



March 16, 2023

**SUMMARY OF BILL:** Authorizes a judge to consider a defendant's administrative record of violent behavior while incarcerated, regardless of whether the defendant was charged or convicted for such acts, for purposes of considering whether to order a defendant to serve multiple sentences consecutively.

**FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-35-115, a court is authorized to order sentences to run consecutively for a defendant convicted of more than one criminal offense, if the court finds by a preponderance of evidence that the defendant:
  - Is a professional criminal who has knowingly devoted the defendant's life to criminal acts as a major source of livelihood;
  - Is an offender whose record of criminal activity is extensive;
  - Is a dangerous mentally abnormal person whose criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;
  - Is a dangerous offender whose behavior indicates little or no regard for human life and no hesitation about committing a crime in which the risk to human life is high;
  - Is convicted of two or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;
  - Is sentenced for an offense committed while on probation;
  - Is sentenced for criminal contempt; or
  - Is convicted of two or more offenses involving sexual exploitation of an elderly or vulnerable adult with consideration of the aggravating circumstances arising from the relationship between the defendant and victim, the nature and scope of the sexual acts, and the extent of the physical and mental damage to the victim.
- The proposed language expands the criteria for when a court is authorized to order sentences to run consecutively if a defendant, while incarcerated, has an extensive

administrative record documenting a history of violent encounters with other inmates, guards, officers, or other facility personnel, regardless of whether the inmate was charged or convicted of a crime for such acts.

- Trial judges are authorized to increase the length of a sentence within the appropriate range depending on the presence of enhancing factors.
- It is reasonably assumed there are currently offenders with an administrative record of violent behavior while incarcerated, pursuant to the proposed legislation, that meet the criteria set out in Tenn. Code Ann. 40-35-115.
- It is further assumed most offenders with an administrative record of violent behavior while incarcerated are repeat, violent offenders who are currently serving time more than three years incarcerated.
- 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.

### **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

/vh