

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1897 and 4269
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 24, 2020

SUMMARY

- Synopsis:** Provides for certain criminal and civil justice reforms, particularly with respect to legal consequences associated with certain marijuana and hashish offenses as well as broadening awareness of available expungement relief.
- Type of Impact:** Annual expenditure increases and revenue decreases to the State General Fund. Annual expenditure and revenue increases to the municipal and county governments.
- Agencies Affected:** Judiciary; Department of Law and Public Safety; Office of the Public Defender; Department of Corrections; State Parole Board; Department of Labor and Workforce Development; Department of Banking and Insurance; Municipal and County governments.

Office of Legislative Services Estimate

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

- The Office of Legislative Services (OLS) estimates that downgrading certain small amounts of marijuana and hashish crimes to a \$50 civil penalty would result in the Judiciary, the Department of Law and Public Safety (LPS), the Office of the Public Defender, the Department of Corrections (DOC), and the State Parole Board incurring indeterminate caseload and expenditure decreases.
- Downgrading these offenses would reduce the State’s annual revenue, as collections from court filing fees and penalties would decrease by an indeterminate amount.

- Municipalities would incur indeterminate caseload and expenditure increases, as cases would move from State to municipal courts. There would also be an indeterminate increase in annual revenue for the municipalities as a result of collecting the \$50 civil penalty.
- The Judiciary would incur an indeterminate expenditure increase in developing a public awareness campaign concerning the expungement process.
- The Department of Labor and Workforce Development would incur an indeterminate revenue increase from collecting civil penalties from employers that discriminate against applicants based on an arrest, charge, conviction, or adjudication of delinquency for certain marijuana and hashish offenses. The Department of Banking and Insurance would also incur an indeterminate revenue increase from penalties levied on mortgage lenders that engage in such discriminatory practices.

BILL DESCRIPTION

This bill would reduce the legal consequences associated with certain marijuana and hashish offenses as well as broaden awareness of available expungement relief, concerning both marijuana and hashish offenses and more generally.

The bill would reduce the penalties for possessing and distributing smaller quantities of marijuana and hashish. At the lowest level, the possession of less than two ounces of marijuana or less than five grams of hashish would only be punishable by a \$50 civil fine when the lowest level offense is a crime of the fourth degree under current law. A fourth degree crime is punishable by up to 18 months imprisonment, up to a \$10,000 fine, or both. The civil penalty would be recovered in a summary proceeding before the municipal court having jurisdiction, and would be paid into the treasury of the municipality in which the violation occurred for the general use of the municipality.

Additionally, unadjudicated charges and cases involving marijuana and hashish offenses being reduced to a civil penalty that occurred before the bill's effective date would be expeditiously dismissed after appropriate action by a law enforcement agency or the courts. Any past, present, or future charge, conviction, or adjudication of delinquency relating to these marijuana or hashish offenses would not be considered when the Judiciary's Statewide Pretrial Service Program conducts risk assessments. The bill would also establish grounds for post-conviction relief due to a past conviction or adjudication of delinquency for these marijuana and hashish offenses, which would permit an opportunity to have a sentence reduced or changed as permitted by the court.

The Administrative Office of the Courts would also be required to develop and maintain information, to be provided to a person upon request, about the expungement process and legal services programs Statewide and in each county and to develop a multilingual public awareness campaign to promote awareness of the expungement process.

Additionally, the bill prohibits employers and mortgage lenders from discriminating against applicants based on an arrest, charge, conviction, or adjudication of delinquency for certain marijuana and hashish offenses. Notably, employers will not be able to make employment decisions, require applicants to disclose, or take adverse action against applicants for any such marijuana and hashish offenses unless it is for a position in law enforcement, corrections, the Judiciary, homeland security, or emergency management. Employers who violate these provisions would be subject to a civil penalty of \$1,000 for the first offense, \$5,000 for the second offense, and \$10,000 for subsequent offenses to be collected by the Department of Labor and Workforce

Development. Also, mortgage lenders who continue to violate the bill's provisions after being ordered by the Department of Banking and Insurance to cease the discriminatory practices would be liable for a penalty of \$10,000 for each offense. In addition, individuals who allege discrimination in public or private housing, real property, or places of public accommodation based on such marijuana and hashish offenses are authorized to institute a civil action in Superior Court for relief.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Downgrading Certain Marijuana and Hashish Offenses

The OLS estimates that in regrading certain small amounts of marijuana and hashish crimes to a civil penalty, the following State agencies would incur indeterminate caseload and expenditure decreases: a) the Judiciary would have to adjudicate fewer cases, b) the LPS would have to prosecute fewer cases, c) the Office of the Public Defender would represent fewer low-income criminal defendants, d) the DOC would have to house and care for fewer incarcerated individuals, and e) the State Parole Board would have to supervise fewer individuals. The Judiciary's annual revenue would also decrease an indeterminate amount as collections from court filing fees and penalties would decline.

The OLS projects that municipalities would incur indeterminate caseload and expenditure increases, as cases would move from State to municipal courts. There would also be an indeterminate increase in annual revenue for the municipalities as a result of collecting the \$50 civil penalty.

Expungement

The administrative costs to the Judiciary are likely to increase as the Administrative Office of the Courts would be required to develop and maintain information, to be provided to a person upon request, about the expungement process and legal services programs Statewide and in each county and to develop a multilingual public awareness campaign to promote awareness of the expungement process. However, the OLS lacks sufficient information to quantify the costs involved.

Penalties for Violations by Employers and Mortgage Lenders

Employers and mortgage lenders that discriminate against applicants based on an arrest, charge, conviction, or adjudication of delinquency for certain marijuana and hashish offenses would be subject to penalties to be collected by the Department of Labor and Workforce Development and the Department of Banking and Insurance, respectively. The two departments would likely incur an indeterminate revenue increase from these penalties.

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.).