

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2188 – SB 2525

March 6, 2020

SUMMARY OF BILL: Creates a Class A misdemeanor offense for the possession of a firearm while in the possession of a Schedule I, II, III, or IV controlled substance or paraphernalia.

ESTIMATED FISCAL IMPACT:

Increase Local Expenditures - \$897,100/FY20-21 and Subsequent Years*

Assumptions:

- With few exceptions, it is a felony offense to possess a Schedule I, II, III, or IV controlled substance. Per this analysis, it is estimated that additional incarceration will not be sentenced on felony offenses.
- Pursuant to Tenn. Code Ann. § 39-17-418, it is a Class A misdemeanor to distribute a small amount of marijuana not in excess of one-half ounce.
- 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.
- Data from various sources indicated that approximately 44 percent of Tennesseans own firearms.
- Therefore, it can be reasonably assumed that at least five percent of the 18,690 convictions would also be in possession of a firearm at the time of arrest, resulting in an average of 934.5 ($18,690 \times 5\%$) additional Class A misdemeanor convictions each year under this legislation.
- A Class A misdemeanor offense is punishable by not greater than 11 month, 29 days in jail or a fine not to exceed \$2,500, or both.
- This analysis estimates the average sentence length for a violation of an extreme risk protection order is 15 days in local jail.
- The average cost to local governments to house an inmate in a local jail facility is \$64 per day.
- Creating a Class A misdemeanor offense for the offense of the possession of a firearm while in the possession of a Schedule I, II, III, or IV controlled substance or paraphernalia will lead to a recurring mandatory increase in local expenditures estimated

to exceed \$897,120 [(934.5 admissions x 15 days) x \$64] in FY20-21 and subsequent years.

- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly increase local revenue.

**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

/jmg