

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 3320 - HB 3794

March 11, 2012

SUMMARY OF BILL: Authorizes a party to an action to file a motion for recusal of the judge or chancellor where the judge or chancellor is interested in the event of any cause; is connected with either party; has been of counsel in the cause; has presided on the trial in an inferior court; where the victim is connected with the judge or chancellor (in felony cases); or is incompetent under Article VI, Section 11 of the Tennessee constitution. Requires the judge or chancellor to rule on the motion within 10 days and either grant the motion and request the supreme court to appoint a special judge or deny the motion by stating in writing the reasons the judge or chancellor is competent to hear the case or why no conflict exists. Grants the moving party the authority to accept or reject the denial of the motion within 24 hours. A party accepting the court's answer is deemed to have consented to any conflict. When a party does not accept the court's answer or denial of the motion, the judge is automatically recused and the supreme court is required to appoint a special judge. Limits a party to one right of recusal during the course of the case.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$2,871,200

Increase Local Expenditures – Exceeds \$100,000*

Assumptions:

- According to the Administrative Office of the Courts (AOC), there were 277,587 cases filed in chancery, circuit, probate, and criminal courts. AOC assumes that a motion for recusal of a judge will be filed in one half, or 138,794, of the total cases. In one half of these cases where a recusal motion is filed, the original judge presiding over the case will find no basis for recusal and the party will not exercise the one "free" recusal. Of the remaining cases, three fourths of the cases will be assigned to another judge in the same judicial district, resulting in no additional cost. Another 10 percent of the remaining cases will be assigned to a senior judge, resulting in no additional costs.
- Approximately five percent, or 6,740, cases will be reassigned by designation or by interchange of a judge outside of the judicial district and will result in additional costs for reimbursement of mileage and travel expenses.

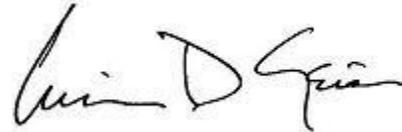
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- AOC assumes at least two appearances before the assigned judge per case, with an average of mileage and travel reimbursement of \$213 per travel expense claim, resulting in recurring state expenditures of \$2,871,240 (6,740 cases x 2 appearances x \$213 travel expenditures).
- The proposed bill would also apply to general sessions and municipal courts. Most counties have only general sessions judges and approximately 10 out of 250 municipalities have more than one judge assigned to the court. The AOC does not track statistics on the number of filings in these courts; however, it is estimated that the number of cases is much higher than the number in trial courts. However, it is assumed that parties in general sessions court cases will not request recusal of the judge with the same frequency as in the higher courts. While the number of cases and recusals is unknown, the recurring increase local expenditures will likely exceed \$100,000 as a result of this bill.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

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



Lucian D. Geise, Executive Director

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