

OFFICE OF FISCAL ANALYSIS

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sSB-3

AN ACT COMBATTING SEXUAL ASSAULT AND SEXUAL HARASSMENT.

As Amended by Senate "A" (LCO 8991)

Senate Calendar No.: 448

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Human Rights & Opportunities, Com.	GF - Cost	159,528	170,522
State Comptroller - Fringe Benefits ¹	GF - Cost	62,826	69,002
Human Rights & Opportunities, Com.	GF - Potential Revenue Gain	Up to \$75,000	Up to \$75,000
Pub. Defender Serv. Com.	GF - Potential Cost	See Below	See Below
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Various State Agencies	All Funds - Potential Cost	See Below	See Below

Note: GF=General Fund; All Funds=All Funds

Municipal Impact:

Municipalities	Effect	FY 20 \$	FY 21 \$
Various Municipalities	STATE MANDATE ² - Potential Cost	See Below	See Below

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 41.19% of payroll in FY 20 and FY 21.

² State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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Explanation

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

Sections 1, 3, and 9 expand requirements for employers on training employees regarding sexual harassment laws and providing related information, as well as require CHRO to make related training materials available.

The bill expands requirements for employers with more than three employees to train them on sexual harassment laws. No impact is anticipated to other state agencies or municipalities as CHRO is required to make available such training to employers under the bill.

To the extent that an essential state or municipal employee's shift needs to be covered during training, there may be a potential cost to cover the work responsibilities of the employee. For example, the replacement cost of a State Police Trooper would be at least \$30/hour or possibly higher if overtime was used to cover the employee's shift.

The bill requires CHRO to develop and make available, at no cost to employers, an online training and education video or other interactive method that fulfills the bill's training requirements. It further requires CHRO to develop and include on its website a link about the illegality of sexual harassment and the remedies available to victims.

CHRO will need to hire one Human Rights Attorney 1 and one Human Rights Trainee at a cost of \$118,791 in FY 20 and FY 21, and associated fringe benefit costs of \$48,930 each year. The Attorney 1 will be responsible for developing and maintaining the training materials to ensure they comply with law, as well as responding to law related employer questions. The Human Rights Trainee will assist with the preparation of training materials, the development of the

training module, and providing live responses to questions during training. CHRO will require one-time funding of \$4,000 in FY 20 in order to purchase equipment, such as a video editing computer and webcam/microphone to implement the interactive training. In addition, they will need \$3,000 in each fiscal year for webinar and other software related subscriptions.

Section 9 also subjects employers to a fine of up to \$1,000 if they fail to provide the training and education as required. This section also increases the maximum fine to employers, from \$250 to \$1,000, for failure to post certain notices about nondiscrimination law. As this section permits the CHRO executive director to designate a representative to enter an employer's place of business for the purpose of ensuring compliance with the provisions of this bill, it is anticipated up to \$50,000 in fines may be generated.

Section 2 expands the definition of "discriminatory practice" in the CHRO statutes, adding new violations under this definition and allowing individuals aggrieved by such violations to file a complaint with CHRO. No fiscal impact is anticipated as CHRO has the expertise to handle additional complaints as a result of this provision.

Section 6 extends the time for filing certain complaints alleging discrimination that occurred on or after October 1, 2019, to 300 days. Current law allows a discriminatory practice complaint to be filed with CHRO within 180 days of the alleged discrimination or 30 days for complaints alleging discrimination based on denial of state employment or occupational licensure due to criminal history.

It is anticipated that extending such deadline would result in up to 100 additional complaints filed each year. In order to process the additional complaints, CHRO will require one additional Human Rights Trainee at a cost of \$33,737 in FY 20 (partial year) and \$48,731 in FY 21 (full year), with associated fringe benefit costs of \$13,896 and \$20,072, respectively.

Section 11 allows the CHRO executive director, through the

supervising attorney and within available appropriations, to assign CHRO legal counsel to bring a civil action concerning an alleged discriminatory practice instead of a case proceeding to an administrative hearing under certain circumstances. Under the bill, if the court finds the respondent committed a discriminatory practice, the respondent must pay CHRO its fees and costs in addition to a civil penalty of up to \$10,000. It is anticipated CHRO will generate up to approximately \$25,000 in civil penalties a year.

Section 13 makes changes to civil proceedings and does not result in a fiscal impact.

Section 14 establishes a task force to study whether the statutes of limitations to recover damages for personal injury to minors and adults caused by sexual abuse, sexual exploitation or sexual assault could be amended. This section has no fiscal impact as PA 17-236 prohibits transportation allowances for task force members.

Sections 15 & 16 increase the penalty for sexual assault in the third degree when the victim is mentally incapacitated and unable to consent and results in a potential cost for incarceration or probation supervision and a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800³ while the average marginal cost for supervision in the community is less than \$700⁴ each year.

Section 17 changes the statute of limitations for specified felony sexual assault crimes, dependent on the age of the victim, setting a time frame of 10 years to no limitation and results in a potential cost to the Division of Public Defenders. While the majority of new cases

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.

would be assigned to state public defenders, any cases that present a conflict of interest would be assigned to outside counsel, at a cost of approximately \$7,000 per case. In addition, any cases that require offender evaluation or expert witnesses would result in a cost of approximately \$3,000 per case.

To the extent that additional offenders are convicted due to the elimination of the statute of limitation, the bill results in a potential cost to the Department of Correction and Judicial Department for incarceration and probation supervision. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800⁵ while the average marginal cost for supervision in the community is less than \$700⁶ each year. In addition, the increased convictions may result in revenue from fines.

Sections 4, 5, 7, 8, 10, 12, 18, 19, 20, 21, 22, and 23 have no fiscal impact.

House "A" strikes the original bill and its associated fiscal impact, thus becoming the bill with the above referenced fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, webinar and software subscriptions, and the number of cases.

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.

⁵ 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.

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