

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 760 - SB 746

March 30, 2009

SUMMARY OF BILL: Broadens the offense of distribution of obscene material to include knowingly broadcasting, distributing, advertising, or promoting obscene material to minors. Creates a new Class A misdemeanor for a cable or satellite television company knowingly to transmit or cause to be transmitted obscene or harmful material to minors unless the material was transmitted between 10:00 p.m. and 6:00 a.m. Second or subsequent violation is a Class E felony. Removes reference to 18 U.S.C. § 2257 which requires any entity that distributes sexually explicit photographic material through interstate or foreign commerce to collect certain information regarding the identities of all the performers in the material and to make the information available to the U.S. Attorney General.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$35,500/Incarceration*

Assumptions:

- One offender per year will receive a Class E felony conviction for a second or subsequent offense for distribution of obscene material to minors. According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2009 is \$59.80 and the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for one offender is \$35,548.11.
- 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. No significant incarceration cost increase will occur due to population growth in this period.
- Due to the small number of offenders and the relatively short time served, no recidivism discount has been applied for these offenses.
- Any impact on caseloads in state trial courts can be accommodated within existing judicial resources.

**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.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke extending to the right.

James W. White, Executive Director

/lsc