**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4341**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Magnuson, May, Morgan, Long, Chumley, Haddon, McCabe, Trantham, Oremus, B. Cox, Nutt, Burns, Dabney, Bennett, Willis, M.M. Smith and G.R. Smith

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Introduced in the House on May 5, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Executive Orders

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/5/2021 House Introduced and read first time

5/5/2021 House Referred to Committee on **Judiciary**

5/11/2021 House Member(s) request name added as sponsor: M.M.Smith

1/11/2022 House Member(s) request name added as sponsor: G.R.Smith

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4341&session=124&summary=B) at the website

**VERSIONS OF THIS BILL**

[5/5/2021](file:///p:\pprever\2021-22\4341_20210505.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑1100 SO AS TO PROHIBIT THE IMPLEMENTATION OF UNCONSTITUTIONAL FEDERAL ORDERS AT THE STATE OR LOCAL LEVEL; AND TO AMEND SECTION 2‑11‑50, RELATING TO THE DUTIES OF THE LEGISLATIVE COUNCIL, SO AS TO AUTHORIZE THE LEGISLATIVE COUNCIL TO REVIEW ANY PRESIDENTIAL EXECUTIVE ORDER, ACT, LAW, TREATY, REGULATION, RULE, OR REGULATORY ORDER ISSUED, ADOPTED, OR IMPLEMENTED ON OR AFTER JANUARY 1, 2021, AND REFER THE MATTER TO THE ATTORNEY GENERAL FOR A CONSTITUTIONAL DETERMINATION AND TO SUBMIT ANY FINDINGS TO THE GENERAL ASSEMBLY FOR CONSIDERATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This bill may be referred to as the “South Carolina Bill of Rights Sanctuary State Act of 2021.”

SECTION 2. Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Article 17

Nonenforcement of Unconstitutional Federal Orders

Section 1‑1‑1100. Notwithstanding another provision of law, no state agency, local government, other political subdivision, or publicly funded organization, or any elected or appointed official or employee of the same, may employ state funds, personnel, or facilities to implement, attempt to implement, or assist in the implementation of an Unconstitutional Federal Order, as defined in Section 2‑11‑50(B)(6).”

SECTION 3. Section 2‑11‑50 of the 1976 Code is amended to read:

“Section 2‑11‑50. (A) The Legislative Council shall be responsible for the organization and operation of the research, reference, and bill drafting facilities herein provided to serve the General Assembly. The Legislative Council shall make preliminary studies and recommendations upon proposed legislation when so requested by committees or members of the General Assembly and conduct investigations when so directed by ~~either~~ any Joint, Senate, or House Resolutions.

(B)(1) The Legislative Council may, on its own initiative, review any federal order, as defined in item (6), and must review any federal order upon the request of the Governor or any ten members of the General Assembly.

(2) After review, the Legislative Council may recommend to the South Carolina Attorney General and Governor that the federal order should be further examined by the Attorney General to ascertain its constitutionality, and if unconstitutional, to determine whether the State should seek an exemption or other relief from the application of the federal order or seek to have the federal order declared to be an unconstitutional exercise of federal authority.

(3) In conducting the review, the Attorney General shall note specifically whether a federal order infringes upon:

(a) any of the individual rights guaranteed by the Bill of Rights including, but not limited to, the establishment or free exercise of religion, freedom of speech, freedom of the press, the right to assembly and petition for redress of grievances, the right to keep and bear arms, security from unreasonable searches and seizures, due process of law, a speedy public trial by an impartial jury, and freedom from excessive bail, or cruel and unusual punishments; and

(b) any powers reserved to the State under the Tenth Amendment to the United States Constitution including, but not limited to, mandates relating to a pandemic or other public health emergency, improper interference with the state’s voting laws and procedures, improper interference with the state’s use and regulation of its natural resources, regulation of the agricultural industry, local land use and zoning policies, or the imposition of social policies or governance standards upon state or local governmental bodies or agencies, educational and nonprofit institutions, or industries regulated by the State or operating wholly within its borders.

(4) Within thirty days of receipt of the initial request, the Attorney General shall submit a report containing findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and shall post this report on the official website of the Office of the Attorney General. If the Attorney General determines that the federal order, or any portion thereof, is unconstitutional, each chamber of the General Assembly must consider the report, and if the General Assembly adopts a concurrent resolution accepting the Attorney General’s findings, the federal order, or portion thereof, shall be designated an ‘Unconstitutional Federal Order’, subject to the provisions of Section 1‑1‑1100.

(5) Nothing in this section limits the authority of the Attorney General to seek an injunction, a declaratory judgment or otherwise challenge the constitutionality or legality of any federal order, notwithstanding any action taken by the General Assembly with respect to his report, or the failure of the Legislative Council to conduct a review or to request a report with respect to such federal order.

(6) For purposes of this section, ‘Federal Order’ includes any presidential executive order, act, law, treaty, regulation, rule, or regulatory order issued, adopted, or implemented by the government of the United States on or after January 1, 2021.”

SECTION 4. This act takes effect upon approval by the Governor.

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