



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. 0127 Introduced on January 10, 2023
Author: Hembree
Subject: Handguns
Requestor: Senate Judiciary
RFA Analyst(s): Gardner
Impact Date: March 27, 2023

Fiscal Impact Summary

This bill amends certain existing penalty schedules for handgun-related offenses, creates a number of new handgun-related offenses, and establishes penalty schedules for the new offenses.

Judicial reports that while implementation of the bill may result in an increase in court caseloads, it intends to manage any expenditure impact using existing staff and appropriations.

The Commission on Indigent Defense, the Commission on Prosecution Coordination, and the State Law Enforcement Division (SLED) report that the bill will have either no or a minimal expenditure impact since these agencies will administer policies resulting from the bill with the use of existing staff and resources.

The South Carolina Department of Corrections (SCDC) reports that implementation of the bill may extend the terms of imprisonment for certain inmates or require the incarceration of new inmates. 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. However, SCDC expects to manage any expenditure impact using existing staff and appropriations.

Revenue and Fiscal Affairs (RFA) contacted counties and the Municipal Association of South Carolina (MASC) to determine the potential impact of the bill on local governments. Dorchester County reports that implementation of the bill will result in no expenditure impact on the county. RFA will update this fiscal impact statement upon receipt of additional replies from either MASC or other county governments.

As this bill increases the amount of fines that can be collected for handgun-related offenses, it has the potential to increase General Fund revenue, Other Funds revenue, and local revenue. However, as the number of such offenses that might occur is unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill amends certain existing penalty schedules for handgun-related offenses, creates a number of new handgun-related offenses, and establishes penalty schedules for the new offenses.

The bill creates Section 16-23-25, which, with some exceptions, makes it unlawful for a person to sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale in this State any handgun to a minor and makes it unlawful for a minor to possess or attempt to possess a handgun. The bill also expands the types of persons to whom it is unlawful to dispose a firearm. In addition, the bill changes the penalty schedule for Section 16-23-30 (a person or dealer who unlawfully sells, offers to sell, delivers, possesses, leases, rents, barters, exchanges, transports for sale, or disposes of a firearm to a prohibited entity). Changes to the penalty schedule are as follows:

Section 16-23-50(A)(1): Current Penalty Schedule
Any Level Offense - Felony
Fine of \leq \$2,000, imprisonment for \leq 5 years, or both
Section 16-23-50(A)(1): Expanded Penalty Schedule
1st Offense - Misdemeanor
Fine of \leq \$2,500, imprisonment for \leq 3 years, or both
2nd Offense - Felony
Fine of \leq \$5,000, imprisonment for \leq 5 years, or both
3rd or Subsequent Offense - Felony
Mandatory imprisonment for at least one but not more than ten years, no part of which may be suspended nor probation granted

The bill also adds to Section 16-23-50(A)(2) the new violations created under Section 16-23-25, and it expands the existing penalty schedule for the unlawful carry of a handgun (Section 16-23-20). Changes to the penalty schedule are as follows:

Section 16-23-50(A)(2): Current Penalty Schedule
<i>Violations of Section 16-23-20</i>
Any Level Offense - Misdemeanor
Fine of \leq \$1,000, imprisonment for \leq 1 year, or both
Section 16-23-50(A)(2): Expanded Penalty Schedule
<i>Violations of Sections 16-23-20 and 16-23-25</i>
1st Offense - Misdemeanor
Fine of \leq \$1,000, imprisonment for \leq 1 year, or both
2nd Offense - Misdemeanor
Fine of \leq \$2,500, imprisonment for \leq 3 years, or both
3rd or Subsequent Offense - Felony
Fine of \leq \$5,000, imprisonment for \leq 5 years, or both

Further, the bill requires that any law enforcement agency receiving a firearm pursuant to the assessment of the above penalties must administratively release the firearm to an innocent owner, provided that he proves ownership, certifies he was neither a consenting party to nor had knowledge of the use of the firearm that made it subject to confiscation, and certifies he will not release the firearm to the person charged with the violation that resulted in the confiscation. A law enforcement agency may maintain or dispose of any confiscated firearm when an innocent owner has not recovered the firearm within thirty days after notification of the release.

The bill also creates a new offense for knowing and willful failure to report a lost or stolen firearm to a local law enforcement agency within 72 hours after the owner first discovers the loss or theft. This offense is punishable as follows:

Section 16-23-52 – Failure to Report a Lost or Stolen Firearm
First Level Offense
Fine of ≤\$1,000
Second or Subsequent Offense - Misdemeanor
Fine of ≤\$1,500, imprisonment for ≤90 days, or both

Additionally, the bill creates a new offense for theft of a firearm:

Section 16-23-540 – Theft of a Firearm
Any Level Offense – Felony
Fine of ≤\$5,000, imprisonment for ≤5 years, or both; no part of the sentence may be suspended

The bill also repeals Section 16-23-500 (*Unlawful possession of a firearm by a person convicted of a violent offense*) and Section 23-31-1040 (*Unlawful for a person adjudicated as a mental defective or committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition*).

Judicial. This bill amends the penalty schedules for a number of handgun-related offenses, creates a number of new handgun-related offenses, and establishes penalty schedules for the new offenses. The following table shows the number of filings for the existing offenses whose penalty schedules were modified by the bill:

Criminal Data Report (CDR) Code-Description	Total Filings in 2022
0044-Weapons / Unlawful carrying of pistol	6,185
2364-Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pistol	2,269

The bill’s creation of new offenses may result in an increase in general sessions, magistrate, and municipal court caseloads. However, there are no data to estimate the number of filings,

hearings, or trials that would be impacted from implementation of the bill. Judicial expects to manage any increase in caseloads using existing staff and appropriations.

Commission on Prosecution Coordination. The Commission reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and appropriations.

Commission on Indigent Defense. The Commission reports this bill will have a minimal expenditure impact and the commission will administer policies resulting from the bill with the use of existing staff and appropriations.

State Law Enforcement Agency. SLED reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and appropriations.

Department of Corrections. This bill expands the penalty schedules for a number of offenses related to handguns, which may result in certain inmates remaining incarcerated for longer periods. The bill also creates a new offense that may result in the incarceration of a person in a state correctional facility. 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. SCDC expects to manage any expenditure impact due to this bill using existing staff and appropriations.

State Revenue

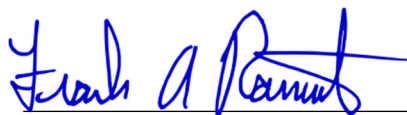
This bill increases the amount of fines for existing handgun-related offenses and creates fines for a number of new handgun-related offenses. As such, it has the potential to increase General Fund revenue from fines, as well as Other Funds revenue. However, as the number of such offenses that might occur in a given year is unknown, the General Fund and Other Funds revenue impact is undetermined.

Local Expenditure

RFA surveyed county governments, as well as the MASC, as to whether implementation of the bill would result in an expenditure impact. Dorchester County provided a response and indicated that implementation of the bill will result in no expenditure impact for the county. RFA will update this fiscal impact statement upon receipt of additional replies from either MASC or other county governments.

Local Revenue

This bill increases the amount of fines for existing handgun-related offenses and creates fines for a number of new handgun-related offenses. As such, it has the potential to increase local revenue from fines. However, as the number of such offenses that might occur in a given year is unknown, the local revenue impact is undetermined.



Frank A. Rainwater, Executive Director