

# Legislative Analysis



## SOLICITING 16- AND 17-YEAR OLDS FOR PROSTITUTION: INCREASE PENALTIES

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4209 (Reported from committee without amendment)**  
**Sponsor: Rep. Dale W. Zorn**

**House Bill 4210 (Reported from committee without amendment)**  
**Sponsor: Eileen Kowall**

**Committee: Criminal Justice**  
**First Analysis (1-21-14)**

**BRIEF SUMMARY:** House Bill 4209 would make it a five-year felony to solicit a 16-year-old or 17-year-old for prostitution or other lewd or immoral act. House Bill 4210 would place the penalty within the sentencing guidelines.

**FISCAL IMPACT:** The bill could increase costs on the state's correctional system. Information is not available on the number of persons that might be 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:***

One recommendation of the 2013 Report on Human Trafficking by the Michigan Commission on Human Trafficking was that local demand for commercial sex be reduced by increasing the criminal penalties faced by "johns" (those who solicit another person for sex), especially for those who target minors. The Commission noted in its findings that the current penalty is the same whether a person solicits sex from an adult or a minor ages 16 and 17 years of age—a 93-day misdemeanor for a first offense and/or a fine of no more than \$500. (Soliciting sex from a minor under 16 years of age is a four-year felony.)

According to the Report, increasing the penalty for exploiting vulnerable children would "make Michigan a less hospitable environment for the 'johns' who drive in-state demand for commercial sexual services." Identical legislation to address this concern has been introduced in both the House and Senate.

### ***THE CONTENT OF THE BILLS:***

House Bill 4209 would amend the Michigan Penal Code (MCL 750.448 and 750.451). The bill would make it a felony punishable by imprisonment for not more than five years

and/or a fine of not more than \$10,000 to solicit, accost, or invite another person who is not less than 16 years of age and not more than 17 years of age 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. (House Bill 4209 is identical to Senate Bill 205.)

Currently, the act prohibits a person 16 years of age or older from accosting, soliciting, or inviting 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; the penalty is a misdemeanor punishable by 93 days in jail and/or a fine of not more than \$500, with higher penalties for repeat violations. This provision, which applies to those engaging in prostitution as well as those soliciting the services of a prostitute, would not be amended.

(Section 145a of the penal code currently makes it a four-year felony with a possible fine of not more than \$4,000 to solicit a minor younger than 16 years of age for prostitution, gross indecency, or immoral acts.)

House Bill 4210 would amend the Code of Criminal Procedure (MCL 777.16w) to specify that soliciting a minor over 16 years of age to commit prostitution would have a maximum term of imprisonment of five years and to make some revisions of a technical nature. The bill is tie-barred to House Bill 4209 and is identical to Senate Bill 206.

#### ***BACKGROUND INFORMATION:***

January is Human Trafficking Awareness Month. An informative brochure on Human Trafficking developed by the Department of Attorney General is available at: [http://www.michigan.gov/documents/ag/Human\\_Trafficking\\_Brochure\\_380106\\_7.pdf](http://www.michigan.gov/documents/ag/Human_Trafficking_Brochure_380106_7.pdf)

In addition, information on Human Trafficking can also be found at the Michigan Human Trafficking Task Force website – <http://www.humantrafficking.msu.edu/>; the Polaris Project website – [www.polarisproject.org](http://www.polarisproject.org); and the U.S. Justice Department – [www.justice.gov/crt/about/crm/htpu.php](http://www.justice.gov/crt/about/crm/htpu.php), among other informative sites.

The full "2013 Report on Human Trafficking" by the (temporary) Michigan Commission on Human Trafficking can be found at: [www.michigan.gov/documents/ag/2013\\_Human\\_Trafficking\\_Commission\\_Report\\_439218\\_7.pdf](http://www.michigan.gov/documents/ag/2013_Human_Trafficking_Commission_Report_439218_7.pdf).

#### ***ARGUMENTS:***

##### ***For:***

The bills are part of the larger package of legislation addressing the issue of human trafficking based on the findings and recommendations of the Michigan Commission on Human Trafficking in its final report to the governor and Legislature in 2013. Among the findings of the Commission is that minors 16 and 17 years of age are often treated as adults. The House of Representatives previously passed two bills to divert these juveniles into the social services system rather than the criminal justice system by creating a rebuttable presumption that they are victims of human trafficking. House Bills 4209 and 4210 would aid in these efforts to protect minors from the sex trade by

increasing penalties for those individuals who would seek the sexual services of 16 and 17 year olds. It is believed that increasing the penalty for a first offense to a five-year felony will have a deterrent effect and thus mitigate the attractiveness for pimps or johns to use these children in the commercial sex trade.

***Against:***

Though it is commendable to protect these vulnerable teenagers by increasing the penalties, the bills now appear to make it a harsher crime to solicit sex from a 17-year-old than from a 12-year-old. Perhaps Section 145a of the penal code, which sets the penalty for soliciting sex or an immoral act or gross indecency from a minor under the age of 16 as a four-year felony with a possible fine of \$4,000, should also be amended to at least offer the same or higher penalty for conduct involving a 16- or 17-year-old.

***POSITIONS:***

The Michigan Sheriffs Association indicated support for the bills. (1-15-14)

The Michigan Catholic Conference indicted support for the bills. (1-15-14)

The Michigan State Council of Junior Leagues indicated support for the bills. (1-15-14)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Robin Risko

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■ 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.