FISCAL NOTE

HB 450 - SB 1004

February 2, 2023

SUMMARY OF BILL: Authorizes a defendant or a defendant's counsel, in addition to a judge or district attorney general, to request a certificate from the Tennessee Bureau of Investigation (TBI) relative to the defendant's eligibility for a pretrial diversion.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. §§ 40-15-106(a) and 40-35-313(3)(A)-(B), in order to be considered for a pretrial diversion the court must first receive a certificate from the TBI stating that, according to its expunged criminal defender and pretrial diversion database, the defendant meets the criteria to be eligible for the diversion.
- Existing law provides that a judge or district attorney general may make the request for such a certificate. The proposed legislation authorizes a defendant or a defendant's counsel to also make the request.
- Pursuant to Tenn. Code Ann. § 38-6-118(e), there is a $100 fee payable by the defendant to the TBI in order to request a diversion and obtain the relevant certificate. The fee is then remitted to the state treasury.
- The proposed legislation does not change the criteria for eligibility for a pretrial diversion, and thus is not expected to increase the total number of diversion requests received by the TBI each year.
- According to the TBI, in the unlikely scenario that more than one request is made for a certificate pertaining to a single diversion, perhaps from a judge and counsel involved in the same case, the TBI will treat those requests as a single request and provide a copy to each requesting party at no additional charge. The TBI states that it can provide these additional copies as needed utilizing existing resources.
- Any fiscal impact to state or local government is estimated to be not significant.

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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