

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1593 - SB 2958

February 18, 2024

SUMMARY OF BILL: Enacts the *Keeping our Streets Safe: Expand Background Checks Act*.

Prohibits a person from selling, transferring ownership, purchasing, or obtaining a firearm unless one of the following applies:

- The seller or transferor is a federally-licensed gun dealer (gun dealer);
- The seller or transferor makes the sale or transfer to or through a gun dealer and obtains a receipt;
- The sale or transfer of ownership of the firearm is one of the following:
 - a firearm classified as an antique firearm under current law;
 - a transfer of a firearm between gun dealers or between wholesalers and dealers; or
 - a transfer of any firearm to a law enforcement or military agency;
- The transferor is transferring ownership of the firearm to a family member by gift, bequest, or inheritance; the transferee is not prohibited from possessing a firearm under this part; and the transferee is at least 18 years of age; or
- The transferor is transferring ownership of the firearm with the intent that the transfer be temporary, neither the transferor nor the transferee is prohibited from possessing a firearm under this part, and the purpose of the transfer is not prohibited by law.

Creates a Class B misdemeanor offense for a person who intentionally violates the prohibition. Establishes a penalty for the offense as a fine of not less than \$500 nor more than \$10,000, and imprisonment for a period not to exceed nine months.

Requires state and local courts in which commitments to a mental institution are ordered to collect and report certain information regarding a person that was adjudicated as a mental defective to the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) and the Department of Safety (DOS) within 72 hours, rather than by the third business day. Requires clerks of state and local courts to notify the TBI by electronic submission the final disposition of criminal proceedings against a person within 72 hours after such disposition. Requires inpatient mental health facilities, inpatient substance abuse facilities, and hospitals to report a service recipient who is involuntarily committed to inpatient treatment in such facilities to local law enforcement by no later than 72 hours, rather than by the third business day.

HB 1593 - SB 2958

FISCAL IMPACT:

Other Fiscal Impact – There will be a recurring mandatory increase in local expenditures related to incarceration in FY24-25 and subsequent years. Due to unknown variables, a precise estimate of this increase cannot be quantified at this time.*

To the extent this legislation results in an increase to the number of firearms sales transacted through federally-licensed firearm dealers, there will be an increase in revenue associated with sales tax and TBI background check fees. Based upon multiple unknown variables, any such impact cannot be determined with reasonable certainty.

Assumptions:

- Various sections of the state code require that the state and local courts in which commitments to a mental institution are ordered collect and report, as soon as practicable, but no later than the third business day following the date of such an order or adjudication, to the FBI's NICS index, certain information regarding a person who has been adjudicated as a mental defective.
- The information required to be collected and reported varies slightly among the relevant courts, but all such courts must report at least the following information:
 - complete name and all aliases of the individual judicially committed or adjudicated as a mental defective, including, but not limited to, any names that the individual may have had or currently has by reason of marriage or otherwise;
 - case or docket number of the judicial commitment or the adjudication as a mental defective;
 - date judicial commitment ordered or adjudication as a mental defective was made; and
 - private or state hospital or treatment resource to which the individual was judicially committed; and date of birth of the individual judicially committed or adjudicated as a mental defective, if such information has been provided to the clerk.
- The proposed legislation requires the information to be reported within 72 hours, rather than as soon as practicable, but no later than the third business day.
- It is assumed that the clerks of courts can report such information within 72 hours utilizing existing resources. Any fiscal impact to state or local courts is estimated to be not significant.
- Likewise, any impact to state inpatient facilities related to this requirement is estimated to be not significant. Any impacts to private providers will be borne by those providers.
- Pursuant to Tenn. Code Ann. §§ 18-4-103(9) and 18-4-203(4), state and local courts are required to notify the TBI by electronic submission of final disposition of criminal proceedings as soon as practicable, but no later than 72 hours. The legislation does not make any substantive changes to these requirements.

- The proposed legislation is estimated to increase the number of firearms sales transacted through dealers, therefore resulting in an increase in revenue associated with sales tax and TBI background check fees. Based upon multiple unknown variables, any such impact cannot be determined with reasonable certainty.
- It is assumed that a cohort of the population will continue to sell and transfer firearms outside of the walls of a gun dealer and in violation of the proposed legislation. It is therefore assumed that the legislation will result in an increase in Class B misdemeanors.
- A person who commits a Class B misdemeanor is assumed to serve an average of one day in a local jail.
- Therefore, the legislation is estimated to result in a mandatory increase in local expenditures related to incarceration in FY24-25 and subsequent years.
- There is no reliable data available on the number of sales and transfers of firearms that occur among those not licensed as gun dealers. It is not known how many such sales or transfers will continue to occur, or how many will result in a misdemeanor conviction. As such, a precise estimate of the increase in local expenditures related to incarceration cannot be reasonably determined.
- 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 minimal due to defendants often not being able to pay them; therefore, any increase in local revenue from fines is estimated to be not significant.
- Any increase in court cases can be accommodated within existing judicial resources.

**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.



Krista Lee Carsner, Executive Director

/jj