LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3870
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: NOVEMBER 29, 2021

SUMMARY

Synopsis: "Defense Against Porch Pirates Act"; amends theft statute.

Type of Impact: Annual State expenditure and revenue increases; annual local government expenditure and revenue decreases.

Agencies Affected: Department of Law and Public Safety; the Judiciary, Office of Public Defender; Department of Corrections; State Parole Board; Municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Decrease	Indeterminate
Local Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) projects that the State will incur indeterminate additional annual operating expenses from prosecuting and trying the offense upgraded by the bill, and incarcerating any offenders. The State may receive indeterminate additional annual revenue from increased fines and penalties imposed on and collected from individuals convicted of the offense upgraded by this bill.

- The OLS anticipates the bill will reduce the annual caseloads and operating expenditures of municipal courts and prosecutor offices by indeterminate amounts, as the bill would shift to State courts crimes of some theft under $200 that would have been adjudicated in municipal courts. Municipal courts would also have reduced revenues from fewer court fines and fees. The OLS, however, lacks sufficient information to quantify the magnitude of the fiscal impact, as it is unclear how many persons would be prosecuted, tried, and sentenced under the provisions of the bill in any given fiscal year.

BILL DESCRIPTION

The bill would make theft of a delivered package containing an item of any amount under $75,000, or is of an undetermined amount, a crime of the third degree, which would upgrade the crime for the vast majority of packages taken from residential properties. 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 current law, theft is graded as low as a disorderly persons offense to as high as a crime of the second degree, depending upon the value of the property stolen, or the specific type of property stolen. Because the vast majority of package deliveries to residential properties contain items that are valued at $500 or less, or even $200 or less, a theft of such a package under current law would either be: a crime of the fourth degree (amount involved is at least $200, but does not exceed $500), punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both; or a disorderly persons offense (amount involved is less than $200), punishable by a term of imprisonment of up to six months, a fine of up to $1,000, or both.

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 as well as annual local government expenditure and revenue decreases. The bill would make theft of a delivered package containing an item of any amount under $75,000, or if the amount is undetermined, a crime of the third degree, which would upgrade the crime for the vast majority of packages taken from residential properties. 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. The resolution of crimes of the third degree is a State court responsibility.

State Government Impact:

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 (DOC) would have to house and care for more individuals who are sentenced to prison terms or longer prison terms; and e) the State Parole Board would have to supervise the return to society of additional convicts.

The OLS has no information on the additional caseload and expenditures that the bill may impose on affected State departments and agencies. The OLS notes, however, that there is a presumption of non-incarceration for first-time offenders of crimes of the third and fourth degrees. If the presumption does not apply, data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled $50,191. However, the OLS notes that because the DOC is currently experiencing a reduction in the State-sentenced prison population, the department should be able to house any additional inmates attributable to

the bill within its current institutional facilities at a much lower marginal cost of $8.60 per day, or $3,139 annually, per inmate for food, wages and clothing.

Any additional State expenditures attributable to the bill may be offset, in part, by fines and penalties imposed by the courts on defendants convicted of having committed any package theft. However, the State's ability to collect criminal fines and penalties has historically been limited.

Local Government Impact: The OLS anticipates the bill will reduce the annual caseloads and operating expenditures of municipal courts and prosecutor offices because theft under $200 is currently a disorderly persons offense. Under the provisions of the bill, if the package theft is in any amount under $75,000, or is of an undetermined amount, then it will automatically become a crime of the third degree. Disorderly persons offenses are adjudicated in municipal courts, while crimes of the third degree are adjudicated in State courts. Consequently, what would normally be a disorderly persons offense would no longer be adjudicated in municipal court and would instead be transferred to a State court. Municipalities would consequently also experience reduced revenue from fewer court fines and fees.

Prevalence of Offense: The New Jersey Uniform Crime Report indicates that 101,594 larceny thefts were reported in 2016. The report breaks down the types of thefts into nine categories: pocket-picking; purse-snatching; shoplifting; from motor vehicle; motor vehicle parts; bicycles; from buildings; from coin-operated machines, and all other. For purposes of this analysis the category of "from buildings" is most likely to include "porch thefts." The number of larceny thefts from buildings was 16,955 in 2016. Thefts of delivered packages presumably will only be a subset of the total. Therefore, 16,955, or 16.7 percent of total larceny thefts, is the maximum number of thefts that would be subject to the provisions of this bill assuming the same larceny rates now. The OLS notes further that only a minority of larceny thefts is typically referred to the court system, considering that only 21.3 percent of larceny thefts were cleared in 2016 according to the same report.

Section:	*Judiciary*
Analyst:	*Sarita Welsh* *Senior Counsel*
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.).