

Legislative Analysis



HUMAN TRAFFICKING: STATUTE OF LIMITATIONS

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House Bill 5237 without amendment
Sponsor: Rep. Phil M. Cavanagh

House Bill 5240 without amendment
Sponsor: Rep. Brian Banks

Committee: Criminal Justice
First Analysis (3-4-14)

BRIEF SUMMARY: House Bill 5240 would extend the statute of limitations for human trafficking crimes. House Bill 5237 would make a technical revision to a provision pertaining to restitution made to victims of human trafficking crimes to comport with proposed changes to the Human Trafficking Act.

FISCAL IMPACT: House Bill 5237 would have no fiscal impact on state or local units of government. House Bill 5240 could increase costs on the state's correctional system, depending on the number of persons convicted under the provisions of the bill. New felony convictions could result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Victims of human trafficking, especially those forced or coerced into the commercial sex trade, often suffer from extreme mental duress and/or physical abuse. Starvation, sleep deprivation, lack of medical care, beatings, rapes, and threats of violence against them or family members are just some of what victims endure on a daily basis. Even if a person escapes or is rescued, it can take years for the person to begin to recover to the point of being able to come forward to report the crime or participate in the prosecution of the perpetrator or perpetrators. Victims who are immigrants may have passports or other documents taken away by the perpetrators; they may fear deportation, speak little English, or fear law enforcement personnel and thus be reticent to seek justice.

For these reasons, agencies and organizations that work with victims of human trafficking have called for longer time frames in which charges against perpetrators of human trafficking could be filed. Extending the statute of limitations for human trafficking offenses was also one of the recommendations made by the Michigan Commission on Human Trafficking in its 2013 report.

In a related matter, pending legislation to revise and update the Human Trafficking Act would result in the repeal of two sections of the current act. A reference to the repealed sections contained in a separate act needs to be revised accordingly.

THE CONTENT OF THE BILLS:

House Bill 5237 would amend the William Van Regenmorter Crime Victim's Rights Act (MCL 780.766b) to make a technical correction to the citation that refers to the Human Trafficking Act. Under the CVRA, a defendant convicted of a human trafficking offense under Chapter LXVIIA of the Michigan Penal Code must be ordered by the court to pay restitution for the full amount of loss suffered by the victim, and may be ordered to pay additional amounts to the victim as well, such as for lost income.

The bill would make a technical correction to the citation referencing Chapter LXVIIA in order to reflect the repeal of two sections as proposed by House Bill 5234. House Bill 5237 could not take effect unless House Bill 5234 is also enacted.

House Bill 5240. Under the bill, there would be (1) no statute of limitations for a human trafficking offense punishable by life imprisonment, and (2) a ten-year statute of limitations for all other human trafficking violations.

The bill would amend the list of crimes in the Code of Criminal Procedure (MCL 767.24) for which there is no time limit to file criminal charges to include a violation of Chapter LXVIIA of the Michigan Penal Code, entitled "Human Trafficking", that is punishable by imprisonment for life.

For all other violations of Chapter LXVIIA, the statute of limitations during which criminal charges could be filed would be 10 years after the offense is committed or the alleged victim's 21st birthday, whichever is later.

If DNA evidence of a human trafficking offense is obtained from an unidentified person, an indictment could be found and filed at any time. However, once the individual is identified, charges could be filed within 10 years or by the alleged victim's 21st birthday, whichever is later.

BACKGROUND INFORMATION:

The bills are part of the larger package of legislation introduced to adopt recommendations made by the Michigan Commission on Human Trafficking. The Commission's "2013 Report on Human Trafficking" can be found at:

http://www.michigan.gov/documents/ag/2013_Human_Trafficking_Commission_Report_439218_7.pdf

ARGUMENTS:

For:

Michigan law already provides extended time periods during which criminal charges may be filed for particularly heinous crimes and for certain crimes against children. These extended statutes of limitations take into consideration that some crimes, such as rape, can be so emotionally devastating that a victim may need a period of time to recover before the person is able to report the crime or assist meaningfully in the investigation and prosecution. Some statutes of limitations also recognize that child victims may still be in contact with their attackers and therefore allow a period of time after the person reaches adulthood before the limitations period runs out.

As more has come to light about the circumstances under which men, women, and children have been taken or enticed into servitude, whether forced labor or the commercial sex trade, and the often inhumane conditions under which they live, it is apparent that victims who survive human trafficking need a longer time in which criminal charges can be brought against their abusers. They need time to heal physically and emotionally, to regain self-esteem, and to learn to trust the legal system in order to properly assist in bringing traffickers to justice. In addition, since trafficking is often linked to organized crime, gangs, and other criminal enterprises, it can take considerable time and effort on the part of law enforcement to investigate, develop a case, and make arrest(s).

Human trafficking not only takes an enormous personal and societal toll, but also is one of the fastest-growing criminal enterprises. House Bill 5240 recognizes that the victimization endured by survivors of human trafficking is comparable to other crimes for which an extended period of time for filing criminal charges is appropriate. Charges for the worst of the human trafficking crimes, those for which the penalty is life imprisonment without parole, could be filed any time. For all other trafficking crimes, the extended period would be ten years, or ten years after the victim reached the age of 21, whichever was later. These extensions of the statute of limitations would aid efforts to combat human trafficking and bring perpetrators to justice.

POSITIONS:

A representative of the Office of Attorney General testified in support of the bills.

The Michigan Catholic Conference indicated support for the bills.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.