



SB 2273 - HB 2620

June 15, 2020

SUMMARY OF ORIGINAL BILL: In addition to any punishment imposed under Tenn. Code Ann. § 40-35-111, authorizes a fine of up to \$15,000 for aggravated assault.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (018002, 018671): Amendment 018002 deletes all language after the enacting clause and rewrites the bill such that the substantive changes are to: (1) require any offender arrested for a violation of rioting or incitement to riot to not be released within 12 hours of the time or arrest; (2) require any sentence imposed for rioting serve a mandatory 30 day sentence; (3) include an order of restitution for any property damage or loss incurred as a result of the offenses of rioting, aggravated rioting, or incitement to riot; and (4) change the effective date from July 1, 2020 to August 1, 2020.

Amendment 018671 adds language to amendment 018002 such that the substantive changes are to: (1) enhance the penalty for knowingly damaging or defacing real or personal property of the state, or a subdivision thereof, by painting or other permanent application on graffiti to a Class E felony offense with a mandatory 30 day sentence and an order of restitution for any property damage or loss incurred as a result of the offense; (2) revise the definition of camping and outline instances in which it is not a defense to the violation to the offense of engaging in the activity of camping on property of the state knowing that the area is not specifically designated for the use of a camping area; (3) enhance the penalty for engaging in camping on property of the state knowing that the area is not specifically designated for use as a camping area to a Class E felony offense with a mandatory 30 day sentence and an order of restitution for any property damage or loss incurred as a result of the offense; and (4) establish that certain vandalism offenses be punished by no less than a Class E felony offense with a mandatory 30 day sentence and an order of restitution for any property damage or loss incurred as a result of the offense.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures – \$9,100 Incarceration*

Increase Local Expenditures – \$1,800/FY20-21
\$1,900/FY21-22 and Subsequent Years****

Assumptions for the bill as amended:

General Assumptions

- The proposed legislation is effective August 1, 2020 and will result in expenditures for approximately 91.7 percent of FY20-21; therefore, the estimated local impact of this analysis represents 91.7 percent of FY20-21 and 100 percent of FY21-22 and subsequent years.
- The proposed legislation requires any offender arrested for a violation of rioting or incitement to riot to not be released within 12 hours of the time of arrest. Any impact to local jails resulting from this mandatory holding period is estimated to be not significant.
- Any impact to the court system resulting from the proposed legislation is estimated to be not significant.

Aggravated Assault

- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' (AOC) 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly increase state or local revenue.
- Any impact to state or local revenue resulting from the proposed legislation is estimated to be not significant.

Rioting

- Based on information provided by the AOC, there has been an average of 0.2 Class A misdemeanor convictions of rioting each year over the past five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are a total of two convictions ($0.2 / 10\% = 2$) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-302.
- This analysis assumes individuals convicted of a Class A misdemeanor for rioting are spending an average of 15 days in local jail.
- The average cost to local governments to house an inmate in a local jail facility is \$64 per day.
- Mandating a minimum 30 days of confinement will result in an additional 15 (30 - 15) days confinement for rioting will lead to a mandatory increase in local expenditures estimated to be \$1,761 [(2 admissions x 15 days x \$64) x 91.7%] in FY20-21 and a recurring mandatory increase in local expenditures estimated to be \$1,920 (2 admissions x 15 days x \$64) in FY21-22 and subsequent fiscal years.

Graffiti

- Pursuant to Tenn. Code Ann. § 39-14-412, tampering with a mailbox or placing graffiti on a state or local government building is a Class B misdemeanor offense punishable by at least 25 hours of public or community service work.
- Based on information provided by the AOC, there has been an average of 0.8 Class B misdemeanor convictions of Tenn. Code Ann. § 39-14-412 each year over the past five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the

state court level. As a result, it is estimated that there are a total of eight convictions (0.8 / 10% = 8) per year for misdemeanor violations of Tenn. Code Ann. § 39-14-412.

- This analysis assumes an annual average of 50 percent, or 4 (8 x 50%), convictions result from graffiti on state or local buildings.
- The proposed legislation mandates a 30 day sentence minimum. This analysis assumes individuals convicted will serve the minimum sentence imposed.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- Pursuant to Tenn. Code Ann. § 9-4-210, four offenders will be admitted every year serving 30 days. The annualized increase in state incarceration expenditures is estimated to be \$9,062 (\$75.52 x 30 x 4).

Camping

- Based on information provided by the AOC, there have been zero convictions under Tenn. Code Ann. § 39-14-414 over the past five years.
- Any impact resulting from enhancing the penalty for violations of Tenn. Code Ann. § 39-14-414 is estimated to be not significant.

Vandalism

- Pursuant to Tenn. Code Ann. § 39-14-408(c)(1), a person that commits vandalism by causing damage to or the destruction of any real or personal property of another or of the state, the United States, any county, city, or town knowing that the person does not have the owner's effective consent or damaging merchandise offered for retail sale by a retail merchant is punished as theft under Tenn. Code Ann. § 39-14-105 after determining the value under Tenn. Code Ann. § 39-11-106.
- This analysis assumes individuals committing vandalism under § 39-14-408(c)(1) have values exceeding \$1,000 and are at least a Class E felony offense under current law.
- The average time served for a Class E felony is 1.35 years.
- Therefore, any impact to state incarceration resulting from establishing a Class E felony minimum and a mandatory sentence minimum are estimated to be not significant.

**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.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

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

/amj