



Tennessee's Court Fees and Taxes: Funding the Courts Fairly

Commission Report Summary

At its January 26, 2017 meeting, TACIR approved its report on court fees and taxes in Tennessee. The report, *Tennessee's Court Fees and Taxes: Funding the Courts Fairly*, was prepared in response to a request from Senator Jon Lundberg, former Chair of the House Civil Justice Committee, and included several observations:

- Public Chapter 429, Acts of 2005, replaced several sets of itemized fees with single flat fees in Tennessee Code Annotated, Section 8-21-401. Since then, the General Assembly has passed 46 bills that increased, added, or authorized new court fees and taxes, affecting 65 separate fees or taxes.
- There are 141 court fees and taxes in Tennessee (109 fees and 32 taxes), excluding those that apply only to the Knox County civil court, civil general sessions, and chancery courts, and those that apply only to the state's appellate courts.
- The 141 fees and taxes range from 50 cents to \$3,000 and vary by the court, type of case, actions taken, and whether they are mandatory, optional, statewide, or county-specific. 90 of the 141 are mandatory, and 51 are optional.
- 100 fees and 20 taxes apply statewide; 9 fees and 12 taxes apply to one or more specific counties.
- 47 of the 109 fees are statewide and are authorized in Tennessee Code Annotated, Section 8-21-401. The other 62 miscellaneous fees are scattered throughout other statutes.
- 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 types of cases.
- Even for a relatively minor offense such as driving with a revoked, suspended, or canceled license, the costs charged in general sessions criminal court could include up to 18 fees and taxes, totaling from approximately \$112 to over \$300. For a first offense for driving while under the influence (DUI), the costs charged in general sessions criminal court could

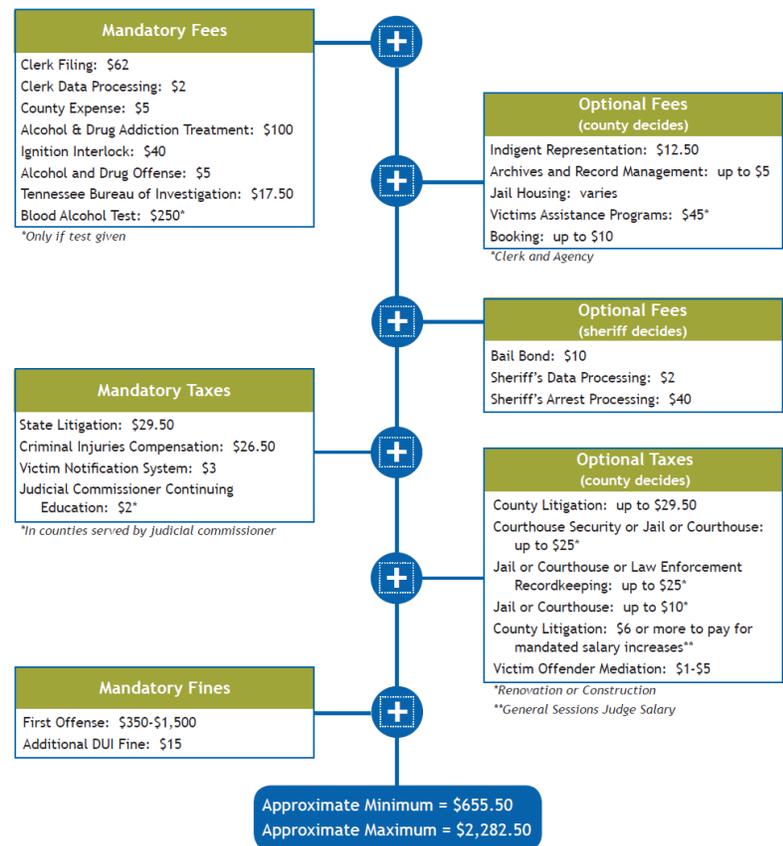
The Conference of State Court Administrators (COSCA) provides guidelines for a well-balanced system of court finance:

- *Courts should be substantially funded from general governmental revenue sources, enabling them to fulfill their constitutional mandates. Court users derive a private benefit from the courts and may be charged reasonable fees partially to offset the cost of the courts borne by the public-at-large. Neither courts nor specific court functions should be expected to operate exclusively from proceeds produced by fees and miscellaneous charges.*
- *Fees and miscellaneous charges cannot preclude access to the courts and should be waived for indigent litigants.*
- *Fees and miscellaneous charges should be simple and easy to understand with fee schedules based on fixed or flat rates and should be codified in one place to facilitate transparency and ease of comprehension.*
- *Optional local fees or miscellaneous charges should not be established.*
- *Fees and costs, however set, should be determined in consultation with the appropriate judicial body and reviewed periodically to determine if they should be adjusted.*

include up to 28 fees and taxes, totaling from approximately \$655.50 to over \$2,282.50. See figure to right.

- 86 of the fees and taxes are earmarked. 49 of those partially support the court system or are for court purposes only, such as courthouses. The remainder fund various programs (for example, including those for physically and sexually abused children, substance abuse prevention and treatment, and victim assistance), county expenses, local law enforcement (including jails), testing labs, and a variety of other state government funds.
- Although many court clerks and other stakeholders said that collecting court costs can be difficult, especially in criminal cases, there is little collections data available to help determine the full scope of the problem.
- According to the most comprehensive and recent collections data available from the Administrative Office of the Courts (AOC), from 2012, the collection rate was 72% in civil courts and 30% in criminal courts.
- In Tennessee, people’s driver’s licenses can be revoked if they have not paid all their criminal court costs within one year after the disposition of the case. Since the revocation law went into effect in 2011, 191,089 licenses have been revoked. However, Public Chapter 748, Acts of 2016, allows a person whose license has been taken to get a new license if they comply with a payment plan for court costs. A person whose license is suspended for a driving offense conviction and who fails to pay a fine or cost is eligible to apply for a restricted license.

Hypothetical First Offense DUI Criminal Case in General Sessions Court



Note: Counties can adopt additional fees and taxes authorized by county-specific laws.
Source: Based on information received in an email from Amanda Hughes, Application Support Manager, Court Clerk Liaison, Tennessee Supreme Court, Administrative Office of the Courts, July 7, 2016.

To address the many issues with court fees and taxes, TACIR’s report suggests that Tennessee could 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,
- reviews 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, and
- examines the effect required driver’s license revocations have on the ability of people to pay these taxes and fees.

In the report, the Commission agrees with a recommendation made by the Tennessee Fiscal Review Committee in 2008 that the AOC be required to send an annual report of uncollected criminal case assessments from each county to the Committee, and the report suggests AOC could use this data to examine the relationship between increasing costs and collection rates.