

# OFFICE OF FISCAL ANALYSIS

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sSB-132

## AN ACT COMBATTING SEXUAL HARASSMENT AND SEXUAL ASSAULT.

As Amended by Senate "A" (LCO 5151), Senate "C" (LCO 4955)  
Senate Calendar No.: 355

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Human Rights & Opportunities, Com.	GF - Revenue Gain	400,000	None
Judicial Dept.	GF - Revenue Loss	200,000	None
Pub. Defender Serv. Com.	GF - Revenue Loss	200,000	None
Human Rights & Opportunities, Com.	GF - Cost	36,548	48,731
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	13,278	17,704
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below
Pub. Defender Serv. Com.; Criminal Justice, Div.	GF - Potential Cost	See Below	See Below
Various State Agencies	Various - Potential Savings	None	See Below

Note: GF=General Fund; Various=Various

**Municipal Impact:** None

#### **Explanation**

<sup>1</sup>The 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.

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5/5/18

The bill makes various changes concerning sexual harassment, sexual assault, and discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO), establishes a nonlapsing other current expenses (OCE) account within CHRO, redirects certain revenue funds from the Office of the Attorney General (OAG) to the newly created OCE account, and makes various other changes.

**Section 1 - 3** lowers the employee threshold and expands the types of employees who require sexual harassment training. It also requires CHRO to develop an online or other interactive sexual harassment training and education video for employers to provide to their employees. This may result in a potential cost to the agency for hiring consultants to develop the online training or other interactive training.

**Section 4** outlines the types of corrective actions employers may utilize in response to an employee's claim of sexual harassment and does not result in a fiscal impact.

**Section 5** extends the time for filing employment related complaints from 30 - 180 days to one year. CHRO dismisses numerous complaints due to lack of timeliness and the extension of the deadline is anticipated to increase the number of certain cases processed and retained. This would require the addition of one Human Rights Investigator Trainee resulting in a cost of \$49,826 in FY 19 (partial year) and \$66,435 in FY 20 (annualized), including fringe benefits.

**Section 14** establishes a nonlapsing OCE account within CHRO and redirects certain revenues from the OAG to the OCE account within CHRO. The FY 18 - FY 19 biennial budget diverted \$400,000 in settlement revenues in both FY 18 and FY 19 from the OAG to the Judicial Department (\$200,000) and the Public Defender Services Commission (\$200,000). This amendment redirects the \$400,000 in OAG settlement revenues to CHRO in FY 19. CHRO must use these funds for salary and fringe benefits for the additional Human Rights Investigator Trainee referenced Section 5 of the fiscal note. The

amendment requires these funds support the salary and fringe benefits of these positions in FY 19, FY 20, and FY 21.

**Section 16** expands the offense of sexual assault in the third degree. To the extent that this change results in more offenders being prosecuted and convicted, this amendment 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 \$1,900<sup>2</sup> while the average marginal cost for supervision in the community is less than \$700<sup>3</sup> each year.

**Section 18 and 19** modifies the statute of limitation for certain felony sexual assault crimes. To the extent that this change results in more offenders being prosecuted and convicted, this amendment 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 \$1,900 while the average marginal cost for supervision in the community is less than \$700 each year.

In addition, the bill results in a potential cost to the Public Defender Services Commission and to the Division of Criminal Justice for expert witness and other expenses incurred from cases that would have previously, under current law, exceeded the statute of limitations. The number of cases is unknown and associated costs vary from case to case.

Lastly, **Section 20** of the bill will result in potential net savings to the state by allowing a state employee's pension to be revoked if the employee is convicted or pleads guilty or nolo contendere in state

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<sup>2</sup> 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.

<sup>3</sup> 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.

court to sexual assault or aggravated sexual assault while on duty. The savings is anticipated to be minimal compared to the size of the state's retirement systems. Any savings will be certified in the actuarial valuations of state administered retirement plans as of June 30, 2018. The FY 19 state contributions to the funds were certified in the valuations effective June 30, 2016.

Senate "A" strikes the underlying bill and its associated fiscal impact.

Senate "A" eliminates the provision that restricts certain patterns of sexual harassment, removing the cost of one additional attorney in FY 19 of \$71,635 (partial year) and FY 20 of \$95,513 (annualized), including fringe benefits. It also reduces the timeframe extension for filing discriminatory complaints with CHRO from three years to one year, reducing the need for two Human Rights Investigator Trainees to one. This reduces FY 19 costs from \$99,652 to \$49,826 (partial year) and FY 20 costs from \$132,870 to \$66,435 (annualized), including fringe benefits. In addition, Senate "A" creates the OCE account in CHRO.

Senate "C" adds section 501 which includes convictions or guilty pleas or nolo contendere pleas for sexual assault or aggravated sexual assault as a reason the state may revoke a state employee's pension, which results in the fiscal impact described above.

### ***The Out Years***

The annualized ongoing fiscal impacts identified above would continue in the future subject to inflation. Any savings related to pension revocation will be certified in future actuarial valuations.

*The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*