

**SUBSTITUTE FOR
HOUSE BILL NO. 5841**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending the heading of chapter LXVII and sections 13, 159g,
167, 411j, 448, 449, 450, 451, 451a, 451c, 452, 453, 454, 455, 456,
457, 458, 459, 460, 462, and 520m (MCL 750.13, 750.159g, 750.167,
750.411j, 750.448, 750.449, 750.450, 750.451, 750.451a, 750.451c,
750.452, 750.453, 750.454, 750.455, 750.456, 750.457, 750.458,
750.459, 750.460, 750.462, and 750.520m), section 13 as amended by
2015 PA 210, section 159g as amended by 2022 PA 174, section 167 as
amended by 2014 PA 199, section 411j as amended by 2019 PA 171,
section 448 as amended by 2002 PA 45, sections 449 and 462 as
amended by 2002 PA 46, section 450 as amended by 2014 PA 326,
section 451 as amended by 2016 PA 338, section 451a as amended by

2017 PA 195, section 451c as amended by 2017 PA 34, sections 452, 455, 456, 457, 458, and 460 as amended by 2014 PA 331, section 453 as amended by 1999 PA 251, section 454 as amended by 2002 PA 672, section 459 as amended by 2016 PA 485, and section 520m as amended by 2014 PA 459; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. A person who takes or entices away a minor under the
2 age of ~~16~~**18** years from the minor's ~~father, mother, parent,~~
3 guardian, or other person having the legal charge of the minor,
4 without their consent, for the purpose of ~~prostitution,~~
5 ~~concubinage,~~**commercial sexual activity, child sexually abusive**
6 **activity,** sexual intercourse, or marriage is guilty of a felony
7 punishable by imprisonment for not more than 10 years.

8 Sec. 159g. As used in this chapter, "racketeering" means
9 committing, attempting to commit, conspiring to commit, or aiding
10 or abetting, soliciting, coercing, or intimidating a person to
11 commit an offense for financial gain by obtaining money, property,
12 or any other thing of value, involving any of the following:

13 (a) A felony violation of section 8 of the tobacco products
14 tax act, 1993 PA 327, MCL 205.428, concerning tobacco product
15 taxes, or section 9 of former 1947 PA 265, concerning cigarette
16 taxes.

17 (b) A violation of section 11151(3) of the natural resources
18 and environmental protection act, 1994 PA 451, MCL 324.11151, or
19 section 48(3) of former 1979 PA 64, concerning felonious disposal
20 of hazardous waste.

21 (c) A felony violation of part 74 of the public health code,
22 1978 PA 368, MCL 333.7401 to 333.7461, concerning controlled
23 substances.

1 (d) A felony violation of section 7340, 7340c, or 17766c of
2 the public health code, 1978 PA 368, MCL 333.7340, 333.7340c, and
3 333.17766c, concerning ephedrine or pseudoephedrine.

4 (e) A felony violation of section 60 of the social welfare
5 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

6 (f) A violation of section 4, 5, or 7 of the medicaid false
7 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
8 concerning Medicaid fraud.

9 (g) A felony violation of section 18 of the Michigan ~~gaming~~
10 ~~control and revenue act~~, **Gaming Control and Revenue Act**, 1996 IL 1,
11 MCL 432.218, concerning the business of gaming.

12 (h) A felony violation of section 909(4) of the Michigan
13 liquor control code of 1998, 1998 PA 58, MCL 436.1909, concerning
14 the illegal sale, delivery, or importation of spirits.

15 (i) A violation of section 508 of the uniform securities act
16 (2002), 2008 PA 551, MCL 451.2508, concerning fraud.

17 (j) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
18 and 722.677, concerning the display or dissemination of obscene
19 matter to minors.

20 (k) A violation of section 49, concerning animal fighting.

21 (l) A felony violation of section 72, 73, 74, 75, or 77,
22 concerning arson.

23 (m) A violation of section 93, 94, 95, or 96, concerning bank
24 bonds, bills, notes, and property.

25 (n) A violation of section 110 or 110a, concerning breaking
26 and entering or home invasion.

27 (o) A violation of section 117, 118, 119, 120, 121, or 124,
28 concerning bribery.

29 (p) A violation of section 120a, concerning jury tampering.

1 (q) A violation of section 145c, concerning child sexually
2 abusive activity or material.

3 (r) A violation of section 145d, concerning internet or
4 computer crimes.

5 (s) A felony violation of section 157n, 157p, 157q, 157r,
6 157s, 157t, or 157u, concerning credit cards or financial
7 transaction devices.

8 (t) A felony violation of section 174, 175, 176, 180, 181, or
9 182, concerning embezzlement.

10 (u) A felony violation of chapter XXXIII, concerning
11 explosives and bombs.

12 (v) A violation of section 213, concerning extortion.

13 (w) A felony violation of section 218, concerning false
14 pretenses.

15 (x) A felony violation of section 223(2), 224(1)(a), (b), or
16 (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning
17 firearms or dangerous weapons.

18 (y) A felony violation of chapter XLI, concerning forgery and
19 counterfeiting.

20 (z) A violation of section 271, 272, 273, or 274, concerning
21 securities fraud.

22 (aa) A violation of section 300a, concerning food stamps or
23 coupons or access devices.

24 (bb) A violation of section 301, 302, 303, 304, 305, 305a, or
25 313, concerning gambling.

26 (cc) A violation of section 316 or 317, concerning murder.

27 (dd) A violation of section 330, 331, or 332, concerning horse
28 racing.

29 (ee) A violation of section 349, 349a, or 350, concerning

1 kidnapping.

2 (ff) A felony violation of chapter LII, concerning larceny.

3 (gg) A violation of section 411k, concerning money laundering.

4 (hh) A violation of section 422, 423, 424, or 425, concerning
5 perjury or subornation of perjury.

6 (ii) A violation of section 452, 455, 457, 458, or 459,
7 concerning ~~prostitution~~. **commercial sexual activity**.

8 (jj) A violation of chapter LXVIIA, concerning human
9 trafficking.

10 (kk) A violation of section 529, 529a, 530, or 531, concerning
11 robbery.

12 (ll) A felony violation of section 535 or 535a, concerning
13 stolen, embezzled, or converted property.

14 (mm) A violation of chapter LXXXIII-A, concerning terrorism.

15 (nn) A violation of section 5 of 1984 PA 343, MCL 752.365,
16 concerning obscenity.

17 (oo) A felony violation of the identity theft protection act,
18 2004 PA 452, MCL 445.61 to 445.79d.

19 (pp) A violation of section 4 of the organized retail crime
20 act, 2012 PA 455, MCL 752.1084.

21 (qq) An offense committed within this state or another state
22 that constitutes racketeering activity as defined in 18 USC
23 1961(1).

24 (rr) An offense committed within this state or another state
25 in violation of a law of the United States that is substantially
26 similar to a violation listed in subdivisions (a) through (qq).

27 (ss) An offense committed in another state in violation of a
28 statute of that state that is substantially similar to a violation
29 listed in subdivisions (a) through (qq).

1 Sec. 167. (1) A person is a disorderly person if the person is
2 any of the following:

3 (a) A person of sufficient ability who refuses or neglects to
4 support ~~his or her~~ **the person's** family.

5 (b) A ~~common prostitute~~ **person engaged in commercial sexual**
6 **activity.**

7 (c) A window peeper.

8 (d) A person who engages in an illegal occupation or business.

9 (e) A person who is intoxicated in a public place and who is
10 either endangering directly the safety of another person or of
11 property or is acting in a manner that causes a public disturbance.

12 (f) A person who is engaged in indecent or obscene conduct in
13 a public place.

14 (g) A vagrant.

15 (h) A person found begging in a public place.

16 (i) A person found loitering in a house, ~~of ill fame or~~
17 ~~prostitution or place where prostitution or lewdness~~ **vehicle, or**
18 **other place in which commercial sexual activity** is practiced,
19 encouraged, or allowed.

20 (j) A person who knowingly loiters in or about a place where
21 an illegal occupation or business is being conducted.

22 (k) A person who loiters in or about a police station, police
23 headquarters building, county jail, hospital, court building, or
24 other public building or place for the purpose of soliciting
25 employment of legal services or the services of sureties upon
26 criminal recognizances.

27 (l) A person who is found jostling or roughly crowding people
28 unnecessarily in a public place.

29 (2) If a person who has been convicted of refusing or

1 neglecting to support ~~his or her~~ **the person's** family under this
2 section is charged with subsequent violations within a period of 2
3 years, that person ~~shall~~ **must** be prosecuted as a ~~second offender or~~
4 ~~third and subsequent offender~~ **person who was previously convicted**
5 as ~~provided~~ **described** in section ~~168,~~ **168(2)(b)**, if the family of
6 that person is then receiving public relief or support.

7 (3) A mother's breastfeeding of a child or expressing breast
8 milk does not constitute indecent or obscene conduct under
9 subsection (1) regardless of whether or not ~~her~~ **the mother's** areola
10 or nipple is visible during or incidental to the breastfeeding or
11 expressing of breast milk.

12 Sec. 411j. As used in this section and sections 411k to 411q:

13 (a) "Controlled substance offense" means a felony violation of
14 part 74 of the public health code, 1978 PA 368, MCL 333.7401 to
15 333.7461, concerning controlled substances.

16 (b) "Cryptocurrency" means digital currency in which
17 encryption techniques are used to regulate the generation of units
18 of currency and verify the transfer of funds, and that operates
19 independently of a central bank.

20 ~~(c) "Knowingly", in the case of a corporation, means with the~~
21 ~~approval or prior actual knowledge of the board of directors, a~~
22 ~~majority of the directors, or persons who together hold a majority~~
23 ~~of the voting ownership interests in the corporation. In~~
24 ~~determining whether a majority of the directors approved of or had~~
25 ~~knowledge of the activity, a director who was not aware of the~~
26 ~~activity due to his or her own negligence or other fault is~~
27 ~~regarded as having had knowledge of the activity. This subdivision~~
28 ~~does not limit the liability of any individual officer, employee,~~
29 ~~director, or stockholder of a corporation.~~

~~(d) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.~~

(c) ~~(e)~~ "Financial institution" means 1 or more of the following, if located in or doing business in this state:

(i) An insured bank, as defined in section 3(h) of the federal deposit insurance act, 12 USC 1813(h).

(ii) A commercial bank or trust company.

(iii) A private banker.

(iv) An agency or branch of a foreign bank.

(v) A savings and loan institution.

(vi) A thrift institution.

(vii) A credit union.

(viii) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, 15 USC 78a to ~~78nn.~~ **78rr.**

(ix) A broker or dealer in securities or commodities.

(x) An investment banker or investment company.

(xi) A currency exchange.

(xii) An insurer, redeemer, or cashier of traveler's checks, checks, or money orders.

(xiii) An operator of a credit card system.

1 (xiv) An insurance company.

2 (xv) A dealer in precious metals, stones, or jewels.

3 (xvi) A pawnbroker.

4 (xvii) A loan, finance, or mortgage company.

5 (xviii) A travel agency.

6 (xix) A licensed sender of money.

7 (xx) A telegraph company.

8 (d) "Financial transaction" means a purchase, sale, loan,
9 pledge, gift, transfer, delivery, exchange, or other disposition of
10 a monetary instrument or other property and, with respect to a
11 financial institution, includes a deposit, withdrawal, transfer
12 between accounts, exchange of currency, loan, extension of credit,
13 purchase or sale of any stock, bond, certificate of deposit, or
14 other monetary instrument, or any other payment, transfer, or
15 delivery by, through, or to a financial institution, by whatever
16 means effected.

17 (e) "Knowingly", in the case of a corporation, means with the
18 approval or prior actual knowledge of the board of directors, a
19 majority of the directors, or persons who together hold a majority
20 of the voting ownership interests in the corporation. In
21 determining whether a majority of the directors approved of or had
22 knowledge of the activity, a director who was not aware of the
23 activity due to the director's own negligence or other fault is
24 regarded as having had knowledge of the activity. This subdivision
25 does not limit the liability of any individual officer, employee,
26 director, or stockholder of a corporation.

27 (f) "Monetary instrument" means coin or currency of the United
28 States or another country, or group of countries, a traveler's
29 check, personal check, bank check, money order, cryptocurrency, or

1 investment security or negotiable instrument in bearer form or in
2 any other form such that delivery is sufficient to pass title.

3 (g) "Proceeds of a specified criminal offense" means any
4 monetary instrument or other real, personal, or intangible property
5 obtained through the commission of a specified criminal offense,
6 including any appreciation in the value of the monetary instrument
7 or property.

8 (h) "Specified criminal offense" means any of the following:

9 (i) A felony violation of section 8 of the tobacco products tax
10 act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265,
11 concerning cigarette taxes.

12 (ii) A violation of section 11151 of the natural resources and
13 environmental protection act, 1994 PA 451, MCL 324.11151, or
14 section 48(3) of former 1979 PA 64, concerning felonious disposal
15 of hazardous waste.

16 (iii) A controlled substance offense.

17 (iv) A felony violation of section 60 of the social welfare
18 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

19 (v) A violation of section 4, 5, or 7 of the medicaid false
20 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
21 concerning Medicaid fraud.

22 (vi) A felony violation of section 18 of the Michigan ~~gaming~~
23 ~~control and revenue act~~, **Gaming Control and Revenue Act**, 1996 IL 1,
24 MCL 432.218, concerning the business of gaming.

25 (vii) A violation of section 409 of former 1964 PA 265, or
26 section 508 of the uniform securities act (2002), 2008 PA 551, MCL
27 451.2508, concerning securities fraud.

28 (viii) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
29 and 722.677, concerning the display or dissemination of obscene

1 matter to minors.

2 (ix) A felony violation of section 72, 73, 74, or 75,
3 concerning arson.

4 (x) A violation of section 93, 94, 95, or 96, concerning bank
5 bonds, bills, notes, or property.

6 (xi) A violation of section 117, 118, 119, 120, 121, or 124,
7 concerning bribery.

8 (xii) A violation of section 120a, concerning jury tampering.

9 (xiii) A violation of section 145c, concerning child sexually
10 abusive activity or material.

11 (xiv) A felony violation of section 157n, 157p, 157q, 157r,
12 157s, 157t, or 157u, concerning credit cards or financial
13 transaction devices.

14 (xv) A violation of section 159i, concerning racketeering.

15 (xvi) A felony violation of section 174, 175, 176, 180, 181, or
16 182, concerning embezzlement.

17 (xvii) A felony violation of chapter XXXIII, concerning
18 explosives or bombs.

19 (xviii) A violation of section 213, concerning extortion.

20 (xix) A felony violation of section 218, concerning false
21 pretenses.

22 (xx) A felony violation of chapter XLI, concerning forgery or
23 counterfeiting.

24 (xxi) A violation of section 271, 272, 273, or 274, concerning
25 securities fraud.

26 (xxii) A violation of section 301, 302, 303, 304, 305, 305a, or
27 313, concerning gambling.

28 (xxiii) A violation of section 316 or 317 concerning murder.

(xxiv) A violation of section 330, 331, or 332, concerning horse racing.

(xxv) A violation of section 349, 349a, or 350, concerning kidnapping.

(xxvi) A felony violation of chapter LII, concerning larceny.

(xxvii) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(xxviii) A violation of section 452, 455, 457, 458, or 459, concerning ~~prostitution~~ **commercial sexual activity**.

(xxix) A violation of section 529, 530, or 531, concerning robbery.

(xxx) A felony violation of section 535 or 535a, concerning stolen, embezzled, or converted property.

(xxxi) A violation of chapter LXXXIII-A, concerning terrorism.

(xxxii) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(xxxiii) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (i) to (xxxii).

(i) "Substituted proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds of a specified criminal offense.

CHAPTER LXVII

~~PROSTITUTION~~ **COMMERCIAL SEXUAL ACTIVITY**

Sec. 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.~~ **As used in**

1 this chapter, "commercial sexual activity" means that term as
2 defined in section 462a.

3 Sec. 449. (1) A person who accosts, solicits, or invites
4 another person in a public place or in or from a building or
5 vehicle, by word, gesture, or other means, to provide commercial
6 sexual activity is guilty of a crime punishable as provided in
7 section 451.

8 (2) A person ~~16 years of age or older who~~ receives or admits
9 or offers to receive or admit a person into a place, ~~structure,~~
10 house, ~~building,~~ or vehicle for the purpose of ~~prostitution,~~
11 ~~lewdness, or assignation,~~ **commercial sexual activity** or who
12 knowingly permits a person to remain in a place, ~~structure,~~ house,
13 ~~building,~~ or vehicle for the purpose of ~~prostitution, lewdness, or~~
14 ~~assignation,~~ **commercial sexual activity** is guilty of a crime
15 punishable as provided in section 451.

16 (3) A person who provides or offers to provide a commercial
17 sexual activity is guilty of a crime punishable as provided in
18 section 451.

19 (4) Except as provided in subsection (5), a person who obtains
20 or offers to obtain a commercial sexual activity is guilty of a
21 crime punishable as provided in section 451. A person who is
22 convicted of violating this section is subject to part 52 of the
23 public health code, 1978 PA 368, MCL 333.5201 to 333.5210.

24 (5) A person who obtains or offers to obtain commercial sexual
25 activity from a person who is less than 18 years of age is guilty
26 of a crime punishable as provided in section 451.

27 (6) A person who aids, assists, or abets another person to
28 commit or offer to commit an act prohibited under subsections (1),
29 (2), (3), (4), or (5) is guilty of a crime punishable as provided

1 in section 451.

2 Sec. 450. ~~A person 16 years of age or older who aids, assists,~~
 3 ~~or abets another person to commit or offer to commit an act~~
 4 ~~prohibited under section 448, 449, or 449a is guilty of a crime~~
 5 ~~punishable as provided in section 451.~~ **If the person's actions that**
 6 **violated section 449 were a direct result of being a victim of**
 7 **human trafficking under chapter LXVIIA or if the person's actions**
 8 **were caused, induced, persuaded, encouraged, or enticed by a**
 9 **promise or threat, violence, or any device or scheme in violation**
 10 **of section 455, the person must be assessed for a deferral under**
 11 **section 451c.**

12 Sec. 451. (1) Except as otherwise provided in this section, a
 13 person convicted of violating section ~~448, 449, 449a(1), 450,~~
 14 **449(1), (2), (3), (4), or (6)** or 462 is guilty of a misdemeanor
 15 punishable by imprisonment for not more than 93 days, ~~or a fine of~~
 16 not more than \$500.00, or both.

17 (2) A person ~~16 years of age or older~~ who is convicted of
 18 violating section ~~448, 449, 449a(1), 450,~~ **449(1), (2), (3), (4), or**
 19 **(6)** or 462 and who has 1 prior conviction is guilty of a
 20 ~~misdemeanor~~ **felony** punishable by imprisonment for not more than ~~1~~
 21 ~~year or 2 years,~~ a fine of not more than ~~\$1,000.00,~~ **\$2,000.00,** or
 22 both.

23 (3) A person convicted of violating section ~~448, 449, 449a(1),~~
 24 ~~450,~~ **449(1), (2), (3), (4), or (6)** or 462 and who has 2 or more
 25 prior convictions is guilty of a felony punishable by imprisonment
 26 for not more than ~~2-4~~ years, ~~or a fine of not more than \$2,000.00,~~
 27 **\$4,000.00,** or both.

28 (4) A person convicted of violating section ~~449a(2)~~ **449(5)** is
 29 guilty of a felony punishable by imprisonment for not more than 5

1 years, ~~or~~ a fine of not more than \$10,000.00, or both.

2 (5) If the prosecuting attorney intends to seek an enhanced
3 sentence based upon the defendant having 1 or more prior
4 convictions, the prosecuting attorney shall include on the
5 complaint and information a statement listing the prior conviction
6 or convictions. The existence of the defendant's prior conviction
7 or convictions shall be determined by the court, without a jury, at
8 sentencing or at a separate hearing for that purpose before
9 sentencing. The existence of a prior conviction may be established
10 by any evidence relevant for that purpose, including, but not
11 limited to, 1 or more of the following:

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

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

14 (c) Information contained in a presentence report.

15 (d) The defendant's statement.

16 (6) In any prosecution of a person under 18 years of age for
17 an offense punishable under this section or a local ordinance
18 substantially corresponding to an offense punishable under this
19 section, it shall be presumed that the person under 18 years of age
20 was coerced into child sexually abusive activity or commercial
21 sexual activity in violation of section 462e or otherwise forced or
22 coerced into committing that offense by another person engaged in
23 human trafficking in violation of sections 462a to 462h. The
24 prosecution may overcome this presumption by proving beyond a
25 reasonable doubt that the person was not forced or coerced into
26 committing the offense. The state ~~may~~ **shall** petition the court to
27 find the person under 18 years of age to be dependent and in danger
28 of substantial physical or psychological harm under section 2(b)(3)
29 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL

712A.2. A person under 18 years of age who fails to substantially comply with court-ordered services under section 2(b)(3) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is not eligible for the presumption under this section.

(7) Excluding any reasonable period of detention for investigation purposes, a law enforcement officer who encounters a person under 18 years of age engaging in any conduct that would be a violation of section ~~448, 449, 450, 449(1), (2), (3), (4), or (6)~~ or 462, or a local ordinance substantially corresponding to section ~~448, 449, 450, 449(1), (2), (3), (4), or (6)~~ or 462, if engaged in by a person ~~16~~ 18 years of age or over shall immediately report to the department of health and human services a suspected violation of human trafficking involving a person under 18 years of age in violation of sections 462a to 462h.

(8) The department of health and human services shall begin an investigation of a human trafficking violation reported to the department of health and human services under subsection (7) ~~within~~ **not later than** 24 hours after the report is made to the department of health and human services, as provided in section 8 of the child protection law, 1975 PA 238, MCL 722.628. The investigation ~~shall~~ **must** include a determination as to whether the person under 18 years of age is dependent and in danger of substantial physical or psychological harm under section 2(b)(3) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(9) As used in this section, "prior conviction" means a violation of ~~section-former section~~ 448, 449, 449a(1), **or** 450, or **section 449 or** 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to ~~section-former section~~ 448, 449, 449a(1), **or** 450,

1 **or section 449** or 462.

2 Sec. 451a. Except as provided in section 451b, sections ~~448,~~
3 ~~449, 449a, 450,~~ 451, and 459 do not apply to a law enforcement
4 officer while in the performance of the officer's duties as a law
5 enforcement officer.

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

9 (2) When an individual pleads guilty to, or is found guilty
10 of, a violation of section ~~448, 449, 450,~~ or 462 or a local
11 ordinance substantially corresponding to section ~~448, 449, 450,~~ or
12 462, the court, without entering a judgment of guilt and with the
13 consent of the accused and of the prosecuting attorney, may defer
14 further proceedings and place the accused on probation as provided
15 in this section. However, before deferring proceedings under this
16 subsection, the court shall determine whether the accused has met
17 the conditions described in subsection (1) as follows:

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

22 (b) To prove that ~~he or she~~ **the accused** is a victim of human
23 trafficking, the accused shall state under oath that ~~he or she~~ **the**
24 **accused** meets the conditions described in subsection (1) with facts
25 ~~supporting his or her~~ **that support the accused's** claim that the
26 violation was a direct result of being a victim of human
27 trafficking.

28 (3) Upon a violation of a term or condition of probation, the
29 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~~. **600.1088**. 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~~ **not later than** the period of probation, as the court determines. However, the period of imprisonment must 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~~ **the accused** receive counseling regarding ~~his or her~~ **the accused's** violent behavior.

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

1 (6) Upon fulfillment of the terms and conditions, the court
2 shall discharge the person and dismiss the proceedings against the
3 person. Discharge and dismissal under this section must be without
4 adjudication of guilt and is not a conviction for purposes of this
5 section or for purposes of disqualifications or disabilities
6 imposed by law upon conviction of a crime.

7 (7) All court proceedings under this section must be open to
8 the public. Except as provided in subsection (8), if the record of
9 proceedings as to the defendant is deferred under this section, the
10 record of proceedings during the period of deferral must be closed
11 to public inspection.

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

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

26 (b) Prosecuting attorneys for informing consent under
27 subsection (2).

28 (c) The department of health and human services for enforcing
29 child protection laws and vulnerable adult protection laws or

1 ascertaining the preemployment criminal history of any individual
 2 who will be engaged in the enforcement of child protection laws or
 3 vulnerable adult protection laws.

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

6 Sec. 452. A person who keeps, maintains, or operates ~~, or aids~~
 7 ~~and abets in keeping, maintaining, or operating,~~ a house, ~~of ill-~~
 8 ~~fame, bawdy house, or any house~~ **vehicle**, or **other** place resorted to
 9 for the purpose of ~~prostitution or lewdness~~ **commercial sexual**
 10 **activity** is guilty of a felony punishable by imprisonment for not
 11 more than 5 years, ~~or~~ by a fine of not more than \$5,000.00, or
 12 both.

13 Sec. 453. A person shall not be excused from attending and
 14 testifying or producing any books, papers, or other documents
 15 before a court or magistrate upon an investigation, proceeding, or
 16 trial for a violation of this chapter on the ground that the
 17 testimony or evidence may tend to ~~degrade or~~ incriminate the
 18 person. Truthful testimony, evidence, or other truthful information
 19 ~~compelled~~ **elicited** under this section and any information derived
 20 directly or indirectly from that truthful testimony, evidence, or
 21 other truthful information shall not be used against the witness in
 22 a criminal case, except for impeachment purposes or in a
 23 prosecution for perjury or otherwise failing to testify or produce
 24 evidence as required.

25 Sec. 454. Any person who ~~shall let any dwelling~~ **rents a house,**
 26 **room, or vehicle** knowing that the ~~lessee~~ **person to whom the house,**
 27 **room, or vehicle is rented** intends to use it ~~as a house of ill-fame~~
 28 ~~or place of resort for the purpose of prostitution and lewdness, or~~
 29 ~~for the purpose of gambling for money or other property, for~~

1 **commercial sexual activity**, or who ~~shall knowingly permit such~~
 2 ~~lessee to use the same for such purpose,~~ **permits the person to whom**
 3 **the house, room, or vehicle was rented to use the house, room, or**
 4 **vehicle for commercial sexual activity**, or who ~~shall receive any~~
 5 **receives** rent **or any other consideration** for any ~~dwelling, house,~~
 6 ~~room, or apartment which is~~ **vehicle that is** used as ~~a house of ill-~~
 7 ~~fame or place of resort for prostitutes, or for the purpose of~~
 8 ~~prostitution and lewdness, or for the purpose of gambling for money~~
 9 ~~or other property, having reasonable cause to believe such house,~~
 10 ~~room, or apartment is used for any such purpose,~~ **for commercial**
 11 **sexual activity**, is guilty of a misdemeanor punishable by
 12 imprisonment for not more than 6 months or a fine of not more than
 13 \$750.00. However, ~~no a person shall be~~ **is not** liable for receiving
 14 rent ~~as aforesaid under this section~~ for any period ~~prior to the~~
 15 ~~time when he or she has~~ **before the person had** reasonable cause to
 16 believe that ~~such the house, room, or apartment~~ **vehicle** is used for
 17 ~~any such purpose.~~ **commercial sexual activity.**

18 Sec. 455. A person who does any of the following is guilty of
 19 a felony punishable by imprisonment for not more than 20 years:

20 (a) Procures an ~~inmate for a house of prostitution.~~ **occupant**
 21 **for a house, vehicle, or other place in which commercial sexual**
 22 **activity is practiced, encouraged, or allowed.**

23 (b) Induces, persuades, encourages, ~~inveigles,~~ or entices a
 24 person to become a ~~prostitute.~~ **provider of commercial sexual**
 25 **activity.**

26 (c) By promise, threat, or violence, or by any device or
 27 scheme, causes, induces, persuades, encourages, takes, places,
 28 harbors, ~~inveigles,~~ or entices a person to become an inmate of a
 29 house, ~~of prostitution or assignation place~~ **vehicle**, or any **other**

1 place ~~where prostitution~~ **in which commercial sexual activity** is
 2 practiced, encouraged, or allowed.

3 (d) By any promise or threat, or by violence or any device or
 4 scheme, causes, induces, persuades, encourages, ~~inveigles, or~~
 5 entices an ~~inmate-occupant~~ of a house, ~~of prostitution-vehicle~~, or
 6 **other place of assignation in which commercial sexual activity is**
 7 **practiced, encouraged, or allowed** to remain there as an
 8 ~~inmate-occupant~~.

9 (e) By any promise or threat, or by violence, any device or
 10 scheme, fraud or artifice, or by duress of person or goods, or by
 11 abuse of any position of confidence or authority, or having legal
 12 charge, takes, places, harbors, ~~inveigles,~~ entices, persuades,
 13 encourages, or procures any person to ~~engage in~~
 14 **prostitution-provide commercial sexual activity**.

15 (f) ~~Inveigles, entices,~~ **Entices**, persuades, encourages, or
 16 procures any person to come into this state or to leave this state
 17 for the purpose of ~~prostitution-providing commercial sexual~~
 18 **activity**.

19 (g) Upon the pretense of marriage, takes or detains a person
 20 for the purpose of sexual intercourse.

21 (h) Receives or gives, or agrees to receive or give, any money
 22 or thing of value for procuring or attempting to procure any person
 23 to ~~become a prostitute~~ **provide commercial sexual activity** or to
 24 come into this state or leave this state for the purpose of
 25 ~~prostitution-a commercial sexual activity~~.

26 Sec. 456. Any person who by force, fraud, intimidation, or
 27 threat places or leaves, or procures any other person to place or
 28 leave, ~~his or her~~ **the person's** spouse in a house, ~~of prostitution~~
 29 ~~or to lead a life of prostitution,~~ **vehicle, or other place in which**

1 **commercial sexual activity is practiced, encouraged, or allowed, or**
 2 **to provide commercial sexual activity,** is guilty of a felony
 3 punishable by imprisonment for not more than 20 years.

4 Sec. 457. (1) Any person who knowingly accepts, receives,
 5 levies, or appropriates any money or valuable thing without
 6 consideration from the proceeds of the earnings of any person
 7 ~~engaged in prostitution,~~ **providing commercial sexual activity,** or
 8 any person, knowing a person to be ~~a prostitute,~~ **providing**
 9 **commercial sexual activity,** who lives or derives support or
 10 maintenance, in whole or in part, from the earnings or proceeds of
 11 ~~the prostitution of a prostitute,~~ **person providing commercial**
 12 **sexual activity,** or from money loaned or advanced to or charged
 13 against a ~~prostitute~~ **person providing commercial sexual activity** by
 14 any keeper or manager or ~~inmate~~ **occupant** of a house, **vehicle,** or
 15 other place ~~where prostitution~~ **in which commercial sexual activity**
 16 is practiced, **encouraged,** or allowed, is guilty of a felony
 17 punishable by imprisonment for not more than 20 years.

18 (2) The acceptance, receipt, levy, or appropriation of money
 19 or any thing of value described in subsection (1) is presumptive
 20 evidence of lack of consideration.

21 Sec. 458. Any person who attempts to detain ~~any~~ **another** person
 22 in a ~~disorderly house,~~ **vehicle,** or ~~house of prostitution~~ **other**
 23 **place in which commercial sexual activity is practiced, encouraged,**
 24 **or allowed** because of ~~any~~ **a** debt or debts the **other** person has
 25 contracted, or is said to have contracted while ~~living in that~~
 26 ~~house,~~ **there,** is guilty of a felony punishable by imprisonment for
 27 not less than 2 years or more than 20 years.

28 Sec. 459. (1) A person shall not knowingly transport or cause
 29 to be transported, or aid or assist in obtaining transportation

1 for, by any means of conveyance, into, through, or across this
 2 state, any person for the purpose of ~~prostitution~~**commercial sexual**
 3 **activity** or with the intent and purpose to induce, entice, or
 4 compel that person to become a ~~prostitute~~**provider of commercial**
 5 **sexual activity**. A person who violates this subsection is guilty of
 6 a felony punishable by imprisonment for not more than 20 years, ~~or~~
 7 a fine of not more than \$20,000.00, or both.

8 (2) A person shall not knowingly sell or offer to sell travel
 9 services that include or facilitate travel for the purpose of
 10 engaging in ~~what~~**conduct that** would be a violation of this chapter,
 11 concerning ~~prostitution~~**commercial sexual activity**, or of chapter
 12 LXVIIIA, concerning human trafficking, if the violation occurred in
 13 this state. Except as provided in subsection (3), a person who
 14 violates this subsection is guilty of a felony punishable by
 15 imprisonment for not more than 5 years, ~~or~~ a fine of not more than
 16 \$10,000.00, or both.

17 (3) If a person violates subsection (2) and the violation
 18 involves conduct against a minor, the person is guilty of a felony
 19 punishable by imprisonment for not more than 10 years, ~~or~~ a fine of
 20 not more than \$15,000.00, or both.

21 (4) A person who violates this section may be prosecuted,
 22 indicted, tried, and convicted in any county or city in or through
 23 which ~~he or she shall transport~~**the person transports** or ~~attempt~~
 24 **attempts** to transport ~~any~~**another** person in violation of this
 25 section.

26 (5) As used in this section, "travel services" means
 27 transportation by air, sea, or ground, hotel or other lodging
 28 accommodations, package tours, or the provision of vouchers or
 29 coupons to be redeemed for future travel, or accommodations for a

1 fee, commission, or other valuable consideration.

2 Sec. 460. (1) It is not a defense to a prosecution for a
3 violation of this chapter that any part of that violation was
4 committed outside this state.

5 (2) A person who violates this chapter may be tried and
6 punished in any county in which the ~~prostitution~~ **commercial sexual**
7 **activity** was intended to be practiced, ~~or in which the offense was~~
8 ~~consummated,~~ **provided or obtained**, or in which any overt act in
9 furtherance of the offense was committed.

10 Sec. 462. A person who, for a purpose other than ~~prostitution,~~
11 **commercial sexual activity**, takes or conveys to, or employs,
12 receives, detains, or allows a person ~~16-18~~ years of age or less to
13 remain in, a house, ~~of prostitution, house of ill-fame, bawdy-~~
14 ~~house, house of assignation, or any house~~ **vehicle**, or **other** place
15 ~~for the resort of prostitutes or other disorderly persons in which~~
16 **commercial sexual activity is practiced, encouraged, or allowed** is
17 guilty of a crime punishable as provided in section 451.

18 Sec. 520m. (1) A person shall provide samples for chemical
19 testing for DNA identification profiling or a determination of the
20 sample's genetic markers and shall provide samples for chemical
21 testing if any of the following apply:

22 (a) The individual is arrested for committing or attempting to
23 commit a felony offense or an offense that would be a felony if
24 committed by an adult.

25 (b) The person is convicted of, or found responsible for, a
26 felony or attempted felony, or any of the following misdemeanors or
27 local ordinances that are substantially corresponding to the
28 following misdemeanors:

29 (i) A violation of section 167(1)(c), (f), or (i), disorderly

1 person by window peeping, engaging in indecent or obscene conduct
 2 in public, or loitering in a house, ~~of ill fame or~~
 3 ~~prostitution-vehicle, or other place resorted to for the purpose of~~
 4 **commercial sexual activity.**

5 (ii) A violation of section 335a(1), indecent exposure.

6 (iii) A violation punishable under section ~~451(1) or (2), first~~
 7 ~~and second prostitution violations.~~ **451 for detaining a person less**
 8 **than 18 years of age for purposes of commercial sexual activity.**

9 (iv) A violation of section 454, ~~leasing~~ **renting** a house, **room,**
 10 **or vehicle** for purposes of ~~prostitution.~~ **commercial sexual activity.**

11 (2) Notwithstanding subsection (1), if at the time the person
 12 is arrested for, convicted of, or found responsible for the
 13 violation the investigating law enforcement agency or the
 14 department of state police already has a sample from the person
 15 that meets the requirements of the DNA identification profiling
 16 system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not
 17 required to provide another sample or pay the assessment required
 18 under subsection (5).

19 (3) The county sheriff or the investigating law enforcement
 20 agency shall collect and transmit the samples in the manner
 21 required under the DNA identification profiling system act, 1990 PA
 22 250, MCL 28.171 to 28.176.

23 (4) An investigating law enforcement agency, prosecuting
 24 agency, or court that has in its possession a DNA identification
 25 sample obtained from a person under subsection (1) shall forward
 26 the DNA identification sample to the department of state police
 27 after the person from whom the sample was taken has been charged
 28 with committing or attempting to commit a felony offense or an
 29 offense that would be a felony if committed by an adult unless the

1 department of state police already has a DNA identification profile
2 of the person.

3 (5) The court shall order each person found responsible for or
4 convicted of 1 or more crimes listed in subsection (1) to pay an
5 assessment of \$60.00. The assessment required under this subsection
6 is in addition to any fine, costs, or other assessments imposed by
7 the court.

8 (6) An assessment required under subsection (5) ~~shall~~**must** be
9 ordered ~~upon~~**on** the record, and ~~shall~~**must** be listed separately in
10 the adjudication order, judgment of sentence, or order of
11 probation.

12 (7) After reviewing a verified petition by a person against
13 whom an assessment is imposed under subsection (5), the court may
14 suspend payment of all or part of the assessment if it determines
15 the person is unable to pay the assessment.

16 (8) The court that imposes the assessment ~~prescribed~~ under
17 subsection (5) may retain 10% of all assessments or portions of
18 assessments collected for costs incurred under this section and
19 shall transmit that money to its funding unit. On the last day of
20 each month, the clerk of the court shall transmit the assessments
21 or portions of assessments collected under this section as follows:

22 (a) Twenty-five percent to the county sheriff or other
23 investigating law enforcement agency that collected the DNA sample
24 as designated by the court to defray the costs of collecting DNA
25 samples.

26 (b) Sixty-five percent to the state treasurer for deposit in
27 the justice system fund created in section 181 of the revised
28 judicature act of 1961, 1961 PA 236, MCL 600.181.

29 (9) As used in this section:

1 (a) "DNA identification profile" and "DNA identification
2 profiling" mean those terms as defined in section 2 of the DNA
3 identification profiling system act, 1990 PA 250, MCL 28.172.

4 (b) "Investigating law enforcement agency" means the law
5 enforcement agency responsible for the investigation of the offense
6 for which the person is arrested or convicted. Investigating law
7 enforcement agency includes the county sheriff but does not include
8 a probation officer employed by the department of corrections.

9 (c) "Felony" means a violation of a penal law of this state
10 for which the offender may be punished by imprisonment for more
11 than 1 year or an offense expressly designated by law to be a
12 felony.

13 (d) "Sample" means a portion of a person's blood, saliva, or
14 tissue collected from the person.

15 Enacting section 1. Section 449a of the Michigan penal code,
16 1931 PA 328, MCL 750.449a, is repealed.

17 Enacting section 2. This amendatory act takes effect 90 days
18 after the date it is enacted into law.

19 Enacting section 3. This amendatory act does not take effect
20 unless all of the following bills of the 102nd Legislature are
21 enacted into law:

22 (a) House Bill No. 5842.

23 (b) House Bill No. 5843.

24 (c) House Bill No. 5844.

25 (d) House Bill No. 5845.

26 (e) House Bill No. 5846.

27 (f) House Bill No. 5847.

28 (g) House Bill No. 5848.

29 (h) House Bill No. 5849.

- 1 (i) House Bill No. 5850.
- 2 (j) House Bill No. 5851.
- 3 (k) House Bill No. 5852.
- 4 (l) House Bill No. 5853.
- 5 (m) House Bill No. 5854.
- 6 (n) House Bill No. 5864.