



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 19-185

FISCAL NOTE

Drafting Number: LLS 19-0892 Date: March 14, 2019
Prime Sponsors: Sen. Fields; Lundeen Bill Status: Senate SVMA
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Bill Topic: PROTECTIONS FOR MINOR HUMAN TRAFFICKING VICTIMS

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund (minimal), Local Government (minimal), Statutory Public Entity

Under this bill a minor charged with prostitution is immune from criminal liability if probable cause exists to believe they are a victim of human trafficking for involuntary or sexual servitude. This bill also makes being a minor who is a victim of human trafficking for involuntary or sexual servitude an affirmative defense to any criminal violation. Overall, this bill decreases state and local government revenue, costs, and workload by a minimal amount.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill clarifies definitions in the Colorado Children's Code related to human trafficking of a minor for involuntary servitude and human trafficking of a minor for sexual servitude. A minor charged with prostitution is immune from any criminal liability or juvenile delinquency if probable cause exists to believe he or she was a victim of human trafficking of a minor for involuntary or sexual servitude. This bill also makes being a victim of human trafficking of a minor for involuntary or sexual servitude an affirmative defense to any criminal violation, except for class one felonies. Any person under the age of 18 that engages in prostitution-related conduct must be referred to the county department of human or social services or the child abuse hotline. Lastly, this bill requires a post-enactment review five years after it's passage.

Background and Assumptions

Under current law, acts related to the solicitation of a child or the arrangement of a situation where a child may practice prostitution are a class 3 felony. Inducing a child to commit prostitution by threat or intimidation is a class 2 felony. Engaging in prostitution is a class 3 misdemeanor. In 2018, 22 offenders were convicted and sentenced for a child prostitution-related felony and 25 offenders were convicted and sentenced for engaging in prostitution. It is not known if any of

these offenders were minors or how many criminal acts were committed by a minor that was a victim of human trafficking. It is assumed that few, if any, of the 2018 prostitution offenses were committed by a minor; therefore, impacts to the criminal justice system will be minimal.

### **State Revenue**

Beginning in the current FY 2018-19, if fewer minors are prosecuted for prostitution-related offenses this bill will decrease state revenue from court fines and fees by a minimal amount. The fine penalty for a class 3 misdemeanor is \$50 to \$750. Because the courts have the discretion of incarceration, imposing a fine, or both, and the number of minor offenses is unknown, the precise impact to state revenue cannot be determined, but is assumed to be minimal. Court fine and fee revenue is subject to TABOR.

### **State Expenditures**

Beginning in the current FY 2018-19, this bill impacts state agency workload as discussed below.

**Judicial Department.** This bill impacts judicial agency costs and workload in several ways. First, to the extent that the bill reduces case filings for prostitution-related offenses by minors, trial court workload will decrease. Costs and workload may also decrease in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. This decrease is likely to be offset by an increase in dependency and neglect cases. Second, probation workload may be reduced by no longer having to supervise any minor convicted of a prostitution-related offense or other criminal activity committed as a victim of human trafficking and sentenced to probation. Third, if more minors are appointed guardians ad litem, costs will increase for the Office of the Child's Representative. Lastly, workload will increase if minors are charged for delinquency or criminal offenses and file petitions to have a determination of statutory immunity. Overall, these impacts are assumed to be minimal and will not require a change in appropriations for any Judicial Department agency.

**Department of Human Services.** To the extent that this bill decreases the number of juveniles adjudicated of prostitution-related crimes or other criminal activity and sentenced to the Division of Youth Services, costs will decrease. Workload may increase by a minimal amount to provide additional training and information to county department of human or social services regarding the changes under the bill. These impacts are assumed to be minimal and any decrease in costs will be addressed through the annual budget process, if necessary.

**Legislative service agencies.** This bill increases workload for the Office of Legislative Legal Services, Legislative Council Staff, and the Joint Budget Committee Staff by a minimal amount to conduct a post-enactment review. No increase in appropriations for these agencies is required.

**TABOR refunds.** The bill is expected to decrease state General Fund obligations for TABOR refunds by a minimal amount in FY 2018-19 and FY 2019-20. Under current law and the Legislative Council Staff December 2018 forecast, the bill will correspondingly reduce the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

**Local Government**

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

**District attorneys.** District attorney workload is decreased if fewer juveniles are prosecuted for prostitution-related offenses.

**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.

**Denver County Court.** The bill decreases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a decrease in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

**Effective Date**

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

**State and Local Government Contacts**

Counties  
Information Technology  
Sheriffs

District Attorneys  
Judicial

Human Services  
Municipalities