

Fiscal Note

State of Alaska
2022 Legislative Session

Bill Version: HB 5
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB005-LAW-CRIM-CJL-2-25-22
Title: SEXUAL ASSAULT; DEF. OF "CONSENT"
Sponsor: TARR
Requester: (H) Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2023	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Services	251.7		1,652.6	1,652.6	1,652.6	1,652.6	1,652.6
Travel	50.0		40.0	40.0	40.0	40.0	40.0
Services	39.0		221.0	221.0	221.0	221.0	221.0
Commodities	10.3		54.3	24.3	24.3	24.3	24.3
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	351.0	0.0	1,967.9	1,937.9	1,937.9	1,937.9	1,937.9

Fund Source (Operating Only)

1004 Gen Fund (UGF)	351.0		1,967.9	1,937.9	1,937.9	1,937.9	1,937.9
Total	351.0	0.0	1,967.9	1,937.9	1,937.9	1,937.9	1,937.9

Positions

Full-time	2.0		12.0	12.0	12.0	12.0	12.0
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2022) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Updated for SLA2022 fiscal note template and to accommodate personal services changes as a result of SB 55 (Ch9 SLA2021).

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	02/25/2022
Approved By:	Amber LeBlanc, Administrative Services Director	Date:	02/25/22
Agency:	Office of Management and Budget		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2022 LEGISLATIVE SESSION

BILL NO. HB 5

Analysis

This legislation amends the sexual abuse of a minor statutes in two main ways. First, it makes sexual conduct between a person who is 13-15 years old and anyone who is 10 years older than that person either a sexual abuse of a minor in the first degree (unclassified sexual felony) or sexual abuse of a minor in the second degree (class B sexual felony) depending on the specific conduct. These changes increase the level of the crime by one level with the greater age difference. Second, it criminalizes sexual conduct between a person who is 16 or 17 years old and a person who is at least 10 years older than the victim. This conduct would be sexual abuse of a minor in the first degree (unclassified sexual felony) if the conduct involves penetration and sexual abuse of a minor in the second degree if the conduct involves sexual contact. It is difficult to estimate the exact number of additional cases these changes will produce. Between 2015 and 2020 the Criminal Division received 227-268 referrals each year for sexual abuse cases. 112 - 144 referrals met the elements of a crime with sufficient evidence and resulted in filing of criminal cases. Given these numbers, the department conservatively estimates needing one additional prosecutor to handle the additional referrals and potential case filings from this change in law.

The legislation also amends the definition of "consent" in relation to sexual assault. Alaska's current sexual assault statutes define "without consent". A sexual act is criminal if it occurs without consent. That is, if the victim, "with or without resisting is coerced by the use of force against person or property, or by the express or implied threat of death, imminent physical injury, or kidnapping inflicted upon anyone." AS 11.41.470(8). HB 5 defines "consent" as a "freely given, reversible agreement specific to the conduct at issue by a competent person." The legislation goes on to outline specific circumstances in which consent cannot be present and states that a lack of consent may be inferred from the totality of the circumstances. Because this is a significant change in the law, this new definition will likely result in additional case referrals and litigation associated with sexual assault cases.

In order to implement these amendments to the sexual assault statutes the Criminal Division will initially need to add one prosecutor and one support staff in the Appeals section to begin researching how these laws have been implemented in other states and associated caselaw. The division will also need to develop training and practice materials and then conduct trainings for prosecutors and law enforcement across the state. The division would conduct training in person at the annual conference in the fall and then need to follow that up with six regional in-person, hands-on trainings: Anchorage, Bethel, Fairbanks, Kenai, Juneau, and Nome. These in-person trainings would be supplemented with distribution of written materials and webinars throughout the year. This is the most cost-effective way to conduct trainings on a statewide basis for this type of change in the criminal law.

Between 2015 and 2020 the Criminal Division received 296-327 referrals each year for sexual assault cases. 96 - 135 referrals met the elements of a crime with sufficient evidence and resulted in filing of criminal cases. This legislation expanding the definition of sexual assault crimes has an effective date of 90 days after signature with the exception of section 10, which takes effect on July 1, 2023. Once effective, the Criminal Division will anticipate the need for three additional prosecutors and four associated support staff across the state to handle the expected increase in sexual assault and additional litigation expected as a result of the changes made in the legislation. This would allow the Criminal Division to file an additional 90-120 cases each year. These positions will be placed in the offices that receive the highest number of referrals for sexual assault and sexual abuse of minor offenses: Anchorage, Bethel, and Fairbanks. The fourth attorney and support staff combination will be placed in Special Prosecutions, also located in Anchorage, to assist offices across the state with these offenses.

Year 1 Estimate - all amounts in thousands

Personal Services

One Assistant Attorney General IV (range 24, Anchorage) at \$166.3 annually

One Law Office Assistant II (range 13, Anchorage) at \$85.4 annually

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Analysis

Travel

Travel is estimated at \$50.0 per year total - travel and training will be extensive, particularly in year 1

Services

Services are estimated at \$39.0 annually for costs such as office space, telephones, core service charges, litigation costs, training, and related expenses

Commodities

Supplies are estimated at \$10.3 per year total to accommodate purchases for staff

Year 2 Estimate - all amounts in thousands

Personal Services

One Assistant Attorney General IV (range 24, Appeals - Anchorage) at \$166.3 annually
One Assistant Attorney General IV (range 24, 3rd JD - Anchorage) at \$166.3 annually
One Assistant Attorney General IV (range 24, Special Prosecutions - Anchorage) at \$166.3 annually
One Assistant Attorney General IV (range 24, 4th JD - Fairbanks) at \$170.7 annually
One Assistant Attorney General IV (range 24, 4th JD - Bethel) at \$238.6 annually

Victim/Witness Paralegal II (range 16, 4th JD - Bethel) at \$126.4 annually
Victim/Witness Paralegal II (range 16, Special Prosecutions - Anchorage) at \$88.9 annually
One Law Office Assistant II (range 13, Appeals - Anchorage) at \$85.4 annually
One Law Office Assistant II (range 13, Special Prosecutions - Anchorage) at \$85.4 annually
One Law Office Assistant II (range 13, 4th - Bethel) at \$106.6 annually

Travel

Travel is estimated at \$40.0 per year total - travel and training will be continue to be extensive, especially for the prosecutor in the Special Prosecutions section covering cases statewide

Services

Services are estimated at \$221.0 annually for costs such as office space, telephones, core service charges, litigation costs, training, and related expenses

Commodities

Supplies are estimated at \$54.3 per year total in year 2 to accommodate purchases for new staff

Year 3, etc. Estimate Change

Commodities

Supplies are estimated at \$24.3 per year total to reflect continuing costs after one-time purchases