

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0597
Prime Sponsor(s): Rep. Lundeen

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Bill Status: House Judiciary
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BILL TOPIC: VICTIMS OF HUMAN TRAFFICKING AND PROSTITUTION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	<u>\$170,948</u>	
General Fund	170,948	
FTE Position Change		
Appropriation Required: \$170,948 - Department of Human Services (FY 2015-16)		

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

Summary of Legislation

This bill establishes immunity for minors from criminal prosecution for prostitution. Law enforcement officers that have contact with a minor suspected of prostitution are required to immediately take the youth to a county department of human or social services, who are then required to conduct an assessment and provide services appropriate to that minor's status as a victim of human trafficking. This assessment must include whether placement in a residential facility is most appropriate for the minor.

On or after July 1, 2015, the bill specifies that it is an affirmative defense to charges of prostitution if the minor is a victim of human trafficking. The bill clarifies that any person whose claim is based on the fact that the individual was a victim of human trafficking may receive compensation pursuant to the Colorado Crime Victim Compensation Act.

Background

In the past three years, there have been 94 cases that included a conviction of prostitution. It is not known how many cases involved minors, and the fiscal note assumes that the majority of these cases involved adults. However, recent reports indicate that there may be a large number of sex workers in Colorado that are minors.

House Bill 13-1195 charged the Colorado Commission on Criminal and Juvenile Justice (CCJJ) to review the implementation of human trafficking statutes since their inception in 2007. An October 2013 report from the CCJJ found that 42 juveniles were charged with prostitution between July 1, 2006, and August 15, 2013.

House Bill 14-1273 revised existing laws concerning human trafficking and created the Colorado Human Trafficking Council within the Department of Public Safety (DPS). The council must make recommendations to the Judiciary Committee of the General Assembly by January 1, 2016.

State Revenue

Beginning in FY 2015-16, as a result of the decrease in convictions of minors for prostitution that may occur as a result of this bill, state revenue credited to the Fines Collection Cash Fund in the Judicial Department may decrease. The fine penalty for a class 3 misdemeanor is \$50-\$750. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined.

TABOR Impact

Beginning in FY 2015-16, the bill may decrease state revenue from fines collected, which will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund in the year following the excess collections.

State Expenditures

The bill may increase workload in several state agencies. The bill results in a one-time General Fund cost **in the Department of Human Services by \$170,948 in FY 2015-16**. Table 1 identifies these costs.

Table 1. Expenditures Under HB 15-1019		
Cost Components	FY 2015-16	FY 2016-17
Best practices research	\$75,000	
Expert Consultant	\$70,000	
Training program for counties	\$25,948	
TOTAL	\$170,948	

Assumptions. This fiscal note assumes that the Department of Human Services (DHS) will serve an initial role in identifying best practices, and will develop and provide a formal training program to counties. The bill does not identify any formal requirement of the DHS to provide long-term training or data collection beyond assisting counties in the development and initial implementation of the new requirements set forth under the bill. This fiscal note assumes that the DHS will complete this work in FY 2015-16. If the DHS is not able to complete this work in FY 2015-16, any necessary adjustments in appropriations can be addressed through the annual budget process.

Best practices research. The DHS will conduct research to identify best practices in assessing the health and well being of minors suspected of prostitution and status as a trafficking victim. The DHS will evaluate current procedures in counties and assess the most appropriate evidence-based practices. This research may include piloting tools specific to county and state

needs. This research will also include an extensive look at national standards for best practices and innovative approaches that may be used in other states. This cost is based on recent projects conducted of similar size and scope in the DHS.

Expert consultant. The DHS will contract with a subject matter expert or experts on human trafficking, and specifically prostitution among minors. This expert consultant will help design, evaluate, and oversee the best practices research. Once best practices and formal recommendations have been established, the expert consultant will help the DHS develop the training program to be used in counties. The consultant will also serve as a liaison between the DHS and established organizations working to address human trafficking in Colorado. This cost is based on retaining subject matter experts for year long projects.

County training. The DHS will be responsible for training county department staff on the new standards and established best practices. The fiscal note assumes that the county training curriculum will be a two-day course. The expert consultant will be responsible for conducting the training.

Judicial Department. To the extent that minors are currently being prosecuted for prostitution, the bill may reduce workload for the trial courts. However, given the low number of cases in recent years, any workload impact is anticipated to be minimal and will not require a reduction in appropriations.

Office of the Child's Representative. To the extent that the bill reduces workload associated with providing legal services to minors currently prosecuted for prostitution, these costs will be offset by any increase in the number of child abuse/neglect cases reported. However, this fiscal note assumes that any workload impact will be minimal and will not require a change in current appropriations.

Local Government Impact

The bill may have a varied impact on local governments. The bill may reduce the workload for district attorneys, if minors are currently being charged with prostitution. Given the low number of associated cases in recent years, the fiscal note assumes that any change in the number of minors being charged with prostitution to be minimal.

The bill may also result in a shift in the types of services counties are currently offering minors that may be in contact with local law enforcement. Counties may currently provide minors with services required under current law. Once the DHS establishes procedures for the health, risk, and safety assessment of minors suspected of prostitution, counties may offer different services to such minors. This will likely vary based on the caseload impact on counties and current practice. Given the unknown number of minors suspected of prostitution in the state and variations in current practices, the potential costs to local governments may vary.

The bill also has the potential to reduce the number of individuals incarcerated and may reduce costs for sheriffs and local jails. The penalty for a class 3 misdemeanor is 0 to 6 months imprisonment in a county jail, a fine of \$50 to \$750, or both. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

The bill will also reduce local fine revenue associated with municipal penalties. For example, Denver's municipal code includes a \$500 fine for prostitution. The bill may reduce such code violations, resulting in a workload reduction for city attorneys and lost fine revenue collections. However, no data on the potential caseload and lost fine revenue is available.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

The bill requires an appropriation of \$170,948 from the General Fund to the Department of Human Services in FY 2015-16.

Departmental Difference

The Department of Human Services (DHS) identified costs of \$420,805 and 0.8 FTE in FY 2015-16 and \$84,242 and 1.0 in FY 2016-17 and future fiscal years. The DHS assumes that the bill requires dedicated staff to monitor and oversee the application of the immunity for minors believed to be involved in prostitution. These full costs are not included in the fiscal note estimate as the fiscal note assumes that the bill does not specifically require the DHS to annually report on the specific changes in criminal prosecution for minors and that the existing case management system can handle the intake for these cases when a referral is made to county departments under the bill. For instance, similar referrals may already be occurring based on law enforcement's discretion on whether to charge a youth or refer a youth to the child welfare system. The fiscal note assumes that any workload increase can be accomplished in FY 2015-16 by existing staff with the help of outside consultants.

State and Local Government Contacts

Corrections
Human Services
Sheriffs

Counties
Judicial

District Attorneys
Municipalities