



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: H. 3045 Introduced on January 14, 2025
Subject: Obscene Visual Representations of Child Sexual Abuse
Requestor: House Judiciary
RFA Analyst(s): Gardner
Impact Date: February 20, 2025

Fiscal Impact Summary

This bill creates two new felony offenses related to the production, distribution, receipt, possession, or possession with intent to distribute an obscene visual depiction or representation showing a minor engaging in sexually explicit conduct, activity, or nudity and establishes associated penalty schedules. The bill also creates a new misdemeanor in the instance that such an offense is committed by a minor. The bill also requires that persons who have been convicted of or have pled guilty or nolo contendere to such offenses be added to the sex offender registry as Tier I offenders and revises the requirements by which a Tier I or Tier II offender may request removal from the registry.

Judicial reports that implementation of the bill may result in an increase in general sessions court and family court caseloads which can be managed using existing staff and appropriations. However, should the caseloads increase significantly, Judicial may request additional General Fund appropriations. Also, the Commission on Prosecution Coordination and Commission on Indigent Defense report the bill may increase the workload of the agencies. Both agencies anticipate being able to manage the increase with existing staff and within existing appropriations. However, if passage of the bill results in a significant increase in workloads, the agencies may request an increase in General Fund appropriations.

The State Law Enforcement Division (SLED) and the Department of Juvenile Justice (DJJ) report the bill requires the agencies to perform activities that will be conducted in the normal course of agency business. As a result, the bill does not have an impact for these agencies.

This bill may result in an increase in the number of inmates housed by the Department of Corrections (SCDC). However, no data are available to estimate the increase in the number of inmates that may be housed in state correctional facilities. According to SCDC, in FY 2023-24, the annual total cost per inmate was \$40,429 of which \$36,553 was state funded. As the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined.

This bill requires the Department of Probation, Parole and Pardon Services (PPP) to verify the status of individuals who are under supervision or are on probation or parole who apply for removal from the state sex offender registry, it may increase agency workloads. The agency

anticipates being able to manage the status reviews using existing staff and resources; therefore, this bill will result in no expenditure impact for the agency.

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in a change to General Fund, Other Funds, and local revenue due to the change in fines and fees collections in court.

Explanation of Fiscal Impact

Introduced on January 14, 2025

State Expenditure

This bill adds definitions for obscene and visual depiction or representation within the provisions for offenses against morality and decency. It also creates the following new offenses:

Section 16-15-390(B): Felony Offense	
Offense	Penalty
Knowingly producing, distributing, receiving, or possessing with intent to distribute—or attempting or conspiring to produce, distribute, receive, or possess with intent to distribute—an obscene visual depiction or representation showing minor engaged in sexually explicit conduct, activity, or nudity	Imprisonment for ≥ 2 years but ≤ 10 years; no part of minimum sentence may be suspended nor parole granted until minimum sentence served
Section 16-15-390(C): Felony Offense	
Offense	Penalty
Knowingly producing, distributing, receiving, or possessing—or attempting or conspiring to do so—an obscene visual depiction or representation showing minor engaged in sexually explicit conduct, activity, or nudity	Imprisonment for ≤ 10 years
Section 16-15-390(D): Misdemeanor Offense	
Offense	Possible Action by Court
If offense (B) or (C) is committed by a minor where the minor has no prior adjudication for such offense that would require registration as a sex offender	Family court may order behavioral health counseling from appropriate agency or provider as a condition of adjudication

The bill does not require that any minor depicted actually exist. The provisions of the bill do not apply to persons working in law enforcement or the judicial system who are acting in their official capacity during an investigation or criminal proceeding.

This bill also provides that minors adjudicated in the family court are not required to register as Tier I sex offenders. However, adults who have been convicted of, or have pled guilty or nolo contendere to these offenses must be added to the sex offender registry as Tier I offenders.

In addition, the bill revises the requirements by which a person included as a Tier I or Tier II offender in the state sex offender registry may request removal from the registry. These revisions are as follows:

Section 23-3-462(A)(1)(a): Any Registrant, Tier I Offender	
Current	Proposed
After 15 years of registration as a Tier I offender	After 15 years of registration or after 15 years from date of discharge from incarceration without supervision, or termination of active supervision of probation, parole, or any other active alternative to incarceration
Section 23-3-462(A)(1)(b): Adult Registrant, Tier II Offender	
Current	Proposed
After 25 years of registration as a Tier II offender	After 25 years of registration or after 25 years from date of discharge from incarceration without supervision, or termination of active supervision of probation, parole, or any other active alternative to incarceration

Judicial. Judicial reports that this bill may increase caseloads in general sessions and family courts. During FY 2023-24, there were 1,581 dispositions of child sexual exploitation related offenses, which constitute 1.15 percent of general sessions court dispositions during that period. Judicial intends to use existing staff and resources to manage any increase in caseloads. However, they indicated that if there is a significant increase in caseloads, Judicial will request additional General Fund appropriations.

Commission on Prosecution Coordination. The Commission reports this bill will likely have some impact on the agency workload. However, as there are no data to estimate any increase in workload, the expenditure impact cannot be determined. If there is a significant increase in workload, the agency will request additional General Fund appropriations.

Commission on Indigent Defense. The Commission reports this bill will likely have some impact on the agency workload. However, as there are no data to estimate any increase in workload, the expenditure impact cannot be determined. If there is a significant increase in workload, the agency will request additional General Fund appropriations.

State Law Enforcement Agency. SLED reports the bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, the bill will have no expenditure impact for SLED.

Department of Corrections. SCDC reports that implementation of the bill may increase the number of inmates housed in state correctional facilities. According to SCDC, in FY 2023-24, the annual total cost per inmate was \$40,429 of which \$36,553 was state funded. While there are no data to determine any potential increase in the number of SCDC inmates, SCDC expects to manage any expenditure impact using existing staff and resources. If there is a substantial increase in incarcerations, however, SCDC will request additional General Fund appropriations.

Department of Juvenile Justice. DJJ reports the bill will have no expenditure impact since it does not require the agency to perform duties outside the normal course of business.

Department of Probation, Parole and Pardon. This bill requires PPP to verify the status of individuals who are under supervision or are on probation or parole who apply for removal from the state sex offender registry, it may increase agency workloads. The agency anticipates being able to manage the status reviews using existing staff and resources; therefore, this bill will result in no expenditure impact for the agency.

State Revenue

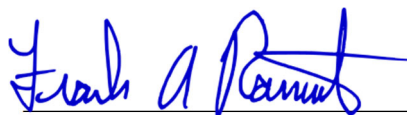
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

Local Expenditure

N/A

Local Revenue

This bill may result in a change 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 a change to local revenue due to the change in fines and fees collections in court.



Frank A. Rainwater, Executive Director