



February 6, 2020

SUMMARY OF ORIGINAL BILL: Creates a Class D felony offense for the knowing and unlawful possession of a telecommunications device in a penal institution. Creates a new sentencing enhancement factor if an offense was planned or executed by using a telecommunication device within a penal institution.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$25,528,000 Incarceration*

SUMMARY OF AMENDMENT (013111): Deletes all language after the enacting clause. Creates a new sentencing enhancement factor if an offense was planned or executed by using a telecommunication device within a penal institution.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$592,200 Incarceration*

Assumptions for the bill as amended:

- This analysis estimates that one offense in each felony classification will be enhanced each year.
- The average time served for felony offenses is as follows:
 - Class A felony – 18.69 years;
 - Class B felony – 6.48 years;
 - Class C felony – 3.50 years;
 - Class D felony – 2.26 years; and
 - Class E felony – 1.35 years.
- This analysis assumes that the average offender is sentenced to the lowest period of confinement within Range II and that each affected offender will be sentenced to the highest period of confinement within Range II.
- Currently, the average time percentage of the sentence received for each class is:
 - Class A felony – 74.76 percent (18.69 average time served / 25 years, the lowest sentence in Range II);

- Class B felony – 54.00 percent (6.48 average time served / 12 years, the lowest sentence in Range II);
- Class C felony – 58.33 percent (3.5 average time served / 6 years, the lowest sentence in Range II);
- Class D felony – 56.50 percent (2.26 average time served / 4 years, the lowest sentence in Range II); and
- Class E felony – 67.50 percent (1.35 average time served / 2 years, the lowest sentence in Range II).
- This analysis estimates that the offenders will serve a similar percentage of the sentences enhanced under the proposed legislation.
- The proposed legislation will increase the average time served for the enhanced offenders as follows:
 - Class A felony – 29.90 years (40 years, highest sentence in Range II x 74.76%);
 - Class B felony – 10.80 years (20 years, highest sentence in Range II x 54.00%);
 - Class C felony – 5.83 years (10 years, highest sentence in Range II x 58.33%);
 - Class D felony – 4.52 years (8 years, highest sentence in Range II x 56.50%); and
 - Class E felony – 2.70 years (4 years, highest sentence in Range II x 67.50%).
- According to the Department of Correction, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- Population growth and recidivism will not impact these admissions.
- The proposed legislation will result in the Class A offender serving an additional 11.21 years (29.90 – 18.69).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 4,094.45 days (11.21 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$309,213 (\$75.52 x 4,094.45 x 1).
- The proposed legislation will result in the Class B offender serving an additional 4.32 years (10.80 – 6.48).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 1,577.88 days (4.32 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$119,161 (\$75.52 x 1,577.88 x 1).
- The proposed legislation will result in the Class C offender serving an additional 2.33 years (5.83 – 3.5).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 851.03 days (2.33 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$64,270 (\$75.52 x 851.03 x 1).
- The proposed legislation will result in the Class D offender serving an additional 2.26 years (4.52 – 2.26).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 825.47 days (2.26 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$62,339 (\$75.52 x 825.47 x 1).
- The proposed legislation will result in the Class E offender serving an additional 1.35 years (2.7 – 1.35).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 493.09 days (1.35 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$37,238 (\$75.52 x 493.09 x 1).

- The total increase in incarceration costs is \$592,221 (\$309,213 + \$119,161 + \$64,270 + \$62,339 + \$37,238).
- Any impact to the court system is estimated to be not significant.

**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 Lee Carsner, Executive Director

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