

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5211  
STATE OF NEW JERSEY  
219th LEGISLATURE

DATED: JANUARY 14, 2021

SUMMARY

- Synopsis:** Updates and clarifies recent legislation passed by both Houses of the Legislature addressing cannabis legalization, and marijuana and hashish decriminalization.
- Type of Impact:** Annual revenue and expenditure increases and decreases for municipalities; Annual State expenditure increases; Annual county expenditure increases
- Agencies Affected:** Judiciary; Department of Law and Public Safety; Office of the Public Defender; Department of Human Services; counties; municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the bill will both raise and lower municipal revenues and expenditures annually. Annual State expenditures will also increase due to new enforcement responsibilities of the Superior Court while counties could incur additional incarceration expenses related to marijuana possession on school property. The OLS, however, lacks the information to quantify the magnitude of these impacts or how they may vary year to year.

BILL DESCRIPTION

This bill updates and clarifies recent legislation concerning cannabis legalization and marijuana and hashish decriminalization.

This bill eliminates any fine for underage possession of marijuana or cannabis items, and instead establish civil penalties of not less than \$50 nor more than \$250 dollars, and not less than \$100 nor more than \$500 if the possession of marijuana or cannabis items exceeds the amount of

cannabis items that could be lawfully possessed if the person were of legal age. The higher civil penalty would also apply to the underage consumption of marijuana or hashish.

Under the provisions of this bill, for a person under the age of 18 years, an underage possession or consumption violation would instead result in a law enforcement “curbside warning” or more involved “stationhouse adjustment” conducted in accordance with Attorney General Law Enforcement Directive No. 2020-12, and which terms are codified in the bill based on that directive.

This bill eliminates references to the term “offense,” and replaces it with the term “violation,” to recognize that underage possession or consumption would no longer be considered a disorderly persons or petty disorderly persons offense subject to a possible term of imprisonment.

The bill provides for persons 18 years of age and older, but still not of legal age to possess or consume cannabis items, that the court involved in the collection of the aforementioned possession or consumption civil penalties could order participation in an alcohol or drug abuse education or treatment program for a period not to exceed 30 days.

The bill establishes an immunity from prosecution for any underage person in need of medical assistance due to the consumption of marijuana, and the underage person who called 9-1-1 to get that person assistance, as well as up to two other persons acting in concert with the underage person who made the call, which is the same immunity already provided for situations involving the underage consumption of alcohol, and expanded to the underage consumption of cannabis items by the recently passed legislation being updated and clarified by this bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS anticipates that the bill will both raise and lower municipal revenues and expenditures annually but lacks the information to quantify the magnitude of these impacts or how they may vary year to year. The bill removes the disorderly persons offense for individuals ages 18-21 violating cannabis and marijuana possession and consumption laws, which will result in fewer cases being adjudicated in municipal courts thereby reducing both court expenses and the revenues municipalities receive from court penalties and fines. However, the bill implements various civil penalties for these offenses, which will increase municipal revenues. Municipal courts will try these offenses, and the municipality in which a case is tried receives any penalty or fine that its municipal court imposes on a defendant. The net impact of these countervailing effects on municipal revenues cannot be known at this time. For context, according to the FBI’s Uniform Crime Reporting Program, in 2016, New Jersey police made 32,279 marijuana arrests, including 11,838 with suspects under 21 years old, or about 37 percent of all arrests.

Under the provisions of the bill, for a person under the age of 18 years, an underage possession or consumption violation would result in a law enforcement “curbside warning” or more involved “stationhouse adjustment” resulting in an increase in expenditures for municipalities due to additional enforcement efforts. Also under the bill, “marijuana” will be a regulated item banned from school property, and the possession of marijuana or cannabis items by adults 21 years of age or older would be graded a disorderly persons offense, punishable by a term of imprisonment of

up to six months, a fine of up to \$1,000, or both. The OLS estimates that counties are likely to incur an increase in expenditures with more individuals incarcerated in county jails. The State will also incur increased costs for the new responsibilities of the Superior Court to enforce fines and oversee drug education orders.

*Section:           Judiciary*

*Analyst:          Anuja Pande Joshi*  
*Assistant Research Analyst*

*Approved:       Thomas Koenig*  
*Assistant 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.).