**South Carolina General Assembly**

126th Session, 2025-2026

**H. 3045**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. T. Moore, Lawson, Wooten, Pope, Magnuson, Chapman, Spann-Wilder, McCravy, W. Newton, Vaughan, Mitchell, Rankin, Long, Oremus, Gibson, Burns, Edgerton, Cobb-Hunter, Guffey, Govan, Wickensimer, M.M. Smith, Schuessler, B.L. Cox, Holman and Davis

Companion/Similar bill(s): 28, 3620

Document Path: LC-0005AHB25.docx

Introduced in the House on January 14, 2025

Currently residing in the House

Summary: Obscene visual representations of child sexual abuse

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/5/2024 House Prefiled

12/5/2024 House Referred to Committee on **Judiciary**

1/14/2025 House Introduced and read first time ([House Journal‑page 78](h:\hj\20250114.docx))

1/14/2025 House Referred to Committee on **Judiciary** ([House Journal‑page 78](h:\hj\20250114.docx))

1/16/2025 House Member(s) request name added as sponsor: Vaughan

1/28/2025 House Member(s) request name added as sponsor:
Mitchell, Rankin, Long, Oremus, Gibson,
Burns, Edgerton

2/18/2025 House Member(s) request name added as sponsor: Guffey

2/25/2025 House Member(s) request name added as sponsor: Govan

2/26/2025 House Member(s) request name added as sponsor: Wickensimer

3/5/2025 House Member(s) request name added as sponsor: M.M.
Smith, Schuessler, B.L. Cox, Holman, Davis

3/20/2025 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 6](h:\hj\20250320.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3045&session=126&summary=B)  at the website

**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3045_20241205.docx)

[03/20/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3045_20250320.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

March 20, 2025

H. 3045

Introduced by Reps. T. Moore, Lawson, Wooten, Pope, Magnuson, Chapman, Spann-Wilder, McCravy, W. Newton, Vaughan, Mitchell, Rankin, Long, Oremus, Gibson, Burns, Edgerton, Cobb-Hunter, Guffey, Govan, Wickensimer, M. M. Smith, Schuessler, B. L. Cox, Holman and Davis

S. Printed 3/20/25--H.

Read the first time January 14, 2025

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The committee on House Judiciary

To whom was referred a Bill (H. 3045) to amend the South Carolina Code of Laws by adding Section 16‑15‑390 so as to create the offense of obscene visual representations of child sexual abuse, define, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, by striking Section 16-15-390(F) and inserting:

(F)(1) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General’s Office, or the South Carolina Department of Corrections, who, while acting within the employee’s official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation. An employee’s official capacity in the course of such investigation or criminal proceeding includes making materials available for inspection to the defendant’s counsel in response to discovery requests.

(2) This section does not apply to a provider of a telecommunications service or an information service, as those terms are defined in 47 U.S.C. § 153, for content provided by another person.

Renumber sections to conform.

Amend title to conform.

W. NEWTON for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill adds definitions for obscene and visual depiction or representation within the provisions for offenses against morality and decency. It also creates the following new offenses:

|  |  |
| --- | --- |
| **Section 16-15-390(B): Felony Offense** | |
| **Offense** | **Penalty** |
| Knowingly producing, distributing, receiving, or possessing with intent to distribute—or attempting or conspiring to produce, distribute, receive, or possess with intent to distribute—an obscene visual depiction or representation showing minor engaged in sexually explicit conduct, activity, or nudity | Imprisonment for ≥ 2 years but ≤ 10 years; no part of minimum sentence may be suspended nor parole granted until minimum sentence served |
| **Section 16-15-390(C): Felony Offense** | |
| **Offense** | **Penalty** |
| Knowingly producing, distributing, receiving, or possessing—or attempting or conspiring to do so—an obscene visual depiction or representation showing minor engaged in sexually explicit conduct, activity, or nudity | Imprisonment for ≤10 years |
| **Section 16-15-390(D): Misdemeanor Offense** | |
| **Offense** | **Possible Action by Court** |
| If offense (B) or (C) is committed by a minor where the minor has no prior adjudication for such offense that would require registration as a sex offender | Family court may order behavioral health counseling from appropriate agency or provider as a condition of adjudication |

The bill does not require that any minor depicted actually exist. The provisions of the bill do not apply to persons working in law enforcement or the judicial system who are acting in their official capacity during an investigation or criminal proceeding.

This bill also provides that minors adjudicated in the family court are not required to register as Tier I sex offenders. However, adults who have been convicted of, or have pled guilty or nolo contendere to these offenses must be added to the sex offender registry as Tier I offenders.

In addition, the bill revises the requirements by which a person included as a Tier I or Tier II offender in the state sex offender registry may request removal from the registry. These revisions are as follows:

|  |  |
| --- | --- |
| **Section 23-3-462(A)(1)(a): Any Registrant, Tier I Offender** | |
| **Current** | **Proposed** |
| After 15 years of registration as a Tier I offender | After 15 years of registration or after 15 years from date of discharge from incarceration without supervision, or termination of active supervision of probation, parole, or any other active alternative to incarceration |
| **Section 23-3-462(A)(1)(b): Adult Registrant, Tier II Offender** | |
| **Current** | **Proposed** |
| After 25 years of registration as a Tier II offender | After 25 years of registration or after 25 years from date of discharge from incarceration without supervision, or termination of active supervision of probation, parole, or any other active alternative to incarceration |

**Judicial.** Judicial reports that this bill may increase caseloads in general sessions and family courts. During FY 2023-24, there were 1,581 dispositions of child sexual exploitation related offenses, which constitute 1.15 percent of general sessions court dispositions during that period. Judicial intends to use existing staff and resources to manage any increase in caseloads. However, they indicated that if there is a significant increase in caseloads, Judicial will request additional General Fund appropriations.

**Commission on Prosecution Coordination.** The Commission reports this bill will likely have some impact on the agency workload. However, as there are no data to estimate any increase in workload, the expenditure impact cannot be determined. If there is a significant increase in workload, the agency will request additional General Fund appropriations.

**Commission on Indigent Defense.** The Commission reports this bill will likely have some impact on the agency workload. However, as there are no data to estimate any increase in workload, the expenditure impact cannot be determined. If there is a significant increase in workload, the agency will request additional General Fund appropriations.

**State Law Enforcement Agency.** SLED reports the bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, the bill will have no expenditure impact for SLED.

**Department of Corrections.** SCDC reports that implementation of the bill may increase the number of inmates housed in state correctional facilities. According to SCDC, in FY 2023-24, the annual total cost per inmate was $40,429 of which $36,553 was state funded. While there are no data to determine any potential increase in the number of SCDC inmates, SCDC expects to manage any expenditure impact using existing staff and resources. If there is a substantial increase in incarcerations, however, SCDC will request additional General Fund appropriations.

**Department of Juvenile Justice.** DJJ reports the bill will have no expenditure impact since it does not require the agency to perform duties outside the normal course of business.

**Department of Probation, Parole and Pardon.** This bill requires PPP to verify the status of individuals who are under supervision or are on probation or parole who apply for removal from the state sex offender registry, it may increase agency workloads. The agency anticipates being able to manage the status reviews using existing staff and resources; therefore, this bill will result in no expenditure impact for the agency.

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 a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 16‑15‑390 SO AS TO CREATE THE OFFENSE OF OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE, DEFINE NECESSARY TERMS, AND ESTABLISH PENALTIES; BY AMENDING SECTION 23‑3‑430, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO ADD THE OFFENSE OF OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE TO THE SEX OFFENDER REGISTRY; AND BY AMENDING SECTION 23‑3‑462, RELATING TO TERMINATION OF REGISTRATION REQUIREMENTS, SO AS TO CLARIFY POSSIBLE TERMINATION REQUIREMENTS AND INCLUDE TIER I AND TIER II DESIGNATIONS FOR OUT‑OF‑STATE OR FEDERAL CONVICTIONS.

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

SECTION 1. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16‑15‑390. (A) As used in this section:

(1) “Obscene” has the same meaning as in Section 16‑15‑305.

(2) “Visual depiction or representation” means and includes undeveloped film and videotape, and data stored on a computer disk or by electronic means that is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer‑generated image or picture, whether made or produced by electronic, mechanical, or other means.

(B) Any person who knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction or representation of any kind, including a drawing, cartoon, sculpture, or painting that depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity, and is obscene, or attempts or conspires to do so, is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

(C) Any person who knowingly possesses a visual depiction or representation of any kind, including a drawing, cartoon, sculpture, or painting, that depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity, and is obscene, or attempts or conspires to do so is guilty of a felony and, upon conviction, must be imprisoned no more than ten years.

(D) The offense is a misdemeanor to be heard by the family court if the person charged under this section is a minor, and the minor has no prior adjudication under this section or for any offense for which a person may be included in the sex offender registry. The family court may order behavioral health counseling from an appropriate agency or provider, as a condition of adjudicating a minor.

(E) It is not a required element of any offense under this section that the minor depicted actually exists.

(F) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General’s Office, or the South Carolina Department of Corrections, who, while acting within the employee’s official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation. An employee’s official capacity in the course of such investigation or criminal proceeding includes making materials available for inspection to the defendant’s counsel in response to discovery requests.

SECTION 2. Section 23‑3‑430(C)(1) and (2) of the S.C. Code is amended to read:

(C)(1) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier I offender:

(a) criminal sexual conduct in the third degree (Section 16‑3‑654);

(b) kidnapping (Section 16‑3‑910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(c) incest (Section 16‑15‑20);

(d) buggery (Section 16‑15‑120);

(e) peeping, voyeurism, or aggravated voyeurism (Section 16‑17‑470);

(f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, or who has been convicted or pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted or pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on the circumstances of the case, the convicted person should register as a sex offender;

(g) sexual intercourse with a patient or trainee (Section 44‑23‑1150);

(h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44‑53‑370(f), except petit larceny or grand larceny;

(i) any other offense as described in Section 23‑3‑430(D), or

(j) any other offense required by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109‑248), the Sex Offender Registration and Notification Act (SORNA).; or

(k) obscene visual representation of a child sexual abuse (Section 16‑15‑390). If the person is under eighteen years of age and was adjudicated in the family court, the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.

(2) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier II offender:

(a) criminal sexual conduct in the second degree (Section 16‑3‑653);

(b) engaging a child for sexual performance (Section 16‑3‑810);

(c) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

(d) trafficking in persons (Section 16‑3‑2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(e) criminal sexual conduct with minors, second degree (Section 16‑3‑655(B)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(f) criminal sexual conduct with minors, third degree (Section 16‑3‑655(C)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(g) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16‑15‑375(5);

(ii) perform a sexual activity in the presence of the person solicited (Section 16‑15‑342); or

(h) violations of Article 3, Chapter 15, Title 16 involving a minor, except as otherwise provided in this article.

SECTION 3. Section 23‑3‑462(A) of the S.C. Code is amended to read:

(A) After successful completion of the requirements of this section, an offender may apply to the South Carolina Law Enforcement Division for the termination of the requirements of registration pursuant to this article. If it is determined that the offender has met the requirements of this section, SLED shall remove the offender's name and identifying information from the sex offender registry and shall notify the offender within one hundred twenty days that the offender has been relieved of the registration requirements of this article.

(1) An offender may file a request for termination of the requirement of registration with SLED, in a form and process established by the agency:

(a) after fifteen years of having been registered for at least fifteen yearsor after fifteen years from the date of discharge from incarceration without supervision, or the termination of active supervision of probation, parole, or any other active alternative to incarceration, if the offender was required to register based on an adjudication of delinquency or the offender was required to register as is a Tier I offender;

(b) after twenty‑five years of having been registered for at least twenty‑five yearsor after twenty‑five years from the date of discharge from incarceration without supervision, or the termination of active supervision of probation, parole, or any other active alternative to incarceration, if the offender was convicted as an adult, and was required to register asis a Tier II offender;

(c) ana Tier I or Tier II offender who was required to register as an offender because of a conviction in another state or because of a federal conviction may apply to be removed from the requirements of the registry if he is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(2) An offender who was convicted as an adult, and who is required to register as a Tier III offender may not file a request for termination of registration with SLED nor shall any such request be granted pursuant to this subsection.

(3) The requesting offender must have successfully completed all sex offender treatment programs that have been required.

(4) The requesting offender must not have been convicted of failure to register within the previous ten years.

(5) The offender must not have been convicted of any additional sexual offense or violent sexual offense after being placed on the registry.

(6) A filing fee, as set by SLED but not to exceed two hundred fifty dollars, shall be paid to file the request for termination of registration requirements. The initial application may be filed with SLED and the administrative review may begin one hundred twenty days prior to the date specified in subsection (A)(1); however, any removal may not occur prior to the date specified.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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