

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5599

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 16, 2021

SUMMARY

Synopsis:	Establishes order of protection for judicial officer; upgrades and clarifies harassment against judicial officer; bars firearms possession by persons against whom judicial officer order of protection is entered.
Type of Impact:	Annual State expenditure and revenue increases; annual 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 indeterminate 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 cannot estimate the prevalence of the crimes covered by the bill to determine the fiscal impact on the State.
- Upgrading harassment against a judge when the harassment relates to the performance of the judge’s public duties to a crime of the fourth degree from a disorderly persons offense 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 obtaining an order of protection on behalf of a judicial officer at any time following the charge or conviction of a defendant for any crime directed at or committed against a judicial officer where there is a nexus between the alleged crime charged or the crime for which the defendant was convicted and the performance of the judicial officer's public duties.

Under bill, a judicial officer is defined as any active, formerly active, or retired federal, state, county, or municipal judge, including a judge of the Tax Court and any other court of limited jurisdiction established, altered, or abolished by law, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, and any other judge established by law who serves in the executive branch.

The bill upgrades harassment to a crime of the fourth degree if the defendant knowingly directs the offense to a current or former judge that relates to the performance of the judge's public duties. The bill also amends the cyber-harassment statute to provide that the trier of fact may infer that a person acted with a purpose to harass another if the person knows or should have known that any of the person's actions constituting an offense of cyber-harassment are knowingly directed to or are about a judicial officer, and there is a nexus between the offense and relates to the performance of the judicial officer's public duties. 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 indeterminate 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 cannot estimate the prevalence of the crimes covered by the bill to determine the fiscal impact on 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 ten days of the filing of the temporary protective order. The OLS estimates that these provisions would result in an increased caseload for the Judiciary. The bill authorizes a petitioner to petition the Superior Court

for emergency, ex parte relief in the form of a temporary order of protection if the court finds that the respondent poses a threat to the safety or well-being of the judicial officer or a family or household member of the judicial officer. Due to the State Police being the sole provider of general police services in certain municipalities, the involvement of the State Police in these municipalities pursuant to the bill could 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 judicial officer 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 court 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 under the provisions 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.

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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.).