

LEGISLATIVE FISCAL OFFICE
Fiscal Note



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

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

| | |
|---|-----------------------------------|
| Date: April 22, 2016 4:25 PM | Author: MORRELL |
| Dept./Agy.: Office of Juvenile Justice | Analyst: Monique Appeaning |
| Subject: Safe and Fair Return Act / Juvenile Justice | |

CRIMINAL PROCEDURE

EG INCREASE GF EX See Note

Page 1 of 2

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 for the release of records; to provide for costs; to provide for presumptions of indigence; to provide for hearings; to provide for legal representation of certain youth in the custody of OJJ; to create the Safe Return Program; to provide for data collection and reporting; to provide for standards of representation; to create the Safe Return Representation Program Fund; to provide for access to counsel; 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 | 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> | \$0 |
| 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> | \$0 |
| Annual Total | | | | | | |

EXPENDITURE EXPLANATION

There is an indeterminable increase in SGF expenditures as a result of proposed law to the extent that youth are provided with post disposition representation. The 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 between youthful offenders and 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.

Continued On Page Two

REVENUE EXPLANATION

The proposed law 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 Office of Juvenile (OJJ). The fund shall be administered by Louisiana Public Defender Board (LPDB).

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}

Evan Brasseaux

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Staff Director

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CONTINUED EXPLANATION from page one:
Continued Expenditure 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 OJJ in accordance with the Children’s Code and to promote safe return and reentry for youth in custody. LPDB reports it is 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. Given widespread reports of existing funding challenges for public defender offices, the LFO recognizes that the current funding level of the LPDB is not sufficient to appropriately comply with existing law. The LFO further concludes that an indeterminable increase in SGF expenditures is needed to implement post-dispositional hearings for indigent youth that is contained in proposed law and present law. Notwithstanding the LFO comments, the Louisiana Center for Children’s Rights (LCCR) estimates there are approximately 850 youth in OJJ custody or supervision at any given time. In order to provide adequate representation to post-adjudicated youth, LCCR estimates the need for 10 attorneys and 10 social workers, supervisory personnel (2 supervising attorneys and 1 project director), administrative staff (2 administrative assistants and 1 office manager) and operating costs (travel, licensure and overhead), requiring a total annual SGF expenditure increase of approximately \$2 M. LPDB indicates that it can likely accomplish provisions of law with significantly less personnel and costs than the estimate provided by LCCR. The LFO is unable to reconcile the required appropriate T.O. and funding level necessary to provide adequate post-adjudication representation.

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. OJJ reports it will need an Administrative Assistant in each facility to compile the records and copy/scan them to the requestor. The cost for the three Administrative Assistants is \$159,296 (includes salary and related benefits). Also, \$6,000 is needed for additional supplies and software at each facility (\$2,000 per year for scanning software and additional paper and toner supplies) and a \$9,000 one-time expense for three computers and scanners (1 for each facility). Proposed law requires OJJ to transport youth to court for review hearings every six months. The SGF expenditure increase associated with transporting youth is indeterminable. However, OJJ reports that the increase in transports will involve more transport staff and travel expenses. This legislation 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 six WAEs (when actually employed) - two at each facility will be needed to accommodate weekend defense counsel visits at a cost of \$174,720 SGF annually. However, it is unknown what the fiscal impact is to contract/detention facilities. However, OJJ anticipates a \$120,000 one-time cost for 16 community based facilities and 14 detention centers (approximately \$4,000 for each facility) to set-up audio-visual capabilities.

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 youth in the custody of OJJ for more frequent modification hearings, which should be 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 youth in the custody of OJJ there is an indeterminable increase or decrease of \$143.28 per day to house state youth in the custody of OJJ in Secure Care or \$112.78 per day to house state youth in the custody of OJJ at a local detention center classified as pending secure placement. The LFO is unable to determine if the potential for reduced commitment durations will fully offset additional OJJ and LPDB costs detailed above.

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.

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| <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} | |

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