



**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>	H. 3532	Introduced on January 10, 2023
<b>Author:</b>	G.M. Smith	
<b>Subject:</b>	Bond Reform	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Gardner	
<b>Impact Date:</b>	February 14, 2023	

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### **Fiscal Impact Summary**

This bill provides an additional five-year sentencing enhancement for persons who commit certain crimes while they are on pretrial release on bond. In addition, it prohibits the court from setting bond for certain defendants and requires that a full cash bond be paid by persons who have been charged with certain additional offenses while being out on bond.

Judicial and the Commission on Indigent Defense report that implementation of the bill is expected to result in a minimal expenditure impact that can be absorbed using existing General Fund appropriations.

The Commission on Prosecution Coordination reports that implementation of the bill will likely reduce expenditures due to the expected reduction in the number of repeat offenders of certain crimes, which will in turn reduce the number of new warrants sent to the Offices of Solicitor. However, the amount of any expected cost savings is undetermined.

The South Carolina Department of Corrections (SCDC) reports that while the bill may extend the terms of imprisonment for certain inmates, the resulting expenditure impact cannot be determined as the number of persons who will receive an enhanced sentence is unknown. According to Corrections, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836.28, \$4,829.76 of which was state funded. SCDC expects to manage any expenditure impact using existing General Fund appropriations.

### **Explanation of Fiscal Impact**

#### **Introduced on January 10, 2023**

#### **State Expenditure**

This bill provides that persons who commit certain additional crimes while on pretrial release on bond are subject to a sentencing enhancement of an additional, consecutive term of imprisonment for five years. These additional crimes include violent crimes, criminal sexual conduct, domestic violence, common law strong-arm robbery, offenses involving weapons, child pornography or dissemination of obscene material to a person under the age of eighteen, failure to register as a sex offender on the Sex Offender Registry, and failure to register as a child abuser

on the Central Registry of Child Abuse and Neglect. The enhanced penalty may only be applied when there is a separate indictment for the additional crime that alleges the person was on pretrial release subject to the terms of bond when the principal offense was committed and a conviction was had.

Service of the five-year sentence is mandatory unless a longer mandatory term of imprisonment, such as the death penalty or a life sentence without the possibility of parole, is provided by law. Persons receiving the enhanced sentence are not eligible during the first five-year period of imprisonment for parole, work release, or extended work release, but they may earn good-time or work credits during that period that cannot be used to shorten fulfillment of the required five-year sentence. No part of the five-year sentence may be suspended.

The bill also prohibits the court from setting bond for a person who is on pretrial release on a personal recognizance, financial surety bond, or other form of pretrial release when he (1) is charged with a general sessions offense and has a prior conviction for one of the offenses listed above if a period of not more than five years has elapsed since the date of conviction or release of the person from imprisonment, whichever is later, or (2) has a general sessions offense and is charged with committing another offense listed above. In these instances, the chief administrative judge or his designee must conduct an evidentiary hearing to address the matter of bond within 30 days. There will be a presumption in favor of detention or revocation and against setting bond unless the defendant can substantively show that his release on bond will not endanger the public and show that he is not a flight risk; however, he must be afforded the opportunity to present information on his own behalf or to present or cross-examine witnesses. Defense motions for reconsideration of these orders may only be heard upon a prima facie showing of a material change in circumstances.

The bill also requires that persons charged with the offenses noted above must, if determined by the court to be eligible for release on bond, post a full cash bond.

**Judicial.** This bill requires Judicial to hold evidentiary hearings for certain defendants. The agency indicates that it expects implementation of the bill to result in minimal increased expenditures that can be managed within the current General Fund appropriations.

**Commission on Prosecution Coordination.** The commission indicates that implementation of the bill may have an undetermined cost savings since it will reduce the number of new warrants sent to the Offices of Solicitor by means of reducing the number of repeat offenders of certain crimes.

**Commission on Indigent Defense.** The commission anticipates that implementation of the bill will have a minimal expenditure impact for the additional hearings; however, the amount of this impact cannot be determined. The commission expects to manage any expenditure impact using existing General Fund appropriations.

**Department of Corrections.** This bill may result in an increase in the length of the term of imprisonment for certain inmates. However, no data are available to estimate the number of

inmates whose sentences may be extended; as such, the expenditure impact of the bill on SCDC cannot be determined. SCDC expects to manage any expenditure impact using existing General Fund appropriations. According to Corrections, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836.28, \$4,829.76 of which was state funded.

**State Revenue**

N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director