

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3707

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: DECEMBER 28, 2021

SUMMARY

- Synopsis:** Reduces offense of deliberately transmitting a sexually-transmitted infection to a disorderly persons offense and revises elements of the offense.
- Type of Impact:** Annual State expenditure and revenue decreases; annual local government expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Municipalities; Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Decrease	Indeterminate
State Revenue Decrease	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that downgrading criminal penalties from a crime of the fourth degree to a disorderly persons offense will result in a reduced caseload and expenditures for the Judiciary, since disorderly persons offenses are adjudicated in municipal courts. The State may also see a reduction in revenues due to loss of fines; however, the State’s ability to collect fines and penalties has historically been limited.
- Municipal courts and prosecutor offices may see an increase in caseloads and expenditures, with the disorderly persons offenses adjudicated in municipal courts. The municipal courts could potentially receive increased revenues from 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 under the provisions of the bill.
- The OLS notes the bill could potentially result in savings for the Department of Corrections (DOC). The bill downgrades the act of deliberately transmitting a sexually-transmitted infection from a crime of the fourth degree to a disorderly persons offense, and removes a

provision in current law where it is considered a crime of the third degree. This could result in fewer repeat offenders being convicted of a crime of the third or fourth degree and incarcerated in State correctional facilities. However, the OLS does not have sufficient information on the fiscal impact of such a reduction.

BILL DESCRIPTION

This bill reduces the criminal penalties that apply to the offense of committing an act of sexual penetration while infected with a venereal disease without the informed consent of the other person.

Under current law, it is a crime of the fourth degree if a person, knowing that he or she is infected with a venereal disease, commits an act of sexual penetration without the informed consent of the other person. It is a crime of the third degree if the person knows that he or she is infected with AIDS or HIV and commits an act of sexual penetration without the informed consent of the other person. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both; 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.

This bill would revise the statute to apply only to a person who purposely transmits a sexually-transmitted infection by engaging in an act of sexual penetration when:

- (1) the person knows that he or she is diagnosed with a sexually-transmitted infection;
- (2) the person acts with the specific intent to transmit the sexually-transmitted infection to another person;
- (3) the person does not take or attempt to take means to prevent the transmission of the sexually-transmitted infection; and
- (4) the person transmits the sexually-transmitted infection to another person.

The bill provides that, in determining whether a person acted with the specific intent to transmit a sexually-transmitted infection, a failure to take or attempt to take means to prevent the transmission of the sexually-transmitted infection is not, by itself, sufficient to prove specific intent to transmit the sexually-transmitted infection.

The bill reduces the offense to a disorderly persons offense, which is 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 decreases as well as annual local government expenditure and revenue increases.

Under this bill, the Judiciary would see a reduced caseload and expenditures, since disorderly persons offenses are adjudicated in municipal courts. The State may also see a reduction in revenues due to loss of fines; however, the State's ability to collect fines and penalties has historically been limited.

The municipal courts and prosecutor offices may see an increase in caseloads and expenditures; however, the OLS does not have sufficient information on the number of persons who are typically prosecuted for crimes of this nature. The municipal courts could potentially receive increased revenues from 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 under the provisions of the bill.

The OLS notes the bill could potentially result in savings for the DOC. The bill downgrades the act of deliberately transmitting a sexually-transmitted infection from a crime of the fourth degree to a disorderly persons offense, and removes a provision in current law where it is considered a crime of the third degree. This could result in fewer repeat offenders being convicted of a crime of the third or fourth degree and incarcerated in State correctional facilities. The OLS does not have sufficient information on the fiscal impact of such a reduction; however, presumes it will likely be nominal. According to information previously 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, therefore, the expense may be at a lower marginal cost of \$8.74 per day, or \$3,190 annually, per inmate for food, wages, and clothing.

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.).