

# SB 256 - HB 601

## FISCAL MEMORANDUM



**Fiscal Review Committee**  
Tennessee General Assembly

March 14, 2025

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**SUMMARY OF BILL AS AMENDED (005629):** Authorizes a District Attorney General or a person convicted of a criminal offense to file a petition for post-conviction relief (PCR) at any time alleging actual innocence based on new evidence, if a petition has not been previously filed and determined based on the same evidence. Prohibits the court clerk from charging a fee for the filing of the petition. Requires the court to schedule the matter for a hearing if the court determines the petitioner has a valid claim. Authorizes a petitioner to seek relief irrespective of whether guilt was determined following a jury trial, plea of guilty, plea of best interest, or plea of no contest. Requires the court to vacate the petitioner's conviction and order a new trial if the new evidence establishes the petitioner's innocence. Requires the clerk to mail a copy of the petition of relief to the office that is representing the state once received.

### FISCAL IMPACT OF BILL AS AMENDED:

OTHER FISCAL IMPACT
To the extent a hearing is held and a defendant's conviction is vacated, there will be a reduction in state incarceration expenditures. The timing and amount of any sentence reduction is unknown and unable to be determined with reasonable certainty. Any increase in expenditures to General Fund or the Indigent Defense Fund is dependent upon multiple unknown factors and cannot be reasonably quantified.

Assumptions for the bill as amended:

- The proposed legislation authorizes the court to vacate and set aside the conviction if outlined criteria is met.
- The burden of proving that the new evidence establishes the petitioner's innocence, is placed on the petitioner.
- Pursuant to Tenn. Code Ann. § 40-30-102(c), a petitioner is limited to filing one petition for PCR attacking a single judgment.
- The proposed legislation will result in an increase in PCR petitions filed as it is assumed defendants will be authorized to file a petition each time new evidence is obtained.
- Based on information provided by the District Attorneys General Conference, the additional workload from the increase in PCR petitions cannot be absorbed with existing resources due to the increase of litigation.

- The number of such petitions filed, the outcome of any hearing, and the subsequent convictions that may be vacated and set aside is unknown; however, to the extent a hearing is held and a defendant's conviction is vacated, there will be a reduction in state incarceration expenditures. The timing and amount of any sentence reduction is unknown and unable to be determined with reasonable certainty.
- Based on information provided by the Administrative Office of the Courts, the proposed legislation will result in an increase in expenditures to the Indigent Defense Fund for attorneys appointed to represent indigent defendants on the new PCR petitions.
- Any increase in expenditures to the Indigent Defense Fund is dependent upon multiple unknown factors and cannot be quantified with reasonable certainty.

**CERTIFICATION:**

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

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Executive Director