

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 328** HLS 16RS 681
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 11, 2016	8:54 AM	Author: LOPINTO
Dept./Agy.: Judiciary		Analyst: Zachary Rau
Subject: Sentences for Technical Violations of Drug Court Probation		

COURTS/DISTRICT OR SEE FISC NOTE GF EX Page 1 of 1
 Provides sanctions for technical violations of drug division probation programs

Present law provides that persons who do not successfully complete a drug division probation program may have their probation revoked and be ordered to serve an imposed sentence, a previously suspended sentence, or to be remanded to the custody of the Dept. of Public Safety & Corrections to serve a sentence of not more than six months. Proposed law allows for defendants who commit technical violations of drug division programs to be remanded to the custody of the Dept. of Public Safety & Corrections for up to 90 days. Proposed law defines technical and non-technical violations.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	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>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law may decrease SGF expenditures for the Dept. of Public Safety & Corrections by an indeterminable amount. The proposed legislation adds certain provisions of Article 900 in the Code of Criminal Procedure (CCRP) for technical violations of drug division court programs and provides that defendants may be remanded to the custody of the Dept. of Public Safety & Corrections (DPSC) for up to 90 days if they commit a technical violation.

The proposed law amends LA R.S. 13:5304(B)(3)(f) and adds LA R.S. 13:5404(B)(3)(g), and includes provisions in CCRP 900 regarding technical violations of probation associated with crimes other than crimes of violence as defined in LA R.S. 14:2(B) or sex offenses as defined in LA R.S. 15:541(24). However, the proposed legislation adapts parts of CCRP 900 and narrows what may be considered a non-technical violation by a drug division court, allowing for more technical violations of probation. Allowing for more technical violations offers justices the ability to sentence defendants up to 90 days in a local facility in lieu of being remanded to DPSC custody to serve a suspended sentence set forth as a condition of the probation or a sentence of up to 6 months as set forth in present law.

Specifically, the proposed legislation does not adapt CCRP 900(A)(6)(c)(i)(bb), which provides that all violations of Title 40 of the LA Revised Statutes, except for misdemeanor possession or marijuana or synthetic derivatives thereof, are considered non-technical violations. Title 40 of the LA Revised Statutes provides for all drug offenses statewide. By not including this provision of CCRP 900 in the drug court statutes, drug-related offenses may now be considered technical violations provided they are not felony offenses, allowing defendants to be remanded to DPS custody for up to 90 days rather than serving a previously suspended sentence or serving a sentence of up to 6 months.

To the extent drug court defendants who commit technical violations are remanded to DPS custody for up to 90 days, rather than serving a suspended sentence or 6 months in DPS custody as outlined in present law, the department may realize a reduction in SGF expenditures. However, the decrease in expenditures is indeterminable. For reference, defendants committing a technical violation of a drug court program would be housed in local facilities at a rate of \$24.39 per day.

REVENUE EXPLANATION

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

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| <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