

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5531H.04C
 Bill No.: HCS for HB 2688
 Subject: Crimes and Punishment; Criminal Procedure; Department of Public Safety
 Type: Original
 Date: March 13, 2024

Bill Summary: This proposal establishes and modifies provisions relating to human trafficking.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
General Revenue	(\$16,148)	(\$39,531)	(\$60,483)	(\$173,689)
Total Estimated Net Effect on General Revenue	(\$16,148)	(\$39,531)	(\$60,483)	(\$173,689)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
Total Estimated Net Effect on FTE	0	0	0	\$0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
Local Government	Unknown	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

§§556.039, 566.200 - 566.223, 573.024, 589.414 and 610.131 – Provisions relating to human trafficking

Officials from the **Department of Corrections (DOC)** state while this legislation does not define a felony class in §566.207 subsection 2 and 3, the DOC will estimate the terms of imprisonment given in the bill to estimate a fiscal impact. Section 566.207.2 states that a person who commits the offense of patronizing a victim of sexual servitude if the victim is eighteen years or older is punishable by imprisonment for a term of not less than five years and not more than ten years. The DOC will assume a fiscal impact comparable to that of a Class B felony.

Section 566.207.3 states the offense of patronizing a victim of sexual servitude if the victim is under eighteen years of age is punishable by imprisonment for a term of life without probation or parole. The DOC will assume a fiscal impact comparable to that of a Class A felony.

Given the seriousness of class B felony offenses and that the introduction of a completely new class B felony offense is a rare event, the DOC assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class B felony as their most serious sentence, have an average sentence length of 9.0 years and serve, on average, 3.4 years in prison prior to first release. The DOC assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

Change in prison admissions and probation openings with legislation-Class B Felony

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	5	5	5	5	5
Parole						1	2	3	4	4
Probation										
Impact										
Prison Population	1	2	3	4	5	5	5	5	5	5
Field Population						1	2	3	4	4
Population Change	1	2	3	4	5	6	7	8	9	9

Given the seriousness of class A felony offenses and that the introduction of a completely new class A felony offense is a rare event, the DOC assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class A felony have an average sentence length of 17.1 years and serve, on average, 12.3 years in prison prior to first release. The DOC assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

The sentence lengths associated with these offenses pushes the estimate of total cumulative impact on the department beyond the 10-year time frame of this fiscal note. However, the estimated impact by FY 2034 is 10 additional offenders in prison.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	6	7	8	9	10
Parole										
Probation										
Impact										
Prison Population	1	2	3	4	5	6	7	8	9	10
Field Population										
Population Change	1	2	3	4	5	6	7	8	9	10

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the DOC is 15 additional offenders in prison and 4 additional offenders on field supervision by FY 2034.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison	2	4	6	8	10	11	12	13	14	15
Parole	0	0	0	0	0	1	2	3	4	4
Probation	0	0	0	0	0	0	0	0	0	0
Impact										
Prison Population	2	4	6	8	10	11	12	13	14	15
Field Population	0	0	0	0	0	1	2	3	4	4
Population Change	2	4	6	8	10	12	14	16	18	19

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.545 per day or an annual cost of \$9,689 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$99.90 per day or an annual cost of \$36,464 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	2	(\$9,689)	(\$16,148)	0	\$0	0	(\$16,148)
Year 2	4	(\$9,689)	(\$39,531)	0	\$0	0	(\$39,531)
Year 3	6	(\$9,689)	(\$60,483)	0	\$0	0	(\$60,483)
Year 4	8	(\$9,689)	(\$82,256)	0	\$0	0	(\$82,256)
Year 5	10	(\$9,689)	(\$104,877)	0	\$0	0	(\$104,877)
Year 6	11	(\$9,689)	(\$117,672)	0	\$0	1	(\$117,672)
Year 7	12	(\$9,689)	(\$130,937)	0	\$0	2	(\$130,937)
Year 8	13	(\$9,689)	(\$144,685)	0	\$0	3	(\$144,685)
Year 9	14	(\$9,689)	(\$158,931)	0	\$0	4	(\$158,931)
Year 10	15	(\$9,689)	(\$173,689)	0	\$0	4	(\$173,689)

In addition to the above fiscal impact, DOC officials state §589.414 may have an operational impact on the department, but the impact is one that can be absorbed and, therefore, will have no fiscal impact on the DOC.

Oversight has no information to the contrary. Therefore, Oversight will present the fiscal impact of this proposal as provided by the DOC.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state per the recently released National Public Defense Workload Study, the new charge contemplated by this change to §566.207 would take approximately ninety-nine hours of SPD work for reasonably effective representation. Representation in one hundred cases under this section would result in a need for an additional four to five attorneys. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown.

Oversight assumes this proposal will not create the number of new cases required to request additional FTE for the SPD and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the

SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

In response to a previous version of this proposal, officials from the **Office of the State Courts Administrator (OSCA)** stated this proposal may result in some impact but there is no way to quantify the impact at this time. Any significant changes will be reflected in future budget requests.

Oversight has no information to the contrary. Therefore, Oversight will present no fiscal impact for OSCA for this proposal.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of a new crimes [566.202 and 566.207] creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that violations of §566.207.2 provide for a fine not to exceed \$250,000 and violations of §566.217.2 provide for a fine of not more than \$1,000 per offense in addition to any individual county/municipal fees and court costs. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fines vary widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive Unknown fiscal impact to local school districts for fines and penalties collected. Any impact to various state and local funds from court fees is assumed to be minimal and will not be presented for fiscal note purposes. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Below are examples of some of the state and local funds which court costs are distributed:

Fee/Fund Name	Fee Amount
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

Officials from the **Department of Elementary and Secondary Education**, the **Department of Natural Resources**, the **Department of Public Safety – Director's Office**, the **Department of Social Services**, the **Phelps County Sheriff's Department**, the **Branson Police Department**, the **Kansas City Police Department**, **Missouri Highway Patrol**, **Kansas City** and the **St. Louis County Police Department** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a previous version of this proposal, officials from the **City of O'Fallon** assumed the proposal would have no fiscal impact on their organizations.

In response to similar legislation from the current session (HB 1765), officials from the **Department of Public Safety – Capitol Police** and the **Missouri Department of Conservation** each assumed the proposal would have no fiscal impact on their respective organization.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, sheriff and police departments were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
GENERAL REVENUE FUND				
<u>Costs</u> – DOC (§566.207) – increase in incarceration and probation costs p.3-6	(\$16,148)	(\$39,531)	(\$60,483)	(\$173,689)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$16,148)</u>	<u>(\$39,531)</u>	<u>(\$60,483)</u>	<u>(\$173,689)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
LOCAL SCHOOL DISTRICTS				
<u>Revenue</u> – Schools - (§565.260) Fine revenue p. 3-4	Unknown	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON LOCAL SCHOOL DISTRICTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT – Small Business

This proposal could negatively impact small businesses if the business or the owner’s agent is prosecuted under the provisions of §566.217.

FISCAL DESCRIPTION

The bill specifies that an aggravating circumstance occurs during the commission of certain human trafficking offenses if the defendant recruited, enticed, or obtained the victim of the offense from a shelter that serves persons subject to human trafficking, domestic violence, or sexual assault; runaway youth; foster children; or the homeless. If the trier of fact finds that an aggravating circumstance occurred, the defendant may be imprisoned for up to five years in addition to the period of imprisonment prescribed for the offense. (§566.202)

The bill creates the offense of patronizing a victim of sexual servitude, which a person commits if he or she knowingly gives, agrees to give, or offers to give anything of value so that an individual may engage in a commercial sex act with another individual and the person knows the other individual is a victim of sexual servitude. The offense of patronizing a victim of sexual servitude if the victim is 18 years old or older is a felony punishable by imprisonment of at least five years and not more than 20 years and a fine up to \$250,000. If the victim is under 18, the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served at least 25 years of the sentence. The bill requires a person convicted of patronizing a victim of sexual servitude to pay restitution, and it allows a victim of the offense to recover actual damages. (§566.207)

An owner of a business or an owner's agent may be prosecuted for a human trafficking offense only if the business knowingly engages in conduct that constitutes human trafficking or an employee or nonemployee agent of the business engages in conduct that constitutes human trafficking and the conduct is part of a pattern of activity in violation of human trafficking sections for the benefit of the business that the business knew was occurring and failed to take effective action to stop. Penalties for the business owner or business owner's agent include a fine of up to \$1,000 per offense; surrender of profit from activity in violation of human trafficking sections; and debarment from state and local government contracts. If a business owner or an agent of the business owner is prosecuted for sexual trafficking of a child in the first or second degree, the business location or locations will be required to close for up for one year for the first offense, with the court determining the length of time. For a second offense, the business location or locations will permanently close. (§566.217)

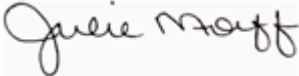
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION


Attorney General's Office
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Corrections
Department of Public Safety –

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Capitol Police
Director's Office
Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Office of the State Public Defender
Missouri Office of Prosecution Services
Office of the State Courts Administrator
City of Kansas City
Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



Julie Morff
Director
March 13, 2024



Ross Strobe
Assistant Director
March 13, 2024