

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3867

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 31, 2023

SUMMARY

- Synopsis:** Establishes crime of fertility fraud.
- Type of Impact:** Annual expenditure and revenue increases to the State.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; State Parole Board.

Office of Legislative Services Estimate

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

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate annual increase in State expenditures and revenues. Under the provisions of the bill, fertility fraud would be a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Generally, a presumption of non-incarceration applies to first-time offenders of crimes of the third degree.
- The OLS notes that the fiscal impact of the bill cannot be determined because the number of individuals who will be found guilty of the new crime is unknowable. According to some reports, more than 50 fertility doctors nationwide have been accused in recent years of fertility fraud crimes involving assistive reproductive procedures. The OLS does not have sufficient information on the number of fertility fraud cases reported in New Jersey.
- The following State agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety would have to prosecute additional cases; b) the Judiciary would have to adjudicate additional complaints and monitor additional probationers; c) the Department of Corrections would have to house and care for more individuals who are sentenced to prison terms; and d) the State Parole Board would have to supervise the return to society of additional offenders.

- The OLS also notes the State may receive indeterminate revenue from fines imposed on individuals convicted of this crime; however, the State's ability to collect fines has historically been limited.

BILL DESCRIPTION

This bill establishes the crime of fertility fraud. Under the bill, a person commits fertility fraud if the person is a health care practitioner and knowingly performs an assisted reproduction treatment on a patient that results in a pregnancy using the person's own human reproductive material without the written informed consent of the patient, or using the human reproductive material of another person without the written informed consent of the patient.

Fertility fraud would be a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

Under the bill, a prosecution for fertility fraud is required to be commenced within 20 years of the date the assisted reproduction treatment was conducted, or within 10 years of the date that the victim became aware that the crime occurred.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that establishing the crime of fertility fraud will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it cannot be known how many individuals will be prosecuted, tried, and sentenced under the new crime.

This bill establishes the crime of fertility fraud as a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Generally, a crime of the third degree carries a presumption of non-incarceration for first-time offenders. According to the website, Donor Deceived, with access to DNA testing, more individuals are discovering fertility fraud involving assistive reproductive procedures. The OLS does not have Statewide data on fertility fraud cases. According to some reports, more than 50 fertility doctors nationwide have been accused in recent years of crimes that would be covered under this bill. Under the bill, a prosecution for fertility fraud is required to be commenced within 20 years of the date the assisted reproduction treatment was conducted, or within 10 years of the date that the victim became aware that the crime occurred.

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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.).