



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**



## BILL ANALYSIS

**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 588 (as introduced 10-3-13)  
Sponsor: Senator Mark C. Jansen  
Committee: Families, Seniors and Human Services

Date Completed: 11-12-13

### **CONTENT**

**The bill would amend the Code of Criminal Procedure to establish an affirmative defense to charges of an offense related to prostitution or child sexually abusive activity, for a defendant who engaged in the offense only because of his or her status as a victim of human trafficking under Chapter LXVIIA of the Michigan Penal Code.**

(Chapter LXVIIA generally prohibits forced labor or services through threats, physical harm or restraint, abuse of law, blackmail, and other methods, and the use of a minor for sexually abusive activity.)

#### Applicable Prostitution Offenses

The affirmative defense would apply to charges under Chapter LXVII of the Michigan Penal Code, which are described below.

Under Section 448, a person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act is guilty of a crime punishable as provided in Section 451 (discussed below).

Section 449 provides that a person 16 years of age or older who receives or admits or offers to receive or admit a person into a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or who knowingly permits a person to remain in a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, is guilty of a crime punishable as provided in Section 451.

Section 449a prohibits a male from engaging or offering to engage the services of a female, who is not his wife, for the purposes of prostitution.

Section 450 provides that a person 16 years of age or older who aides, assists, or abets another person to commit or offer to commit an act prohibited under Section 448 or 449 is guilty of a crime punishable as provided in Section 451.

Under Section 451, a person convicted of violating Section 448, 449, 449a, 450, or 462 (described below), or a substantially corresponding law, is guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$500. If the person has a prior conviction under any of those sections, he or she is guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of

\$1,000. A person who has two or more prior convictions is guilty of a felony punishable by imprisonment for up to two years and/or a maximum fine of \$2,000.

Section 452 generally prohibits keeping, maintaining, or operating any house or place for the purpose of prostitution. The offense is a felony punishable by up to five years' imprisonment or a maximum fine of \$2,500.

Section 454 generally prohibits leasing a dwelling house with knowledge that the lessee intends to use as a house for prostitution. The offense is a misdemeanor punishable by up to six months' imprisonment or a maximum fine of \$750.

Section 455 prohibits "pandering". Any person is guilty of a felony punishable by imprisonment for up to 20 years if he or she procures a female inmate for a house of prostitution; induces a female to become a prostitute; by promises, threats, violence, or any device or scheme, causes a female to become an inmate of a house of prostitution or remain there; by promises, threats, violence, any device or scheme, fraud or artifice, duress, abuse of any position of confidence or authority, or having legal charge, procures a female to enter a place in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution; procures any female to come into or leave this State for the purpose of prostitution; under the pretense of marriage, takes or detains a female for the purpose of sexual intercourse; or receives or gives or agrees to receive or give value for procuring or attempting to procure a female to become a prostitute or to come into or leave this State for the purpose of prostitution.

Under Section 456, it is a felony for a man to leave his wife in a house of prostitution or to lead a life of prostitution. The offense is punishable by up to 20 years' imprisonment.

Section 457 prohibits knowingly accepting earnings of a prostitute. The offense is a felony punishable by up to 20 years' imprisonment.

Section 458 prohibits detaining a female in a house of prostitution for any debt she may have contracted while living in the house. The offense is a felony punishable by a minimum sentence of two years and a maximum sentence of 20 years.

Section 459 prohibits transporting a female for purposes of prostitution. The offense is a felony punishable by up to 20 years' imprisonment.

Section 462 generally prohibits allowing a person under 16 years old to remain in a house of prostitution.

#### Applicable Child Sexually Abusive Activity or Material Offenses

The affirmative defense would apply to offenses under Section 750.145c of the Michigan Penal Code, which are described below.

A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, copies, reproduces, or finances, or attempts or prepares or conspires to arrange for, produce, make, copy, reproduce, or finance any child sexually abusive activity or child sexually abusive material for personal, distributional, or other purposes, is guilty of a felony, punishable by imprisonment for up to 20 years, or a maximum fine of \$100,000, or both, if that person knows, or should have known, that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or if that person has not taken reasonable precautions to determine the age of the child.

A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for up to seven years, or a fine of up to \$50,000, or both, if that person knows, or should have known, that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or if that person has not taken reasonable precautions to determine the age of the child.

A person who knowingly possesses or knowingly seeks and gains access to any child sexually abusive material is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$10,000, or both, if that person knows, or should have known, that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or if that person has not taken reasonable precautions to determine the age of the child.

Proposed MCL 760.21d

Legislative Analyst: Glenn Steffens

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

S1314\S588sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.