



March 16, 2024

SUMMARY OF BILL AS AMENDED (016123): 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 that is a felony offense 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 that was a felony offense, committed by an adult and the offense occurred on the property of a school while students or other children were present.

Specifies that a judge may consider whether a defendant is lawfully present in the state when making a determination as to: (1) whether or not a defendant should be released on bail; and (2) the amount of bail necessary to reasonably assure the appearance of the defendant while at the same time protecting the safety of the public.

Requires an arrest and subsequent conviction to which certain enhancement factors apply to be reported to the Department of Safety (DOS).

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact – Passage of the proposed legislation may result in an increase in incarceration expenditures beginning after FY30-31; however, the extent and timing of any such increase is dependent upon the action of the court and cannot be determined with reasonable certainty.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. §§ 40-35-111 – 112, authorized terms of imprisonment by felony class are as follows:

Felony Class	Minimum Sentence	Maximum Sentence
Class A	15 years	60 years
Class B	8 years	30 years
Class C	3 years	15 years
Class D	2 years	12 years
Class E	1 year	6 years

- Pursuant to Tenn. Code Ann. § 40-35-114, if appropriate for the offense, a court is authorized to enhance a defendant's sentence within the authorized range of the felony class. 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.
- Passage of the proposed legislation authorizes a court to enhance a defendant's sentence outside the authorized range of the felony class and up to imprisonment for life without the possibility of parole, for a conviction in outlined circumstances.
- Tennessee Code Annotated § 40-38-111(g) establishes 27 offenses that are considered violent. These offenses range from Class A misdemeanors to Class A felony offenses. The proposed legislation only applies to felony offenses.
- To the extent a court enhances the sentence for a defendant charged with a felony violent offense that exceeds the current authorized range, there will be a significant increase in incarceration expenditures. The extent and timing of any such increase is dependent upon future action of the court and cannot be determined, but would begin sometime after FY30-31.
- 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.

Bail Requirement:

- Pursuant to Tenn. Code Ann. §§ 40-11-115(b) and 40-11-118(b), in determining the amount and conditions of bail to be imposed on a defendant, the court is authorized to consider a list of circumstances. Such factors include, but are not limited to the following:
 - The defendant's length of residence in the community;
 - The defendant's employment status and history and financial condition;
 - The defendant's reputation, character and mental condition; and
 - Any other factors indicating the defendant's ties to the community or bearing on the risk of the defendant's willful failure to appear.
- The proposed legislation adds whether the defendant is lawfully present in this state as a factor the court is authorized to consider.
- The court is currently authorized to consider any factor indicating a risk of the defendant's willful failure to appear; therefore, it is assumed there will not be any significant change in local incarceration expenditures for persons unable to post bail.

Other Assumptions

- Arrest and subsequent conviction to which certain enhancement factors apply will be reported to the DOS 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.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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