

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 302** SLS 16RS 394

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: April 5, 2016 9:00 AM	Author: MORRELL
Dept./Agy.: Office of Juvenile Justice	Analyst: Monique Appeaning
Subject: Safe and Fair Return Act / Juvenile Justice	

CRIMINAL PROCEDURE

OR INCREASE GF EX See Note

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Creates the Safe and Fair Return Act of 2016. (8/1/16)

Proposed law creates the Safe and Fair Return Act of 2016. It amends and reenacts certain areas of law relative to juvenile justice; to provide with regard to the release of records, reports or other information on juveniles in custody; to provide for the costs of production of records, reports and information; to provide for presumptions of indigence; to require periodic presentation of juveniles in custody to committing court; to provide relative to the representation of juveniles in custody and their return to the community; to create and provide for the Safe Return Program; to provide for the collection of data and periodic reporting of expenditures and funds by public defenders on the program; to develop and require standards and guidelines in representing indigents; to create the Safe Return Representation Program fund; to provide relative to access by defense counsel to juveniles in custody; and to provide for related matters.

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	SEE BELOW					
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						

EXPENDITURE EXPLANATION

There is an indeterminable increase in SGF expenditures as a result of proposed law. Proposed law is one part of a package of bills introduced in the 2016 Regular Session of the Louisiana Legislature seeking to implement dramatic reforms to the state's juvenile justice system. As reported by LSU Health New Orleans Institute for Public Health and Justice, in "A Legislated Study of Raising the Age of Juvenile Jurisdiction in Louisiana" in response to House Concurrent Resolution 73 of 2015, "Louisiana should strongly consider raising the age of juvenile court jurisdiction to include 17-year-old offenders. Findings suggest that this change would benefit public safety, promote youth rehabilitation, and create long-term savings." The report recommended a comprehensive five-year strategic plan for reforming juvenile justice to make structural changes that adopt evidenced-based practices and utilization of a comprehensive data infrastructure to inform policy. Senate Bills 301, 302, 303 and 324 comprise a package of bills seeking to implement these changes. To the extent that the adopted changes are effective in reducing recidivism of youthful offenders, reducing contact of youthful offenders with the adult criminal justice system, and reducing the likelihood that a youthful offender will grow into an adult habitual offender, the state may realize significant long-term savings over the course of those individuals' lifetimes. In the short-term, such proposals generally may create significant expenditure impacts as the state adopts programs and strategies to collect, disseminate and use data to effectuate evidence based practices that lead to long-term success.

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REVENUE EXPLANATION

The proposed legislation also creates the Safe Return Representation Program Fund in the state treasury but does not provide a permanent revenue source to flow into the newly created fund. It is unknown how much revenue will be deposited into the fund since funding may come as a result of an appropriation by the legislature or other monies made available to the program. The fund shall be used to provide for the implementation and operation of the Safe Return Representation Program. Monies in the fund may also be used to supplement the judicial district indigent defender funds as provided in R.S. 15:168 and shall not be used to displace, replace, or supplant monies available for this program or the purpose of providing legal representation to children in the custody of OJJ. The fund shall be administered by LPDB.

Creating a new statutory dedication (Safe Return Representation Program Fund) within the state treasury will result in a marginal additional workload for the Treasury, which can generally be absorbed with existing resources. However, to the extent other legislative instruments create new statutory dedications, there may be material additional costs associated with the aggregate effort to administer these funds.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<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}	

Evan Brasseaux

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Staff Director

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CONTINUED EXPLANATION from page one:

Continued From Page One

There is an indeterminable but significant increase in SGF expenditures for the Louisiana Public Defender Board (LPDB) as a result of proposed law, which empowers it with all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power necessary to administer the Safe Return Representation Program throughout the state. The board shall administer a program to provide qualified legal representation for indigent children committed to the custody of the Office of Juvenile Justice (OJJ) in accordance to the Children's Code and to promote safe return and reentry for youth in custody. LPDB reports that the proposed law will make it more financially feasible to cash-strapped public defender office to provide the constitutionally-required effective assistance of counsel to youth in custody. LPDB further explain that public defenders are required by existing law to provide effective advocacy to youth who have been convicted and are being held in state custody; however, few defenders are able to provide effective post-disposition representation due to lack of resources and prohibitively difficult logistics. Also, lack of access is a major issue as public defenders are required to visit their clients in post-disposition custody to ensure they are receiving effective rehabilitative services and to advocate for their parole release so that they can receive support in their own homes and communities. The juvenile justice system does not have a parole board, so youth who have earned a second chance can only be released if they prove their case before the judge who sentenced them and that process requires a defense attorney's advocacy. Children in the OJJ custody are often held far from their homes, but law requires that post-dispositional proceedings occur in the sentencing court. Currently, public defenders rarely meet with clients after they are sentenced to OJJ custody unless OJJ initiates a review hearing. The attorneys representing children post-disposition must travel, sometimes hundreds of miles to facilities where the children are held to meet with their clients. This travel often requires a significant time commitment, plus expenses for travel. Because public defenders rarely have an entire day to commit to meeting a single client, and do not have the resources to travel across the state, public defenders rarely meet with clients. LPDB reports that this proposed law will result in more effective post-dispositional representation by mandating in-person review hearings at six-month intervals, which will reduce the burden on public defenders to travel across the state to see their clients. The bill also includes provisions to promote audio-visual access to clients. By increasing public defenders' access to their clients, the bill will make post-dispositional representation by public defenders much more practical and more cost-effective.

The increase in SGF expenditures for the OJJ is associated with providing (free of charge) all records and reports concerning a child in the custody of OJJ to the counsel enrolled for the child or engaged by the child, or the child's legal guardian upon a written request to OJJ. Currently, OJJ provides copies of records to legal counsel and advocates if the court has deemed the youth and his parent indigent. Proposed law extends free copies to children and their parents. It also requires OJJ to provide copies of all information to the courts (judges) and to defense counsel in the same time frame and manner (hand delivered). It also requires a complete set of all youth records upon release to the child and counsel free of charge to the indigent youth. Note: The average case file size is 619 pages and the cost to copy the average case file is \$156 (619 pages x \$0.252 cost to copy per page). To the extent copies are provided, it will increase SGF expenditures by \$156 per case file. Also, proposed law requires OJJ to transport youth to court for review hearings every six months. The SGF expenditure increase is indeterminable. However, OJJ reports that the increase in transports will involve more transport staff and travel expenses. This legislation also states that OJJ shall make provisions for prompt and regular daily access to each child in its custody for defense counsel, and for adequate and confidential meeting space in each juvenile facility for defense counsel and child they represent, and provisions for direct, confidential, and readily accessible telephone or audio-visual connections, at no cost to children in custody or to their families, between children in custody of OJJ and such defense counsel as may be designated by the LPDB. It further states, that telephones or audio-visual connections to counsel must be available, by reasonable oral request and on an every hour and every day basis, to all children in the custody of OJJ. OJJ reports that the SGF expenditure increase is indeterminable. OJJ anticipates the majority of the cost will likely be long distance charges as all calls between youth and counsel will be free of charge.

Proposed law will not result in a SGF expenditure change to the Louisiana District Attorneys Association (LDAA). Proposed law requires a review hearing every six months after a youth's commitment to the Office of Juvenile Justice, the LDAA reports that the fiscal impact would be negligible.

The LPDB reports that provisions in proposed law requiring that that review hearings be conducted in six-month intervals will likely result in a cost savings generated by expedited modifications beyond the baseline. This will, in effect, likely serve to reduce the duration of costly commitments to out-of-home placements and create substantial savings. LPDB would realize incremental cost increases associated with representing youthful offenders for more frequent modification hearings, which should more than offset at a state fiscal level by reduced commitment durations. OJJ would also realize increased costs associated with transporting youth to their home court districts for additional hearings, though reduction of commitments would likely more than offset this expense as well. To the extent there are changes in the housing status of youthful offenders there is an indeterminable increase or decrease of \$143.28 per day to house state youthful offenders in Secure Care or \$112.78 per day to house state youthful offenders at a local detention center classified as pending secure placement. The LFO is unable to determine if the potential for reduced commitment durations will offset additional OJJ and LPDB costs detailed above.

Senate Dual Referral Rules House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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