

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 901 - SB 1331

February 27, 2021

SUMMARY OF BILL: Makes various changes to penalties for violating the requirements in the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act of 2004 (Act).

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$387,900 Incarceration*

Decrease Local Expenditures – \$17,500/FY21-22 and Subsequent Years

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-39-215, it is a Class A misdemeanor offense for a sexual offender, violent sexual offender or a violent juvenile sexual offender, whose victim was a minor to knowingly:
 - Pretend to be, dress as, impersonate or otherwise assume the identity of a real or fictional person or character or a member of a profession, vocation or occupation while in the presence of a minor or with the intent to attract or entice a minor to be in the presence of the offender;
 - Engage in employment, a profession, occupation or vocation, regardless of whether compensation is received, that the offender knows or should know will cause the offender to be in direct and unsupervised contact with a minor; or
 - Operate, whether authorized to do so or not, any vehicle or specific type of vehicle, including, but not limited to, an ice cream truck or emergency vehicle, for the purpose of attracting or enticing a minor to be in the presence of the offender.
- The proposed legislation enhances offenses committed under Tenn. Code Ann. § 40-39-215 to Class E felony offenses.
- Based on information provided by the Administrative Office of the Courts (AOC), there have been an average of 1.6 convictions under Tenn. Code Ann. § 40-39-215 over the past three 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 is a total of 16 convictions ($1.6 / 10\% = 16$) per year for misdemeanor violations of Tenn. Code Ann. § 40-39-215.

- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 1.3 (16 x 8.37%) additional admission for a total of 17 (16 + 1.3).
- According to the DOC, 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by the proposed legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation (17 offenders x 30.4% = 5 offenders).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class E felony is 0.6 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 12 (17 – 5 recidivism discount) offenders will be admitted every year serving 219.15 days (0.6 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$211,594 (\$80.46 x 219.15 x 12).
- This analysis assumes individuals convicted of Class A misdemeanor violations of Tenn. Code Ann. § 40-39-215 are spending an average of 15 days in local jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$17,520 (\$73 x 16 offenders x 15 days) in FY21-22 and subsequent years.
- Pursuant to Tenn. Code Ann. § 40-39-211(d)(2), a sex offender or violent sex offender is permitted to attend certain functions as a parent or legal guardian of a child participating in such functions if the offender has received written permission.
- Pursuant to Tenn. Code Ann. § 40-39-211(g)(4), a violation of Tenn. Code Ann. § 40-39-211(d)(2) solely due to lack of written permission required is punishable by fine only.
- The proposed legislation enhances the violation to a Class A misdemeanor offense.
- Any impact to local incarceration resulting from creating a Class A misdemeanor offense for failure to obtain the required written permission is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 40-39-213, it is a Class E felony offense punishable by fine only in an amount not less than \$250 for individuals over the age of 18 that are required to register under the Act to not have the appropriate identification on his or her person at all times.
- Based on information provided by AOC, there have been an average of 13 convictions under Tenn. Code Ann. § 40-39-213 over the past three years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year

period, population growth will account for 1.1 (13 x 8.37%) additional admission for a total of 14 (13 + 1.1).

- According to the DOC, 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by the proposed legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation (14 offenders x 30.79% = 4 offenders).
- Pursuant to Tenn. Code Ann. § 9-4-210, 10 (14 – 4 recidivism discount) offenders will be admitted every year serving 219.15 days (0.6 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$176,328 (\$80.46 x 219.15 x 10). Any impact to local government resulting from requiring an offender required to register under the Act to report to the offender’s registry agency within 48 hours of release from an incarceration institution, regardless of location, is estimated to be not significant.
- 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 impact state or local revenue.
- The total annualized increase in state incarceration expenditures is estimated to be \$387,922 (\$211,594 + \$176,328).

**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.



Bojan Savic, Interim Executive Director

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