

# Fiscal Note

State of Alaska  
2019 Legislative Session

Bill Version:	CSSSHB 20(STA)
Fiscal Note Number:	3
(H) Publish Date:	4/22/2019

Identifier: SSHB020-LAW-CRIM-3-16-19  
 Title: SEXUAL ASSAULT EXAMINATION KITS  
 Sponsor: TARR  
 Requester: House State Affairs

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)

	FY2020	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2020 Request	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
<b>OPERATING EXPENDITURES</b>	<b>FY 2020</b>	<b>FY 2020</b>					
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	<b>0.0</b>	***	***	***	***	***

**Fund Source (Operating Only)**

None							
<b>Total</b>	***	<b>0.0</b>	***	***	***	***	***

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2019) cost:** 0.0 *(separate supplemental appropriation required)*

**Estimated CAPITAL (FY2020) 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 If yes, by what date are the regulations to be adopted, amended or repealed?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:**

Not applicable, initial version based on the 2-13-19 Governor's FY20 request.

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Division:	Administrative Services Division	Date:	03/16/2019
Approved By:	Anna Kim, Administrative Services Director	Date:	03/16/19
Agency:	Office of Management and Budget		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2019 LEGISLATIVE SESSION**Analysis**

This legislation changes the definition of “consent” with respect to crimes involving sexual assault. Under current law a sexual assault is committed when a sexual act is committed “without consent” of the victim. “Without consent” means with or without resisting the victim 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 to be inflicted upon anyone or that the victim is incapacitated as a result of the defendant’s actions. This legislation would change the definition of consent to require “words or overt actions indicating freely given agreement to engage in sexual penetration or sexual conduct.” This change could increase the number of sexual assault cases that proceed to prosecution.

This legislation also adds a new mental state, “or reasonably should know,” to the crime of sexual assault when the victim is mentally incapable, incapacitated, or unaware that the sexual act is being committed. This is a new mental state in the criminal code and it is unknown how this change would impact cases.

The bill also requires law enforcement to send a sexual assault examination kit to the Crime Lab within 30 days of collection and ensure that the kit is tested within six months. Once the kit has been tested the law enforcement agency is required to notify the person from whom the kit was collected that the kit has been tested. The bill also defines what kits are ineligible for testing due to improper collection, not needed to identify the perpetrator of the crime, or if the person from whom the kit was collected does not wish to proceed with criminal charges.

The fiscal impact of this legislation to the Department of Law cannot be determined at this time. The indeterminate nature of the fiscal impact is largely due to three factors: inability to predict the number of sexual assault cases that could potentially proceed to prosecution due to the change in definition of consent; the addition of a new mental state to the criminal code and the potential impact of this new mental state on cases; and, the inability to predict the effects that the faster processing and testing of rape kits may have on prosecutorial resources.