



February 28, 2024

SUMMARY OF BILL: Expands the offense of reckless endangerment to include a person's failure to lock, secure, or otherwise store or make unavailable a firearm and ammunition for the firearm that results in a child under the age of 13 gaining possession of the firearm and injuring or killing the child or another.

FISCAL IMPACT:

Increase State Expenditures – \$163,900 Incarceration

Decrease Local Expenditures – \$9,600/FY24-25 and Subsequent Years

Assumptions:

- Tennessee Code Annotated § 39-13-103(a) establishes that a person commits reckless endangerment who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.
- Pursuant to § 39-13-103(b):
 - Reckless endangerment is a Class A misdemeanor.
 - Reckless endangerment committed with a deadly weapon is a Class E felony.
 - Reckless endangerment by discharging a firearm or antique firearm into a habitation is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.
 - Reckless endangerment by discharging a firearm from within a motor vehicle is a Class C felony.
 - In addition to such authorized penalties, the court shall assess a fine of \$50.
- The proposed legislation expands the offense to include when a person fails to lock, secure, or otherwise store or make unavailable a firearm and ammunition for the firearm that results in a child under the age of 13 gaining possession of the firearm and discharging the firearm and the discharge results in bodily injury or serious bodily injury to the child or to another, or in the death of the child or another.
- Per the language of the legislation, if the discharge results in bodily injury or serious bodily injury to the child or to another, the offense is punished as a Class E felony. If the discharge results in the death of the child or another, the offense is punished as a Class C felony.
- Based on information provided by the Department of Correction, in each of the last five years there has been an average of 5.4 incidents where a child under the age of 13

unintentionally discharged a firearm and injured another, and an average of 5.4 incidents where a child under the age of 13 unintentionally discharged a firearm that resulted in the death of another.

- This analysis assumes individuals charged with reckless endangerment related to failing to secure a firearm pursuant to this legislation would be charged with a Class A misdemeanor offense of reckless endangerment pursuant to Tenn. Code Ann. § 39-13-103(b)(1) under current law.
- After adjusting for pre-trial jail credits, the average time served for a Class E felony is reckless endangerment is 0.52 years
- The proposed legislation will result in 5.4 additional admissions annually serving 0.52 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 |
| \$ 54,600 | FY24-25 |
| \$ 55,200 | FY25-26 |
| \$ 55,700 | FY26-27 |

- After adjusting for pre-trial jail credits, the average time served for a Class C felony of reckless endangerment is 1.01 years.
- The proposed legislation will result in 5.4 additional admissions annually serving 1.01 years.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

| Increase in State Expenditures | |
|--------------------------------|-------------|
| Amount | Fiscal Year |
| \$ 105,100 | FY24-25 |
| \$ 107,200 | FY25-26 |
| \$ 108,200 | 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 \$163,900 (\$55,700 + \$108,200).
- 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 \$59.07.

- The recurring mandatory decrease in expenditures to local governments is estimated to be \$9,569 [(5.4 convictions x \$59.07 x 15) + (5.4 convictions x \$59.07 x 15)] in FY24-25 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.



Krista Lee Carsner, Executive Director

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