

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1498 - SB 1340

March 27, 2019

SUMMARY OF ORIGINAL BILL: Authorizes the Commissioner of the Department of Correction (DOC), no less than 30 days before a person's scheduled release from a correctional facility, to certify that a person who is in the custody of the DOC poses a substantial likelihood of serious harm to the public upon release from custody and transmit a certificate to the clerk of the court that has jurisdiction.

Requires the clerk to send a copy of the certificate to the person and the district attorney general with jurisdiction in that district. The court shall order a hearing to determine whether the person poses a substantial likelihood of serious harm, to the public if released from custody.

Requires the court to order the defendant be examined by two licensed physicians, or one licensed physician and one licensed psychologist, to determine whether the person poses a substantial likelihood of serious harm to the public if released. Each physician or psychologist shall submit an examination report to the court and, if appropriate, a certificate of need for care and treatment.

Directs the court, if the person poses a substantial likelihood of serious harm to the public if released from custody, to commit the person to the custody of the Commissioner of the Department of Mental Health and Substance Abuse Services (DMHSAS) upon the person's scheduled release by the DOC. Requires the Commissioner of DMHSAS to place the person for treatment in a suitable facility, until a court determines that the person's condition is such that the person no longer poses a substantial likelihood of serious harm to the public if released from custody.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (006546): Adds language to the proposed legislation that requires the Commissioner of the Department of Correction (DOC) to determine from an examination that a person who is in custody of the DOC has a mental illness or serious emotional disturbance and because of the mental illness or serious emotional disturbance poses a substantial likelihood of serious harm, then the Commissioner will, no less than 30 days before the person's scheduled release from a correctional facility, file a complaint with the clerk of the court that has jurisdiction under Tenn. Code Ann. § 33-3-603 for the judicial commitment of the person to a hospital or treatment resource. Requires the clerk to serve to the person a copy of the

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complaint and to send a copy of the complaint to the district attorney general with jurisdiction in that district. States that a complaint filed under this section stays the release of the person pending completion of a hearing pursuant to Title 33, Chapter 3, Part 6.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Currently, Tennessee Code Annotated § 41-22-222 requires the DMHSAS, upon the request of the Commissioner of DOC, to examine all individuals eligible for release or about to be paroled from the penal institutions of the state, with the view of determining whether the individuals are mentally ill or have symptoms of mental illness and report its findings to the Commissioner.
- Tennessee Code Annotated § 41-21-223 allows the director of an institution of the DOC, within one month of the time of release of an individual, to determine from an examination if the individual is mentally ill and because of such illness possesses a likelihood of serious harm. If the determination is made, the director petitions the court for a judicial commitment to a hospital or treatment resource.
- Tennessee Code Annotated § 33-6-503 requires that no defendant can be judicially committed unless two licensed physicians, or one licensed physician and one licensed psychologist, file in the commitment proceeding certificates of need for care and treatment.
- Based on information provided by the Department of Correction, the proposed legislation is similar to current policies and procedures and can be accommodated within existing resources without an increased appropriation or reduced reversion.
- It is assumed the DMHSAS will place the individual in any available, suitable facility and can accommodate the proposed legislation within existing resources without an increased appropriation or reduced reversion.
- Any increase in caseloads for the courts can be accommodated within existing resources without an increased appropriation or reduced reversion.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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