



February 14, 2023

**SUMMARY OF BILL:** Expands the offense of aggravated stalking to include a person who commits stalking against a victim who is at least 65 years of age when the person stalking is 15 or more years younger than the victim.

**FISCAL IMPACT:**

**Increase State Expenditures – \$53,900 Incarceration**

**Decrease Local Expenditures – \$1,400/FY23-24 and Subsequent Years**

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-17-315(c)(1)(A)-(E), a person commits aggravated stalking who commits the offense of stalking and:
  - In the course and furtherance of stalking, displays a deadly weapon;
  - The victim of the offense was less than one year of age at any time during the person's course of conduct, and the person is five or more years older than the victim;
  - Has previously been convicted of stalking within seven years of the instant offense;
  - Makes a credible threat to the victim, the victim's child, sibling, spouse, parent or dependents with the intent to place any such person in reasonable fear of death or bodily injury; or
  - At the time of the offense, was prohibited from making contact with the victim under a restraining order or injunction for protection, an order of protection, or any other court-imposed prohibition of conduct toward the victim or the victim's property, and the person knowingly violates the injunction, order or court-imposed prohibition.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 8.8 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(c)(2) for aggravated stalking.
- This analysis assumes individuals who commit stalking against a victim who is at least 65 years of age when the person stalking is 15 or more years younger than the victim pursuant to the proposed legislation are charged with the Class A misdemeanor of stalking under current law.

- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 31.6 Class A misdemeanor convictions of stalking in each of the last 10 years.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 316 convictions (31.6 / 10.0%) per year for Class A misdemeanor stalking.
- It can be reasonably assumed that one half of one percent or 1.58 (316 x .005%), of such convictions will be classified as a Class E felony under this legislation.
- The average sentence for aggravated stalking is 2.05 years.
- The proposed legislation will result in 1.58 admissions annually serving 1.8 years after adjusting for pre-trial jail credits.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 29,500	FY23-24
\$ 53,300	FY24-25
\$ 53,900	FY25-26

- 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 \$53,900.
- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$1,380 (1.58 x \$58.21 x 15) in FY23-24 and subsequent years.
- 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 note are available upon request.

**CERTIFICATION:**

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

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

Krista Lee Carsner, Executive Director

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