

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-5536/1	Introduction Number AB-0844
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Description
 creating a sexual assault victim bill of rights; collection and reporting of data regarding sexual assault kits; storage and processing of sexual assault kits; tracking of sexual assault kits in sexual assault cases; and requiring the exercise of rule-making authority

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 <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	5. Types of Local Government Units Affected
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
1. <input checked="" type="checkbox"/> Increase Costs	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenue	<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		

Fund Sources Affected	Affected Ch. 20 Appropriations
<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)	

Agency/Prepared By DOJ/ Michelle Gauger (608) 267-6714	Authorized Signature Christopher J McKinny (608) 264-6367	Date 3/12/2020
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Fiscal Estimate Narratives

DOJ 3/12/2020

LRB Number	19-5536/1	Introduction Number	AB-0844	Estimate Type	Original
Description creating a sexual assault victim bill of rights; collection and reporting of data regarding sexual assault kits; storage and processing of sexual assault kits; tracking of sexual assault kits in sexual assault cases; and requiring the exercise of rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

This bill, as amended, 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 choose whether to undergo a sexual assault forensic examination (SAFE); the right to have evidence collected from a SAFE stored for 50 years; and the right to be notified 60 days prior to the destruction of SAFE evidence.

The bill requires the Department of Justice (DOJ) to, among other things, process evidence submitted as part of a sexual assault kit (SAK) within 90 days of receipt; to store SAKs for non-report cases 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; and to collect and report information on SAKs and law enforcement compliance with reporting requirements.

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 processing SAKs 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.

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 processing SAKs may increase the turnaround times for evidence from other serious crimes by up to 18 months, including evidence related to homicides, attempted homicides, and sexual assaults not collected as part of a SAFE.

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. This bill, as amended, extends the storage period for SAKs collected from victims who choose not to report to a law enforcement agency from 10 to 50 years. It is unknown how many SAKs collected from victims will need to be retained for 50 years. However, the crime laboratories will need to eventually add, at minimum, five times the current freezer capacity.

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 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.

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, as amended, requires DOJ to ensure that law enforcement agencies notify each victim for whom a SAK was collected and analyzed, of the results of the analysis and the occurrence of any future sexual assault kit analysis that identifies a matching foreign DNA profile. In addition, victims must also be notified 60 days before their kits will be destroyed. If the kit was processed by the state crime labs and is being stored by a law enforcement agency, DOJ must ensure that the law enforcement agency makes the notification. If the kit is being stored by the state crime labs because the victim chose not to report, the state crime labs must make this notification.

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.

Sexual Assault Kit Tracking System

The bill requires DOJ to implement a new information system to track and report specific information on all sexual assault kits collected in the state and to provide victims of sexual assault access to information on the status of their kits. A similar system purchased by the State of Michigan cost \$3,600,000 over a five-year period, which includes the initial purchase of the software plus annual maintenance and support costs of approximately \$700,000 annually. The purchase of systems in other states and jurisdictions has ranged in cost from between \$150,000 and \$500,000, depending on the specific capabilities of the system selected (excluding hardware, software, licenses, maintenance, and staff support). Depending on the system chosen, long-term ongoing costs are projected to range from \$50,000 to \$800,000 per year for system maintenance, support and staffing.

Reimbursement of Medical Costs

This bill adds additional services that can be reimbursed to health care providers as part of a SAFE to include pregnancy testing and post-exposure prophylaxis for victims who may be at risk for pregnancy. It is not known how many victims who undergo a SAFE will require or receive follow up care related to pregnancy risk or the cost of the services that will be provided. The cost of revising forms, payment schedules, and health care provider training is indeterminate and can be absorbed within existing resources.

Sexual Assault Kit Data Collection and Reporting

The bill, as amended, requires DOJ to collect, analyze and annually publish statistical information on SAK submissions and processing, SAK-related criminal cases, and law enforcement compliance with reporting requirements, among other things. DOJ will incur at least \$50,000 in one-time costs for the acquisition or modification of a data reporting system with additional ongoing annual costs for 0.25 FTE analyst and system maintenance and support.

Long-Range Fiscal Implications

This bill will require ongoing funding for facility expansions at the crime laboratories for evidence storage and an additional 22 FTE positions at the crime laboratories for a dedicated sexual assault DNA unit; 1 FTE position in DOJ for tracking and notifying victims of evidence destruction; and .25 FTE for data collection and reporting. Finally, DOJ will incur ongoing costs for a sexual assault kit tracking system of up to \$800,000 per year depending on the system chosen.

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

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Description creating a sexual assault victim bill of rights; collection and reporting of data regarding sexual assault kits; storage and processing of sexual assault kits; tracking of sexual assault kits in sexual assault cases; and requiring the exercise of rule-making authority			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
One-time costs will total at least \$11.5 million. Establishment of a dedicated unit for sexual assault DNA testing will require approximately a minimum of \$6.5 million for facility construction and equipment and \$3.5 million for validation and training over a two-year implementation period. Increasing sexual assault kit storage capacity will cost approximately \$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. Establishing a sexual assault kit tracking system will cost at least \$500,000 for acquisition, licensing, software, hardware and implementation. Annual data collection and reporting will cost \$50,000 for the acquisition or modification of a data reporting system.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$2,080,500	\$
	(FTE Position Changes)	(23.2 FTE)	
	State Operations - Other Costs	911,300	
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$2,991,800	\$
B. State Costs by Source of Funds			
	GPR	2,991,800	
	FED		
	PRO/PRS		
	SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT			

	State	Local
NET CHANGE IN COSTS	\$2,991,800	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		
Authorized Signature		
Date		
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