

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 763 - SB 724

March 14, 2017

SUMMARY OF BILL: Requires any private monitoring company, which provides a monitoring program to monitor a participant's alcohol use, drug use, or geographic location either electronically or physically through required in-person checks, testing, screening, global positioning system (GPS) devices, transdermal monitoring devices, and other electronic devices; and to register and become certified by the Department of Commerce and Insurance (TDCI). Requires each owner, operator, or employee of any such company to provide proof that each has submitted to a background check performed by the Tennessee Bureau of Investigation (TBI) and the Federal Bureau of Investigation (FBI), and further requires each company to be bonded, insured, and submit the annual certification fee of \$250 and one-time administration fee of \$1,000.

Creates software and equipment requirements for public and private monitoring companies. Requires the Commissioner of the TDCI, by September 1, 2017, and every September 1 thereafter, to send a list of approved private monitoring companies to the presiding judge of each judicial district. Establishes reporting and notifications requirements for public and private monitoring companies. Requires each judicial district to establish protocols for participants' release into a monitoring program. Allows a participant in a monitoring program to choose between a public or private monitoring company to install and monitor the transdermal or other electronic monitoring device, unless the respective jurisdiction is under contract with a monitoring company.

Establishes that participants in a monitoring program are required to pay all monitoring fees applicable, unless a participant is deemed indigent under Tenn. Code Ann. § 55-10-419, in which case up to \$200 shall be paid, per device, per participant, using funds allocated from the DUI Monitoring Fund. In order for the monitoring company to receive reimbursement from the Fund, a court order and an affidavit of indigency is required to be filled out by the residing court and submitted to the monitoring company.

Requires a public or private monitoring company to pay a \$15 one-time tax for each participant enrolled in its respective monitoring program, of which \$10 will be allocated to the state General Fund and \$5 will be allocated to the DUI Monitoring Fund.

Establishes that a law enforcement officer may arrest any individual who tampers with, removes, or vandalizes a monitoring device, or any person who aids an individual in doing so. This bill will take effect on July 1, 2017.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –

\$11,300/FY17-18/Department of Commerce & Insurance

\$11,800/FY17-18 and Subsequent Years/General Fund

\$5,900/FY17-18 and Subsequent Years/DUI Monitoring Fund

**\$2,300/FY18-19 and Subsequent Years/Department of Commerce &
Insurance**

Increase State Expenditures –

\$123,900/FY17-18/General Fund

\$62,700/FY18-19 and Subsequent Years/General Fund

Assumptions:

- Pursuant to Tenn. Code Ann. § 55-10-402(h)(7)(A)-(D), a court currently has the authorization, when ordering intensive outpatient treatment, to order a person convicted of a DUI or a drug-related offense to use an transdermal monitoring device with random alcohol or drug testing, global positioning monitoring systems (GPS), or any other electronic device to ensure the person complies with the conditions of probation.
- The cost associated with any individual being required to wear a transdermal monitoring, or other electronic device, will be borne by the individual ordered to wear the device, unless the individual is proven indigent, in which case funds up to \$200 per month may be allocated from the DUI Monitoring Fund to help pay the costs associated with wearing a device; however, in most cases, courts will not require a convicted person to wear any such electronic device unless the convicted person has the means of paying the costs, in whole or in part, associated with the device.
- This legislation will not impact the number of offenders who would otherwise be required to wear an electronic monitoring device.
- This legislation is estimated to result in no significant impact on the current level of funds expended from the DUI Monitoring Fund.
- Based on information previously provided by the Department of Safety, the Board of Parole, the Administrative Office of the Courts, and the Department of the Treasury, this legislation is estimated to have no fiscal impact upon such departments' operations.
- This legislation will require any monitoring company which wishes to provide a monitoring program to register and become certified with the TDCI.
- An annual certification fee of \$250 and a one-time administrative fee of \$1,000.
- The number of monitoring companies which will register and become certified with the TDCI is unknown.
- It is assumed that larger monitoring companies will seek to operate in multiple counties; therefore, the total number of certified monitoring companies will be relatively small.

- It is assumed that there will be 3 monitoring companies per grand division, or 9 total companies statewide that will register with the TDCI.
- An increase in state revenue to TDCI in FY17-18 of \$11,250 [9 x (\$1,000 + \$250)].
- A recurring increase in state revenue to TDCI in FY18-19 and subsequent years of \$2,250 (9 x \$250).
- This legislation requires that each monitoring company pay a one-time tax of \$15 to the state per participant in the company's respective monitoring program.
- This \$15 tax is required to be allocated \$10 to the General Fund and \$5 to the DUI Monitoring Fund.
- Based on information provided by the Department of Treasury, there are currently 121 participants in electronic monitoring programs in Davidson County.
- According to the U.S. Census Bureau, Davidson County's 2015 population was estimated to be 678,889.
- Approximately 0.017823 percent (121 / 678,889) of the Davidson County population participates in electronic monitoring programs.
- According to the U.S. Census Bureau, Tennessee's 2015 population was estimated to be 6,600,299.
- It is estimated that there will be 1,176 (6,600,299 x 0.017823%) individuals participating in the program each year for which the tax will apply.
- A recurring increase in General Fund revenue of \$11,760 (1,176 x \$10).
- A recurring increase in DUI Monitoring Fund revenue of \$5,880 (1,176 x \$5).
- Due to the fact that this legislation establishes fees in statute, it is assumed that this certification program will not be placed under the Division of Regulatory Boards, as the program will be unable to increase the set fees to ensure that it meets the self-supporting requirement, pursuant to Tenn. Code Ann. § 4-29-121.
- Based on information from the TDCI, it will require one additional regulatory board investigator position to fulfill the requirements of this bill. It is assumed the Department will require additional appropriations from the General Fund to fund costs associated with the new position.
- The recurring increase in state expenditures is estimated to be \$62,730 (salary \$40,400 + benefits \$10,539 + FICA \$3,091 + vehicle-related costs \$4,500 + office lease \$2,200 + phone/network \$1,400 + supplies \$600).
- There will be one-time costs of \$38,400 (320 hours x \$120 per hour) to update the CORE licensing system, \$18,000 for a vehicle, \$2,000 for office furniture, \$1,300 for a computer, and \$1,500 for one rulemaking hearing (court reporter \$500 + transcript copies \$1,000), for total one-time costs estimated to be \$61,200.
- The total increase in state expenditures from the General Fund for FY17-18 is estimated to be \$123,930 (\$62,730 + \$61,200); the recurring increase in state expenditures from the General Fund beginning in FY18-19 is estimated to be \$62,730.

CERTIFICATION:

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



Krista M. Lee, Executive Director

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