

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL NOTE**

**HB 28 – SB 934**

March 2, 2009

**SUMMARY OF BILL:** Increases the penalty for arson from a Class C to a Class B felony. Requires a mandatory minimum fine of \$25,000 for arson of a place of worship, and \$50,000 for aggravated arson.

**ESTIMATED FISCAL IMPACT:**

On January 22, 2009, we issued a fiscal note indicating an *increase in state revenue not significant, and an increase in state expenditures of \$1,841,700/Incarceration*. Based on further review and additional information provided by the Department of Correction (DOC), the fiscal impact of this bill is as follows:

**(CORRECTED)**

**Increase State Revenue – Not Significant**

**Increase State Expenditures - \$1,745,300/Incarceration\***

Assumptions:

- Currently, arson is a Class C felony offense with a sentencing range of three to 15 years. Arson involving a place of worship is a Class B felony offense with a sentencing range of eight to 30 years.
- According to the Department of Correction (DOC), there has been an average of 42 admissions for arson offenses in each of the past 10 years. According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth would result in an additional five offenders in the tenth year.
- According to DOC, 35 percent of offenders will re-offend within two years of their release. A recidivism discount of 35 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the

subsequent offense at the same felony level as under current law (47 offenders x 35% recidivism discount = 16.45 offenders).

- According to DOC, the average post-conviction time served for a Class C felony is 3.59 years and 6.17 years for a Class B felony. This bill will result in a person convicted of arson offenses serving an additional 2.58 years (6.17 years for a Class B – 3.59 years for a Class C).
- The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The cost per offender at 6.17 years is \$134,727.00 (\$59.80 x 2,252.96 days). The additional cost of increasing the average sentence length by 2.58 years is \$56,300.50 (\$134,727.00 - \$78,426.50). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 31 offenders (47-16) serving additional time on their sentences in the tenth year. The total additional operating cost for 31 offenders in the tenth year is \$1,745,315.50 (\$56,300.50 x 31).
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of the mandatory minimum fines for these offenses.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

### **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

/lsc