

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2426

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: MARCH 29, 2022

SUMMARY

- Synopsis:** Establishes rebuttable presumption of pretrial detention for defendants who commit certain firearm offenses under Graves Act.
- Type of Impact:** Annual State and county expenditure increases.
- Agencies Affected:** The Judiciary, Department of Law and Public Safety, Counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
County Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will result in annual State and county expenditure increases. According to a Judiciary analysis, approximately 2,000 offenders could be held in pretrial detention for offenses pursuant to this bill. This would result in a substantial increase in State and county costs.
- The Judiciary indicated that it would incur a substantial increase in annual expenditures, as the bill's provisions would result in an increase in the number of motions filed for pretrial

detention, the number of defendants detained pretrial and create additional motions for reconsideration of detention.

- Counties would incur potentially significant annual expenditure increases to detain additional offenders prior to trial pursuant to the bill's provisions.
- The OLS also notes the bill would result in increased workload for the Office of the Attorney General in the Department of Law and Public Safety as well as county prosecutors.

BILL DESCRIPTION

This bill establishes a rebuttable presumption that a defendant subject to a mandatory prison term for a firearm-related crime pursuant to P.L.1981, c.31, also known as the "Graves Act," is to be detained prior to trial. The Graves Act sets forth mandatory minimum terms of imprisonment for individuals convicted of certain crimes involving the use or possession of a firearm.

Under P.L.2014, c.31, also known as the Criminal Justice Reform Law, criminal courts are authorized to order the pretrial release of a defendant pending further proceedings, or order pretrial detention of a defendant who is found to be a flight risk, a danger to another or the community, or likely to obstruct further criminal proceedings.

Currently, there is a rebuttable presumption that a defendant who is charged with murder or a crime that subjects the defendant to an ordinary or extended term of life imprisonment is to be detained pending trial.

This bill provides that the rebuttable presumption of pretrial detention also applies to defendants charged with certain violent crimes and certain crimes involving a firearm.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

JUDICIAL BRANCH

Upon request, the Judiciary provided information on the expenditures it would incur as a result of this bill. The Judiciary noted that due to the burden of proof shifting to a presumption of detention, the bill would increase the number of motions filed for pretrial detention. Although the Judiciary is unable to ascertain an estimate of the increased motions for pretrial detention, the Judiciary is confident that any increase in motions resulting from the bill would be significant. The bill would also increase the number of defendants detained pretrial. Although the increase in the number of additional defendants detained pretrial will vary, based upon the data in the Judiciary's March 4, 2022 Graves Act Analysis, it is reasonable to believe there could be an additional 2,000 or more defendants detained pretrial annually. As each of these defendants would be subject to the strict speedy trial provisions set forth in the Criminal Justice Reform Act, the Judiciary would incur a significant increase in bench time and court resources to ensure these additional cases are processed and heard in a timely fashion. In addition, the bill would increase the number of motions submitted for reconsideration and hearings regarding a defendant's release. Based on current trends, it is estimated that 30 percent of all gun cases are downgraded, remanded, or dismissed prior to indictment. In instances where a case is downgraded or remanded, it is reasonable to assume the defense would file a motion seeking the reconsideration of a defendant's detention, which would significantly impact both bench time and court resources. In summary, the bill would increase the number of motions filed for pretrial detention, the number of defendants detained pretrial and create additional motions for reconsideration of detention. The Judiciary noted that although a full estimate of the bill's fiscal impact on the Judicial Branch is not possible, it is confident the bill would result in a substantial increase in Judiciary expenditures.

OFFICE OF LEGISLATIVE SERVICES

State Expenditures

As noted above, the Judiciary indicated that it would incur a substantial increase in annual expenditures, as the bill's provisions would result in an increase in the number of motions filed for pretrial detention, the number of defendants detained pretrial and create additional motions for reconsideration of detention. Also as noted above, according to a Judiciary analysis, approximately 2,000 offenders could be held in pretrial detention for offenses pursuant to this bill.

County Expenditures

The costs for housing inmates in a county jail vary, but according to certain estimates, it could be more than \$100 per day. For example, when Union County closed its county jail and moved its

inmates to Essex County jail, according to certain estimates, Union County decided on a daily rate of \$104 per person.

Based on the data provided, if all 2,000 offenders are in pretrial detention that would cost counties approximately \$200,000 per day. Since it cannot be known how long the offender will remain in detention in county jail, it is difficult to ascertain the annual costs.

Prosecutor Workload

The OLS also notes the bill would result in increased workload for the Office of the Attorney General in the Department of Law and Public Safety as well as county prosecutors, which may lead to expenditure increases.

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.).