

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1815

February 2, 2014

SUMMARY OF BILL: Enhances punishment of patronizing prostitution of a child under 18 years of age or of a person with an intellectual disability from a Class E felony to either a Class A felony or Class B felony depending on the circumstances surrounding the commission of the offense.

Prohibits as a defense to patronizing prostitution asserting that the subject of the offense was a consenting minor or a law enforcement officer.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$109,400/Incarceration*

Assumptions:

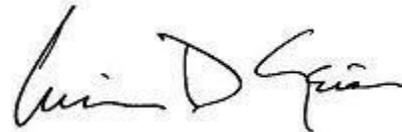
- In 2011, the General Assembly enacted 2011 Pub. Ch. 377. Public Chapter 377 increased the punishment for patronizing prostitution of a minor or a person with an intellectual disability from a Class A misdemeanor to a Class E felony.
- The fiscal note for the original bill assumed one conviction every two years being enhanced from a Class A misdemeanor to a Class E felony. The proposed legislation would require patronizing prostitution of a minor or a person with an intellectual disability to be punished the same as trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309. Trafficking for a commercial sex act is a Class B felony unless the offense is committed against a minor under the age of 15 or within 1,000 feet of a school, recreational area, or public park, in which case it is a Class A felony.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- 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 would normally apply because the proposed legislation is increasing the punishment for an existing offense. However, due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.

- It is assumed that one conviction every four years for patronizing prostitution of a minor or person with an intellectual disability will be punished as a Class B felony rather than a Class E felony.
- The average time served for a Class E felony is 1.31 years (478.48 days). The average time served for a Class B felony is 5.60 years (2,045.4 days). The proposed legislation would result in one offender every four years serving an additional 4.29 years (1,566.92 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every four years serving an additional 4.29 years (1,566.92 days) for an annualized total of \$25,967.78 [(\$66.29 x 1,566.92 days) / 4].
- It is assumed that one conviction every four years for patronizing prostitution of a minor or person with an intellectual disability will be punished as a Class A felony rather than a Class E felony because it will be committed against a child under the age of 15 or will occur within 1,000 feet of a school, recreational area, or public park.
- The average time served for a Class E felony is 1.31 years (478.48 days). The average time served for a Class A felony is 15.09 years (5,511.62 days). The proposed legislation would result in one offender every four years serving an additional 13.78 years (5,033.15 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every four years serving an additional 13.78 years (5,033.15 days) for an annualized total of \$83,411.88 [(\$66.29 x 5,033.15 days) / 4].
- The total increase in state expenditures is \$109,380 (\$25,967.78 + \$83,411.88).
- The proposed legislation will not create any new cases; it merely increases the punishment for existing offenses. Any impact to the caseloads of the courts, district attorneys, and public defenders can be accommodated within existing resources.
- Prohibiting the defense that the subject of the offense was a consenting minor or law enforcement officer will not significantly impact admissions.

**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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