

SENATE BILL 2425

By McNally

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 6; Title 40, Chapter 32 and Title 40, Chapter 35, relative to expunction fees.

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) Funding for the operational expenses of this section shall be as stated under § 40-32-101(d)(2).

SECTION 2. Tennessee Code Annotated, Section 38-6-118, is amended by adding the following language 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) and shall be used by the bureau for the purposes specified under that subsection.

SECTION 3. Tennessee Code Annotated, Section 40-32-101, is amended by deleting subdivision (a)(1)(C) in its entirety, and is further amended by deleting subdivision (d)(2) in its entirety and by substituting instead the following new subdivision (d)(2):

(2)

(A) Beginning July 1, 2012, 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 fee shall be transmitted by the clerk of the court to the state treasurer for deposit in a special fund and shall be used by the bureau for the following purposes:

- (i) Employing personnel;
- (ii) Purchasing equipment and supplies;
- (iii) Funding education, training and development of employees;
- (iv) Maintaining the expunged criminal offender and pretrial diversion database;
- (v) Computer system support;
- (vi) Maintenance expenses; and
- (vii) Any other purpose to allow the bureau's business to be done in a more efficient manner.

(B) 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.

(C) The three hundred fifty dollar (\$350) fee under subdivision (A) 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.

SECTION 4. Tennessee Code Annotated, Section 40-35-313, is amended by deleting subdivision (d)(2) in its entirety and by substituting instead the following new subdivision (d)(2):

(2) Beginning July 1, 2012, 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).

SECTION 5. This act shall take effect July 1, 2012, the public welfare requiring it.