



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number: S. 0189 Amended by the Senate on April 9, 2019
Author: Shealy
Subject: Torture of A Child
Requestor: House Judiciary
RFA Analyst(s): A. Martin and Gardner
Impact Date: July 15, 2019

Fiscal Impact Summary

This bill defines torture and includes these actions in the definition of child abuse or neglect. In addition, this bill establishes two new homicide offenses relating to child torture with associated penalties.

For the Judicial Department, Commission on Prosecution Coordination, and the Commission on Indigent Defense, this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. While the bill establishes two new homicide offenses, existing statutes already criminalize most, if not all, of the conduct defined in the bill.

The Department of Social Services indicates that this bill codifies existing administrative procedures of the agency regarding family preservation efforts and termination of parental rights. Since DSS is complying with the requirements of the legislation, this bill will not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

The expenditure impact of this bill on the Department of Corrections is undetermined given the lack of empirical data on the number of arrests and convictions for offenses involving child torture and the judicial discretion in sentencing for these convictions.

Explanation of Fiscal Impact

Amended by the Senate on April 9, 2019

State Expenditure

This bill defines torture and includes these actions in the definition of child abuse and neglect. The bill authorizes the Department of Social Services (DSS) to forego reasonable efforts to preserve a family in cases of child torture. Family court is authorized to order the termination of parental rights when a parent has committed torture, has aided or abetted in torture, or has conspired to or knowingly allowed another to commit torture against a child.

The bill amends the definition of homicide by child abuse to include causing the death of a child while committing torture or while knowingly aiding and abetting another person to commit torture. A person convicted of homicide by child abuse under these two added circumstances must be imprisoned for life, or imprisoned for a term of not less than twenty years, respectively.

Additionally, the bill adds two new offenses providing that it is unlawful for a child's parents or guardian, an adult with whom the child's parent or guardian is cohabitating, or any other person

responsible for a child's welfare to torture a child or knowingly allow another person to torture a child. The penalty for torture of a child includes imprisonment for life but not less than a term of twenty years. The penalty for knowingly allowing another person to torture a child is imprisonment for a term not less than ten years. The bill also identifies child torture as a violent crime.

Department of Social Services. DSS indicates that this bill codifies existing administrative procedures of the agency regarding family preservation efforts and termination of parental rights. Since DSS is complying with the requirements of the legislation, this bill will not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

Judicial Department. This bill establishes two new homicide offenses relating to child torture with associated penalties. A person guilty of causing the death of a child while committing torture or knowingly aiding or abetting a person committing torture must be imprisoned for a term of not less than 20 years or life imprisonment. Though the bill creates new offenses, the department believes (1) that most, if not all, of the conduct defined in the bill as torture falls within the current definition of child abuse or neglect or harm; and, (2) that the bill's addition of torture as a specific method of committing homicide by child abuse is already criminalized by existing statutes. Should the bill result in additional hearings in family courts or general sessions courts, the department will manage any additional cost to the General Fund within current resources.

Commission on Prosecution Coordination. As the bill does not add to the duties of the commission, the implementation of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds.

Commission on Indigent Defense. As the bill does not add to the duties of the commission, the implementation of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds.

Department of Corrections. The department indicates that the bill has the potential to increase the number of inmates incarcerated in the department's facilities from the proposed homicide offenses involving torture of a child. However, given the lack of empirical data on the number of arrests and convictions for offenses involving child torture and the judicial discretion in sentencing for these convictions, the additional number of inmates that may be incarcerated by the department from the new offenses is unknown. Therefore, the expenditure impact of this bill on the General Fund, Other Funds, and Federal Funds is undetermined.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 8, 2019

State Expenditure

This bill defines torture and includes these actions in the definition of child abuse and neglect. The bill authorizes the Department of Social Services (DSS) to forego reasonable efforts to preserve a family when a child is tortured. Family court is authorized to order the termination of parental rights when a parent has committed torture, has aided or abetted in torture, or has conspired to or knowingly allowed another to commit torture against a child.

The bill amends the definition of homicide by child abuse to include causing the death of a child while committing torture and knowingly aiding and abetting another person to commit torture. A person convicted of homicide by child abuse under these two added circumstances must be imprisoned for life, or imprisoned for a term of not less than twenty years, respectively.

Additionally, the bill adds two new offenses providing that it is unlawful for a child's parents or guardian, an adult with whom the child's parent or guardian is cohabitating, or any other person responsible for a child's welfare to torture a child or knowingly allow another person to torture a child. The penalty for torture of a child includes imprisonment for life but not less than a term of twenty years. The penalty for knowingly allowing another person to torture a child is imprisonment for a term not less than ten years.

DSS indicates that this bill codifies existing administrative procedures of the agency regarding family preservation efforts and termination of parental rights. Since DSS is complying with the requirements of the legislation, this bill will not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director