

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 130 – SB 1033

April 18, 2013

SUMMARY OF ORIGINAL BILL: Creates a new Class C felony for promoting travel for prostitution.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$69,800/Incarceration*

SUMMARY OF AMENDMENTS (007355, 007393, 007457): Deletes all language after the enacting clause.

Creates a new Class D felony for promoting travel for prostitution. Changes the mental culpability required under the bill from “knowingly sells or offers to sell” to selling or offering to sell travel services that the person “knows to include travel for the purpose of engaging” in prostitution.

Replaces definition of “commercial sex act” with definition of “sexual servitude” under Tenn. Code Ann. § 39-13-301.

Redefines the offense of “trafficking for commercial sex act” to include the purchase of another person for the purpose of providing a commercial sex act.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures - \$42,200/Incarceration*

Assumptions for the bill as amended:

- Changing the definition of “commercial sex act” to the current definition of “sexual servitude” will not have a significant impact on admissions into state custody.
- The current definition of “trafficking for commercial sex acts” includes recruiting, enticing, harboring, transporting, providing, or obtaining by any other means, another person for the purpose of providing a commercial sex act. The bill would add purchasing to those actions. It is assumed that anyone purchasing another person for the purposes of providing a commercial sex act would already be prosecuted under the current definition of “trafficking for a commercial sex act” as purchasing another person would be obtaining by any other means.
- Changing these definitions will not significantly impact admissions into state custody

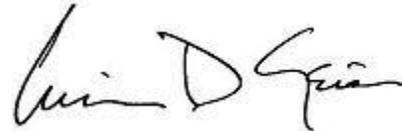
or impact the caseloads of the courts, the district attorneys general, or the district public defenders.

- Washington's criminal code relative to prostitution is similar to Tennessee's. Washington, like Tennessee, has offenses for promoting prostitution and patronizing prostitution. Washington also has an offense for promoting travel for prostitution, Rev. Code Wash. (ARCW) § 9A.88.085.
- In 2011 and 2012, Washington had 35 admissions for promoting prostitution in the second degree (Washington's equivalent to promoting prostitution in Tennessee) and 3 admissions for promoting travel for prostitution. Admissions for promoting travel for prostitution are approximately 8.57 percent of the total admissions for promoting prostitution in the second degree ($3/35 = 0.0857$).
- According to the Department of Correction (DOC), there has been an average of 6.3 admissions for promoting prostitution, a Class E felony, over the last 3 years.
- Applying the same ratio as is realized in Washington, it is assumed the proposed legislation will result in one Class D felony admission each year ($6.3 \times 0.0857 = .54$).
- According to the DOC, the average operating cost per offender per day for calendar year 2013 is \$64.17.
- 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.
- The average time served for a Class D felony is 1.80 years (657.45 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 1.80 years (657.45 days) for a total of \$42,189 ($\64.17×657.45 days).
- Any increase in caseloads for the District Public Defenders Conference or the District Attorneys General Conference can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.

**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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