



HB 784 - SB 767

April 5, 2021

SUMMARY OF ORIGINAL BILL: Revises the definition of violent offender for eligibility of drug court treatment programs.

Requires a defendant to complete a clinical assessment that indicates the need for participation in a recovery and treatment program to be eligible to complete such programming.

Specifies the court has sole discretion whether to utilize available sentencing alternatives.

Requires the Department of Correction (DOC) to supervise all sentences to a community-based alternative to incarceration imposed prior to October 1, 2021.

Deletes the *Tennessee Community Corrections Act of 1985* and references to community corrections.

Authorizes the DOC to contract with entities and organizations, including local governments, to create or operate community-based alternatives to incarceration for offenders sentenced to probation. Outlines contract requirements.

Makes various changes to probation sentencing and the revocation of probation.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures –

Net Impact - \$6,805,000/FY21-22

Net Impact - \$9,073,400/FY22-23 and Subsequent Years

Decrease Local Revenue – \$7,440,200/FY21-22

\$9,928,400/FY22-23 and Subsequent Years

The Governor's proposed budget for FY21-22, on page A-35, recognizes a recurring decrease in state expenditures from the General Fund of \$9,000,000.

SUMMARY OF AMENDMENTS (005598, 006651): Amendment 005598 deletes and replaces all language after the enacting clause.

Revises the definition of violent offender for eligibility of drug court treatment programs.

Requires a defendant to complete a clinical assessment that indicates the need for participation in a recovery and treatment program to be eligible to complete such programming.

Specifies the court has sole discretion whether to utilize available sentencing alternatives.

Prohibits persons convicted of a sexual offense, persons meeting the definition of sexual offender or violent sexual offender, and persons who are required to serve a sentence of community supervision for life from consideration for punishment in community corrections.

Establishes a mechanism for DOC to use state funds to contract with local governments and qualified private entities to develop community-based alternatives to incarceration that provide a treatment-centered pathway for offenders. Outlines contract requirements.

Makes various changes to probation sentencing and the revocation of probation.

Amendment 006651 deletes and replaces language in amendment 005598 such that the substantive changes are to: (1) revise the information a magistrate must consider in determining whether or not a defendant shall be released to the result of a validated, rather than an evidence-based, pretrial risk assessment; (2) expand the meaning of technical violation to include an act that violates terms or conditions of probation but does not constitute a zero tolerance violation as defined by the DOC community supervision sanction matrix; and (3) authorize a judge, in instances where finding by a preponderance of evidence that the defendant has committed a zero tolerance violation, to revoke the probation and suspension of a sentence and cause the defendant to commence the execution of the judge as originally entered, reduced by eligible time previously served.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – Changes in probation may lead to the increased use of alternatives to incarceration and a reduction in state incarceration expenditures and a corresponding increase in state expenditures related to sentencing alternatives; however, the timing and net impact of such changes are unable to be quantified with reasonable certainty.

The Governor’s proposed budget for FY21-22, on page A-35, recognizes a recurring decrease in state expenditures from the General Fund of \$9,000,000.

Assumptions for the bill as amended:

- Based on information previously provided by the Department of Mental Health and Substance Abuse Services, any fiscal impact to the Department resulting from the revision of the definition of violent offender as it relates to participation in a drug court treatment program is estimated to be not significant.
- The FY20-21 recurring state appropriation for grant funding in the Community Corrections program is \$13,823,300.

- This analysis assumes contracts will be issued effective July 1, 2021, in an amount equal to FY20-21 funding and that all contract recipients will comply with outlined requirements.
- The proposed legislation may lead to additional sentences of probation and community-based alternatives to incarceration, shorter state incarceration sentences, shorter probation sentence lengths, and fewer admissions to state and local incarceration resulting from violations of probation.
- The proposed legislation may result in a recurring a net decrease in state incarceration expenditures and a corresponding recurring increase in state expenditures related to sentencing alternatives, and a recurring decrease in state expenditures related to sentencing alternatives due to shortened probation. The precise timing and net impact resulting from such changes are dependent on multiple unknown factors and cannot be determined with reasonable certainty.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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