

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **HB 88** HLS 18RS 541
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 10, 2018 8:26 AM	Author: MACK
Dept./Agy.: Corrections/Pub Defenders/Dist Attys/DCFS/LDH/GOHSEP/DRU	Analyst: Monique Appeaning
Subject: Government Benefits Fraud	

CRIME EG SEE FISC NOTE GF EX See Note Page 1 of 2
 Creates the crime of government benefits fraud

Proposed law creates the crime of government benefits fraud, provides for elements of the offense, penalties, venue, and related matters. Government benefits include any record, voucher, payment, money or thing of value, good, service, right, or privilege provided or administered by a state government entity per proposed law.

EXPENDITURES	2018-19	2019-20	2020-21	2021-22	2022-23	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	2018-19	2019-20	2020-21	2021-22	2022-23	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	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will have an indeterminable impact on SGF expenditures in the Department of Public Safety and Corrections – Corrections Services as a result of individuals being convicted of government benefits fraud. The conviction shall result in individuals being imprisoned, with or without hard labor, for a maximum of 5 years. Under present law the sentencing guidelines for the crime of theft provides for a minimum of 2 years and a maximum of 20 years based on the value of the misappropriation. The Legislative Fiscal Office cannot determine which crime other than government benefits fraud (such as theft or filing false public record) that any individual may be charged with by a presiding District Attorney and terms of imprisonment based on the sentencing guidelines may be longer or shorter at certain monetary values; therefore, the exact impact of proposed law cannot be determined (see page 2 for a more detailed explanation).

SGF expenditures will increase by \$54.21 per offender per day if an offender is housed in a state facility or \$24.39 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 increase SGF expenditures by \$19,786.65 (\$54.21 per day x 365 days) if housed in a state facility and \$8,902.35 (\$24.39 per day x 365 days) if housed in a local facility. Approximately 50% of state offenders are housed in state facilities and approximately 50% of state offenders are housed in local facilities.

Louisiana Public Defender Board (LPDB)

Proposed law will have an indeterminable impact on local expenditures by public defenders to provide counsel for those charged with this new crime. LPDB reports that it does not know how many cases will arise from this statute or what percentage of those accused of this crime will need the services of a public defender. LPDB indicates concern regarding the direction that all cases in which the criminal conduct involves programs administered by a state department or agency shall be proper in the Nineteenth Judicial District, Parish of East Baton Rouge. LPDB reports that a disproportionate number of these cases could be brought in district court in East Baton Rouge creating a potentially disproportionate burden upon a single public defender office.

Louisiana District Attorneys Association

Proposed law will likely not impact the overall local expenditures of District Attorney offices statewide. Currently, with cases that are government benefits fraud related, individuals are likely charged with the crime of theft (R.S. 14:67). However, it is possible that the optional venue designation of the Nineteenth Judicial District for specific acts of fraud may create additional expenses for that office. It is not possible to quantify an impact based on available information. **SEE EXPENDITURE EXPLANATION CONTINUED ON PAGE TWO**

REVENUE EXPLANATION

Proposed law may result in an indeterminable change in local revenues if an individual is convicted of *government benefits fraud* and subsequently fined a maximum of \$20,000. The potential net revenue impact of prosecuting offenders under government benefits fraud instead of existing statutes is unknown (see discussion on page 2).

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}

Evan Brasseaux
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Staff Director

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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

Department of Children and Family Services (DCFS)

Proposed law will likely not impact the expenditures of DCFS. The department reports that its Fraud and Recovery Unit within the Division of Family Support investigates and detects fraud and makes appropriate referrals to District Attorneys for prosecution. District Attorneys prosecute approximately 70 cases per year, usually for the crime of theft (R.S. 14:67).

Louisiana Department of Health (LDH)

Proposed law will likely not impact LDH expenditures. The agency reports that Medicaid already conducts fraud investigations and refers fraud cases to the appropriate state and local government agencies. The Medicaid Program Integrity Unit reports suspected provider and recipient fraud by its Surveillance and Utilization Review System (SURS) and Medicaid Managed Care Organizations (MCOs). In accordance with federal and state statutes, Program Integrity refers provider fraud cases to the Medicaid Fraud Control Unit (MFCU), the East Baton Rouge District Attorney's Office, and the Office of the Legislative Auditor. Recipient cases are referred to the East Baton Rouge Parish District Attorney's Office, the Office of the Legislative Auditor, the Louisiana Attorney General's Office, and local law enforcement agencies.

Additionally, Medicaid Eligibility staff investigate reports of suspected recipient fraud related to misrepresentation of income or failure to report a change in income or assets that would render a recipient ineligible for Medicaid coverage. If a review determines that the recipient was entitled to fewer benefits than were received (including recipients who were deemed ineligible for all benefits), the case is referred to Medicaid's Recovery and Premium Assistance section for pursuit of reimbursement. Medicaid is also in the process of developing more robust recipient fraud procedures with the creation of the Recipient Fraud Unit.

Governor's Office of Homeland Security and Emergency Preparedness

Proposed law will likely not impact the expenditures of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP). The agency reports that it currently conducts anti-fraud, waste and abuse activities, reports matters to relevant authorities, and provides support/cooperation with investigations and prosecutions that relate to the disaster recovery grant program.

Division of Administration – Office of Community Development (OCD)

Proposed law will likely not impact the expenditures of the OCD. The agency reports that it currently conducts anti-fraud, waste and abuse activities, reports matters to relevant authorities, and provides support/cooperation with investigations and prosecutions that relate to the disaster recovery grant program.

Louisiana Revised Statute 14:67 provides for the sentencing guidelines for the crime of theft. It defines theft as the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of misappropriation or taking is essential.

Proposed law provides an additional charge for District Attorneys (DAs) to consider when examining evidence related to the arrest of individuals suspected of committing or being involved in the commission of certain crimes related to theft or government benefits fraud. The potential revenue impact is indeterminable as the number of offenders that DAs may decide to prosecute under proposed law in lieu of prosecuting under existing statutes is unknown. **To the extent individuals are charged under proposed law and not present law, SGF expenditures may increase or decrease if the district attorney decides not to charge the new crime of government benefits fraud. The potential net effect of charges filed and sentencing decisions cannot be determined and the net potential expenditure and revenue impacts are therefore unknown.** For illustrative purposes, see below:

Convictions Under Proposed Law

Whoever commits the crime of government benefits fraud shall be imprisoned with or without hard labor for a maximum of **5 years**, may be fined a maximum of **\$20,000**, or both.

Convictions Under Present Law

Misappropriation or taking amounts valued at **\$25,000** or more - an individual shall be imprisoned at hard labor for a maximum of **20 years**, or may be fined a maximum of **\$50,000**, or both. When this is compared to proposed law, prosecution under present law would likely increase SGF expenditures for Corrections Services and may increase local fund revenues.

Misappropriation or taking amounts valued at a minimum of **\$5,000** but less than **\$25,000** - an individual shall be imprisoned with or without hard labor for a maximum of **10 years**, or may be fined a maximum of **\$10,000**, or both. When compared to proposed law, prosecution under present law would likely increase the SGF expenditures for Corrections Services and likely decrease local fund revenues.

Misappropriation or taking amounts valued at a minimum of **\$1,000** but less than **\$5,000** - an individual shall be imprisoned at with or without hard labor for a maximum of **5 years**, or may be fined a maximum of **\$3,000**, or both. When this is compared to proposed law, prosecution under present law would likely not change SGF expenditures for Corrections Services and likely decrease local fund revenues. To the extent an individual commits a crime that is related to federal or state major disaster declaration or declared state of emergency, prosecution under present law would likely increase SGF expenditures for Corrections Services and likely increase local fund revenues.

Misappropriation or taking amounts valued at less than **\$1,000** - an individual shall be imprisoned for a maximum of 6 months or may be fined a maximum of **\$1,000**, or both. If an individual has been convicted of theft two or more times previously, upon any subsequent conviction he shall be imprisoned with or without hard labor, for not more than **2 years**, or may be fined a maximum of **\$2,000**, or both. When compared to proposed law, prosecution under present law would likely decrease SGF expenditures for Corrections Services. Prosecution under present law would likely increase local fund expenditures and likely decrease local fund revenues.

Senate
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House
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