

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7101

August 21, 2023

SUMMARY OF BILL: Authorizes law enforcement officers and agencies to file petitions for temporary mental health orders of protection within the county where a respondent resides or the petitioner's law enforcement office is located. Establishes requirements that each petition and petitioner must meet and prohibits filing or processing fees. Establishes timeframes under which the court must order a hearing and requires the respondent to undergo a mental health assessment by a certified evaluator. Limits a temporary mental health order of protection for a period of up to 180 days.

Establishes procedures and requirements for a respondent to submit a request to vacate the temporary mental health order of protection. Courts shall notify the petitioner at least 30 days prior to the date the temporary mental health order of protection ends. The petitioner may request an extension of the temporary mental health order of protection. Authorizes the court to extend the order for up to an additional 180-day period.

Upon the issuance of a temporary mental health order of protection, a respondent must surrender all firearms and ammunition owned by or in the possession of the respondent and the respondent's handgun carry permit to local law enforcement. After the temporary mental health order of protection is vacated or ends without extension, law enforcement agencies must verify through a background check that the respondent is currently eligible to own or possess firearms and ammunition and the DOS must reinstate any suspended handgun carry permits. Establishes a process for a respondent to transfer all firearms and ammunition to another person who meets certain requirements.

Requires the court clerk to enter any temporary mental health order of protection into the uniform case reporting system within 24 hours after issuance and requires the petitioning law enforcement agency to enter the order into the national crime information center and similar state database. Creates a Class E felony offense for a person who violates a temporary mental health order of protection by having custody or control, or purchasing, possessing, or receiving a firearm or any ammunition. Requires the Administrative Office of the Courts (AOC) to develop and prepare standardized petitions and forms, as well as a court staff handbook on the temporary mental health order of protection process to be used after January 1, 2024.

FISCAL IMPACT:

Increase State Expenditures - \$500,200/FY23-24
\$180,000/FY24-25 and Subsequent Years
\$119,700 Incarceration

HB 7101

Assumptions:

State and Local Court Costs:

- The AOC will need to make case management enhancements to the current Mental Health Monitoring System and Tennessee Judicial Information System (TJIS). Based on vendor estimates, the enhancements are estimated to be \$365,170 [(208 hours x \$115 per hour) + (175 hours x \$195 x 10 vendors)] in FY23-24.
- The AOC can create and distribute the required forms and information utilizing existing resources.
- Based on information previously provided by the Court Clerks Association and the AOC, any impact to the state and local court systems is estimated to be accommodated within existing resources.

Mental Health Assessments:

- Based on information from the Pew Charitable Trust published in June 2022, there are 19 states that have laws allowing local law enforcement to petition civil courts to confiscate firearms from people who may be a danger to themselves or others.
- Most of the laws were passed in the last decade and use of the laws vary greatly by state. For purposes of this analysis, the experience in Florida which enacted a law in 2018 to allow law enforcement officers to petition for gun removal is used for comparison.
- Over an approximate four-year period, Florida judges issued close to 9,000 extreme risk protection orders.
- Based on the 2020 U.S. Census, the state of Tennessee population is approximately 32 percent of the population of Florida; therefore, it is estimated there will be approximately 720 petitions issued annually [(9,000 petitions / 4 years) x 32%].
- The provisions of the bill require each respondent to receive a mental health assessment by a Department of Mental Health and Substance Abuse Services (DMHSAS) certified agent. It is assumed these will be performed and paid for at no cost to the respondent.
- Based on information previously provided by DMHSAS, the cost per assessment is estimated to be \$250 resulting in a recurring increase in state expenditures of \$180,000 (720 x \$250). It is assumed only nine months of expenditures will be incurred in FY23-24; therefore, an increase in state expenditures of \$135,000 in FY23-24 (\$180,000/12) x 9].

Local Law Enforcement:

- It is assumed that all law enforcement agencies and district attorneys general can comply with the requirements in the normal course of business utilizing existing resources.
- Local law enforcement will incur additional expenditures to accept, possess, and securely store firearms and ammunition. It is assumed the increase for each local law enforcement agency is not significant.

Class E Felony:

- Based on a review of the number of charges brought in Florida for such offenses from 2019-2022 and adjusted for population according to the 2020 United States Census, the number of annual felony convictions in Tennessee for a violation of a risk protection order is estimated to be 10.67 convictions.

- The average time served for a Class E felony is 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 117,100	FY24-25
\$ 118,500	FY25-26
\$ 119,700	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring cost increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$119,700.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.

Total State Expenditures:

- The total increase in state expenditures in FY23-24 will be \$500,170 (\$365,170 + \$135,000).
- The total increase in state expenditures in FY24-25 and subsequent years will be \$180,000.
- The total recurring incarceration appropriation is \$119,700.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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