149th GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE BILL NO. 222**
SPONSOR:	**Senator Townsend**
DESCRIPTION:	**AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO RELEASE OF PERSONS ACCUSED OF CRIMES.**

Assumptions:

1. This Act takes effect upon final passage of the second leg of the proposed constitutional amendment permitting preventive detention, Senate Bill No. 221 of the 149th General Assembly.

2. This Act amends Delaware's laws regarding release of persons accused of crimes as required in conjunction with the adoption of SB 221. SB 221 is the first leg of a constitutional amendment that modernizes Delaware's Constitution's bail provision and clarifies the power of the General Assembly and the Courts to define certain felony offenses for which, or circumstances under which, pretrial release on bail may not be available.

3. The goal of SB 222 is to protect both defendants' due process rights as well as public safety. The bail reform presented in this Act will impact various agencies and stakeholders within the criminal justice system community.

    - This Act expands the list of circumstances for which defendants may be detained pretrial without the opportunity for release and providing adequate due process protections for detention-eligible defendants. This Act protects public safety by allowing courts to detain defendants who are charged with certain enumerated offenses that apply.

    - This Act also outlines how the defendant's rights are to be protected:
        i. Requires Attorney General to establish proof positive that defendant committed the detention-eligible offense.
        ii. Ensures detention-eligible defendants are represented by counsel at the initial detention and subsequent hearings.
        iii. Requires courts to hold a full detention hearing within 10 days of defendant's arrest.
        iv. Requires expedited review of the detention order by Superior Court.
        v. Provides speedy trial protections for any defendant who is detained prior to adjudication.

4. The Department of Justice (DOJ) would require additional staffing of both prosecutors and defense attorneys at bail hearings that have not previously had them. The DOJ projects a need of 5 additional Deputy Attorney Generals for DOJ and 5 additional Public Defenders at Office of Defense Services (ODS) in order to implement bail reform as described in SB 222.

    - The total cost of both a Deputy Attorney General and Public Defender is $186,966 which includes Other Employment Costs.
    - A fiscal impact of 10 FTEs for 5 Deputy Attorney Generals V and 5 Public Defenders V is $1,869, 660.

5. The Department of Corrections would be impacted by the implementation of SB 222. DELJIS provided numbers to estimate how the preventative detention statutes might impact staffing needs at DOC, if the proposed statutes existed in 2016. The DOC is concerned that 1,044 defendants that were not committed to DOC or committed and then released may now be committed and held under preventative detention.

    - Defendants held via the preventative detention statue will require a detention hearing and will be entitled to representation. This would result in DOC staffing issues related to additional commitments, hearing, and additional access needed by defense attorneys. The DOC estimates that a minimum of 35 additional Correctional Officer positions will be needed at the Corporal level. Correctional Corporal FTE costs for FY19 are $76,272.91 per position. This increase in staff would have a minimum cost of $2,669,551.85

    - The DOC is not able to determine the number of additional defendants that will be ordered to community Pretrial Supervision and are, therefore, unable to determine the increased Probation and Parole staffing that will be needed.

6. SB 222 requires the Statistical Analysis Center to provide two annual reports on pretrial outcomes for various subgroups to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Currently, all existing resources at SAC are designated to providing five annual reports, multiple quarterly reports, a large number of ad hoc criminal justice requests from local and federal agencies, as well as Legislative bill analyses with little capacity to accommodate additional requests. SB 222 requires a level of analysis that cannot be accommodated by SAC without adding an additional FTE. For this reason, a Senior Research Specialist would be required to continue existing projects managed by the SAC and to provide the two new annual reports required by SB 222

    - The total cost for a Research Specialist III is $82,522 which includes Other Employment Costs.

7. The Courts and Delaware Criminal Justice Information System do not have any fiscal or resource request associated with implementing SB 222.

8. Given that this Act is contingent upon the passage of the second leg of the proposed constitutional amendment, the fiscal impact won't commence until Fiscal Year 2020.

Cost:

Fiscal Year 2019	$ 0
Fiscal Year 2020	$ 4,621,733.8
Fiscal Year 2021	$ 4,621,733.8

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