

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 2426**

## **STATE OF NEW JERSEY 220th LEGISLATURE**

DATED: JUNE 23, 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

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

- The Office of Legislative Services (OLS) estimates that this bill will result in annual State and county expenditure increases. The OLS does not have sufficient information to estimate the number of individuals who could be held in pretrial detention but it is likely the Judiciary would incur an increase in annual expenditures.
- Counties would incur 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 procedure to detain a defendant charged with a firearm-related crime pursuant to the Graves Act (P.L.1981, c.31) 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, the Criminal Justice Reform Law establishes a rebuttable presumption for some form of pretrial release, except with respect to an eligible defendant charged with murder or a crime for which the eligible defendant would be subject to an ordinary or extended term of life imprisonment.

This bill requires the Judiciary's Pretrial Services Program to recommend no release when a defendant has been charged with certain Graves Act offenses involving the use or possession of a firearm. The bill provides that when a prosecutor files a motion for pretrial detention, the no release recommendation made by Pretrial Services may serve as prima facie evidence to overcome the presumption of release if the court finds probable cause that the eligible defendant is charged with certain firearm crimes for which a mandatory term of imprisonment is imposed under the Graves Act.

The bill also excludes certain Graves Act offenses from Pretrial Service's mandatory no release recommendation.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***JUDICIAL BRANCH***

Prior to the amendments to this bill, the Judiciary provided information on the expenditures it would incur as a result of the prior version of the 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. However, under this amended bill, pretrial detention will be based on the recommendations of the Pretrial Services Program.

Although the Judiciary was unable to ascertain an estimate of the increased motions for pretrial detention prior to the amendments, the Judiciary was confident that any increase in motions resulting from the bill would be significant. The bill would also increase the number of defendants detained pretrial, the Judiciary noted. 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, the Judiciary pointed out. In addition, the bill would increase the number of motions submitted for reconsideration and hearings regarding a defendant's release. Based on current trends, the Judiciary 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.

***OFFICE OF LEGISLATIVE SERVICES***

**State Expenditures**

The Judiciary would incur an increase in annual expenditures from the bill's provisions that would increase the number of motions filed for pretrial detention, the number of defendants detained pretrial and create additional motions for reconsideration of detention.

**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.

Since it cannot be known how many offenders or 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*

*Analyst:          Anuja Pande Joshi*  
*Associate Research Analyst*

*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.).