

FISCAL NOTE

SB 2490 – HB 2924

February 25, 2006

SUMMARY OF BILL: Increases the penalty for the offense of rape of a child from a Class A felony to a capital offense punishable by death, life without parole, or life imprisonment.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$14,268,700 / Incarceration*
\$748,200 Recurring
\$102,000 One-Time

Other Fiscal Impact – It is estimated that an average of three offenders per year will receive a death sentence. If a death-sentenced offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the death-sentenced offenders, apart from the cost of the execution. The cost of executing each inmate will exceed \$15,000. The cost to the state of trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.

Assumptions:

- Public defenders and district attorneys general will require additional resources for trial and appeal of additional death and life without parole cases. Supreme Court rules require appointment of two defense attorneys in each death penalty case, and specialized training. Reimbursement rates for appointed defense counsel are higher in death cases. Attorneys handling death cases are subject to greater limitations on their caseloads, requiring additional attorneys to handle other cases.
- An average of 64 persons have been convicted of this offense in each of the past three years, according to the Administrative Office of the Courts, and in each of the past six years, according to the Department of Correction. The average age of each offender is 39 years, and the life expectancy of each offender is 70 years.

- Persons convicted of this offense currently serve an average of 20 years. Three of the 64 offenders will receive a death sentence. Each non-death sentenced offender will serve an average of 31 years.
- According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past 10 years.
- Sixty-four persons will be convicted for the offense of rape of a child in the first year. Population growth of 1.09 percent per year will result in seven additional offenders serving additional time in the tenth year after the sentence increase is added to time currently served. The maximum cost in the tenth year, as required by Tenn. Code Ann. §9-4-210, is based upon 71 offenders serving additional time on their sentences.
- Seventy-one offenders will serve an additional 11.0 years (an increase from 20 years to 31 years). According to the Department of Correction, the average operating cost per inmate per day for calendar year 2006 is \$50.02. The cost per inmate at 20 years is \$365,396.10 (\$50.02 x 7,305 days). The cost per inmate at 31 years is \$566,363.95 (\$50.02 x 11,322.75 days). The additional cost from increasing the average sentence length from 20 years to 31 years is \$200,967.85 (\$566,363.95 - \$365,396.10). The total additional operating cost for 71 offenders per year is \$14,268,717.35 (\$200,967.85 x 71).
- Recurring costs reflect six additional assistant public defender positions and four assistant district attorney positions including salaries, benefits, and other related costs. One-time costs reflect the computer equipment, furniture, and other related costs.
- Tennessee has executed one inmate in the past 45 years. That execution occurred in 2000, at a cost in excess of \$11,000.
- The state incurs substantial out-of-pocket expenses in death-sentence trials and appeals. These include costs of appointed attorneys, expert witnesses, investigation, and related matters. These additional costs are estimated to exceed \$750,000 in each case.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director