

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **HB 66** HLS 201ES 157
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 25, 2020 5:51 PM	Author: NELSON
Dept./Agy.: Supreme Court/AG/ORM/OGB	
Subject: Citizens' Premium Reduction Act	Analyst: Rebecca Robinson

CIVIL/ACTIONS EG SEE FISC NOTE GF EX Page 1 of 2
 Enacts the Citizens' Premium Reduction Act (Item #40)

Proposed legislation increases the prescription period for a delictual action from 1 year to 2 years. Proposed legislation lowers the jury threshold from \$50,000 to \$35,000 for non-delictual actions and provides for no threshold in delictual actions. Provides for six jurors in a jury trial, twelve if requested. Provides that a person suffering injury, death, or loss shall be barred from recovering damages if his percentage of fault is greater than the combined percentage of fault of all other person found to have contributed to the injury, death, or loss. Provides that evidence that a person was or was not insured against liability shall not be admissible to prove whether the person acted negligently; such evidence may be presented for another purpose. Provides that the caption of any lawsuit shall not include the name of the insurer and that only the court may receive evidence of the insurance contract. Prohibits the gender of an insured over the age of 25 being considering in rate determinations.

[CONTINUED ON PAGE 2]

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
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					
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The net impact to the state is indeterminable. There will be an increase in expenditures to the Attorney General (AG) and the local Clerks of Court as a result of the lower jury threshold. There will be an indeterminable impact for the Office of Risk Management (ORM), the Louisiana Supreme Court, (LSC), and the Office of Group Benefits (OGB) due to the combined changes.

ORM reports an indeterminable impact to the Office of Risk Management (ORM) as a result of the change in prescription period. ORM indicates that often the first time they receive knowledge of a claim is when a lawsuit is filed. Currently, in such a case, up to a year has elapsed since the time of the incident. Under the proposed legislation, up to two years could elapse before ORM is notified of an incident. This extension of time adversely affects ORM and its ability to effectively and timely investigate claims against the State and impairs ORM's ability to identify and secure/preserve relevant evidence and witness testimony. The delay in investigating claims may lead to ORM having to compromise certain claims that it otherwise would have been able to defend. However, the extension of the prescription period is for those suits involving motor vehicle accidents, where there is often a police report available as evidence of an accident. Obtaining such evidence reduces ORM's concern relative to collection of evidence; however, the fiscal impact to ORM is indeterminable.

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.

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REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

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}

Evan Brasseaux
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Staff Director

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CONTINUED EXPLANATION from page one:

[CONTINUED FROM LEGISLATION EXPLANATION]

Limits the recovery of medical expenses to the amount actually paid to the healthcare provider. Proposes to require the Commissioner of Insurance to report to the legislature on April 1st of each year through 2024, the rate change of the statewide average automobile insurance policy. Proposed legislation becomes ineffective August 1, 2023 if no report required to be submitted by the Commissioner of Insurance reflects that motor vehicle insurance rates decreased by at least 15%.

Effective August 1, 2020.

[CONTINUED FROM EXPENDITURE EXPLANATION]

ORM reports an expected positive fiscal impact, though indeterminable, with the change to comparative fault. ORM would realize a savings in payouts of cases with significant plaintiff fault. Further, claims/lawsuits may be reduced as a result of plaintiff attorneys being reluctant to invest in a case where their client bears substantial responsibility for his injuries.

ORM reports an indeterminable increase in expenditures due to the changes in the collateral source rule, specifically the recovery of health insurance premiums. The allowance of recoverable health insurance premiums will create a new category of damages that ORM will pay; however, the recovery is limited in both time and amount.

The AG's office reports there will be an increase in expenditures as a result of the reduction of the jury threshold and the extension of the prescription period. The AG indicates that virtually all of their cases would be eligible for a jury trial with the reduction in the jury threshold; and that they will also see an increase in jury trials as a result of the extension of the prescription period. As a result, the AG anticipates a need for increased staffing levels: a total of 12 attorneys, 6 paralegals, and 6 secretaries (with associated operating expenses and acquisitions) for a total of \$2.45M annually. It is unknown how many cases will actually qualify for a jury trial; how many 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 as a result of the lower jury threshold; however, the LFO is unable to substantiate the level of resources needed by the AG's office. Further, the AG's office did not provide any information on how the additional staff needed due to the change in prescription period was derived.

District court 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.

The Louisiana Supreme Court reports an indeterminable impact as a result of the change in the prescription period as they cannot determine whether the extension will increase or decrease the number of trials.

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.

The Clerks of Court report an increase in expenditures as a result of the lowering of the jury threshold. The Clerks of Court expect an increase in jury trial requests and associated increase in costs, especially when any governmental entity requests a jury trial (as they are not required to post a jury bond). In that instance, the Clerks of Court will bear the cost of jury trials which are funded through self-generated revenues. The Clerks of Court will likely raise court costs on all cases to cover the additional costs associated with jury trials.

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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