

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 420
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: SEPTEMBER 1, 2023

SUMMARY

Synopsis: Establishes “Gambling Treatment Diversion Court Pilot Program” to be administered by AOC.

Type of Impact: Three-year impact on State expenditures.

Agencies Affected: The Judiciary; Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Three-Year Duration of Pilot Program</u>
State Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will likely result in increased expenditures to the Judiciary and expenditure decreases to the Department of Corrections for the three-year period established pursuant to the bill. However, the OLS lacks sufficient information to quantify the exact fiscal impact, as it is not possible to know how many individuals will be eligible for the pilot program.
- The Judiciary would likely experience expenditure increases related to establishing and managing the pilot program, including for hiring additional staff in the Probation Division for supervising the program participants. Assuming the costs of supervision of the Gambling Treatment Diversion Court Pilot Program is comparable to the cost associated with Recovery Court and the statistics for the number of participants from Nevada’s court-ordered treatment for a gambling addiction, the OLS concludes that the Judiciary may experience an increase in expenditures of at least \$0.6 million per year.
- The Department of Corrections would likely experience an indeterminate expenditure reduction resulting from the diversion of defendants who participate in and successfully complete the pilot program, and who would otherwise have been housed in a State correctional facility upon conviction. The department estimates the average annual cost of housing an inmate in a State correctional facility in FY 2023 was \$75,574.
- The OLS notes that the Judiciary and the Department of Corrections may experience an indeterminate State expenditure reduction resulting from a positive effect on recidivism, which

could extend beyond the three-year period of the pilot program, to the extent the pilot program reduces the participants' parole re-arrest, re-conviction, and re-incarceration rates.

BILL DESCRIPTION

This bill creates a Gambling Treatment Diversion Court Pilot Program with the purpose to treat persons determined to be affected by an addictive disorder related to gambling and who committed a crime for which they have been convicted in furtherance or as a result of the gambling. The gambling court would be administered by the Administrative Office of the Courts and be established, as the administrative office determines, in one northern, one central, and one southern vicinage of this State. This bill is modeled after a similar program in Nevada.

FISCAL ANALYSIS

THE JUDICIARY

The OLS has not received a formal fiscal note on this bill. However, upon request, the Judiciary provided the following:

As eligible defendants would not be diverted until after conviction, cases would proceed through the ordinary criminal process until that time. In addition, assuming a criminal judge will be setting aside the conviction or sentencing of a defendant, depending on whether the defendant completes the program, the caseload would be the same or slightly reduced for the defendant that would have his/her conviction set aside. Therefore, the Judiciary does not expect the bill to have a significant impact on the time and resources of criminal division judges or staff.

However, as the bill requires program participants to be supervised and have progress monitored and reported to the court for up to three years, the Judiciary will need to establish a differentiated gambling court diversion program supervision case type within the Probation Division of the Superior Court Office of Probation Services. Additional Probation staff will be needed to develop and manage the program, and additional probation officers will be required to supervise and monitor the clients.

Unfortunately, the Judiciary does not track or record gambling related convictions. As a result, the Judiciary is unable to estimate with any certainty how many defendants might be eligible for this diversionary program, the impact the diversion program would have on the court system, or the impact the bill would have on Judiciary revenue or expenditures.

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will likely result in increased expenditures to the Judiciary and expenditure decreases to the Department of Corrections for the three-year period established pursuant to the bill. However, the OLS lacks sufficient information to quantify the exact fiscal impact, as it is not possible to know how many individuals will be eligible for the pilot program.

This bill requires the Administrative Office of the Courts to establish and administer a three-year Gambling Treatment Diversion Court Pilot Program to treat defendants determined to be affected by an addictive disorder related to gambling. The program is to be established and administered in three vicinages in the State, one each in the northern, central, and southern vicinages, as determined by the administrative office. Program participants would proceed through the ordinary criminal justice process, and be diverted to the pilot program only after conviction. The court would set aside the conviction if the court determines that the participant has satisfactorily completed the program.

According to the Judiciary, since the participant would only be diverted after a conviction, the bill would not affect the Judiciary's caseload and, therefore, would not have a significant impact on the time and resources of Criminal Division judges or staff. However, because program participants would be required to be supervised and have their progress monitored for up to three years, the Judiciary would incur costs associated with the establishment of a differentiated gambling court diversion program supervision case type within the Probation Division, and for additional probation staff to develop and manage the program. Due to a lack of relevant information, the OLS cannot determine the extent of these costs.

The OLS notes that Nevada is the only state which currently operates a gambling court. In fiscal year 2021, 19 individuals in Nevada received court-ordered treatment for a gambling addiction. New Jersey's population, which is approximately 9.26 million, is nearly three times as large as Nevada, which has a population of 3.18 million. Unlike New Jersey, Nevada does not permit online gambling. A number of news outlets have reported that calls to gambling help lines in New Jersey increased exponentially after the legalization of online gambling. Accordingly, the OLS assumes that, in New Jersey, there are likely to be greater than three times the number of gambling court participants as in Nevada. For purposes of illustration and based on the information above, the OLS expects that there could be at least 57 gambling court participants per year.

The Judiciary also currently operates a Recovery Court program, formerly "drug court." According to the Judiciary, a person may participate in recovery court for up to two years. Under the bill, a person may participate in the Gambling Treatment Diversion Court program for up to three years. Due to the greater maximum time that a person may participate in the program, the cost to the Judiciary associated with supervision would likely be greater.

According to the Judiciary, there are expected to be 6,300 participants in the Recovery Court program during FY 2024, for which the FY 2024 Appropriations Act includes \$68,880,000, or an estimated \$10,933 per participant. The OLS notes that there could be overlap of defendants who are affected by one or more addictive disorder, in addition to gambling, and who may qualify to both the Gambling Treatment Diversion Court as well as the Recovery Court. Assuming the costs of supervision of program participants is comparable to the cost associated with Recovery Court, the OLS determines that if the bill is enacted, the Judiciary may experience an increase in expenditures of at least \$623,200 per year, in addition to the unknown costs associated with establishing and managing the pilot program.

According to an informal estimate provided by the Department of Corrections, the average annual cost of housing an inmate in a State correctional facility is \$75,574. The cost was based on FY 2023 actual expenditures and is an average of all facilities, not including the Special Treatment Unit at the Adult Diagnostic and Treatment Center that houses civilly committed residents. As noted above, for purposes of this fiscal estimate, the OLS assumes there could be at least 57 gambling court participants per year. Under a hypothetical scenario in which all 57 participants were diverted from State correctional facilities as a result of the Gambling Treatment Diversion Court program, the Department of Corrections would experience an annual cost savings of at least \$4.3 million. However, the OLS cannot predict how many program participants would

have otherwise been incarcerated, and notes there is generally a presumption of non-incarceration for first-time offenders of crimes of the third and fourth degree.

The OLS notes that the Judiciary and the Department of Corrections may experience an indeterminate State expenditure reduction resulting from a positive effect on recidivism, which could extend beyond the three-year period of the pilot program, to the extent the pilot program reduces the participants' parole re-arrest, re-conviction, and re-incarceration rates.

Section: Judiciary

*Analyst: Gabriella Ferri
Lead Counsel*

*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.).