

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3093 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 13, 2023

SUMMARY

- Synopsis:** Upgrades certain penalties for assaulting law enforcement officer and requires offender to be tested for communicable diseases in certain instances.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Corrections; State Parole Board; the Judiciary; Office of the Public Defender; Department of Health.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the bill will result in indeterminate additional annual costs to the State. The bill upgrades certain crimes concerning assault of a law enforcement officer from crimes of the third degree and the fourth degree to a crime of the second degree. Crimes of the second degree carry a presumption of incarceration for persons convicted of these crimes while, generally, a presumption of non-incarceration applies to first time offenders of crimes of the third degree and the fourth degree.
- The following State agencies would incur caseload and expenditure increases: i) the Department of Corrections would have to house more inmates for longer terms of imprisonment and the State Parole Board would have to supervise their return to society; ii) the Judiciary would need to adjudicate additional cases; iii) the Office of the Public Defender may have to represent additional low-income criminal defendants; and iv) the Department of Law and Public Safety would have to prosecute additional cases if the increased penalties create a reluctance on the part of the defendant to enter a guilty plea.

- This bill will also result in increased costs to the State due to the provision requiring any person charged with assault with a bodily fluid be tested for communicable diseases at a clinical laboratory licensed by the Department of Health. The OLS cannot confirm how many such individuals will require testing or who will pay for it. For context, the Department of Corrections reported 128 assaults with bodily fluids for 2021. For 2022, through June, 129 assaults with bodily fluids were reported by the Department of Corrections.
- The State may receive indeterminate additional annual revenue from fines and penalties imposed on and collected from individuals convicted of the upgraded offenses; however, the State's ability to collect fines and penalties has historically been limited.

BILL DESCRIPTION

The bill upgrades certain crimes concerning assault of a law enforcement officer from crimes of the third degree and the fourth degree to a crime of the second degree. Under current law, it is a crime of the third degree to assault a law enforcement if the victim is injured; otherwise, it is a crime of the fourth degree. Under this bill, the penalty for assaulting a law enforcement officer would become a crime of the second degree. Additionally, the defendant would not be allowed to enter a guilty plea to a lesser charge. The bill also upgrades the penalty for assault with bodily fluids of a law enforcement officer, paid or volunteer firefighter, or person engaged in emergency first-aid or medical services if the officer suffers bodily injury from a crime of the third degree to a crime of the second degree.

Additionally, any person charged with assault with a bodily fluid would be required to provide a blood sample or other biological sample drawn to be tested for communicable diseases at a clinical laboratory licensed by the Department of Health. Any positive results for a communicable disease would be shared with the assault victim.

A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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The following State agencies would incur caseload and expenditure increases: i) the Department of Corrections would have to house more inmates for longer terms of imprisonment and the State Parole Board would have to supervise their return to society; ii) the Judiciary would

need to adjudicate additional cases; iii) the Office of the Public Defender may have to represent additional low-income criminal defendants; and iv) the Department of Law and Public Safety would have to prosecute additional cases if the increased penalties create a reluctance on the part of the defendant to enter a guilty plea. The OLS finds that to the extent that the bill will result in additional incarcerations, based on information provided by the Department of Corrections, the FY 2021 average costs for housing an inmate were \$55,389, whereas the average daily cost was \$151.75.

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In response to an FY 2023 budget follow-up question, the Department of Corrections noted that there were a total of 194 assaults on correctional staff in 2018, three assaults with a weapon and 51 assaults with bodily fluids. By 2021, the total number of correctional staff assaults was 319, with no assaults with weapons and 128 assaults with bodily fluids. For 2022, through June, the number of correctional staff assaults was at 247, with 129 assaults with bodily fluids. The OLS does not have data for the full year of 2022 or the most recent data for 2023.

The OLS cannot determine the number of convictions the bill's provisions may generate or the associated fine and penalty revenue. The State may receive indeterminate additional annual revenue from fines and penalties imposed on and collected from individuals convicted of the upgraded offenses; however, the State's ability to collect fines and penalties has historically been limited.

Section: Judiciary

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).