

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0559
Prime Sponsor(s): Sen. Carroll

Date: January 15, 2015
Bill Status: Senate Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: PROSTITUTION DEFENSE FOR HUMAN TRAFFICKING VICTIM

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue Cash Funds	Minimal increase. See State Revenue section.	
State Expenditures	Minimal workload increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill addresses culpability for the crime of prostitution when the person is a victim of human trafficking. Specifically, it:

- creates an affirmative defense for state or municipal offenses committed on or after July 1, 2015, if the act was committed as a direct result of the person being a victim of human trafficking; and
- establishes a procedure to petition the court to vacate convictions for state or municipal offenses committed prior to July 1, 2015.

Background

Between January 1, 2012, and December 31, 2014, there were 94 cases resulting in at least one conviction of the crime of prostitution at the state level. It is unknown how many of these convictions involve victims of human trafficking. As of this writing, no data on the number of any municipal code violations is available. Under current law, a victim of human trafficking is a person who is alleged to have been, or who has been, subject to human trafficking for involuntary or sexual servitude.

Under the bill, postconviction relief may entail vacating the criminal conviction. This does not include automatic sealing of arrest and criminal records. Under current rules, a person must further petition the court for an order to seal arrest and criminal records. Once such an order to seal records is granted, the person must take the order to the Department of Public Safety to seal arrest records and to any other jurisdictions that have criminal records.

State Revenue

Beginning in FY 2015-16, this bill may increase state revenue by a minimal amount.

Judicial Department. To the extent that convictions are vacated as a result of SB15-030, the fiscal note assumes a small number of petitions to seal arrest and criminal records will also be filed. To petition a court for sealing arrest and criminal records, a fee of up to \$424 is paid to the Judicial Department. The fiscal note assumes any such revenue will be minimal.

Department of Public Safety. The Department of Public Safety charges a fee of \$27.98 to seal arrest records. The fiscal note assumes any such revenue will be minimal.

State Expenditures

This bill will increase workload for the trial courts in the Judicial Department by a minimal amount, to address motions and hearings for postconviction relief and any related petitions to seal arrest and criminal records. To the extent that petitions to seal arrest and criminal records are granted, workload will also increase for the Department of Public Safety. Given the low number of recent convictions, only a small portion of which are assumed to involve victims of human trafficking, the fiscal note assumes no new appropriations will be required for the Judicial Department or the Department of Public Safety.

Local Government Impact

Local governments are impacted in several ways. First, workload for district attorneys may increase or decrease, depending on the complexity of the case where an affirmative defense is claimed, and to respond to petitions for postconviction relief. Second, similar to the state courts, any motions and hearings for postconviction relief requested for municipal violations will increase workload for municipal courts. Finally, if a unit of local government is ordered to seal arrest or other records as a result of the court granting postconviction relief under SB15-030 and a subsequent petition, workload could increase for local law enforcement agencies. The fiscal note assumes that these impacts will be minimal.

TABOR Impact

This bill increases state revenue from fees, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund in the year following the excess collections.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections
Municipalities

Counties
Public Safety

District Attorneys
Sheriffs

Judicial