



February 12, 2024

**SUMMARY OF BILL AS AMENDED (013539):** Creates the Class C felony offense of abortion trafficking of a minor. Establishes the offense does not apply to the parents or legal guardian of an unemancipated minor, or to the provision of a medical diagnosis or consultation regarding pregnancy care of an unemancipated minor. States that a medical diagnosis or consultation regarding pregnancy care does not include performing or attempting to perform an abortion, or arranging for travel for the unemancipated minor to procure an abortion or an abortion-inducing drug without the consent of the unemancipated minor's parent or legal guardian. States that it is not a defense to a prosecution that the pregnant minor consented to the actions that led to the offense. Provides for a civil action against a person committing the offense of abortion trafficking of a minor for the wrongful death of an unborn child that was aborted.

**FISCAL IMPACT OF BILL AS AMENDED:**

**Increase State Expenditures – \$55,300 Incarceration**

Assumptions for the bill as amended:

- Per the language of the proposed legislation, an adult commits the offense of abortion trafficking of a minor if the adult recruits, harbors, or transports a pregnant unemancipated minor within this state for the purpose of:
  - Concealing an act that would constitute a criminal abortion from the parents or guardian of the pregnant unemancipated minor;
  - Procuring an act that would constitute a criminal abortion for the pregnant unemancipated minor, regardless of where the abortion is to be procured; or
  - Obtaining an abortion-inducing drug for the pregnant unemancipated minor for the purpose of an act that would constitute a criminal abortion, regardless of where the abortion-inducing drug is obtained.
- The offense does not apply to the parents or legal guardian of an unemancipated minor, or to the provision of a medical diagnosis or consultation regarding pregnancy care of an unemancipated minor.
- The number of individuals who will be charged with the offense of abortion trafficking pursuant to this proposed legislation is unknown.
- Many states have abortion restrictions that authorize an abortion only under certain circumstances. As of January 24, 2024, there are 36 states and the District of Columbia where abortion is legal in some capacity.

- Based on information located on the Department of Health’s website, between 2019 and 2020, there were an average of 507 abortions per year in Tennessee for residents under the age of 18.
- Illinois and Virginia are the closest states to Tennessee with the least abortion restrictions. For purposes of this analysis, Illinois data on abortions for out-of-state residents is being used.
- Between 2015-2020, an average of one percent per year of total abortions performed for an out-of-state resident in Illinois was for a Tennessee resident.
- Illinois stopped reporting abortion numbers by specific state for out-of-state residents in 2021; therefore, it is assumed one percent of the total number of out-of-state resident abortions performed in Illinois per year is for a Tennessee resident.
- In 2022, there were a total of 16,849 abortions performed in Illinois for an out-of-state resident. Between 2015-2022, Illinois realized an average growth rate of 6.7 in total abortions. For purposes of this analysis, it is assumed out-of-state abortions will increase by at least 5 percent in 2023 and 2024.
- It is assumed approximately 186 [(16,849 x 105% x 105%) x 1%] abortions were for a Tennessee resident.
- The age of the Tennessee resident receiving the abortion in Illinois is unknown; however, it is reasonably assumed one percent or 1.86 (186 x 1.0%) of such abortions were for a minor assisted by an adult other than the minor’s parent or legal guardian.
- While the number of such abortions across all states is higher, it is assumed that the abovementioned number is representative of the total number of Class C felony convictions that would result pursuant to this legislation.
- The average time served for a Class C felony is 1.52 years.
- The proposed legislation will result in 1.86 additional admissions annually serving 1.52 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.95 percent per year (from 2020 to 2023).
- The weighted average operational costs per inmate per day are estimated to be \$54.04 for inmates housed at state facilities and \$49.88 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 36,000	FY24-25
\$ 55,000	FY25-26
\$ 55,300	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$55,300.
- The proposed legislation authorizes a civil action be brought against a person who commits the offense of abortion trafficking of a minor for the wrongful death of an unborn child that was aborted. The civil action may be brought on behalf of the unborn child by:

- The biological mother of the unborn child;
- The biological father of the unborn child, unless the pregnancy resulted from an act of rape or incest committed by the biological father; or
- A parent or legal guardian of the unemancipated minor.
- Any fiscal impact resulting from the proposed legislation associated with civil actions will be borne by private parties.
- The proposed legislation will not significantly impact courts' caseloads.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal memo are available upon request.

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

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