

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



Fiscal Note On: **SB 188** SLS 20RS 156  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.: **W/ PROP SEN FLOOR AMD**  
 Sub. Bill For.:

**Date:** May 15, 2020 9:48 AM **Author:** WHITE, B  
**Dept./Agy.:** Statewide **Analyst:** Monique Appeaning  
**Subject:** Possession of a firearm by a felon as a "crime of violence"

CRIME/PUNISHMENT EG INCREASE GF EX See Note Page 1 of 2  
 Designates the crime of possession of a firearm by a felon as a "crime of violence". (gov sig)

Proposed law designates possession of firearm or carrying concealed weapon by a person convicted of certain felonies, when the predicate felony is enumerated in R.S. 14:95.1(D) as a "crime of violence"; except for drug offenses in violation of the Uniform Controlled Dangerous Substance Law that are punishable by a sentence of imprisonment at hard labor for ten years or less, if any offense listed in Subsection A of LA R.S. 14:95.1 is a predicate offense for a prosecution, then the conviction shall be designated as a crime of violence.

<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	INCREASE	INCREASE	INCREASE	
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	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
<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>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

Proposed law will result in an indeterminable but significant increase in SGF expenditures to the Department of Public Safety and Corrections - Corrections Services (DPSC - CS) if a person is convicted of "possession of firearm or carrying concealed weapon by a person convicted of certain felonies" as defined in LA R.S. 14:95.1. Proposed law designates this offense as a crime of violence under LA R.S. 14:2, but provides for specific exceptions for certain drug offenses. Present law details the ability of individuals to earn diminution and commutation of sentence for good behavior in certain circumstances as defined in LA R.S. 15:571.3. Designating a violation of LA R.S. 14:95.1 as a crime of violence would require a person to serve a minimum of 75% of his/her sentence rather than a minimum 35%.

DPSC-CS reports 75 people were taken into state custody after conviction in 2019 whose sole criminal conviction was attributable to a violation as provided in proposed law. DPSC-CS did not report data for multiple years as convictions have decreased annually over recent history. The potential expenditure exposure to the state will be determined by a number of factors, including the number of individuals convicted of possession of firearm or carrying concealed weapon by a person convicted of certain felonies, the average sentence length given to convicted individuals, and the successful earning of diminution and commutation of sentence for good behavior. These factors are unknown, but for illustrative purposes regarding the potential expenditure exposure DPSC-CS offered the illustrative example on page 2. The example projects potential costs based upon the following assumptions:

- 1) 75 convictions resulting in admission to state custody annually.
- 2) Offenders are given an average sentence of 5.9 years, or 2,154 days (the maximum is twenty years).
- 3) The offenders are convicted solely for violation of LA R.S. 14:95.1, excluding exceptions provided in proposed law.
- 4) Offenders would earn diminution of sentence for good behavior and be released after 35% of sentence under present law.
- 5) Offenders will earn diminution of sentence for good behavior and be released after 75% of sentence under proposed law.

**Potential Expenditure Exposure (for illustrative purposes)**

ASSUMED SENTENCE LENGTH IN DAYS 2,154	35% OF SENTENCE IN DAYS 754	75% OF SENTENCE IN DAYS 1,615	INCREASE IN DAYS 861
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**EXPENDITURE EXPLANATION CONTINUED ON PAGE TWO**

**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}

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**Staff Director**



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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

If released at 35% of sentence, an individual with a 5.9 year sentence would serve 754 days, which creates an expenditure exposure compared to present law beginning in FY 23. If released at 75% of sentence, an individual with a 5.9 year sentence would serve 1,615 days, or an increase of 861 days above the 35% diminution. The total expenditure exposure increases annually through FY 25 as detailed in the tabulations below.

Table with 4 columns: YEAR OF ADMIT, FY 23 (YEAR THREE) ADDED DAYS, FY 24 (YEAR FOUR) ADDED DAYS, FY 25 (YEAR FIVE) ADDED DAYS. Rows for years 2021-2024 and a TOTAL row.

TOTAL MAN DAYS = TOTAL ADDED DAYS BY YEAR X 75 ANNUAL ADMITS

Table with 4 columns: TOTAL MAN DAYS, FY 23, FY 24, FY 25. Values: 25,596, 52,971, 64,575.

The additional man days create a potential expenditure exposure of \$26.39 per day per offender to house an offender at the local level or \$67.44 per offender per day to house an offender at the state level.

Table with 4 columns: \*FY 23, \*FY 24, \*FY 25 and out-years. Rows for \$26.39 per offender per day (local level) and \$67.44 per offender per day (state level).

The estimates above are provided as an illustrative example only. Any change to the assumptions detailed on page one would cause variation in the potential costs. The total expenditure impact of proposed law is indeterminable, but will likely result in an unknown number of additional incarceration days for offenders serving in state custody for the relevant crime, which will in turn increase SGF expenditures by an indeterminable amount.

- 1) If the number of admits increases or decreases, total costs would adjust accordingly.
2) If offenders are sentenced for a period longer than the average 5.9 years, the out-year expenditure exposure will increase significantly.
3) The number of offenders earning diminution of sentence at 35% under present law, or 75% under proposed law, is speculative.

\*4) R.S. 15:571.3 stipulates that the calculation for diminution of sentence includes time spent in custody with good behavior prior to sentencing. As of publishing this fiscal note, the LFO does not have information regarding the average number of days the impacted population would have served in custody prior to sentencing or how many of these would have earned good time.

Judiciary

Proposed law will have an indeterminable SGF expenditure impact on the Judiciary and they reported that there is not data available to determine the fiscal impact on expenditures.

Louisiana District Attorney Association (LDAA)

LDAA reports that proposed law would not in and of itself have a fiscal impact on the Office of the District Attorney. It is within the course and scope of prosecutorial duties to prosecute these cases.

Louisiana Public Defender Board (LPDB)

LPDB reports that proposed law would likely create an indeterminable workload impact for public defenders to provide effective representation to indigent clients. LPDB reports that possession of a firearm by a felon is one of the most common charges in its database, appearing in almost 4,000 cases in calendar year 2019.

Louisiana Sheriffs Association (LSA)

LSA reports that the bill is prospective and there is not an immediate impact. As far estimating the future, there will be an increase due to the new calculation of "good time" at 75% (the rate for a violent crime); however, it's indeterminable because there are usually other charges at the time of arrest.

Senate Dual Referral Rules
[X] 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
[ ] 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
[X] 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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