

Amendment No. 1 to SB0409

Gardenhire
Signature of Sponsor

AMEND Senate Bill No. 409*

House Bill No. 487

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 8-21-401, is amended by deleting the section in its entirety and substituting instead the following:

8-21-401.

(a) Except as otherwise provided by law, the filing fees and costs provided in this section in civil cases are chargeable and must be collected at the time the services are requested from the clerk or other officer of the court; however, this section does not limit the ability of a party to initiate a judicial proceeding by filing a pauper's oath. If a party requests services from the clerk but fails to pay the applicable filing fees at the time of the request, then the clerk shall give notice to the party and counsel of record, if any, of the party's non-compliance with this section within ten (10) business days. If the party fails to correct the party's non-compliance within ten (10) business days of the date of the notice of non-compliance, then the clerk may move the court for relief, up to and including striking a filing or dismissing the judicial proceeding. If payment of the clerk's filing fees or costs would create a substantial hardship for a party, then the court is encouraged to use the discretion provided in Rule 29 of the Rules of the Supreme Court to find that the party is indigent, even if that party does not meet the Legal Services Corporation's poverty guidelines. If a party, other than a party who initiated a judicial proceeding under a pauper's oath, pays filing fees or costs at the time the services are requested, such payment must be deemed to satisfy the requirement for security to be given for filing fees or costs, pursuant to § 20-12-120. An attorney filing the judicial

proceeding must have the option to sign a cost bond in lieu of the party paying the clerk's filing fees or costs at the time services are requested. The clerk shall not refuse to file a judicial proceeding where the attorney has opted to sign a cost bond. In any judicial proceeding where the clerk refuses to accept such cost bond in lieu of the party paying the clerk's filing fees or costs, the clerk forfeits all filing fees or costs in that judicial proceeding. These requirements for filing fees or costs to be paid or security provided when services are requested from the clerk do not apply in criminal cases. The filing fees and costs listed in this section do not include officer's fees as provided for in § 8-21-901 and elsewhere. These filing fees and costs also do not include state and local litigation taxes.

(b) Filing Fees in Civil Cases in Circuit and Chancery Courts. The clerks of the circuit and chancery courts shall charge a standard filing fee as set forth below:

FILING FEES IN CHANCERY AND CIRCUIT COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Enforcement of contracts; injunctions; personal injury and property damage; malpractice; health care liability; wrongful death; employment and all other forms of discrimination; will contests; in solemn form probate administrations; civil rights; tax disputes; special remedies; property disputes; and any other type of judicial proceedings not otherwise designated in this section or elsewhere by law	\$275	\$300	\$325
Divorces involving minor children	\$250	\$275	\$300
Divorces that do not involve minor children	\$175	\$200	\$225
Appeals from juvenile, general sessions, probate, municipal courts, or administrative agencies	\$200	\$225	\$250
Transfers from foreign jurisdictions or enforcement of foreign judgments	\$200	\$225	\$250
Requests for writs of mandamus; quo warranto; or writs of certiorari	\$200	\$225	\$250
Condemnations or inverse condemnations	\$200	\$225	\$250
Restoration of citizenship rights	\$150	\$175	\$200
Delayed or corrected birth certificates	\$150	\$175	\$200

Adoptions; legitimations; paternity; termination of parental rights; name changes; minor settlements; civil expungements as authorized by law; orders of protection; emergency custody; requests for removal from custody; contempt; modifications of parenting plan; and any other domestic relations judicial proceedings not otherwise designated in this section or elsewhere by law	\$100	\$100	\$100
Child support enforcements or modifications (including interstate support actions)	\$75.00	\$75.00	\$75.00
Delinquent property tax (per parcel)	\$42.00	\$42.00	\$42.00

(c) Filing Fees in Courts Administering Estates.

(1) The clerks of courts administering estates shall charge a standard filing fee as set forth below:

FILING FEES IN COURTS ADMINISTERING ESTATES	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Probate estates (including general administrations, small estates, insolvent estates, and muniment of title); conservatorships; or guardianships	\$275	\$300	\$325
Requests in probate estates to sell real property; year's support, exempt property, or homestead; insolvency; or interpretation	\$200	\$200	\$200
Creditor claims against probate estates (this fee shall also be the fee previously set forth in § 8-21-401(c)(1)(A) for purposes of filing a claim)	\$50.00	\$50.00	\$50.00
Exceptions to any creditor claims against probate estates	\$100	\$100	\$100
Mental health laws compiled under title 33	\$50.00	\$50.00	\$50.00

(2) The clerks of courts administering estates shall charge the standard costs as set forth below:

COSTS IN COURTS ADMINISTERING ESTATES	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
For filing and docketing any request on an existing estate, other than a request to	\$25.00	\$25.00	\$25.00

close the estate, not otherwise designated in this section or elsewhere by law (this fee shall also be the fee previously set forth in § 8-21-401(c)(6) for purposes of filing a motion to transfer a guardianship or conservatorship)			
For entering any order on an existing estate, other than closing order, not otherwise designated in this section or elsewhere by law	\$20.00	\$20.00	\$20.00
For issuing each summons, subpoena, citation, writ, notice (including copies of process when required by law)	\$10.00	\$10.00	\$10.00
For filing any document not otherwise designated in this section or elsewhere by law (this fee shall also be the fee previously set forth in § 8-21-401(c)(9) for purposes of notices pursuant to a claim by a personal representative)	\$7.00	\$7.00	\$7.00
For filing, reviewing, recording, and entering any accounting or settlement	\$75.00	\$75.00	\$75.00

(d) Costs in Criminal Cases in Courts of Record.

(1) The clerks of the criminal courts of record shall charge the standard costs as set forth below:

COSTS IN CRIMINAL COURTS OF RECORD	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Standard cost (per case, per defendant)	\$300	\$300	\$300
Violation of probation or post-judgment actions other than expunctions	\$100	\$100	\$100
Criminal contempt actions (including criminal contempt proceedings in civil courts); failure to appear; request for bonding company release from final forfeiture; request to reinstate a driver license; or requests for relief	\$75.00	\$75.00	\$75.00

(2) The clerks may charge a cost of up to one hundred dollars (\$100) for expunctions.

(3) Reimbursement from the state is limited to the fees and costs in effect prior to January 1, 2006.

(e) Filing Fees in Juvenile Courts. The clerks of the juvenile courts shall charge a standard filing fee as set forth below:

FILING FEES IN JUVENILE COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Request to establish support or nonsupport; proceedings related to parentage; paternity cases; legitimations; and any other type of actions not otherwise designated in this section or elsewhere by law	\$100	\$100	\$100
Child support enforcements or modifications (including interstate support actions)	\$75.00	\$75.00	\$75.00
Traffic actions; consent orders; diversions or nonjudicial disposition of juvenile cases; voluntary motions to grant custody; marriage waivers; attachments pro corpus; or bench warrants	\$42.00	\$42.00	\$42.00
Restricted licenses; drug screenings; entering orders of appeal and taking appeal bonds; entering judgments from appellate courts; entering orders allowing rehearing; or special pleas	\$25.00	\$25.00	\$25.00
Delinquency; unruly actions; felony or misdemeanor judicial proceedings	\$62.00	\$62.00	\$62.00

(f) Filing Fees in Civil General Sessions Courts.

(1) The clerks of the general sessions courts exercising civil jurisdiction shall charge a standard filing fee as set forth below:

FILING FEES IN CIVIL GENERAL SESSIONS COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Enforcement of contracts; collections; torts; citations; detainer warrants; appeals of decisions denying issuance of handgun permits; and any other type of action not otherwise designated in this section or elsewhere by law	\$50.00	\$50.00	\$50.00
Short-term mental health commitments	\$42.00	\$42.00	\$42.00

Orders of protection (shall be charged and collected in the manner provided in § 36-3-617)	\$100	\$100	\$100
--	-------	-------	-------

(2) When a general sessions court is exercising concurrent civil jurisdiction with a court of record, the clerk shall charge the litigation taxes and costs applicable in courts of record.

(g) Costs in Criminal General Sessions Courts.

(1) The clerks of the general sessions courts exercising criminal jurisdiction shall charge the standard costs as set forth below:

COSTS IN CRIMINAL GENERAL SESSIONS COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Standard cost for cases not involving traffic citations (per conviction, per defendant)	\$62.00	\$62.00	\$62.00
For cases involving traffic citations	\$42.00	\$42.00	\$42.00
Failure to appear	\$40.00	\$40.00	\$40.00
Issuance of bench warrant, capias, or other process to compel the defendant's attendance at the court	\$40.00	\$40.00	\$40.00
Calling in surety (per each time a scire facias or other proceeding is instituted to bring in a surety, or make action against a bond for failure to appear)	\$40.00	\$40.00	\$40.00
Requests for bonding company release from final forfeiture or requests to reinstate a driver license	\$75.00	\$75.00	\$75.00

(2) The clerks may charge a cost of up to one hundred dollars (\$100) for expunctions.

(3) Reimbursement from the state is limited to the fees and costs in effect prior to January 1, 2006.

(h) Clerk's Commissions. The clerks of courts shall charge the standard commissions as set forth below:

COMMISSIONS IN ALL COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
Except as otherwise provided, for receiving and paying over all taxes, fines, forfeitures, fees, and amercements	5%	5%	5%
In counties having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census, for receiving and paying over all taxes, fines, forfeitures, fees, and amercements	10%	10%	10%
For receiving and paying over all taxes on litigation	6.75%	6.75%	6.75%
For selling real or personal property under court order, and receiving into the court's registry, collecting, and paying out the proceeds (the clerk shall collect the sheriff's fee for each party in a proceeding to sell real property)	3%	3%	3%
For investing funds as directed by court order (as a percentage of earnings)	5%	5%	5%

(i) Costs in all Courts.

(1) The clerks of court shall charge the standard costs as set forth below:

COSTS IN ALL COURTS	As of January 1, 2026	As of January 1, 2027	As of January 1, 2028
For issuing each original, alias, or plures subpoena or subpoena duces tecum	\$10.00	\$10.00	\$10.00
For fulfilling a document request, other than an original filing and other than when preparing a record upon appeal (per page)	\$0.50	\$0.50	\$0.50
For making certification and seal, providing a copy of an abstract, or providing driver license certification	\$5.00	\$5.00	\$5.00

For preparing and acknowledging any deed or other instrument transferring ownership pursuant to court order	\$50.00	\$50.00	\$50.00
For issuing summonses to empanel a jury	\$100	\$100	\$100
Post-judgment fee per each occurrence regardless of whether judgment is enforced by garnishment, execution, levy, or other process, including, but not limited to, interrogatories, publications, motions to set installment payments, orders, or pleas	\$25.00	\$25.00	\$25.00
To re-open any closed case	\$75.00	\$75.00	\$75.00
For conducting computer searches for any public record having a commercial value	\$7.00	\$7.00	\$7.00
For receiving and any paying out funds paid into the court's registry pursuant to an installment payment plan	\$25.00	\$25.00	\$25.00
For preparing a record on appeal from a court of record to an appellate court	\$300	\$300	\$300
For preparing and causing a public notice to be published	\$25.00	\$25.00	\$25.00
For preparing and filing each clerk's report	\$25.00	\$25.00	\$25.00
For entry of an order directing the clerk to sell a property in a delinquent property tax judicial proceeding (per parcel)	\$100	\$100	\$100
For filing and docketing any request for redemption of a parcel of property or to claim excess sale proceeds in a delinquent property tax judicial proceeding (per request to be paid by the requesting party at the time of filing)	\$75.00	\$75.00	\$75.00

(2) The clerks of court shall charge a cost of ten dollars (\$10.00) for each requested continuance. Of this cost, the clerk shall deposit five dollars (\$5.00) into the county general fund to be used exclusively for the purposes of providing security and enhancing the security of court facilities in the county. For each

fiscal year, the court security committee, created by § 16-2-505(d)(2), shall develop and submit recommendations to the county legislative body regarding how such funds must be utilized. The clerk shall collect the costs for continuances at the conclusion of the judicial proceeding. If multiple litigants request a continuance, the judge may assess the costs to one (1) or more parties.

(3) For receiving funds paid into the court's registry on confirmation of private sales or other funds paid into the court's registry pursuant to court order, and collecting and paying out the proceeds, the cost is fifty dollars (\$50.00). This cost also applies where there is a pre-judgment judicial attachment or similar process to bring property into the court's possession prior to judgment. This cost shall not apply to payments of proceeds made pursuant to court order to any person from funds held by the clerk, except for court orders concerning a redemption of delinquent taxes property sale; in such case, the fee must only be charged one (1) time against the total amount of proceeds generated from the sale of the property.

(4) The clerks have the authority to invest idle funds held under their control, not otherwise invested. The clerk shall invest such funds in financial institutions operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation. Such investments shall not exceed the amounts that are federally insured, unless otherwise fully collateralized under a written collateral agreement, or unless the funds are deposited with an institution that is a member of the state collateral pool. The clerk may invest funds in the local government investment pool administered by the state treasurer. The earnings on such investments must become part of the costs of the clerk and the clerk shall account for earnings received the same as with other costs received. As used in

this subdivision (i)(4), "idle funds" means those funds the clerk holds pursuant to statute, local rules of court, or a court order that does not specifically direct the clerk to invest the funds. This subdivision (i)(4) does not relieve the clerks from the responsibility of investing funds held under their control pursuant to court order or local rules of court directing the clerk to invest funds, and the earnings on those investments must accrue to the benefit of those directed by the court or by agreement of the parties to the judicial proceeding.

(5) Whenever the clerk is required by law or by a court to send documents by certified or registered mail, the clerk is entitled to recover the clerk's actual costs for mailing the documents.

(6) For the purposes of determining the filing fees of the clerk, when any party files a third-party complaint, counter-complaint, or cross-complaint, the party filing the third-party complaint, counter-complaint, or cross-complaint must be charged the same filing fee as was charged at the initiation of the original judicial proceeding.

(j) Earmarked Funds for Technology. Out of all the standard filing fees charged by the clerks of the courts, seven dollars (\$7.00) of each standard filing fee must be earmarked for technology and for other usual and necessary technology-related expenses at the discretion of the clerk. The clerk shall preserve these funds exclusively for these purposes and these funds shall not revert to the general fund at the end of a budget year, if unexpended.

(k) Costs in Extraordinary Cases. In any extraordinary cases, the clerk may petition the court to award reasonable costs, in excess of the amounts provided in this section, to reimburse the clerk for the additional services demanded by the judicial proceeding. In such judicial proceedings, the clerk may also petition the court to require an appropriate cost bond. For the purposes of this subsection (k), an extraordinary case means a case in which there are ten (10) or more parties.

(l) Charges to the State Unchanged. Notwithstanding this section to the contrary, any fees, costs, or commissions increased by this section that are assessed against the state or that otherwise represent a charge to the state in criminal cases, child support actions, mental health proceedings, judicial proceedings under the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1, judicial proceedings with regard to child care licensing, and collection efforts brought by the department of human services, are limited to the amounts chargeable prior to January 1, 2006.

(m) Indigent Parties. A clerk is not permitted to collect any filing fee or cost authorized by this section without permitting any person the opportunity to institute a judicial proceeding by means of a pauper's oath, in accordance with Rule 29 of the Rules of the Supreme Court.

(n) Fees for Electronic Filing and Retrieval of Court Documents.

(1) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule and is in compliance with technological standards established by the supreme court, clerks may assess a transaction fee for each filing submitted by a party to the judicial proceeding. The transaction fee is limited to a maximum of five dollars (\$5.00) per filing up to a maximum of fifty dollars (\$50.00) per judicial proceeding. As an alternative to a transaction fee, clerks may assess an annual subscription fee for each registered user of the electronic filing system. The subscription fee permits the registered user unlimited electronic filings for a one-year period. The one-year period must be defined by the clerk and must be consistently maintained for all registered users of the electronic filing system. The annual subscription fee shall not exceed three hundred dollars (\$300) for each annual period. Each of these fees must be set in an amount necessary to defray the expenses associated with implementation and maintenance of the electronic filing and document retrieval

system and must be included in the local court rule authorizing it. Pursuant to subsection (l), these fees shall not be assessed against the state.

(2) Pursuant to subsection (m), neither the transaction fee nor the subscription fee must be assessed to a party declared indigent or to that indigent party's legal representative.

(3) In any court where electronic filing, signing, or verification of papers has been authorized by local court rule, the state and any department or contractor of the state is not required to file documents electronically, notwithstanding any local court rule.

(4) Neither the electronic filing transaction fee or subscription fee limit a clerk's statutory authority to charge subscription fees or transaction fees for obtaining copies of documents maintained by the clerk as part of an electronic filing system or a separate document management system.

(o) Orders of Protection. Notwithstanding this section to the contrary, the clerks of the courts shall collect filing fees, costs, litigation taxes, or any other costs associated with the filing, issuance, registration, service, dismissal or nonsuit, appeal, or enforcement of an ex parte order of protection, order of protection, or a petition for either such order in the manner provided in § 36-3-617.

(p) Clerks' Report. The Tennessee state court clerks association must file a report with the general assembly on or before December 31, 2028, proposing any increases in the fees, costs, or commissions provided in this section; provided, however, that this section does not prohibit any increases prior to December 31, 2028.

SECTION 2. Tennessee Code Annotated, Section 8-21-408, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 8-21-409, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 8-21-801, is amended by deleting the language "8-21-401(i)(7)" and substituting "8-21-401(h)".

SECTION 5. Tennessee Code Annotated, Section 18-5-105, is amended by deleting the language "§ 8-21-401(i)(8) or, if applicable, § 8-21-409(e)(1)" and substituting "§ 8-21-401(i)(4)".

SECTION 6. Tennessee Code Annotated, Section 55-4-603, is amended by deleting the language "§ 8-21-401(h)(2)" and substituting "§ 8-21-401(h)".

SECTION 7. Tennessee Code Annotated, Section 55-8-199, is amended by adding the following as a new subdivision (c)(5):

(5) In addition to any other fine or fee, a person violating this section is subject to a five dollar (\$5.00) administrative fee to be retained by the court clerk.

SECTION 8. Tennessee Code Annotated, Section 67-4-602, is amended by adding the following as a new subsection (m):

(m)

(1) In addition to any other tax imposed by this chapter, there is levied a privilege tax on litigation of two dollars (\$2.00) in all civil and criminal cases instituted in the county, other than those instituted in juvenile or municipal courts, for the purposes of court clerk education.

(2)

(A) There is created a special account in the state treasury to be known as the court clerk continuing education account, referred to as the court clerk fund in this subsection (m).

(B) Notwithstanding the apportionment of revenue formula in § 67-4-606, there must be deposited in the court clerk fund proceeds from the privilege tax on litigation imposed by subdivision (m)(1).

(3) Moneys in the court clerk fund may be invested by the state treasurer in accordance with § 9-4-603.

(4) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the court clerk fund must be credited to the fund, shall not revert to the general fund and must be carried forward into the subsequent fiscal year.

(5) Any balance remaining unexpended at the end of a fiscal year in the court clerk fund shall not revert to the general fund but must be carried forward into the subsequent fiscal year.

(6) Moneys in the court clerk fund may be expended by the state court clerks' conference only in accordance with annual appropriations approved by the general assembly for the development and presentation of continuing education programs, courses, and conferences for court clerks in this state.

SECTION 9. This act takes effect January 1, 2026, the public welfare requiring it.