



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

SB 18-084

FINAL FISCAL NOTE

Drafting Number:	LLS 18-0635	Date:	May 22, 2018
Prime Sponsors:	Sen. Kefalas Rep. Landgraf; Lundeen	Bill Status:	Postponed Indefinitely
		Fiscal Analyst:	Kerry White 303-866-3469 Kerry.White@state.co.us

Bill Topic: PROTECTION MINOR VICTIMS OF HUMAN TRAFFICKING

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>)
	<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill clarifies that a minor who commits behavior that would be considered prostitution if committed as an adult is a victim of human trafficking and requires that these minors be referred for care and services. The bill may reduce state revenue and increases workload for state agencies and local governments on an ongoing basis.

**Appropriation
Summary:** No appropriation is required.

**Fiscal Note
Status:** This revised fiscal note reflects the introduced bill, as amended by the Senate Health and Human Services Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill specifies that only persons over the age of 18 may commit the offenses of prostitution, soliciting for prostitution, or prostitution making display (prostitution-related offenses). It creates a presumption that a minor who engages in conduct that would be prostitution if committed by an adult is a victim of human trafficking. Under the bill, these minors must be referred to the county department of human or social services for care and services. The law enforcement or county department of human or social services must contact, if one has been appointed, the minor's guardian ad litem, court-appointed special advocate, specialized victim's advocate, or attorney to notify them that the minor may be a victim of human trafficking.

The bill also clarifies the term sexually exploited minor and that a juvenile who committed a delinquent act while a victim of sexual exploitation of a child, or human trafficking of a minor for involuntary servitude or sexual servitude is not considered a juvenile delinquent. That minor is immune from criminal liability or any delinquency proceedings under these circumstances under a preponderance of the evidence standard. If the minor is charged in delinquency or other criminal proceedings, the minor may assert, any at time prior to trial, that he or she is entitled to immunity. The minor is entitled to a pretrial determination of statutory immunity within 30 days of the filing of the motion. If denied by the court, the minor may raise an immunity defense or an affirmative defense.

Background

County departments of human and social services provide in-home services, mental and behavioral treatment, training on parenting of adolescents, and other required services to youth. Referrals of youth suspected of being involved in human trafficking numbered 307 in calendar year 2017. According to the Department of Human Services (DHS), very few counties have human trafficking-specific services.

As of this writing, it is unknown how many juveniles were prosecuted for prostitution-related offenses or adjudicated as a juvenile delinquent while a victim of human trafficking, or the disposition of their cases. The crime of prostitution is a class 3 misdemeanor. The crime of soliciting a prostitute is a class 3 misdemeanor. Making a display as a prostitute is a class 1 petty offense.

State Revenue

Beginning in FY 2018-19, this bill may decrease state revenue from court fines and fees if fewer juveniles are prosecuted for prostitution-related offenses. The fine penalty for a class 3 misdemeanor is \$50 to \$750 and the fine penalty for a class 1 petty offense is up to \$500. Because the courts have the discretion of incarceration, imposing a fine, or both, and the number of juveniles assessed fines is unknown, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed by the courts, the fiscal note assumes that any revenue reduction is minimal.

TABOR Impact

This bill may reduce state revenue from court fees and fines, which may reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill may reduce the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget may increase by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Overall, the bill is anticipated to increase workload for state agencies, as discussed below.

Department of Human Services. The bill may increase workload for the department by a minimal amount to provide additional training and information to county department of human or social services regarding the changes under the bill. This workload does not require an increase in appropriations.

Judicial Department. To the extent that the bill reduces case filings for prostitution-related offenses by juveniles, workload will decrease. This decrease is likely to be offset by an increase in dependency and neglect cases. If any juveniles were sentenced to probation, workload will decrease under the bill. If more juveniles are appointed guardians ad litem, costs will increase for the Office of the Child's Representative. If juveniles are charged for delinquency or criminal offenses and file petitions to have a determination of statutory immunity, workload will increase. Overall, these impacts are assumed to be minimal and do not require a change in appropriations for the Judicial Department.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel may decrease under the bill if fewer cases are filed. To the extent this occurs, this analysis assumes the affected offices will request a reduction in appropriations through the annual budget process.

Local Government

Overall, this bill is expected to both increase and reduce local government revenue, workload, and costs as described below. The exact impact to a particular local government will vary.

District attorneys. The bill reduces workload and costs for district attorneys if fewer juveniles are prosecuted for prostitution-related offenses.

County jails. Under current law, a court may sentence an offender to jail for a class 1 petty offense or a class 3 misdemeanor for a period of between 0 and 6 months. To the extent that fewer juveniles are sentenced to jail as a result of this bill, costs are reduced. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

Denver County Court. The court may try fewer misdemeanor and petty offense prostitution related cases under the bill, reducing workload for the Denver County Court, managed and funded by the City and County of Denver. Probation services in the Denver County Courts may also experience a minimal decrease workload and revenue to supervise fewer persons convicted of prostitution related offenses within Denver County.

Youth services. To the extent that this bill results in more juveniles receiving services, costs and workload for county departments of human and social services will increase. As of this writing, it is believed that many of the juveniles affected by the bill are already being referred to counties for services.

Effective Date

The bill was postponed indefinitely by the Senate Judiciary Committee on April 9, 2018.

State and Local Government Contacts

Counties	District Attorneys	Human Services
Information Technology	Judicial	Municipalities
Public Safety	Sheriffs	