

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1045 - HB 1039

February 17, 2013

**SUMMARY OF BILL:** Creates a new offense for especially aggravated assault. Especially aggravated assault is an assault that involves both serious bodily injury and the use or display of a deadly weapon. Especially aggravated assault that is committed intentionally or knowingly is a Class B felony, or that is committed recklessly is a Class C felony.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$1,743,600/Incarceration \***

Assumptions:

- As in the offense of aggravated assault, especially aggravated assault, as defined in the bill, can be committed intentionally, knowingly, or recklessly.
- According to the Department of Correction (DOC), there has been an average of 965.7 admissions for aggravated assault over the last 10 years. Eighty percent (773 admissions) were for intentional or knowing aggravated assault, a Class C felony. Twenty percent (193 admissions) were for reckless aggravated assault, a Class D felony. It is assumed that the same ratio of intentional/knowing to reckless that is realized for aggravated assault will also be realized for especially aggravated assault.
- According to the Tennessee Bureau of Investigation's 2011 Crime in Tennessee report ([http://www.tbi.tn.gov/tn\\_crime\\_stats/publications/Crime%20in%20Tennessee%202011.pdf](http://www.tbi.tn.gov/tn_crime_stats/publications/Crime%20in%20Tennessee%202011.pdf)), 46 percent of aggravated assaults are committed with a deadly weapon. It is assumed that 356 (773 admissions x .46) admissions for intentional or knowing aggravated assault involved a deadly weapon, and that 89 (193 admissions x .46) admissions for reckless aggravated assault involved a deadly weapon.
- It is assumed that 10 percent of the aggravated assaults involving a deadly weapon also involved serious bodily injury. It is further assumed that 36 offenders per year that are currently being admitted for intentional or knowing aggravated assault, a Class C felony, will, under the bill, be admitted for intentional or knowing especially aggravated assault, a Class B felony (356 offenders x 0.10 = 36 offenders). Nine offenders currently being admitted for reckless aggravated assault, a Class D felony, will, under the bill, be admitted for reckless especially aggravated assault, a Class C felony (89 offenders x 0.10 = 9 offenders).

*Assumptions Relative to Intentional/Knowing Especially Aggravated Assault*

- 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 account for 4 ( $36 \times .1178$ ) additional admissions for a total of 40 ( $36 + 4$ ).

- According to the DOC, 43.36 percent of offenders will re-offend within one year of their release. A recidivism discount of 43.36 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 ( $40 \text{ offenders} \times .4336 = 17 \text{ offenders}$ ).
- According to statistics from the DOC, the average time served over the past five years for intentional or knowing aggravated assault has been 3.61 years. This is 0.63, or 21 percent, longer than the average Class C felony, which serves an average of 2.98 years [ $(3.61 \text{ years} - 2.98 \text{ years}) / 2.98 \text{ years} = .211$ , or 21 percent]. It is assumed that the average intentional or knowing especially aggravated assault will serve 21 percent longer than the average Class B felony, which serves an average of 5.29 years. It is assumed that the average time served for intentional or knowing especially aggravated assault would be 6.4 years. The bill will result in each offender serving an additional 2.79 years ( $6.4 \text{ years}$ , the estimated average time served for intentional or knowing especially aggravated assault –  $3.61 \text{ years}$ , the average time served for intentional or knowing aggravated assault).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 23 offenders [ $40 \text{ offenders} - 17 \text{ (recidivism discount)}$ ] serving an additional 2.79 years (1019.05 days) for a total of \$65,392 ( $\$64.17 \times 1019.05 \text{ days}$ ). The cost for 23 offenders is \$1,504,016 ( $\$65,392 \times 23$ ).

#### *Assumptions Relative to Reckless Especially Aggravated Assault*

- Population growth will account for one ( $9 \times .1178$ ) additional admission for a total of 10 ( $9 + 1$ ).
- According to the DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 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 ( $10 \text{ offenders} \times .3375 = 3 \text{ offenders}$ ).
- According to statistics from the DOC, the average time served over the past five years for reckless aggravated assault has been 2.21 years. This is 0.41, or 23 percent, longer than the average Class D felony, which serves an average of 1.8 years [ $(2.21 \text{ years} - 1.8 \text{ years}) / 1.8 \text{ years} = .227$ , or 23 percent]. It is assumed that the average reckless especially aggravated assault will serve 23 percent longer than the average Class C felony, which serves an average of 2.98 years. It is assumed that the average time served for reckless especially aggravated assault would be 3.67 years. The bill will result in each offender serving an additional 1.46 years ( $3.67 \text{ years}$ , the estimated average time served for reckless especially aggravated assault –  $2.21 \text{ years}$ , the average time served for reckless aggravated assault).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 7 offenders [ $10 \text{ offenders} - 3 \text{ (recidivism discount)}$ ] serving an additional 1.46 years

(533.27 days) for a total of \$34,220 (\$64.17 x 533.27 days). The cost for 7 offenders is \$239,540 (\$34,220 x 7).

*Assumptions Relative to the Cumulative Impact*

- The total increase in incarceration costs is \$1,743,556 (\$1,504,016 + \$239,540).

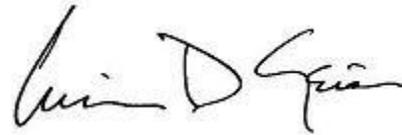
*Assumptions Relative to the District Attorneys, Public Defenders, and the Courts*

- The number of prosecutions for especially aggravated assault will be offset by a reduction in prosecutions for aggravated assault. It is assumed that the convictions for especially aggravated assault will come from those offenses currently being prosecuted as aggravated assault that would constitute especially aggravated assault, as defined in the bill. Any impact on the caseloads of the District Attorneys General Conference, the District Public Defenders Conference, or the courts can be accommodated within existing 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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