

HOUSE BILL No. 5809

August 15, 2012, Introduced by Reps. Zorn, Kowall, Rendon, Graves, Hughes, Somerville, Ouimet, Jenkins, Heise, Crawford, O'Brien and Kurtz and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 448 and 451 (MCL 750.448 and 750.451), section 448 as amended by 2002 PA 45 and section 451 as amended by 2002 PA 44.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 448. (1) ~~A~~**EXCEPT AS PROVIDED IN SUBSECTION (2),** A person
2 16 years of age or older who accosts, solicits, or invites another
3 person in a public place or in or from a building or vehicle, by
4 word, gesture, or any other means, to commit prostitution or to do
5 any other lewd or immoral act ~~—~~is guilty of a crime punishable as
6 provided in section 451.

7 (2) **A PERSON 16 YEARS OF AGE OR OLDER WHO ACCOSTS, SOLICITS,**
8 **OR INVITES ANOTHER PERSON WHO IS NOT LESS THAN 16 YEARS OF AGE AND**

1 NOT MORE THAN 17 YEARS OF AGE IN A PUBLIC PLACE OR IN OR FROM A
2 BUILDING OR VEHICLE, BY WORD, GESTURE, OR ANY OTHER MEANS, TO
3 COMMIT PROSTITUTION OR TO DO ANY OTHER LEWD OR IMMORAL ACT IS
4 GUILTY OF A CRIME PUNISHABLE AS PROVIDED IN SECTION 451.

5 Sec. 451. (1) Except as otherwise provided in this section, a
6 person convicted of violating section ~~448-448(1)~~, 449, 449a, 450,
7 or 462 is guilty of a misdemeanor punishable by imprisonment for
8 not more than 93 days or a fine of not more than \$500.00, or both.

9 (2) A person 16 years of age or older who is convicted of
10 violating section ~~448-448(1)~~, 449, 449a, 450, or 462 and who has 1
11 prior conviction is guilty of a misdemeanor punishable by
12 imprisonment for not more than 1 year or a fine of not more than
13 \$1,000.00, or both.

14 (3) A person convicted of violating section ~~448-448(1)~~, 449,
15 449a, 450, or 462 and who has 2 or more prior convictions is guilty
16 of a felony punishable by imprisonment for not more than 2 years ~~r~~
17 or a fine of not more than \$2,000.00, or both.

18 (4) A PERSON CONVICTED OF VIOLATING SECTION 448(2) IS GUILTY
19 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR
20 A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

21 (5) ~~(4)~~—If the prosecuting attorney intends to seek an
22 enhanced sentence based upon the defendant having 1 or more prior
23 convictions, the prosecuting attorney shall include on the
24 complaint and information a statement listing the prior conviction
25 or convictions. The existence of the defendant's prior conviction
26 or convictions shall be determined by the court, without a jury, at
27 sentencing or at a separate hearing for that purpose before

1 sentencing. The existence of a prior conviction may be established
2 by any evidence relevant for that purpose, including, but not
3 limited to, 1 or more of the following:

4 (a) A copy of the judgment of conviction.

5 (b) A transcript of a prior trial, plea-taking, or sentencing.

6 (c) Information contained in a presentence report.

7 (d) The defendant's statement.

8 (6) ~~(5)~~—As used in this section, "prior conviction" means a
9 violation of section ~~448~~**448(1)**, 449, 449a, 450, or 462 or a
10 violation of a law of another state or of a political subdivision
11 of this state or another state substantially corresponding to
12 section ~~448~~**448(1)**, 449, 449a, 450, or 462.