



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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<b>Bill Number:</b>	S. 0156	Amended by House Judiciary on May 7, 2019
<b>Author:</b>	Allen	
<b>Subject:</b>	Telecommunication Device in a Correctional Facility	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Gardner	
<b>Impact Date:</b>	July 23, 2019	

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### **Fiscal Impact Summary**

The Judicial Department reports that the implementation of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds as the department expects to absorb any expenditure associated with an increase in caseloads.

The Department of Corrections projects that the implementation of this bill will result in an expenditure impact on the General Fund of an undetermined amount. While the bill may increase the inmate population by the admission of new offenders and extend the prison stay for those already incarcerated who are subsequently found guilty of this offense, the increase in the overall prison population cannot be determined due to the lack of empirical data relating to the prevalence of the crime and the patterns of arrests, convictions, and sentencing.

The local expenditure impact of this bill on detention facilities is undetermined because this bill creates a new offense and the overall number of individuals who may become incarcerated at the local levels cannot be determined due to the lack of empirical data relating to the prevalence of the crime and the patterns of arrests, convictions, and judicial discretion during sentencing.

### **Explanation of Fiscal Impact**

#### **Amended by House Judiciary on May 7, 2019**

#### **State Expenditure**

This bill creates the Contraband Cell Phone Act and provides definitions related to the detection of contraband cell phones in South Carolina Department of Corrections facilities and local detention facilities. Supervising law enforcement officers who have reasonable suspicion to believe that one or more contraband cell phones exist in a prison or detention facility may authorize and approve the use of any electronic device or other means to detect and confirm the presence of such phones and to detect all identifiers associated with those devices. Once a contraband cell phone has been detected, a law enforcement officer may apply for or cause to be applied for an ex parte order from any circuit court to request the suspension or discontinuation of service for all contraband cell phones that have been identified. The application must show probable cause and contain sufficient identifiers for the contraband phones. Once a circuit court receives an application from a law enforcement officer, it is authorized to issue an order requiring cellular service providers to immediately suspend or discontinue service to the identified contraband phones. The circuit court must retain the original order and may, upon request by a law enforcement agency, prohibit the disclosure of the existence of the order. Cellular service providers are authorized to disclose the existence of an order to a subscriber who

inquires as to the reason for his cellular service interruption. All South Carolina circuit courts have jurisdiction and venue to issue such ex parte orders.

This bill also creates a misdemeanor offense for the unlawful possession or introduction of a telecommunication device within or onto the grounds of a correctional facility, except as authorized by the official in charge of the facility. This prohibition does not apply to devices contained within vehicles located in designated parking areas or vehicles that are traveling on the grounds. These facilities include state correctional institutions, county or municipal jails, regional detention facilities, prison camps, work camps, or overnight lockup facilities. The bill defines a telecommunication device as a device, or its apparatus or component thereof, that would enable or may be used to enable communication with a person inside or outside of a place of incarceration. Telecommunication devices include but are not limited to portable two-way pagers, handheld radios, cellular telephones, personal digital assistants, and laptop computers. Persons found guilty of violating these provisions are subject to imprisonment for no more than three years and are subject to forfeiture of all earned work, education, and good conduct credits.

**Judicial Department.** The department reports that as this bill creates a new offense, there is no data available to determine the number of additional hearings or trials that would be heard in general sessions courts. The department indicates the bill will likely result in increased caseloads for these courts due to the new offense and discontinuation of service. However, it expects to absorb any expenditure impact on the General Fund using current resources.

**Department of Corrections.** This bill makes it unlawful to possess within or introduce upon the grounds of a correctional facility a telecommunication device. The bill creates a misdemeanor offense punishable by a term of imprisonment for not more than three years and forfeiture of all earned work, education, and good conduct credits. While the bill may increase the inmate population by the admission of new offenders and extend the prison stay for those already incarcerated who are subsequently found guilty of this offense, the increase in the overall prison population cannot be determined due to the lack of empirical data relating to the prevalence of the crime and the patterns of arrests, convictions, and sentencing. Additionally, there is no existing data on the number of visitors, staff, or other non-inmates who may commit this offense and subsequently be convicted and sentenced to state correctional facilities.

During 2018, there were 4,695 cellular telephones confiscated at state correctional facilities, and 2,606 inmates were convicted for the unlawful possession of cellular telephones. In FY 2018-19, the variable daily cost per inmate was approximately \$8.00 (medical and food costs) and the total daily cost per inmate was approximately \$60 (includes costs for construction of additional correctional facilities). Under the provisions of the bill, the inmates found guilty in 2018 of unlawful telephone possession could have received up to an additional three years of imprisonment and have earned no work, education, or good conduct credits during their extended stay. It is presumed that if a large number of these inmates had received the maximum sentence for this offense and had to serve the additional time after completion of their current sentences, the prison population would significantly increase over time.

For each inmate currently incarcerated who is subsequently convicted of the unlawful possession of a telecommunications device and is sentenced to three additional years of imprisonment, his

medical and food costs for the additional prison time would equal \$8,760 ( $\$8.00 \times 365 \times 3 = \$8,760$ ). For each non-inmate who is subsequently convicted of unlawful possession or introduction of a telecommunications device and receives the maximum penalty, his total costs (including medical, food, and construction costs associated with building new facilities to accommodate additional prisoners) would equal \$65,700 ( $\$60 \times 365 \times 3 = \$65,700$ ). Should a large number of inmates incur additional convictions and receive the maximum penalty for this offense, or if a significant number of non-inmates are convicted of this offense and are sentenced to prison terms, state correctional facilities could see a significant increase in both the prison population and associated costs. The department anticipates that enactment of the bill will result in an expenditure impact on the General Fund of an undetermined amount.

### **State Revenue**

N/A

### **Local Expenditure**

This bill makes it unlawful to possess within or introduce upon the grounds of any correctional facility, county jail, municipal jail, regional detention facility, prison camp, work camp, or overnight lockup facility a telecommunication device. This bill may increase the number of individuals incarcerated by the admission of new offenders or extending the stay for those already incarcerated if subsequently found guilty of this offense. However, the increase in the overall number of individuals who may become incarcerated at the local levels cannot be determined due to the lack of empirical data relating to the prevalence of the crime and the patterns of arrests, convictions, and judicial discretion during sentencing.

### **Local Revenue**

N/A

### **Introduced on January 8, 2019**

#### **State Expenditure**

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#### **Local Expenditure**

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determined due to the lack of empirical data relating to the prevalence of the crime and the patterns of arrests, convictions, and judicial discretion during sentencing.

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director