

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 927 - HB 1348

March 31, 2009

SUMMARY OF BILL: Grants the court authority to order an outpatient mental health evaluation when a defendant is charged with a criminal offense or is facing a post-trial proceeding and is determined to be mentally retarded or there is question of the defendant's mental capacity during the commission of the crime.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$100,000

Assumptions:

- Current law authorizes the court to order an outpatient mental health evaluation for a defendant charged with a criminal offense whose mental capacity at the time of the commission of the crime is questionable. The proposed legislation will extend that authority to include a defendant who is mentally retarded and/or is pending a post-trial proceeding.
- According to the Administrative Office of the Courts (AOC), a post-trial proceeding could include a petition for a writ of error coram nobis, a state habeas corpus petition, a probation revocation, a parole revocation, a request for a post-trial DNA test, a post-conviction proceeding, or a motion to reopen a post-conviction proceeding.
- Pursuant to Tenn. Code Ann. § 33-7-301(a)(4), a competency evaluation is authorized during the post-conviction stage. If the defendant is indigent, AOC is responsible for paying the evaluation out of the Indigent Defense Fund. Otherwise, the cost of the evaluation is charged as court costs.
- According to the Department of Mental Health and Developmental Disabilities (DMHDD) and AOC, while the bill does not define "post-trial proceeding," it is estimated that court ordered outpatient mental health evaluations could be increased because the term post-trial proceeding is broader and will encompass several proceedings that are not covered under a post-conviction proceeding.
- According to DMHDD, once an outpatient evaluation procedure is completed, the individual being evaluated could be required to be

admitted for an inpatient evaluation. DMHDD is responsible for funding both the outpatient and inpatient evaluations.

- According to DMHDD, there is no statistical data to indicate the number of outpatient evaluations that may be ordered under the provisions of the bill. In FY07-08, there were 2,389 outpatient evaluations and 485 inpatient evaluations under the requirements of Tenn. Code Ann. § 33-7-301(a)(1).
- It is estimated that authorizing outpatient evaluations for any post-trial proceeding will result in an increase in outpatient evaluations of at least 10 percent, or 239 (2,389 x .10) additional outpatient evaluations.
- Each outpatient evaluation costs approximately \$500. DMHDD will incur an increase in expenditures in an amount which exceeds \$119,500 (239 x \$500).
- In FY07-08, approximately 20 percent of the outpatient evaluations were admitted for inpatient evaluations. If 20 percent of the 239 additional outpatient evaluations are admitted for inpatient evaluations, there will be approximately 48 (239 x .20) additional inpatient evaluations.
- Each inpatient evaluation costs approximately \$750 per day. If each inpatient evaluation lasted at least two days, there would be an increase in expenditures of \$72,000 (48 x 2 days x \$750 per day).

CERTIFICATION:

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

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a horizontal line underlining the name.

James W. White, Executive Director

/kml