

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 256 - HB 235**

March 25, 2019

**SUMMARY OF BILL:** Decriminalizes the possession of less than one ounce of marijuana.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Expenditures – \$752,700 Incarceration\***

**Decrease Local Revenue – \$467,300**

**Decrease Local Expenditures – \$1,794,200**

Assumptions:

- The proposed legislation will reduce convictions for simple possession involving an amount of marijuana less than 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.
- The potential punishment for a Class A misdemeanor is up to 11 months, 29 days in jail, a fine up to \$2,500, or both.
- This analysis estimates 10 percent, or 1,869 ( $18,690 \times 10\%$ ) offenders, currently pay an average \$250 fine for simple possession. The proposed legislation will result in a recurring decrease of local revenue estimated to be \$467,250 ( $1,869 \times \$250$ ).
- This analysis assumes 10 percent of offenders are spending an average of 15 days in local jail for Class A misdemeanor convictions of Tenn. Code Ann. § 39-17-418.
- The average cost to local governments to house an inmate in a local jail facility is \$64 per day.
- The proposed legislation will lead to a recurring decrease in local incarceration expenditures estimated to be \$1,794,240 ( $\$64 \times 1,869 \text{ offenders} \times 15 \text{ days}$ ).
- The proposed legislation will decrease admissions for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and one ounce.

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- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), one commits a Class E felony for possessing marijuana in an amount between one-half ounce and 10 pounds. The proposed legislation would allow possession 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 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 of 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.
- 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 not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in workforce.

*\*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.*

## **CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

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