151st GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE BILL NO. 7**
SPONSOR:	**Senator Mantzavinos**
DESCRIPTION:	**AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO BAIL.**

Assumptions:

1. This Act takes effect upon signature by the Governor.
2. This Act updates the bail statute to be explicit that when defendants commit certain serious offenses the bail presumption is secured cash bail, establishes an automatic bail review hearing by Superior Court, and requires the Court to document the reason(s) for the bail level set.
3. The Superior Court will need to conduct statutorily required bail review hearings statewide for defendants because of this Act. A review of 2019 charge data shows that 5,517 charges filed would have required a bail review hearing. As counsel for the defendant and the prosecution would likely be present at these hearings, reasonable time must be allotted per hearing. The Superior Court estimates this Act would require an additional 22.5 bail review hearings per day in New Castle County, 4.5 in Kent County, and 3.5 in Sussex County.
    a. The additional workload necessitates a need for additional recurring costs of $1,208,372: for 6-months funding of Personnel Costs, including OECs (at a rate of 32.11%), for 7.0 FTEs, Commissioners, and support staff consisting of 7.0 FTEs, Judicial Case Managers, 7.0 FTEs, Court Security Officers, 7.0 FTEs, Electronic Court Reporters, and 1.0 FTE, Chief Electronic Court Reporter.
    b. One-Time Costs of $81,200: for computer equipment, software needs, and office furniture startup costs for the new positions.
    c. Additional to be determined costs are: system programming enhancements associated with new case management functions, a tracking system for bail review hearings, a tracking system for the notifications regarding gun relinquishment bail conditions to appropriate agencies, and additional rent and utilities for additional space or a facility to house the new positions.
4. Due to the additional projected number of hearings conducted at Superior Court, the Office of Defense Services estimates that it would require additional recurring costs of:
    a. $740,047: for 6-months funding of Personnel Costs, including OECs (at a rate of 32.11%), for 5.0 FTEs, Assistant Public Defenders to provide statewide defense attorney services, and 6-months funding of $112,500 for three (3) additional contract attorneys for the Office of Conflicts Counsel for contracted defense attorney services with funding of $225,000 estimated for subsequent fiscal years.
    b. One-Time Costs of $19,000: for computer equipment, software needs, and office furniture startup costs for the new positions.

5. The Department of Correction (DOC) projects that the number of defendants who may be held in detention before their trial (pre-trial detention) will increase because of this Act. A review of arrest data from the Delaware Criminal Justice Information System (DELJIS) for 3-years ending 2020 shows that an average of 2,212 individuals would have been cash bail eligible based on the offenses listed in this Act. More specifically, a review of detentioner data from 2019 shows that 1,232 individuals were released without entering the custody of DOC and that 670 individuals who were originally detained achieved release during the pre-trial period. Therefore, the DOC, Bureau of Prisons (BOP) estimates that up to 1,902 additional defendants may be detained on cash-only bail and/or maybe detained longer or for their entire pre-trial period because of this Act. The average length of stay for a defendant on pre-trial detention in a DOC facility is 16.5 days.

    a. The BOP anticipates that if up to 1,902 additional pre-trial offenders had to be housed at James T. Vaughn Correctional Center (JTVCC) that it would need to reopen two buildings in the complex that are currently closed. For the BOP to staff these two buildings, using a National Institute of Corrections staffing model, it is estimated that it would require additional recurring costs of $2,020,393: for 6-months funding of Personnel Costs, including OECs (at a rate of 32.11%), for 49.0 FTEs, Correctional Officer positions to be able to fully staff those buildings and stay within the current operation of running 400-450 overtime shifts per week at JTVCC with limited freezing.

    b. If the above FTEs were not authorized, the BOP estimates that an additional 203 overtime shifts per week would be needed at JTVCC to provide staffing coverage for these additional posts. Additional overtime costs for 6-months of the first fiscal year are estimated at $1,544,240, and $3,088,481 for subsequent fiscal years.

    c. It is assumed that the pre-trial population regulated to DOC custody would steadily increase as the number of bail review hearings begin being conducted during the first fiscal year of implementation. The DOC would still need to recruit, hire, and graduate cadets through its academy before the necessary FTEs can begin.

    d. The number, or percentage, of defendants committing a serious offense outlined in this bill who may be able to pay cash bail after enactment is indeterminable. Further, it is difficult to ascertain, if any, how many of these individuals may be released without ever having to enter DOC custody if the cash bail is paid before the transfer to DOC.

6. Fiscal Year 2022 personnel costs are estimated at 6-months of funding and annualized in the following years and estimated to increase at a rate of 2.0% annually.

Cost:

	One-Time Costs	**Recurring/Operating Costs**
Fiscal Year 2022:	$100,200	$3,235,135 (minimum); $3,711,287 (maximum)
Fiscal Year 2023:	$0	$6,533,407 (minimum); $7,454,026 (maximum)
Fiscal Year 2024:	$0	$6,597,805 (minimum); $7,600,857 (maximum)

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Office of the Controller General