

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1716 – HB 2158

February 25, 2014

**SUMMARY OF ORIGINAL BILL:** Creates two new felony offenses—pharmacy robbery and aggravated pharmacy robbery. One commits pharmacy robbery if he commits robbery of a pharmacy for the purpose of obtaining or attempting to obtain a controlled substance. Pharmacy robbery becomes aggravated pharmacy robbery if the defendant employs, uses, or displays a deadly weapon or someone other than the defendant suffers serious bodily injury resulting from the robbery or attempted robbery.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$1,402,600/Incarceration\*

**SUMMARY OF AMENDMENT (012711):** Deletes all language after the enacting clause. Creates an enhancement factor for robbery and aggravated robbery. Allows a judge to enhance a sentence for robbery or aggravated robbery if the offense occurred on the premises of a licensed retail pharmacist and was committed for the purpose of obtaining a controlled substance.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$55,200/Incarceration\*

Assumptions for the bill as amended:

- The proposed legislation establishes an enhancement factor for robbery and aggravated robbery offenses if the offense occurred on the premises of a licensed retail pharmacist and was committed for the purpose of obtaining a controlled substance.
- According to the Tennessee Bureau of Investigation's 2008, 2009, 2010, 2011, and 2012 Crime in Tennessee Reports ([http://www.tbi.state.tn.us/tn\\_crime\\_stats/stats\\_analys.shtml](http://www.tbi.state.tn.us/tn_crime_stats/stats_analys.shtml)), an average of 1.28 percent of robberies in Tennessee occur within a medical facility.
- According to the Department of Correction (DOC), there has been an average of 465.7 admissions for robbery each year for the past 10 years. The proposed legislation could result in six robbery sentences ( $465.7 \times 0.0128 = 5.96$ ) each year being enhanced. It is assumed that a judge will apply the enhancement factor in 50 percent of the convictions.
- The proposed legislation will result in three sentences per year being enhanced.

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- The average time served for a Class C felony is 2.98 years. It is assumed that applying the enhancement factor will result in a 10 percent increase in the time served, or .30 years (2.98 years x .1).
- 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.
- According to the DOC, 32.03 percent of offenders will re-offend within three years of their release. A recidivism discount of 32.03 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 (3 offenders x .3203 = 1 offender).
- According to the DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders [3 offenders – 1 (recidivism discount)] serving an additional .3 years (109.58 days) for a total of \$7,264.06 (\$66.29 x 109.58 days). The cost for two offenders is \$14,528.12 (\$7,264.06 x 2).
- According to the DOC, there has been an average of 652.6 admissions for aggravated robbery each year for the past 10 years. The proposed legislation could result in eight aggravated robbery sentences (652.6 x 0.0128 = 8.35) each year being enhanced. It is assumed that a judge will apply the enhancement factor in 50 percent of the convictions.
- The average time served for a Class B felony is 5.6 years. It is assumed that applying the enhancement factor will result in a 10 percent increase in the time served, or .56 years (5.6 years x .1).
- 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.
- According to the DOC, 32.03 percent of offenders will re-offend within three years of their release. A recidivism discount of 32.03 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 (4 offenders x .3203 = 1 offender).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders [4 offenders – 1 (recidivism discount)] serving an additional .56 years (204.54 days) for a total of \$13,558.96 (\$66.29 x 204.54 days). The cost for three offenders is \$40,676.88 (\$13,558.96 x 3).
- The total increase in state expenditures is \$55,205 (\$14,528.12 + \$40,676.88).
- The pharmacy robbery and aggravated pharmacy robbery felony cases created by the proposed legislation will be offset by a reduction in robbery and aggravated robbery felony cases currently being prosecuted. It is assumed that any impact to 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.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm