



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

Municipal Court Costs

What are they? What should they be? How do we determine them?

John Eskew, MTAS Municipal Courts Specialist

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Author's note: The goal of this article is to discuss the various questions involving court costs that are not easily found in cases and statutes. The tone of this article will be informal, almost conversational. This is the way I like to teach my court classes to court clerks, city judges, and city attorneys.

Overview of the types of courts

Before we talk about municipal court costs specifically, let's discuss the various types of courts in Tennessee, what each court does, the types of cases it hears, and how the statutes apply certain court fees to some courts but not to others.

The Tennessee Constitution created the judicial system in Article VI, Section 1. It reads as follows:

Section 1. The judicial power of this state shall be vested in one **Supreme Court** and in such **Circuit, Chancery** and other **Inferior Courts** as the Legislature shall from time to time, ordain and establish; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in **Corporation Courts** as may be deemed necessary. Courts to be holden by justices of the peace may also be established.

Tenn. Const. art. VI, § 1 (emphasis added).

The Constitution describes the Supreme Court, county level Circuit and Chancery Courts, and "Inferior Courts" which are now called general sessions courts. Lastly, this paragraph names "Corporation Courts" which is the modern-day equivalent of a municipal court.

Since the adoption of the Constitution in 1796, the State of Tennessee has created additional courts that were not specified in the Constitution, including the Court of Appeals (civil and criminal), Juvenile & Family Courts, Environmental Courts, Veterans Treatment Court, and Mental Health Courts.

Circuit and General Sessions courts hear both civil and criminal cases. Chancery Court hears domestic relations and civil cases. Juvenile & Family Courts hear juvenile cases, child support, parental rights, paternity, and other matters.

Today, the Tennessee Courts hierarchy structure is as follows:

- Supreme Court - Highest Court in Tennessee, hears civil and criminal cases appealed from the Court of Appeals.
- Court of Appeals (civil cases) and Court of Criminal Appeals (criminal cases) - Hears cases appealed from Circuit and Chancery Courts.
- Circuit Court (both criminal and civil cases) and Chancery Court (domestic relations and civil cases).
 - Note: Circuit and Chancery courts are courts of record operating in the county level, so you will see Knox County Circuit or Montgomery County Chancery. Also, these courts are divided up into judicial

districts, where usually more than one county comprises a district. Typically, a circuit judge or the chancellor's judicial district will encompassing multiple counties.

- General Sessions Court (civil cases where the dispute is less than \$25,000 and criminal cases involving misdemeanors when the defendant waives any rights to a grand jury investigation or a jury in circuit or criminal court).
 - Note: General Sessions Courts are county specific, and typically these judges only serve the specific county and do not have a multi-county district like the circuit judges and chancellors.
- Other special courts like Veterans Treatment Court, Mental Health Court, or Drug Court. These typically operate at the county court level and their primary goal is rehabilitation of the offender.

Now moving on to court costs, the Tennessee General Assembly has passed numerous laws over the years specifying what fees and costs apply to these various state courts.

Because the legislature passed these various statutes detailing court costs, fees, and taxes, these items apply across all 95 county courts and the appellate courts. These statutes provide consistency and remove any guesswork about what these county courts can charge.

If you would like a deep dive into these various state court costs and fees, the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) has published a very thorough, extraordinarily well-done study on the numerous court fines, fees, costs, and taxes in January 2017.¹ This report discussed the various statutory fines and fees and their effect on funding the courts, the impact on the fees and costs assessed against the defendants and court parties, and the societal and economic impact on the parties for criminal and civil cases.

One example on these various statutory court costs and fees for criminal cases in general sessions courts is found in T.C.A. § 8-21-401(g). This statute says the county criminal general sessions court may assess these fees:

(g) CRIMINAL ACTIONS IN GENERAL SESSIONS COURT.

(1) General session criminal base fee, sixty-two dollars (\$62.00). This fee shall be charged per conviction per defendant. For cases involving traffic citations, instead of sixty-two dollars (\$62.00), the base court cost shall be forty-two

¹ https://www.tn.gov/content/dam/tn/tacir/documents/2017_CourtFees.pdf

dollars (\$42.00).

(2) Failure to appear, forty dollars (\$40.00). In cases where the defendant fails to appear or pay fines or costs and the court issues an attachment, bench warrant, capias or other process to compel the defendant's attendance at the court, the defendant shall be charged an additional fee for clerk's costs of forty dollars (\$40.00).

(3) Calling in surety, forty dollars (\$40.00). The clerk shall charge the defendant this fee each time a scire facias or other proceeding is instituted to bring in a surety, or make action against a bond in criminal cases for failure to appear.

(4) The clerk shall charge a fee of seventy-five dollars (\$75.00) for requests for bonding company release from final forfeiture, or requests to reinstate a driver license.

(5) The clerk may charge a fee of up to one hundred dollars (\$100) for expunctions.

Therefore, if you have a criminal general sessions case in Lake County and an identical case all the way across the state in Johnson County, these specific fees should be the same.

If you read the TACIR report mentioned above, that report noted 245 separate court fees and taxes in Tennessee (see page 2 on the report). These statutory fees vary based on the type of court, the type of case, actions taken, and whether these fees are mandatory, optional, statewide, or county specific.

In other words, while some court costs and fees are mandatory and consistent statewide (like T.C.A. § 8-21-401 (g) discussed above), other statutes only apply to certain size counties, or a particular fee must be passed by the county commission, thereby making that fee optional. Therefore, while the statutes provide consistency for court costs, it does not mean that every single case will have the exact same cost across the state.

Municipal courts: a closer look at court costs

With that wonderful history lesson in mind, let's switch gears and focus on municipal courts. Municipal courts are the "Corporation Courts" detailed in the Tennessee Constitution.

There are two types of municipal courts:

1. Traditional municipal courts; and
2. Municipal courts exercising concurrent general sessions jurisdiction.

What's the difference you ask? Traditional municipal courts are the most common.

Traditional municipal courts

Under the Municipal Court Reform Act, T.C.A. § 16-18-302, jurisdiction for these courts is as follows:

(a) For any municipality that does not have, on May 5, 2009, a municipal court that was ordained and established by the general assembly, a municipal court is created to be presided over by a city judge. Notwithstanding any law to the contrary:

(1) A municipal court possesses jurisdiction in and over cases:

(A) For violation of the laws and ordinances of the municipality; or

(B) Arising under the laws and ordinances of the municipality; and

(2) A municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars (\$50.00).

In short, a traditional city court hears specific city ordinances that the city council passes. These items can include violations for grass being too tall, noise ordinance violations, construction not meeting the proper building codes, and sign and zoning ordinance violations.

Additionally, these traditional municipal courts can also hear the Class C Misdemeanors adopted into the city code. The most common examples of these are the traffic and motor vehicle laws like speeding, due care, insurance, headlights, seatbelts, etc. These laws are typically called the "Rules of the Road" and are found in Title 55, Chapters 8, 9, 10, and 50 in the Tennessee Code.

While most of these Class C Misdemeanors focus on traffic violations, the city can

adopt any Class C Misdemeanor as long the fine does not exceed \$50. There are several Class C Misdemeanors that do not involve vehicles at all. Two examples are Criminal Trespass (T.C.A. § 39-14-405) and disorderly conduct (T.C.A. § 39-7-305).

Municipal courts exercising concurrent general sessions jurisdiction

While not nearly as common, some municipal courts are also empowered by their charter to exercise concurrent general sessions criminal jurisdiction.

For these cities, they can hear the same ordinance and Rules of the Road violations as all other courts, but they also will hear the Class A and B Misdemeanor criminal violations like theft, drugs, assault, DUI, etc.

These courts are also authorized to conduct preliminary hearings in cases that will ultimately be bound over to circuit court as a felony case.

At the time of this writing in 2024, here are some pertinent numbers:

- Number of cities in Tennessee: 345
- Number of cities with a municipal court: 275
 - Number of traditional municipal courts: 251
 - Number exercising concurrent general sessions jurisdiction: 24

Quick Note: I expect the number of traditional city courts to grow over the next few years as more cities want to create a city court to address various codes enforcement violations.

How to determine court costs for traditional municipal courts

To find the statutory authority and any guidance on municipal court costs, we will turn to the Municipal Court Reform Act of 2004, specifically T.C.A. § 16-18-304. It is two paragraphs, but I want to focus on the first paragraph, T.C.A. § 16-18-304(a):

(a) Notwithstanding any law to the contrary, municipal court costs shall be set and collected in the amount prescribed by municipal law or ordinance. From such amount, one dollar (\$1.00) shall be forwarded by the municipal court clerk to the state treasurer for deposit and shall be credited to the account for the administrative office of the courts (AOC) for the sole purpose of defraying the administrative director's expenses in providing training and continuing education courses for municipal court judges and municipal court clerks. The AOC shall allocate fifty percent (50%) of such funds exclusively for

the purpose of providing training and continuing education for municipal court clerks. The AOC is authorized to contract with qualified persons, entities or organizations in order to provide required training or continuing education for municipal court judges. The AOC shall contract with the municipal technical advisory service of the University of Tennessee institute for public service in order to provide required training or continuing education for municipal court clerks and may contract with other qualified persons, entities or organizations to provide additional or alternate training to municipal court clerks.

T.C.A. § 16-18-304(a) (emphasis added).

What I want to call your attention to is the first sentence in T.C.A. § 16-18-304(a):

“Notwithstanding any law to the contrary, municipal court costs shall be set and collected in the amount prescribed by municipal law or ordinance.”

That’s it. That’s all the guidance the statute gives us as to what our municipal court costs should be. There are no statutory minimums and no statutory maximums. This is vastly different than our discussion earlier about the various statutory court costs and fees applicable to state and county courts.

The only money mentioned is the \$1 Municipal Training Education fee. Any time a defendant pays a court costs, \$1 from this cost will be sent to the Department of Revenue. This money is then sent to the Administrative Office of the Courts to fund training for municipal judges and municipal court clerks through classes, conferences, and site visits.

But other than this \$1 Municipal Training Education fee, there is no money amount mentioned in T.C.A. §16-18-304. As a result, a city can determine whatever court costs it wants with very little statutory guidance.

Court costs vary from city to city

Cities are different across the state. Some cities are very large while others are small. Some cities have court daily or weekly, while others have court monthly, or even quarterly. The function of the court depends on the needs and goals of the cities. Because of these differences between cities and their operations, each city needs to determine its court costs based on its own specific needs.

While this list is not exhaustive by any measure, here are several of the common items that cities should consider when determining their court costs:

- Frequency of court hearings (daily, weekly, monthly)
- Number of court clerk staff
- Number of cases adjudicated each hearing
- Volume of existing cases requiring staff involvement (cases on payment plans, failure to pay, reporting requirements to the State of Tennessee)
- Salaries, health insurance, longevity pay, retirement for court clerk staff
- Overtime for court staff (exempt vs. nonexempt employees)
- Employer coverage for Social Security, disability insurance, taxes
- Software expenses (court docket software, legal research databases like Westlaw or Lexis Nexis, e-citation program expenses)
- Office expenses (paper, printers, copiers, computers, filing cabinets, supplies, telephone)
- Number of judges
- Pay of the judge
- Own or rent the building where court occurs
- Court Officers and courtroom security (police officers, armed security, overtime, on-duty time, metal detectors)
- Expenses for court clerk training (conferences, hotels, travel, expenses)
- Departmental contributions to the entire city budget for property and casualty insurance

In a perfect world, these court related expenditures would be covered by the violators who were convicted and paid the citations. That way the law-abiding taxpayers would have their money going to other city projects and expenditures like new construction, expanded services, or increased personnel.

However, we do not live in a perfect world. There will always be people convicted in court who simply do not pay their citations quickly, or at all. As a result, it is entirely possible that the court's budget needs may be supplemented by other money from the city's general fund.

The best practice to determine the appropriate court costs amount is for the key stakeholders (court clerk, city manager, finance director, etc.) to discuss the finances required to operate the courts and then pass an ordinance with that dollar amount.

Court costs can adjust over time based on the needs of the city

The good news about establishing the court costs by ordinance is it can be modified by ordinance just as easily. Since municipal court costs are not set by the legislature, you do not need any State of Tennessee approval to adjust these costs.

Let's go through an example. City A is a small city. Its police department may issue about 50 citations a month and hold a court hearing once a month. The police department uses paper citations. Court typically lasts about an hour. The court clerk records the results of each case in those big red leatherbound docket books. The court clerk uses the Department of Safety's online Court Portal to file the required Court Action Reports. The Department of Safety's online Court Portal is free, and the leather docket books are purchased once every five years.

Fast forward several years and now a very large manufacturing plant has relocated to City A. Now other companies have followed and now City A is a fast-growing city with more citizens moving in. As a result, there are significantly more traffic violations occurring from both residents and nonresident alike. Now the police are writing 300 tickets a month and court is twice a week.

The city decides that it needs to hire two more court clerk staff, transition to an electronic citation program, and purchase a new court docket software system. These expenses will add \$100,000 to the court's budget. With these new expenses, the court and finance departments determined that it would need to increase the court costs by \$20 per citation to offset these expenditures. As a result, the city council passes an updated court cost ordinance, and they can collect the new court cost amount. This is a reasonable increase based on the data and the changing needs of the city.

Court costs can be whatever amount a city wants...as long as it's not punitive

As discussed earlier, T.C.A. § 16-18-304(a) does not give cities any guidance on a minimum or maximum amount for court costs. The only real guidance we have is from City of Chattanooga v. Davis 54 S.W.3d 248(2001), and Attorney General opinion 06-075.

In these two opinions, the Supreme Court and the Attorney General discussed the differences between punitive assessments and remedial assessments.

A punitive assessment is the fine money. A fine is intended to punish the violator. Article VI, Section 14 of the Tennessee Constitution says this about fines:

Section 14. No fine shall be laid on any citizen of this state that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more

than fifty dollars.

Basically, if the court hearing the case does not allow for jury trials, then the fine is capped at \$50. This is why the maximum fine amount in traditional municipal courts is \$50.

By contrast, remedial assessments are not capped at \$50. If the purposes of these types of assessments, i.e. court costs, are to offset the expenditures needed to operate the courts, then these court costs are not punitive in nature and can exceed \$50 and be perfectly constitutional.

Admittedly, this may seem a bit counterintuitive. The “punishment” money is capped at \$50. The “non-punishment” money can exceed \$50 with no specific limit. The only limitation is these court costs cannot be so excessive that a higher court will view these court costs as punitive in nature. So, if you can demonstrate your court costs are reasonable based on an analysis of your expenses needed to properly fund the court, then your court cost are remedial in nature.

Can you assess multiple court costs for multiple violations from the same occurrence?

Let’s explore this scenario. A police officer pulls someone over for speeding. The officer asks the driver for his insurance and registration. The driver does not have insurance or a valid vehicle registration. The officer then writes one ticket for all three violations, (1) speeding, (2) insurance, and (3) registration.

The driver comes to court and based on the evidence and testimony of all parties, the driver is convicted of all three violations.

Question 1: How many fines can the judge assess?

Question 2: How many court costs can the judge assess?

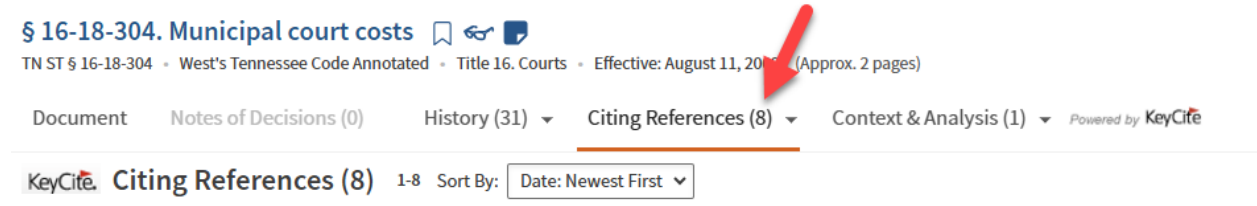
Let’s look at Question 1 first, “How many fines can the judge assess?” Thankfully this one is straight forward. The judge can assess three fines. There are three clear and separate violations, each corresponding to a separate TCA statute that is properly cited on the ticket. Each violation carries a separate fine.

Assuming each violation is the maximum of \$50, we have $3 \times \$50 = \150 fine total.

Now for Question 2: “How many court costs can the judge assess?” Does the judge assess one court costs? Or three court costs? This question is a bit trickier to

answer.

To answer this question, let's take a look back at the court costs statute, T.C.A. § 16-18-304(a). If you look up this statute in Westlaw, you will find a helpful research tool called "Citing References." You will see that there are only eight "citing references" to this statute.



I read all eight citing references and for better or for worse, none addressed the question of the permissibility of assessing multiple court costs in a municipal court.

As a result, perhaps the best answer is, "We haven't found any law that says you can't assess multiple court costs, but we also haven't found any law that explicitly says you can either." Super helpful, I know. In other words, we're not 100% sure and we can't find any law directly addressing this question for traditional city courts.

In my years traveling across the state and meeting with hundreds of cities, I've encountered several cities who do assess multiple court costs, and many more who do not. I believe the safe play is to assess however many fines are per violations, but only assess one court costs per case/occurrence. Here's why I make that recommendation.

Since the statute and the citing references do not give us any guidance, the best guidance that we have is that AG opinion 06-075. Court costs can exceed \$50, if they are remedial in nature and not punitive.

Let's use this chart to compare the two scenarios. Let's assume each fine is \$50 and the court costs are \$150. Also, let's ignore any other litigation taxes or fees.

One court cost per case		Court costs for each violation	
Fine (3 x \$50)	\$150	Fine (3 x \$50)	\$150
Court Costs (1 per case at \$150)	\$150	Court Costs (3 per case at \$150)	\$450
Grand Total	\$300	Grand Total	\$600
<i>Is this punitive?</i>	<i>No</i>	<i>Is this punitive?</i>	<i>Not sure</i>

If a city assesses more than one court costs for the same occurrence or case, it's not

automatically prohibited, but you would need to have an explanation how these extra fees are remedial in nature, and not punitive in nature.

These additional court costs may be warranted because of the extra time it takes a clerk to enter a multi-violation ticket, or the extra time to hear these cases in court, or the court software may structure its fees to pay per violation and not per traffic stop. Additionally, it may take more time to report violations to the required state agencies. If a city assesses multiple court costs for the same occurrence, be prepared to have a valid explanation of how these extra assessments are remedial and necessary to preclude any arguments that these additional costs are punitive in nature.

But what do the county general sessions courts charge? One costs or multiple costs?

While county general sessions courts are not exactly an apples-to-apples comparison to municipal courts, it can provide us with some guidance. If a county general sessions court does one thing, it may be a basis of support for a city court to model its practices the same way.

However, because county general sessions courts hear criminal cases and most city court courts are traditional (i.e. civil in nature), it's not a guarantee that what works for them would work for us. But admittedly, it can be a good guide.

So, if we have the same scenario of one traffic stop with three violations, most general sessions criminal courts will apply three separate court costs. Here's why.

Prior to 2014, general sessions courts considered each violation (even from the same stop) as a separate incident and therefore tacked on a separate court cost adding up to multiple fines and multiple court costs.

I want to pause quickly and focus on the terminology because that is important. Let's use our previous example of one traffic stop that yielded three separate violations (1) speeding, (2) no insurance, (3) no registration.

Prior to 2014, the "incident" was counted for each violation from the same traffic stop therefore one traffic stop with three violations equaled three incidents. Each "incident" was considered separate case. Because the Administrative Office of the Courts requires all courts to report the number of cases/incidents they adjudicated, this one traffic stop would look like three separate and distinct cases.

All of this data is compiled each year and forwarded to various state agencies like the General Assembly, the Courts, the District Attorney's Conference and the Public Defender's Conference and anyone else who wanted to look.

Because each traffic stop (which is really one occurrence) could yield multiple cases (making it look like each case was a separate and distinct occurrence), this could misconstrue the actual statistics and the appearance of what the officers and courts had to work.

In 2014, there was a change to this benchmark and the definition of "incident" was clarified. Using our traffic example above, the same one traffic stop that yielded three violations will now be counted as one "incident." This change was more accurate for statistical tracking purposes for the Administrative Office of the Courts.

However, many courts were concerned that with this shift, they would not be allowed to assess multiple court costs for these multi-violation incidents.

That's where T.C.A. § 16-1-117(a)(1) steps in. It reads as follows:

(a) It is the duty of the administrative office of the courts to collect, develop, and maintain uniform statistical information relative to court caseloads in Tennessee. To assist the administrative office of the courts in this duty, the clerks of each court shall report case data as set forth below:

(1) Each criminal case shall be assigned a unique docket number. **A criminal case shall be defined and reported as a single charge or set of charges arising out of a single incident concerning a single defendant in one (1) court proceeding.** An incident shall be all criminal activity occurring on the same date. A court proceeding refers to a single level of court, such as general sessions or circuit. An appeal, probation revocation, or other post-judgment proceeding shall be considered a separate case. This definition shall not alter the practice in the Tennessee rules of criminal procedure dealing with joinder and severance of criminal cases. In addition, in courts of record, multiple incidents shall be counted as a single case when the charges are of a related nature and it is the district attorney general's intention that all of the charges be handled in the same court proceeding pursuant to a single indictment. If a case has more than one (1) charge or count, then the administrative office of the courts shall count the case according to the highest class of charge or count for the weighted caseload study based on the formula set out in § 16-2-513(a). **Nothing in this subdivision (a)(1) shall operate to deprive court clerks of any fees to**

which they were entitled prior to July 1, 2014;

T.C.A. § 16-1-117 (emphasis added).

This is the statute the criminal general sessions courts base the authority to assess multiple court costs per occurrence/incident. In effect, this change makes statistical record keeping more accurate but it does not reduce the amount of money courts could charge due to the change.

That being said, exercise some caution before jumping on the bandwagon and adding multiple court costs per the same traffic stop. While this statute is clear for criminal general sessions courts, there is not a mirroring statute that 100% applies to municipal courts.

Talk it over with your city attorney and all other applicable stakeholders if you plan to assess multiple court costs for each violation stemming from the same occurrence based on the remedial assessment analysis and to ensure that any multiple court costs do not venture into the punitive territory.

Conclusion

As we have discussed, municipal court costs can vary greatly from city to city. These costs should be set by ordinance based on the needs of the city and the expenditures needed to operate the courts. These costs can be adjusted over time as the needs of the city changes, but you should always be able to justify the costs as reasonable and not punitive.

As courts and laws change over time, check back to this report. I may update it as needed, and this article can continue to evolve as new law, practices, tips and hints change over time.

Feel free to contact me at john.eskew@tennessee.edu.



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