

SENATE BILL 2426

By McNally

AN ACT to amend Tennessee Code Annotated, Section 38-6-118; Section 40-32-101 and Section 40-35-313, relative to judicial diversion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-6-118, is amended by deleting subsection (c) in its entirety and by substituting instead the following new subsection (c):

(c) All revenue from the three hundred fifty dollar (\$350) expunction fee imposed by §§ 40-32-101(d)(2) and 40-35-313(d)(2) placed by the state treasurer in the special fund established in § 40-32-101(d)(2) shall be used by the bureau for the purpose of employing personnel; for the purchase of equipment and supplies; to pay for the education, training and development of employees; for the maintenance of the expunged criminal offender and pretrial diversion database and any other computer system support and maintenance expenses incurred by the bureau; or for any other purpose to allow the bureau's business to be done in a more efficient and expeditions manner. The moneys received in the fund shall be invested for the benefit of the fund by the state treasurer pursuant to § 9-4-603. Amounts in the fund shall not revert to the general fund of the state but shall, together with interest income credited to the fund, remain available for expenditure in subsequent fiscal years.

SECTION 2. Tennessee Code Annotated, Section 40-32-101(d)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(2) After April 25, 2000, a defendant petitioning a court for expunction of records because the charge against the person was dismissed as a result of the successful completion of a diversion program pursuant to §§ 40-15-102 -- 40-15-106 shall be assessed a three hundred fifty dollar (\$350) fee. The three hundred fifty dollar (\$350) fee

shall not apply to any case where there has been an acquittal, nolle prosequi, or dismissal for failure to prosecute or where the law does not require a copy of the expunction order be sent to the Tennessee bureau of investigation. The fee shall be transmitted by the clerk of the court to the state treasurer for deposit in a special fund to be used by the bureau for the purpose of employing personnel; for the purchase of equipment and supplies; to pay for the education, training and development of employees; for the maintenance of the expunged criminal offender and pretrial diversion database and any other computer system support and maintenance expenses incurred by the bureau; or for any other purpose to allow the bureau's business to be done in a more efficient and expeditious manner. The moneys received in the fund shall be invested for the benefit of the fund by the state treasurer pursuant to § 9-4-603. Amounts in the fund shall not revert to the general fund of the state but shall, together with interest income credited to the fund, remain available for expenditure in subsequent fiscal years.

SECTION 3. Tennessee Code Annotated, Section 40-35-313(d)(2), is amended by deleting subdivision (d)(2) in its entirety and by substituting instead the following new subdivision (d)(2):

(2) A defendant applying to a court for expunction of the defendant's records following successful completion of the diversion program authorized by this section shall be assessed a three hundred fifty dollar (\$350) fee. The fee shall be transmitted by the clerk of the court to the state treasurer for deposit in the special fund established in § 40-32-101(d)(2) and shall be used by the bureau for the purpose of employing personnel; for the purchase of equipment and supplies; to pay for the education, training and development of employees; for the maintenance of the expunged criminal offender and pretrial diversion database and any other computer system support and maintenance

expenses incurred by the bureau; or for any other purpose to allow the bureau's business to be done in a more efficient and expeditious manner. The moneys received in the fund shall be invested for the benefit of the fund by the state treasurer pursuant to § 9-4-603. Amounts in the fund shall not revert to the general fund of the state but shall, together with interest income credited to the fund, remain available for expenditure in subsequent fiscal years.

SECTION 4. Tennessee Code Annotated, Section 40-32-101(a)(1)(C), is amended by deleting subdivision (C) in its entirety and by substituting instead the following new subdivision (C):

(C) A person applying to a court after October 1, 1998, for the expunction of the person's records following the successful completion of a judicial diversion program authorized by § 40-35-313 shall be charged a fee of three hundred fifty dollars (\$350). The fee shall be transmitted and used in the manner set out in § 40-35-313(d)(2).

SECTION 5. Tennessee Code Annotated, Section 38-6-118, is amended by adding the following as a new subsection (e):

(e) Upon a defendant's request for diversion pursuant to title 40, chapter 15, or § 40-35-313, all of which require a certificate from the bureau relative to the defendant's eligibility for diversion, the defendant shall pay a fee of one hundred dollars (\$100) to the clerk of the court to the state treasurer for deposit in the special fund established in § 40-32-101(d)(2) and shall be used by the bureau for the purpose of employing personnel; for the purchase of equipment and supplies; to pay for the education, training and development of employees; for the maintenance of the expunged criminal offender and pretrial diversion database and any other computer system support and maintenance expenses incurred by the bureau; or for any other purpose to allow the bureau's business to be done in a more efficient and expeditious manner. The moneys received

in the fund shall be invested for the benefit of the fund by the state treasurer pursuant to § 9-4-603. Amounts in the fund shall not revert to the general fund of the state but shall, together with interest income credited to the fund, remain available for expenditure in subsequent fiscal years.

SECTION 6. This act shall take effect July 1, 2012, the public welfare requiring it.