

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5453
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JULY 1, 2019

SUMMARY

- Synopsis:** Establishes certain criminal penalties for possession and transfer of firearms and ammunition to disqualified person.
- Type of Impact:** Annual State Expenditure and Revenue Increases. Annual Expenditures Increases to County Governments.
- Agencies Affected:** Department of Law and Public Safety; The Judiciary; Office of the Public Defender; Department of Corrections; County Governments.

Office of Legislative Services Estimate

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

- The Office of Legislative Services (OLS) determines that criminalizing behavior not currently defined as such would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors’ offices to the extent the bill results in more trials and convictions. The OLS lacks pertinent data on the frequency of this criminal behavior, and thus has no basis for quantifying the bill’s fiscal impact.
- This bill creates new offenses which would be crimes of either the first, second, third, or fourth degree. A crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, 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. 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. This bill provides for an increased fine in certain circumstances that would not exceed \$500,000 or five times the value of the firearms involved, whichever is greater.
- The Department of Corrections (DOC) would incur increased annual costs if the bill’s provisions result in more incarcerations.

- The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in more convictions.

BILL DESCRIPTION

This bill establishes certain criminal penalties for firearm trafficking, which is the diversion of firearms from lawful commerce into the illegal market. Specifically, the bill penalizes purchasing or possessing a firearm for the purpose of transferring it another person who is disqualified under State or federal law from receiving or possessing that firearm. In addition, the bill establishes criminal penalties for selling a firearm to another person who has been previously convicted of a crime or confined for a mental disorder.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that criminalizing behavior not currently defined as such would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent the bill results in more trials and convictions. The OLS lacks pertinent data on the frequency of criminal behavior that would give rise to this fiscal impact, and thus has no basis for quantifying the bill's fiscal impact. Increased State revenue from monetary penalties imposed upon conviction may also result.

Expenditure Increases: This bill creates new offenses which would be crimes of either the first, second, third, or fourth degree. A crime of the first degree is punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000, or both. A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, 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. 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. These penalties will increase the workload of the DOC as there is a presumption of incarceration for persons convicted of a crime of the first or second degree which does not apply to persons convicted of a crime of the third or fourth degree (N.J.S.2C:44-1).

The OLS cannot project the number of future prosecutions, trials, and incarcerations related to the crimes established by the bill. According to information obtained from the DOC, the average annual per capita cost to house an inmate in a State prison facility during FY 2019 totals \$50,191. However, 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 these additional inmates within its current institutional facilities, incurring a much lower marginal cost of \$8.60 per day or \$3,139 annually per inmate, for food, wages, and clothing.

Revenue Increases: The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in more convictions. The OLS cannot determine the number of convictions under the bill's newly created crimes and, by extension, the total of any subsequent fine or penalty assessment collections. The OLS additionally notes that due to financial constraints, many fines and penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

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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.).