

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 891 – HB 1078

April 2, 2013

SUMMARY OF ORIGINAL BILL: Prohibits the seizure of any property without a seizure warrant and prohibits any person other than the sheriff from seizing property authorized under a seizure warrant. Requires all property seized by a forfeiture warrant to be sequestered and guarded against damage or released to the owner or occupant for use and caretaking until disposal of the property is resolved in court, and all personal property seized to remain upon the real property where it was located according to the warrant, unless the real property is also being seized, then the personal property shall be removed to a secure location.

Requires, at the time of seizure, the seizing officer to bear all custodial liability for the property and issue full documentation of the warrant and a receipt describing the property seized and its condition. Authorizes the owner of the property to have access to such property to assure the safety and security of the property at all stages of the holding prior to disposition ordered by the court, and have a right to an expedited recovery hearing under certain circumstances. Establishes that any property damage, spoilage, or loss of value during the pre-hearing shall be grounds for recovery of damage by the owner from the jurisdiction making the seizure, if the hearing finds in favor of the opponent in the seizure.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$650,000/FY13-14
\$900,000/Each Year FY14-15 and FY15-16
\$650,000/FY16-17
\$400,000/FY17-18 and Subsequent Years

Increase State Expenditures – \$1,000,600/FY13-14
\$956,100/FY14-15 and Subsequent Years

Increase Local Revenue - \$400,000/FY13-14 and Subsequent Years

Increase Local Expenditures –
Exceeds \$2,000,000/FY13-14 and Subsequent Years*

SUMMARY OF AMENDMENT (005371): Deletes all language after the enacting clause. Requires any seizing officer to provide any person who is not being arrested, but is in possession of any personal property subject to forfeiture pursuant to Tenn. Code Ann. § 40-33-201, a notice entitled “Notice of Forfeiture Warrant Hearing” containing certain required

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information relative to the hearing. Requires the forfeiture warrant approval to be based upon the application, the affidavit, and any testimony in cases where an arrest was made at the time of seizure. Establishes a procedure to be followed by the court for the review of applications for forfeiture warrants where an arrest was not made at the time of personal property seizure. Requires all hearings on applications for forfeiture warrants to be recorded by the court.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

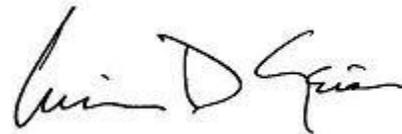
NOT SIGNIFICANT

Assumptions for the bill as amended:

- According to the Department of Safety, any cost associated with the implementation of the provisions of this bill as amended can be accommodated within existing resources without an increased appropriation or a reduced reversion.
- Pursuant to Tenn. Code Ann. § 40-33-204, hearings for applications for forfeiture warrants shall be recorded. It is the duty of the court to maintain the records and make available certified copies of the records to any requesting party.
- According to the Administrative Office of the Court (AOC), the bill as amended will require the taking of testimony in certain hearings. The taking of testimony will increase the length of hearings, increasing the workload of court reporters, and the length of transcripts from hearings.
- According to the AOC, court reporters paid by the AOC do not participate in forfeiture proceedings; therefore the bill as amended will not result in any fiscal impact to the Office.
- It is assumed local governments currently budget for payment of court reporters and while there may be an increase in local government expenditures for increased use of such court reporters, any increase is estimated to be not significant.
- Any increase in local government expenditures for creation of the required notice forms is estimated to be not significant.

CERTIFICATION:

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



Lucian D. Geise, Executive Director

/jrh