

HOUSE BILL No. 5575

November 5, 2009, Introduced by Reps. Spade, Gonzales, LeBlanc, Barnett, Terry Brown, Jackson, Nathan, Neumann, Liss, Robert Jones, Womack, Kennedy, Bauer, Miller, Constan, Hammel, Warren, Smith, Durhal, Meadows, Lisa Brown and Polidori and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 462j.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 462J. (1) A PERSON SHALL NOT KNOWINGLY PROVIDE OR OBTAIN
2 THE LABOR OR SERVICES OF ANOTHER PERSON BY FORCE, FRAUD, OR
3 COERCION. EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), A PERSON
4 WHO VIOLATES THIS SUBSECTION IS GUILTY OF A CRIME AS FOLLOWS:

5 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE PERSON
6 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
7 10 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

8 (B) IF THE VIOLATION INVOLVES THE FORCED LABOR OF A MINOR OR A
9 COMMERCIAL SEX ACT, OR IF THE VIOLATION INVOLVES SERIOUS PHYSICAL

1 HARM TO ANY PERSON, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
2 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN
3 \$20,000.00, OR BOTH.

4 (C) IF THE VIOLATION INVOLVES THE DEATH OF ANY PERSON, THE
5 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR LIFE OR
6 ANY TERM OF YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

7 (2) A PERSON SHALL NOT KNOWINGLY RECRUIT, HARBOR, TRANSPORT,
8 PROVIDE, OR OBTAIN A PERSON FOR LABOR OR SERVICES FOR THE PURPOSE
9 OF HOLDING THAT PERSON IN INVOLUNTARY SERVITUDE OR DEBT BONDAGE. A
10 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME AS FOLLOWS:

11 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE PERSON
12 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
13 10 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

14 (B) IF THE VIOLATION INVOLVES THE TRAFFICKING OF A MINOR OR A
15 COMMERCIAL SEX ACT, OR IF THE VIOLATION INVOLVES SERIOUS PHYSICAL
16 HARM TO ANY PERSON, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
17 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN
18 \$20,000.00, OR BOTH.

19 (C) IF THE VIOLATION INVOLVES THE DEATH OF ANY PERSON, THE
20 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR LIFE OR
21 ANY TERM OF YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

22 (3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
23 WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW
24 ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS
25 SECTION.

26 (4) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR
27 VIOLATING THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF

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1 IMPRISONMENT IMPOSED FOR THE COMMISSION OF ANY OTHER CRIME,
2 INCLUDING ANY OTHER VIOLATION OF LAW ARISING OUT OF THE SAME
3 TRANSACTION AS THE VIOLATION OF THIS SECTION.

4 (5) THE COURT SHALL ORDER A PERSON CONVICTED OF VIOLATING THIS
5 SECTION TO PAY RESTITUTION TO THE VICTIM IN THE MANNER PROVIDED IN
6 SECTION 16B OF THE WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS
7 ACT, 1985 PA 87, MCL [780.766B], AND TO REIMBURSE ANY GOVERNMENTAL
8 ENTITY FOR ITS EXPENSES INCURRED AS A RESULT OF THE VIOLATION, IN
9 THE MANNER PROVIDED IN SECTION 1F OF CHAPTER IX OF THE CODE OF
10 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.1F.

11 (6) AS USED IN THIS SECTION:

12 (A) "COERCION" INCLUDES, BUT IS NOT LIMITED TO, ANY OF THE
13 FOLLOWING:

14 (i) A THREAT TO HARM OR PHYSICALLY RESTRAIN ANY PERSON OR THE
15 CREATION OF ANY SCHEME, PLAN, OR PATTERN INTENDED TO CAUSE A PERSON
16 TO BELIEVE THAT FAILURE TO PERFORM AN ACT WOULD RESULT IN HARM TO
17 OR PHYSICAL RESTRAINT AGAINST ANY PERSON.

18 (ii) THE CONFISCATION OF DOCUMENTS WITHOUT REGARD TO WHETHER
19 THE DOCUMENTS ARE FRAUDULENT OR FRAUDULENTLY OBTAINED; AND THE
20 ABUSE OR THREATENED ABUSE OF THE LEGAL SYSTEM, INCLUDING THREATS OF
21 ARREST OR DEPORTATION WITHOUT REGARD TO WHETHER THE PERSON BEING
22 THREATENED IS SUBJECT TO ARREST OR DEPORTATION UNDER THE LAWS OF
23 THIS STATE OR THE UNITED STATES.

24 (B) "COMMERCIAL SEX ACT" MEANS EITHER OF THE FOLLOWING:

25 (i) ANY ACT OF SEXUAL PENETRATION OR SEXUAL CONTACT AS DEFINED
26 IN SECTION 520A FOR WHICH ANYTHING OF VALUE IS GIVEN TO, OR IS
27 RECEIVED BY, ANY PERSON.

1 (ii) ANY SEXUALLY EXPLICIT PERFORMANCE AS DEFINED IN SECTION 3
2 OF 1978 PA 33, MCL 722.673, FOR WHICH ANYTHING OF VALUE IS GIVEN
3 TO, OR IS RECEIVED BY, ANY PERSON.

4 (iii) A VIOLATION OF SECTION 145C(2) OR (3) INVOLVING ANY CHILD
5 SEXUALLY ABUSIVE ACTIVITY OR MATERIAL.

6 (C) "DEBT BONDAGE" INCLUDES, BUT IS NOT LIMITED TO, THE STATUS
7 OR CONDITION OF A DEBTOR ARISING FROM A PLEDGE BY THE DEBTOR OF HIS
8 OR HER PERSONAL SERVICES OR OF THOSE OF A PERSON UNDER HIS OR HER
9 CONTROL AS A SECURITY FOR A DEBT, IF THE VALUE OF THOSE SERVICES AS
10 REASONABLY ASSESSED IS NOT APPLIED TOWARD THE LIQUIDATION OF THE
11 DEBT OR THE LENGTH AND NATURE OF THOSE SERVICES ARE NOT
12 RESPECTIVELY LIMITED AND DEFINED.

13 (D) "FORCE" INCLUDES, BUT IS NOT LIMITED TO, PHYSICAL VIOLENCE
14 OR ACTUAL PHYSICAL RESTRAINT OR CONFINEMENT, BUT INJURY IS NOT
15 REQUIRED.

16 (E) "FRAUD" INCLUDES, BUT IS NOT LIMITED TO, A FALSE OR
17 DECEPTIVE OFFER OF EMPLOYMENT OR MARRIAGE.

18 (F) "INVOLUNTARY SERVITUDE" INCLUDES, BUT IS NOT LIMITED TO, A
19 STATE OF PROVIDING LABOR OR SERVICES ENTERED INTO OR MAINTAINED BY
20 MEANS OF FORCE, FRAUD, OR COERCION.

21 (G) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

22 (H) "SERIOUS PHYSICAL HARM" MEANS ANY PHYSICAL INJURY THAT
23 SERIOUSLY IMPAIRS A PERSON'S HEALTH OR PHYSICAL WELL-BEING,
24 INCLUDING, BUT NOT LIMITED TO, ANY BRAIN DAMAGE, A SKULL OR BONE
25 FRACTURE, A SUBDURAL HEMORRHAGE OR HEMATOMA, A DISLOCATION OR
26 SPRAIN, ANY INTERNAL INJURY, POISONING, A BURN OR SCALD, OR A
27 SEVERE CUT.

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1 [Enacting section 1. This amendatory act takes effect March 1,
2 2010.

3 Enacting section 2. This amendatory act does not take effect unless
all of the following bills of the 95th Legislature are enacted into law:
(a) House Bill No. 5576.
(b) House Bill No. 5577.
(c) House Bill No. 5578.
(d) House Bill No. 5579.]