

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 2591**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: NOVEMBER 19, 2020

### **SUMMARY**

<b>Synopsis:</b>	Provides for resentencing of certain inmates.
<b>Types of Impact:</b>	Indeterminate annual expenditure impact to the State General Fund. Annual increase in county expenditures.
<b>Agencies Affected:</b>	Department of Corrections; State Parole Board; Administrative Office of the Courts; Department of Law and Public Safety; Office of the Public Defender; County Prosecutor's Offices.

### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	
<b>Annual State Expenditure Impact</b>	Indeterminate
<b>Annual County Expenditure Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) anticipates this bill to produce two countervailing annual State expenditure effects with an indeterminate net impact. Department of Corrections (DOC) expenditures will decline by an indeterminate amount if the bill results in the early release of additional inmates. In contrast, annual State expenditures will increase by indeterminate amounts as: a) the State Parole Board will supervise for five years each inmate who will be released early under this bill; b) the DOC will issue certificates of eligibility for resentencing; c) the Superior Court will administer resentencing proceedings and hearings; d) the Office of the Public Defender will represent inmates in the resentencing process; and e) the Department of Law and Public Safety will respond to resentencing notices.
- County prosecutor's offices may experience a recurring expenditure increase as they will respond to a higher number of petitions for resentencing.

### **BILL DESCRIPTION**

This bill provides for the resentencing of certain inmates. Any resentenced inmate will serve a five-year term of parole supervision.

The DOC will be required to issue a certificate of eligibility for resentencing to any requesting inmate who: (1) committed a crime as a juvenile and was tried as an adult; (2) received an aggregate sentence of incarceration of 30 years or more; and (3) has served at least 20 years of that sentence.

The inmate could then file a petition for resentencing in the Superior Court in the county where the conviction occurred, if the inmate's original sentence also included a period of parole ineligibility of 20 years or more. The Office of the Public Defender will represent the eligible inmate, unless that inmate retained other counsel.

A copy of a filed petition will be served on the original prosecuting agency, which will have to respond within 60 days of being notified. The prosecuting agency will notify any victim of the offense for which resentencing is sought, or the nearest relative in cases involving a homicide, informing the person of the right to make an updated statement to supplement the presentence report, present a statement at the hearing on the petition, and testify about the harm suffered by the victim or victim's family member.

If the court finds, by a preponderance of the evidence, that the inmate's offense was the result of the mitigating qualities of youth, it will resentence the inmate to a term that allows for a meaningful opportunity for release, unless the court finds, by clear and convincing evidence, that the inmate's offense reflects irreparable corruption.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS anticipates this bill to produce two countervailing annual State expenditure effects with an indeterminate net impact. County prosecutor's offices may also experience a recurring expenditure increase as they will respond to a greater number of petitions for resentencing. The OLS, however, does not know the number of inmates who will qualify for resentencing under the bill and thus to what extent State and county expenditures will grow. It can be anticipated, however, that the initial impacts will be more pronounced because of the relatively large number of current inmates who will become eligible to file petitions for resentencing as soon as the bill will take effect. After the initial peak, fewer inmates will be eligible to file petitions.

This bill may result in indeterminate additional State expenditures incurred by the DOC, the State Parole Board, the Administrative Office of the Courts, the Office of the Public Defender, and the Department of Law and Public Safety.

DOC expenditures may rise from assessing inmates for the certificate of eligibility for resentencing. The State Parole Board will incur increased expenditures related to the five-year term of mandatory parole supervision for inmates who are resentenced under this bill.

The Administrative Office of the Courts, the Department of Law and Public Safety, and county prosecutor's offices may experience higher costs to process, hear, and respond to additional inmate petitions for resentencing. The Office of the Public Defender, in turn, may incur increased costs to represent inmates in the resentencing process.

This bill may also result in cost savings for the DOC as the sentences of certain inmates will be modified, reduced, or suspended. Given the long sentences of concerned inmates, it can be assumed that all inmates who will become newly eligible for resentencing are incarcerated in State

prisons, and none in county jails. 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 was \$50,191. However, the OLS notes that because the State sentenced prison population is currently declining, the DOC may be able to house inmates within its current institutional facilities incurring a much lower marginal cost of \$8.60 per day, or \$3,139 annually, per inmate for food, wages, and clothing.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal 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.).