

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2361
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 21, 2020

SUMMARY

- Synopsis:** Establishes second degree crime of making credible threat to infect another with COVID-19 or similar infectious disease that triggered public emergency.
- Type of Impact:** Periodic expenditure and revenue increases to the State
- Agencies Affected:** Department of Law and Public Safety; Department of Corrections; Judiciary; Office of the Public Defender; State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) projects that establishing the crime of making a credible threat to infect another with COVID-19 or a similar infectious disease when a state of emergency has been declared for that disease may result in indeterminate, periodic expenditure increases to the Department of Law and Public Safety, Judiciary, Office of the Public Defender, the Department of Corrections (DOC), and the State Parole Board.
- The State may also receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the new crime; however, the State’s ability to collect criminal fines and penalties has historically been limited.
- The OLS lacks sufficient information to quantify the fiscal impact as it is unclear as to how many individuals would be prosecuted, tried, and sentenced for having violated the provisions of the bill. Furthermore, the frequency of such widespread infectious diseases cannot be accurately forecast.

BILL DESCRIPTION

This bill makes it a crime of the second degree to threaten to infect another person with COVID-19, or any other infectious disease for which a national, State, or county emergency has been declared as of the date of the threat, with the purpose to put a person in imminent fear of bodily injury or death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out. The crime of terroristic threats is presently graded as a crime of the third degree or a crime of the second degree depending on the circumstances and the intended effect of the threat. A crime of the second degree is punishable by 5 to 10 years imprisonment, a fine of up to \$150,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS projects that establishing the crime of making a credible threat to infect another with COVID-19 or a similar infectious disease when a state of emergency has been declared for that disease would result in indeterminate, periodic expenditure increases to the State. Under this bill, it would be a crime of the second degree to threaten to infect another person with COVID-19, or any other infectious disease for which a national, State, or county emergency has been declared for that disease. A crime of the second degree is punishable by 5 to 10 years imprisonment, a fine of up to \$150,000, or both. The OLS lacks sufficient information to quantify the fiscal impact, as it is unclear as to how many individuals would be prosecuted, tried, and sentenced for having violated the provisions of the bill in any given fiscal year. Furthermore, the frequency of such widespread infectious diseases cannot be accurately forecast.

State Government Expenditures: 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; c) the Office of the Public Defender would have to represent additional low-income criminal defendants; d) the DOC would have to house and care for more individuals who are sentenced to prison terms; and e) the State Parole Board would have to supervise the return to society of additional inmates.

The OLS has no information on the additional caseload and expenditures that the bill may impose on affected State agencies. DOC data indicates that the average annual cost to house an inmate in a State prison facility during FY2019 totaled \$50,191. 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 approximately \$8.60 per day, or \$3,139 annually, per inmate for food, wages, and clothing.

State Government Revenue: Any additional State cost attributable to the bill may be offset, in part, by fines and penalties imposed by the courts on defendants convicted of having committed the new crime. However, the State's ability to collect criminal fines and penalties has historically been limited.

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.).