1. Section 23-3-430(C)(5) and (6) of the 1976 Code is amended to read:

“(5) criminal sexual conduct with minors, second degree (Section 16‑3‑655(B)). If evidence is presented at the criminal proceeding or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(B)(2) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) criminal sexual conduct with minors, third degree (Section 16‑3‑655(C)). If evidence is presented at the criminal proceeding , or in any court of competent jurisdiction and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;”

SECTION 2. This act takes effect upon approval by the Governor.

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