

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2099 - SB 2445

February 15, 2014

**SUMMARY OF BILL:** Enhances rape to aggravated rape if the defendant photographs or otherwise records the rape and distributes the image or images in any way, including transmission of the image via text message.

Enhances sexual battery to aggravated sexual battery if the defendant photographs or otherwise records the rape and distributes the image or images in any way, including transmission of the image via text message.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$166,800/Incarceration\***

Assumptions:

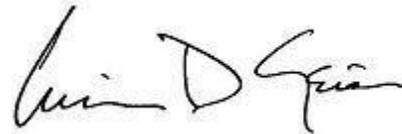
- According to statistics from the Department of Correction (DOC), there has been an average of 53.1 admissions each year for rape over the last 10 years.
- The proposed legislation will enhance some of these admissions to aggravated rape if the defendant photographs or otherwise records the rape and distributes the image or images in any way, including transmission of the image via text message. Rape is a Class B felony. It is assumed that one percent ( $53.1 \times .01 = .53$ ) of the admissions will be enhanced to aggravated rape, a Class A felony.
- The proposed legislation will result in one admission every two years being enhanced from a Class B felony to a Class A felony.
- 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 B felony is 5.6 years and 15.09 years is the average time served for a Class A felony. The proposed legislation will result in each offender serving an additional 9.49 years.
- A recidivism discount of 48.29 percent applies, but due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.
- According to 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 one offender every two years serving 9.49 years (3,466.22 days) for an annualized total of \$114,887.86 [(\$66.29 x 3,466.22 days) / 2].

- According to statistics from the DOC, there has been an average of 52 admissions each year for sexual battery over the last 10 years.
- The proposed legislation will enhance some of these admissions to aggravated sexual battery if the defendant photographs or otherwise records the rape and distributes the image or images in any way, including transmission of the image via text message. Sexual battery is a Class E felony. It is assumed that one percent (52 x .01 = .52) of the admissions will be enhanced to aggravated sexual battery, a Class B felony.
- The proposed legislation will result in one admission every two years being enhanced from a Class E felony to a Class B felony.
- 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 E felony is 1.31 years and 5.6 years is the average time served for a Class B felony. The proposed legislation will result in each offender serving an additional 4.29 years.
- A recidivism discount of 48.29 percent applies, but due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 4.29 years (1,566.92 days) for an annualized total of \$51,935.56 [(\$66.29 x 1,566.92 days) / 2].
- The total increase in state expenditures is \$166,823.42 (\$114,887.86 + \$51,935.56).
- The proposed legislation will not result in any additional admissions. The proposed legislation merely enhances current offenses being committed under certain circumstances. It is assumed that any impact to the courts, district attorneys, and public defenders can be accommodated within existing resources.

## **CERTIFICATION:**

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



Lucian D. Geise, Executive Director

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