



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard

Executive Director

DATE: 31 January 2025

SUBJECT: District Attorney Staffing—Draft Report for Review and Comment

The attached draft commission report is submitted for your review and comment. It was prepared in response to Senate Bill 2054 by Senator Jackson and House Bill 2205 by Representative Barrett in the 113th General Assembly, which would have required cities with municipal courts of concurrent jurisdiction to fund at least one assistant district attorney (ADA) position for their district attorney (DA) and granted the DA sole discretion to determine whether the city needed to fund additional DA staff. The bill passed in the House but was referred to the commission for study by the Senate Finance, Ways and Means Committee. Municipal courts of concurrent jurisdiction can hear the same types of criminal cases involving state law as their county's general sessions court. Twenty-three cities currently have authority to operate courts of concurrent jurisdiction, and 21 of these have active courts.

State law requires DAs to prosecute cases involving violations of state criminal statutes in these courts where the city supplies "sufficient personnel," but it doesn't explicitly define what is sufficient or state whether this includes funding for DA staff. Cities with these courts typically fund various aspects of their operations, including providing for courtrooms, judges, clerks, and security, among others. But only around half of these cities provide any funding for DA staff. In 2022, the DA serving Gibson County notified Milan and Trenton that his office would no longer prosecute cases in their courts, citing their lack of funding for DA staff. The incident led to a lawsuit in which the trial court ruled in favor of Milan and Trenton, though the case is under appeal.

The extent to which municipal courts of concurrent jurisdiction affect DA staffing needs is nuanced. Representatives for DAs say that serving these courts does place additional

demands on their staff, though it does not increase the overall caseload on their offices. ADAs and other support staff, such as victim-witness coordinators, cannot be in two places at once, so if a court of concurrent jurisdiction meets at the same time as the county general sessions court, it represents another court for their offices to staff.

Although Senate Bill 2054 and House Bill 2205 would have addressed the DAs' concerns, representatives for cities opposed the bill and raised several concerns of their own. Among these, the bill would have allowed DAs to make funding decisions for the city and might have superseded existing funding agreements that some cities have with their DA. Several cities questioned why they should fund a full-time ADA position when their courts meet infrequently. And some pointed out that their courts already operate on tight budgets, or even at a loss, and that if required to fund a full-time ADA, they might give up their concurrent jurisdiction. While the impact of that could be minimal in some judicial districts, in others, the transfer of a large case volume could create costs for the county general sessions court. For these reasons, **the draft report does not recommend the bill.**

Given the variation among municipal courts of concurrent jurisdiction, it would be beneficial to assess each court's individual effect on DA staffing needs, when determining what, if any, funding cities with these courts might be required to provide. What level of DA staffing might be sufficient is best determined by a weighted caseload study. State law requires the Tennessee Comptroller of the Treasury to produce weighted caseload studies, but one for DAs or public defenders has not been produced since fiscal year 2005-06 because of challenges in data collection from general sessions courts. **The draft report recommends that the state undertake a weighted caseload study as soon as feasible to establish the staffing needs of district attorneys based on all the courts they serve, including municipal courts with concurrent jurisdiction.**

In acknowledgement of the likelihood that courts of concurrent jurisdiction impose at least some additional staffing needs on their DAs, a reasonable compromise on funding can be found among the existing voluntary agreements that 13 of the cities with these courts have with their DAs. These agreements vary greatly. But considering the variation among courts of concurrent jurisdiction and the funding concerns of some cities, per diem arrangements like the one used by Smyrna (\$150 per ADA per court day) may offer a suitable approach to balancing the needs of DAs and cities until a weighted caseload study can be completed. Therefore, **the draft report recommends that to assist with district attorney staffing needs prior to the completion of a weighted caseload study, each city with a municipal court of concurrent jurisdiction that does not already have an existing funding arrangement with its DA should negotiate a per diem payment for DA staff.**