

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 367 - SB 386

February 27, 2017

SUMMARY OF BILL: Makes defenses to the offense of unlawful possession of a firearm available to persons who are prohibited from possessing a firearm because of a prior conviction for a violent felony or for a felony drug offense, if the person has had their convictions expunged, or had their rights of citizenship fully restored in Tennessee, another state, or under federal law.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$28,800/Incarceration*

Assumptions:

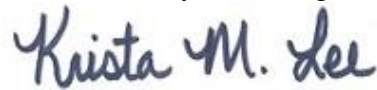
- Under current law, a person convicted of a violent felony or a felony drug offense is prohibited from possessing a firearm, even if the person has had his or her rights restored. *See State v. Johnson*, 79 S.W.3d 522 (Tenn. 2002) (holding that the plain language of Tenn. Code Ann. § 39-17-1307(b)(1) prohibits one who has been convicted of a violent felony or a felony drug offense from possessing a handgun regardless of the person having his or her rights restored).
- The bill would make the defenses to unlawful possession of a firearm available to a person who has had his or her rights restored.
- Unlawful possession of a firearm by a felon is a Class C felony if the felon was convicted of a violent felony and a Class D felony if the felon was convicted of a felony drug offense.
- Statistics from the Department of Correction (DOC) show an average of 8.2 admissions per year for unlawful possession of a firearm by a violent felon and 5.9 admissions per year for unlawful possession of a firearm by a drug felon.
- Some of the defenses that would be made available under the bill are possession of an unloaded firearm not concealed on the person's body; possession incident to lawful hunting, trapping, fishing, camping, sports shooting, or other lawful activity; and possession while engaged in the protection of livestock from predatory animals.
- It is assumed that the bill will result in one less Class C felony admission every five years and one less Class D felony admission every five years for unlawful possession of a firearm.
- The average time served for a Class C felony is 3.51 years (1,282.03 days) and the average time served for a Class D felony is 2.23 years (814.51 days).

- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The bill will decrease annual incarceration costs by \$28,827 $[(1,282.03 + 814.51) \times \$68.75 / 5 \text{ years}]$.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated 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 M. Lee, Executive Director

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