**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4825**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hewitt, Murphy, W. Newton, Brewer, Gatch, Robbins, Kirby, Mitchell, Crawford, Yow, Bailey, Pope, Guest, Hartnett, West, Oremus, Leber, Williams, Jefferson, Gilliard, Schuessler, Landing, Bustos, Calhoon, Gilliam, Gibson, M.M. Smith, B. Newton and Anderson

Companion/Similar bill(s): 4633

Document Path: LC-0217AHB24.docx

Introduced in the House on January 10, 2024

Introduced in the Senate on January 31, 2024

Currently residing in the House

Summary: Kidnapping, luring

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/10/2024 House Introduced and read first time (House Journal‑page 39)

 1/10/2024 House Referred to Committee on **Judiciary** (House Journal‑page 39)

 1/17/2024 House Member(s) request name added as sponsor:
 Williams, Jefferson, Gilliard

 1/24/2024 House Committee report: Favorable **Judiciary** (House Journal‑page 4)

 1/25/2024 House Member(s) request name added as sponsor:
 Schuessler, Landing, Bustos, Calhoon,
 Gilliam, Gibson

 1/30/2024 House Member(s) request name added as sponsor: M.M.
 Smith, B. Newton, Anderson

 1/30/2024 House Read second time (House Journal‑page 23)

 1/30/2024 House Roll call Yeas-113 Nays-0 (House Journal‑page 24)

 1/31/2024 House Read third time and sent to Senate (House Journal‑page 23)

 1/31/2024 Senate Introduced and read first time (Senate Journal‑page 7)

 1/31/2024 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 7)

 4/23/2024 Senate Referred to Subcommittee: Hutto (ch), Adams,
 Garrett, Gustafson, Tedder

 5/1/2024 Senate Committee report: Favorable with amendment **Judiciary** (Senate Journal‑page 14)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4825&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[01/10/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4825_20240110.docx)

[01/24/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4825_20240124.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4825_20240501.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

May 01, 2024

H. 4825

Introduced by Reps. Hewitt, Murphy, W. Newton, Brewer, Gatch, Robbins, Kirby, Mitchell, Crawford, Yow, Bailey, Pope, Guest, Hartnett, West, Oremus, Leber, Williams, Jefferson, Gilliard, Schuessler, Landing, Bustos, Calhoon, Gilliam, Gibson, M. M. Smith, B. Newton and Anderson

S. Printed 05/01/24--S.

Read the first time January 31, 2024

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The committee on Senate Judiciary

To whom was referred a Bill (H. 4825) to amend the South Carolina Code of Laws by amending Section 16‑3‑910, relating to offenses involving kidnapping, so as to include unlawfully luring another person, 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, SECTION 1, by striking Section 16-3-910(A), (B), and (C) and inserting:

 Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16‑3‑20.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Chapter 5, Title 63 of the S.C. Code is amended by adding:

 Section 63‑5‑90. (A) As used in this section, the term:

 (1) “Child” means a person under sixteen years of age.

 (2) “Conveyance” means any motor vehicle as defined in Section 56-1-10, ship, vessel, railroad car, trailer, aircraft, or sleeping car.

 (3) “Dwelling” means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by persons lodging together, including the surrounding area.

 (4) “Structure” means a building of any kind, either temporary or permanent, which has a roof over it, including the surrounding area.

 (B) Unless the circumstances reasonably indicate that the child is in need of assistance, a person eighteen years of age or older who lures, entices, or attempts to lure or entice a child into a conveyance, dwelling, or structure without the consent, express or implied, of the child’s parent or legal guardian is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

 (C) Mistake of age is not a defense to prosecution pursuant to the provisions of this section. However, it is an affirmative defense to prosecution pursuant to the provisions of this section if the:

 (1) person lured, enticed, or attempted to lure or entice, the child into the conveyance, dwelling, or structure for a lawful purpose; or

 (2) person’s actions were otherwise reasonable under the circumstances, and he did not have the intent to harm the health, safety, or welfare of the child.

 (D) The penalties provided in this section are in addition to other penalties as provided by law for kidnapping or any other offense, as warranted. The offense of luring a child is not intended to be a lesser included offense of kidnapping or any other offense.

Renumber sections to conform.

Amend title to conform.

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill amends provisions related to offenses involving kidnapping to include the act of luring and to creates an enhanced penalty for a person convicted of kidnapping a minor. The enhanced penalty increases a defendant’s term of imprisonment by an additional five years. The bill also provides that a person convicted of attempting to unlawfully seize, confine, inveigle, lure, decoy, kidnap, abduct, or carry away another person is guilty of a felony punishable by a term of imprisonment for not more than 30 years, in addition to the term of imprisonment for five years if the victim is a minor.

**Judicial.** Judicial reports that implementation of the bill may result in an increase in general sessions court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial.

**Commission on Prosecution Coordination.** This bill requires the Commission to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the agency.

**Commission on Indigent Defense.** This bill adds luring to the offense of kidnapping which could result in an increase in the number of cases handled by the indigent defense attorneys. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

**Department of Corrections.** This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the

increase in the number of inmates that may be housed by Corrections. According to Corrections,

in FY 2022-23, the annual total cost per inmate was $37,758, of which $34,570 was state funded.

However, as the potential increase in incarcerations is unknown, any expenditure impact for

Corrections is undetermined. Corrections indicates that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations.

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**Commission on Prosecution Coordination.** This bill adds luring to the offense of kidnapping which could result in an increase in the number of cases handled by state prosecutors. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

**Commission on Indigent Defense.** This bill adds luring to the offense of kidnapping which could result in an increase in the number of cases handled by the indigent defense attorneys. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

**Department of Corrections.** This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2022-23, the annual total cost per inmate was $37,758, of which $34,570 was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined. Corrections indicates that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16‑3‑910, RELATING TO OFFENSES INVOLVING KIDNAPPING, SO AS TO INCLUDE UNLAWFULLY LURING ANOTHER PERSON, TO PROVIDE FOR A SENTENCING ENHANCEMENT WHEN THE VICTIM IS A MINOR, TO SPECIFICALLY PROVIDE FOR PUNISHMENT FOR ATTEMPTED KIDNAPPING OFFENSES, AND TO DEFINE THE TERM “MINOR”.

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

SECTION 1. Section 16‑3‑910 of the S.C. Code is amended to read:

 Section 16‑3‑910. (A) Whoever shall unlawfully seize, confine, inveigle, lure, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16‑3‑20. If the victim is a minor, the person convicted of an offense provided in this subsection must be sentenced to a term of imprisonment of up to five years in addition to a sentence as otherwise provided in this subsection.

 (B) A person who attempts to commit an offense provided in subsection (A), upon conviction, must be punished as for the principal offense.

 (C) The term “minor” means a person who is less than eighteen years of age.

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or 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 3. This act takes effect upon approval by the Governor.

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