

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 950 - SB 806

March 19, 2019

SUMMARY OF BILL: Divides the Electronic Monitoring Indigency Fund (EMIF) into two accounts:

- The ignition interlock account used for the eligible costs associated with the lease, purchase, installation, removal, and maintenance of ignition interlock devices or with any other cost or fee associated with such a functioning device for persons determined by the court to be indigent, which will be funded by state-appropriated monies as well as a portion of the fees assessed; and
- The transdermal monitoring device, other alternative alcohol or drug monitoring device, or a global positioning monitoring device account used for the eligible costs associated with the use, by persons determined by the court to be indigent, which will be funded by state-appropriated monies, excess funds from the ignition interlock account, or money from each local government that chooses to utilize this fund.

Authorizes the commingling of the money in the two accounts, but requires that the monies are accounted for separately with separate accounting for each account's principal and income. Authorizes the Treasurer to transfer money from one account to the other to pay for eligible devices.

Authorizes the Treasurer, if determined or anticipated that the EMIF has or will have insufficient funds to pay for eligible claims or invoices as they are received, to temporarily stop accepting, determining eligibility for, or paying claims or invoices submitted by providers of monitoring devices. Authorizes the Treasurer to begin accepting or paying claims or invoices submitted by providers of monitoring devices with service dates on or after the date on which it is determined that there is a sufficient amount of money in the fund to pay at least six months of projected expenditures from the date that the fund reopens.

Reallocates any surplus in the EMIF as 50 percent to the Department of Mental Health and Substance Abuse Services (DMHSAS) to be placed in the Alcohol and Drug Addiction Treatment Fund and 50 percent to the Department of Safety (DOS), Tennessee Highway Safety Office, to provide grants to local law enforcement agencies to obtain and maintain equipment or personnel needed in the enforcement of alcohol-related traffic offenses.

Authorizes local governments to participate in the non-interlock monitoring device account by having the costs for eligible devices paid from the fund for each local government's indigent defendants by passing a resolution indicating the maximum liability that the local government commits to its participation. Requires the state to provide funds matching each local government's maximum liability, or budgeted amount, subject to an appropriation by the state.

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Requires a participating local government to pay half the costs associated with non-interlock monitoring devices for indigent defendants within the local government's jurisdiction and the state will pay the remaining half.

Authorizes the Treasurer to use any funds on or after July 1, 2019, to pay for the use of global positioning monitoring devices by indigent persons as a condition of bail or sentencing between July 1, 2016, and July 1, 2019.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –

\$90,600/Electronic Monitoring Indigency Fund

\$17,400/Highway Safety Office

\$17,400/Alcohol and Drug Addiction Treatment Fund

Increase State Expenditures – \$90,600/Electronic Monitoring Indigency Fund

Increase Local Expenditures – \$90,600/Permissive

Other Fiscal Impact - To the extent additional state funds are deposited to and expended from the newly-divided Electronic Monitoring Indigency Fund as a direct result of this legislation, there will be a shift of use for such state funding from other general purposes of state government to the purposes specified in this legislation.

The Governor's FY19-20 proposed budget document for FY19-20 (pages B-38 and B-39) includes \$1,500,000 in one-time operational funding for the EMIF.

Assumptions:

- Pursuant to Tenn. Code Ann. § 55-10-419(a)(1)(A), a fund known as the EMIF shall be used to pay for the costs associated with the lease, purchase, installation, removal, and maintenance of ignition interlock devices or with any other cost or fee associated with a functioning ignition interlock device and the costs associated with the use of a transdermal monitoring device other alternative alcohol or drug monitoring device for persons deemed by the court to be indigent.
- Under the provisions of this legislation, that fund shall be divided in order to separately fund ignition interlock devices and transdermal monitoring devices, other alternative alcohol or drug monitoring devices, or a global positioning monitoring devices.
- Any additional work to the Department of Treasury, as a result of this legislation, can be accomplished within existing resources and personnel.
- The current structure of the surplus EMIF allocation is 60 percent to the Tennessee Hospital Association (THA) for grants to hospitals that have been designated as critical access hospitals under the Medicare rural flexibility program for the purposes of

purchasing medical equipment, enhancing high technology efforts and expanding healthcare services in underserved areas, 20 percent to the DMHSAS and placed in the Alcohol and Drug Addiction Treatment Fund, and 20 percent to DOS, the Tennessee Highway Safety Office, to provide grants to local law enforcement agencies to obtain and maintain equipment or personnel needed in the enforcement of alcohol related traffic offenses.

- Under this legislation, the DOS, the Tennessee Highway Safety Office, will receive 50 percent of any surplus; and the DMHSAS, the Alcohol and Drug Addiction Treatment Fund, will receive the remaining 50 percent of any surplus. The THA will no longer receive any portion of surplus funds.
- In 2018, a surplus of approximately \$58,000 was transmitted to these three entities (\$11,600 to DOS; \$11,600 to DMHSAS; and \$34,800 to THA).
- Assuming that figure remains constant, the recurring increase in revenue to DOS, the Tennessee Highway Safety Office, is estimated to be \$17,400 [(\$58,000 x 50%) - \$11,600], which is 50 percent of the share that would go to the THA under current law.
- The recurring increase in revenue to DMHSAS, the Alcohol and Drug Addiction Treatment Fund, is estimated to be \$17,400 [(\$58,000 x 50%) - \$11,600], which is the remaining 50 percent of the share that would go to the THA under current law.
- Under the provisions of this legislation, each local government is authorized to participate in the transdermal monitoring device, other alternative drug and alcohol monitoring device, and global positioning monitoring device account by having the costs for eligible devices paid from the fund for each local government's indigent defendants.
- Each participating local government will pay 50 percent of the costs associated with transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices for indigent defendants within the local government's jurisdiction, and the state will match the local government's cost by providing the remaining 50 percent share of funding.
- It can be reasonably estimated that some local governments will participate.
- A third party contract would be required for the transdermal monitoring devices and actual monitoring of the devices. According to information from the United States Department of Transportation and the Traffic Injury Research Foundation, there is usually an activation fee, a daily charge for monitoring the device, and a deactivation fee.
- The fees for transdermal monitoring devices are approximately \$75 each for activation and deactivation, and daily monitoring charges of approximately \$12 per day.
- The total cost related to a transdermal monitoring device is estimated to be \$4,530 per year per person [\$75 activation + \$75 deactivation + (\$12 monitoring x 365 days)].
- An estimated 200 people each year will be assigned a transdermal monitoring device. It is estimated that approximately 20 percent of those (or 40 individuals) will be declared to have a hardship and will require funding assistance from the EMIF.
- The average length of time a judge will order a person to wear a transdermal monitoring device is not known. For purposes of this fiscal note, it is assumed an average of 40 individuals will be required to wear a transdermal monitoring device at any given time.
- The recurring, permissive increase in local expenditures to the EMIF is estimated to be \$90,600 [(40 individuals x \$4,530) / 50% local liability].

- Under the provisions of this legislation, to obtain money from participating local governments, the state may either bill the local governments for costs associated with eligible devices or draw revenue from the local government's state-shared taxes, resulting in a recurring increase in state revenue to the EMIF estimated to be \$90,600.
- All additional revenue to the EMIF derived from local sources will be spent for purposes consistent with the fund.
- The increase in state expenditures to the EMIF are estimated to be \$90,600 [(40 individuals x \$4,530) / 50% state liability].
- The Governor's FY19-20 proposed budget document (pages B-38 and B-39) includes \$1,500,000 in one-time operational funds for the EMIF.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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