

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 827**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JULY 25, 2023

**SUMMARY**

- Synopsis:** Makes it fourth degree crime to engage in certain tracking and location activities.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; Office of the Public Defender; State Parole Board.

**Office of Legislative Services Estimate**

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

- The Office of Legislative Services (OLS) concludes that making the use of an electronic tracking device or tracking application for an unlawful purpose a crime of the fourth degree will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to know how many individuals will be prosecuted, tried, and sentenced for the crime established by the bill.
- 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 Office of the Public Defender would have to represent additional low-income criminal defendants; d) the Department of Corrections would have to house and care for more individuals who are sentenced to prison terms; and e) 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**

Under the bill, it is a crime of the fourth degree for a person to knowingly install or place, or cause to be installed or placed, an electronic tracking device or tracking application to track or determine the location of another person in order to initiate or facilitate an unlawful act. The bill specifies the uses of an electronic tracking device or tracking application that are considered lawful.

The bill establishes a permissive inference (for consideration by a jury) that the use of a tracking device or application to conduct surreptitious surveillance of another person was to initiate or facilitate an unlawful act, such as stalking or harassment.

The bill delineates how the person to be tracked or located is required to provide consent, and specifies the instances when a person's consent is presumed to be revoked.

State or local government entities and equipment, leased, owned, or operated by those entities are excepted from the bill's provisions.

A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

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A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. Generally, a presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree. Based on information provided by the Department of Corrections, the FY 2021 average annual costs for housing an inmate were \$55,389 whereas the average daily cost was \$151.75.

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.

*Section:       Judiciary*

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*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.).