

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 36 – SB 1104

April 4, 2013

**SUMMARY OF ORIGINAL BILL:** Establishes that any person who unlawfully sells, loans, or gifts a firearm to a minor or intoxicated person, or who sells a firearm to a felon, alcohol addict, or mentally defective person shall be criminal responsibility, as defined in Tenn. Code Ann. §§ 39-11-401 and -402, for crimes occurring from the use of the unlawfully sold, loaned, or gifted firearm.

Requires individuals who are convicted for violation of Tenn. Code Ann. § 39-17-1303 to serve 100 percent of sentence without reduction from sentencing credits.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$70,300/Incarceration\*

**SUMMARY OF AMENDMENT (006321):** Deletes all language after the enacting clause.

Removes application of the offense to firearms unlawfully sold, loaned, or gifted to intoxicated persons.

Restricts criminal responsibility to offenses in which the juvenile unlawfully receiving the firearm commits the offense before his eighteenth birthday; the unlawfully sold, loaned, or gifted firearm was used in the offense; and the person unlawfully selling, loaning, or gifting the firearm knew or should have known the juvenile would use the firearm unlawfully to commit an offense.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to statistics from the Administrative Office of the Courts (AOC), there has been an average of 0.4 convictions for violations of Tenn. Code Ann. § 39-17-1303, a Class A misdemeanor. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It

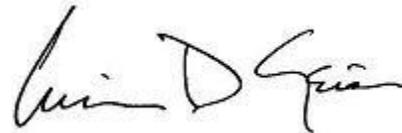
is assumed that there are a total of 4 convictions (0.4 x 10) per year for violations of Tenn. Code Ann. § 39-17-1303. However, there are three separate offenses under Tenn. Code Ann. § 39-17-1303, one of which is unlawful sale, loan, or gift of a firearm over the past five years. The statistics are not separated by offense. It is assumed that 1/3, or 1 conviction (4 x 0.33), is for the unlawful sale, loan, or gift of a firearm.

- It is assumed that the bill would result in one Class D felony admission per year of an offender under Tenn. Code Ann. § 39-17-1303 as criminally responsible for an offense of possessing a firearm with the intent to go armed during the commission of or attempt to commit a dangerous felony under Tenn. Code Ann. § 39-17-1324(a), a likely offense to be committed by someone who unlawfully purchases or receives a firearm.
- 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 will not affect the fiscal impact of this legislation.
- A recidivism discount of 49.11 percent applies, but due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost of the proposed legislation.
- A violation of Tenn. Code Ann. § 39-17-1324(a) carries a mandatory sentence of three years.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving three years (1,095.75 days) for a total of \$70,314 (\$64.17 x 1,095.75 days).
- Due to the low number of convictions this bill would result in, any impact on the caseloads of the courts, district attorneys, and public defenders can be accommodated within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

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



Lucian D. Geise, Executive Director

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