



August 22, 2023

SUMMARY OF BILL: Creates a Class E felony offense for knowingly threatening to commit an act of mass violence against another and frightens the other person. Establishes punishment for such Class E felony be one classification higher than otherwise provided if the defendant committed the act of mass violence against the other person due to the person's status as a healthcare provider who provides gender-affirming care. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures - \$2,321,700 Incarceration

Assumptions:

- The proposed legislation creates a new Class E felony offense to knowingly commit an act of mass violence against another and frightens the other person.
- The penalty is enhanced to a Class D felony offense if the violation involves a threat to commit an act of mass violence against the other person due to the person's status as a healthcare provider who provides gender-affirming care.
- The proposed language defines mass violence as any criminal act that a reasonable person would conclude could lead to the serious bodily injury or the death of two or more persons.
- The number of individuals who will be charged with the offense of threatening an act of mass violence is unknown.
- Based on information from the Pew Charitable Trust published in June 2022, there are 19 states that have laws allowing local law enforcement to petition civil courts to confiscate firearms from people who may be a danger to themselves or others.
- Most of the laws were passed in the last decade and use of the laws vary greatly by state. For purposes of analysis, the experiences of Florida and California are being used.
- In Florida, which enacted a law in 2018 to allow law enforcement officers to petition for gun removal, judges issued close to 9,000 extreme risk protection orders (ERPOs) in a four-year period resulting in an average of 2,250 ERPOs being issued each year (9,000 / 4 years).
- Based on the 2020 U.S. Census, the state of Tennessee population is approximately 32 percent of the population of Florida; therefore, it is estimated there would be 720 instances where someone in Tennessee could be found to be a danger to themselves or others.

- According to the 2022 paper, *Gun violence restraining orders in California, 2016–2018: case details and respondent mortality*, approximately 28.7 percent of ERPOs were determined to have been issued in an effort to prevent a public mass shooting.
- A threat of mass shooting in the study is defined as a threat to shoot an unspecified number of people or more than or equal to three people other than oneself. Therefore, this metric is to a large extent aligned with the definition of mass violence in this legislation.
- It is assumed 28.7 percent of the 720 instances where someone in Tennessee could be found to be a danger to themselves or others, or 207 instances, will involve a public threat of mass violence (720 x 28.7%).
- Utilizing this data as a proxy for this estimation, it is assumed there could be 207 potential individuals charged with a Class E or Class D felony offense for threatening an act of mass violence under the proposed legislation.
- The number of healthcare providers who provide gender-affirming care in Tennessee is unknown, but a search yielded few healthcare providers who provide gender-affirming care in this state and who could therefore be potential victims of an act of mass violence committed against them due to the person’s status as a healthcare provider who provides gender-affirming care.
- Due to the low number of providers, it is reasonably assumed there will not be a sufficient number of Class D felony prosecutions for state government to experience any significant increase in revenue or expenditures.
- This analysis assumes all 207 admissions will be charged with a Class E felony offense of threatening to commit an act of mass violence.
- The average time served for a Class E felony is 0.59 years.
- The proposed legislation will result in 155 admissions annually serving 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 2,272,700	FY24-25
\$ 2,297,100	FY25-26
\$ 2,321,700	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$2,321,700.
- 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, collections in criminal cases are insignificant. The proposed legislation will not significantly change state or local revenue.

- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

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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