

**PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**  
NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY 2016

**SENATE BILL NO. 168**

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**AN ACT TO REVISE PROVISIONS RELATED TO HUMAN TRAFFICKING AND TO  
PROVIDE A PENALTY THEREFOR.**

A prison or jail impact statement has been requested for Senate Bill 168 due to the added crime of receiving another person by means of human trafficking, the enhancement of sentence for human trafficking a person under the age of eighteen, and an additional penalty for knowingly engaging in prostitution with a victim of human trafficking.

Human trafficking is already illegal in the state, in the first and second degree. First degree human trafficking is a Class 2 felony, while second degree human trafficking is a Class 4 felony. The bill amends both first and second degree human trafficking to add “receiving” to the list of offenses that constitute human trafficking. It also amends first degree human trafficking to include victims under the age of eighteen versus sixteen.

There were 10 arrests for first degree human trafficking from January 1, 2010 to December 31, 2015. While these crimes bring felony-level penalties, there were no convictions, and no prison or jail time has been served. While the changes made may increase the number of offenders under each of these statutes, because there has not been a history of convictions or prison time served, it is not likely these minor changes will add to a significant increase. Furthermore, the LRC cannot speculate why there have been 10 arrests but no convictions or prison time served, but federal jurisdiction and other prosecutorial discretion could affect how defendants are charged under this statute, and will likely affect future convictions.

Finally, the bill creates a new crime of hiring for sexual activity a person known to be a victim of human trafficking. Currently, hiring for sexual activity is a Class 1 misdemeanor. Under this bill, a person hiring a prostitute that they know or should have known is a victim of a human trafficking would enhance the penalty to a Class 6 felony. The average sentence for § 22-23-9 is 66 days in jail. There have been 131 arrests and 103 convictions for hiring for sexual activity from January 1, 2010 to December 31, 2015. Many victims of human trafficking are used in prostitution. However, it is nearly impossible for the LRC to estimate how many possible prostitutes are victims of human trafficking, and even more difficult to estimate how many defendants hiring for sexual activity know or should know that the prostitute they hire is a victim of human trafficking. Furthermore, adding the requirement of a mens rea may make the enhanced charges harder to prove under this statute. Because there were 10 arrests for human trafficking in the same time frame of the 131 arrests for hiring for

sexual activity, we will assume that one of every thirteen hiring for sexual activity convictions could results in an enhanced penalty, as a maximum rate. Assuming this, approximately 2 defendants per year could be arrested for a Class 6 felony rather than a Class 1 misdemeanor, with 1 being convicted. The average sentence for a Class 6 felony is 774 days, or 2.12 years in prison. Therefore, assuming 1 person per year will serve the entire sentence of 774 days in prison rather than 66 days in jail, the maximum cost differences are as follows:

Daily Jail Cost per Person: \$105.40  
 Daily Prison Cost per Person: \$40.88

Year	Annual Convictions	Additional Cost
1	1	\$7,964.80
2	1	\$22,886.00
3	1	\$24,684.72
4	1	\$24,684.72
5	1	\$24,684.72
6	1	\$24,684.72
7	1	\$24,684.72
8	1	\$24,684.72
9	1	\$24,684.72
10	1	\$24,684.72
10-Year		\$228,328.56
Total Cost:		

Actual sentences served may vary. This impact statement is designed to estimate a maximum impact.

Approved: /s/ Jason Hancock Date: 2/22/16  
 Director, Legislative Research Council