

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4200H.01I
Bill No.: HB 2032
Subject: Children and Minors; Sexual Offenses
Type: Original
Date: January 28, 2022

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
General Revenue	(\$529,533)	(\$654,298)	(\$696,126)	(\$730,676)
Total Estimated Net Effect on General Revenue	(\$529,533)	(\$654,298)	(\$696,126)	(\$730,676)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Federal Funds*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0	\$0

*Income and expenses estimated at \$100,000 annually nets to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
General Revenue	5.89 FTE	5.89 FTE	5.89 FTE	5.89 FTE
Federal	1.11 FTE	1.11 FTE	1.11 FTE	1.11 FTE
Total Estimated Net Effect on FTE	7 FTE	7 FTE	7 FTE	7 FTE

- ☒ 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 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§567.020, 573.024, 573.206, 589.414, 650.650, 660.580, and 660.585 – Human trafficking

Officials from the **Department of Corrections (DOC)** state this proposal creates a new class E felony for the second offense of the sexual exploitation of a child and a new class C felony for the offense of patronizing a sexual performance by a child.

For each new class C felony, the department estimates four people will be sentenced to prison and six to probation. The average sentence for a class C felony offense is 6.9 years, of which 3.7 years will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 15 additional offenders in prison and 19 additional offenders on field supervision by FY 2026.

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

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	12	15	15	15	15	15	15	15
Parole				1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	10	20	30	34	38	42	46	46	46	46

For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years of which, 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2025.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
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	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole	0	0	1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

Combined Cumulative Estimated Impact

The impact of a new class C felony and a new class E felony on the department is estimated to be 17 additional offenders in prison and 26 on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	5	10	14	17	17	17	17	17	17	17
Parole	0	0	1	2	6	10	14	14	14	14
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	5	10	14	17	17	17	17	17	17	17
Field Population	8	16	25	26	30	34	38	38	38	38
Population Change	13	26	39	43	47	51	55	55	55	55

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	5	(\$8,255)	(\$34,396)	8	absorbed	\$0	(\$34,396)
Year 2	10	(\$8,255)	(\$84,201)	16	absorbed	\$0	(\$84,201)
Year 3	14	(\$8,255)	(\$120,239)	25	absorbed	\$0	(\$120,239)
Year 4	17	(\$8,255)	(\$148,925)	26	absorbed	\$0	(\$148,925)
Year 5	17	(\$8,255)	(\$151,903)	30	absorbed	\$0	(\$151,903)
Year 6	17	(\$8,255)	(\$154,941)	34	absorbed	\$0	(\$154,941)
Year 7	17	(\$8,255)	(\$158,040)	38	absorbed	\$0	(\$158,040)
Year 8	17	(\$8,255)	(\$161,201)	38	absorbed	\$0	(\$161,201)
Year 9	17	(\$8,255)	(\$164,425)	38	absorbed	\$0	(\$164,425)
Year 10	17	(\$8,255)	(\$167,713)	38	absorbed	\$0	(\$167,713)

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 \$22.616 per day or an annual cost of \$8,255 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 \$88.12 per day or an annual cost of \$32,162 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.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated impact for fiscal note purposes.

Officials from the **Department of Social Services (DSS)** state the following:

DLS

The Division of Legal Services (DLS) estimates that it will require an additional four (4) full-time employees in the form of litigation or permanency attorneys to implement this litigation. This stems from the impact from 567.020.5, RSMo, as proposed. Section 567.020.5. provides that a person under age 18 that is charged with prostitution shall be placed in protective custody for the purpose of being reunited in the person's home (if the home is safe), or the person may be referred to agencies that rehabilitate minors being trafficked, or both. The bill also proposes new 660.580, RSMo, which provides that the DSS will develop protocols that protect and rehabilitate minors that were victims of trafficking. Therefore, it is assumed that the Children's Division (CD) is the likely agency that will take protective custody of such persons under 18 that would otherwise be charged with prostitution. According to Global Orphan Prevention, relying upon data accessed from the U.S. Department of State, child sex trafficking impacts more than 17,000 young people every year. This is believed to be a low estimate. It is approximated that two percent (2%) of these young people are in Missouri, meaning that 340 ($17,000 \times .02$) young Missourians are impacted by child sex trafficking annually. DLS Litigation leadership approximates that it will take one full-time employee to handle 100 of these referrals per year. Therefore, working on the assumption that the number of child sex trafficking victims is understated, 4 FTE attorneys will be needed to handle the legal referrals that will come from serving the youth placed in protective custody through this legislation.

CD

According to Global Orphan Prevention, relying upon data accessed from the U.S. Department of State, child sex trafficking impacts more than 17,000 young people every year. This is believed to be a low estimate. It is approximated that 2% of these young people are in Missouri, meaning that approximately 340 ($17,000 \times .02$), prostitute victims under the age of 18 annually.

Three hundred and forty additional reports a year works out to 28 cases per month, requiring two (2) FTE investigators and because the legislation requires protective custody one (1) FTE Out-of-Home worker would be needed.

This legislation would also require staff time to collaborate with law enforcement agencies, the Missouri State Highway Patrol, and the Attorney General to develop protocols to protect and rehabilitate minors who were victims of trafficking.

FSD

The provisions of this legislation do not affect the administration of any programs the Family Support Division (FSD) administers. Therefore, there is no fiscal impact to FSD.

Oversight notes that the four (4) DLS FTE are 100 percent General Revenue funded and the three (3) CD FTE are split 63% GR; 37% Federal. Oversight does not have any information

contrary to that provided by DSS. Therefore, Oversight will reflect DSS's impact for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation creates new offenses under Section 573.024 of facilitating sexual exploitation of a child and under Section 573.206 of patronizing sexual performance by a child and therefore, could increase the number of persons who are eligible for representation by State Public Defender (SPD). The fiscal impact of this legislation on SPD is unknown as the number of additional cases eligible for representation as the result of the legislation is unknown, but it is anticipated that any increase would be less than \$250,000.

Oversight notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases 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.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Attorney General's Office**, the **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police, Missouri Highway Patrol, and the Office of the Director)**, the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's 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.

Officials from the **Office of the State Courts Administrator** did not respond to **Oversight's** request for fiscal impact for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other police and sheriff's departments were requested to respond to this proposed

legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
<u>Cost – DOC p. 3-5</u> <u>(§§573.024 and</u> <u>573.206) Increased</u> <u>incarceration costs</u>	(\$34,396)	(\$84,201)	(\$120,239)	(\$148,925)
<u>Cost – DSS-DLS</u> <u>(§567.020) p. 6-7</u>				
Personal service	(\$206,667)	(\$250,480)	(\$252,985)	(\$255,515)
Fringe benefits	(\$100,348)	(\$121,249)	(\$122,089)	(\$122,937)
Equipment and expense	(\$31,067)	(\$28,209)	(\$28,914)	(\$29,637)
<u>Total cost - DSS</u>	<u>(\$338,082)</u>	<u>(\$399,938)</u>	<u>(\$403,988)</u>	<u>(\$408,089)</u>
FTE Change - DSS	4 FTE	4 FTE	4 FTE	4 FTE
<u>Cost – DSS-CD</u> <u>(§660.580) p. 6-7</u>				
Personal service	(\$74,794)	(\$90,650)	(\$91,557)	(\$92,472)
Fringe benefits	(\$48,376)	(\$58,352)	(\$58,656)	(\$58,963)
Equipment and expense	(\$33,885)	(\$21,157)	(\$21,686)	(\$22,227)
<u>Total cost - DSS</u>	<u>(\$157,055)</u>	<u>(\$170,159)</u>	<u>(\$171,899)</u>	<u>(\$173,662)</u>
FTE Change - DSS	1.89 FTE	1.89 FTE	1.89 FTE	1.89 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$529,533)</u>	<u>(\$654,298)</u>	<u>(\$696,126)</u>	<u>(\$730,676)</u>
Estimated Net FTE Change to the	5.89 FTE	5.89 FTE	5.89 FTE	5.89 FTE

General Revenue Fund				
FEDERAL FUNDS				
<u>Income – DSS-CD (\$660.580) p. 6-7 Program reimbursement</u>	\$92,239	\$99,935	\$100,957	\$101,992
<u>Cost – DSS-CD (\$660.580) p. 6-7</u>				
Personal service	(\$43,927)	(\$53,239)	(\$53,771)	(\$54,309)
Fringe benefits	(\$28,412)	(\$34,270)	(\$34,449)	(\$34,629)
Equipment and expense	(\$19,900)	(\$12,426)	(\$12,737)	(\$13,054)
<u>Total cost - DSS</u>	<u>(\$92,239)</u>	<u>(\$99,935)</u>	<u>(\$100,957)</u>	<u>(\$101,992)</u>
FTE Change - DSS	1.11 FTE	1.11 FTE	1.11 FTE	1.11 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change to Federal Funds	1.11 FTE	1.11 FTE	1.11 FTE	1.11 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
	<u>\$0</u>	<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

Under the current offense of prostitution, a person has an affirmative defense to prosecution that he or she was under 18 and acting under the coercion of an agent at the time of the offense. This bill eliminates the requirement that the person be acting under the coercion of an agent and provides the affirmative defense to a person if he or she was under 18 at the time of the offense. Additionally, the person will be placed in protective custody with the purpose of family reunification, if safe, or referral to an agency that rehabilitates minors being trafficked, or both. The bill also adds patronizing prostitution where the victim is under 18 to tier III on the sexual offender registry.

The bill also creates the offense of facilitating or enabling sexual exploitation of a child, which is committed when a person knowingly causes, procures, or permits a willful or malicious act of a child sexual exploitation. The offense is a class A misdemeanor for the first offense and a class E felony for a second or subsequent offense. If the person who committed the offense is an owner of a business or a business owner's agent and the business provided the location for the exploitation, the business will be required to close for at least a year for the first offense and permanently close for a second offense.

The bill also creates the offense of patronizing a sexual performance by a child, which is committed when a person obtains, solicits, or participates in a sexual performance by a child. The offense is a class C felony. This offense is a tier II offense on the sexual offender registry.

The bill requires the Department of Public Safety to maintain a list of providers and agencies specializing in the rehabilitation of children who have been trafficked and the list must be made available to the victims. Additionally, by January 31 of each year, the Department of Social Services must issue a report to the Department of Public Safety and to the Missouri Attorney General's Human Trafficking Task Force regarding the number of child sex trafficking victims during the previous year, the name of the agency or organization each victim was told to contact, and an annual update on each child victim.

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 Natural Resources
Department of Corrections
Department of Public Safety
Department of Social Services
Missouri Department of Conservation

L.R. No. 4200H.01I

Bill No. HB 2032

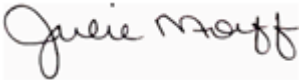
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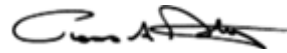
Missouri Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Phelps County Sheriff's Department

NOT RESPONDING

Office of the State Courts Administrator



Julie Morff
Director
January 28, 2022



Ross Strobe
Assistant Director
January 28, 2022