

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1902 - SB 1936

February 4, 2020

SUMMARY OF BILL: Restores consideration for expunction of misdemeanor offenses of driving under the influence of an intoxicant committed on or after November 1, 1989.

ESTIMATED FISCAL IMPACT:

Increase Local Revenue – Exceeds \$321,200/FY20-21 and Subsequent Years

Other Fiscal Impact – This legislation could jeopardize federal funding from the Federal Highway Trust Fund if it is determined that the state is noncompliant with federal law.

Assumptions:

- Pursuant to Tenn. Code Ann. § 8-21-401(d)(2), a court clerk shall charge a fee of \$100 for proceedings related to expungements.
- Based on figures from the Department of Safety, there were 21,492 drivers convicted with a DUI offense in FY18-19. This figure is assumed to remain relatively stable.
- The first, second, and third conviction of a DUI is a misdemeanor offense. The fourth and subsequent is a felony offense.
- Based on information provided by DOC, there has been an average of approximately 77 admissions per year for fourth and subsequent DUI offenses over the past five years. Therefore, there is an average of 21,415 (21,492 – 77) drivers convicted of a misdemeanor DUI each year.
- It can be reasonably estimated that at least 15 percent of offenders will seek and be approved for expunction under this legislation each fiscal year, resulting in at least 3,212 (21,415 x 15%) expunctions annually.
- There will be an increase to local revenue exceeding \$321,200 (3,212 x \$100) in FY20-21 and subsequent years.
- Any increase in workload to the courts can be accomplished within existing resources.
- Pursuant to Tenn. Code Ann. § 40-32-101(g)(2)(B), a person who commits certain crimes is authorized to petition the court for expunction after at least five years have elapsed since the completion of the sentence imposed for the offense.
- Based on information provided by the Department of Transportation, the proposed legislation could violate the minimum penalty requirements outlined in 23 United States Code § 164 for repeat offenders of DUI offenses and lead to the withholding of up to 3 percent of the Federal Highway Trust Fund.

- Public Chapter 200 (2019) removed state application fees for applying for expunction; therefore, any increase in petitions for expunctions will not result in a significant fiscal impact to state revenue.

CERTIFICATION:

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

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jmg