

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0869-01
Bill No.: HB 278
Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances
Type: Original
Date: April 17, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$374,862)	(\$1,158,325)	(\$2,073,677)
Total Estimated Net Effect on <u>All</u> State Funds	(\$374,862)	(\$1,158,325)	(\$2,073,677)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** and the **Department of Health** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation may cause some cases to become protracted, but would not anticipate a significant impact on the workload of the courts.

Officials from the **Office of the State Public Defender** assume that existing staff could provide representation for those cases arising where the indigent persons were charged with prior methamphetamine manufacture or attempted manufacture of methamphetamine requiring a 5 year minimum sentence, or persistent methamphetamine manufacture or attempted manufacture of methamphetamine requiring a 10 year sentence. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

In response to a similar proposal from the current session (SB 90), officials from the **Department of Corrections** assume the of the proposed legislation would require a minimum prison term of 36 months for the first conviction of manufacturing or attempted manufacturing of methamphetamine. At present, offenders are also sentenced to probation or 120 day shock probation for this offense.

During FY00, 53 offenders, or 3% of all admissions for distribution, delivery, or manufacturing of a controlled substance, were amphetamine offenders who were either admitted to prison or received a probation. This may be an undercount of methamphetamine offenders because many offense descriptions do not specify the drug involved. According to the FBI UCR Crime in the United States, 1999, synthetic drugs accounted for 6% of all arrests for dealing/manufacturing. A better estimate may be derived by averaging these two percentages, resulting in 4.5%, or 84 offenders charged with distribution, delivery, or manufacturing of a controlled substance receiving prison sentences per year.

Only 34% of offenders sentenced under distribution, delivery, or manufacturing of a controlled substance received a prison sentence in FY00. Those who served a term sentence and were released in FY00 served 30 months.

Using the estimated average, 84 offenders will serve 36 months in prison instead of 28 offenders serving 30 months, 27 offenders serving 120 days, and 29 offenders serving probation. The net impact is 24 months of prison time, of which 66% will occur in the first year.

ASSUMPTIONS (continued)

This proposal also requires offenders convicted of methamphetamine manufacturing after a conviction for an offense concerned with the possession of drug paraphernalia or methamphetamine making materials to serve the methamphetamine manufacturing charge consecutive to the minor charge. This would result in offenders serving the minor charge to conditional release. In FY00, 19% of methamphetamine manufacturing admissions/probation openings also had a minor charge. Serving the minor charge to conditional release adds 24 months to the 36 months prison time for 19% of offenders convicted of methamphetamine manufacturing (16 offenders).

The proposal sets a minimum prison sentence of 5 years for a second methamphetamine manufacturing conviction and 10 years for the third and subsequent offense. The ratio of prior or persistent admissions to first offense is very low, at less than 1% in FY00, and no impact is calculated for this provision or included in this fiscal impact statement.

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact. DOC assumes \$35.61 (FY99 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.

Cumulatively, passage of this legislation will affect approximately 84 new admissions. In FY02, there will be an additional 56 inmates. This will increase to 112 in FY03. The maximum impact will begin in FY06, with a static 211 inmates per year. Based on these assumptions, the total cost of the proposed legislation, with inflation, is estimated to be \$374,862 in FY02; \$1,158,325 in FY03; and \$2,073,677 in FY 04. The total ten-year fiscal impact is estimated to be \$26,787,668.

At this time, DOC is unable to determine the number of people who would be convicted under the provisions of this bill to estimate the potential need for capital improvements. Estimated construction cost for one new medium-security inmate bed is \$48,300 (at FY99 cost). Utilizing this per-bed cost provides for a conservative estimate by the DOC, as the entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, total new commitments to the DOC which may result from the creation of the offenses outlined in this proposal cannot be accurately determined, but are expected to exceed the outlined numbers and costs estimated in this fiscal note. These costs are very conservative as new bed space costs are not included in the estimate (only inmate per-capita costs) and the unknown cost factors cannot be determined.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
Incarceration/Probation costs	<u>(\$374,862)</u>	<u>(\$1,158,325)</u>	<u>(\$2,073,677)</u>
ESTIMATED EFFECT ON GENERAL REVENUE FUND	<u>(\$374,862)</u>	<u>(\$1,158,325)</u>	<u>(\$2,073,622)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal would impose minimum prison terms for the manufacture or attempted manufacture of methamphetamine. It would define "minimum prison term" and would set different minimum prison terms for first time offenders, prior offenders and persistent offenders. The proposal would define "prior methamphetamine offender" and "persistent methamphetamine offender."

This proposal would prohibit a suspended imposition of sentence or suspended execution of sentence disposition for a methamphetamine-related violation and would mandate the sentences for methamphetamine-related violations be served consecutive to sentences for certain related crimes.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Prosecution Services
Office of the State Public Defender
Office of State Courts Administrator
Department of Health
Department of Corrections

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with a large initial "J".

Jeanne Jarrett, CPA
Director

April 17, 2001