

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated January 15, 2015)

<b>Drafting Number:</b> LLS 15-0559	<b>Date:</b> February 10, 2015
<b>Prime Sponsor(s):</b> Sen. Carroll Rep. Foote	<b>Bill Status:</b> House Judiciary
	<b>Fiscal Analyst:</b> Kerry White (303-866-3469)

**BILL TOPIC:** PROSTITUTION DEFENSE FOR HUMAN TRAFFICKING VICTIM

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
<b>State Revenue</b> Cash Funds	Minimal increase. See State Revenue section.	
<b>State Expenditures</b>	Minimal workload increase. See State Expenditures section.	
<b>TABOR Set-Aside</b>	Minimal increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

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

**Summary of Legislation**

This **reengrossed** 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 is found to have been, based on a preponderance of the evidence, committed as a direct result of the person being a victim of human trafficking; and
- establishes a procedure to petition the court, on or after January 1, 2016, to seal (for adults) or expunge (for juveniles) convictions for state or municipal offenses committed prior to July 1, 2015.

The request of a person who asserts the affirmative defense, the court may at any time issue a protection order to protect the confidentiality of that person.

On or after January 1, 2019, the Human Trafficking Council within the Department of Public Safety is required to conduct a post-enactment review and report its findings to the Judiciary Committees of the General Assembly.

**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.

Once such an order to seal or expunge 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 sealed or expunged 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.

### **TABOR Impact**

This bill increases state revenue from fees, which will increase the amount required to be refunded under TABOR.

### **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, as well as to issue any protection orders. 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 for this work.

The Human Trafficking Council within the Department of Public Safety is required to conduct a post-enactment review and report its findings to the Judiciary Committees of the General Assembly in 2019. This work can be accomplished within existing appropriations.

### **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.

**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