

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0223-03
Bill No.: SCS for SB 37
Subject: Crimes and Punishment; Judges; Sexual Offenses; Civil Penalties
Type: Original
Date: March 8, 2019

Bill Summary: This proposal modifies the offense and penalties of promoting prostitution in the first degree.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§567.050 - Prostitution

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed enhanced penalties for promoting prostitution if sex trafficking is involved, then the offense would be a new class A felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In FY 2018, SPD's Trial Division opened one felony promoting prostitution case.

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 effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing appropriation and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Oversight notes that according to the Office of the State Courts Administrator, there was only 1 guilty plea or verdict for Section 567.050 in FY 2018.

ASSUMPTION (continued)

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that the **Attorney General's Office, Department of Corrections, Department of Elementary and Secondary Education, Department of Public Safety - Missouri State Highway Patrol, Office of Administration, Office of State Courts Administrator, Office of Secretary of State, Joplin Police Department and Springfield Police Department** have stated the proposal would not have a direct fiscal impact on their organizations.

In response to the previous version, **Oversight** notes that the **St. Louis County Department of Justice Services, St. Louis County Police Department and Boone County Sheriff's Department** stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, the Department of Higher Education, colleges and universities, and other police and sheriffs' departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - SPD (\$567.050)</u>			
Salaries, fringe benefits, and equipment and expense	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

FISCAL IMPACT - Local Government

FY 2020
(10 Mo.)

FY 2021

FY 2022

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies the offense of promoting prostitution in the first degree. A person may be found guilty of such offense if he or she owns, manages, or operates an interactive computer service with the intent to promote or facilitate the prostitution of another. Such offense shall be a Class A felony if the person, in addition to operating an interactive computer service with the intent to promote prostitution while using a facility affecting commerce, acts in reckless disregard of the fact that such conduct contributed to the offense of trafficking for the purposes of sexual exploitation. A person injured by such actions may recover civil damages and restitution.

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 Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of Administration
Office of State Courts Administrator
Office of Secretary of State
State Public Defender's Office
Joplin Police Department
Springfield Police Department
St. Louis County Department of Justice Services
St. Louis County Police Department
Boone County Sheriff's Department

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NOT RESPONDING

Department of Higher Education



Kyle Rieman
Director
March 8, 2019

Ross Strobe
Assistant Director
March 8, 2019