



April 3, 2023

**SUMMARY OF BILL AS AMENDED (007132):** Creates an additional repeat violent offender sentencing system and requires the court to determine the appropriate sentencing framework to which an offender should be sentenced as a repeat violent offender. Expands the offenses under which a defendant who is convicted of a violent offense, which occurred on or after July 1, 2023, and the combination of the strikes allocated for the violent offense and the defendant's prior convictions equals three or more strikes. Requires a defendant receive at least two strikes from offenses outlined as one strike offenses and at least three total strikes prior to being sentenced to imprisonment for life.

Outlines 49 offenses that result in an offender receiving 1 strike and 15 offenses that result in an offender receiving 0.5 strikes. Establishes that any other felony offense and a misdemeanor conviction for the facilitation, criminal attempt, solicitation and conspiracy to commit any 1 strike offense, results in an offender receiving 0.25 strikes.

Requires a court to deduct 0.5 strikes from the defendant's total number of strikes accumulated for 0.5 and 0.25 strike offenses for each three-year period of time a defendant has had no criminal convictions.

Defines prior conviction as a defendant convicted of a violent offense that occurred on or after July 1, 2023, but before the violent offense for which the defendant is to be sentenced.

### **FISCAL IMPACT OF BILL AS AMENDED:**

**Other Fiscal Impact – Passage of the proposed legislation may result in the need for additional facilities to be constructed beginning in FY28-29, as the total inmate population increases each year. The one-time cost of such construction is estimated to exceed \$384,500,100. Operational costs are estimated to exceed \$5,145,600 (one-time) and exceed \$56,537,200 (recurring).**

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 4-35-120(g), a defendant convicted of certain offenses and found to be a repeat violent offender is required to be sentenced to imprisonment for life without the possibility of parole.
- Passage of the proposed legislation requires offenders convicted of a violent offense which occurred on or after July 1, 2023, be given one strike for each of 49 outlined

offenses; 0.5 strikes for each of 15 outlined offenses; and 0.25 strikes for any other felony offense, and a misdemeanor conviction for the facilitation, criminal attempt, solicitation and conspiracy to commit any one strike offense. Once the offender reaches three strikes, with at least two strikes received from offenses outlined as one strike offenses, the offender is categorized as a repeat violent offender and required to be sentenced to life imprisonment.

- Based on information provided by the Department of Correction, the average time served for a 1-strike offense, by felony class is as follows:
  - Class A felony is 13.57 years;
  - Class B felony is 5.66 years;
  - Class C felony is 2.54 years;
  - Class E felony is 0.99 years.
- The average time served for a 0.5-strike offense, by felony class is as follows:
  - Class B felony is 4.00 years;
  - Class C felony is 2.49 years;
  - Class D felony is 2.59 years; and
  - Class E felony is 0.85 years.
- The average time served for a 0.25-strike felony offense, by felony class is as follows:
  - Class A felony is 14.78 years;
  - Class B felony is 3.54 years;
  - Class C felony is 2.13 years;
  - Class D felony is 1.34 years; and
  - Class E felony is 0.84 years.
- The proposed legislation further requires an offender receive 0.25 strikes for a misdemeanor conviction for the facilitation, criminal attempt, solicitation and conspiracy to commit any 1 strike offense. The average time served for such misdemeanor offenses is unknown.
- To be categorized as a violent repeat offender, the proposed legislation requires an offender be convicted of at least two 1-strike offenses, and the combination of the defendant's prior convictions equals three or more strikes.
- Due to the requirement for a court to deduct 0.5 strikes from the defendant's total number of strikes accumulated for 0.5 and 0.25 strike offenses for each three-year period of time a defendant has had no criminal convictions, the first year of possible impact resulting from a defendant having a combined total of 3 strikes from offenses occurring on or after July 1, 2023 cannot be determined.
- However, to the extent a defendant does not receive any deductions in total strike accumulations, the first year of possible impact resulting from a defendant having a combined total of 3 strikes from offenses occurring on or after July 1, 2023 is in 4.50 years  $[(0.99 \times 2) + (0.84 \times 4)]$  or FY28-29.
- 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.
- Passage of the proposed legislation will require additional facilities be constructed to house inmates as the total inmate population increases each year.

- According to the Tennessee Bed Space and Operating Capacities report by the DOC, as of February 28, 2023, there are currently 20,694 beds. The average annual inmate population over the last three years was 19,579.
- The DOC has an operating capacity of 96 percent of total beds available, or 19,866 (20,694 x 96%).
- The total average available bed space is 287 beds (19,866 – 19,579).
- Due to the requirement that a prior conviction be for a violent offense which occurred on or after July 1, 2023, it is unknown how many offenders will be categorized as a repeat violent offender in FY28-29 and subsequent years, or when the total number of offenders will exceed available bed space. However, it is assumed that current capacity would be sufficient to house additional inmates until at least FY33-34 and that the construction of a new facility would not require commencement prior to FY28-29, at the earliest.
- Based on information provided by the DOC, the cost for construction of the 1,444-bed expansion at Bledsoe County Correctional Complex in 2013, adjusted for inflation, was approximately \$384,513,111.
- The total one-time increase in state expenditures to the General Fund for a new facility is estimated to exceed \$384,513,111.
- The new facility would require 413 positions to operate the facility.
- The total recurring increase in state expenditures to the General Fund associated with 413 additional positions is estimated to exceed \$56,537,222.
- The DOC would require 47 additional support services positions for purposes of administrations, training, investigations and conduct, and major maintenance.
- The total recurring increase in state expenditures to the General Fund associated with these positions is estimated to exceed \$5,145,600.
- Additional state appropriations will be needed as the total inmate population increases each year, resulting in the need for additional facilities to be constructed. The number of additional facilities, the estimated increase in state expenditures and the precise timing such facilities will be required cannot be quantified with reasonable certainty.

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

/vh