

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations




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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard 
Executive Director

DATE: 26 January 2017

SUBJECT: Tennessee's Court Fees and Taxes: Funding the Courts Fairly—Final Report for Approval

The attached commission report is submitted for your approval. The report responds to a request from Senator Jon Lundberg, former Chair of the House Civil Justice Committee to study court fees. In his letter of April 13, 2015, Senator Lundberg wrote that several committee members are concerned about the recurring practice of fee increases and asked the Commission to review all bills passed in the last 10 years that increased any type of court fee, describe the fees and how they are being used, and make recommendations. The study also includes information about efforts to collect unpaid court costs because many stakeholders discussed this issue during interviews, and court clerks expressed frustration over how difficult it can be to collect court costs.

Civil case costs are generally less than criminal case costs, but in both types of cases, costs accumulate and can become overwhelming, preventing people from filing civil cases or creating large amounts of debt in both civil and criminal cases. The report suggests that Tennessee could, as is done in Louisiana, provide more thorough analysis of court costs, how they accumulate, and related earmarks through the use of a judicial committee that reviews and makes recommendations on bills proposing to add or increase court costs. Louisiana requires sponsors to submit such bills to a committee of the state Supreme Court to determine if it is reasonably related to the operation of the courts or court system. The final report adds language that the Tennessee committee could look at the existing statewide fees and taxes scattered throughout other statutes

and not in Tennessee Code Annotated, Section 8-21-401, to determine if any changes should be made to those taxes and fees, to include changes to their earmarks.

Tennessee law requires people's driver's licenses to be revoked if they have not paid all their criminal court costs within one year after the disposition of the case and do not comply with their payment plans. Research has shown this can be devastating to persons with low incomes, and, in fact, in January 2017, a lawsuit was filed challenging the 2011 driver's license revocation law. To address concerns about the law, the final report says the Tennessee committee discussed above could also examine the effect required revocations have on people and their ability to pay these taxes and fees.

The report also says that although there is little collections data available to help determine the scope of the issue, many stakeholders and court clerks emphasized that collecting fees and taxes can be problematic, especially in criminal cases. Although no studies were found that examine whether increasing court costs results in lower collection rates, one respondent to the Commission survey said that the more court fees rise "the less defendants can pay." The report says the Commission agrees with the Tennessee Fiscal Review Committee's 2008 recommendation that the Administrative Office of the Courts (AOC) be required to send an annual report of uncollected criminal case assessments from each county to the Committee. The final report adds that the AOC could use the data to examine the relationship between increasing costs and collection rates.