



LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **HB 535** HLS 20RS 620
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: May 8, 2020 6:17 AM **Author:** MARCELLE
Dept./Agy.: Statewide **Analyst:** Monique Appeaning
Subject: Accessory Before The Fact

CRIMINAL/SENTENCING OR DECREASE GF EX See Note Page 1 of 1
Provides relative to the parties to a crime

Proposed law adds "accessory before the fact" to the list of possible parties to a crime, provides for definitions, provides penalties for an accessory before the fact, and provides for the procedure by which an accessory before the fact and an accessory after the fact may file a motion to reconsider the sentence. Proposed law provides that an accessory before the fact shall be fined, imprisoned, or both, in the same manner as the principal of the offense, except that such fine and term of imprisonment for the accessory before the fact shall not exceed one-half of the maximum fine prescribed for the offense nor shall it exceed one-half of the maximum term of imprisonment prescribed for the offense. Proposed law provides that an individual charged as "accessory after the fact" may not be tried and punished until the principal felon has been convicted.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
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	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will likely result in an indeterminable decrease in SGF expenditures to the Department of Public Safety and Corrections - Correction Services (DPSC-CS), and may reduce LF expenditures for local governing authorities if a person is convicted as an "accessory before the fact" instead of as a principal. Proposed law provides for penalties for persons convicted as an "accessory after the fact" that are lower than those for persons convicted as a principal to the crime. The number of individuals that may be convicted as an "accessory before the fact" instead of as a principal is indeterminable.

SGF expenditures will decrease by \$67.44 per offender per day if an offender is 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 DPSC - CS for one year would decrease SGF expenditures by \$24,615.60 (\$67.44 per day x 365 days) if housed in a state facility and \$9,632.35 (\$26.39 per day x 365 days) if housed in a local facility. Approximately 50% of state offenders are housed in state facilities and approximately 50% are housed in local facilities.

Proposed law authorizes a defendant that is incarcerated after having been convicted as a principal in the commission of a crime as defined by R.S. 14:24, but was actually an accessory before the fact or an accessory after the fact, to file a motion to reconsider the sentence if he has served at least one-third of the sentence imposed upon his conviction as a principal. In these cases, if the court determines the defendant's motion is supported by facts or evidence, and determines by a preponderance of evidence that the defendant was an accessory before or after the fact, the court shall grant the motion and amend the sentence of the defendant with credit for time served by the offender for the sentence imposed upon him as a principal. This provision could create an indeterminable workload impact for district attorneys, public defenders and the courts associated with hearings to make determinations regarding the appropriate status of the original offense. It can also reduce the sentence of individuals successful in his petition to reconsider the sentence as a principal, resulting in an indeterminable decrease in SGF expenditures for DPSC-CS. The number of individuals that will successfully petition the court and present evidence to reconsider the sentence is unknown and the expenditure impact is therefore indeterminable.

Proposed law provides that an individual charged as an "accessory after the fact" may not be tried and punished until the principal felon has been convicted. This could cause a delay in prosecution of these individuals and if held without, or unable to afford, bail may result in an extension of the time individuals are incarcerated at the local level and result in increased LF expenditures. The net change in expenditures between lower penalties for individuals convicted as an accessory after the fact in comparison to as a principal, and the duration of time individuals may be held in a local facility pending prosecution and conviction of the principal is indeterminable.

REVENUE EXPLANATION

Proposed law will likely result in an indeterminable decrease in Local Funds revenues as a result of potential fines if a person is convicted as an "accessory before the fact" instead of as a principal. Proposed law reduces fines for a person convicted as an accessory before the fact below levels of a person convicted as a principal. Because the number of individuals that will be charged and convicted as an "accessory before the fact" in comparison to those charged as a principal is unknown, the impact on LF revenues is indeterminable and will be based on the rate of successful convictions in the respective categories. Civil penalties accrue to local governing authorities.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	<i>Evan Brasseaux</i>
<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 Staff Director