

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 987 - SB 1218

March 11, 2019

SUMMARY OF BILL: Reclassifies the possession or selling of marijuana under one ounce as a class A misdemeanor rather than a class E felony. Defines “casual exchange” as the spontaneous passing of a small amount of marijuana that does not involve the payment of money, or a gift card, debit card, credit card, or any other card, coupon, or token that is capable of being exchanged for money, merchandise, or goods. Defines “marijuana” as marijuana in form of a plant. Prohibits a jury from inferring that someone possessing or casually exchanging marijuana in an amount less than one ounce was possessing or exchanging for the purpose of selling or distributing.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$752,700 Incarceration*

Increase Local Expenditures – \$21,100**

Assumptions:

- The proposed legislation will decrease admissions for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and one ounce.
- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), one commits a Class E felony for possessing with intent to sell marijuana in an amount between one-half ounce and 10 pounds. The proposed legislation would allow possession with intent of marijuana in an amount between one-half ounce and one ounce. The proposed legislation will result in fewer Class E felony admissions for possession with intent for amounts of marijuana between one-half ounce and one ounce.
- Based on information provided by the Department of Correction (DOC), there has been an average of 216.4 admissions per year for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and 10 pounds.
- This analysis assumes offenders imprisoned for possession with intent to sell or selling marijuana possessed a substantial amount of marijuana, which likely exceeded one ounce. It is assumed that the proposed legislation will reduce these admissions by 10 percent (216.4 admissions x 10% = 22 admissions).
- The average time served for a Class E felony is 1.28 years (467.52 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$73.18.

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- The proposed legislation will decrease recurring state incarceration costs by \$752,688 (22 admissions x 467.52 days x \$73.18).
- The proposed legislation will result in 22 fewer felony cases each year. The proposed legislation will not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in workforce.
- The proposed legislation makes possession of an amount of marijuana between one-half ounce and one ounce a Class A misdemeanor.
- This analysis assumes individuals convicted of a Class A misdemeanor for possession of an amount of marijuana between one-half and one ounce will spend an average of 15 days in local jail.
- The average cost to local governments to house an inmate in a local jail facility is \$64 per day.
- The proposed legislation will result in a recurring mandatory increase in local expenditures estimated to be \$21,120 [22 admissions x 15 days x \$64].

**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.



Krista Lee Carsner, Executive Director

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