

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 217 - SB 428

March 7, 2015

SUMMARY OF BILL: Broadens the offense of aggravated assault in which strangulation is involved.

Creates a new Class D felony for reckless aggravated assault in which strangulation was involved.

Redefines “strangulation” for purposes of aggravated assault to include knowing and reckless impedances of someone’s breathing or circulation of blood, and blockages of someone’s nose and mouth; and would allow for strangulation regardless of whether the conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$219,500 Highest Projected Cost of Next 10 Years/Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-13-102 establishes two classes of aggravated assault offenses: intentional/knowning and reckless. Intentional or knowning aggravated assaults are prosecuted as Class C felonies, and reckless aggravated assaults are prosecuted as Class D felonies.
- The bill expands the offense of intentional or knowning aggravated assault involving strangulation, and creates a new Class D felony for reckless aggravated assault involving strangulation.
- Under current law, one commits aggravated assault if he or she intentionally assaults another and strangulates another, or attempts to strangulate another, and intends to cause bodily injury.
- The bill would expand this offense to include any offense where strangulation is involved even if the offender did not intend bodily injury.
- Though the bill expands the offense of intentional or knowning aggravated assault, it is assumed that the expanded offense will not significantly increase incarceration costs. Bodily injury is a very broad definition, which includes a cut, abrasion, bruise, or temporary impairment of a bodily organ. It is assumed that removing the element that a person intend to cause bodily injury will not significantly increase admissions because a person who intentionally or knowning assaults another by strangling them intends to temporarily impair the function of a bodily organ.

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- However, the bill will increase Class D felony admissions for reckless aggravated assault.
- Under current law, the definition of strangulation only includes intentional impedances of someone's breathing or circulation of blood, or blockages of someone's nose and mouth. The bill expands this definition to include knowing and reckless instances.
- For example, a man covers another person's nose and mouth with his hand to muffle sounds coming from the other person. The man did not intend to harm or block the person's nose and mouth, but only to keep the person quiet. That man would be prosecuted of a Class D felony for reckless aggravated assault under the bill; whereas under current law, he would be prosecuted for Class A misdemeanor assault.
- The bill will result in additional Class D felony admissions for the new aggravated assault.
- Statistics from the DOC show there has been an average of 154.2 admissions each year for the past 10 years for reckless aggravated assault. It is assumed that the bill will result in a two-and-a-half percent increase in reckless aggravated assault admissions ($154.2 \times .025 = 3.86$).
- 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 one ($4 \times .1178$) additional admission for a total of 5 ($4 + 1$).
- Statistics from the DOC show that the average time served for a reckless aggravated assault is 1.82 years (664.76 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2015 is \$66.03.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on five offenders serving 1.82 years (664.76 days) for a total of \$43,894 ($\66.03×664.76 days). The cost for five offenders is \$219,470 ($\$43,894 \times 5$).
- As the bill would only create five new felony cases each year, it is assumed that the Administrative Office of the Courts, the District Attorneys General Conference, and the District Public Defenders Conference can accommodate the impact to their caseloads within their 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.



Jeffrey L. Spalding, Executive Director

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