

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2437

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 7, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2437 (1R).

This bill, as amended, would direct the Office of the Public Defender (OPD) to provide legal representation for indigent defendants charged with contempt for certain violations of domestic violence restraining orders that may be prosecuted as a crime of the fourth degree or a disorderly persons offense under N.J.S.2C:29-9.

Under current law, the OPD is required to provide legal representation to any indigent defendant charged with committing an indictable offense, and any person charged with a disorderly persons offense or with the violation of any law, ordinance or regulation of a penal nature where there is a likelihood that the person charged, if convicted, would be subject to imprisonment or any other consequence of magnitude. See Section 5 of P.L.1967, c.43, s.5 (C.2A:158A-5); section 3 of P.L.1974, c.33 (C.2A:158A-5.2). A person charged with contempt under N.J.S.2C:29-9 for violating any provision in an order entered under the provisions of the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.), could be convicted of a crime of the fourth degree, an indictable offense subject to a term of incarceration of up to 18 months, or a disorderly persons offense, which could result in imprisonment of up to six months.

This bill would direct the OPD to provide representation to any indigent defendant charged with contempt for violating an order contained in a domestic violence restraining order, other than when the violation concerns one of the following orders, which violations are not considered to be a crime or disorderly persons offense under N.J.S.2C:29-9: an order providing for parenting time arrangements; an order requiring the defendant pay the victim compensation for losses resulting from the act of domestic violence; an order for the defendant to receive domestic violence counseling; an order for the defendant to make rent or mortgage payments on the residence occupied by the domestic violence victim; and an order granting a party temporary possession of specified personal property, such as an automobile, checkbook, or personal effects. See Section 13 of P.L.1991, c.261

(C.2C:25-29) (listing of categories of orders not considered a crime or disorderly persons offense that are cross-referenced in N.J.S.2C:29-9, contempt violations).

This bill addresses Recommendation 29 of the Report of the New Jersey Supreme Court Reconvened Joint Committee on Criminal Justice, issued on June 7, 2023.

COMMITTEE AMENDMENTS:

The committee amended the bill to eliminate the requirement that directed the Public Defender to appoint social workers licensed or certified pursuant to the “Social Workers' Licensing Act of 1991,” P.L.1991, c.134 (C.45:15BB-1 et seq.), to assist attorneys and their clients charged with contempt for a violation of a domestic violence restraining order.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that requiring the Office of the Public Defender to provide legal representation for defendants charged with contempt for certain violations of domestic violence restraining orders and to provide the services of licensed or certified social workers, through the office, would result in indeterminate annual cost increases to the State.

The Office of the Public Defender has indicated that the estimated cost to provide legal representation for defendants charged with contempt for certain violations of domestic violence restraining orders would be \$5.0 million in the first fiscal year, \$7.0 million in the second fiscal year, and \$7.5 million in the third fiscal year. The OLS does not have sufficient information to confirm this cost estimate.

The FY 2025 Appropriations Act includes \$750,000 to establish a Holistic Defense Pilot program within the Office of the Public Defender. The office indicated that it anticipates hiring two or three non-lawyer advocates to serve three of its 21 offices. The office did not provide information on whether these non-lawyer advocates will be licensed or certified social workers, as required by the bill, the estimated cost to hire licensed or certified social workers in all 21 offices, or the estimated cost for any additional equipment for these new staff members.