



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. 3594 Amended by House Judiciary on February 16, 2023
Author: B.J. Cox
Subject: Constitutional Carry
Requestor: House Judiciary
RFA Analyst(s): Gardner
Impact Date: February 21, 2023

Fiscal Impact Summary

This bill as amended creates the South Carolina Constitutional Carry/Second Amendment Preservation Act of 2023, which removes the requirement that a person must possess a concealed weapon permit in order to carry or store a firearm in certain locations; enables law enforcement to retain or dispose of a firearm that has been found and turned in; repeals certain unlawful carry offenses; expands the penalty schedule for unlawful possession of a firearm or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment of more than one year; enables certain persons convicted of a first offense for unlawful possession of a firearm or weapon to apply for expungement of their records; and enables active county clerks of court who possess a valid concealed weapon permit to carry a concealed weapon anywhere within the State.

Judicial reports that the bill will amend or repeal certain unlawful carrying offenses and will expand the penalty schedule for unlawful possession of a firearm or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment of more than one year. Judicial expects to manage any expenditure impact resulting from the bill using existing General Fund appropriations.

The Commission on Indigent Defense, the Commission on Prosecution Coordination, the State Law Enforcement Division (SLED), and the Department of Public Safety report that the bill will have no expenditure impact since these agencies will administer policies resulting from the bill with the use of existing staff and resources.

The South Carolina Department of Corrections (SCDC) reports that while implementation of the bill may extend the terms of imprisonment for certain inmates, due to variations in patterns of sentencing and conviction, the resulting expenditure impact cannot be determined. According to SCDC, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836, \$4,830 of which was state funded. SCDC expects to manage any expenditure impact using existing General Fund appropriations.

SLED reports that the implementation of this bill will have no revenue impact, as the passage of Act No. 66 in 2021 removed the requirement that a person pay SLED a \$50 application fee for a concealed weapon permit.

Revenue and Fiscal Affairs (RFA) contacted counties and the Municipal Association of South Carolina (MASC) to determine the potential impact on local governments. Horry County reports that implementation of the bill will result in the county needing to hire an additional property and evidence custodian at a cost of \$76,929 annually, beginning in FY 2023-24. MASC anticipates an increase in the number of calls for service, which may require hiring additional officers. In addition, MASC reports cities will likely see increases in liability insurance premiums and court costs. These things, along with other factors, are expected to create an expenditure impact of an undetermined amount for municipalities.

This bill modifies the penalty schedule for the offense of unlawful possession of a firearm or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment of more than one year and removes the option for the levy of a fine. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact on Judicial and other applicable agencies (such as local or county governments) is undetermined. SLED reports that the implementation of this bill will have no revenue impact, as the passage of Act No. 66 in 2021 removed the requirement that a person pay to SLED a \$50 application fee for a concealed weapon permit.

Explanation of Fiscal Impact

Amended by House Judiciary on February 16, 2023

State Expenditure

This bill as amended creates the South Carolina Constitutional Carry/Second Amendment Preservation Act of 2023, which makes a number of changes related to the lawful carry of a firearm in South Carolina.

The bill provides that a person who possesses a firearm and is authorized to park on the capitol grounds or in the parking garage below the capitol grounds does not need a concealed weapon permit to store the firearm within his locked vehicle. The bill also makes it unlawful, whether or not the person has a concealed weapon permit, for anyone to carry a firearm, whether concealed or not, unless otherwise specified by law into a law enforcement facility, correctional or detention center, courthouse, polling place on election day, city or county office building, school or college athletic event, daycare facility, church or religious sanctuary, medical center, residence or dwelling of another person, or a place with a sign prohibiting the carrying of a firearm. These provisions do not apply to regular or reserve state or federal law enforcement officers (including deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources and retired commissioned law enforcement officers), employees of law enforcement or correctional facilities, members of the armed forces, qualified retired law enforcement officers, specified active members of the judicial system, or a person given permission to carry a firearm by the property owner or person in control of the premises or his agent.

The bill also removes the requirement that a person who has turned over a gun he has found to a law enforcement agency file an application to have the gun returned to him if desired. In

addition, the bill requires a law enforcement agency to retain a handgun that has been turned in by a person who is prohibited under state or federal law from possessing or receiving a handgun and allows the agency to dispose of any gun not reclaimed or returned by sale.

The bill also changes references to the word weapon to firearm and removes the requirement that a person possess a concealed weapon permit in order to lawfully:

- Securely store a firearm inside a locked vehicle parked on the premises of a public or private school, college, university, technical college, other post-secondary institution, or while traveling on state roadways running through or adjacent to such premises;
- Store a weapon inside the glove compartment, the closed console, the closed trunk, or any closed container within an attended or locked motor vehicle while on the premises of any elementary or secondary school; and
- Carry a firearm onto the premises of a business selling alcoholic beverages, provided that the person does not consume such beverages.

Further, the bill requires a person who has lost his concealed weapon permit identification card or had his card stolen to report the loss within 48 hours of the time the holder became aware of the loss. A person who fails to do so is subject to prosecution and may incur a fine of not more than \$1,000 or imprisonment for not more than one year, or both, and he may have his permit revoked for up to five years.

The bill also authorizes a public or private employer to either allow or disallow the carry of firearms onto the premises of the business and to post signage regarding the prohibition or allowance of weapons on the premises.

Additionally, the bill removes the requirement that a person possess a concealed weapon permit to carry a weapon on the leased premises of an elementary or secondary school if a church leases those premises for church services or official church activities, provided that express permission has been granted by the appropriate church official or governing body. The bill also repeals Sections 16-23-460 (*Carrying concealed weapons; forfeiture of weapons*), 23-31-225 (*Carrying concealed weapons into residences or buildings*), and 23-31-230 (*Carrying concealed weapons on premises of certain schools leased by churches*).

Section 16-23-500(A) makes it unlawful for persons who are convicted of violent offenses to possess a firearm or ammunition within the state. The bill removes the reference to violent offenses and replaces it with the term “crime punishable by a maximum term of imprisonment of more than one year,” and it expands the penalty structure for this felony offense, as shown below:

Section 16-23-500(A) Current Penalty Schedule
Any Level Offense
Fine of ≤\$2,000, imprisonment for ≤10 years, or both
Section 16-23-500(A) Expanded Penalty Schedule
1st Offense
Imprisonment for ≤5 years
2nd Offense
Mandatory imprisonment for at least 5 years but not more than 20 years
3rd or Subsequent Offense
Mandatory imprisonment for at least 10 years but not more than 30 years

The bill does provide for the following exceptions to the ban on the possession of firearms or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment of more than one year:

- Any offense in this state or another jurisdiction pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses;
- Any offense classified by the laws of this state or another jurisdiction as a misdemeanor and punishable by a term of imprisonment of five years or fewer; and
- Any crime for which the conviction has been expunged or set aside for which the person has been pardoned or has had his civil rights restored, unless expressly provided otherwise.

Additionally, the bill enables persons who are convicted of a first offense violation for unlawful possession of a firearm or weapon—whereby the penalty is imprisonment for not more than one year or a fine of one thousand dollars, or both—to apply for expungement of their records if three years have passed since the conviction.

The bill also enables active county clerks of court who possess a concealed weapon permit to carry a concealable weapon anywhere in the State.

Judicial. This bill enacts the “South Carolina Constitutional Carry/Second Amendment Preservation Act of 2023,” which amends a number of offenses involving the carry of a firearm, repeals certain carry offenses, and expands the penalty schedule for the unlawful possession of a firearm or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment. The table below provides the number of filings related to the offenses in the bill for reference.

Criminal Data Report (CDR) Code-Description	Total Filings in 2022
0043-Carry concealed weapon, not a pistol (e.g., dirk, metal knuckles, etc.)	10
0044-Unlawful carrying of pistol	6,185
0300-Carrying or displaying firearms in public buildings or adjacent areas	26
0543-Carrying concealable weapon on posted places	1
0615-Carrying weapons on school property	43
1104-Carrying or discharging firearm or explosive on Capitol grounds or buildings	1
2007-Unlawful act in state park	0
2504-Concealable weapon permit not in possession, failure to report loss or theft	1
2505-Carrying concealable weapon into certain restricted places	0
2507-Carrying concealed weapon into residence/dwelling without permission of owner	0
3757-Unlawful consumption of alcohol while carrying concealed weapon	4

This bill may decrease the general sessions, magistrate, and municipal courts caseloads for the offenses listed in the chart above; however, there are no data available regarding the specific offense changes so as to estimate the number of filings, hearings, or trials that would be impacted as a result of the bill. The data that Judicial can provide would be total filings; however, some of the above filings would not be impacted by the bill. It is anticipated that these changes will have a minimum impact on Judicial and can be managed using existing General Fund resources.

Commission on Prosecution Coordination. The Commission reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and resources.

Commission on Indigent Defense. The Commission reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and resources.

State Law Enforcement Agency. SLED reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and resources.

Department of Public Safety. The department reports this bill will have no expenditure impact because the agency will administer policies resulting from the bill with the use of existing staff and resources.

Department of Corrections. This bill expands the penalty schedule for unlawful possession of firearm or ammunition by a person convicted of a crime punishable by a maximum term of

imprisonment of more than one year and provides for longer terms of imprisonment. Due to variations in patterns of sentencing and convictions, the expenditure impact of the bill on SCDC is undetermined. According to SCDC, in FY 2021-22, the annual total cost per inmate was \$32,247, \$30,044 of which was state funded, and the marginal cost per inmate was \$4,836, \$4,830 of which was state funded. SCDC expects to manage any expenditure impact using existing General Fund appropriations.

Local Expenditure

The Revenue and Fiscal Affairs Office surveyed county governments, as well as MASC, as to whether implementation of the bill would result in an expenditure impact. MASC and Horry County provided responses. MASC indicates it anticipates an increase in the number of calls for service, which will result in a need to hire more officers. In addition, MASC reports cities will likely see increases in liability insurance premiums and court costs. These things, along with other factors, are expected to create an expenditure impact of an undetermined amount for municipalities. Horry County reports that it would need to hire an additional property and evidence custodian to track weapons that are presented to the county sheriff's department. The county indicates this hire will cost \$76,929 annually beginning in FY 2023-24.


State Revenue

This bill modifies the penalty schedule for the offense of unlawful possession of a firearm or ammunition by a person convicted of a crime punishable by a maximum term of imprisonment of more than one year and removes the option for the levy of a fine. As such, it has the potential to decrease General Fund revenue from fines, as well as Other Funds revenue of Judicial and other applicable agencies who receive a distribution from fine revenue for such an offense. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.

SLED reports that the implementation of this bill will have no revenue impact, as the passage of Act No. 66 in 2021 removed the requirement that a person pay SLED a \$50 application fee for a concealed weapon permit.

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