

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



Fiscal Note On: **SB 28** SLS 201ES 214  
 Bill Text Version: **ORIGINAL**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> June 17, 2020 8:19 AM	<b>Author:</b> WARD
<b>Dept./Agy.:</b> ORM/OGB/Attorney General/Supreme Court	<b>Analyst:</b> Rebecca Robinson
<b>Subject:</b> Jury threshold/medical payments/evidence	

LIABILITY OR SEE FISC NOTE GF EX Page 1 of 2  
 Provides relative to certain civil liability, actions, damages, and procedures. (1/1/21)

Legislation proposes to amend the civil jury threshold from \$50,000 to \$25,000, except for a suit for damages that exceeds \$15,000 may be tried by a jury if the party requests a jury trial and posts a cash deposit no later than 30 days after making the request. Further provides that in a case where a claimant's medical expenses have been paid by a health insurance issuer to a contracted health care provider, the recovery of the medical expenses so paid is limited to 2.25 times the amount actually paid to the health care provider, or the amount actually billed, whichever is less. For all medical expenses not paid by the health insurance issuer, the claimant may recover the medical expenses billed and paid, or that are owed. Legislation further provides that the following may not be disclosed to a jury: 1) whether any person has paid or agreed to pay for any of claimant's medical expenses; and 2) the name of the insurer (in a direct action against an insurer). Proposed law also repeals R.S. 32:295.1(E) in its entirety. The repeal will allow the failure to wear a safety belt to be used as evidence of comparative negligence in lawsuits concerning motor vehicle accidents. Effective January 1, 2021.

<b>EXPENDITURES</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u><b>\$0</b></u>
<b>Annual Total</b>						
<b>REVENUES</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u><b>\$0</b></u>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

There will be an indeterminable impact to the Office of Risk Management (ORM), the Louisiana Supreme Court (LSC), and the Attorney General (AG), and the Office of Group Benefits (OGB) as a result of the proposed legislation.

ORM reports an indeterminable impact associated with the lowering of the jury threshold as it is unknown whether this would lead to an increase or decrease in jury trials; and/or an increase or decrease in settlements. ORM indicates that the prevailing opinion is that defendants experience a greater opportunity for a fair trial before a jury. Thus, the expansion of the availability of jury trials may lead to more settlement of cases involving significant injuries, possibly lowering the expenditures of ORM. However, the lowering of the jury threshold could lead to an increase in jury trials actually conducted, which would increase the expenditures of ORM due to increased attorney's fees and associated litigation costs. Therefore, any expenditure increase or decrease to ORM is indeterminable at this time.

There will be an indeterminable impact to ORM for potential and future claim payments related to motor vehicle accidents. ORM could not provide the number of pending cases involving safety belts by the time of this writing. The number of claims involving safety belt usage which may be filed in the future is also unknown. The proposed legislation would allow a party involved in a motor vehicle claim/lawsuit to present evidence of the injured person's failure to wear a safety belt in a motor vehicle accident as a contributory factor in the injuries suffered by the injured person. Such evidence may reduce the damages paid to an injured person. However, the proposed legislation does not require that the failure to wear a safety belt be admitted into evidence. Judges will still have the discretion over which evidence is presented to the trier of fact. Therefore, any expenditure decrease is indeterminable. LSU's Office of Risk Management and local governmental agencies will experience the same indeterminable impact.

**Continued on Page 2**

**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:**

The AG's office reports there will be an increase in expenditures as a result of the lowering of the jury threshold. The AG indicates that virtually all of their cases would be eligible for a jury trial. The AG anticipates needing an additional 9 attorneys, 9 paralegals, with associated operating expenses and acquisitions for an annual total of \$1.8M (1 attorney and 1 paralegal for each of the satellite offices, and 4 attorneys and 4 paralegals for each subject matter area in the main office). It is unknown how many cases will actually qualify for a jury trial; how many cases will actually go to trial and the extent to which it increases the AG's workload. The LFO recognizes a potential workload adjustment for the AG; however, the LFO is unable to substantiate the level of resources needed by the AG's office.

Based on information received from the LSC, district judges anticipate the lowered jury trial threshold will result in increased requests for jury trials, which are docketed in a limited manner. As a result, the increased demand for jury trials may lead to a delay in trials and backlogged dockets, potentially necessitating more judgeships which would require funding via the SGF. However, because the extent to which there will be additional trials as a result of the proposed law is indeterminable, the overall effect it will have on dockets, and the prospective need for additional judgeships is similarly indeterminable.

There will be an indeterminable impact to OGB as a result of the proposed changes to the collateral source rule. In CY19, OGB had 926 subrogation cases; the total amount paid in claims was \$5.7M and the total amount recovered through subrogation was \$3.7M (65%). OGB anticipates that it will be more difficult to settle subrogation cases if the legislation limits the amount recovered for medical bills. There will be less room for negotiation and there is a potential to reduce the amount recoverable by OGB.

**Note:** The proposed legislation requires that a cash deposit be made no later than 30 days after the request for trial by jury. To the extent a cash deposit is different from a jury bond, from which the state is exempt, there will be an increase in expenditures to the state in order to pay a cash deposit. The amount of cash deposits paid is indeterminable as it is unknown how many jury trials the state may request.

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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