LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4833

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MARCH 29, 2021

SUMMARY

Synopsis: Expands crime of bias intimidation; establishes additional penalties for crimes of bias intimidation, harassment, and cyber-harassment; establishes bias intimidation motivation damages.

Type of Impact: Annual expenditure and revenue increases to the State and municipalities.

Agencies Affected: Department of Law and Public Safety; Department of Corrections; the Judiciary; Office of the Public Defender; Municipalities; Counties.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that the State, county prosecutor's offices, local law enforcement agencies, and municipal courts will incur indeterminate additional annual operating expenses from enforcing, prosecuting, and trying the offenses established and expanded by the bill, and incarcerating any offenders. The State and municipal governments also may receive indeterminate additional annual revenue from increased fines and penalties imposed on and collected from individuals convicted of the offenses established by this bill.

- For a person convicted of initiating a false public alarm, the bill provides for an increased award of a civil penalty of not less than $2,000 or treble the actual costs incurred, whichever is higher. The civil penalties are likely to boost municipal revenues by an indeterminate amount.

BILL DESCRIPTION

The bill expands the State's bias intimidation law and removes an unconstitutional provision; establishes additional penalties for the crimes of bias intimidation and harassment; and provides for the award of bias intimidation motivation damages.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the State, county prosecutor's offices, local law enforcement agencies, and municipal courts will incur indeterminate additional annual operating expenses from enforcing, prosecuting, and trying the offenses expanded under the bill, and incarcerating any offenders. The State and municipal governments also may receive indeterminate additional annual revenue from increased fines and penalties imposed on and collected from individuals for certain offenses under the provisions of this bill.

The OLS, however, lacks sufficient information to quantify the bill's fiscal impact. It is unclear how many persons would be prosecuted, tried, and sentenced under the provisions of this bill.

Expenditure Increases: The OLS estimates that the bill will produce indeterminate annual expenditure increases to the State, counties, and municipalities; however, the OLS has no information on the additional workload and cost that the expansion of the bias intimidation law may impose on the affected State departments.

The bill is estimated to increase State operating expenditures if: a) the Department of Law and Public Safety enforces, and prosecutes violators of, the expanded bias intimidation law; b) the Judiciary adjudicates additional bias intimidation criminal cases; c) the Office of the Public Defender provides legal representation to low-income criminal defendants who are charged with having violated the expanded bias intimidation law; and d) the Department of Corrections (DOC) houses and cares for individuals sentenced to certain prison terms. The OLS notes that to the extent that the bill will result in additional incarcerations, the DOC indicated that the average annual cost of housing an inmate in a State prison for FY 2019 totaled $50,191, whereas the marginal costs per day were approximately $8.60.

The OLS, however, cannot project the number of future prosecutions, trials, and incarcerations related to the crimes under this bill. Any additional State cost from this bill may be offset, in part, by criminal fines and penalties imposed by the courts on persons convicted of having violated the expanded law; however, the State's ability to collect criminal fines and penalties has historically been limited.

Revenue Gains: Additional indeterminate annual State and municipal revenue will accrue from fine and penalty payments from convicted violators. The bill imposes additional penalties for a conviction of bias intimidation, for each offense, in the amount of: $2,000 for a crime of the first degree; $1,000 for a crime of the second degree; $750 for a crime of the third degree; $500 for a crime of the fourth degree; and $250 for a disorderly persons or petty disorderly persons offense.

Furthermore, under current law, a person convicted of initiating a false public alarm is liable to a civil penalty of not less than $2,000 or the actual costs resulting from law enforcement and emergency services in response to the false alarm, whichever is higher. The bill provides for the

award of a civil penalty of not less than $2,000 or treble the actual costs incurred, whichever is higher. The civil penalties are likely to boost municipal revenues by an indeterminate amount.

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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.).