

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 4370

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: JULY 7, 2021

SUMMARY

- Synopsis:** Permits retroactive modification of certain judgments of conviction; requires study of DOC’s anticipated expenses to upgrade data infrastructure.
- Type of Impact:** Indeterminate Net Impact to the State.
- Agencies Affected:** The Judiciary; Department of Corrections; State Parole Board; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Net Expenditure Impact	Indeterminate

- The Office of Legislative Services (OLS) concurs with the Judiciary that the enactment of this bill would result in an indeterminate State expenditure increase. The Administrative Office of the Courts (AOC) states that the proposed legislation to resentence an indeterminate number of inmates will have a significant fiscal impact on the courts. However, the courts are not able to determine the costs associated with the legislation without data from the Department of Corrections (DOC) as to the number of inmates eligible for resentencing. The OLS anticipates an increased caseload and administrative burden on the AOC under the provisions of the bill.
- Accelerating the release date of certain inmates to parole supervision would lower annual DOC expenditures, but absent information from the DOC, the OLS is unable to quantify the reduction in annual DOC operating expenditures. The OLS estimates indeterminate but nominal costs to the DOC to conduct a study on the anticipated expenses to upgrade the department’s existing data infrastructure in order to improve its ability to collect, track, and analyze data related to the criminal justice system.
- The OLS estimates an increase in expenditures for the State Parole Board (SPB) with additional inmates qualifying for parole.

- The Office of the Public Defender would see an increase in expenses from representing indigent inmates who do not have an attorney.

BILL DESCRIPTION

This bill concerns criminal justice, with an emphasis on the retroactive modification of inmates' existing sentences with mandatory minimum terms of imprisonment, which under current law are typically fixed at, or between, one-third and one-half of the sentence imposed.

The bill authorizes the courts to issue an order retroactively to rescind the mandatory minimum period of parole ineligibility. The bill also authorizes the courts to retroactively modify the judgments of conviction made prior to the bill's enactment to resentence an inmate.

Additionally, the bill would require the Commissioner of Corrections to conduct a study of the Department of Corrections' anticipated expenses to upgrade the department's data infrastructure in order to improve the collection, tracking, and analysis of data related to the criminal justice system, which is based on the New Jersey Criminal Sentencing and Disposition Commission's Recommendation 9, calling for funding for this purpose.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, upon request, the AOC had indicated to the OLS earlier that the bill may have a significant fiscal impact. The AOC stated that, "this legislation, which will require the court to resentence an indeterminate number of inmates, will have a significant impact on the courts. However, the courts are not able to determine the costs associated with the legislation without data from the Department of Corrections as to the number of inmates eligible for resentencing."

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Judiciary and anticipates an increase in caseload and administrative burden for the courts. Under the provisions of the bill, the courts are authorized to issue an order retroactively to rescind the mandatory minimum period of parole ineligibility. The bill authorizes the courts to retroactively modify the judgments of conviction made prior to the bill's enactment to resentence an inmate. There is no further information available to determine the number of offenders who would qualify for resentencing under the provisions of this bill.

A shift of inmates from State prison facilities to the parole system could potentially reduce the housing costs for the DOC but raise costs of the SPB with an increase in the number of inmates qualifying for parole supervision. However, absent information from the DOC, the OLS is unable to quantify the reduction in annual DOC operating expenditures or increase in expenses for the SPB.

According to information obtained from the DOC, the average annual per capita 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 savings from released inmates would amount to a lower marginal cost of \$8.74 per day, or \$3,190 annually, per inmate for food, wages, and clothing. In response to a 2020 fiscal note request,

the SPB indicated that the total cost of a parolee is \$6,181 per year. The OLS notes that it is unknown how many individuals would remain on parole as opposed to incarceration as a result of this bill.

The bill requires the DOC to conduct a study on the anticipated expenses to upgrade the department's existing data infrastructure in order to improve its ability to collect, track, and analyze data related to the criminal justice system. The costs, likely nominal in amount, associated with this study would be largely for the reimbursement of necessary expenses, including but not limited to travel, office support staff, printing and other miscellaneous costs.

The Office of the Public Defender may see an increase in expenses from representing additional inmates who do not have an attorney.

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.).