

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 534 - HB 799

April 1, 2019

SUMMARY OF ORIGINAL BILL: Broadens the offense of financial exploitation of an elderly or vulnerable person to include use of a telephone or other electronic or communication device for the purpose of fraudulently or deceptively obtaining or attempting to obtain money, property, or another thing of value from an elderly adult. Enhances the penalty for such financial exploitation offenses.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$89,800 Incarceration*

SUMMARY OF AMENDMENT (007010): Deletes and replaces all language after the enacting clause such that the only substantive change is to specify that email communication, pop-up advertisements, and websites are included in the use of a telephone or other electronic or communication device.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 39-15-502, a violation of financially exploiting an elderly or vulnerable adult is punished as theft and enhanced by one classification higher pursuant to Tenn. Code Ann. § 39-14-105.
- The proposed legislation enhances the penalty for such exploitation by two classifications when the person uses a phone or other electronic or communication device to obtain money, property, or another thing of value from an elderly adult and by one classification when the person uses a phone or other electronic or communication device to attempt to obtain money, property, or another thing of value from an elderly adult.
- Based on information provided by the Department of Human Services, there were 1,833 investigations of financial exploitation in FY17-18.

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- The proposed legislation will lead to the enhancement of one Class E felony graded theft using a phone or other electronic or communication device valued at more than \$1,000 but less than \$2,500 to a Class C felony admission every year.
- The average time served for a Class C felony is 3.62 years. The average time served for a Class E felony is 1.28 years. The proposed legislation will result in each admission serving an additional 2.34 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 year serving an additional 2.34 years (854.69 days) for an annualized increase in state incarceration expenditures of \$62,546 (\$73.18 x 854.69)
- The proposed legislation will lead to the enhancement of one Class E felony graded theft using a phone or other electronic or communication device of attempted theft valued at than \$1,000 but less than \$2,500 to a Class D felony admission every year.
- The average time served for a Class D felony is 2.3 years. The average time served for a Class E felony is 1.28 years. The proposed legislation will result in each admission serving an additional 1.02 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 year serving an additional 1.02 years (372.56 days) for an annualized increase in state incarceration expenditures of \$27,264 (\$73.18 x 372.56).
- The total recurring increase in state incarceration expenditures resulting from the proposed legislation is estimated to be \$89,810 (\$62,546 + \$27,264).

**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.



Krista Lee Carsner, Executive Director

/amj