



**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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**Bill Number:** S. 0145      Introduced on January 10, 2023  
**Author:** Shealy  
**Subject:** Prostitution, Sex Buyer Penalties  
**Requestor:** Senate Judiciary  
**RFA Analyst(s):** Gardner  
**Impact Date:** February 9, 2023

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### **Fiscal Impact Summary**

This bill restructures the grouping of laws involving unlawful acts of prostitution, repeals the existing penalty schedule for these offenses, creates two new penalty schedules, and creates an enhanced penalty for acts involving a severely or profoundly mentally disabled prostitute.

Judicial, the Commission on Prosecution Coordination, 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.

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 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, Corrections indicates that since the maximum sentence is two years, they do not anticipate a significant fiscal impact.

As this bill provides for an enhanced penalty, it may increase General Fund, Other Funds, and local fine revenue; however, the amount of any additional revenue is undetermined. The Revenue and Fiscal Affairs Office (RFA) has asked Judicial to provide historical data on how many convictions there were for unlawful acts of prostitution whereby a fine was issued. RFA will update this fiscal impact statement if this additional information becomes available.

### **Explanation of Fiscal Impact**

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

#### **State Expenditure**

This bill restructures the grouping of laws involving unlawful acts of prostitution, repeals the existing penalty schedule for these offenses, creates two new penalty schedules, and creates an enhanced penalty for acts involving a severely or profoundly mentally disabled prostitute.

Section 16-15-90 has been restructured to include only the following offenses related to prostitution:

- Engaging in prostitution or offering oneself for the purpose of prostitution; and

- Exposing indecently the private person for the purpose of prostitution or other indecency.

The bill provides that minors under the age of 18 at the time of such incident may not be prosecuted for the above offenses. In addition, the bill provides that it is an affirmative defense to a prosecution for the above offenses if the defendant was a victim of human trafficking at the time the offense was committed.

Below are the changes in the penalty schedule for the offenses in Section 16-15-90:

<b>EXISTING PENALTY (Section 16-15-110)</b>	<b>NEW PENALTY – MISDEMEANOR (added to Section 16-15-90)</b>
<b>1<sup>st</sup> Offense</b>	<b>1<sup>st</sup> Offense</b>
Fine of ≤\$200 or imprisonment for ≤30 days	Fine of ≤\$200, imprisonment for ≤30 days, or both
<b>2<sup>nd</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>
Fine of ≤\$1,000, imprisonment for ≤6 months, or both	Fine of ≤\$1,000, imprisonment for ≤6 months, or both
<b>3<sup>rd</sup> or Subsequent Offense</b>	<b>3<sup>rd</sup> or Subsequent Offense</b>
Fine of ≤\$3,000, imprisonment for ≥1 year, or both	Fine of ≤\$3,000, imprisonment for ≤1 year, or both

The bill also moves the following prostitution-related offenses originally contained in Section 16-15-90 to Section 16-15-100:

- Residing in, entering, or remaining in a place/vehicle/structure for the purpose of lewdness, assignation, or prostitution;
- Keeping or setting up a house of ill fame, brothel, or bawdyhouse;
- Receiving a person for the purpose of lewdness, assignation, or prostitution into a vehicle/structure;
- Permitting a person to remain for the purpose of lewdness, assignation, or prostitution in a place/vehicle/structure;
- Directing, taking, or transporting, or offering or agreeing to take or transport, or aiding or assisting in transporting a person to a place/vehicle/structure or to another person with knowledge or having reasonable cause to believe that the purpose of such action is prostitution, lewdness, or assignation; and
- Leasing, renting, or contracting to lease or rent a place/vehicle/structure or part thereof believing or having reasonable cause to believe that it is intended to be used for any such purposes.

Below are the changes in the penalty schedule for the offenses in Section 16-15-100:

<b>CURRENT PENALTY (Section 16-15-110)</b>	<b>NEW PENALTY – MISDEMEANOR (added to Section 16-15-100)</b>
<b>1<sup>st</sup> Offense</b>	<b>1<sup>st</sup> Offense*</b>
Fine of ≤\$200 or imprisonment for ≤30 days	Fine ranging from \$250 to \$1,000, imprisonment for ≤30 days, or both
<b>2<sup>nd</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>
Fine of ≤\$1,000, imprisonment for ≤6 months, or both	Fine ranging from \$500 to \$3,000, imprisonment for ≤6 months, or both
<b>3<sup>rd</sup> or Subsequent Offense</b>	<b>3<sup>rd</sup> or Subsequent Offense</b>
Fine of ≤\$3,000, imprisonment for ≥1 year, or both	Fine ranging from \$1,500 to \$5,000, imprisonment for ≤1 year, or both
<b>Enhanced Penalty for Persons Violating This Section When the Prostitute is Severely or Profoundly Mentally Disabled – FELONY (added to Section 16-15-100)</b>	
Fine of ranging from \$1,500 to \$5,000, imprisonment for not more than 2 years, or both	

\* *A first offense may be tried in municipal or magistrate court*

The bill also repeals Section 16-15-110, which outlines the existing penalty structure for all prostitution-related offenses.

**Judicial.** This bill modifies the existing penalty structure for solicitation of prostitution. 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 modifies the existing penalty structure for solicitation of prostitution, which could result in an increase in the number of warrants that are sent to the Offices of Circuit Solicitor for review, prosecution, and disposition; however, the potential increase in warrants is unknown. The implementation of this bill will have no expenditure impact, as the commission expects to manage any increase in caseloads within current resources.

**Commission on Indigent Defense.** The implementation of this bill will have no expenditure impact for Indigent Defense, as the commission expects to manage any increase in caseloads within current resources.

**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 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,

Corrections indicates that since the maximum sentence is two years, they do not anticipate a significant fiscal impact.

**State Revenue**

This bill modifies the existing penalty structure for solicitation of prostitution, including increasing fines. This bill 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 and Other Funds revenue due to the potential increase in fines and fees collections in court.

**Local Expenditure**

N/A

**Local Revenue**

This bill modifies the existing penalty structure for solicitation of prostitution, including increasing fines. This bill 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 local revenue due to the potential increase in fines and fees collections in court.



Frank A. Rainwater, Executive Director