



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. 0052 Introduced on January 14, 2025
Subject: Driving Under the Influence
Requestor: Senate Judiciary
RFA Analyst(s): Griffith
Impact Date: February 10, 2025

Fiscal Impact Summary

This bill amends existing provisions related to driving under the influence (DUI) offenses. The bill allows both fines and terms of imprisonment to be assessed for convictions, allows additional sentencing in certain circumstances, requires a defendant to participate in a DUI victim impact panel, and modifies when an ignition interlock device (IID) must be installed on a defendant's vehicle. This bill also creates a new felony offense for second degree DUI that results in bodily injury and establishes a related penalty schedule, increases the mandatory prison time for felony first degree DUI offenses resulting in great bodily injury, and expands the offense of child endangerment to include instances of reckless vehicular homicide and reckless driving. Further, it increases the amount of time a person enrolled in the IID program may have his license suspended or denied; requires a person obtaining a temporary alcohol license to install an IID; increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied; and authorizes restitution for minors or dependents to be paid by a defendant whose DUI offense results in the disability or death of a parent or guardian.

This bill may increase expenditures of the Department of Motor Vehicles (DMV), depending upon whether the department is required to administratively or financially support the DUI victim impact panel in which a judge may order participation. DMV reports that it will require twelve months to make complex coding changes to its IT system that will be necessary to comply with the requirements of the bill.

This bill will have no expenditure impact for the Department of Alcohol and Other Drug Abuse Services (DAODAS), as it does not modify the agency's current responsibilities.

This bill will have no expenditure impact for the Department of Public Safety (DPS), as it requires the department to perform activities that will be conducted within the normal course of agency business.

The State Law Enforcement Division (SLED) will request a General Fund appropriation increase of \$317,000. This includes recurring expenditures of \$300,000 for increased blood testing related to DUIs and non-recurring expenditures of \$17,000 for implementing new IID software and performing calibration on the instruments.

As this bill creates new felony offenses and modifies existing offenses, the bill may impact the caseload and case progression in General Sessions and summary court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections, and the Department of Probation, Parole, and Pardon Services (PPP). The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. For information, according to Corrections, in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

Additionally, PPP estimates that the bill will increase Other Funds revenue by approximately \$139,000 each year due to increased participation in its IID program. This revenue will be used to offset expenses to administer the IID program. The bill may also increase additional Other Funds revenue of DPS due to the creation of a felony offense for a DUI resulting in moderate bodily injury or damage to real or personal property, for which \$100 of each fine is remitted to DPS.

The Revenue and Fiscal Affairs Office (RFA) anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload can be managed within existing funds for the local court. Also, RFA anticipates that this bill may impact local expenditures due to a potential impact to the local jail population resulting from the newly created felony offenses and modified sentence structure for existing offenses. However, as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditures is undetermined.

As this bill creates new offenses and modifies the fines for existing offenses, it may generate additional General Fund, Other Funds, and local fine revenue. However, as the number of such offenses that may occur in a given year and the resulting fines and fees that may be assessed are unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Introduced on January 14, 2025

State Expenditure

The bill modifies the existing first offense penalties for a DUI to allow both fines and terms of imprisonment to be assessed for a conviction. Additionally, the fine for a third DUI offense must not be suspended in an amount less than \$2,100. Further, if the DUI offense causes a collision which is determined to be a result of the convicted person committing an act forbidden by law or neglecting a duty imposed by law in the driving of the motor vehicle, the magistrate or municipal court that has jurisdiction may impose an additional consecutive sentence of a fine of not more than \$1,000, an additional period of imprisonment of not more than 180 days, or both. The bill also authorizes judges to order a defendant's participation in a DUI victim impact panel, the cost of which may not exceed \$75, subject to annual inflation after 2026.

In addition, the bill adds reckless vehicular homicide and reckless driving to the list of child endangerment offenses and provides that, in addition to breath tests, blood and urine tests may be administered under implied consent when a person is arrested for a DUI offense. The bill also enables an arresting officer to offer a breath test if he believes a driver is under the influence of alcohol and to request that a blood sample be submitted if he believes a driver is under the influence of drugs other than alcohol or a combination of alcohol and drugs. Breath samples must be collected within two hours of a person's arrest, and blood and urine samples must be collected within three hours. The bill also increases the amount of time a person's license is suspended or denied from at least one month to at least two months if the person enrolls in the IID program.

The bill also requires a person obtaining a temporary alcohol license to also obtain an IID from the DMV; at the contested case hearing, if the suspension is upheld, the IID must be maintained for any suspension time remaining. The bill also removes the requirement that a person whose driver's license suspension has been upheld in a contested case hearing enroll in an IID program. Further, the bill increases the amount of time that a person's driver's license, permit, or nonresident operating privilege may be suspended or denied when certain circumstances are present.

This bill also creates a new felony offense for reckless driving resulting in great bodily injury, which is punishable by a fine of not less than \$500 nor more than \$2,500, imprisonment for not more than five years, or both. A second new felony offense is created for reckless driving resulting in moderate bodily injury, which is punishable by a fine of not less than \$500 nor more than \$1,000, imprisonment for not more than three years, or both. Additionally, it provides that a defendant convicted of a DUI-related offense that results in the death or disability of a parent or guardian of a minor child or dependent may be ordered by the sentencing court to pay restitution for the child or dependent of the victim for the duration of any probationary sentence until the child reaches 18 years of age, or 19 years if still in high school.

As this bill creates new felony offenses and modifies existing offenses, the bill may impact the caseload and case progression in General Sessions and summary court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections, and PPP. The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. Additionally, PPP indicates this bill will result in a non-recurring increase in expense of \$10,000 to create additional coding logic modification to agency software; however, this expense can be managed within existing appropriations. For information, according to Corrections, in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

Department of Motor Vehicles. This bill requires the department to perform activities that will be conducted within the normal course of agency business, provided that the DUI victim impact panel is operated by a third-party organization without DMV administrative support or financial

assistance. However, if the intent of the bill is for DMV to administratively and/or financially support the DUI victim impact panel, the agency does anticipate an increase in expenditures, the amount of which is unknown. Therefore, the expenditure impact to DMV is undetermined. DMV has determined that it will require twelve months to make complex coding changes to its IT system that will be necessary to comply with the requirements of the bill.

Department of Alcohol and Other Drug Abuse Services. This bill does not modify current responsibilities for DAODAS and, therefore, will have no fiscal impact on DAODAS.

Department of Public Safety. The bill requires the department to perform activities that will be conducted within the normal course of agency business. As such, it will have no expenditure impact for DPS.

State Law Enforcement Division. SLED reports that due to the provisions of the bill, it will need to implement programming changes to its IID instruments, which will result in an increase of expenses of \$15,000. Another \$2,000 in non-recurring expenses will be needed for staff to install the updated software and perform calibrations.

The division also anticipates a twenty percent increase in DUI blood testing, which is both more time-consuming and more costly than urine testing. SLED's current appropriations dedicated to the Toxicology's Department DUI testing is \$1,500,000. SLED anticipates an increase in expenses of \$300,000 beginning in FY 2025-26. The agency anticipates requesting a General Fund appropriation increase to cover the cost of these expenses. For reference, in FY 2023-24 there were 18,461 breath tests and 1,500 blood tests conducted in SC for potential DUIs.

State Revenue

PPP, which administers the IID program, anticipates that the bill will increase participation in the program. There are currently 2,972 active temporary alcohol licenses, and the participation rate in the IID program for second and subsequent DUI offenses is thirteen percent. This would potentially increase the number of additional participants in the IID program by 386 drivers per month. Drivers who enroll in the program pay a \$30 monthly fee to use the IID device, which is remitted to PPP's Ignition Interlock Device Fund to pay for indigent drivers and operational costs of the IID program. Therefore, PPP estimates that the bill will increase Other Funds revenue by approximately \$139,000 beginning in FY 2025-26, which will be offset by the cost to run the IID program.

This bill creates a felony offense for DUI that results in moderate bodily injury to another person or damage to real or personal property of another valued at over \$25,000, which is punishable by a mandatory fine of not less than \$3,000 nor more than \$6,000 and mandatory imprisonment for not less than sixty days nor more than ten years. \$100 of each fine will be placed into a special restricted account to be used by DPS for the Highway Patrol. Currently, penalties are in place for a DUI that results in great bodily injury or death, and DPS receives \$100 of each of those fines. However, DPS anticipates that the designation of a felony offense that results in moderate bodily injury or damage to real or personal property may increase the number of fines, thus increasing

Other Funds for the agency. As DPS does not currently track what would qualify for moderate bodily injury, the amount of the increase is undetermined.

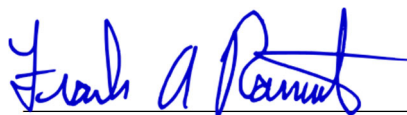
This bill may result in an increase in fines and fees collected by the court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. RFA anticipates this bill may result in an undetermined increase in General Fund and Other Funds revenue if there is an increase in the collection of fines and fees by the court.

Local Expenditure

RFA anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload can be managed within existing funds for the local court. Additionally, RFA anticipates that this bill may impact local expenditures due to a potential impact in the local jail population resulting from the newly created felony offenses and modified sentencing for existing offenses. However, as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditure are undetermined.

Local Revenue

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Frank A. Rainwater, Executive Director