

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 405 - HB 873

March 12, 2019

SUMMARY OF BILL: Authorizes petitions for post-conviction relief based on new non-scientific evidence establishing that the petitioner is actually innocent of the offense for which the petitioner was convicted.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures – \$18,400/One-Time
\$509,100/Recurring**

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-30-102(c), only one petition for post-conviction relief may be filed per judgement.
- Pursuant to Tenn. Code Ann. § 40-30-102(b), a petition for post-conviction relief is required to be filed within one year of the final action by the Court of Criminal Appeals or the Supreme Court, unless it is based on a ruling of an appellate court establishing a constitutional right not recognized at the time of the defendant's trial; it is based on new scientific evidence establishing actual innocence of the defendant; or the defendant's sentence was enhanced based on a conviction which was subsequently held to be invalid.
- The proposed legislation authorizes a post-conviction relief petition beyond the one-year period for a petition based on new non-scientific evidence and authorizes subsequent post-conviction relief petitions based on new evidence of actual innocence not ascertainable by the petitioner though the exercise of due diligence at the time a previous petition was filed.
- Based on information provided by the Office of the Attorney General (AG), the AG handled 232 post-conviction appeals in calendar year 2018.
- Lowering the standard for obtaining relief based on a claim of newly-discovered evidence and authorizing second and subsequent petitions in certain situations will result in additional petitions filed for post-conviction relief and will require four AG attorneys to process the increase in petitions.
- The recurring increase in state expenditures associated with the four attorney positions is estimated to be \$507,542 (\$383,600 salary + \$89,942 benefits + \$16,000 travel + \$10,000 printing/supplies + \$8,000 training).

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- Professional privilege taxes will be paid annually by the state as the employer in the amount of \$400 per attorney. It is assumed the attorneys that will be hired are currently paying the occupational privilege tax; therefore, no revenue impact to the General Fund is anticipated. However, the AG will require an annual appropriation in order to pay such tax on behalf of these new attorney positions. As a result, the recurring increase in state expenditures is estimated to be \$1,600 (\$400 tax rate x 4 attorney positions).
- The one-time increase in state expenditures associated with the four attorney positions is estimated to be \$18,400 (\$11,200 office equipment + 7,200 computers).
- The total recurring increase in state expenditures associated with the four attorney positions is estimated to be \$509,142 (\$507,542 + \$1,600)

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

/amj