

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5342
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 24, 2021

SUMMARY

- Synopsis:** Revises consequences for underage possession or consumption of various forms of cannabis included in legislation passed by both Houses of Legislature; requires AG reports, reviewable by task force, on law enforcement interactions on underage violations.
- Type of Impact:** Annual State, County, and Municipal Expenditure Increases. Municipal Revenue Increase.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; Office of the Public Defender; State, County, and Municipal Law Enforcement Agencies.

Office of Legislative Services Estimate

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

- The Office of Legislative Services (OLS) anticipates that the bill will increase municipal revenues and expenditures annually. Civil penalties for marijuana related violations are likely to increase municipal revenues. Annual expenditures will increase due to new enforcement responsibilities of the Judiciary, State, county and municipal law enforcement agencies. The OLS does not have sufficient information to quantify the exact fiscal impact of this bill.
- The bill’s establishment of the task force and reporting requirements may increase the workload of the Office of the Attorney General in the Department of Law and Public Safety, county and municipal law enforcement agencies. Depending on the resource allocation policies of affected agencies, the added responsibilities may or may not augment State and local government administrative expenditures.

BILL DESCRIPTION

This bill would revise the consequences associated with the underage possession or consumption of illegal marijuana or hashish, or legalized cannabis items which may only be



lawfully possessed by persons 21 years of age or older pursuant to the New Jersey Constitution and the enabling legislation to establish a legal, regulated cannabis marketplace. It also addresses, for persons of any age, the written warning to be issued by law enforcement officers for a small amount marijuana or hashish distribution first offense, as created by that bill.

The bill would make the underage possession of marijuana, hashish, or a cannabis item a civil penalty of \$50 for persons who are between 18 and 20 years of age, if the amount possessed is what a person of legal age could lawfully possess. For the underage possession of more than what a person of legal age could lawfully possess, or any consumption of marijuana, hashish, or cannabis item, the civil penalty for persons who are between 18 and 20 years of age would be set at \$100.

The civil penalty would be recovered in a summary proceeding in the name of the municipality. Both the municipal court with territorial jurisdiction over an underage possession violation and the Superior Court would have jurisdiction of proceedings for the enforcement of a civil penalty.

For a person under the age of 18 years who committed a possession or consumption violation, such person would instead be subject to a law enforcement “point-of-violation warning” or “juvenile intervention,” which are defined in the bill. These would be conducted in the same manner as a juvenile interaction referred to as a “curbside warning” or “stationhouse adjustment,” respectively, would be conducted. A point-of-violation warning would be reported to the Attorney General in the same manner as curbside adjustments, and this reporting could also include information for use in determining whether a person had previously been subjected to a point-of-violation warning to determine a second or subsequent offense, which is a crime of the fourth degree (punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both).

Additionally, the bill requires the Attorney General to issue comprehensive reports biannually detailing the statistics for the previous six-month period on all point-of-violation warnings and juvenile interventions described above for violations involving underage possession or consumption of marijuana, hashish, or cannabis items. These statistics would be compiled and made available by the Attorney General in the same manner as curbside adjustments and stationhouse warnings are compiled and made available, both in accordance with the bill and pursuant to Attorney General Law Enforcement Directive No. 2020-12. The initial report would be issued by June 30, 2021, and every six months thereafter. A taskforce would be established in the Department of Law and Public Safety, comprising of 26 ex-official members and members appointed by the Governor representing law enforcement, juvenile justice interests, and community and non-profit groups to review each report, and make recommendations thereon to the Governor and Legislature related to law enforcement activities to address the enforcement of underage possession or consumption of marijuana, hashish, or cannabis items, as well as the broader issue of underage possession or consumption of these substances.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will increase municipal revenues and expenditures annually, but lacks the information to quantify the magnitude of these impacts or how they may vary year to year. Under the provisions of this bill, underage possession of marijuana, hashish, or a cannabis item will be a civil penalty of \$50 for persons who are between 18 and 20 years of age, if the amount possessed is what a person of legal age could lawfully possess and \$100 for the underage possession of more than what a person of legal age could lawfully possess. These penalties are likely to increase municipal revenues.

However, the bill will result in an increase in expenditures for municipalities due to additional enforcement efforts. Per the provisions of the bill, for a person under the age of 18 years who committed a possession or consumption violation, such person would be subject to a law enforcement point-of-violation warning or a more involved juvenile intervention, similar to a curbside warning or stationhouse adjustment. Furthermore, the point-of-violation warning must be reported to the Attorney General and will be used in determining whether a person had previously been subjected to a point-of-violation warning to determine a second or subsequent offense, which is a crime of the fourth degree (punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both). This could result in increased expense for the Department of Corrections (DOC). According to data provided by the DOC, the average annual cost of housing an inmate in a State prison for FY 2019 totaled \$50,191, whereas the marginal costs per day were approximately \$8.60. With regard to revenue gains from fines, the State's ability to collect criminal fines and penalties has historically been limited.

The courts will also see an increase in expenditures due to increased workload under this bill. Municipal courts and the Superior Court will have jurisdiction of proceedings for the enforcement of a civil penalty. The courts would also have enforcement jurisdiction concerning a person's participation in an alcohol or drug abuse education or treatment program as set forth in the bill.

The bill will result in an expenditure increase for the Office of the Attorney General due to additional resources for data collection to issue comprehensive reports biannually detailing the statistics for the previous six-month period on all point-of-violation warnings and juvenile interventions involving underage possession or consumption of marijuana, hashish, or cannabis items.

The Department of Law and Public Safety may incur an increase in expenditures under the bill for setting up of a 26-member taskforce. These expenditures could include administrative expenses for staff support, the cost of any meeting space rentals, and reimbursable expenses incurred by the members of the taskforce.

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.).