

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

SB 872 – HB 1261

March 28, 2017

SUMMARY OF BILL: Prohibits a law enforcement officer from seizing or destroying a person's photograph or recording of an event or person, if legal and the photographer is in a location the person has a right to be when photographing or recording. Authorizes law enforcement to petition the court for a copy of a photograph or video if such photograph or recording contains evidence that a crime has been committed. Requires the court to have an expert in electronic devices who is not associated with law enforcement copy the photograph or video from the device in which they are located. Creates a civil cause of action for a person whose electronic device was damaged in accordance with the provisions of the legislation.

ESTIMATED FISCAL IMPACT:

On March 8, 2017, a fiscal note was issued with the following estimated fiscal impact:

NOT SIGNIFICANT

Upon further research and discussion with the Administrative Office of the Courts (AOC), it was determined that this estimated fiscal impact was in error. As a result, the fiscal impact for the legislation has been corrected to reflect the additional research as follows:

(CORRECTED)

Increase State Expenditures – Exceeds \$10,000

Increase Local Expenditures – Exceeds \$20,000

Corrected Assumptions:

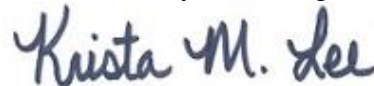
- The Department of Safety (DOS) confirms updating departmental policies and procedures to conform to the provisions of the legislation can be executed within existing resources.
- Local police agencies are expected to update departmental policies and procedures to conform to the provisions of the legislation which can be executed within existing resources without any significant additional expenditure.

SB 872 – SB 1261 (CORRECTED)

- For court proceedings, an expert is someone particularly skilled, learned, or experienced in a science, art, trade, business, profession, or vocation, a thorough knowledge of which is not within the scope of the common knowledge and experience of the average person.
- In Tennessee, parties are generally responsible for the fees of their own experts. However, a prevailing party is entitled to recover of certain costs, including some reasonable expert fees. The proposed legislation requires the court to provide an expert not associated with law enforcement.
- The proposed legislation will require courts to provide and compensate experts for proceedings initiated under the proposed legislation.
- Based on information provided by the AOC, an electronics expert is estimated to cost \$200 per hour of service.
- For purposes of the fiscal note, it is assumed an electronics expert will spend five billable hours on each case.
- The number of times an expert will be required by the courts to copy a photograph or video is unknown; however, it is reasonably estimated that the state courts will require an expert a minimum of 10 times per year, and local courts will require an expert a minimum of 20 times a year.
- The recurring increase in state expenditures is estimated to exceed \$10,000 (\$200 per hour x 5 hours x 10 cases).
- The recurring increase in local court expenditures is estimated to exceed \$20,000 (\$200 per hour x 5 hours x 20 cases).
- Any additional petitions to the courts are expected to be executed within existing resources without any significant additional expenditures.
- It is assumed that state and local law enforcement agencies will not experience a significant reduction in electronics related expenditures.
- It is reasonably assumed that an electronics expert will not damage or destroy an electronics device; therefore, any fiscal impact related to creating of the civil cause of action is considered not significant.

CERTIFICATION:

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



Krista M. Lee, Executive Director

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