



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0131 Signed by Governor on May 17, 2018
Author: McLeod
Subject: Disturbing Schools
Requestor: Senate
RFA Analyst(s): Gardner
Impact Date: July 12, 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

The bill, which restructures the crime and punishment for disturbing schools and creates a new crime making certain threatening communications by students illegal, is not expected to have a significant expenditure impact on the General Fund, Other Funds, or Federal Funds for the Judicial Department, the Commission on Prosecution Coordination, the Commission on Indigent Defense, the Department of Corrections, or the Department of Juvenile Justice.

The state share of revenue generated from fines, assessments and surcharges for convictions of the crimes is also not expected to be significant.

As the bill creates a new offense for students making certain threatening communications, and as the bill restructures the penalty for disturbing a school which may change the population of convicted offenders incarcerated locally, there is no data with which to estimate the local expenditure impact on detention facilities. Therefore, the expenditure impact of this bill on local detention facilities is undetermined.

No local expenditure impact is expected for magistrate and municipal courts, as the bill deletes a provision that vests jurisdiction in those courts, as well as family courts, for offenses involving disturbing a school.

Explanation of Fiscal Impact

Signed by Governor on May 17, 2018

State Expenditure

The bill restructures the misdemeanor offense of disturbing schools. In past years, it was illegal for any person to willfully or unnecessarily interfere with or disturb in any way the students or teachers of any school or college, or loiter or act obnoxiously about the school or college. It was also unlawful to enter or loiter on school or college premises except on business and with the principal or president's permission. Punishment was by a fine of not more than \$1,000 or imprisonment in county jail for not more than ninety days. Jurisdiction over cases was previously vested in the magistrate and municipal courts and, when a child is involved, the family court.

This bill makes the crime applicable only to persons who are not students, meaning persons who are not enrolled at the school or college, or who are suspended or expelled from the school or college where the disturbance occurs. The bill also more specifically delineates conduct that constitutes disturbing schools or colleges. The bill makes it illegal for a person, who is not a student or who is suspended or expelled from the particular school, to willfully interfere with, disrupt, or disturb the normal operations of a school or college by: (1) entering the property without permission, (2) loitering after notice is given to vacate, (3) initiating a physical assault on the property, (4) being loud or boisterous after receiving instruction to refrain from the conduct, (5) threatening physical harm to a student or school employee while on school property, or (6) threatening deadly force when the person can or is reasonably believed to have the present ability to carry out the threat.

The bill increases the maximum punishment for an offense from a fine of not more than \$1,000 to a fine of not more than \$2,000, or imprisonment for not more than ninety days to not more than one year. The bill also allows punishment by both a fine and imprisonment, whereas previous law allows only one or the other. The bill deletes previous provisions vesting jurisdiction over disturbing schools offenses in magistrate and municipal courts and, for children, in family courts.

In addition to restructuring the offense of disturbing schools, the bill establishes a new criminal offense, making it unlawful for a student of a school or college to make threats to take the life or inflict bodily harm on another using any form of communication. The new crime does not repeal, replace, or preclude application of any other criminal statute. Punishment for a violation is not provided by the bill which makes the provisions of Section 17-25-20 or Section 17-25-30, governing punishment when none is specifically prescribed, applicable. Section 17-25-30 allows the court to impose such punishment for lesser offenses as conforms to common usage and practice in the state, according to the nature of the offense and limitations of the Constitution. Punishment may be by fine, imprisonment, or both. Section 17-25-20, dealing with felonies without a prescribed sentence, does not provide for imposition of a fine, but it authorizes confinement for not less than three months nor more than ten years.

Judicial Department. The bill restructures the offense of disturbing schools by more specifically delineating activities that constitute the crime, and by making those activities an

illegal disturbance of schools only when committed by persons who are not enrolled or are suspended or expelled from the school where the disturbance occurs. The department indicates there were 132 convictions for disturbing schools during FY 2015-16, based on incomplete data. Magistrate, circuit, and family courts supplied data; however, only 27 percent of municipal courts provided data. In addition to being incomplete, the data reflects convictions for violations of previous law, which applied to persons who were students as well as those who were not enrolled or were suspended or expelled. The data also reflects convictions for disturbing schools as the violation was previously defined and punished. Due to the limitations of the data, the department cannot determine the specific effect this bill will have on court caseloads because of changes to the crime of disturbing schools.

In addition, the bill makes it illegal for a student of a South Carolina school or college to make threats to take the life or inflict bodily harm on another using any form of communication. The bill does not prescribe the punishment for this new crime, making it punishable according to the provisions of Section 17-25-20 or Section 17-25-30. Because there is not any data on the frequency of the conduct that is made illegal and the punishment is not more specifically defined, the department cannot estimate the impact of the new crime on court caseloads. Although the specific effect of the restructured disturbing schools offense and of the new crime cannot be estimated, the department anticipates managing any change in caseloads within the department's existing resources. However, if a significant increase in cases occurs, the circuit court backlog may increase.

Commission on Prosecution Coordination. The commission does not anticipate the bill will result in a significant change in prosecutors' caseloads. Therefore, the bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

Commission on Indigent Defense. The commission does not anticipate the bill will result in a significant change in public defenders' caseloads. Therefore, the bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

Department of Corrections. This bill increases the penalty for disturbing schools from not more than ninety days of imprisonment to not more than one year of imprisonment. Sentences of ninety days or less are served in the county jail, while sentences exceeding ninety days are served in South Carolina Department of Corrections (SCDC) facilities. The bill also makes it illegal for a student of a South Carolina school or college to make threats to take the life of or inflict bodily harm on another using any form of communication. Punishment for this crime is according to the provisions of Section 17-25-20 or Section 17-25-30. While the bill has the potential to increase commitments to SCDC facilities, the department does not expect the bill to add a significant number of inmates to the department's population.

Department of Juvenile Justice. The bill restructures the offense of disturbing schools to make the crime applicable only to persons who are not enrolled, or are suspended or expelled. It also establishes a new criminal offense to make it unlawful for a student to make threats to take the life of or inflict bodily harm on another using any form of communication. The department indicates the majority of youth whose most serious charge is disturbing a school do not stay for an extended time in the department's facilities. Each year, the department typically places

around 200 youth on probation and only a handful are committed to its custody for the offense of disturbing a school. Therefore, making the crime of disturbing schools applicable to only non-students and those students who are suspended or expelled is expected to have minimal, if any, impact on the General Fund and Other Funds.

State Revenue

The bill restructures the crime of disturbing schools and increases the maximum fine for the offense from \$1,000 to \$2,000, increases the maximum term of imprisonment from ninety days to one year, and authorizes both a fine and imprisonment. Punishment for the new crime of a student communicating threats on a person's life or to inflict bodily harm is not provided by the bill, and would therefore be subject to punishment as authorized by Section 17-25-30 or Section 17-25-20.

Because this bill creates a new crime without specifying punishment, and restructures an existing crime and its punishment, data does not exist to estimate the number of convictions or punishments that may be imposed. Without this data, the revenue that may be generated from fines, assessments, and surcharges cannot be estimated. However, the state share of any revenue is not expected to be significant.

Local Expenditure

The Revenue and Fiscal Affairs Office does not anticipate this bill will have a significant impact on local government expenditures for the restructured disturbing schools offense. According to the preamble, the bill is intended to reduce student arrests for disturbing schools and law enforcement involvement in incidents on school grounds. Further, magistrate and municipal courts would no longer have vested jurisdiction in cases involving adults disturbing schools, and imprisonment for terms of more than ninety days would not be served in local detention facilities. Therefore, this bill is not expected to have a significant expenditure impact on local government due to changes in the crime of disturbing schools. The expenditure impact on local government associated with the new crime is undetermined, as the level of illegal activity, prosecution, and type and terms of punishment cannot be estimated. However, the impact on local government resulting from the new crime is not expected to be significant.

Detention Facilities. This bill restructures the punishment for the crime of disturbing schools. Previously, a person convicted of disturbing a school received a penalty which consisted of a fine of not more than \$1,000 or imprisonment in county jail for not more than ninety days. The bill provides that a person convicted of disturbing a school may receive a fine of not more than \$2,000, imprisonment for not more than one year, or both. Depending on the penalty levied by the court for a conviction, a person receiving a sentence of more than ninety days imprisonment would be held in a state correctional facility. However, there is a lack of existing data on how many persons convicted would now be held in a state correctional facility rather than a local detention facility.

The bill also makes it unlawful for a student of a school or college to make threats to take the life or inflict bodily harm on another using any form of communication. There is no data on the level of illegal activity, prosecution, and type and terms of punishment for this new offense. Due

to the lack of existing data overall, the expenditure impact for local detention facilities is undetermined.

Magistrate and Municipal Courts. This bill deletes previous provisions vesting jurisdiction over disturbing schools offenses in magistrate and municipal courts and, for children, in family courts. As circuit courts would now be responsible for managing cases where an adult disturbs a school, no expenditure impact is expected for magistrate and municipal courts.

Local Revenue

The bill restructures the crime of disturbing schools and increases the maximum fine for the offense from \$1,000 to \$2,000, the maximum term of imprisonment from ninety days to one year, and authorizes both a fine and imprisonment. Punishment for the new crime of a student communicating threats on a person's life or to inflict bodily harm is not provided by the bill, and would therefore be subject to punishment as authorized by Section 17-25-30 or Section 17-25-20.

Because this bill creates a new crime without specifying punishment and restructures an existing crime and its punishment, data does not exist to estimate the number of convictions or punishment that may be imposed. Without this data, the revenue that may be generated from fines, assessments, and surcharges cannot be estimated. However, the local government share of revenue is not expected to be significant.



Frank A. Rainwater, Executive Director