

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

***** 750.451c.added THIS ADDED SECTION IS EFFECTIVE JANUARY 14, 2015 *****

750.451c.added Individual as victim of human trafficking violation; applicability of subsection (2); deferred proceedings; duties of court; violation of term or condition of probation; adjudication of guilt; circumstances; discharge and dismissal; proceedings open to public; record; nonpublic record; "human trafficking violation" defined.

Sec. 451c. (1) This section applies only if the violation described in subsection (2) was committed as a direct result of the individual being a victim of a human trafficking violation.

(2) When an individual who has not been convicted previously of a violation of section 448, 449, 450, or 462 or a local ordinance substantially corresponding to section 448, 449, 450, or 462 pleads guilty to, or is found guilty of, a violation of section 448, 449, 450, or 462 or a local ordinance substantially corresponding to section 448, 449, 450, or 462, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall do all of the following:

(a) Contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of a violation of section 448, 449, 450, or 462 or a local ordinance substantially corresponding to section 448, 449, 450, or 462 or has previously availed himself or herself of this section.

(b) If the search of the records under subdivision (a) reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(c) Determine whether the accused has met the conditions described in subsection (1) as follows:

(i) The accused bears the burden of proving to the court by a preponderance of the evidence that the violation was a direct result of his or her being a victim of human trafficking.

(ii) To prove that he or she is a victim of human trafficking, the accused shall state under oath that he or she meets the conditions described in subsection (1) with facts supporting his or her claim that the violation was a direct result of being a victim of human trafficking.

(3) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(4) An order of probation entered under subsection (2) may include any condition of probation authorized under section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084. The court may order the defendant to be imprisoned for not more than 93 days at a time or at intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines. However, the period of imprisonment shall not exceed the maximum period of imprisonment authorized for the offense if the maximum period is less than 93 days. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail.

(5) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(a) The accused commits a violation of section 448, 449, 450, or 462 or a local ordinance substantially corresponding to section 448, 449, 450, or 462 during the period of probation.

(b) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(c) The accused violates an order of the court that he or she have no contact with a named individual.

(6) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There shall be only 1 discharge and dismissal under this section with respect to any individual.

(7) All court proceedings under this section shall be open to the public. Except as provided in subsection (8), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings

during the period of deferral shall be closed to public inspection.

(8) Unless the court enters a judgment of guilt under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for showing that a defendant in a criminal action for a violation of section 448, 449, 450, or 462 or a local ordinance substantially corresponding to section 448, 449, 450, or 462 has already once availed himself or herself of this section.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(9) As used in this section, "human trafficking violation" means a violation of chapter LXVIIA.

History: Add. 2014, Act 334, Eff. Jan. 14, 2015.