



February 4, 2019

**SUMMARY OF BILL:** Punishes certain aggravated assault offenses one classification higher if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.

Punishes voluntary manslaughter, criminally negligent homicide, and reckless homicide one classification higher if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$138,900 Incarceration\***

Assumptions:

*Aggravated Assault*

- Aggravated assault is an assault that results in serious bodily injury to another, death of another, involved the use or display of a deadly weapon, or involved strangulation or attempted strangulation.
- Tennessee Code Annotated § 39-13-102 establishes two classes of aggravated assault offenses: intentional/knowning and reckless. Intentional or knowing aggravated assaults are class C felonies, and reckless aggravated assaults are prosecuted as class D felonies.

*Intentional/Knowing Aggravated Assaults*

- The proposed legislation punishes intentional/knowning aggravated assaults resulting in serious bodily injury or death one classification higher if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.
- Based on information provided by the Department of Correction (DOC), there has been an average of 3.25 admissions for intentional/knowning aggravated assaults resulting in death of another each year from 2015 - 2018. DOC statistics only show admissions over the last four years. Therefore, the four-year average number of admissions is used.
- The proposed legislation will result in one intentional/knowning aggravated assault admission being enhanced one classification every 10 years.
- Population growth and recidivism will not impact these admissions.

- The average time served for a class C felony is 3.62 years. The average time served for a class B felony is 6.65 years.
- The proposed legislation will result in each admission serving an additional 3.03 years (6.65 - 3.62).
- According to the DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every ten years serving 3.03 years (1,106.71 days) for an annualized increase in state incarceration expenditures of \$8,099 [(\$73.18 x 1,106.71 days) / 10].

#### *Reckless Aggravated Assaults*

- The proposed legislation punishes reckless aggravated assaults resulting in serious bodily injury or death one classification higher if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.
- Based on information provided by DOC, there has been an average of 99.8 admissions per year for reckless aggravated assault over last five years.
- The proposed legislation will result in two percent, or two admissions (99.8 x 0.02 = 2), being enhanced one classification each year.
- Population growth will not impact these admissions.
- The average time served for a class D felony is 2.30 years. The average time served for a class C felony is 3.62 years. The proposed legislation will result in each admission serving an additional 1.32 years (3.62 – 2.30).
- According to the DOC, 41.7 percent of offenders will re-offend within two years of their release. A recidivism discount of 41.7 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 legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (2 offenders x .417 = 1 offender).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender (2 offenders – 1 recidivism discount) admitted every year serving an additional 1.32 years (482.13 days) for an annualized increase in state incarceration expenditures of \$35,282 (\$73.18 x 482.13 days).

#### *Voluntary Manslaughter*

- Voluntary manslaughter is the intentional or knowing killing of another in a state of passion produced by adequate provocation sufficient to lead a reasonable person to act in an irrational manner. Voluntary manslaughter is a class C felony.
- The proposed legislation would enhance voluntary manslaughter one classification if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.
- Based on information provided by DOC, there has been an average of 43.6 admissions per year for voluntary manslaughter over last five years.

- The proposed legislation will result in two percent, or one admission ( $43.6 \times 0.02 = .87$ ), being enhanced one classification each year.
- Population growth and recidivism will not impact these admissions.
- The average time served for a class C felony is 3.62 years. The average time served for a class B felony is 6.65 years. The proposed legislation would result in each admission serving an additional 3.03 years ( $6.65 - 3.62$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted each year serving an additional 3.03 years (1,106.71 days) for an annualized increase in state incarceration expenditures of \$80,989 ( $\$73.18 \times 1,106.71$  days).

#### *Reckless Homicide*

- Reckless homicide is the reckless killing of another. Reckless homicide is a class D felony.
- The proposed legislation would enhance reckless homicide one classification if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.
- Based on information provided by DOC, there has been an average of 13.6 admissions per year for reckless homicide over the last five years.
- The proposed legislation will result in one reckless homicide admission being enhanced one classification every three years.
- Population growth and recidivism will not impact these admissions.
- The average time served for a class D felony is 2.30 years. The average time served for a class C felony is 3.62 years. The proposed legislation will result in each admission serving an additional 1.32 years ( $3.62 - 2.30$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every three years serving an additional 1.32 years (482.13 days) for an annualized increase in state incarceration expenditures of \$11,761 [ $(\$73.18 \times 482.13 \text{ days})/3$ ].

#### *Criminally Negligent Homicide*

- Criminally negligent homicide is criminally negligent conduct that results in death, punishable as a class E felony.
- The proposed legislation would enhance criminally negligent homicide one classification if the offense was committed by discharging a firearm from within a motor vehicle and the victim was a minor at the time of the offense.
- Based on information provided by DOC, there has been an average of 3.6 admissions per year for criminally negligent homicide over the last five years.
- The proposed legislation will result in one admission every ten years being enhanced one classification.
- Population growth and recidivism will not impact these admissions.
- The average time served for a class E felony is 1.28 years. The average time served for a class D felony is 2.30 years
- The proposed legislation will result in each admission serving an additional 1.02 years ( $2.30 - 1.28$ ).

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every ten years serving 1.02 years (372.56 days) for an annualized cost of \$2,726 [(\$73.18 x 372.56 days) / 10].

*Total Incarceration Costs*

- The proposed legislation will result in a recurring increase in state incarceration expenditures estimated to be \$138,857 (\$8,099 + \$35,282 + \$80,989 + \$11,761 + \$2,726).

*Courts, Public Defenders, and District Attorneys*

- The proposed legislation does not create new offenses, and, therefore, will not increase the caseloads of the courts, public defenders, or district attorneys. The courts, public defenders, and district attorneys can accommodate any impact within their existing resources.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

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