

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 1429 – SB 1633

March 18, 2014

SUMMARY OF ORIGINAL BILL Authorizes a judge to order a second or third DUI offender to participate in a substance abuse treatment program as a condition of the offender's probation. The offender shall receive sentence reduction credits for time spent in the substance abuse treatment program.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Expenditures – \$1,830,600/Incarceration

Other Fiscal Impact – According to the Budget Office of the Department of Finance and Administration and the Department of Mental Health and Substance Abuse Services, the proposed legislation will allow DUI offenders to receive treatment other than residential, inpatient, treatment. Even though the proposed legislation will give more offenders access to treatment, and ADAT funds, the cost per day to Mental Health will be approximately 1/3 the cost of current treatment. The proposed legislation is not expected to increase yearly expenditures from the ADAT fund.

SUMMARY OF AMENDMENT (011723): Corrects a typographical error, inconsistencies, and a citation error. Adds a section to make clear that existing conditions of probation for substance abuse assessment and treatment do not apply to second and third DUI offenses for which a court does not order assessment or treatment.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On February 4, 2014, a fiscal memorandum was issued estimating a fiscal impact as:

Unchanged from the original fiscal note.

The fiscal impact of the original bill has been corrected. This memorandum is being corrected to identify the change in the estimated fiscal impact of the original bill.

(CORRECTED)

Unchanged from the corrected fiscal note.

Assumptions for the bill as amended:

HB 1429 – SB 1633 (CORRECTED)

- Under current law, a second DUI offender must serve a minimum sentence of 45 consecutive days in a county jail or workhouse; a third DUI offender must serve a minimum of 120 days.
- The proposed legislation gives judges the discretion to order as a condition of probation participation in a substance abuse treatment program by a second or third offender if the offender first completes a clinical substance abuse assessment and serves at least 15 days (if a second DUI offender) or 60 days (if a third DUI offender) in the county jail or workhouse.
- The offender shall receive sentence reduction credits for time served in the substance abuse treatment program.
- The proposed legislation will reduce by 50 percent the number of days an average second or third DUI offender serves in local jail.
- According to the Department of Safety, there has been an average of 843.6 third DUI offenders per year for the past five years.
- It is assumed that 20 percent (169 offenders) will successfully complete a substance abuse treatment program. This will decrease the time served in a county jail by 60 days (120 days – 60 days).
- 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. Population growth will account for 20 (169 x .1178) additional admissions for a total of 189 (169 + 20).
- The proposed legislation will not increase the average time served by an offender. Accordingly, a recidivism discount does not apply.
- The estimated 2014 cost per inmate per day for local jails is \$62.52.
- The decrease in local expenditures for third DUI offenders will be \$708,976.80 (189 offenders x 60 days x \$62.52).
- According to the Department of Safety, there has been an average of 2,673.2 second DUI offenders per year for the past five years.
- It is assumed that 20 percent (534.64 offenders) will successfully complete a substance abuse treatment program. This will decrease the time served in a county jail by 30 days (45 days – 15 days).
- 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. Population growth will account for 63 (535 x .1178) additional admissions for a total of 598 (535 + 63).
- The proposed legislation will not increase the average time served by an offender. Accordingly, a recidivism discount does not apply.
- The decrease in local expenditures for second DUI offenders will be \$1,121,608.80 (598 offenders x 30 days x \$62.52).
- The total decrease in local expenditures will be \$1,830,585.60 (708,976.80 + \$1,121,608.80).
- The proposed legislation will not increase the caseloads of the courts, district attorneys, or public defenders.
- The provisions of the bill prohibit the court from ordering the expenditure of public funds to provide treatment. This provision does not affect treatment provided by the

Department of Mental Health and Substance Abuse Services (DMHSAS) through the Alcohol and Drug Addiction Treatment (ADAT) Fund. According to the DMHSAS, current inpatient, residential treatment, which is the only treatment a current DUI offender is able to receive, costs \$160 per day. Intensive outpatient treatment costs \$60 per day. According to the Budget Office of the Department of Finance and Administration, the proposed legislation is not expected to increase yearly expenditures from the ADAT fund.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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