

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 258 - SB 400

February 9, 2019

SUMMARY OF BILL: Provides persons convicted of first degree murder who receive the death penalty as a sentence with direct appeal to the Tennessee Supreme Court, bypassing the Criminal Court of Appeals.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures -- \$26,700 Incarceration*
\$10,000/Indigent Defense Fund

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-13-206, a defendant that receives the death penalty may appeal his or her sentence by filing an appeal with the Court of Criminal Appeals. An affirmance of the sentence by the Court of Criminal Appeals triggers an automatic review of the matter by the Tennessee Supreme Court.
- The proposed legislation would require the Tennessee Supreme Court to review final trial court death penalty convictions.
- Bypassing the Court of Criminal Appeals process in death penalty cases will result in shorter time spans between conviction and carrying out of death sentences.
- One person per year will be sentenced to death.
- According to the Department of Correction, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- Bypassing the Court of Criminal Appeals process will result in persons sentenced to death carrying out sentences one year (365.25 days) earlier than under the current appeal processes.
- The recurring decrease in state incarceration expenditures associated with bypassing the Criminal Court of Appeals process is estimated to be \$26,729 (365.25 days x \$73.18 per day x 1 offender).
- The Administrative Office of the Courts (AOC) administers the Indigent Defense Fund. The Indigent Defense Fund compensates attorneys for representing defendants in criminal matters, including capital murder cases.
- The number and amount of AOC claims paid for direct appeals of death sentences to the Criminal Court of Appeals varies depending on the frequency and complexity of the

HB 258 - SB 400

appeals; however, it is reasonable to estimate that AOC pays \$10,000 in claims each year for such appeals.

- The proposed legislation will result in a recurring decrease in state expenditures from the Indigent Defense Fund of \$10,000.
- Any impact to the Appellate Clerk's Office resulting from internal process changes is estimated to be not significant.
- Bypassing the Court of Criminal Appeals could result in lost court costs and fees associated with direct appeals of capital cases. However, it is assumed that most capital defendants are unable to pay the court costs currently assessed in capital cases. As a result, any decrease in fee revenue is estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

/amj