

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 11

February 9, 2021

SUMMARY OF BILL: Justifies the use of deadly force against another to protect real or tangible, movable property in outlined circumstances.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$1,479,100 Incarceration*

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-11-614(a)-(b), a person is justified in threatening or using force against another when:
 - A person in lawful possession of real or personal property reasonably believed the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with property; or
 - A person who has been unlawfully dispossessed of real or personal property reasonably believed the force is immediately necessary to reenter the land or recover the property.
- Pursuant to Tenn. Code Ann. § 39-11-614(c), a person is not justified in using deadly force to prevent or terminate the other's trespass on real estate or unlawful interference with personal property.
- Pursuant to Tenn. Code Ann. § 39-11-602(2), deadly force means force that is intended or known by the defendant to cause, or in the manner of its use or intended use, is capable of causing death or serious bodily injury.
- The proposed legislation justifies the use of deadly force against another person to protect real or tangible, movable property when the following criteria are met:
 - The person would be justified in using force against another in Tenn. Code Ann. § 39-11-614(a)-(b);
 - When and to the degree the person reasonably believes deadly force is immediately necessary to prevent:
 - The other's imminent commission of an act of arson, burglary, theft during the hours of darkness, robbery, or aggravated robbery, or
 - The other from fleeing immediately after committing an act of arson, burglary, theft during the hours of darkness, robbery, or aggravated robbery; and
 - The person reasonably believes:

- The real and tangible, movable property cannot be protected or recovered by any other means; or
 - The use of force other than deadly force to protect or recover the real or tangible, movable property would expose the person or a third person to a substantial risk of death or serious bodily injury
- Justifying the use of deadly force in the outlined situations will result in a two percent reduction in admissions for first degree murder, attempted first degree murder, second degree murder, attempted second degree murder, and voluntary manslaughter.
- Based on information from the Department of Correction (DOC), the chart below outlines the average number of DOC admissions over the past five years, an estimated two percent reduction in admissions resulting from the proposed legislation, and the average time served over the last five years for the aforementioned offenses:

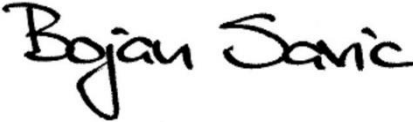
Offense	Average Admissions	2 % Reduction	Average Time Served
1st Degree Murder	59.00	1	19.82
Attempted 1st Degree Murder	45.60	1	10.78
2nd Degree Murder	108.00	2	16.07
Attempted 2nd Degree Murder	64.00	1	5.74
Voluntary Manslaughter	43.80	1	4.59

- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any time reduced by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- Pursuant to Tenn. Code Ann. § 9-4-210, four (1 first-degree murder + 1 attempted first-degree murder + 2 second-degree murders) fewer offenders will be admitted every year serving 3,652.5 fewer days (10 x 365.25). The annualized decrease in state incarceration expenditures is estimated to be \$1,175,521 ($\$80.46 \times 3,652.5 \times 4$).
- Pursuant to Tenn. Code Ann. § 9-4-210, one less attempted second-degree murder offender will be admitted every year serving 2,096.54 days (5.74 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$168,688 ($\$80.46 \times 2,096.54 \times 1$).
- Pursuant to Tenn. Code Ann. § 9-4-210, one less voluntary manslaughter offender will be admitted every year serving 1,676.49 days (4.59 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$134,890 ($\$80.46 \times 1,676.49 \times 1$).
- The total annualized decrease in state incarceration expenditures is estimated to be \$1,479,099 ($\$1,175,521 + \$168,688 + \$134,890$).

*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.

Handwritten signature of Bojan Savic in black ink.

Bojan Savic, Interim Executive Director

/amj