



March 20, 2019

SUMMARY OF ORIGINAL BILL: Enhances the penalty for intentional failure to report child abuse or child sexual abuse. Extends civil and criminal statutes of limitation for certain acts of abuse against minors.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$41,100 Incarceration*

SUMMARY OF AMENDMENT (006063): Deletes and replaces all language after the enacting clause such that the substantive changes are to: (1) decrease, from 30 to 15, the number of years after a victim becomes 18 that certain child sex abuse civil actions may be brought; (2) revise the criminal acts for which the statute of limitation is extended; and (3) outline the instances in which the prosecution or an injured person is required to offer admissible and credible evidence corroborating the allegation or claim of abuse.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$6,800 Incarceration*

Assumptions for the bill as amended:

Failure to report child abuse:

- Under current law, Tenn. Code Ann. § 37-1-412, a person who knowingly fails to make a report of child abuse required by Tenn. Code Ann. § 37-1-403 commits a Class A misdemeanor. A defendant that pleads guilty to the charge of knowingly failing to make a required child abuse report is authorized to be sentenced by fine only in an amount not to exceed \$2,500.
- The proposed legislation makes a first time failure to report child abuse a Class A misdemeanor, authorizes defendants to plead guilty and be sentenced by fine only for only the first offense, and makes second and subsequent and intentional failure to report child abuse a Class E felony.

- The enhanced penalties for intentional failure to report child abuse will result in one admission every 10 years.
- The average time served for a Class E felony is 1.28 years.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every 10 years serving an additional 1.28 years (467.52 days) for an annualized increase in incarceration expenditures of \$3,421 [(\$73.18 x 467.52) / 10].

Failure to report child sex abuse:

- Under current law, Tenn. Code Ann. § 37-1-615, any person required to report known or suspected child sexual abuse who knowingly and willfully fails to do so or knowingly prevents another person from doing so commits a Class A misdemeanor.
- The proposed legislation makes a first time failure to report suspected child sexual abuse a Class A misdemeanor and second and subsequent violations a Class E felony.
- The enhanced penalties for intentional failure to report child sexual abuse will result in one admission every 10 years.
- Population growth and recidivism will not impact these admissions.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every 10 years serving an additional 1.28 years (467.52 days) for an annualized increase in incarceration expenditures of \$3,421 [(\$73.18 x 467.52) / 10].

Criminal Statutes of Limitation:

- Under current law, pursuant to Tenn. Code Ann. § 40-2-101(l), a person may be prosecuted, tried, and punished for aggravated rape, rape, rape of a child, or aggravated rape of a child at any time, if the offense occurred on or after July 1, 2014, and the victim notifies law enforcement or the office of the district attorney general within three years of the offense. If the offense is not reported within three years, then pursuant to Tenn. Code Ann. § 40-2-101(b), the person must be prosecuted, tried, and punished within 15 years of the occurrence of such a crime.
- Under current law, Tenn. Code Ann. § 40-2-101(h)(2), a person may be prosecuted, tried and punished for aggravated rape, rape, or rape of a child not later than 25 years from the date the child turns 18 years of age, if the offense occurred between June 20, 2006 and June 30, 2014.
- Under current law, pursuant to Tenn. Code Ann. § 40-2-101(i)(2), a person may be prosecuted, tried and punished for aggravated rape of a child not later than 25 years from the date the child turns 18 years of age, if the offense occurred between July 1, 2007 and June 30, 2014.
- The proposed legislation removes the statute of limitation on such crimes and allows a person to be prosecuted at any time for such a crime occurring on or after the specified

date, if the victim notifies proper authorities within three years of the offense. In instances where a child victim did not notify authorities within the specified time frame for specified crimes occurring between 2006 and prior to July 1, 2019, a person may be prosecuted, tried and punished for aggravated rape of a of a child not later than 25 years from the date the child turns 18 years of age.

- In instances where an adult victim does not contact the appropriate authorities within three years of the offense, current law will control.
- The proposed legislation authorizes a person to be prosecuted, tried, and punished at any time after the commission of trafficking for a commercial sex act, aggravated rape, rape, aggravated sexual battery, continuous sexual abuse of a child, rape of a child, sexual battery by an authority figure, certain solicitation of a minor charges, soliciting sexual exploitation of a minor- exploitation of a minor by electronic means where the minor is less than 13 years of age, aggravated rape of a child, statutory rape by an authority figure, incest, sexual exploitation of a minor, aggravated sexual exploitation of a minor, or especially aggravated sexual exploitation of a minor if: (1) committed on or after July 1, 2019; and (2) committed against a child less than 18 years of age.
- The repeal of the statute of limitations for these crimes may lead to additional incarceration costs; however the number of such additional convictions as a result of this legislation is estimated to be not significant, and thus, the fiscal impact from repealing the statute of limitation for such crimes is estimated to be not significant.

Total Incarceration Costs:

- The proposed legislation will result in a recurring increase in state incarceration expenditures estimated to be \$6,842 (\$3,421 + \$3,421).

Civil Statutes of Limitation and Courts, Public Defenders, and District Attorneys:

- Under current law, Tenn. Code Ann. § 28-3-116, a civil action for an injury or illness based on child sexual abuse that occurred when the injured person was a minor, but was not discovered at the time of the abuse, is required to be brought within three years from the time of discovery of the abuse by the injured person. In no event may such an action be brought against the alleged perpetrator of the child sexual abuse or against the alleged perpetrator's estate later than seven years from the date the child becomes 18 years of age. If the action is brought more than one year from the date the injured person becomes 18 years of age, the injured person must offer admissible and credible evidence corroborating the claim of abuse by the alleged perpetrator.
- The proposed legislation authorizes a civil action for child sexual abuse to be brought the latter of 15 years from the date the victim becomes 18 years of age or within three years from the time of discovery of the abuse by the injured person, if the injury or illness was not discovered at the time of the abuse.
- Any impact to the court system resulting from extending the statute of limitation for civil child sexual abuse actions is estimated to be not significant.
- The proposed legislation does not create new offenses, and, therefore, will not increase the caseloads of the courts, public defenders, or district attorneys. The courts, public

defenders, and district attorneys can accommodate any impact within their existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues 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.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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