

Act No. 336
Public Acts of 2014
Approved by the Governor
October 15, 2014
Filed with the Secretary of State
October 16, 2014
EFFECTIVE DATE: January 14, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

**Introduced by Reps. Kowall, Heise, Jenkins, Graves, Zorn, Pagel, O'Brien, Denby, Jacobsen, Lori,
Rendon, Tlaib and Cavanagh**

ENROLLED HOUSE BILL No. 5012

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 451 (MCL 750.451), as amended by 2002 PA 44.

The People of the State of Michigan enact:

Sec. 451. (1) Except as otherwise provided in this section, a person convicted of violating section 448, 449, 449a(1), 450, or 462 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) A person 16 years of age or older who is convicted of violating section 448, 449, 449a(1), 450, or 462 and who has 1 prior conviction is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

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

(4) A person convicted of violating section 449a(2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

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

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(6) In any prosecution of a person under 18 years of age for an offense punishable under this section, it shall be presumed that the person under 18 years of age was coerced into child sexually abusive activity or commercial sexual activity in violation of section 462e or otherwise forced or coerced into committing that offense by another person

engaged in human trafficking in violation of sections 462a to 462h. The prosecution may overcome this presumption by proving beyond a reasonable doubt that the person was not forced or coerced into committing the offense. The state may petition the court to find the person under 18 years of age to be dependent and in danger of substantial physical or psychological harm under section 2(b)(3) of chapter XIIA 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 XIIA 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, or 462, or a local ordinance substantially corresponding to section 448, 449, 450, or 462, if engaged in by a person 16 years of age or over shall immediately report to the department of 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 human services shall begin an investigation of a human trafficking violation reported to the department of human services under subsection (7) within 24 hours after the report is made to the department of human services, as provided in section 8 of the child protection law, 1975 PA 238, MCL 722.628. The investigation shall 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 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

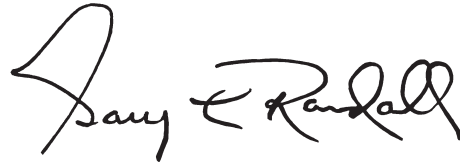
(9) As used in this section, "prior conviction" means a violation of section 448, 449, 449a(1), 450, or 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to section 448, 449, 449a(1), 450, or 462.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

- (a) Senate Bill No. 205.
- (b) House Bill No. 5026.
- (c) House Bill No. 5234.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor