



# 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. 0458      **Introduced on** January 13, 2021  
**Author:** Adams  
**Subject:** Trafficking in Fentanyl  
**Requestor:** Senate Judiciary  
**RFA Analyst(s):** Gardner  
**Impact Date:** March 22, 2022 Updated for Additional Agency Response

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### Fiscal Impact Summary

This bill creates the offense of trafficking fentanyl or fentanyl-related substances and establishes a penalty schedule for violations.

This bill will have no expenditure impact for Judicial, Commission on Prosecution Coordination (CPC), Commission on Indigent Defense, or Department of Juvenile Justice (DJJ), as the implementation of the bill will not materially impact the activities of these agencies.

The Department of Corrections (DOC) indicates that, due to the lack of empirical data, the potential increase in incarcerations. and thereby, the General Fund expenditure impact of this bill is undetermined.

The bill generates new revenue for state and local governments with fines of up to \$100,000. As there is no data to estimate the amount of revenue that may be generated, any state or local revenue generated is undetermined.

*This fiscal impact has been updated for an additional response from DOC.*

### Explanation of Fiscal Impact

**Updated for Additional Agency Response on March 22, 2022**

**Introduced on January 13, 2021**

#### State Expenditure

This bill creates the felony offense of trafficking in fentanyl or fentanyl-related substances and adds those substances to the list of Schedule I controlled substances. Possession of four grams or more of fentanyl or any mixture containing fentanyl or a fentanyl-related substance is considered trafficking. A first offense is punishable by imprisonment for not more than twenty years and a fine of up to \$50,000. A second or subsequent offense is punishable by imprisonment for not more than thirty years and a fine of up to \$100,000. An additional term of imprisonment up to twenty years, to run consecutively to the sentence assigned for the original conviction, must be served when the offense results in a fatal overdose.

**Judicial.** This bill creates a new offense and there is no data available with which to estimate the number of hearings or trials that may be initiated in general sessions as a result of this legislation. Judicial anticipates that any impact from the increased caseload in general sessions would be absorbed. Therefore, this bill will have no expenditure impact.

**Commission on Prosecution Coordination.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact.

**Commission on Indigent Defense.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact.

**Department of Juvenile Justice.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact.

**Department of Corrections.** This bill may result in an increase in the number of incarcerations related to the trafficking of fentanyl. DOC reports that due to the lack of empirical data, including information on the patterns of arrests, convictions, and judicial discretion in sentencing, the potential increase in incarcerations is unknown. However, for information purposes, during FY 2019-20, DOC admitted 411 offenders with the most serious offense of drug trafficking. Additionally, the average annual General Fund expenditure to house an inmate in FY 2021-22 totals \$3,421. The General Fund expenditure impact of this bill is undetermined as it is dependent upon the increased number of incarcerations.

*This section of the fiscal impact statement has been updated to include a response from DOC.*

#### **State Revenue**

The bill creates new fines of up to \$100,000 for offenses related to trafficking in fentanyl. South Carolina law states that the revenue collected from any fines must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. As there is no data to estimate the amount of revenue that may be generated from the new fines, any state or local revenue generated is undetermined.

#### **Local Expenditure**

N/A

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that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. As there is no data to estimate the amount of revenue that may be generated from the new fines, any state or local revenue generated is undetermined.

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**Commission on Prosecution Coordination.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact.

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**Department of Juvenile Justice.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact.

**Department of Corrections.** A determination of the bill's fiscal impact is pending, as the agency is still reviewing the bill.

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Frank A. Rainwater, Executive Director