



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. 0085	Introduced on January 14, 2025
Subject:	Street Gang and Criminal Enterprise Prevention	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner	
Impact Date:	February 18, 2025	

Fiscal Impact Summary

This bill creates the South Carolina Criminal Enterprise and Racketeering Suppression Act, which renames criminal gang offenses as criminal enterprise offenses and revises associated penalty schedules. The bill also creates a new felony offense for unlawful racketeering and establishes a related penalty schedule.

This bill may increase the caseload in circuit court, the number of cases handled by the Attorney General's Office, and potentially the number of incarcerations. This may increase the workload of the court system and the Attorney General's Office, the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections (Corrections), and 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. Additionally, the Department of Juvenile Justice (DJJ) anticipates any additional increase in caseload due to this bill 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.

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 funds revenue due to any change in fines and fees collections in court.

Explanation of Fiscal Impact

Introduced on January 14, 2025

State Expenditure

This bill creates the South Carolina Criminal Enterprise and Racketeering Suppression Act, reorganizes criminal gang offenses into criminal enterprise offenses and establishes a related penalty schedule, and creates a new felony offense for unlawful racketeering and establishes a related penalty schedule.

Criminal Enterprise Activity

This bill renames criminal gang offenses as criminal enterprise offenses. Criminal enterprise activity is defined as the commission, attempted commission, conspiracy to commit, solicitation, coercion, or intimidation of another person to commit, or aiding in the commission before or after the fact of a felony. Criminal enterprise offenses include common law extortion, computer crimes, retail theft, criminal trespass or criminal property damage, financial identity fraud theft, identity fraud or theft, and offenses carrying a potential penalty of at least five years of imprisonment; offenses related to escape or confinement or to the security or state of correctional facilities; and criminal offenses involving violence, possession of a weapon, or use of a weapon. The bill renames the criminal gang as criminal enterprise and revises the number of persons comprising the group from five to three and no longer includes the requirement that members knowingly and actively participate in the criminal activity.

The bill also revises verbiage related to the use or threat of physical violence against another person with the intent to coerce him into actively participating in criminal gang activity (now criminal enterprise activity) and restructures the associated penalty schedule as follows:

Current: § 16-8-240(A)		Revised Offenses: § 16-8-240
<i>Use of threat to use physical violence against another to coerce participation in criminal gang activity or prevent withdrawal from such activity</i>		(A) Unlawful for person employed by or associated with criminal enterprise to conduct or participate in criminal enterprise activity
First offense, misdemeanor	Fine of ≤\$1,000, imprisonment for ≤2 years, or both	(B) Unlawful to conduct or participate in criminal enterprise activity or commit criminal enterprise offense with intent to acquire membership or increase status in criminal enterprise
Second or subsequent offense, felony	Fine of ≤\$5,000, imprisonment for ≤5 years, or both	(C) Unlawful to acquire or maintain proceeds derived from criminal enterprise activity or any interest in or control of real or personal property
Current: § 16-8-240(B)		(D) Unlawful for person in organizing or supervisory position to engage in or conspire to engage in criminal enterprise activity
<i>Use of a firearm or deadly weapon to commit an act under § 16-8-240(A)</i>		(E) Unlawful to cause, encourage, solicit, recruit, or coerce another to become member of or associate with criminal enterprise or conduct or participate in criminal enterprise activity
Enhanced penalty	Additional fine of ≤\$10,000, imprisonment for ≤10 years, or both	(F) Unlawful to convey threat of injury or damage to person or property, or any associate or relative thereof, with intent to deter person from withdrawing from criminal enterprise

Current: § 16-8-240(C)		(G) Unlawful to convey threat of injury or damage to person or his property, or any associate or relative thereof, with intent to punish or retaliate against person for withdrawing from criminal enterprise	
		(H) Unlawful to convey threat of injury or damage to person or his property, or any associate or relative thereof, with intent to punish or retaliate against person for refusing to or encouraging another to refuse to become member or associate of criminal enterprise	
		(I) Unlawful to convey threat of injury or damage to person or his property, or any associate or relative thereof, with intent to punish or retaliate against person for providing testimony against criminal enterprise or its members	
		(J) Unlawful to convey threat of injury or damage to person or his property, or any associate or relative thereof, with intent to intimidate, deter, or prevent another from communication with law enforcement or those involved with judicial system	
<i>Commission of act under § 16-8-240(A)-(B) where the person coerced is under the age of 18</i>		Revised Penalty Schedule: § 16-8-240(K)(1), Felony Offense	
Additional term of imprisonment	Expanded prison sentence of an additional 3 years	Offenses (A)-(C)	Fine of ≥\$10,000 but ≤\$15,000, imprisonment for ≥5 years but ≤20 years, or both, plus restitution
Current: § 16-8-240(D)		Revised Penalty Schedule: § 16-8-240(K)(2), Felony Offense	
<i>Commission of an act under § 16-8-240(A)-(C) creates civil cause of action by an affected person against a criminal gang or criminal gang member</i>		Offense (D)	Imprisonment for ≥5 years but ≤20 years, served consecutively to any other sentence imposed, plus restitution
		Revised Penalty Schedule: § 16-8-240(K)(3), Felony Offense	
		Offenses (E)-(J)	Imprisonment for ≥5 years but ≤20 years, plus restitution
		Enhanced Penalty: § 16-8-240(K)(4)	
		Offenses (A)-(J), where solicitation or coercion was of person under 18 years of age	Expanded prison sentence of an additional 3 years, served consecutively to any other sentence imposed

The bill also prohibits a person convicted of criminal enterprise activity from knowingly having contact with other criminal street gang associates or victims and specifies the person may not participate in any criminal enterprise activity, provides that each criminal enterprise offense be considered a separate offense, and provides that two or more defendants charged with criminal enterprise activity offenses be tried jointly unless otherwise ordered by the court. The bill also

authorizes the Attorney General or circuit solicitor to abate real property used for the purpose of conducting criminal enterprise activity when it is owned or maintained by a criminal street enterprise.

In addition, the bill provides that any plea or trial of a criminal enterprise member or associate regarding a criminal enterprise activity offense may be used to prove the existence of the criminal enterprise or activity. Evidence of the commission of criminal enterprise activity is admissible in a criminal proceeding involving a person accused of such activity. The bill also provides that, for purposes of a criminal proceeding, racketeering will be considered to have occurred in the county in which the offense was committed or where an interest or control of an enterprise or real or personal property is acquired or maintained.

Anti-Racketeering

This bill also makes conforming changes to relevant sections of law with regard to engaging in a pattern of racketeering activity. The bill also makes it unlawful for a person to conspire or engage in the affairs of an enterprise through racketeering or to invest income derived from such activities and establishes the following penalty schedule:

New Felony Offense: § 16-8-540, Unlawful Racketeering	
First Offense	Fine not to exceed the greater of \$25,000 or 3 times the amount of any pecuniary value gained from violation, imprisonment for ≥ 5 years but ≤ 20 years - no part of which may be suspended nor probation granted - or both
Second or Subsequent Offense	Fine not to exceed the greater of \$25,000 or 3 times the amount of any pecuniary value gained from violation, imprisonment for ≥ 10 years but ≤ 20 years - no part of which may be suspended nor probation granted - or both

The circuit court may enjoin violations, require a defendant to divest himself of any interest in unlawfully seized property, restrict a defendant's future activities or investments, order dissolution or reorganization of any enterprise, or suspend or revoke any license, permit, or prior approval granted to any enterprise by any agency or subdivision of the state. The bill provides that an aggrieved person may institute a civil action to request injunctive relief from threatened loss or damage and allows for the issuance of a temporary restraining order and a preliminary injunction before a final determination is made as to the merits of the civil action. Persons affected by unlawful racketeering are provided with a cause of action for three times the actual damages sustained and awarding of punitive damages under certain circumstances, whereby a jury trial may be requested by the injured person or the defendant. An injured person also has a right or claim to forfeited property or to proceeds. To enforce such a claim, the injured person must intervene in the civil forfeiture proceeding prior to entry of final judgment.

This bill may result in an increase in the caseload in circuit court, the number of cases handled by the Attorney General's Office, 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, 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. DJJ anticipates any additional increase in caseload due to this bill 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.

State Revenue

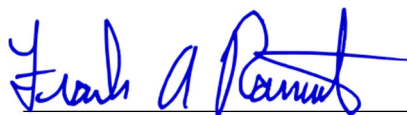
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund and Other Funds revenue due to any change in fines and fees collections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



Frank A. Rainwater, Executive Director