



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0949 Amended by the Senate on March 7, 2018
Author: M. B. Matthews
Subject: Probation
Requestor: House Agriculture, Natural Resources, and Environmental Affairs
RFA Analyst(s): Gable and Gardner
Impact Date: April 23, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Local Expenditure	Undetermined	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This amended bill would have no expenditure impact on the General Fund, Other Funds, or Federal Funds, as any potential change in the workload for all agencies could be managed within existing appropriations.

This amended bill may have an undetermined impact on local expenditures beginning in FY 2018-19, due to a potential increase in the caseload in magistrates' court.

Explanation of Fiscal Impact

Amended by the Senate on March 7, 2018

State Expenditure

This amended bill protects probation officers, court personnel, county and municipal personnel, public officials, charitable organizations, and private volunteers, that allow those who are on probation to participate in community service programs, from civil liability unless an injury or damage results from the gross negligence, recklessness, or intentional misconduct of such person or organization. However, a driver transporting a probationer to community service or a motorist who, by his negligence, injures a probationer on community service is not sheltered from civil liability. Additionally, this amended bill does not grant any claim under workers' compensation to a probationer who is voluntarily completing community service as a condition of probation.

Judicial Department. This amended bill protects certain government employees, charitable organizations, and private volunteers from civil liability unless there is gross negligence, recklessness, or intentional misconduct of such person or organization. This limitation of

personal liability does not extend to drivers and motorists. The judicial department anticipates this amended bill may increase the number of proceedings in magistrates' court or the court of common pleas. Most government employees referenced in this bill are individually immune from liability under the Tort Claims Act, per §15-78-10 et al., for torts committed in the course of their official duties unless their actions constitute actual fraud, actual malice, intent to harm, or moral turpitude. This bill may expand a government employee's liability relative to his liability under the Torts Claims Act, which could result in an increase in court proceedings. As this bill may create liability that currently does not exist, there is no data to estimate the potential increase in the court docket. If the increase in cases is significant, this may cause an increase in the backlog of cases for circuit court. However, the department expects to manage any additional costs associated with the additional caseload within existing funds. Any increase in costs in the magistrates' court would be borne by the counties.

Department of Probation, Parole, and Pardon Services (PPP). This amended bill specifies that the language in the bill does not create any claim under workers' compensation for probationers who are voluntarily completing community service as a condition of probation. Currently, §42-1-505 grants PPP the right to elect to cover persons under its custody or supervision with workers' compensation benefits. PPP is considered the employer and the persons under custody or supervision are performing public service employment. Because this bill clarifies that it does not create any new right for probationers to claim workers' compensation, PPP does not anticipate any new responsibilities for the agency to provide workers' compensation. Therefore this amended bill has no impact to the General Fund, Other Funds, or Federal Funds for PPP.

Workers' Compensation Commission (WCC). This amended bill specifies that the language in the bill does not create any claim under workers' compensation for probationers who are voluntarily completing community service as a condition of probation. Currently, §42-1-505 grants PPP the right to elect to cover persons under its custody or supervision with workers' compensation benefits. PPP is considered the employer and the persons under custody or supervision are performing public service employment.

As this bill clarifies that it does not create any new right for probationers to claim workers' compensation, WCC does not anticipate a change in the number of claims filed due to this bill. However, if there is a change of the number of claims filed, WCC anticipates being able to manage the change with existing staff and within existing appropriations. It is within the normal course of business for the WCC to manage workers' compensation claims and any increase in claims as a result of this bill could be managed within existing appropriations. Also, if this amended bill results in a reduction of claims, any potential savings would be reallocated to other needs within the agency. Therefore, this amended bill would have no impact to the General Fund, Other Funds, or Federal Funds for WCC.

State Revenue

N/A

Local Expenditure

This amended bill protects probation officers, court personnel, county and municipal personnel, public officials, charitable organizations, and private volunteers, that allow those who are on probation to participate in community service programs, from civil liability unless an injury or damage results from the gross negligence, recklessness, or intentional misconduct of such person or organization. This limitation of personal liability does not extend to drivers and motorists. The Judicial Department anticipates this amended bill may increase the number of proceedings in magistrates' court or the court of common pleas. Under the Tort Claims Act, per §15-78-10 et al., most government employees referenced in this bill are individually immune from liability for torts committed in the course of their official duties unless their actions constitute actual fraud, actual malice, intent to harm, or moral turpitude. This bill may expand the government employee's liability relative to their liability under the Torts Claims Act resulting in a potential increase in court proceedings. Any increased costs for the magistrates' court would be borne by the counties. However, as the potential increase in cases is unknown, the potential local expenditure increase is undetermined, beginning in FY 2018-19.

Additionally, this amended bill specifies that the language in the bill does not create any claim under workers' compensation for probationers who are voluntarily completing community service as a condition of probation. The Revenue and Fiscal Affairs Office contacted all forty-six county governments and the Municipal Association of South Carolina (MASC) regarding the expected expenditure impact of this amended bill. The counties of Clarendon, Florence, and Lancaster and the MASC responded to our inquiry. Clarendon county, Florence county, and the MASC anticipated no impact to local expenditures due to this amended bill. Florence expressed a concern that if this bill created additional workers' compensation coverage, that there may be an increase in expenditures to pay for the workers' compensation insurance coverage. As this amended bill is not anticipated to create an expansion of workers' compensation coverage for probationers and based on the three counties responses, there is no local expenditures impact anticipated for workers' compensation insurance coverage under this amended bill.

Local Revenue

N/A



Frank A. Rainwater, Executive Director