



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. 0242	Introduced on January 10, 2023
Author:	Garrett	
Subject:	Trafficking in Fentanyl	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner	
Impact Date:	January 31, 2023	

Fiscal Impact Summary

This bill creates a new offense for trafficking fentanyl and establishes a penalty schedule for violations.

Judicial, the Commission on Prosecution Coordination, and the Commission on Indigent Defense report there will be no expenditure impact from the bill, as existing General Fund appropriations will be used to manage any increase in caseloads.

This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836.28, \$4,829.76 of which was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined.

As this bill creates a new offense and provides for an enhanced penalty, it may increase General Fund and Other Funds fine revenue; however, data are unavailable to estimate the amount of any additional revenue.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill defines the term fentanyl-related substances and adds the term to the list of Schedule I controlled substances. The bill also creates the felony offense of trafficking in fentanyl and establishes the following penalty structure:

Penalty Structure for Trafficking in Fentanyl		
Amount	First Offense	Second or Subsequent Offense
≥4 grams but <14 grams of fentanyl or fentanyl-related substance or any mixture containing fentanyl or fentanyl-related substance	Imprisonment for not less than 7 years nor more than 25 years, no part of which may be suspended nor probation granted, and fine of \$50,000	Mandatory imprisonment for 25 years, no part of which may be suspended nor probation granted, and fine of \$100,000
Amount	Any Level Offense	
≥14 grams but <28 grams of fentanyl or fentanyl-related substance or any mixture containing fentanyl or fentanyl-related substance	Mandatory imprisonment for 25 years, no part of which may be suspended nor probation granted, and fine of \$200,000	
≥28 grams of fentanyl or fentanyl-related substance or any mixture containing fentanyl or fentanyl-related substance	Mandatory imprisonment for not less than 25 years nor more than 40 years, no part of which may be suspended nor probation granted, and fine of \$200,000	
Penalty Enhancement for Trafficking in Fentanyl Offense Resulting in a Fatal Overdose		
Imprisonment term must be increased by an additional sentence of up to 20 years to run consecutively		

The bill also establishes that trafficking in fentanyl constitutes a violent crime.

Judicial. Since the bill creates a new cause of action, there are no data with which to estimate the number of court filings. However, Judicial intends to use existing General Fund appropriations to manage any increase in caseloads. Therefore, this bill will have no expenditure impact on Judicial.

Commission on Prosecution Coordination. This bill creates a new offense, which could result in an increase in the number of warrants that are sent to the Offices of Circuit Solicitor for review, prosecution, and disposition; however, the potential increase in warrants is unknown. The implementation of this bill will have no expenditure impact, as the commission expects to manage any increase in caseloads within current resources.

Commission on Indigent Defense. The implementation of this bill will have no expenditure impact, as the department expects to manage any increase in caseloads within current resources.

Department of Corrections. This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the

increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836.28, \$4,829.76 of which was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined.

State Revenue

This bill has the potential to increase General Fund revenue from fines, as well as Other Funds revenue of Judicial and other applicable agencies who receive a distribution from fine revenue for such an offense, due to the increased fine for offenders convicted in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.

Local Expenditure

N/A

Local Revenue

This bill has the potential to increase local revenue from fines due to the increased fine for offenders convicted in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.



Frank A. Rainwater, Executive Director