



**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	Amended by the House of Representatives on March 1, 2023
<b>Author:</b>	G.M. Smith	
<b>Subject:</b>	Bond Reform	
<b>Requestor:</b>	Senate Judiciary	
<b>RFA Analyst(s):</b>	Gardner	
<b>Impact Date:</b>	March 23, 2023	

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### **Fiscal Impact Summary**

This bill provides an additional five-year sentencing enhancement for persons who commit violent crimes while they are on pretrial release on bond. In addition, it requires that a full cash bond or a cash deposit be paid by persons who have been charged with certain additional offenses while being out on bond. This amended bill also requires offenders who have committed a subsequent violent crime while out on bond for a previous violent crime to be monitored electronically.

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, of which \$30,044 was state funded, and the marginal cost per inmate was \$4,836, of which \$4,830 was state funded. SCDC expects to manage any expenditure impact using existing General Fund appropriations.

The Revenue and Fiscal Affairs office anticipates this bill may increase county expenditures, as juries may be held longer after a primary trial is complete. However, as the number of defendants who may be charged with subsequent violent crimes while out on bond is unknown, the local expenditure impact is undetermined.

## Explanation of Fiscal Impact

**Amended by the House of Representatives on March 1, 2023**

### **State Expenditure**

This bill, as amended, provides that persons who commit a subsequent violent crime while on pretrial release on bond for a previous violent charge are subject to a sentencing enhancement of an additional five-year term of imprisonment.

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. This additional punishment may not be imposed unless the State notifies the defense in writing of its intention to seek such penalty at least 30 days prior to the trial of the violent crime that occurred while the person was on bond or other pretrial release. If the defendant is convicted of the original violent crime, the court must hold a separate hearing relating to the additional punishment. It is incumbent upon the State to demonstrate that the defendant was indeed on pretrial release for some other charge at the time the subsequent crime was committed. Any jury members used for the original offense must be used for the subsequent sentencing hearing; however, if the defendant pled guilty to the original offense or had a bench trial, the judge will preside over the hearing for the subsequent offense.

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 or a cash deposit. In addition, it authorizes the solicitor or the defendant to file a motion for a speedy trial or request that the court set a date certain for trial based on the facts and circumstances of the case. However, the court must have a hearing or rule on the State's motion within 30 days of the filing. The bill also reduces the amount of time within which the circuit court must hold a bond revocation hearing for a person who has committed a violent crime while out on bond for a previous violent crime from thirty days to fourteen days. In such cases, any defendant found eligible for subsequent release on bond by the court must be placed on electronic monitoring.

**Judicial.** This bill requires Judicial to hold evidentiary hearings for certain defendants. Judicial 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. No data are available to estimate the number of inmates whose sentences may be extended. However, SCDC expects to manage any expenditure impact using existing General Fund appropriations. According to SCDC, in FY 2021-22, the annual total cost per inmate was \$32,247, of which \$30,044 was state funded, and the marginal cost per inmate was \$4,836, of which \$4,830 was state funded.

### **State Revenue**

N/A

### **Local Expenditure**

RFA anticipates this bill may increase county expenditures insofar as it may require juries to be held longer after the primary trial is complete. However, as the number of defendants who may be charged with subsequent violent crimes while out on bond is unknown, the local expenditure impact is undetermined.

### **Amended by House Judiciary on February 23, 2023**

#### **State Expenditure**

This bill, as amended, provides that persons who commit a violent crime while on pretrial release on bond are subject to a sentencing enhancement of an additional, five-year term of imprisonment.

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. This additional punishment may not be imposed unless the State notifies the defense in writing of its intention to seek such penalty at least 30 days prior to the trial of the violent crime that occurred while the person was on bond or other pretrial release. If the defendant is convicted of the original violent crime, the court must hold a separate hearing relating to the additional punishment. It is incumbent upon the State to demonstrate that the defendant was indeed on pretrial release for some other charge at the time the subsequent crime was committed. Any jury members used for the original offense must be used for the subsequent sentencing hearing; however, if the defendant pled guilty to the original offense or had a bench trial, the judge will preside over the hearing for the subsequent offense.

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. In addition, it authorizes the solicitor or the defendant to file a motion for a speedy trial or request that the court set a date

certain for trial based on the fact and circumstances of the case. However, the court must have a hearing or rule on the State's motion within 30 days of the filing.

**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. No data are available to estimate the number of inmates whose sentences may be extended. However, SCDC expects to manage any expenditure impact using existing General Fund appropriations. According to SCDC, in FY 2021-22, the annual total cost per inmate was \$32,247, of which \$30,044 was state funded, and the marginal cost per inmate was \$4,836.28, of which \$4,829.76 was state funded.

#### **State Revenue**

N/A

#### **Local Expenditure**

This bill will increase county expenditures insofar as it may require juries to be held longer after the primary trial is complete. However, as the number of defendants who may be charged with subsequent violent crimes while out on bond is unknown, the local expenditure impact is undetermined.

#### **Local Revenue**

N/A

#### **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