

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0824-04
Bill No.: HCS for HB 214
Subject: Crimes and Punishment; Civil Rights; Victims of Crime
Type: Original
Date: February 17, 2011

Bill Summary: This proposal revises laws regarding human trafficking.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Department of Mental Health (DMH)** stated the bill does specifically address the provision of mental health and substance abuse services for individual victims of sexual offenses. It does say that agencies may provide services if funding exists. It is therefore assumed that the proposal places no requirements on the Department of Mental Health that would create a fiscal impact beyond its current level of operation.

In response to a previous version of the proposal, officials from the **Office of the Attorney General (AGO)** stated the proposal creates new civil remedies whereby the AGO would bring a cause of action on behalf of victims of human trafficking. AGO assumes that any potential costs from the proposal could be absorbed with existing resources. If multiple cases arise from the passage of this proposal, the AGO may seek additional staff to handle the increase in workload.

Officials from the **Department of Health and Senior Services** assume the proposal would not fiscally impact their agency.

Officials from the **Department of Public Safety - Director's Office** assume any costs associated with this proposal can be absorbed with existing resources.

In response to a previous version of the proposal, officials from the **Office of Prosecution Services** and the **Department of Public Safety - Highway Patrol** each assumed the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any indigent clients faced with the enhanced definition and enhanced penalties for human trafficking.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

ASSUMPTION (continued)

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to a previous version of the proposal, officials from the **Department of Social Services (DOS) - Division of Youth Services** anticipated it will be able to absorb any fiscal impact resulting from this proposal. DOS' divisions of **Family Support** and the **Children's Division** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state this bill proposes to revise laws regarding human trafficking. The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class A felony.

This bill expands the crimes of human trafficking by adding new crime criteria. DOC had one case last year charged under existing statute with a sentence of 20 years. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of the expansions of these crimes, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Incarceration / Probation for offenders of revised law regarding human trafficking	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding human trafficking. In its main provisions, the bill:

- (1) Expands the crime of abusing an individual through forced labor to include by causing or threatening to cause serious physical injury to any person, by physically restraining or threatening to physically restrain another person, by blackmailing, or by causing or threatening to cause financial harm to any person (Section 566.203, RSMo);
- (2) Expands the crime of trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor to include if a person knowingly entices by the use of force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm as well as benefits financially or by receiving anything of value for participating in these activities (Section 566.206);

FISCAL DESCRIPTION (continued)

(3) Expands the crime of trafficking for the purposes of sexual exploitation to include if a person knowingly entices or harbors by the use of force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm to another person for the use or employment in sexual conduct, a sexual performance, or the production of explicit sexual material as well as benefits financially or by receiving anything of value for participating in these activities (Section 566.209);

(4) Expands the crimes of sexual trafficking of a child and sexual trafficking of a child younger than 12 years of age to include if a person knowingly uses force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm to a person younger than 18 years of age to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material (Sections 566.212 and 566.213);

(5) Specifies that a court must order a defendant convicted of trafficking or contributing to human trafficking to pay restitution to the victim regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution must be \$100,000 plus an amount determined by the court necessary to compensate the victim for the value of their labor and/or for the mental and physical rehabilitation of the victim and any child of the victim (Section 566.218);

(6) Specifies that it will be an affirmative defense for any victim of trafficking being prosecuted for a prostitution offense under Chapter 567 that the person was a victim of trafficking during the time of the alleged offense and that the crime was committed at the direction of another person (Section 566.223.2);

(7) Authorizes the Department of Public Safety to establish procedures for identifying victims of trafficking and to develop training programs and standard protocols to educate employees of appropriate agencies on state and federal laws regulating human trafficking. Upon a first encounter with a person who reasonably appears to be a victim of trafficking, a law enforcement agency or prosecuting or circuit attorney's office must notify the Department of Social Services and, where applicable, juvenile justice authorities in order for the agencies to determine whether the victim is eligible for state or federal assistance (Sections 566.223.3 and 566.223.4);

(8) Allows the Department of Social Services to coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking and allows state agencies to implement programs with nonprofit agencies, domestic and sexual violence shelters and nongovernment organizations to provide services to confirmed victims of trafficking if funds are available (Section 566.223.5);

FISCAL DESCRIPTION (continued)

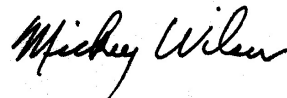
(9) Allows a victim of trafficking to bring a civil action within ten years of the final criminal order, the victim's emancipation from the defendant, or the victim's eighteenth birthday against any person who pled guilty to or was found guilty of trafficking to recover the actual damage sustained, court costs, attorney fees, and punitive damages when determined appropriate by the court (Section 566.223.6); and

(10) Allows the Attorney General to file a civil action to recover from any person or entity that benefits from trafficking a civil penalty of up to \$50,000 for each violation and injunctive and other equitable relief as may be ordered by the court. Any money or property collected by a civil action must first be used to pay restitution to the victim (Section 566.223.7).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Department of Social Services
Office of the Attorney General
Department of Health and Senior Services
Department of Mental Health



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