

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2372 – SB 2504

April 5, 2014

SUMMARY OF ORIGINAL BILL: Authorizes the court clerks to charge a \$100 fee for expunctions under Tenn. Code Ann. § 40-32-101 in addition to the \$350 fee established in Tenn. Code Ann. § 40-32-101.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$9,500/TBI
\$24,700/District Attorneys Expunction Fund
\$2,700/Public Defenders Expunction Fund
\$27,400/General Fund

Increase Local Revenue – Net Impact – \$54,800/Court Clerks

SUMMARY OF AMENDMENT (014462): Deletes language from the original bill such that the additional fees do not apply to any person entitled to have records expunged without cost to the person, not just those identified in Tenn. Code Ann. § 40-32-101 subsections (d), (e), or (f).

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

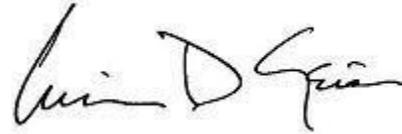
- Since 2012 Public Chapter 1003 was enacted, there has been an average of 2.07 petitions filed for expunction each day, or approximately 756 per year. Under Chapter 1003, the court clerks charge a \$350 fee. Previously, court clerks had charged a \$100 fee for expunctions under Tenn. Code Ann. § 8-21-401. Attorney General opinion 12-89 opined that the clerks could not charge both the \$100 fee and the \$350 fee under Tenn. Code Ann. § 40-32-101.
- The proposed legislation requires any petitioner seeking expunction under Tenn. Code Ann. § 40-32-101 to pay the \$100 fee under Tenn. Code Ann. § 8-21-401. This will dissuade eligible petitioners from seeking expunctions.

HB 2372 – SB 2504

- It is assumed that 25 percent ($756 \times .25 = 189$ eligible petitioners) of eligible petitioners will not seeking expunction because of an additional \$100 fee. The proposed legislation will increase local revenue to court clerks in the amount of \$56,700 [$(756 \text{ petitioners} - 189 \text{ deterred}) \times \100].
- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee one pays for having records expunged is distributed as follows:
 - \$10.00 to the court clerk collecting the fee;
 - \$50.00 to the Tennessee Bureau of Investigation (TBI);
 - The remainder (\$290.00) is distributed:
 - 5 percent (\$14.50) to the public defenders expunction fund;
 - 45 percent (\$130.50) to the district attorneys expunction fund; and
 - 50 percent (\$145.00) to the general fund.
- Approximately 189 eligible petitioners will be deterred from expunging their records. The proposed legislation will decrease state revenue as follows:
 - TBI – \$9,450 ($189 \text{ petitioners} \times \50);
 - Public Defenders – \$2,740.50 ($189 \text{ petitioners} \times \14.50);
 - District Attorneys – \$24,664.50 ($189 \text{ petitioners} \times \130.50);
 - General Fund – \$27,405 ($189 \text{ petitioners} \times \145).
- The proposed legislation will also decrease local revenue to court clerks in the amount of \$1,890 ($189 \text{ petitioners} \times \10). The proposed legislation will result in a net increase in local revenue of \$54,810 ($\$56,700 \text{ increase} - \$1,890 \text{ decrease}$).

CERTIFICATION:

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



Lucian D. Geise, Executive Director

/kml