

SENATE BILL 2825

By Akbari

AN ACT to amend Tennessee Code Annotated, Section 8-21-401 and Title 40, Chapter 32, relative to expunction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-21-401(d)(2), is amended by deleting the subdivision, substituting instead the following, and renumbering the subsequent subdivisions appropriately:

(2) The clerk shall charge a fee of one hundred dollars (\$100) for proceedings related to a violation of probation or any post-judgment actions other than expunctions.

(3) The clerk may charge a fee of up to one hundred dollars (\$100) for expunctions.

SECTION 2. Tennessee Code Annotated, Section 8-21-401(g)(5), is amended by deleting the subdivision and substituting instead the following:

(5) The clerk may charge a fee of up to one hundred dollars (\$100) for expunctions.

SECTION 3. Tennessee Code Annotated, Section 40-32-101(a)(1), is amended by adding the following subdivision:

(G) If a person is eligible for expunction pursuant to subdivision (a)(1)(A) because the charge against the person is dismissed, a no true bill is returned by a grand jury, or the person is arrested and released without being charged with an offense, the district attorney general assigned to the case shall inquire of the person whether the person requests that all public records associated with the charge or arrest be removed and destroyed without cost to the person and without the requirement that the person

petition for destruction of the records. The district attorney general's inquiry shall take place on the record, during the proceedings for the dismissal. In the event there are no proceedings, an inquiry shall be made by certified mail to the eligible person and defendant's counsel. If the person requests that the public records related to the charge be removed and destroyed, the district attorney general shall request that the appropriate court order the public records to be removed and destroyed. If the person does not request that such records be destroyed at the time the district attorney general inquires pursuant to this subdivision (a)(1)(G), but subsequently requests that such records be destroyed, the person shall be required to follow the petition procedure set out in this section.

SECTION 4. Tennessee Code Annotated, Section 40-32-101(a)(3), is amended by deleting the subdivision and substituting instead the following:

(3) Upon a court entering a nolle prosequi in a case, the district attorney general in the case shall inquire of the person whether the person requests that all public records associated with the charge or arrest be removed and destroyed without cost to the person and without the requirement that the person petition for destruction of the records. The district attorney general's inquiry and any subsequent court order must occur in the same manner required by subdivision (a)(1)(G).

SECTION 5. Tennessee Code Annotated, Section 40-32-101(g)(1)(B)(xi), is amended by the deleting the subdivision and substituting instead the following:

(xi) Section 39-13-514(b)(3)(A) – Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability;

SECTION 6. Tennessee Code Annotated, Section 40-32-101(i), is amended by deleting the language "the appropriate court clerk's fee pursuant to § 8-21-401" and substituting instead the language "the appropriate court clerk's fee pursuant to § 8-21-401, if applicable,".

SECTION 7. Tennessee Code Annotated, Section 40-32-101(a)(1)(B), is amended by deleting the language "the appropriate court clerk's fee pursuant to § 8-21-401" and substituting instead the language "the appropriate court clerk's fee pursuant to § 8-21-401, if applicable,".

SECTION 8. This act shall take effect July 1, 2020, the public welfare requiring it.