



**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.*

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**Bill Number:** S. 0014    Introduced on January 12, 2021  
**Author:** Jackson  
**Subject:** Hate Crime Penalty Enhancement Act  
**Requestor:** Senate Judiciary  
**RFA Analyst(s):** Gardner and Payne  
**Impact Date:** April 5, 2021

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### **Fiscal Impact Summary**

This bill creates the “Hate Crime Penalty Enhancement Act,” which enables the court to apply an aggravating factor to extend the prison sentence for a person or juvenile convicted of specified offenses that involve discriminatory behavior.

The Judicial Department indicates that the bill would affect both general sessions and family courts. However, as there is no data with which to estimate the number of filings, hearings, or trials that may be impacted due to the bill, the expenditure impact cannot be estimated. The department expects to manage additional costs resulting from any increase in caseloads using existing General Fund resources.

The Commission on Prosecution Coordination indicates that since the bill will not materially affect the agency's operations, there will be no expenditure impact on its General Fund, Other Funds, or Federal Funds.

The Commission on Indigent Defense indicates that the bill will have an expenditure impact, but due to the lack of empirical data on the number of new cases that may be brought to trial, the overall impact cannot be estimated. As such, the commission expects to manage any increase in operational costs using existing General Fund resources.

The Department of Corrections indicates that since there is no data with which to determine the number of additional years that certain felony and certain misdemeanor offenders will have to serve due to the bill, the expenditure impact of the bill on the agency’s General Fund, Other Funds, and Federal Funds is undetermined.

The Department of Probation, Parole and Pardon Services indicates that since the bill will not materially affect the agency's operations, there will be no expenditure impact on its General Fund, Other Funds, or Federal Funds.

The Department of Social Services indicates that since the bill relates strictly to increased penalties for adult and juvenile defendants accused of committing specific crimes that are accompanied by an aggravating factor, there will be no expenditure impact on the agency’s General Fund, Other Funds, or Federal Funds.

## Explanation of Fiscal Impact

**Introduced on January 12, 2021**

### **State Expenditure**

This bill creates the “Hate Crime Penalty Enhancement Act.” This act provides that the court may consider, as an aggravating factor for specified crimes, that a defendant intentionally selected his victim or selected the property that was damaged or otherwise affected by the crime due to the offender’s belief or perception regarding the race, color, ethnicity, national origin, cultural or social identity, ancestry, religion, gender, political affiliation, sexual orientation, or disability of the victim or the owner or occupant of said property, regardless of whether the offender’s belief or perception was correct. The court may apply this aggravating factor to those crimes classified or exempted under Section 16-1-20 (including Classes A through F felony offenses and Classes A through C misdemeanor offenses) or to common-law crimes. For a crime that is a felony offense, the maximum period of imprisonment designated for the offense may be increased by not more than five years. For a crime that is a Class A misdemeanor offense, the maximum period of imprisonment designated for the offense may be increased by not more than four years. For a crime that is a misdemeanor other than a Class A offense, the maximum term of imprisonment designated for the offense may be increased by not more than three years. A defendant may present evidence of mitigating circumstances in order to avoid the application of an enhanced penalty. The solicitor, who has the discretion whether to apply an enhanced penalty to a defendant’s sentencing, must provide to the defendant and the defendant’s counsel written notice of his intent to pursue the enhanced penalty not less than ten days before trial. These provisions do not apply when proof of race, color, ethnicity, national origin, ancestry, religion, gender, sexual orientation, or disability, or proof of any person’s belief or perception regarding another person’s belief or perception regarding another person’s race, color, ethnicity, national origin, ancestry, religion, gender, sexual orientation, or disability is required for the conviction of a crime.

The bill also updates the Juvenile Justice Code to provide that when a criminal action is brought against a child and the court determines that he intentionally selected a victim against whom the offense was committed or that he intentionally selected the property that was damaged or otherwise affected due to his belief or perception regarding the race, color, ethnicity, national origin, cultural or social identity, ancestry, religion, gender, political affiliation, sexual orientation, or disability of the victim or of the owner or occupant of the affected property, whether or not his belief or perception was correct, the court may order the child to participate in an educational program regarding cultural diversity.

**Judicial Department.** The department indicates that the bill will affect both general sessions and family courts. However, as there is no data with which to estimate the number of filings, hearings, or trials that may be impacted due to the bill, the expenditure impact cannot be estimated. The department expects to manage additional costs resulting from any increase in caseloads using existing General Fund resources.

**Commission on Prosecution Coordination.** The commission indicates that since the bill will not materially affect the agency's operations, there will be no expenditure impact on its General Fund, Other Funds, or Federal Funds.

**Commission on Indigent Defense.** The commission indicates that the bill will have an expenditure impact, but due to the lack of empirical data on the number of new cases that may be brought to trial, the overall impact cannot be estimated. As such, the commission expects to manage any increase in operational costs using existing General Fund resources.

**Department of Corrections.** This bill provides penalty enhancements for specific crimes committed against a person or property when those crimes are motivated by the offender's discriminatory beliefs or perceptions. The Department of Corrections (SCDC) indicates that the bill has the potential to increase the length of imprisonment for the underlying offense by up to five years for felony convictions, up to four years for Class A misdemeanor convictions, and up to three years for all other misdemeanor convictions. In FY 2019-20, there were 5,462 offenders admitted to SCDC facilities; of these, 89% were persons convicted of felony offenses, 9% were persons convicted of Class A misdemeanor offenses, and 2% were persons convicted of other misdemeanor offenses. However, due to the lack of empirical data on the prevalence of enhanced penalties and their effect on total sentence length, the expenditure impact on the agency's General Fund, Other Funds, or Federal Funds cannot be determined.

**Department of Probation, Parole and Pardon Services.** The department indicates that since the bill will not materially affect the agency's operations, there will be no expenditure impact on its General Fund, Other Funds, or Federal Funds.

**Department of Social Services.** The department indicates that since the bill relates strictly to increased penalties for adult and juvenile defendants accused of committing specific crimes that are accompanied by an aggravating factor, there will be no expenditure impact on the agency's General Fund, Other Funds, or Federal Funds.

**State Revenue**

N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director