

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1872 – SB 2770

February 24, 2024

SUMMARY OF BILL: Authorizes a court to enhance the statutory penalty up to imprisonment for life without the possibility of parole for a conviction under the following circumstances: (1) the conviction is for the commission of a violent crime and the defendant was an illegal alien at the time the offense was committed; (2) the conviction involves the use or display of a deadly weapon and the defendant was an illegal alien at the time the offense was committed; or (3) the conviction is for the commission of a violent crime and the offense occurred on the property of a school.

Requires an arrest and subsequent conviction to which certain enhancement factors apply to be reported to the Tennessee Bureau of Investigation's (TBI) Human Trafficking Advisory Council to determine the correlations between arrests, convictions, and incidents of human trafficking in this state.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-35-114, in determining whether to enhance a defendant's sentence, the court is required to consider, but is not bound by, a list of circumstances. Such factors include, but are not limited to the following:
 - The defendant possessed or employed a firearm, or other deadly weapon during the commission of the offense.
 - The defendant committed the offense on the grounds or facilities of a pre-kindergarten through grade twelve (pre-K-12) public or private institution of learning when minors were present; or
 - At the time the offense was committed, the defendant was illegally or unlawfully in the United States;
- The court is currently authorized to enhance a defendant's sentence if the defendant was an illegal alien at the time of the offense was committed.
- Passage of the proposed legislation will result in some convictions for the commission of a violent crime where the offense occurred on the property of a school when minors were not present receiving an enhanced sentence of imprisonment for life without the possibility of parole.
- Tennessee Code Annotated § 40-38-111(g) establishes 27 offenses that are considered violent.

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- Based on data obtained through the TBI Tennessee Incident Based Reporting System (TIBRS), of those 27 violent crimes in the past 10 years, there have been convictions for aggravated assault, kidnapping, statutory rape, and stalking, where the offense occurred on the property of a school.

Aggravated Assault

- Based on data obtained through TIBRS, over the last 10 years there has been an average of 70.65 incidents of aggravated assault per year that took place at an educational facility.
- Pursuant to Tenn. Code Ann. § 39-13-102(a)(1)(A)(i), aggravated assault that results in serious bodily injury is a Class C felony offense with a mandatory fine of \$15,000.
- Pursuant to Tenn. Code Ann. § 40-35-501(cc), as amended by Public Chapter 988 of 2022, a person convicted of aggravated assault that results in serious bodily injury or death of another on or after July 1, 2022 is required to serve 100 percent of the sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.
- The average sentence for a Class C felony offense of aggravated assault is 4.77 years. Therefore, it is assumed that a person convicted of aggravated assault under current law would serve 4.05 years (4.77 x 85%).
- A life sentence without the possibility of parole is approximately 60 years.
- This analysis assumes there will be one admission every three years for a Class C felony offense of aggravated assault that occurred on the property of a school that will serve 55.95 additional years (60 – 4.05) under the proposed legislation.
- Pursuant to Tenn. Code Ann. § 9-4-210, this analysis estimates the highest cost for admissions in the next three years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding three years in length surpass the window of this analysis and will not significantly impact incarceration costs.

Kidnapping

- Based on data obtained through TIBRS, over the last 10 years there has been an average of 2.44 incidents of kidnapping per year that took place at an educational facility.
- Due to the low number of admissions over the last 10 years, it is reasonably assumed there will not be a sufficient change in the number of admissions for kidnapping who receive an enhanced sentence of life without the possibility of parole for state or local government to experience any significant change in revenue or expenditures.

Statutory Rape

- Based on data obtained through TIBRS, over the last 10 years there has been an average of 1.18 incidents of statutory rape per year that took place at an educational facility.
- Due to the low number of admissions over the last 10 years, it is reasonably assumed there will not be a sufficient change in the number of admissions for statutory rape who receive an enhanced sentence of life without the possibility of parole for state or local government to experience any significant change in revenue or expenditures.

Stalking

- Based on data obtained through TIBRS, over the last 10 years there has been an average of 7.86 incidents of Class A misdemeanor stalking per year that took place at an educational facility.
- Due to the low number of admissions over the last 10 years, it is reasonably assumed there will not be a sufficient change in the number of admissions for stalking who receive an enhanced sentence of life without the possibility of parole for state or local government to experience any significant change in revenue or expenditures.

Other Assumptions

- Arrest and subsequent conviction to which certain enhancement factors apply will be reported to the TBI Human Trafficking Advisory Council utilizing existing resources.
- 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.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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