

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3753

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: OCTOBER 28, 2024

SUMMARY

- Synopsis:** Imposes time constraints on submission and analysis of rape kits.
- Type of Impact:** Annual State, county, and municipal expenditure increases.
Annual State and municipal revenue increases.
- Agencies Affected:** Department of Law and Public Safety; County Prosecutors; State, County, and Municipal Law Enforcement Agencies.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State and Local Expenditure Increases	Indeterminate
Annual State and Local Revenue Increases	Indeterminate

- The Office of Legislative Services (OLS) finds that establishing time constraints on State, county, and municipal law enforcement submissions and analysis of all evidence related to a sexual assault will result in indeterminate annual expenditure increases. Further, the OLS estimates indeterminate annual revenue increases from the civil penalty established for knowingly failing to comply with the provisions of this bill.
- The OLS recognizes that a rape kit tracking system is currently being implemented pursuant to Attorney General Law Enforcement Directive No. 2023-1, v2.0 and funded through a federal grant. However, the OLS finds the requirement for the submission and processing of all evidence related to a sexual assault, in addition to the rape kit, may result in increased costs to the State, counties, and municipalities.

BILL DESCRIPTION

The Sexual Assault Evidence Submission Act would require municipal, county, State, and federal law enforcement agencies to submit evidence collected in the investigation of a sexual assault case to the appropriate forensic laboratory evidence within 10 business days and requires

this evidence to be analyzed by the lab within six months of when it is received, if sufficient staffing and resources are available.

In addition, the bill provides that law enforcement agencies are required within 45 days of the bill's effective date to provide to the Superintendent of State Police, in writing, the number of sexual assault cases in the agency's custody that have not been previously submitted to a laboratory for analysis. The superintendent and the agency are then required to make appropriate arrangements to ensure the submission of any evidence that was or is currently tied to a criminal investigation within 180 days. Within 120 days of the bill's effective date, the superintendent is required to submit to the Governor, Attorney General, President of the Senate, and Speaker of the General Assembly a plan for analyzing these submitted cases.

Under the bill, law enforcement agencies are required to provide written notice to the Superintendent of State Police upon discovering a violation. The bill provides that a law enforcement officer or employee of a law enforcement agency may be liable to a civil penalty of \$1,000 for an initial violation, \$2,500 for a second violation, and \$5,000 for any subsequent violations for failure to submit sexual assault evidence to the appropriate laboratory within 10 business days, as set forth in the bill. The bill indicates that a law enforcement officer or employee is not to be deemed at fault if the failure to comply occurred despite the law enforcement officer or employee's reasonable efforts.

The bill requires the Attorney General to issue guidelines regarding the handling of sexual assault evidence in this State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received on this bill. However, in response to FY 2025 OLS Discussion Points, the Department of Law and Public Safety provided information on the \$2 million federal Sexual Assault Kit Initiative grant it received in November of 2023 to establish a sexual assault kit tracking system. The department outlined the approved budget allocations for the specific components of the \$2 million grant. The department also discussed federal funds it has received since FY 2020 for sexual assault forensic evidence kits, and noted that no State funds were appropriated to supplement these federal grant funds.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that establishing time constraints on State, county, and municipal law enforcement submissions and analysis of all evidence related to a sexual assault will result in indeterminate annual expenditure increases. Further, the OLS estimates indeterminate annual revenue increases from the civil penalty established for knowingly failing to comply with the provisions of this bill.

State, County, and Municipal Expenditures: The bill requires State, county, municipal, and federal law enforcement agencies to submit the appropriate forensic laboratory evidence collected in the investigation of a sexual assault case within 10 business days and requires this evidence to be analyzed by the lab within six months of when it is received if sufficient staffing and resources are available. Attorney General Law Enforcement Directive 2023-1, v2.0 currently requires rape kits be submitted to labs within 10 calendar days of collection unless the agency receives written

approval from the County Prosecutor or Director of the Division of Criminal Justice, or their designee, detailing the reason for the delay. The OLS notes that although the bill provides a required turnaround time for the processing of evidence, this requirement is contingent on having sufficient staffing and resources available.

The OLS notes that a rape kit tracking system is currently being implemented pursuant to Attorney General Law Enforcement Directive No. 2023-1, v2.0 and funded through a federal grant. The data this system generates is estimated to provide insight into the problems encountered during the submission and processing of evidence. The bill's definition of "sexual assault evidence" includes all evidence collected in connection with a sexual assault investigation, including, but not limited to, evidence collected during a forensic sexual assault examination. The OLS finds the requirement for the submission and processing of all evidence related to a sexual assault, in addition to the rape kit, may result in increased costs to the State, counties, and municipalities.

Further, the OLS estimates that the bill's requirement to account for all sexual assault case evidence not submitted and submit this evidence to a laboratory for analysis will result in increased costs to the State, counties, and municipalities. The OLS does not have the data on the amount of untested evidence to estimate the potential costs related to providing and storing the evidence. The Attorney General Law Enforcement Directive No. 2023-1, v2.0 however, requires law enforcement agencies to report their inventory of rape kits to the Office of the Attorney General biannually on January 31 and July 31 of each year.

Finally, rape kits are only tested with the victim's consent. Without consent, the kits are held in storage. The Attorney General provided in the directive that untested kits are to be retained for 20 years as well as in cases where a victim allows police to take their samples but withdraws consent before a lab processes their rape kit. If the victim is a minor, this 20-year period begins once they reach the age of 18.

The bill requires the Attorney General to issue guidelines regarding the handling of sexual assault evidence in this State.

State, County, and Municipal Revenues: The OLS estimates there will be increased annual revenues from civil penalties. The bill adds a civil penalty of \$1,000 for an initial violation of a law enforcement officer or the agency's employee when there is a failure to comply. The bill establishes a \$2,500 civil penalty for a second violation and \$5,000 for any subsequent violations. The bill indicates that a law enforcement officer or employee will not be deemed at fault if the failure to comply occurred despite the law enforcement officer or employee's reasonable efforts.

Background: In March 2023, the New Jersey Attorney General issued Directive No. 2023-1, which, among other provisions, required the establishment of a county based sexual assault forensic evidence kit tracking system. In August 2024, the Attorney General amended the directive, which is now Attorney General Law Enforcement Directive No. 2023-1, v2.0. As stated by the Attorney General, "[t]his Amended Directive establishes a new mandate to prospectively and retroactively test all SAFE kits submitted to law enforcement, when the victim consents."

In November 2023, the Department of Law and Public Safety received a \$2 million federal grant to establish a sexual assault kit tracking system. According to the award description for this National Sexual Assault Kit Initiative grant, which is funded by the United States Department of Justice's Bureau of Justice Assistance, the \$2 million in grant funding for New Jersey is to be used for developing and launching a statewide sexual assault kit tracking system. Specifically, "[t]his system will require all law enforcement agencies and forensic nurse examiner programs across the state to enter and track every Sexual Assault Forensic Evidence (SAFE) kit currently in their possession and all future kits turned over to them. The tracking system will provide every victim of sexual assault the ability to track the progress of their kit and case. Additionally, the new system

will allow monitoring of kits from collection through processing to aid in better identification of delays in submission or analysis, as well to improve collaboration with other tracking systems including CODIS [Combined DNA Index System] and VICAP [Violent Criminal Apprehension Program]. Funds will also be used to expand long-term storage capacity for SAFE kits.”

Since FY 2020, the Department of Law and Public Safety has received \$5.8 million in federal funds to support the investigation and prosecution of cold case sexual assaults and funds toward a comprehensive approach to unsubmitted sexual assault forensic evidence kits.

**New Jersey Sexual Assault Forensic Evidence Kit Related Federal Funds
(FY 2020 to FY 2023)***

YEAR	AMOUNT	Sexual Assault Forensic Evidence Kit Purpose Area
FY2020	\$ 918,058	Investigation and Prosecution of Cold Case Sexual Assaults
FY2022	\$1,500,000	Investigation and Prosecution of Cold Case Sexual Assaults
FY2023	\$2,000,000	Comprehensive Approach to Unsubmitted Sexual Assault Kits
FY2023	\$1,400,000	National Cold Case Initiative
TOTAL	\$5,818,058	

*Sexual Assault Kit Initiative, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice

Section: Law and Public Safety

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).