

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 520 – SB 1140

February 23, 2009

SUMMARY OF BILL: Authorizes an evidentiary inference that a defendant committed offense of simple possession of a controlled substance when the controlled substance is found in the defendant's blood.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures – \$71,100/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures – Exceeds \$100,000**

Assumptions:

- Currently, it is Class A misdemeanor, unless a minor is involved, for a person to knowingly possess or exchange a controlled substance unless it was obtained by a valid prescription. If a defendant has two or more prior convictions, violation is punished as a Class E felony. If a minor is involved, violation is punished as a felony under Tenn. Code Ann. § 39-17-417.
- Allowing inference will make it easier to prove an offense of simple possession of a controlled substance and may lead to an increase in convictions and therefore an increase in state and local expenditures.
- Based on the 10-year average (31) for admissions for simple possession for a third offense, DOC estimates a five percent increase (1.55) for a Class E felony conviction of simple possession as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- Due to the small number of offenders, no recidivism discount has been applied for additional simple possession offenses. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders. According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80.

- According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for two offenders in the tenth year is \$71,096.22 (\$35,548.11 x 2).
- According to the Administrative Office of the Courts, there has been an average of 1,885 Class A misdemeanors in each of the past five years. Total convictions, including general sessions courts, are estimated to be an average of 18,850 per year. The increase for local governments is estimated to exceed \$100,000 for costs resulting from increased jail time.
- Any increase in the caseloads for the state trial courts can be accommodated within existing resources.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in state or local revenue as a result of this bill.

**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:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc