

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 502 - SB 911

March 10, 2019

SUMMARY OF BILL: Enhances the penalty for destruction or alteration of governmental records.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$410,600 Incarceration*

Decrease Local Expenditures – \$11,500

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-16-504(a)-(b), it is a Class A misdemeanor offense for any person to knowingly make a false entry in, or false alteration of, a governmental record; make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or intentionally and unlawfully destroying, concealing, removing, or otherwise impairing the verity, legibility or availability of a government record.
- The proposed analysis enhances such penalty to a Class E felony.
- The average time served for a Class E felony is 1.28 years.
- Based on information provided by the Administrative Office of the Courts, there has been an average of 1.6 Class A misdemeanor convictions each year over the last five years for destruction or alteration of government records. 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 16 convictions ($1.6 / 10\% = 16$) per year for Class A misdemeanor violations of Tenn. Code Ann. § 39-16-504.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for one ($16 \times 8.37\%$) additional admission for a total of 17 ($16 + 1$).
- According to the DOC, 31.4 percent of offenders will re-offend within one year of their release. A recidivism discount of 31.4 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 (7 offenders x 31.4% = 5 offenders).

- 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 12 offenders (17 offenders – 5 recidivism discount) admitted every year serving 1.28 years (467.52 days) for an annualized increase in state incarceration expenditures of 410,557 (\$73.18 x 467.52 x 12).
- The proposed legislation will result in fewer admissions in local jail.
- This analysis assumes individuals convicted of a Class A misdemeanor 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.
- Enhancing such offense to a Class E felony will result in a recurring decrease in local expenditures estimated to be \$11,520 (12 admissions x 15 days x \$64).
- Any increase in caseloads to trial courts can be accommodated within existing resources without an increased appropriation or reduced reversion.

**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