

SF133 - 0 - Labor Trafficking Definition and Penalties Amended

Chief Author: **Clare Oumou Verbeten**
 Committee: **Judiciary And Public Safety**
 Date Completed: **1/11/2023 4:18:09 PM**
 Lead Agency: **Sentencing Guidelines Comm**
 Other Agencies:
 Corrections Dept Supreme Court

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
State Total						
	Total	-	-	-	-	-
	Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 1/11/2023 4:18:09 PM
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State Cost (Savings) Calculation Details

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*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

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 Committee: **Judiciary And Public Safety**
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 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
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Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

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Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
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Biennial Total			-			-
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Total	-	-	-	-	-	-
Biennial Total			-			-
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Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Sections 4, 5, and 8 expand the definition of “forced labor or services” applicable to the crime of labor trafficking found in Minn. Stat. § 609.281, renaming the term “forced or coerced labor or services.” The bill strikes blackmail from the definition; eliminates the requirement that the destruction, concealment, removal, confiscation, withholding, or possession of a passport be knowing; and expands the types of harm threatened or inflicted to include sexual contact, the use of legal process, and bodily, psychological, economic, or reputational harm.

Sections 1 and 2 are conforming amendments applicable to the Department of Public Safety.

Section 3 amends the definition of “debt bondage” to eliminate references to pledges and security.

Sections 6 & 7 amend the penalty provisions in Minn. Stat. § 609.282. Subdivision 1 now contains an enhanced penalty of 20 years maximum imprisonment when a labor trafficking victim is under the age of 18. Section 7 moves this penalty to subdivision 1a and expands it also to encompass labor trafficking over an extended period of time and labor trafficking resulting in great bodily harm. Section 6 establishes, in subd. 1, an enhanced penalty of 25 years maximum imprisonment when the trafficking results in death.

The bill is effective August 1, 2023. Sections 37 apply to crimes committed on or after that date.

Assumptions

One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on the level of harm caused and the culpability of the person. The statutory maximum is also considered.

The current labor trafficking offense is unranked; meaning the court must assign a severity level before sentencing. Additionally, the offense is listed in § 6 (Offenses Eligible for Permissive Consecutive Sentences); and § 8 (Severe Violent Offense List). According to MSGC monitoring data, there were two cases of labor trafficking sentenced between 2011 and 2021. One case was sentenced in 2017, and involved coercing an adult male to work for low wages with threats to report to immigration authorities. That offense was ranked at SL 6 and received a stay of imposition. The other case was sentenced in 2020 and involved sex trafficking. That offense was ranked at SL C on the Sex Offender Grid, had a presumptive sentence of 76 months in prison and received 53 months in prison which is a mitigated durational departure.

Because labor trafficking occurs so infrequently, it is assumed that the Commission will continue to leave this offense unranked.

Aggravated sex trafficking under Minn. Stat. § 609.322, subd. 1(b)(3), has an element of “debt bondage or forced labor or services.” While Minn. Stat. § 609.322 is not within the scope of the definitions in Minn. Stat. § 609.281, it is assumed that courts now refer to the labor trafficking definitions to understand the meaning of the identical sex trafficking terms. Because the bill will change the term “forced labor or services” in the labor trafficking statute to “forced or coerced labor or services” without making a similar change in the sex trafficking statute, it is possible that courts may consider the term to

be undefined in the sex trafficking statute. The impact of this change is not known; it is assumed to be minimal.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

The expansion of offense elements and types of cases subject to the 20-year statutory maximum may result in an increase in the number of cases sentenced. However, the size of that increase is unknown. Therefore, the long-term impact is unknown, but expected to be minimal. In some years there may be a prison sentence, possibly with a term of imprisonment of longer than a year, but in most years, there will not be a need for more than one or two prison beds.

Local Fiscal Impact

Based on the assumptions, the local government fiscal impact is unknown, but expected to be minimal.

References/Sources

2011 to 2021 MSGC Monitoring Data.

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Chief Author: **Clare Oumou Verbeten**
 Committee: **Judiciary And Public Safety**
 Date Completed: **1/11/2023 4:18:09 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
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Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 1/11/2023 4:16:56 PM
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State Cost (Savings) Calculation Details

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	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

H.F. 42 makes changes to definitions related to crimes of labor trafficking, establishes a new crime, and creates enhanced penalties under certain conditions

Assumptions

According to the MSGC, there were two cases of labor trafficking sentenced between 2011 and 2021. While an estimate of the number of beds needed for this crime is unknown, it is expected to be minimal.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

This bill would increase the types of cases that fall under this offense, but the magnitude of that increase is indeterminate. It is expected to be minimal, however.

Local Fiscal Impact

The cost to local units of government is indeterminate but expected to be minimal.

References/Sources

MSGC, Department of Corrections Staff

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Chief Author: **Clare Oumou Verbeten**
 Committee: **Judiciary And Public Safety**
 Date Completed: **1/11/2023 4:18:09 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 1/9/2023 2:50:32 PM
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State Cost (Savings) Calculation Details

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Biennial Total			-			-

Bill Description

HF42 amends section 299A.78 (Statewide Human Trafficking Assessment), at subdivision 1 to eliminate the reference to blackmail; amends section 299A.79 (Trafficking Study), at subdivision 3 to eliminate the reference to blackmail and modify the reference to forced labor and services to instead include forced or coerced labor or services; and amends section 609.281 (Sexual and Labor Trafficking Crimes Definitions) to redefine debt bondage in subdivision 3, to eliminate the reference to blackmail and expand the acts and type of harm caused that meet the definition of forced labor or services in subdivision 4, and to clarify the definition of labor trafficking at subdivision 5. The bill amends section 609.282 (Labor Trafficking), at subdivision 1 by modifying the offense to labor trafficking resulting in death and making it punishable by no more than 25 years imprisonment, and by adding a new subdivision 1a governing labor trafficking of individuals under 18, or over an extended period of time, or if the victim suffers great bodily harm, and making the offenses punishable by no more than 20 years imprisonment.

Assumptions

According to judicial branch data, over the past 5 years, 5 cases have been filed alleging a violation of 609.282, all of which were alleged violations of section 609.282, subdivision 2.

Given the low case filing rate for this statute, even if case filings doubled under the provisions of this bill, it is assumed that the provisions of this bill will not significantly impact case filings or require any additional judicial branch resources.

Expenditure and/or Revenue Formula

This bill is not anticipated to have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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