

Fiscal Note

State of Alaska
2022 Legislative Session

Bill Version:	CSSSHB 5(JUD)
Fiscal Note Number:	13
(H) Publish Date:	5/9/2022

Identifier: HB005CSSS(JUD)-LAW-CRIM-CJL-05-05-22
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	1,400.9		1,400.9	1,400.9	1,400.9	1,400.9	1,400.9
Travel	40.0		40.0	40.0	40.0	40.0	40.0
Services	221.0		221.0	221.0	221.0	221.0	221.0
Commodities	44.3		24.3	24.3	24.3	24.3	24.3
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	1,706.2	0.0	1,686.2	1,686.2	1,686.2	1,686.2	1,686.2

Fund Source (Operating Only)

1004 Gen Fund (UGF)	1,706.2		1,686.2	1,686.2	1,686.2	1,686.2	1,686.2
Total	1,706.2	0.0	1,686.2	1,686.2	1,686.2	1,686.2	1,686.2

Positions

Full-time	10.0		10.0	10.0	10.0	10.0	10.0
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If yes, by what date are the regulations to be adopted, amended or repealed?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:

This fiscal note reflects changes adopted in the House Judiciary's committee substitute enacting a new definition of "consent" in the legislation.

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FISCAL NOTE ANALYSIS

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Analysis

The legislation repeals the definition of “without consent” in relation to sexual assault in Alaska’s statutes and enacts a new definition of “consent”. Under current law, 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(10). Under HB 5, “consent” is defined to mean “a person’s willingness to engage in the conduct at issue.” This portion of the legislation has no special effective date and would be effective 90 days after signature.

Between 2015 and 2020 the Criminal Division received 296-327 referrals each year for sexual assault cases. Each year 96-135 referrals met the elements of a crime with sufficient evidence and resulted in filing of criminal cases. Because this is a significant change in the law, this new definition will likely result in additional case referrals and additional cases filed. It is also expected the new definition will result in additional litigation associated with sexual assault cases.

In order to implement these amendments to the sexual assault statutes the Criminal Division will 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 with the new approach to consent. 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 for prosecutors and then need to follow that up with six regional in-person, hands-on trainings for prosecutors and law enforcement: 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.

The Criminal Division also anticipates the need for four 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. Three prosecutors and associate staff will be placed in the offices that receive the highest number of referrals for sexual assault: 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 thousandsPersonal Services

Two Assistant Attorney General IV (range 24, Special Prosecutions and Appeals) at \$166.3 each annually
 One Assistant Attorney General IV (range 24, 3rd JD - 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, Anchorage) at \$85.4 annually
 One Law Office Assistant II (range 13, Appeals - 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

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BILL NO. HB 5

AnalysisServices

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 \$44.3 in the first year to accommodate purchases for the new staff

Year 2, etc. Estimate ChangeCommodities

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