



February 14, 2024

SUMMARY OF BILL: 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 a court to issue an order scheduling the matter for a hearing within 30 days if the court determines that the petitioner has filed a facially valid petition alleging actual innocence based on new evidence. Requires a court to vacate and set aside a conviction if the court determines the petitioner has shown it is more likely than not that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined or at the time of conviction.

FISCAL IMPACT:

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 the Indigent Defense Fund is dependent upon multiple unknown factors and cannot be reasonably quantified.

Assumptions:

- The proposed legislation requires a court that has received such a petition to hold a hearing on such a motion within 30 days, and authorizes the court to vacate and set aside the conviction if outlined criteria is met.
- The burden of proof to show that it is more likely than not that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined, 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.
- 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 "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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