

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 892
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MARCH 20, 2014

SUMMARY

Synopsis: Enacts the “Jessica Lunsford Act;” imposes mandatory term of imprisonment; provides for negotiated reduction of mandatory term under certain circumstances.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, Judiciary

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) **concurs** with the Administrative Office of the Courts’ (AOC) statement from a fiscal note of a prior Legislative Session (Assembly Bill No. 2027 (2R) of 2012, that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, Department of Corrections (DOC) data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.
- The bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13.
- In a fiscal note for this bill in the prior Legislative Session the AOC stated that the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

BILL DESCRIPTION

Assembly Bill No. 892 of 2014, designated the “Jessica Lunsford Act,” imposes mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13. The substitute also authorizes negotiated reductions of the term under certain circumstances.

Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person is guilty of aggravated sexual assault, a crime of the first degree, if he commits an act of sexual penetration with a victim under the age of 13. A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to \$200,000 or both. Under the bill, the person would be sentenced to a specific term of years fixed by the court. The term would be between 25 years and life imprisonment of which the person must serve 25 years before being eligible for parole, unless a longer term of parole ineligibility is otherwise provided pursuant to law.

In addition, the bill allows for a negotiated reduction of the mandatory term under certain circumstances. Under the bill, the prosecutor, in consideration of the interests of the victim, is authorized to offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant would not be eligible for parole. The court may accept the negotiated plea agreement and impose the term of imprisonment and period of parole ineligibility as provided for in the plea agreement. The court may not impose a lesser term of imprisonment or parole or a lesser period of parole ineligibility than that expressly provided in the plea agreement.

The bill also requires the Attorney General to develop guidelines to ensure the uniform exercise of discretion in making determinations regarding a negotiated reduction in the term of imprisonment and period of parole ineligibility.

This bill is modeled on provisions of Florida's "Jessica Lunsford Act," Chapter No. 2005-28. Jessica, a nine-year-old Florida resident, was kidnapped, raped, and murdered by a registered sex offender. The Florida enactment imposed a mandatory term of imprisonment of 25 years for sex crimes against children and required satellite monitoring to track the location of sex offenders after release. New Jersey currently provides for satellite monitoring to track the location of sex offenders after release (P.L.2007, c.128; C.30:4-123.89 et seq.).

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

None received.

Administrative Office of the Courts

In a fiscal note for this bill in the prior Legislative Session (Assembly Bill No. 2027 (2R)), the AOC stated that the Judiciary does not maintain data regarding the specific circumstances of sexual assault or aggravated sexual assault cases (e.g., age, relationship, mental capacity, etc.) In this regard, the Judiciary could not determine what impact the legislation would have on the number of cases filed, the trial rate or the conviction rate. In addition, the Judiciary does not have a means to estimate the number of cases that would qualify for consideration of a negotiated plea agreement under the proposed legislation. As a result, the Judiciary was unable to estimate the fiscal impact of the legislation with any accuracy.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the fiscal impact of this bill could not accurately be determined. However, the OLS notes that for those offenders who would be serving increased terms of imprisonment, DOC data indicates that the average cost to house an inmate in FY 2013 is \$43,000 per inmate per year.

Section: Judiciary

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).