

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 452 – SB 1241

April 7, 2017

SUMMARY OF ORIGINAL BILL: Enhances possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force from a class C felony to a class B felony.

Prohibits probation for possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force.

Enhances possession of a firearm by a person with a prior felony drug conviction from a class D felony to a class C felony.

Enhances possession of a handgun by a convicted felon from a class E felony to a class D felony.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$15,478,900/Incarceration*

SUMMARY OF AMENDMENT (006205): Deletes and rewrites the proposed legislation to remove the enhancement of possession of a handgun by a convicted felon.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On March 28, 2017, a fiscal memorandum was issued with the following estimated impact:

*Increase State Expenditures – \$19,536,000/Incarceration**

Based on additional received by Fiscal Review Committee staff, it was determined that this estimated fiscal impact was in error. As a result, the estimated fiscal impact has been corrected as follows:

(CORRECTED)

Increase State Expenditures – \$14,457,600/Incarceration*

HB 452 – SB 1241 (CORRECTED)

Corrected assumptions for the bill as amended:

- Statistics from the Department of Correction (DOC) show an average of 26.67 admissions each year for possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force. The proposed legislation will enhance these admissions to class B felonies.
- 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 three ($26.67 \times .1178$) additional admissions for possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force a total of 30 ($27 + 3$).
- The average time served for a class B felony is 6.32 years. The average time served for a class C felony is 3.51 years. The proposed legislation will result in each current admission serving an additional 2.81 years ($6.32 - 3.51$).
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the DOC, 48.6 percent of offenders will re-offend within three years of their release. A recidivism discount of 48.6 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 ($30 \text{ offenders} \times .486 = 15 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 15 offenders ($30 \text{ offenders} - 15 \text{ recidivism discount}$) serving an additional 2.81 years (1,026.35 days) at a cost of \$70,562 ($\$68.75 \times 1,026.35 \text{ days}$) per offender. The cost for 15 offenders is \$1,058,430 ($\$70,562 \times 15$).
- The proposed legislation will result in other persons convicted having to serve a term of imprisonment because probation will no longer be available.
- Statistics from the Administrative Office of the Courts show an average of 99.4 convictions each year for possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force. These include current admissions, but exclude multiple convictions against the same defendant and convictions in which the defendant was convicted of a class A or B felony in addition to the firearm possession offense.
- It is assumed that defendants convicted of class A or B felonies in addition to firearm possession do not receive probation.
- The proposed legislation will increase admissions by 73 ($99.4 - 26.67$).
- 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 nine ($73 \times .1178$) additional admissions for possession of a firearm by a person with a prior felony conviction involving the use or attempted use of force for a total of 82 ($73 + 9$).
- The average time served for a class B felony is 6.32 years.
- Recidivism discount does not apply because these defendants do not currently serve any time.

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on each offender serving 6.32 years (2,308.38 days) at a cost of \$158,701 (\$68.75 x 2,308.38 days) per offender. The total cost for 82 offenders is \$13,013,482 (\$158,701 x 82).
- Statistics from the DOC show an average of 19.33 admissions each year for possession of a firearm by a person with a prior drug felony conviction. The proposed legislation will enhance these admissions to class C felonies.
- 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 two (19.33 x .1178) additional admissions for possession of a firearm by a person with a prior drug felony conviction for a total of 21 (19 + 2).
- The average time served for a class C felony is 3.51 years. The average time served for a class D felony is 2.23 years. The proposed legislation will result in each current admission serving an additional 1.28 years (3.51 – 2.23).
- According to the DOC, 43.1 percent of offenders will re-offend within two years of their release. A recidivism discount of 43.1 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 (21 offenders x .431 = 9 offenders).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 12 offenders (21 offenders – 9 recidivism discount) serving an additional 1.28 years (467.52 days) at a cost of \$32,142 (\$68.75 x 467.52 days) per offender. The cost for 12 offenders is \$385,704 (\$32,142 x 12).
- The proposed legislation increases state incarceration costs by \$14,457,616 (\$1,058,430 + \$13,013,482 + \$385,704).
- The proposed legislation does not create any new offenses, but rather impacts sentencing of current convictions. It is assumed that the courts, public defenders, and district attorneys can accommodate any 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.

Krista M. Lee RNC

Krista M. Lee, Executive Director

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