

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7027

August 21, 2023

SUMMARY OF BILL: Requires the cost of court-ordered mental health evaluation and treatment for criminal defendants charged with only of a misdemeanor to be paid by the state. Takes effect October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures - \$2,490,000/FY23-24
\$3,320,000/FY24-25 and Subsequent Years

Decrease Local Expenditures - \$1,033,500/FY23-24
\$1,378,000/FY24-25 and Subsequent Years

Assumptions:

- Under current law, pursuant to Tenn. Code Ann. § 33-7-304, the cost of court-ordered mental health evaluation and treatment for a defendant charged with only a misdemeanor offense is a charge upon the funds the county.
- These services include outpatient evaluations, inpatient evaluations, and inpatient treatment for defendants deemed incompetent to stand trial.
- The proposed legislation will require the costs of such court-ordered evaluations and treatment to be charged to the state, rather than to counties.
- The data found in the *Forensic and Juvenile Court Services Annual Report for the period July 1, 2021 – June 30, 2022 (FY 22)* issued by the Department of Mental Health and Substance Abuse Services (DMHSAS) is being used for this analysis and is included in the tables below.
- Based on the historical data for the previous ten fiscal years, there is an average of 2,017 forensic outpatient evaluations annually of which 18 percent, or 355, are for misdemeanor offenses:

<u>Fiscal Year</u>	<u>Outpatient</u>		
	<u>Evaluations</u>	<u>Misdemeanors</u>	<u>Misdemeanor Evaluations</u>
FY13-14	1899	18%	342
FY14-15	1841	17%	313
FY15-16	1930	19%	367
FY16-17	1801	16%	288
FY17-18	2005	20%	401
FY18-19	2156	17%	367
FY19-20	2045	17%	348
FY20-21	1844	15%	277
FY21-22	2347	18%	422
FY22-23	2302	19%	439
Average	2017	18%	355

- The requirement for counties to cover the costs of misdemeanor offense evaluations began in FY09-10. Prior to this requirement change, outpatient evaluations for misdemeanor offenses were consistently 30 to 33 percent of all evaluations. For purposes of this analysis, it is estimated there will be at least a 12 percent (30% - 18%) increase in outpatient evaluations as a result of counties no longer being responsible for the costs.

Outpatient Evaluations	355
Increase in Evaluations 12%	242
Total Outpatient Evaluations	597

- The cost of an outpatient mental health evaluation is approximately \$800 per evaluation. The annual cost for outpatient evaluations of misdemeanor defendants is estimated to be \$477,632 (597 x \$800).

Total Outpatient Evaluations	597
Cost per Evaluation	\$800
Total Outpatient Evaluation Costs	\$477,632

- Of the average 2,017 forensic outpatient evaluations, it is estimated an average of 510 are referred for inpatient evaluations of which 13 percent, or 65, are for misdemeanor offenders. Additionally, an average of 12 misdemeanor inpatient evaluations will receive further inpatient treatment:

Fiscal Year	Inpatient				Misdemeanor Commits
	Evaluations	Misdemeanors	Misdemeanor Evaluations	Commits	
FY13-14	446	13%	58	25%	14
FY14-15	401	14%	56	21%	12
FY15-16	442	14%	62	19%	12
FY16-17	443	14%	62	22%	14
FY17-18	512	16%	82	21%	17
FY18-19	537	11%	59	16%	9
FY19-20	489	10%	49	14%	7
FY20-21	483	10%	48	21%	10
FY21-22	607	11%	67	18%	12
FY22-23	741	14%	104	15%	16
Average	510	13%	65	19%	12

- Inpatient misdemeanor evaluations and treatment experienced a similar decrease after the counties were required to incur the costs of the evaluations and treatment. Prior to this requirement change, inpatient evaluations for misdemeanor offenses were 34 percent of all evaluations. For purposes of this analysis, it is estimated there will be at least a 20 percent (34% - 13% average = 21%) increase in inpatient evaluations as a result of counties no longer being responsible for the costs.

Inpatient Evaluations	65
Increase in Evaluations 20%	102
Total Inpatient Evaluations	167

- Inpatient mental health evaluations and services are billed at a negotiated rate of approximately \$450 per day. The average length of stay for inpatient evaluation is estimated to be 23 days.

Total Inpatient Evaluations	167
Cost per Inpatient Day	\$450
Total Days	23
Total Inpatient Evaluation Costs	\$1,728,657

- The average length of stay for inpatient treatment for defendants found incompetent to stand trial is estimated to be 78 days.

Total Inpatient Evaluations	167
Total Inpatient Treatment (19%)	32
Cost per Inpatient Day	\$450
Total Treatment Days	78
Total Treatment Costs	\$1,113,723

- The total increase in state expenditures will be \$3,320,012 (\$477,632 + \$1,728,657 + \$1,113,723) in FY24-25 and subsequent years.

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- Counties are only responsible for the average yearly cost of evaluations and treatments, not any estimated increase in services to be paid for by the state.
- Therefore, the total decrease in local expenditures is estimated to be \$1,377,950 [(355 x \$800) + (65 x \$450 x 23) + (12 x \$450 x 78)] in FY24-25 and subsequent years.
- Due to the effective date of October 1, 2023, the increase in state expenditures is estimated to be \$2,490,009 (\$3,320,012 x 75.0%) and the decrease in local expenditures is estimated to be \$1,033,463 (\$1,377,950 x 75.0%) in FY23-24.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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