



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.

Bill Number: H. 3859 Amended by the House of Representatives on March 10, 2022
Author: Jordan
Subject: Electronic Dissemination of Third-Party Commercial Recordings
Requestor: Senate Labor, Commerce, and Industry
RFA Analyst(s): Gardner
Impact Date: March 22, 2022

Fiscal Impact Summary

This bill creates a civil cause of action and outlines corresponding required procedures for cases where a website or online service owner or operator fails to provide the required information when disseminating a third-party commercial recording or audiovisual work to consumers. Judicial expects to manage any increase in costs due to increased caseloads using existing General Fund resources; therefore, this bill will have no expenditure impact.

Revenue and Fiscal Affairs (RFA) anticipates any additional activities within the court of common pleas and magistrate and municipal courts will be minimal and can be managed with existing staff and within existing funds. Therefore, this bill will have no local expenditure impact.

RFA also anticipates this bill may result in an undetermined impact to state and local revenue due to the modifications in fines and fees collections in court.

Explanation of Fiscal Impact

Amended by the House of Representatives on March 10, 2022

State Expenditure

This bill creates a new chapter of law relating to the electronic dissemination of commercial recordings or audiovisual works. The bill provides definitions and requires a website or online service owner or operator substantially dealing in the direct or indirect electronic dissemination of third-party commercial recordings or audiovisual works to consumers to disclose his name, physical address, telephone number, and e-mail address on his website or online service in a conspicuous location. Failure to provide this information in the prescribed manner, if done with intent, constitutes an unfair trade practice and enables the work's owner, assignee, authorized agent, or exclusive licensee to bring a private cause of action to obtain a declaratory judgment against the website or online service owner or operator.

An aggrieved party must make the alleged violator aware of his complaint and allow fourteen days for the violator to cure the matter. Should the alleged violator fail to cure within that time frame, the aggrieved party may file a civil action in a court of competent jurisdiction. The court may then make orders to compel compliance of the alleged violator. The prevailing party in

such cases is entitled to recover necessary expenses and reasonable attorney's fees. These provisions are supplemental to existing state and federal criminal and civil law imposing prohibitions or providing penalties, sanctions, or remedies against such conduct. The bill does not impose liability on interactive computer, communications, commercial mobile, or information services providers involved with the transmission, storage, or caching of electronic communications or messages of others when those services are used by another person in violation of the bill's provisions.

This bill defines terms related to the electronic dissemination of commercial recordings or visual works and creates a civil cause of action and its required procedure for cases where a website or online service owner or operator fails to provide the required information when disseminating a third-party commercial recording or audiovisual work to consumers. Judicial reports that implementation of the bill may increase caseloads in common pleas and magistrate and municipal courts; however, as the bill creates a new cause of action, there is no data with which to estimate the number of filings, hearings, or trials that may result. Judicial expects to manage any increase in costs due to increased caseloads using existing General Fund resources.

State Revenue

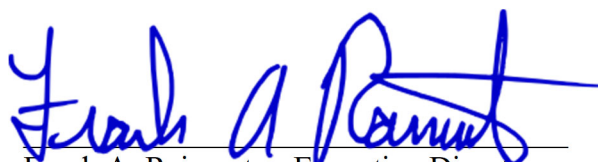
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue and Other Funds revenue due to the modifications in fines and fees collections in court.

Local Expenditure

This bill creates a new chapter of law relating to the electronic dissemination of commercial recordings or audiovisual works. However, there is no data upon which to predict the number of hearings that would be impacted should the bill be enacted, nor the extra docket time that these hearings might require. Despite this, RFA anticipates any additional activities will be minimal, and can be managed with existing staff and within existing funds. Therefore, this bill will have no local expenditure impact.

Local Revenue

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to local revenue due to the modifications in fines and fees collections in court.



Frank A. Rainwater, Executive Director