

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5641
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 25, 2021

SUMMARY

Synopsis: Eliminates mandatory minimum terms of imprisonment determined by Legislature to be of non-violent nature.

Type of Impact: Annual net expenditure decrease to the State.

Agencies Affected: Department of Corrections, State Parole Board, the Judiciary.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|--------------------------------|----------------------|----------------------|----------------------|
| Net State Cost Decrease | Indeterminate | | |

- The Office of Legislative Services (OLS) estimates that the bill will result in an annual net decrease in State expenditures. The Department of Corrections (DOC) would have an indeterminate reduction in annual expenditures as certain non-violent offenders would be incarcerated for less time. However, it is unknown how many individuals will be convicted of the enumerated crimes after implementation of the bill and, therefore, not subject to the mandatory minimum terms of imprisonment under current law.
- For each individual who remains on parole as opposed to incarceration, the State Parole Board (SPB) will see an increase in annual expenditures. In response to a 2020 fiscal note request, the SPB indicated that the total cost of a parolee is \$6,181 per year. The OLS notes that it is unknown how many individuals would remain on parole as opposed to incarceration as a result of this bill.

BILL DESCRIPTION

This bill would eliminate mandatory minimum terms of imprisonment determined by the Legislature to be of a non-violent nature. The bill incorporates all of the drug and non-violent crimes that the New Jersey Criminal Sentencing and Disposition Commission recommended in a November 2019 report to have mandatory minimum terms eliminated, as these types of sentences, noted in the introduction to that report, contributed to “exponentially” increasing the State’s prison population and “substantially curtailed judicial discretion” in the issue of determining the

appropriate level of punishment to match offender accountability. Applying the same reasoning, this bill would include a broader array of non-violent crimes not addressed in the report, which would return decision making to the courts for matching an individual's punishment to account for the nature and circumstances of the crime committed, and to strive for a reduction in the State's prison populations of non-violent offenders who do not pose a danger to their surrounding communities on the basis of the crimes they committed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an annual net decrease in State expenditures. The DOC would have an indeterminate reduction in annual expenditures as certain non-violent offenders would be incarcerated for less time. However, it is unknown how many individuals will be convicted of the enumerated crimes after implementation of the bill and, therefore, not subject to the mandatory minimum terms of imprisonment under current law. 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. Per data made available on the DOC website, as of January 1, 2021, 70 percent of all New Jersey Department of Corrections inmates were committed for violent offenses, including but not limited to, homicide, sexual assault, aggravated/simple assault, and other sex offenses. Approximately 11 percent of all DOC inmates committed were for narcotics law violations, including possession, sale and distribution. The DOC added that virtually all drug offenses are for sale and distribution rather than for mere possession. The DOC data also indicates that approximately 83 percent of DOC inmates housed in the State System have sentences that include mandatory minimum terms. The OLS is unable to estimate a reduction in expenditure for the DOC as it does not have the exact number of inmates who are currently serving a mandatory minimum term and are incarcerated for non-violent crimes that qualify under the provisions of this bill.

In addition, for each individual who remains on parole as opposed to incarceration, the SPB indicated earlier in response to a fiscal note request that the total cost of a parolee is \$6,181 per year. The OLS notes that it is unknown how many individuals would remain on parole as opposed to incarceration as a result of this bill.

Previously, in response to a 2020 fiscal note request, the Administrative Office of the Courts indicated that elimination of mandatory minimum sentences for certain crimes, will result in an indeterminate fiscal impact on the courts. The reduced sentences may result in changes in the number of plea bargains and criminal trials, but the impact is unknown.

Section: *Judiciary*

Analyst: *Anuja Pande Joshi*
 Associate Fiscal Analyst

Approved: *Thomas Koenig*
 Legislative Budget and Finance Officer

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.).