

OFFICE OF FISCAL ANALYSIS

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sSB-132

AN ACT COMBATTING SEXUAL HARASSMENT AND SEXUAL ASSAULT.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Human Rights & Opportunities, Com.	GF - Potential Cost	105,090	140,120
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	38,179	50,906
Human Rights & Opportunities, Com.	GF - Cost	125,642	167,522
State Comptroller - Fringe Benefits	GF - Cost	45,646	60,861
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below
Judicial Dept.	CICF - Cost	Up to 2.7 million	Up to 2.7 million

Note: GF=General Fund; CICF=Criminal Injuries Compensation Fund

Municipal Impact: None

Explanation

The bill makes changes concerning sexual harassment and sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO), and various other changes.

Section 1 lowers the employee threshold and expands the types of employees who require sexual harassment training. While employers

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

can hire private firms to conduct training, CHRO provides free training. To the extent there is a significant increase in the number of requests for training, CHRO may need to have two additional training staff, a potential cost of \$143,269 in FY 19 (partial year) and \$191,026 in FY 20 (annualized), including fringe benefits.

Section 2 restricts employers found to engage in a pattern of sexual harassment from raising certain defenses for subsequent sexual harassment complaints. Limiting these defenses is anticipated to increase number of complaints CHRO receives, requiring an additional attorney at a cost of approximately \$71,635 in FY 19 (partial year) and \$95,513 in FY 20 (annualized), including fringe benefits.

Section 3 extends the time for filing a discriminatory complaint with CHRO from 30-180 days to three years. CHRO dismisses numerous complaints due to lack of timeliness and the extension of the deadline is anticipated to increase the number of cases processed and retained.² This would require the addition of two Human Rights Investigator Trainees resulting in a cost of \$99,652 in FY 19 (partial year) and \$132,870 in FY 20 (annualized), including fringe benefits.

Section 14 increases, from \$15,000 to \$25,000, the maximum compensation available to an eligible sexual assault victim from the Office of Victim Services. There are currently approximately 270 victims each year that receive compensation (most do not receive the full amount of \$15,000). If all victims qualified for the new maximum compensation of \$25,000, the bill would result in a cost of \$2.7 million to the Criminal Injuries Compensation Fund. It should be noted that the Criminal Injuries Compensation Fund, which receives revenue from various court fees and defendant fines, cannot support this cost with the existing revenue structure. Currently, annual revenues to the fund total approximately \$3.2 million while expenditures total approximately \$2.8 million.

² Between FY 15 and FY 16 the CHRO dismissed approximately 93 cases for failure to state a claim due to timeliness.

Section 15 eliminates the statute of limitations for certain felony sexual assault crimes and extends the statute of limitations from one year to 10 years for a specified sexual assault crime. To the extent that this change results in more offenders being prosecuted and convicted, this bill results in a potential cost for incarceration or probation supervision in the community. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,900³ while the average marginal cost for supervision in the community is less than \$700⁴ each year.

In FY 17, there was over 812 charges for the offenses listed, with 368 receiving a guilty charge or plea bargain. As of January 2018, there are approximately 704 persons incarcerated for the offenses listed and approximately 522 on probation.

Sections 4-13 and Sections 16-17 have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

³ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

⁴ Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.