

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1234-01
Bill No.: HB 670
Subject: Firearms and Fireworks; Crimes and Punishment; Criminal Procedure; Courts
Type: Original
Date: April 22, 2013

Bill Summary: This proposal changes the terms of imprisonment for the crime of armed criminal action.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| General Revenue * | \$0 | \$0 | \$0 |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | \$0 | \$0 | \$0 |

* The Department of Corrections states the fiscal impact of the proposal will be a cost of more than \$100,000 per year, but is beyond the three-year scope of this fiscal note.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this bill modifies the existing statute pertaining to armed criminal action (ACA.) The new statute features three key differences. The first change includes adding misdemeanors to the element of the crime. A person can now be charged with armed criminal action if they commit a misdemeanor using a dangerous instrument or deadly weapon. Secondly, the courts will also be compelled to impose a consecutive sentence, whereas current statute grants leeway in sentencing decisions. Consecutive sentences will dramatically lengthen the sentence of those charged with ACA. Finally, the new statute will increase the sentence for the initial offense and subsequent offenses from 3, 5, or 10 years to 20, 30, or life. The existing "no parole provisions" will attach to these new time-frames as well.

There were 39 new admissions to DOC's Division of Adult Institutions (DAI) with the most serious offense of armed criminal action in FY12. This fiscal year's admission rate mirrors the past three year's average for this crime. The average sentence is 10 years and the offender can expect to serve 68% of the sentence in prison. Based upon this fiscal year's admissions, DAI admits 265 offenders over a 6.8 year period.

This does not account for the new admission offenders who receive a new sentence for ACA and are serving time for another more serious offense. Based upon this year's admissions, 311 offenders had at least one new sentence for ACA in addition to their other offenses. Their sentence was less than the 20 year minimum proposed in this legislation and will now be required to serve 20 years consecutive to their other sentences. This group will result in a significant impact to annual DAI new admissions to prison, but is beyond the scope of this fiscal note.

This analysis exceeds the fiscal note time-line for estimating the population increase. Based upon the majority receiving 20 year sentences, DAI can expect to see the time served extended from 6.8 yrs to 13.6 yrs. The increase will begin in the seventh year after the enactment of the bill and after ten years the population will have increased by 933. The institutional population is estimated to increase by 3,500 by FY23. This analysis underestimates the impact by not factoring in those committing the crime during a misdemeanor or the 30 year and life sentences that a certain number will receive for subsequent violations which will put an even greater strain on DAI housing.

In summary, DOC will have no fiscal impact for the first three years following passage of the bill and the long-term effect is unknown but expected to exceed \$100,000 annually.

RS:LR:OD

ASSUMPTION (continued)

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for armed criminal action; be it either a felony or a misdemeanor charge.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Prosecution Services** and **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

| <u>FISCAL IMPACT - State Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
|--|---------------------|-------------------|-------------------|
| GENERAL REVENUE | | | |
| <u>Costs</u> - Department of Corrections | | | |
| Increase in prison population and related expenses from changes within the bill* | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| ESTIMATED NET EFFECT OF THE GENERAL REVENUE FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

* The Department of Corrections states the fiscal impact of the proposal will be a cost of more than \$100,000 per year, but is beyond the three-year scope of this fiscal note.

| <u>FISCAL IMPACT - Local Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
|---|---------------------|-------------------|-------------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, any person who commits a felony by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon is also guilty of armed criminal action and upon conviction must be punished by imprisonment of at least three years.

This bill specifies that any person who commits a felony or misdemeanor by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon is also guilty of armed criminal action and upon a finding of guilt or a plea of guilty or nolo contendere must be punished by a term of imprisonment of at least 20 years to run consecutively to any other punishment provided for the crime committed by, with, or through the use, assistance or aid of a dangerous instrument or deadly weapon. A person convicted of armed criminal action is not eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for 20 calendar years.

A person who is found guilty or pleads guilty or nolo contendere to a second offense of armed criminal action must be sentenced to a term of imprisonment of at least 30 years, and is not eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for 30 calendar years. The term must run consecutively to any other punishment provided for the crime committed by, with, or through the use, assistance or aid of a dangerous instrument or deadly weapon. Currently the mandatory minimum for a second offense of armed criminal action is five years.

Any person who is found guilty or pleads guilty or nolo contendere to a third or subsequent offense of armed criminal action must be sentenced to a term of life imprisonment and is not eligible for parole, probation, conditional release, or suspended imposition or execution of sentence. The term must run consecutively to any other punishment provided for the crime committed by, with, or through the use, assistance or aid of a dangerous instrument or deadly weapon. Currently the mandatory minimum for a third or subsequent offense of armed criminal action is 10 years.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 1234-01
Bill No. HB 670
Page 6 of 6
April 22, 2013

SOURCES OF INFORMATION

Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator

A handwritten signature in black ink, appearing to read "Ross Stroe".

Ross Stroe
Acting Director
April 22, 2013

RS:LR:OD