

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2516 - SB 2825**

March 6, 2020

**SUMMARY OF BILL:** Authorizes, rather than requires, court clerks to charge a fee for expunction.

Requires that if a person is eligible for expunction because the charge against the person is dismissed, a no true bill is returned by a grand jury, the person is arrested and released without being charged with an offense, or upon the court that entering a nolle prosequi in a case, 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, 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.

Restores the consideration for expunction for the offense of fraudulent use of a debit or credit card for less than \$500. Removes from consideration for expunction the offense of patronizing prostitution from a person who is younger than 18 years of age or has an intellectual disability.

**ESTIMATED FISCAL IMPACT:**

**Increase Local Revenue – Exceeds \$48,700/FY20-21 and Subsequent Years**

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-32-101, a person applying for expunction of records shall be charged the appropriate court clerk's fee of \$100, unless the person is entitled to have such records removed and destroyed without cost to the person.
- This legislation would give the clerks the discretion to charge a fee up to \$100.
- It can be reasonably assumed that court clerks will continue to charge \$100, as these fees are a revenue source. There will not be a significant impact to local government revenue as a result.
- Further, this legislation requires the District Attorney General to inquire of the person in certain circumstances 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, 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.

- Pursuant to Tenn. Code Ann. § 40-32-101(e), it is the intent of the General Assembly that no fee ever be charged a person who is petitioning a court for expunction of records because:
  - The charge against the person was dismissed for a reason other than the successful completion of a diversion program;
  - A no true bill was returned by a grand jury;
  - A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or
  - The person was arrested and released without being charged.
- Therefore, there will be no significant fiscal impact to requiring the District Attorney General to inquire in these circumstances on the record, during proceedings. Additionally, any postage in circumstance in which an inquiry is to be made by certified mail can be accomplished with existing resources.
- According to information provided by the Administrative Office of the Courts, there has been an average of 324.6 Class A misdemeanor convictions for the illegal possession or fraudulent use of a credit or debit card at the state court level.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level, resulting in an estimated 3,246 (324.6 / 10%) convictions 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 487 (3,246 x 15%) expunctions annually.
- There will be an increase to local revenue exceeding \$48,700 (487 x \$100) in FY20-21 and subsequent years.
- The 10 year average admission to the Department of Corrections for the offense of patronizing prostitution from a person who is younger than 18 years of age or has an intellectual disability is 2.4.
- Given that relatively low figure, it can be reasonably assumed that removing the consideration for expunction of this offense will not result in a significant decrease to local government revenue.
- Any increase in workload to the courts can be accomplished within existing resources.

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

/jmg