

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1640 - SB 1769

January 28, 2024

SUMMARY OF BILL: Requires courts wherein commitments to mental institutions are ordered to collect and include information regarding individuals found incompetent to stand trial in reports made to the Federal Bureau of Investigation (FBI)-NICS index and the Department of Safety (DOS).

Creates a rebuttable presumption that a person who has been charged with a criminal offense and found by a court to be incompetent to stand trial due to an intellectual disability or mental illness poses a substantial likelihood of serious harm, as it relates to commitment to involuntary care and treatment.

Requires, rather than permits, a court to order a person found incompetent to stand trial for a felony charge and who is found not to be committable to participate in community-based services developed by the Department of Intellectual and Developmental Disabilities (DIDD) or the Department of Mental Health and Substance Abuse Services (DMHSAS) to attain and maintain competence to stand trial and reduce the risk of becoming committable.

Includes individuals found incompetent to stand trial by a court in a criminal proceeding in the definition of "adjudication as a mental defective or adjudicated as a mental defective" for the purpose of criminal offenses relating to weapons.

Creates the Class A misdemeanor offense of carrying or possessing a firearm after having been adjudicated as a mental defective or judicially committed to a mental institution. Establishes that it is a Class A misdemeanor offense for a person to knowingly purchase or attempt to purchase a firearm if the person has been judicially committed to a mental institution or adjudicated as a mental defective.

FISCAL IMPACT:

Increase State Expenditures - Net Impact -

\$1,182,900/FY24-25 and Subsequent Years

Assumptions:

- According to information provided by the Administrative Office of Courts, information on individuals found incompetent to stand trial can be included in any reports utilizing existing personnel and resources.

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- Creating a rebuttable presumption that an individual found incompetent to stand trial poses a substantial likelihood of serious harm will change the current commitment criteria and is estimated to result in an increase of involuntary commitments to inpatient treatment under the care of the DMHSAS.
- According to information provided by the DMHSAS, there were 40 individuals in FY22-23 who were recommended for mandatory community-based services because they did not meet the commitment criteria for involuntary inpatient treatment.
- It is estimated that 50 percent, or 20 (40 x 50%), of the individuals who would currently be ordered into mandatory community-based services will instead be committed to inpatient treatment.
- The average length of stay for inpatient treatment for defendants found incompetent to stand trial is 81 days, and the average reimbursement rate for inpatient treatment is \$734.83 per day.
- There will be an increase in state expenditures of \$1,190,425 (20 new individuals x 81 days x \$734.83 per day) for additional felony defendants committed to inpatient treatment.
- There will be a corresponding decrease in state expenditures for the outpatient community-based services that those 20 individuals will no longer utilize.
- The average cost of community-based services for a felony defendant is \$375 (5 outpatient sessions x \$75 per session), resulting in a decrease in state expenditures of \$7,500 (20 x \$375).
- The net increase in state expenditures for services provided by the DMHSAS will be \$1,182,925 (\$1,190,425 - \$7,500) in FY24-25 and subsequent years.
- Based on information provided by the DMHSAS, there is not estimated to be an increase in orders for mandatory community-based services as a result of the proposed legislation.
- According to the *Forensic and Juvenile Court Services Annual Report for the period July 1, 2022 – June 30, 2023 (FY23)* issued by the DMHSAS, in FY22-23 there were 10 evaluations conducted for possible commitment to involuntary care under the DIDD, and only two individuals were found to be committable.
- There is not estimated to be a significant increase in the number of individuals involuntarily committed to the care of DIDD as a result of the proposed legislation.
- Pursuant to 18 U.S. Code § 922(g)(4), an individual who has been adjudicated as a mental defective or has been committed to a mental institution cannot legally receive or possess firearms or ammunition.
- The proposed legislation mirrors the requirements of existing federal law; therefore, there is not estimated to be a sufficient increase of Class A misdemeanor prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- Any additional workload on the courts is assumed to be accommodated within existing judicial resources.
- Pursuant to Tenn. Code Ann. § 16-10-213, courts are required to report specific information concerning commitments to mental institutions to the FBI-NICS index and DOS. Including findings of an individual found incompetent to stand trial will not significantly impact workload for DOS.

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

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