

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3916
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JULY 2, 2021

SUMMARY

- Synopsis:** Establishes order of protection for current or former judge; upgrades and clarifies harassment against current or former judge; bars firearms possession by persons against whom current or former judge order of protection is entered.
- Type of Impact:** Annual State expenditure and revenue increases; local government expenditure and revenue decreases.
- Agencies Affected:** The Judiciary, Department of Law and Public Safety, Department of Corrections, local governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Local Cost Decrease		Indeterminate	
Local Revenue Decrease		Indeterminate	

- The Office of Legislative Services (OLS) estimates potential annual increased costs to the State as a result of this bill due to possible increases in caseload for the Judiciary and the Department of Law and Public Safety. Under the provisions of the bill, the Department of Corrections (DOC) may also experience an increase in expenditures as certain crimes are upgraded with a possibility of repeat offenders being incarcerated in State correctional facilities. However, the OLS does not have adequate information to estimate the cost to the State.
- Upgrading harassment against a judge or former judge to a crime of the fourth degree from a disorderly persons offence will move these cases to State court from municipal court. Local governments will incur fewer expenditures and receive less fine and penalty revenue from no longer prosecuting and adjudicating these cases.
- The State could gain revenues by way of fines imposed on individuals convicted of the crimes under this bill; however, the State’s ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill establishes a process for law enforcement to obtain an order of protection on behalf of a current or former judge upon report of an enumerated crime and the finding by law enforcement of a nexus between the crime, attempt to commit a crime or credible threat and the performance of the judge or former judge's public duties.

The bill authorizes a law enforcement agency acting on a report of a crime, an attempt to commit a crime, or a credible threat to commit a crime against a current or former judge, to petition the Superior Court for emergency, ex parte relief in the form of a temporary order of protection.

Under the bill, the court may issue the temporary order of protection upon good cause shown, and the order shall remain in effect until a judge issues a further order. Emergency relief granted in the temporary protection order may include forbidding the defendant from returning to the scene of the alleged crime, prohibiting the defendant from having any contact with the judge or the judge's friends, co-workers, or relatives in any way, and forbidding the defendant from possessing any firearm or other weapon.

The court shall consider whether a final protective order should be issued during a hearing to be held within 10 days of the filing of the temporary protective order. At the hearing, the standard for proving the allegations in the petition shall be a preponderance of the evidence. In determining whether a final order of protection should be granted, the court shall consider but not be limited to the previous history between the current or former judge and the defendant, including threats, harassment and physical intimidation; and the existence of immediate danger to person or property. A final order of relief shall include any relief necessary to protect the victim from further harm, including but not limited to forbidding the defendant from returning to the scene of the alleged crime, prohibiting the defendant from having any contact with the judge or the judge's friends, co-workers, or relatives in any way, and forbidding the defendant from possessing any firearm or other weapon. Under the bill, a violation by the defendant of an order of protection constitutes contempt, a crime of the fourth degree.

The bill upgrades harassment against a current or former judge to a crime of the fourth degree and clarifies that cyber harassment is a crime of the fourth degree. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

The bill further amends current law to include persons subject to a court order under this bill among those persons barred from obtaining a handgun purchase permit or firearms purchaser identification card.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates potential annual increased costs to the State as a result of this bill due to possible increases in caseload for the Judiciary and the Department of Law and Public Safety. Under the provisions of the bill, the DOC may experience an increase in expenditures as certain crimes are upgraded with a possibility of repeat offenders being incarcerated in State correctional facilities. However, the OLS does not have adequate information to estimate the cost to the State.

Under the bill, the court may issue the temporary order of protection and consider whether a final protective order should be issued during a hearing to be held within 10 days of the filing of the temporary protective order. The OLS estimates that these provisions would result in increased caseload for the Judiciary. The bill authorizes a law enforcement agency acting on a report of a crime, an attempt to commit a crime, or a credible threat to commit a crime against a current or former judge, to petition the Superior Court for emergency, ex parte relief in the form of a temporary order of protection, which would result in an increased caseload for the Department of Law and Public Safety.

Under the bill, a violation by the defendant of an order of protection constitutes contempt, which could be a crime of the fourth degree. Furthermore, the bill upgrades harassment against a current or former judge to a crime of the fourth degree and clarifies that cyber harassment is a crime of the fourth degree. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both. These cases will be prosecuted and adjudicated in State courts rather than municipal court resulting in local governments incurring fewer expenditures and collecting less fine and penalty revenue. There is a presumption of non-incarceration for first time offenders convicted of crimes of the fourth degree. However, for repeat offenders, the DOC may see an increase in expenditures if individuals are incarcerated as a result of 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 totaled \$50,191. However, the OLS notes that because the DOC is currently experiencing a reduction in the State-sentenced prison population, therefore, the expense may be at a lower marginal cost of \$8.74 per day, or \$3,190 annually, per inmate for food, wages, and clothing. The State could gain revenues by way of fines imposed on individuals convicted of the crimes under this bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

Section: *Judiciary*

Analyst: *Anuja Pande Joshi*
 Associate Research 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.).