

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 1904 - SB 2023

March 20, 2014

SUMMARY OF BILL: Requires the Department of Finance & Administration, by January 1, 2015, to create a program for local governmental entities to purchase prescription drugs through state methods at reduced prices.

Requires the Department of Mental Health and Substance Abuse Services (DMHSAS) to provide training to law enforcement officers in order to enable officers to recognize mentally impaired individuals at risk of coming into custody and to suggest appropriate protocols for responses to such individuals.

Authorizes the Commissioner of DMHSAS to contract with regional mental health providers at appropriately secure hospitals and facilities in order to provide treatment and evaluation of pretrial detainees in county jails and transfers from correctional facilities.

Authorizes reimbursement to counties for housing convicted felons who are awaiting sentencing in county jails from the date of conviction.

Authorizes an inmate of a public institution to be eligible for assistance to the full extent permitted by federal law. Authorizes suspension, but not termination, of eligibility for assistance during periods of actual incarceration.

Authorizes inmates of public institutions to be eligible for medical assistance to the full extent of federal law when the inmate is a patient in a medical institution. Authorizes suspension, but not termination, of eligibility for medical assistance during periods of actual incarceration. Authorizes inmates to be eligible for temporary reinstatement of medical assistance for care received outside of a jail or correctional facility in a hospital or other health care facility for more than 24 hours.

Requires the Commissioner of the Department of Finance & Administration to coordinate with the Commissioner of the Department of Correction and with county mayors and sheriffs in order to implement the proposed legislation relative to assistance for inmates. Requires the Commissioner of the Department of Finance & Administration to seek any state plan or federal waivers necessary to implement the proposed legislation relative to assistance for inmates.

ESTIMATED FISCAL IMPACT:

On March 18, 2014, Fiscal Review issued a fiscal note for the proposed legislation indicating the following fiscal impact:

*Increase State Expenditures – Net Impact – \$8,221,700/FY14-15
\$7,531,700/FY15-16 and Subsequent Years*

*Increase Federal Expenditures – \$3,171,500/FY14-15
\$3,021,500/FY15-16 and Subsequent Years*

Increase Local Revenue – \$1,486,500/FY14-15 and Subsequent Years

Decrease Local Expenditures - \$1,293,800/FY14-15 and Subsequent Years

Other Fiscal Impact – The average cost to house an inmate in a local jail is \$62.52. Under current law, local governments expend approximately \$3,132,712 each year to house the applicable offenders. Under the proposed legislation, the State would reimburse local governments approximately \$1,486,528. Local governments will continue incurring approximately \$1,646,184 in recurring expenditures for the purpose of housing these offenders.

Upon further review, this impact was in error. The estimated fiscal impact of the proposed legislation is:

(CORRECTED)

**Increase State Expenditures – Net Impact – \$8,916,400/FY14-15
\$8,226,400/FY15-16 and Subsequent Years**

**Increase Federal Expenditures – \$3,171,500/FY14-15
\$3,021,500/FY15-16 and Subsequent Years**

Increase Local Revenue – \$1,486,500/FY14-15 and Subsequent Years

Decrease Local Expenditures - \$1,988,500/FY14-15 and Subsequent Years

Other Fiscal Impact – The average cost to house an inmate in a local jail is \$62.52. Under current law, local governments expend approximately \$1,838,895 each year to house the applicable offenders. Under the proposed legislation, the State would reimburse local governments approximately \$1,486,528. Local governments will continue incurring approximately \$352,367 in recurring expenditures for the purpose of housing these offenders.

Assumptions:

Assumptions Relative to the Prescription Drug Purchase Program

- According to the Bureau of TennCare, developing a prescription drug purchase program will require the bureau to contract with a consultant to develop a pro forma contract and an RFP. The cost of the consultant will be \$500,000.
- Once the program is developed, the bureau will need to hire a pharmacist and a pharmacy technician to maintain the program.
- The salary and benefits for a pharmacist are \$190,345.56 [$\$150,000 \text{ salary} + (\$150,000 \times .1503) \text{ benefits} + (\$150,000 \times .0765) \text{ FICA} + \$6,325.56 \text{ insurance}$].
- The salary and benefits for a pharmacy technician are \$67,665.56 [$\$50,000 + (\$50,000 \times .1503) \text{ benefits} + (\$50,000 \times .0765) \text{ FICA} + \$6,325.56 \text{ insurance}$].
- The proposed legislation will increase recurring state expenditures by \$258,011.12 ($\$190,345.56 + \$67,665.56$) and one-time state expenditures by \$500,000.

Assumptions Relative to Training Police Officers

- According to DMHSAS, the proposed legislation would require the department to train the trainers at police academies, train new officers, and develop a two-hour, web-based training session for Peace Officers Standards and Training (POST).
- DMHSAS will have to develop a full eight-hour curriculum to train the trainers, a four-hour curriculum for training new officers, and a two-hour web-based curriculum for POST.
- According to DMHSAS, the cost of three eight-hour train-the-trainer sessions will be \$15,000 (3 8-hour sessions x \$5,000 per session).
- The cost for new officer training will be \$15,000 which includes five annual sessions at six academies (5 4-hour sessions x 6 academies x \$500 per session).
- The cost to develop the POST curriculum will be \$40,000 in on-time expenditures and \$5,000 recurring.
- The proposed legislation will result in one-time state expenditures of \$40,000 and increase recurring state expenditures by \$35,000 ($\$15,000 + \$15,000 + \$5,000$).

Assumptions Relative to Contracting with Regional Mental Health Providers

- Section 3 of the proposed legislation authorizes the Commissioner of DMHSAS to contract for forensic evaluations and treatment of pretrial detainees in county jails and transfers from correctional facilities. It is assumed for purposes of this fiscal note that the commissioner will contract for such services.
- According to DMHSAS, the proposed legislation will increase state expenditures for treatment and evaluation of pretrial detainees in county jails and transfers from correctional facilities because evaluations in a secure facility by a forensic service provider costs more per patient than evaluation and treatment in a state mental health institute.
- Currently, the average time for conducting a forensic evaluation is 21.1 days. DMHSAS recorded 8,213 evaluation days in CY2013. DMHSAS conducts approximately 389 evaluations per year ($8,213 \text{ days} / 21.1 \text{ average length of evaluation} = 389.24 \text{ evaluations}$). DMHSAS assumes that evaluations at private facilities will average 30 days, or 11,670 total evaluation days ($389 \text{ evaluations} \times 30 \text{ days}$).

- DMHSAS assumes that the proposed legislation will result in 11,670 evaluation days at a private facility.
- DMHSAS assumes that the average cost per day will be \$966.18 resulting in an increase in state expenditures of \$11,275,321 (11,670 days x \$966.18).
- The average cost per day at a state mental health institute is \$450 resulting in a decrease in state expenditures of \$3,695,850 (8,213 days x \$450) and The proposed legislation will also result in a decrease in state expenditures from variable costs associated with evaluation at state mental health institutes. DMHSAS assumes the decrease in variable costs at \$678,100.
- The proposed legislation will result in a net increase in state expenditures of \$6,901,371 (\$11,275,321 - \$3,695,850 - \$678,100).

Assumptions Relative to Reimbursing Local Jails for Incarceration Between Conviction and Sentencing

- According to the Administrative Office of the Courts (AOC), there are 363 jury trials and 644 bench trials each year. It is assumed that 90 percent result in convictions (326.7 jury trials, 579.6 bench trials).
- The Department of Correction (DOC) assumes that the average time between conviction in a jury trial and sentencing is 51 days. The proposed legislation would result in local governments being reimbursed for 16,661.7 days for housing inmates (326.7 jury trials x 51 days).
- The DOC assumes that the average time between conviction in a bench trial and sentencing is 22 days. The proposed legislation would result in local governments being reimbursed for 12,751.2 days (579.6 bench trials x 22 days).
- The reimbursement rate for local governments is \$50.54 per inmate per day. The average cost to house an inmate in a local jail is \$62.52.
- The proposed legislation would result in local governments being reimbursed for 29,412.9 days (16,661.7 + 12,751.2) for a total of \$1,486,527.97 (29,412.9 x \$50.54).

Assumptions Relative to Medical Assistance of Inmates

- Under current law, inmates are not eligible for coverage under TennCare. The proposed legislation allows inmates to be temporarily reinstated and receive any federal medical assistance for which they qualify when such inmates receive medical care in a hospital outside of a correctional facility for more than 24 hours (“acute care”).
- According to the Bureau of TennCare, the proposed legislation will require the bureau to program the managed care system to handle the suspensions and reinstatements of inmates as they receive care outside of the public institution in a hospital and for new specialists to coordinate with local jails and to enter inmate information relative to suspensions and reinstatements.
- The system will require \$300,000 in one-time programming costs with \$150,000 being federal funds at a match rate of 50 percent and \$150,000 being state funds.
- The bureau assumes that it will need to hire one managed care program manager and nine managed care specialists. The funds for these positions will be 25 percent state match rate and 75 percent enhanced federal match rate.
- The salary and benefits for a managed care program manager are \$79,933.56 [\$60,000 salary + (\$60,000 x .1503) benefits + (\$60,000 x .0765) FICA + \$6,325.56 insurance].

- The salary and benefits for a managed care specialist are \$55,397.56 [$\$40,000 + (\$40,000 \times .1503)$ benefits + $(\$40,000 \times .0765)$ FICA + \$6,325.56 insurance]. The total for nine specialists is \$498,578.04 ($\$55,397.56 \times 9$ specialists).
- The proposed legislation will increase state expenditures by \$144,627.90 [$(\$79,933.56 + \$498,578.04) \times .25$] and federal expenditures by \$433,883.70 [$(\$79,933.56 + \$498,578.04) \times .75$].
- The bureau assumes that 1,000 inmates (500 state and 500 local) will be covered under the proposed legislation and will incur costs of \$3,977 per inmate. It is assumed that the DOC and local governments are currently paying the same rate for acute care relative to inmates in state and local custody.
- The proposed legislation would shift the fiscal responsibility of local inmate care from local governments to TennCare. The proposed legislation will result in a decrease of local expenditures of \$1,988,500 (500 inmates \times \$3,977). There will be a corresponding increase in state expenditures of \$1,988,500 for the state to take over this responsibility.
- The proposed legislation will also shift state responsibility from the DOC to TennCare resulting in \$1,988,500 (500 inmates \times \$3,977) in state expenditures.
- The net decrease in state expenditures will be \$599,135 [$\{(\$1,988,500 \text{ local costs} + \$1,988,500 \text{ TennCare costs}) \times .34935 \text{ state share}\} - \$1,988,500 \text{ current DOC costs}$].
- The current federal match is 65.065 percent resulting in an increase of federal expenditures of \$2,587,635.05 ($\$3,977,000 \text{ state expenditures} \times .65065$).

Assumptions Relative to the Cumulative Impact of the Proposed Legislation

- In FY14-15, the net impact of the proposed legislation will be an increase in state expenditures of \$8,916,403 ($\$258,011.12$ recurring + \$500,000 one-time + \$40,000 one-time + \$35,000 recurring + \$11,275,321 recurring + \$1,486,527.97 recurring + \$150,000 one-time + \$144,627.90 recurring - \$3,695,850 recurring - \$678,100 recurring - \$599,135 recurring).
- In FY15-16 and subsequent years, the net impact of the proposed legislation will be an increase in state expenditures of \$8,226,403 ($\$258,011.12$ recurring + \$35,000 recurring + \$11,275,321 recurring + \$1,486,527.97 recurring + \$144,627.90 recurring - \$3,695,850 recurring - \$678,100 recurring - \$599,135 recurring).
- In FY14-15, the proposed legislation will increase federal expenditures by \$3,171,518.75 ($\$2,587,635.05$ recurring + \$433,883.70 recurring + \$150,000 one-time).
- In FY15-16 and subsequent years, the proposed legislation will increase federal expenditures by \$3,021,518.75 ($\$2,587,635.05$ recurring + \$433,883.70 recurring).
- The proposed legislation will increase local revenue by \$1,486,527.97.
- The proposed legislation will decrease local expenditures by \$1,988,500.

CERTIFICATION:

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

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm