

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5458

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JANUARY 11, 2022

SUMMARY

Synopsis:	Permits expungement of possession or distribution of hypodermic syringe or needle offense in cases of previous expungement; repeals criminal offense of possession of syringe.
Type of Impact:	Annual expenditure decrease to municipal governments; Annual State expenditure increase.
Agencies Affected:	Department of Law and Public Safety; the Judiciary; Municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
Local Expenditure Decrease	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the bill will reduce the annual caseloads and operating expenditures of municipal courts and prosecutor offices because possession or distribution of a hypodermic syringe or needle is currently a disorderly persons offense, which is adjudicated in municipal court. This bill repeals the criminal offense of possession of syringe and decriminalizes certain other offenses with regard to possession and distribution of hypodermic syringe or needle.
- It is unknown how many convictions of this offense would qualify for expungement under this bill; however, due to the fact that there have been a total of 40 convictions for this offense in the past two years, it is likely that permitting expungement for a second conviction would result in a nominal increase to the workload and costs of the Judiciary to determine eligibility and to process the expungement requests and the Division of State Police to review and process expungement applications.

BILL DESCRIPTION

This bill would allow the expungement of a criminal record of unlawful possession or distribution of a hypodermic syringe or needle in cases where the person has had a previous

expungement. The amended bill provides that it is not unlawful for a person to use, or possess with the intent to use, a hypodermic needle or syringe for the personal use of a controlled substance or if the hypodermic syringe or needle contains a residual amount of a controlled dangerous substance or controlled substance analog and also repeals the statute concerning unlawful possession of a hypodermic syringe or needle.

Under current law, a person who has had a previous criminal conviction expunged is generally barred from expungement on a second occasion, with several exceptions. The bill as introduced provides that a person with a previous expungement may expunge a conviction for possession or distribution of hypodermic syringe or needle. The amended bill would expand this exception and permit expungement for a conviction for possession with intent to use drug paraphernalia, when same is a hypodermic syringe or needle; or possession with the intent to distribute drug paraphernalia.

The bill also revise eligibility requirements for presenting an expungement application to the court for lower-level crimes or offenses.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, according to informal information provided by the Administrative Office of the Courts, there were 29 convictions for possession or distribution of hypodermic syringe or needle under in municipal court in 2019 and nine convictions in 2020. In addition, there were zero convictions in the criminal division of State court in 2019 and two convictions in 2020.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will reduce the annual caseloads and operating expenditures of municipal courts and prosecutor offices because possession or distribution of a hypodermic syringe or needle is currently a disorderly persons offense, which is adjudicated in municipal court. This bill repeals the criminal offense of possession or distribution of a hypodermic syringe or needle. Further, per the provisions of the bill it will not be unlawful to use, or possess with the intent to use, a hypodermic needle or syringe for the personal use of a controlled substance or if the hypodermic syringe or needle contains a residual amount of a controlled dangerous substance.

In addition, the bill permits expungement of a conviction for possession or distribution of a hypodermic syringe or needle when there has been a previous expungement of a criminal conviction. It is unknown how many additional convictions of this offense would qualify for expungement under this bill; however, due to the fact that there have been a total of 40 convictions for this offense in the past two years, it is likely that permitting expungement for a second conviction would result in a nominal increase to the workload and costs of the Judiciary to determine eligibility and to process the expungement requests and the Division of State Police to review and process expungement applications.

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.).