



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. 0142 Amended by House Judiciary on April 23, 2024
Author: Shealy
Subject: Sex Trafficking
Requestor: House Judiciary
RFA Analyst(s): Gardner
Impact Date: April 29, 2024

Fiscal Impact Summary

This bill expands the offense of human trafficking, specifically sex trafficking, to include sexual exploitation of a minor and the promotion or participation in the prostitution of a minor.

This bill also provides that a victim of human trafficking may motion the court to vacate his/her conviction of a non-violent offense stemming from the trafficking. Additionally, a person under the age of eighteen who is a victim of human trafficking may not be prosecuted or adjudicated for conduct stemming from the trafficking. These defenses are retroactive.

Judicial and the Commission on Indigent Defense report there will be no expenditure impact from the bill, as existing General Fund appropriations will be used to manage any increase in caseloads.

The Commission on Prosecution Coordination also anticipates this bill will have no impact for the commission because the increase in the workload to work through the retroactive defenses for convictions can be managed with existing staff and within existing appropriations. However, the commission noted that if the additional workload exceeds expectation, the commission may need to request additional funds to support hiring additional prosecutors.

The Department of Corrections reports the annual total cost per inmate in FY 2022-23 was \$37,758, \$34,570 was state funded. However, Corrections anticipates being able to manage any change in the inmate population due to this bill with existing staff and within existing appropriations.

Also, RFA anticipates this bill will have no local expenditure impact as any impact to magistrates and municipal courts caseload due to this bill can be managed within the normal course of business for these courts.

Additionally, this bill may increase the number of motions filed in general sessions, magistrate, and municipal courts. This may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund

revenue, Other Funds revenue, and local revenue due to the potential increase in fines and fees collections in court.

This fiscal impact statement is pending, contingent upon a response from the Department of Social Services (DSS).

Explanation of Fiscal Impact

Amended by House Judiciary on April 23, 2024

State Expenditure

This bill expands the offense of human trafficking, specifically sex trafficking, to include sexual exploitation of a minor and the promotion or participation in the prostitution of a minor.

The bill also provides that a person who is a victim of human trafficking and is convicted or adjudicated delinquent of a non-violent offense may motion the court to vacate his conviction and expunge his record if the offense that was committed was a direct result of, or incidental or related to, the trafficking. In addition, the bill provides that a person under the age of eighteen who is a victim of human trafficking may not be prosecuted or adjudicated delinquent if his conduct was the direct result of, or incidental or related to, the trafficking, but he must be referred to DSS. These defenses are retroactive.

Currently, the sexual exploitation of a minor and the promotion or participation in the prostitution of a minor are criminal offenses in other statutes. This bill, however, adds these behaviors to the definition of sex trafficking, which may alter the penalty structure of these offenses. Also, currently being a victim of human trafficking is an affirmative defense against violations of human trafficking and prostitution and a victim who was a minor at the time of the offense may not be prosecuted for the violation. This bill adds that being a victim of human trafficking as an affirmative defense for any non-violent offenses a person commits if the offense is a direct result of trafficking and if the person was a minor at the time of the violation, he may not be prosecuted.

Judicial. Judicial anticipates this bill may increase the caseload in general sessions due to the expanded definition of sex trafficking. Additionally, this bill may increase the number of motions filed in general sessions, magistrate, and municipal courts, relative to non-violent crimes that are committed as a direct result of, or incidental or related to trafficking. Further, Judicial anticipates this bill may reduce the number of cases filed in general sessions, family, magistrate, and municipal courts as this bill expands when a victim of human trafficking, who is a minor at the time of the offense may not be prosecuted to include incidents of non-violent offenses. Judicial intends to use existing General Fund appropriations to manage any modifications in caseloads. Therefore, this bill will have no expenditure impact on Judicial.

Commission on Prosecution Coordination. This bill specifies that being a victim of human trafficking is an affirmative defense against non-violent crimes related to the trafficking and this defense applies retroactively. This retroactive application may increase the workload of the Offices of Circuit Solicitor by an unknown amount. The commission anticipates this increase in

the workload can be managed with existing staff and within existing appropriations. If, however, the additional workload exceeds expectation, the commission may need to request additional funds to support hiring additional prosecutors.

Commission on Indigent Defense. This bill specifies that being a victim of human trafficking is an affirmative defense against non-violent crimes related to the trafficking and this defense applies retroactively. This retroactive application may increase the workload of for the commission. However, the commission expects to manage any increase in caseloads within current resources. Therefore, this bill will have no expenditure impact for the commission.

Department of Corrections. This bill adds the sexual exploitation of a minor and the promotion or participation in the prostitution of a minor to the definition of sex trafficking, which may alter the penalty structure of this criminal offense. This, in turn, may alter the duration of incarceration for inmates convicted for sex trafficking. Additionally, the bill creates a retroactive affirmative defense against nonviolent offense, which may also allow certain inmates to leave incarceration early. However, the overall impact to the inmate population is unknown.

The Department of Corrections reports the annual total cost per inmate in FY 2022-23 was \$37,758, \$34,570 was state funded. However, Corrections anticipates being able to manage any change in the inmate population due to this bill with existing staff and within existing appropriations.

Department of Social Services. A determination of the bill's impact is pending, contingent upon a response from DSS.

State Revenue

Judicial anticipates this bill may increase the caseload in general sessions due to the expanded definition of sex trafficking. Additionally, this bill may increase the number of motions filed in general sessions, magistrate, and municipal courts. This may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the potential increase in fines and fees collections in court.

Local Expenditure

This bill may increase the number of motions filed in general sessions, magistrate, and municipal courts, relative to non-violent crimes that are committed as a direct result of, or incidental or related to trafficking. Further, Judicial anticipates this bill may reduce the number of cases filed in general sessions, family, magistrate, and municipal courts as this bill expands when a victim of human trafficking, who is a minor at the time of the offense may not be prosecuted to include incidents of non-violent offenses. RFA anticipates any impact to magistrates and municipal courts caseload due to this bill can be managed within the normal course of business for these courts. Therefore, this bill will have no local expenditure impact.

Local Revenue

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Introduced on January 10, 2023

State Expenditure

This bill expands the offense of human trafficking, specifically sex trafficking, to include sexual exploitation of a minor and the promotion or participation in the prostitution of a minor.

This bill also provides that a person who is a victim of human trafficking and is convicted of a non-violent offense may motion the court to vacate his/her conviction and expunge his/her record if the offense that was committed as a direct result of, or incidental or related to, the trafficking. In addition, the bill provides that a minor who is a victim of human trafficking may not be prosecuted for a non-violent offense if the offense was committed as a direct result of, or incidental or related to, the trafficking. Further, the bill provides that a person under the age of eighteen who is a victim of human trafficking may not be found in violation of or subject to a delinquency petition if his conduct was the direct result of, or incidental or related to, the trafficking. These defenses are retroactive.

Currently, the sexual exploitation of a minor and the promotion or participation in the prostitution of a minor are criminal offenses in other statutes. This bill, however, adds these behaviors to the definition of sex trafficking, which may alter the penalty structure of these offenses. Also, currently being a victim of human trafficking is an affirmative defense against violations of human trafficking and prostitution and a victim who was a minor at the time of the offense may not be prosecuted for the violation. This bill adds that being a victim of human trafficking as an affirmative defense for any non-violent offenses a person commits if the offense is a direct result of trafficking and if the person was a minor at the time of the violation, they may not be prosecuted.

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Commission on Prosecution Coordination. This bill specifies that being a victim of human trafficking is an affirmative defense against non-violent crimes related to the trafficking and this defense applies retroactively. This retroactive application may increase the workload of the Offices of Circuit Solicitor by an unknown amount. The commission anticipates this increase in the workload can be managed with existing staff and within existing appropriations. If, however, the additional workload exceeds expectation, the commission may need to request additional funds to support hiring additional prosecutors.

Commission on Indigent Defense. This bill specifies that being a victim of human trafficking is an affirmative defense against non-violent crimes related to the trafficking and this defense applies retroactively. This retroactive application may increase the workload of for the commission. However, the commission expects to manage any increase in caseloads within current resources. Therefore, this bill will have no expenditure impact for the commission.

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The Department of Corrections reports the annual total cost per inmate in FY 2021-22 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, Corrections anticipates being able to manage any change in the inmate population due to this bill with existing staff and within existing appropriations.

State Revenue

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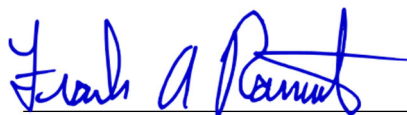
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Frank A. Rainwater, Executive Director