

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 47 - SB 309

March 17, 2017

SUMMARY OF BILL: Establishes mandatory minimum sentences for illegally carrying or possessing a semi-automatic firearm. Broadens application of the mandatory minimum sentences for offenses of possessing and employing a firearm during the commission of a dangerous felony to include the use of a semi-automatic firearm.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$4,469,800/Incarceration*

Increase Local Expenditures – \$1,927,800/Incarceration**

Assumptions:

- Statistics from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives indicate that 55 percent of firearms used in Tennessee crimes are semi-automatic handguns. These statistics do not include semi-automatic rifles or shotguns.
- It is assumed that 60 percent of Tennessee firearm offenses include semi-automatic firearms.
- Tennessee Code Annotated § 39-17-1307(a) prohibits any person from carrying, with the intent to go armed, any firearm or club. A violation of Tenn. Code Ann. § 39-17-1307(a) is a class C misdemeanor for a first offense, class B for a second or subsequent offense, and a class A misdemeanor if the offense involved the carrying of a handgun at a place open to the public where one or more persons were present.
- The proposed legislation requires any person convicted to be punished by incarceration for a mandatory minimum of 30 days if the offense involved a semi-automatic firearm.
- Statistics from the Administrative Office of the Courts (AOC) show an average of 198.4 misdemeanor convictions per year for violations of Tenn. Code Ann. § 39-17-1307 over the last five years. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 1,984 convictions (198.4×10) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-1307.
- It is assumed that 60 percent ($1,984 \times 0.6 = 1,190$) of misdemeanor convictions under Tenn. Code Ann. § 39-17-1307 involve a semi-automatic firearm.

- Most persons convicted of misdemeanor offenses do not serve time. It is assumed that 90 percent of the 1,190 convictions ($1,190 \times 0.9 = 1,071$) involving a semi-automatic firearm do not currently serve a period of confinement.
- The proposed legislation will result in 1,071 defendants serving 30 days in jail.
- The estimated 2017 cost per inmate per day for local jails is \$60.00.
- The proposed legislation will increase local incarceration costs by \$1,927,800 ($1,071 \times 30 \text{ days} \times \60.00).
- The proposed legislation requires a one-year mandatory minimum sentence for violations of Tenn. Code Ann. § 39-17-1307(d)(2) involving a semi-automatic firearm.
- Tennessee Code Annotated § 39-17-1307(d)(2) prohibits any person from possessing any deadly weapon with the intent to employ it during the commission of, during an attempt to commit, or during an escape from any offense. A violation of Tenn. Code Ann. § 39-17-1307(d)(2) is a class E felony.
- Statistics from the AOC show an average of 438.8 convictions each year for class E felony offenses under Tenn. Code Ann. § 39-17-1307.
- However, these include class E felony convictions under Tenn. Code Ann. § 39-17-1307(c)(1) and (d)(2). It is assumed that one-half percent ($438 \text{ convictions} \times 0.5 = 219$ convictions) of these convictions are under (d)(2).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for 26 ($219 \times .1178$) additional admissions for a total of 245 ($219 + 26$).
- The proposed legislation will result in each offender serving a one-year mandatory minimum sentence.
- According to the Department of Correction (DOC), 33.2 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.2 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($245 \text{ offenders} \times .486 = 81 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 164 offenders ($245 \text{ offenders} - 81 \text{ recidivism discount}$) serving one year (365.25 days) at a cost of \$25,111 ($\$68.75 \times 365.25 \text{ days}$) per offender. The cost for 164 offenders is \$4,118,204 ($\$25,111 \times 164$).
- Tennessee Code Annotated § 39-17-1324(a) prohibits any person from possessing, with the intent to go armed, a firearm during the commission of a dangerous felony. A violation of Tenn. Code Ann. § 39-17-1324(a) is a class D felony with a three-year mandatory minimum sentence or a five-year mandatory sentence if the defendant has a prior felony conviction.
- The proposed legislation requires a five-year mandatory minimum sentence for violations of Tenn. Code Ann. § 39-17-1324(a) if the defendant possessed a semi-automatic firearm.
- Statistics from the DOC show an average of 12.67 admissions per year for violations of Tenn. Code Ann. § 39-17-1324(a).

- It is assumed that 60 percent, or eight admissions ($12.67 \times 0.6 = 7.6$), involve a semi-automatic firearm. These offenses would require a three-year mandatory minimum sentence under current law, but the proposed legislation will require a five-year mandatory minimum sentence.
- The proposed legislation will result in each offender serving an additional two years ($5 - 3$), or 730.5 days (365.25×2).
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one ($7.6 \times .1178$) additional admission for a total of nine ($8 + 1$).
- According to the DOC, 43.1 percent of offenders will re-offend within two years of their release. A recidivism discount of 43.1 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($9 \text{ offenders} \times .431 = 4 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on five offenders ($9 \text{ offenders} - 4 \text{ recidivism discount}$) serving an additional two years (730.5 days) at a cost of \$50,222 ($\$68.75 \times 730.5 \text{ days}$) per offender. The cost for five offenders is \$251,110 ($\$50,222 \times 5$).
- Tennessee Code Annotated § 39-17-1324(b) prohibits any person from employing a firearm during the commission of a dangerous felony. A violation of Tenn. Code Ann. § 39-17-1324(b) is a class C felony with a three-year mandatory minimum sentence or a five-year mandatory sentence if the defendant has a prior felony conviction.
- The proposed legislation requires a five-year mandatory minimum sentence for violations of Tenn. Code Ann. § 39-17-1324(b) if the defendant possessed a semi-automatic firearm.
- Statistics from the DOC show an average of three admissions per year for violations of Tenn. Code Ann. § 39-17-1324(b).
- It is assumed that 60 percent, or two admissions ($3 \times 0.6 = 1.8$), involve a semi-automatic firearm. These offenses would require a three-year mandatory minimum sentence under current law, but the proposed legislation will require a five-year mandatory minimum sentence.
- The proposed legislation will result in each offender serving an additional two years ($5 - 3$), or 730.5 days (365.25×2).
- Population growth and any recidivism discount do not impact these admissions.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders serving an additional two years (730.5 days) at a cost of \$50,222 ($\$68.75 \times 730.5 \text{ days}$) per offender. The cost for two offenders is \$100,444 ($\$50,222 \times 2$).
- The total recurring increase in state incarceration costs is estimated to be \$4,469,758 ($\$4,118,204 + \$251,110 + \$100,444$).
- The proposed legislation does not create any new cases, but rather impact sentencing of current cases. It is assumed that any impact to the operations of the courts, public

defenders, or district attorneys general can be accommodated within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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