

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 1040** HLS 16RS 1291
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 26, 2016 8:10 AM	Author: JAMES
Dept./Agy.: Louisiana Public Service Commission	
Subject: Regulates the manufacture, sale, and lease of telephones	Analyst: Mason Hess

TELECOMMUNICATIONS OR INCREASE GF EX See Note Page 1 of 1
 Regulates the manufacture, sale, and lease of telephones with respect to smartphone encryption technology

Proposed law, cited as The Louisiana Brittney Act, requires that any smartphone manufactured, sold, or leased in this state shall be capable of being decrypted and unlocked by either its manufacturer or its operating system provider without the necessity of obtaining the user passcode.

Proposed law defines a smartphone. Proposed law outlines the violations, penalties, and provisions for enforcement. Proposed law authorizes that the Attorney General may enforce the provisions in proposed law, but states that the Attorney General shall enforce provisions of proposed law in the case of a homicide. Proposed law establishes a civic penalty of \$2,500 for each violation of failing to unlock or decrypt a smartphone.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law is likely to result in an increase in SGF expenditures beginning in FY 17. Proposed law provides that the Attorney General (AG) may enforce provisions of proposed law with regard to situations where a seller or lessor of a smartphone knew or reasonably should have known at the time of the consumer transaction that the smartphone was not capable of being decrypted or unlocked. Proposed law provides that the AG shall enforce such provisions in the event that the owner of the smartphone is the victim of a homicide as defined in RS 14:29. The potential expenditure increase is dependent upon the level of enforcement the AG may choose to undertake with regard to proposed law, and may be limited in scope to enforcement activities against only those entities that fail to make smartphone devices capable of being decrypted or unlocked and for which an owner of one of those devices is the victim of a homicide.

The Louisiana Department of Justice (DOJ) reports a projected expenditure increase of \$1,184,965 SGF in FY 17. DOJ reports that it will require 11 T.O. positions to implement proposed law, including 3 Attorneys, 1 Secretary, 2 Paralegals, 3 Investigators, and 2 IT Specialists/Investigators at a total salary and related benefit cost of \$881,565. DOJ additionally projects travel expenditures at \$28,000, operating services at \$105,600, and supplies at \$38,500 annually. DOJ projects one-time acquisitions at \$131,300 to include office furniture, IT hardware and software, and three vehicles. The LFO is unable to corroborate the stated T.O. and fiscal need as outlined by the DOJ. To the extent that some degree of this enforcement activity can be carried out with existing staff and resources, the need for additional personnel and expenditure authority would be reduced accordingly. Proposed law only requires enforcement in cases where the smartphone owner was the victim of a homicide. Other enforcement activities are optional under proposed law. While the LFO acknowledges increased enforcement activities as required in proposed law are likely to result in a workload increase in DOJ, the level of resources needed could possibly fall below that specified by DOJ.

The Public Service Commission estimates no expenditure impact as a result of proposed law.

REVENUE EXPLANATION

Proposed law may result in an indeterminable increase in local funds revenue if a specified entity is required to pay the civil penalty for a violation of proposed law. The maximum fine assessed is \$2,500. The potential revenue will accrue to the local governing authority.

Senate Dual Referral Rules House

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| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input checked="" 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} |

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