

OFFICE OF FISCAL ANALYSIS

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SB-132

AN ACT COMBATTING SEXUAL HARASSMENT AND SEXUAL
ASSAULT.

AMENDMENT

LCO No.: 5151

File Copy No.: 604

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
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The amendment strikes the underlying bill and its associated fiscal impact.

The amendment 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

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General (OAG) to the newly created OCE account, and makes various other changes.

Section 1 lowers the employee threshold and expands the types of employees who require sexual harassment training. Employers can hire private firms to conduct training or request a free training be provided by CHRO. Currently, CHRO provides multiple sexual harassment trainings per month across the state. It is anticipated that CHRO, if requested by private employers, can handle the requirements of the amendment within the current monthly training schedule.

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 \$1,900¹ while the average marginal cost for supervision in the community is less than \$700² each year.

Section 18 and 19 eliminates the statute of limitation 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 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 \$1,900¹ while the average marginal cost for supervision in the community is less than \$700² 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.

In addition, the amendment 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.

Sections 2-3, 6-13, 15, and 17 have no additional fiscal impact.

¹ 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.

² 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.

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.