

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1474 - SB 1320

March 17, 2019

SUMMARY OF BILL: Requires a peace officer to base a determination regarding a person's likelihood to appear in court on the arrested person's previous failure to appear when determining if a citation should be issued in lieu of arrest for simple possession.

ESTIMATED FISCAL IMPACT:

Decrease Local Expenditures – Exceeds \$179,400

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-17-418, simple possession or casual exchange of a controlled substance and distribution of less than one-half an ounce of marijuana to an adult are Class A misdemeanor offenses.
- The proposed legislation would require a peace officer to issue a citation to persons arrested solely for misdemeanor simple possession unless the officer determines that there is a reasonable likelihood the person will fail to appear in court based on previous failures to appear.
- Pursuant to Tenn. Code Ann. § 40-7-118(b)(1):
 - A citation to appear in court is required to be issued to a person committing a misdemeanor in the presence of a peace officer.
 - If the peace officer is serving an arrest warrant for the commission of a misdemeanor, it is the discretion of the issuing magistrate whether the person is to be arrested or issued a citation.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 1,869 Class A misdemeanor convictions under Tenn. Code Ann. § 39-17-418 each year over the past five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are a total of 18,690 convictions ($1,869 / 10\% = 18,690$) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-418.
- This analysis assumes:
 - At least 15 percent, or 2,803 ($18,690 \text{ per year} \times 15\%$) of persons currently arrested for misdemeanor simple possession will be issued a citation in lieu of arrest as a result of this legislation.
 - Currently such persons would spend at least one night in a local jail facility due to the inability to post bail.

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- The average cost to local government to house an inmate in a local jail facility is \$64 per day.
- The proposed legislation will result in a recurring decrease in local expenditures estimated to be \$179,392 (\$64 per day x 2,803 persons x 1 night) statewide annually.

CERTIFICATION:

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

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jrh