

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1377 - SB 1437

January 27, 2014

SUMMARY OF BILL: Creates a new offense of child abuse for exposing a child to the manufacture of methamphetamine. Restricts aggravated child abuse for exposing a child to the manufacture of methamphetamine to only those instances where the exposure results in bodily injury.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$39,400/Incarceration*

Increase State Expenditures - \$85,800

Increase Federal Expenditures - \$55,100

Increase Local Expenditures – \$400/Incarceration**

Assumptions:

- Under current law, one who exposes a child to the manufacture of methamphetamine commits aggravated child abuse, neglect, or endangerment (aggravated child abuse) if the child suffers injury or the child's health and welfare are adversely affected. The person will be convicted of a Class B felony if the child is over eight years old or a Class A felony if the child is eight years old or younger.
- The proposed legislation essentially splits the current offense into two offenses. A person commits child abuse, neglect, or endangerment (child abuse), not aggravated child abuse, if the person exposes a child to the manufacture of methamphetamine and the child's health and welfare are adversely affected. The person will be convicted of a Class A misdemeanor if the child is older than eight years old, rather than a Class B felony, or of a Class E felony if the child is eight years old or younger, rather than a Class A felony.
- Under the proposed legislation, a person still commits aggravated child abuse if the person exposes a child to the manufacture of methamphetamine and the child suffers injury. The person will still be convicted of a Class B felony if the child is older than eight years old or a Class A felony if the child is eight years old or younger.
- According to statistics from the Department of Correction (DOC), there has been an average of 11.8 admissions each year for the past 10 years for Class A felony (child eight years old or younger) aggravated child abuse. It is assumed that two percent ($11.8 \times .02 = 0.24$) of these admissions are related to the exposure of a child to the manufacture of

HB 1377 - SB 1437

methamphetamine. There is approximately one admission every four years for aggravated child abuse resulting from exposing a child eight years old or younger to the manufacture of methamphetamine.

- It is assumed that one admission every 10 years for Class A felony aggravated child abuse will involve a child younger than eight years old and result in the child's health and welfare being adversely affected, rather than resulting in injury, and be punished as a Class E felony rather than a Class A felony.
- The average time served for a Class A felony is 15.78 years (5,763.65 days). The average time served for a Class E felony is 1.29 years (471.17 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The annualized decrease in state expenditures is \$35,084 $\{[(5,763.65 \text{ days} \times \$66.29) - (471.17 \text{ days} \times \$66.29)] / 10\}$ based upon one admission every 10 years being prosecuted as a Class E felony rather than a Class A felony under the proposed legislation.
- According to statistics from the DOC, there has been an average of 6.1 admissions each year for the past 10 years for Class B felony (child older than eight years old) aggravated child abuse. It is assumed that two percent ($6.1 \times .02 = .12$) of these admissions are related to the exposure of a child to the manufacture of methamphetamine. There is approximately one admission every five years for aggravated child abuse resulting from exposing a child older than eight years old to the manufacture of methamphetamine.
- It is assumed that one admission every 10 years for Class B felony aggravated child abuse will involve a child older than eight years old and result in the child's health and welfare being adversely affected, rather than resulting in injury, and be punished as a Class A misdemeanor rather than a Class B felony.
- The average time served for a Class B felony is 1.8 years (657.45 days). It is assumed that the average offender convicted of Class A misdemeanor child abuse under the draft legislation will serve at least 60 days. Having one Class B felony conviction prosecuted as a Class A misdemeanor will decrease state expenditures and increase local expenditures as housing misdemeanants is the responsibility of the local governments.
- According to the DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29. The estimated 2014 cost per inmate per day for local jails is \$62.52.
- The annualized decrease in state expenditures is \$4,358 ($657.45 \text{ days} \times \$66.29 / 10$) based upon one admission every 10 years being prosecuted as a Class A misdemeanor under the proposed legislation. The annualized increase in local expenditures is \$375 ($60 \text{ days} \times \$62.52 / 10$).
- The net decrease in state expenditures is \$39,442 ($\$35,084 + \$4,358$).
- The legislation will have only a negligible effect on the caseload of the courts, the District Attorneys General Conference, and the District Public Defenders Conference given that it will only affect one offense every 10 years. Any impact can be accommodated within existing resources.
- According to the Department of Children's Services (DCS), the bill would delay certain termination of parental rights (TPR) proceedings. Under current law, DCS does not need to show a child exposed to methamphetamine suffered bodily injury to show a parent committed aggravated child abuse. The bill would require DCS to show bodily injury in meth exposure cases.
- According to DCS, there are approximately 265 cases per year of children with meth

involvement. DCS estimates approximately 10 percent, or 27 cases, per year would be delayed because DCS would have to show bodily injury to the child to succeed in a TPR proceeding.

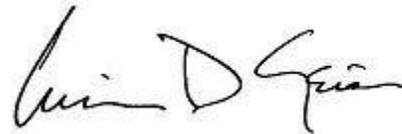
- It is assumed that the bill would delay these 27 cases by a combined 60 days.
- The average cost per day of a child in DCS custody is \$87 resulting in an increase in expenditures of \$140,940 (27 cases x 60 days per case x \$87 per day).
- Of the \$140,940 in increased expenditures, 49 percent (\$69,061) are TennCare funds, 7 percent (\$9,866) are Title IV-E federal funds, and the remaining 44 percent (\$62,013) are state dollars.
- Of the \$69,061 in TennCare funds, approximately \$23,826 are state funds at a rate of 34.5 percent and \$45,235 are federal funds at a 65.5 percent match rate.
- The total increase in expenditures will be \$85,839 (\$62,013 + \$23,826) in state funds and \$55,101 (\$9,866 + \$45,235) in federal funds.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated 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:

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



Lucian D. Geise, Executive Director

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