

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3345
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JUNE 22, 2023

SUMMARY

- Synopsis:** Establishes crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender; upgrades auto theft trafficking crimes involving juvenile.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Corrections, State Parole Board, Department of Law and Public Safety, the Judiciary, Office of the Public Defender.

Office of Legislative Services Estimate

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

- The Office of Legislative Services (OLS) projects that this bill will result in annual State expenditure and revenue increases. The bill establishes the crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender, expands the crime of leader of auto theft trafficking network, and upgrades a crime that involves the use of a juvenile to commit the crime. Therefore, the following State agencies would incur caseload and expenditure increases: i) the Department of Corrections would have to house additional inmates and possibly for longer terms of imprisonment and the State Parole Board would have to supervise their return to society; ii) the Department of Law and Public Safety would have to prosecute additional cases if the upgraded penalties create a reluctance on the part of a defendant to enter a guilty plea; iii) the Judiciary would have to adjudicate additional cases; and iv) the Office of the Public Defender would have to represent additional low-income criminal defendants.
- The OLS does not have sufficient information on the potential increases in number of convictions and terms of imprisonment resulting from the bill’s provisions and therefore is unable to estimate the costs to the State.

- The OLS notes the State may receive indeterminate revenue from regular and enhanced fines imposed on individuals convicted of crimes under the bills. However, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

Under the bill, a person would be guilty of the crime of leader of an auto theft trafficking network if the person conspires with one or more other person as an organizer, supervisor, financier, manager, or recruiter to engage for profit or to commit other criminal activity in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into, or transport in this State automobiles or automobile parts as stolen property.

The bill upgrades the crime of leader of an auto theft trafficking network to a crime of the first degree, punishable by a term of imprisonment of 10 to 20 years, if a person, while engaging in a course of conduct which constitutes leader of an auto theft trafficking network, uses, solicits, directs, hires, employs, or recruits a person 17 years of age or younger to join or actively participate in the network. The court may impose a fine not to exceed \$250,000 or five times the retail value of the automobiles or automobile parts seized at the time of arrest, whichever is greater.

Under the bill, a person is guilty of the crime of participant in an auto theft trafficking network, if the person engages in or conspires with others in any capacity, other than as a leader of an auto trafficking network, to engage for profit or to commit criminal activity in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into, or transport in this State automobiles or automobile parts as stolen property. Participant in auto theft trafficking network is a crime of the third degree.

Further, participant in an auto theft trafficking network is upgraded to a crime of the second degree if a person who is at least 18 years of age is a participant in an auto theft trafficking network and: knowingly uses, solicits, directs, hires, employs, or recruits a person 17 years of age or younger to commit a violation of participant in an auto theft trafficking network; or participates in an auto theft trafficking network that also includes a person 17 years of age or younger who is a participant in the network. For a crime of participant in an auto theft trafficking network, the court may impose a fine not to exceed \$100,000 or five times the retail value of the automobiles or automobile parts seized at the time of the arrest, whichever is greater.

The bill also provides that a person convicted of a crime of leader of an auto theft trafficking network or participant in an auto theft trafficking network is to be sentenced to an extended term of imprisonment if the person has previously been convicted on two or more prior and separate occasions, regardless of the dates of the convictions, of leader of, or participant in, an auto theft trafficking network, or a crime under any statute of the United States, this State, or any other state that is substantially equivalent to any of those crimes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS projects that this bill will result in annual State expenditure and revenue increases. This bill establishes the crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender, expands the crime of leader of auto theft trafficking network, and upgrades a crime that involves the use of a juvenile to commit the crime. The following State agencies would incur caseload and expenditure increases: i) the Department of Corrections would have to house more inmates and possibly for longer terms of imprisonment and the State Parole Board would have to supervise their return to society; ii) the Department of Law and Public Safety would have to prosecute additional cases if the upgraded penalties create a reluctance on the part of a defendant to enter a guilty plea; iii) the Judiciary would have to adjudicate additional cases; and iv) the Office of the Public Defender would have to represent additional low-income criminal defendants.

Crime data made available on the official State website indicates that there were 10,279 motor vehicle thefts in 2020 and 4,962 motor vehicle thefts for the period January through June in 2021. However, the OLS does not have a breakdown on the sentencing of these offenders to ascertain how many are or are likely to be incarcerated in State prisons. According to statistics made available on the Department of Corrections website, as of January 2022, of the 12,492 inmates in State facilities, 526, or four percent, were incarcerated for “property offenses,” which include burglary, arson, theft, forgery, embezzlement, and receiving or possessing stolen property. The data does not provide a breakdown by the number of motor vehicle thefts or number of offenders receiving stolen vehicles.

The OLS does not have sufficient information on the potential increases in number of convictions and terms of imprisonment resulting from the bill’s provisions and therefore is unable to estimate the costs to the State. Any increase in incarceration will result in increased costs to the Department of Corrections for housing inmates. In an informal estimate previously provided by the department, the average annual cost of housing an inmate in a State correctional facility was \$55,389 with a daily cost of \$151.75. The cost was based on FY 2021 actual expenditures and is an average of all facilities, not including the Special Treatment Unit at the Adult Diagnostic and Treatment Center that houses civilly committed residents. Any increase in incarceration under the bill also would result in increased costs to the State Parole Board to supervise the return to society of additional convicted persons.

This bill expands the crime of leader of an auto theft trafficking network to include automobile parts as stolen property in addition to automobiles. While it continues to be a crime of the second degree as under current statute, there may be more offenders with the expanded crimes covered under this bill. Generally, a crime of the second degree is punishable by a fine of up to \$15,000, a term of imprisonment of five to 10 years, or both. However, under current statute and the provisions of this bill, an enhanced fine of up to \$250,000 or five times the retail value of the automobile or automobile parts seized at the time of arrest, whichever amount is greater, may apply.

The bill upgrades the crime of leader of an auto theft trafficking network to a crime of the first degree when engaging a person 17 or younger in the network. Generally, a crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both. The bill, however, provides for an enhanced fine of up to \$250,000 or five times the retail value of the stolen automobile or automobile parts seized at the time of arrest, whichever amount is greater.

The bill establishes the crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender which could result in extended terms of incarceration and enhanced fines.

The OLS notes the State may receive indeterminate revenue from regular and enhanced fines imposed on individuals convicted of the crimes under this bill. However, the State's ability to collect criminal fines and penalties has historically been limited.

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.).