

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1983

May 5, 2020

SUMMARY OF BILL: Requires a court to require the person charged with for driving under the influence of an intoxicant, vehicular assault, aggravated vehicular assault, vehicular homicide, or aggravated vehicular homicide, to operate only a motor vehicle equipped with a functioning ignition interlock device.

Authorizes a court to order other alternative monitoring devices or impose other special conditions for those defendants with certain prior convictions to be paid by the Electronic Monitoring Indigency Fund (EMIF) if the defendant is indigent.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures –

Exceeds \$730,100/FY20-21 and Subsequent Years/

Electronic Monitoring Indigency Fund

\$47,400/FY20-21 and Subsequent Years/General Fund

Decrease Local Expenditures –

Exceeds \$90,600/FY20-21 and Subsequent Years

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-11-118(d), when a court is determining the amount and conditions of bail to be imposed on a defendant charged with certain offenses, the court may impose special conditions, including the use of ignition interlock devices, transdermal monitoring devices or other alternative alcohol monitoring devices, electronic monitoring with random alcohol or drug testing, or pretrial residency in an in-patient alcohol or drug rehabilitation center.
- If the court orders the use of a transdermal monitoring device or other alternative alcohol monitoring device, and the defendant is indigent, the court is required to order the portion of the costs of the device that the defendant is unable to pay to be paid by the EMIF. The EMIF is further used to cover the cost of an ignition interlock device that an indigent defendant is unable to pay.
- This legislation will require the use of interlock devices ordered in circumstances that previously did not require such devices; therefore, there will be more claims relative to the EMIF.

- Funding for the EMIF relative to transdermal devices and other alternative alcohol or drug monitoring devices is partially borne by local governments. Funding for EMIF reimbursement of ignition interlock device costs comes from state appropriations and a portion of the fees assessed for certain offenses.
- Under current law, each participating local government will pay 50 percent of the costs associated with transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices for indigent defendants within the local government's jurisdiction, and the state will match the local government's cost by providing the remaining 50 percent share of funding from the EMIF.
- As this law went into effect July 1, 2019, there are no figures available as to how many local governments are participating or how many persons are assigned a transdermal device. Previous estimates state at least 200 people each year will be assigned a transdermal monitoring device. It is estimated that approximately 20 percent of those (or 40 individuals) would be declared to have a hardship and would require funding assistance from the EMIF.
- However, under this legislation, it is assumed those persons would instead be imposed with an ignition interlock device.
- A third party contract would be required for the transdermal monitoring devices and actual monitoring of the devices. According to information from the United States Department of Transportation and the Traffic Injury Research Foundation, there is usually an activation fee, a daily charge for monitoring the device, and a deactivation fee.
- The fees for transdermal monitoring devices are approximately \$75 each for activation and deactivation, and daily monitoring charges of approximately \$12 per day.
- The total cost related to a transdermal monitoring device is estimated to be \$4,530 per year per person [\$75 activation + \$75 deactivation + (\$12 monitoring x 365 days)].
- The average length of time a judge will order a person to wear a transdermal monitoring device is not known. For purposes of this fiscal note, it is assumed an average of 40 individuals will be required to wear a transdermal monitoring device at any given time.
- The recurring, permissive decrease in local expenditures is estimated to exceed \$90,600 [(40 individuals x \$4,530) x 50% local liability] in FY20-21 and subsequent years.
- Based on figures from the Department of Safety, there were 21,492 drivers convicted with a DUI offense in FY18-19. This figure is assumed to remain relatively stable.
- There is an average of 5,861 ignition interlock devices installed each year, representing 27.3 percent of total DUI convictions.
- It can be reasonably assumed that this figure would increase to at least 50 percent under this legislation, due to those that would have been ordered to wear a transdermal monitoring device instead being ordered to install an ignition interlock device and those additional persons ordered in circumstances that previously did not require such a device.
- Therefore, there would be an average of 10,746 (21,492 x 50%) ignition interlock devices installed each year.
- It is assumed that 20 percent of those electing to have interlock devices will qualify as indigent. This will result in 977 [(10,746 – 5,861) x 20%] new claims.

- The average EMIF portion of an interlock device is of \$140 per device per month. Because the length of time between arrest and disposition of a case can vary, it is assumed that devices ordered will be in place for six months, resulting in approximately \$840 (\$140 x 6) per device per claim.
- This will result in a recurring increase in state expenditures to the EMIF estimated to exceed \$820,680 (977 x \$840) in FY20-21 and subsequent years.
- Because it is assumed that ignition interlock devices will be ordered over transdermal monitoring devices, there will be a recurring decrease in state expenditures to the EMIF estimated to exceed \$90,600 [(40 individuals x \$4,530) x 50% state liability] in FY20-21 and subsequent years.
- The net recurring increase in state expenditures to the EMIF estimated to exceed \$730,080 (\$820,680 - \$90,600) in FY20-21 and subsequent years.
- These new claims will generate an invoice each month which will need to be reviewed to determine eligibility and then paid. In order for the Treasury to review and process approximately 5,862 (977 x 6) new invoices each year plus the processing of the claim, Treasury will require one additional full time employee position as a claims examiner.
- A claims examiner receives an estimated \$35,000 salary and \$12,380 in benefits.
- The recurring increase in state expenditures to the General Fund as a result of additional personnel is \$47,380 (\$35,000 + \$12,380) in FY20-21 and subsequent years.
- Any increased workload to the courts can be accommodated within existing resources and personnel.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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