

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 188** SLS 20RS 156
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 27, 2020 7:05 AM	Author: WHITE, B
Dept./Agy.: Statewide	Analyst: Monique Appeaning
Subject: Possession of a firearm by a felon as a "crime of violence"	

CRIME/PUNISHMENT RE SEE FISC NOTE GF EX See Note Page 1 of 2
 Designates the crime of possession of a firearm by a felon as a "crime of violence". (gov sig)

Proposed law designates possession of firearm or carrying concealed weapon by a person convicted of certain felonies as a "crime of violence." Proposed law shall be void on June 30, 2022, unless extended by legislative act.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
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	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						
REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$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>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Unless the legislature takes action prior to 6/30/22 (see below), there is no anticipated direct material effect on governmental expenditures for the Department of Public Safety and Corrections - Corrections Services (DPSC-CS) as a result of this measure. Proposed law applies to a person convicted of "possession of firearm or carrying concealed weapon by a person convicted of certain felonies" as defined in LA R.S. 14:95.1 and designates this offense as a crime of violence under LA R.S. 14:2, but provides for specific exceptions for certain predicate drug offenses punishable by a sentence of imprisonment at hard labor for ten years or less. Present law details the ability of individuals to earn diminution and commutation of sentence for good behavior in certain circumstances as defined in LA R.S. 15:571.3. Designating a violation of LA R.S. 14:95.1 as a crime of violence will require a person to serve a minimum of 75% of sentence rather than 35%. **Proposed law sunsets on 6/30/22, but contemplates extension by legislative act prior to that time. Should the legislature move to extend these provisions beyond 6/30/22, that action will create an indeterminable but significant exposure for increased SGF expenditures. To the extent the legislature may vote to extend the provisions in current form or remove the sunset, the potential exposure is provided on page 2 for informational purposes.**

Judiciary - Proposed law will have an indeterminable SGF expenditure impact on the Judiciary and they reported that there is no data available to determine the fiscal impact on expenditures.

Louisiana District Attorney Association (LDAA) - LDAA reports that proposed law would not in and of itself have a fiscal impact on the Office of the District Attorney. It is within the course and scope of prosecutorial duties to prosecute these cases.

Louisiana Public Defender Board (LPDB) - LPDB reports that proposed law would likely create an indeterminable workload impact to provide effective representation to indigent clients, reflected as SGF or LF expenditures for purposes of this fiscal note. LPDB reports that possession of a firearm by a felon is one of the most common charges in its database, appearing in almost 4,000 cases in calendar year 2019. To the degree that increased potential incarceration days would change offenders' effective representation, LPDB feels its workload for these cases will increase accordingly.

Louisiana Sheriffs Association (LSA) - LSA reports that the bill is prospective and there is not an immediate impact. As far estimating the future, there is a potential increase due to the new calculation of "good time" at 75% (the rate for a violent crime); however, it's indeterminable because there are usually other charges at the time of arrest and the likelihood of extension of these provisions by Legislative Act before June 30, 2022, is unknown.

SEE EXPENDITURE EXPLANATION CONTINUED ON PAGE TWO

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
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Staff Director



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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

For informational purposes (these expenditures would only apply if legislative action is taken before June 30, 2022 - see page one)

DPSC-CS reports 75 people were taken into state custody after conviction in 2019 whose sole criminal conviction was attributable to a violation as provided in proposed law. DPSC-CS did not report data for multiple years as convictions have decreased annually over recent history. The potential expenditure exposure to the state will be determined by a number of factors, including the number of individuals convicted of possession of firearm or carrying concealed weapon by a person convicted of certain felonies, the average sentence length given to convicted individuals, and the successful earning of diminution and commutation of sentence for good behavior. These factors are unknown, but for illustrative purposes regarding the potential expenditure exposure DPSC-CS offered the illustrative example on page 2. The example projects potential costs based upon the following assumptions:

- 1) 75 convictions resulting in admission to state custody annually.
2) Offenders are given an average sentence of 5.9 years, or 2,154 days (the maximum is twenty years).
3) The offenders are convicted solely for violation of LA R.S. 14:95.1, excluding exceptions provided in proposed law.
4) Offenders would earn diminution of sentence for good behavior and be released after 35% of sentence under present law.
5) Offenders will earn diminution of sentence for good behavior and be released after 75% of sentence under proposed law.

Potential Expenditure Exposure (for illustrative purposes)

Table with 4 columns: ASSUMED SENTENCE LENGTH IN DAYS (2,154), 35% OF SENTENCE IN DAYS (754), 75% OF SENTENCE IN DAYS (1,615), INCREASE IN DAYS (861)

If released at 35% of sentence, an individual with a 5.9 year sentence would serve 754 days, which creates an expenditure exposure compared to present law beginning in FY 23. If released at 75% of sentence, an individual with a 5.9 year sentence would serve 1,615 days, or an increase of 861 days above the 35% diminution. The total expenditure exposure increases annually through FY 25 as detailed in the tabulations below. The change from release eligibility at 35% of sentence to 75% of sentence would result in 341 additional incarceration days per offender in the third year of incarceration (365 days per year x 3 years - 754 days at release after 35% of sentence), 365 additional incarceration days per offender in the fourth year, and 155 additional incarceration days in the fifth year (861 total additional days - 341 days served in year three - 365 days served in year four).

Table with 4 columns: YEAR OF ADMIT, FY 23 (YEAR THREE) ADDED DAYS, FY 24 (YEAR FOUR) ADDED DAYS, FY 25 (YEAR FIVE) ADDED DAYS. Rows for 2021, 2022, 2023, 2024, and TOTAL.

TOTAL MAN DAYS = TOTAL ADDED DAYS BY YEAR X 75 ANNUAL ADMITS

Table with 4 columns: TOTAL MAN DAYS, FY 23 (25,596), FY 24 (52,971), FY 25 (64,575)

The additional man days create a potential expenditure exposure of \$26.39 per day per offender to house an offender at the local level or \$67.44 per offender per day to house an offender at the state level.

Table with 4 columns: *FY 23, *FY 24, *FY 25 and out-years. Rows for \$26.39 per offender per day (local level) and \$67.44 per offender per day (state level).

The estimates above are provided as an illustrative example only. Any change to the assumptions detailed on page one would cause variation in the potential costs. The total expenditure impact of proposed law is indeterminable, but will likely result in an unknown number of additional incarceration days for offenders serving in state custody for the relevant crime, which will in turn increase SGF expenditures by an indeterminable amount. The total impact is unknown and will vary based on the following factors at minimum:

- 1) If the number of admits increases or decreases, total costs would adjust accordingly.
2) If offenders are sentenced for a period longer than the average 5.9 years, the out-year expenditure exposure will increase significantly. For example, DPSC-CS provided that there are currently 3,683 individuals currently in state custody possessing a violation of LA R.S. 14:95.1 serving an average sentence of 10 years (these individuals may be convicted of multiple offenses, including other crimes, that may inflate the average sentence length). DPSC-CS provided that the average sentence length for new felony admissions for possession of a firearm was 7.2 years across the past three calendar years. While these sentences may include additional crimes, if the example above used an assumed sentence length of 7.2 years in lieu of 5.9 years, an individual would realize an additional 356 incarceration days before an individual became eligible for release due to diminution at 75% of sentence.
3) The number of offenders earning diminution of sentence at 35% under present law, or 75% under proposed law, is speculative. To the degree that an offender is sentenced under LA R.S. 14:95.1 as a crime of violence and does not earn all possible good time credit, the cost assumptions included in the illustrative example would shift accordingly.

*4) R.S. 15:571.3 stipulates that the calculation for diminution of sentence includes time spent in custody with good behavior prior to sentencing. As of publishing this fiscal note, the LFO does not have information regarding the average number of days the impacted population would have served in custody prior to sentencing or how many of these would have earned good time. While any good time earned for time in custody prior to sentencing shifts the assumptions in the illustrative example, the total number of additional incarceration days would not change (75% of sentence compared to 35%). It would shift the eligibility for release due to diminution of sentence for good time earlier into the incarceration period. The net impact on the fiscal year in which expenditure impacts would be realized is unknown.

Table with 2 columns: Senate and House. Rows for Dual Referral Rules 13.5.1 and 13.5.2, and House rules 6.8(F)(1) and 6.8(G).

Evan Brasseaux
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Staff Director