

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 288** HLS 21RS 664

Bill Text Version: **ENROLLED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: June 9, 2021	5:02 PM	Author: MAGEE
Dept./Agy.: Adult Probation and Parole/Courts		Analyst: Rebecca Robinson
Subject: Criminal Procedure - Fines and Fees		

CRIMINAL/PENALTIES

EN SEE FISC NOTE GF EX See Note

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Provides relative to the effective date of certain provisions regarding the financial obligations of criminal offenders

Proposed law repeals Article 875.1 of the Code of Criminal Procedure. Proposed law enacts Article 875.2 of the Code of Criminal Procedure relative to the payment of fines, fees, costs, restitution, and other monetary obligations related to an offender's conviction. Proposed law requires the court to determine the offender's ability to pay the financial obligations imposed. Proposed law provides guidelines for courts to determine if financial hardship exists for a defendant and to provide for payment plans or alternative payments arrangement. Proposed law only applies to defendants convicted of offenses classified as felonies. Effective August 1, 2022.

Provides that the provisions of the Code of Criminal Procedure Articles 883.2, 884, 888, 895.1, 895.5; and R. S. 47:1676(B)(1) of Act 260 of 2017 shall become effective August 1, 2022. Provides that provisions of the Code of Criminal Procedure Articles 875.1 and 885.1(A), (C), and (D) and 894.4 of Act 260 of 2017 shall never become effective.

[CONTINUED ON PAGE 2]

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	\$0	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0
Annual Total	\$0					\$0

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0
Annual Total	\$0					\$0

EXPENDITURE EXPLANATION

Proposed law may result in an indeterminable decrease in SGF expenditures by the Department of Public Safety and Corrections - Corrections Services to the extent individuals are no longer housed in correctional facilities as a result of non-payment of fines, fees, costs, restitution, and other monetary obligations related to an offender's conviction or probation.

SGF expenditures will decrease by \$67.36 per offender per day if an offender was housed in a state facility or \$26.39 for a state offender housed in a local facility. An offender sentenced to the custody of the Department of Public Safety and Corrections - Corrections Services for one year would decrease SGF expenditures by \$24,586 (\$67.36 per day x 365 days) if housed in a state facility and \$9,632 (\$26.39 per day x 365 days) if housed in a local facility.

Proposed law may result an indeterminable decrease in Local Funds expenditures for housing local offenders in local facilities to the extent individuals are no longer housed in correctional facilities as a result of non-payment of fines, fees, costs, restitution, and other monetary obligations related to an offender's conviction.

Note: The fiscal impact to state and local expenditures will occur on or after August 1, 2022.

REVENUE EXPLANATION

Proposed law may result in an indeterminable decrease in SGR revenue to the Department of Public Safety & Corrections - Adult Probation & Parole (P&P) as Article 894.4 of the Code of Criminal Procedure prohibits an offender's probation from being (either revoked or) *extended* based solely upon the offender's inability to pay. Proposed law may result in fewer offenders having their probation extended and may reduce the fees paid to P&P.

Proposed law may result in an indeterminable increase in SGR and local revenues as a result of individuals having additional mechanisms for payment of fines, fees, costs, restitution, and other monetary obligations related to an offender's conviction. The LFO is unable to determine the degree to which individuals may be impacted under the proposed law.

The Louisiana District Attorneys Association (LDAA) reports that the proposed law may result in a potential decrease in local revenues of up to a maximum \$10 M. The LDAA illustrates potential revenue losses using the LA Supreme Court 2019 Annual Report detailing 143,401 criminal court cases in district courts and 81,727 criminal courts in city/parish courts. The office of the district attorney is generally entitled to collect approximately \$20 per case in court costs. LDAA also reports that increased waiver, reduction and/or forgiveness of fines will negatively impact revenues on the local level associated with criminal courts of parishes in areas such as recording, transcribing of testimony, statements, charges and other proceedings in the trial of indigent persons charged with the commission of felonies, in defraying their expenses. **[CONT. ON PAGE 2]**

Senate

Dual Referral Rules

House

13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Alan M. Boxberger

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Staff Director

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CONTINUED EXPLANATION from page one:
[CONTINUED SUMMARY OF THE BILL FROM PAGE 1]

Provides that the provisions of the Code of Criminal Procedure Article 894.4 of Act 668 of 2018 became effective on August 1, 2019 and shall remain in effect.

Provides that the provisions of the Code of Criminal Procedure Article 885.1(B) of Act 253 of 2019 became effective on August 1, 2019 and shall remain in effect.

[CONTINUED REVENUE EXPLANATION FROM PAGE 1]

NOTE: While the illustration provided by LDAA may identify a potential maximum exposure to revenue loss, the proposed law appears to intend to waive such fees only for those that cannot reasonably be expected to pay. It is unclear whether such waivers would result in a material difference in current collections. Proposed law's apparent intent is to diminish additional fines and incarceration due to an individual's inability to pay and to allow for flexibility in creating a direct or indirect means at restitution.

The LDAA reports that an additional indeterminable potential decrease in local funds revenues may occur in the event fines are waived, reduced or forgiven that would accrue to the Criminal Court Fund. This fund uses proceeds to defray expenses of criminal courts, associated trial costs and other related expenditures. Similar to the note above, the LFO is uncertain whether such waivers would create a material difference in current collections if targeted to those with an inability to pay.

To the extent that waivers, reduction or forgiveness of fees and fines may grow to a material size, there is a real potential that the aforementioned funds may realize a significant decrease in revenue deposits. But it is unclear to the LFO whether this may occur, and to what degree monies currently deposited into the fund are paid by the intended target population of individuals (those with financial hardship that cause an inability to pay).

Proposed law (Art. 875.2) provides that determination of substantial financial hardship to the defendant - shall only apply to certain defendants convicted of offenses classified as felonies. The LFO cannot determine the impact this will have on the District Attorneys, the courts nor the Clerks of Court. It will likely decrease its projected revenue loss as it is applicable to felonies under applicable law.

Note: The fiscal impact to state and local revenues will occur on or after August 1, 2022.

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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