

### Fiscal Estimate - 2019 Session

Original     
  Updated     
  Corrected     
  Supplemental

|                             |                                   |
|-----------------------------|-----------------------------------|
| LRB Number <b>19-1845/1</b> | Introduction Number <b>SB-326</b> |
|-----------------------------|-----------------------------------|

**Description**  
 creating a sexual assault victim bill of rights

**Fiscal Effect**

**State:**

|   |   |  |
|---|---|--|
| <input type="checkbox"/> No State Fiscal Effect           | <input type="checkbox"/> Increase Existing Revenues | <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <input type="checkbox"/> Indeterminate                    | <input type="checkbox"/> Decrease Existing Revenues |  |
| <input type="checkbox"/> Increase Existing Appropriations |   | <input type="checkbox"/> Decrease Costs  |
| <input type="checkbox"/> Decrease Existing Appropriations |   |  |
| <input type="checkbox"/> Create New Appropriations        |   |  |

**Local:**

|   |   |  |
|---|---|--|
| <input type="checkbox"/> No Local Government Costs                                | 3. <input type="checkbox"/> Increase Revenue                                      | <b>5. Types of Local Government Units Affected</b><br><input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities<br><input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| <input checked="" type="checkbox"/> Indeterminate                                 | 4. <input type="checkbox"/> Decrease Revenue                                      |  |
| 1. <input checked="" type="checkbox"/> Increase Costs                             | <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory |  |
| <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory            |  |
| 2. <input type="checkbox"/> Decrease Costs  | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory            |  |
| <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory            | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory            |  |

|   |                                       |
|---|---------------------------------------|
| <b>Fund Sources Affected</b>  | <b>Affected Ch. 20 Appropriations</b> |
| <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS | 20.455 (2)(a)                         |

|  |   |                           |
|--|---|---------------------------|
| <b>Agency/Prepared By</b><br>DOJ/ Michelle Gauger (608) 267-6714 | <b>Authorized Signature</b><br>Christopher J McKinny (608) 264-6367 | <b>Date</b><br>11/14/2019 |
|--|---|---------------------------|

## Fiscal Estimate Narratives

DOJ 11/14/2019

|   |           |                     |        |               |          |
|---|-----------|---------------------|--------|---------------|----------|
| LRB Number  | 19-1845/1 | Introduction Number | SB-326 | Estimate Type | Original |
| <b>Description</b><br>creating a sexual assault victim bill of rights |           |                     |        |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

This bill makes changes to the rights of victims of sexual assault, including the right to choose to cooperate with a law enforcement agency, the right to be provided accurate written information, the right to choose whether to undergo a sexual assault forensic examination (SAFE), the right to have evidence collected from a SAFE stored for 50 years or until the end of the term of imprisonment or probation of a person convicted in the case, and the right to be notified 60 days prior to the destruction of SAFE evidence.

The bill requires the Department of Justice (DOJ) to test evidence related to a sexual assault within 90 days of collection, to store sexual assault kits (SAKs) for 50 years, or until the end of the term or imprisonment or probation of a person convicted in the case, and to notify victims 60 days prior to the destruction of SAFE evidence.

#### 90-Day Testing Requirement

The crime laboratories work closely with partners in the criminal justice system, including prosecutors, law enforcement agencies, judges, court officers, and defense attorneys, to establish priorities and realistic timelines for testing evidence. Under current law, the crime laboratories are required to perform DNA analysis of evidence in a timely manner. Creating a 90-day deadline for testing evidence related to a sexual assault will require this evidence to be given the highest priority by the crime laboratories and as a result, may have to be tested using less-efficient processes.

The crime laboratories use high throughput processing methods which result in the most efficient use of resources and, in aggregate, the shortest turnaround times for evidence testing. A typical turnaround time for testing a SAK is estimated to be 70 days, plus additional time for the law enforcement agency to submit the evidence to the lab and for the lab to intake and assign the evidence. The bill does not establish a specific deadline for law enforcement to submit sexual assault evidence to the crime laboratories although current law requires evidence to be submitted for DNA testing on a timely basis.

More complex evidence or SAKs requiring multiple cycles of testing may exceed the 90-day deadline. In order to meet the 90-day deadline, the crime laboratories will have to use less efficient procedures for testing, including testing samples individually instead of in batches.

Because of the change in the priority of evidence testing and the decrease in testing efficiency, establishing a 90-day deadline for testing sexual assault-related evidence may increase the turnaround times for evidence from other serious crimes that do not have a sexual assault component, including homicides and attempted homicides, by up to 18 months.

In order to meet the 90 day requirement, the crime laboratories will need to establish a dedicated unit for testing sexual assault-related evidence to prevent delays in testing evidence from other serious crimes. Staffing a dedicated unit for approximately 2,000 cases per year will require ongoing funding for 14 full-time equivalent (FTE) DNA Analysts, 6 FTE DNA Technicians, and 2 FTE Forensic Science Supervisors. There will be additional one-time costs for facilities, equipment and training totaling at least \$10 million. The implementation timeline for a dedicated unit is at least two years.

#### Storage Requirement

Under current practices, for cases reported to law enforcement, the DOJ crime laboratories store evidence

submitted for testing until the testing is complete, and then it is returned to the submitting law enforcement agency for retention. Beginning on January 1, 2016, SAKs collected from victims who choose not to report to a law enforcement agency are submitted by the health care professional and stored by the crime laboratories for up to 10 years, consistent with the statute of limitations.

The requirement for the DOJ crime laboratories to store all SAK evidence for up to 50 years, or until the end of the term of imprisonment or probation of a person who is convicted of the sexual assault will greatly increase the amount of storage required to retain SAK evidence. The Crime Laboratories incurred \$140,000 in one-time costs to purchase and install a commercial freezer in order to implement the 10-year retention period for just the SAKs of victims who choose not to report to a law enforcement agency. The ongoing rent costs for the space are \$45,000 annually. Based on SAK submissions since January 2016, this freezer capacity will be fully utilized prior to the end of the 10-year retention period for the first of the stored SAKs.

It is unknown how many SAKs will need to be retained for 50 years for victims who choose not to report to law enforcement and how long the period of retention will be for SAKs retained until the end of the period of imprisonment or probation. However, the crime laboratories will need to eventually add, at minimum, five times the capacity of the current freezer. Total one-time costs are estimated at \$700,000-\$1,000,000 and the increase in annual rent costs will be approximately \$225,000 at the current rate, increased by an average of 2% per year for inflation.

#### **Destruction Notification**

The bill requires DOJ, on behalf of the crime laboratories, to notify victims of sexual assault 60 days prior to the destruction of evidence obtained through a SAFE stored by the crime laboratories. Since notifications may need to be issued up to 50 years from the date that evidence was collected, DOJ will require the creation of an information system for victims to report name and address changes and at least 1 FTE position to track current contact information for victims to make a good faith effort to provide written notification of evidence destruction. System acquisition and customization is estimated to cost \$250,000 plus ongoing maintenance of \$50,000 per year.

#### **Long-Range Fiscal Implications**

This bill will require ongoing funding for facility expansions at the crime laboratories for evidence storage and for a dedicated sexual assault DNA unit, 22 FTE positions at the crime laboratories for a dedicated sexual assault DNA unit, and 1 FTE position in DOJ for tracking and notifying victims of evidence destruction.

## Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

|   |  |               |
|---|--|---------------|
| <b>LRB Number</b> <b>19-1845/1</b>  | <b>Introduction Number</b> <b>SB-326</b>       |               |
| <b>Description</b><br>creating a sexual assault victim bill of rights   |  |               |
| <b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>   |  |               |
| Establishment of a dedicated unit for sexual assault DNA testing will require approximately \$3.5 million for testing and a minimum of \$6.5 million for facility construction and equipment over a two-year implementation period. Increasing sexual assault kit storage capacity will cost \$700,000-\$1,000,000 for additional freezers and associated construction. Victim notification will cost \$250,000 for acquisition and customization of a victim contact information system. |  |               |
| <b>II. Annualized Costs:</b>  | <b>Annualized Fiscal Impact on funds from:</b> |               |
|   | Increased Costs      Decreased Costs           |               |
| <b>A. State Costs by Category</b>   |  |               |
| State Operations - Salaries and Fringes   | \$2,055,421                                    | \$            |
| (FTE Position Changes)  | (23.0 FTE)                                     |               |
| State Operations - Other Costs  | 780,000  |               |
| Local Assistance  |  |               |
| Aids to Individuals or Organizations  |  |               |
| <b>TOTAL State Costs by Category</b>  | <b>\$2,835,421</b>                             | <b>\$</b>     |
| <b>B. State Costs by Source of Funds</b>  |  |               |
| GPR   | 2,835,421                                      |               |
| FED   |  |               |
| PRO/PRS   |  |               |
| SEG/SEG-S   |  |               |
| <b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)</b>  |  |               |
|   | Increased Rev                                  | Decreased Rev |
| GPR Taxes   | \$   | \$            |
| GPR Earned  |  |               |
| FED   |  |               |
| PRO/PRS   |  |               |
| SEG/SEG-S   |  |               |
| <b>TOTAL State Revenues</b>   | <b>\$</b>                                      | <b>\$</b>     |
| <b>NET ANNUALIZED FISCAL IMPACT</b>   |  |               |
|   | <u>State</u>                                   | <u>Local</u>  |
| NET CHANGE IN COSTS   | \$2,835,421                                    | \$            |
| NET CHANGE IN REVENUE   | \$   | \$            |

| <b>Agency/Prepared By</b>           | <b>Authorized Signature</b>          | <b>Date</b> |
|-------------------------------------|--------------------------------------|-------------|
| DOJ/ Michelle Gauger (608) 267-6714 | Christopher J McKinny (608) 264-6367 | 11/14/2019  |