

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3385**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JULY 17, 2023

**SUMMARY**

**Synopsis:** Establishes presumption of pretrial detention for persons who commit carjacking, theft of motor vehicle, or burglary.

**Type of Impact:** State and county expenditure increases over a one-year period.

**Agencies Affected:** The Judiciary, Department of Law and Public Safety, Counties.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>One-Year</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>Local Cost Increase</b>	Approximately \$104 per day per defendant

- The Office of Legislative Services (OLS) estimates that this bill will result in State and county expenditure increases for the one-year period established in the bill. However, trial delays or case backlogs could result in the expenditure increases extending beyond this one-year period. The OLS does not have sufficient information to estimate the number of individuals who could be held in pretrial detention, but it is likely that the presumption of pretrial detention for the offenses enumerated in the bill would result in an increase in annual expenditures to the Judiciary.
- The OLS notes that the bill would likely result in a substantial increase in county costs to detain additional offenders prior to trial. The bill would also result in increased workload for county prosecutor offices and, potentially, the Office of the Attorney General in the Department of Law and Public Safety.

**BILL DESCRIPTION**

This bill establishes, for a one-year period, a rebuttable presumption of pretrial detention for defendants for the crimes of: (1) theft of a motor vehicle; (2) burglary (entering or trespassing in or upon a structure or certain property, or a separately secured or occupied portion thereof) in furtherance of motor vehicle theft; and (3) carjacking (taking a vehicle by means of violence or

threats of violence, or committing or threatening to commit another serious crime at the time of the taking, or the person inside the vehicle remains inside at the time of the taking). In cases involving (1) theft of a motor vehicle or (2) burglary, the presumption would only apply if the defendant also had a prior conviction within the preceding 12 months, or prior pending charges, for a crime of theft of a motor vehicle or burglary.

As with the existing pretrial detention process, the prosecutor would be required to move to have a defendant detained based on the alleged offense, and the court would be required to find probable cause that the defendant committed that offense. Regarding the timing on moving for pretrial detention based on the temporary expansion of the rebuttable presumption categories, the bill indicates that the presumption would apply to any crime committed during the one-year expansion period, regardless of when the motion for pretrial detention was filed.

The bill would also require, after expiration of the temporary expansion period, the Administrative Office of the Courts to report to the Legislature and the Governor on the number of individuals detained under the presumption of pretrial detention after an individual commits the crime of car theft, carjacking, or burglary, the rehabilitation of offenders, and other related objectives of pretrial detention.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill will result in State and county expenditure increases for the one-year period established by to the bill. However, trial delays or case backlogs could result in the expenditure increases extending beyond this one-year period.

The OLS does not have sufficient information to estimate the number individuals who could be held in pretrial detention as a result of the provisions of the bill, as the bill establishes conditions for pretrial detention, which include consideration of prior convictions coupled with the enumerated offenses, that require an analysis of judicial discretion in a way that cannot be determined. However, it is likely that the bill would result in an increase in expenditures to the Judiciary.

The Judiciary has indicated, in previous fiscal notes, that establishing a presumption of pretrial detention for additional offenses would incur a significant increase in annual expenditures, as the bill's provisions would result in an increase in: the number of motions filed for pretrial detention and motions for reconsideration of detention; and bench time and court resources to ensure that the additional cases are heard and processed in a timely fashion.

The OLS notes that the bill would likely result in a substantial increase in county costs during the one-year period established in the bill to detain additional offenders prior to trial. The costs for housing offenders in county jail vary. According to certain estimates, it could be more than \$100 per day. For example, when Union County closed its county jail, moving the county offender population to Essex County jail, the daily rate was approximately \$104 per day.

The bill would also result in increased workload for county prosecutor offices and, potentially, the Office of the Attorney General in the Department of Law and Public Safety.

The bill would also result in an increased workload for county prosecutors offices as the bill requires prosecutors to make motions for pretrial detention defendants, who have committed the

enumerated offenses within the one-year period established by the bill. As the law enforcement entities primarily tasked with the prosecution of carjacking, theft, and burglary cases, county prosecutor offices will see the majority of the increase in workload. However, to the extent the Office of the Attorney General in the Department of Law and Public Safety accepts the prosecution of some of these types of cases, there will potentially be an increase in workload in the Office of the Attorney General.

*Section:           Judiciary*

*Analyst:         Sheree Henderson  
                  Section Chief*

*Approved:       Thomas Koenig  
                  Legislative Budget and Finance Officer*

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.).