

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 763** HLS 18RS 1603  
 Bill Text Version: **ORIGINAL**  
 Opp. Chamb. Action:  
 Proposed Amd.: **w/ PROP HSE COMM AMD**  
 Sub. Bill For.:

<b>Date:</b> April 17, 2018	7:38 PM	<b>Author:</b> MARCELLE
<b>Dept./Agy.:</b> Judiciary		<b>Analyst:</b> Colleen Gil
<b>Subject:</b> Court Costs		

COURTS/COURT COSTS OR INCREASE GF EX See Note Page 1 of 2  
 Provides relative to the deferment of and exemption from payment of court costs by the state and its political subdivisions

Present law authorizes the state, any political, or any agent, officer, or employee of any such governmental entity to temporarily defer court costs. Additionally, authorizes the Department of Children and Family Services and District Attorney offices to establish filiation or enforce support, when such proceedings are subject to a cooperative agreement between the agency and the clerk of court of the appropriate jurisdiction.

Proposed law repeals provisions for the deferment or exemption from the payment of court costs by the state or any department, board, commission, agency, or political subdivision.

<b>EXPENDITURES</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
<b>Annual Total</b>						

  

<b>REVENUES</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

Agencies and political subdivisions that currently defer court costs will be impacted by the proposed legislation. Agencies will be required to use all means of finance to pay increased costs, however the total impact is indeterminable. Agencies will now be required to pay court costs up front, and to the extent the opposing party condemned to pay temporarily deferred court costs fails to pay the assessed costs, the agencies will be responsible for establishing a mechanism to recoup those expenditures. This could create a potential cash flow situation, as well as impact the workload of an agency to the extent agencies need additional staff to recoup funds. The list below includes, but is not limited to agencies that will be impacted by the proposed legislation:

The Department of Children and Family Services (DCFS) - Child Support Enforcement Division anticipates **annual costs of approximately \$19.2 M** (\$6.5 M SGF & \$12.6 M Federal) as a result of the repeal of La R.S. 13:4521(A)(3). DCFS will no longer have the statutory authority to enter into cooperative agreements with clerk of courts offices, which allows for bundled costs and includes fees paid to sheriffs for service of process. Based on the average number of cases and the approved bundled rates, the annual amount of court costs is approximately \$5.9 M with the federal funding paying 66% and the courts exempting DCFS from the remaining 34%. The anticipated federal share will continue to cover 66% of the court costs, but under the proposed legislation DCFS would be required to pay the remaining 34% as a state match. DCFS will now be required to pay for each individual action and service at the rate charged by each clerk of court because there would no longer be an approved bundle rate. The anticipated cost of \$19.2 M is derived from the average number of cases and filings with the average fee charged by clerk of courts as follows: (3,781 paternity cases x \$500 average cost); (29,525 rules/motions x \$300 average cost); (7,551 exparte x \$100 average cost); (80 data forms x \$20 average cost); (4,119 recordings x \$36); (666 rules to establish x \$200 average cost); (56,646 sheriff services of process x \$50 average cost); and (15,124 currently bundled cases x \$300 estimated cost). However, these cost estimates will change depending upon the actual costs.

The Division of Administration (DOA) - *Indeterminable Impact* - DOA reports that the unavailability of immediate funds could impair the litigating position of the state, as well as increase the amount of payouts on cases. Because payments are due at the end of litigation, payments can be made in a lump sum, however if payments are required at the time of filing additional staff may be needed due to the increased workload. Currently, DOA contracts with the attorney general's office and contract counsel, and may be able to establish a mechanism in order to aid in the payment process.

**Expenditure Explanation Continued on Page 2**

**REVENUE EXPLANATION**

Revenues to state and local courts, and the clerks of court will increase by an indeterminable amount as a result of the proposed legislation. Court costs paid to the Supreme Court or Courts of Appeal would increase funds to the state courts by moving funds from one state entity to another, and court costs paid to any court below the Courts of Appeal (District, City, Parish, etc.) and the Clerks of Court would be an increase in funds for local court operations and the local governmental entities to which funds are distributed.

Senate  
 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}

*Evan Brasseaux*  
**Evan Brasseaux**  
**Staff Director**

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CONTINUED EXPLANATION from page one:

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**Expenditure Explanation Continued from Page 1**

The Department of Justice (DOJ) anticipates multiple divisions being impacted by the proposed legislation. The Civil Division conducts civil and collections cases. The average number of collection cases annually is approximately 1,200. Based off of the average cost of \$800 to file a case, the department anticipates **annual costs of \$960 K**. The average number of civil cases received by the department annually is approximately 275. Based off the average cost of \$3,500 a case, the department anticipates **annual costs of \$962 K**. Under current law, if the state is not the prevailing party court costs are assessed after the litigation, however proposed law would require the court costs to be paid up front, and if the state is the prevailing party the associated costs may not be recovered. Additionally, the DOJ handles constitutional challenge cases which are heard at the discretion of the department which may lead to fewer of these cases being heard because of the costs the state would incur on the front end. The Litigation Division averages approximately 1,000 new cases filed per year with an average case cost of \$2,612. Based on this average, the department anticipates costs of approximately **\$2.6 M annually**. If the state is the prevailing party additional costs could be incurred in the recovery of court costs paid at the time of filing. The Criminal and Gaming divisions also anticipate an impact however the impact is indeterminable at this time.

District Attorneys (DA)- *Indeterminable Impact* - To the extent clerk of courts offices no longer allow for an agreed upon rate, DAs will now be responsible for costs associated with child support cases. These costs are indeterminable because each clerk may charge the local DA a different amount, and is dependent upon whether or not the federal funds received by the DA can be applied towards the court costs. Additionally, DA offices responsible for various forfeiture cases have the ability to defer court costs until the end, and after the assets or bonds are seized, those are used to pay for the associated court costs. The district attorney's association reports that these cases can last up to two years, which would create a debt for these offices.

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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