

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 457 – SB 454

March 31, 2015

SUMMARY OF ORIGINAL BILL: Defines aggravated vehicular homicide, a Class A felony, to include vehicular homicide when the driver had a blood alcohol content (BAC) of 0.20 or had a BAC of 0.08 and some concentration of methamphetamine.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$515,100/Highest Projected Cost of the Next 10 Years/Incarceration*

SUMMARY OF AMENDMENT (005658): Deletes Section 2. Defines aggravated vehicular homicide, a Class A felony, to include vehicular homicide when the driver (1) had a blood alcohol content (BAC) of 0.20 or had a BAC of 0.08 and some concentration of methamphetamine and (2) had a prior conviction for driving under the influence or vehicular assault.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$85,900 Highest Projected Cost of the Next 10 Years/Incarceration*

Assumptions for the bill as amended:

- Currently, one commits aggravated vehicular homicide when one commits vehicular homicide and:
 - Has two or more prior convictions for DUI, vehicular assault, or any combination of the two;
 - Has a prior conviction for vehicular homicide; or
 - At the time of the offense, has a BAC of .20 and has a prior conviction for DUI or vehicular assault.
- The bill enhances vehicular homicide to aggravated homicide when someone commits vehicular homicide while driving with a BAC of 0.08 and some concentration of methamphetamine. Currently under Tenn. Code Ann. § 39-13-213(a)(2), someone who recklessly kills someone through the operation of a motor vehicle and the death was the proximate result of alcohol intoxication, drug intoxication, or both, is guilty of vehicular homicide, not aggravated vehicular homicide. The bill will result in some offenses currently being prosecuted under Tenn. Code Ann. § 39-13-213(a)(2), a Class B felony, being prosecuted for aggravated vehicular homicide, a Class A felony.

- According to statistics from the Department of Correction (DOC), there has been an average of 35.6 admissions for vehicular homicide by intoxication. It is assumed that 20 percent (7 admissions) of these admissions were the proximate result of both alcohol and drug intoxication. It is further assumed that 33 percent (2 admissions) of the 7 admissions were from alcohol and methamphetamine intoxication. The bill will result in two admissions per year being enhanced from vehicular homicide by intoxication, a Class B felony, to aggravated vehicular homicide, a Class A felony.
- Population growth will not affect the fiscal impact of this legislation.
- The applicable recidivism discount (49.11 percent) will reduce the number of admissions by one offender ($2 \times .4911 = 1$ offender).
- Over the past 10 years, the average time served for vehicular homicide by intoxication has been 4.31 years. Over the past 10 years, the average time served for aggravated vehicular homicide has been 7.87 years. The bill will result in each offender serving an additional 3.56 years (7.87 years – 4.31 years).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 3.56 years (1,300.29 days) for a total of \$85,858 ($\$66.03 \times 1,300.29$ days).
- The number of prosecutions for aggravated vehicular homicide will be offset by a reduction in prosecutions for vehicular homicide. It is assumed that the convictions for aggravated vehicular homicide will come from those offenses currently being prosecuted as vehicular homicide that would constitute aggravated vehicular homicide, 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.



Jeffrey L. Spalding, Executive Director

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