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House Bill 5747 (Substitute H-1 as passed by the House)

House Bill 5748 (as passed by the House)

Sponsor: Representative Phil Pavlov (H.B. 5747)

Representative David Farhat (H.B. 5748)

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 5-2-06

CONTENT

House Bill 5747 (H-1) would add Chapter 67a (Human Trafficking) to the Michigan Penal Code to prohibit and prescribe felony penalties for knowingly doing any of the following:

- **Subjecting another person to forced labor or services by certain actions.**
- **Recruiting, enticing, harboring, transporting, providing, or obtaining a minor (a person under 18 years old) knowing that he or she would be used for child sexually abusive activity.**
- **Recruiting, enticing, harboring, transporting, providing, or obtaining another person, intending or knowing that the person would be subjected to forced labor or services.**
- **Benefiting financially or receiving anything of value from participation in a venture that had engaged in act described in the bill.**

The bill also would require a defendant to be imprisoned for life or any term of years, if a violation described above involved kidnapping or an attempt to kidnap, criminal sexual conduct (CSC) or an attempt to commit CSC, or an attempt to kill.

House Bill 5748 would amend the Code of Criminal Procedure to include the violations proposed by House Bill 5747 (H-1) in the sentencing guidelines.

The bills would take effect 90 days after their enactment. House Bill 5748 is tie-barred to House Bill 5747.

House Bill 5747 (H-1)

The bill would prohibit a person from knowingly subjecting or attempting to subject another person to forced labor or services by doing any of the following:

- Causing or threatening to cause physical harm to another person.
- Physically restraining or threatening physically to restrain another person.
- Abusing or threatening to abuse the law or legal process.
- Knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

- Using blackmail, using or threatening to cause financial harm to, or exerting or threatening to exert financial control over another person.

The bill also would prohibit a person from knowingly doing one or both of the following:

- Recruiting, enticing, harboring, transporting, providing, or obtaining by any means, or attempting to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person would be subjected to forced labor or services.
- Benefiting financially or receiving anything of value from participation in a venture that engaged in an act described in Chapter 67a.

All of the violations described above would be felonies punishable by to 10 years' imprisonment. If the offender caused injury to another person, the maximum term would be 15 years. If the offender caused the death of another person, the penalty would be imprisonment for life or any term of years.

In addition, the bill would prohibit a person from knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means, or attempting to recruit, entice, harbor, provide, or obtain by any means, a minor knowing that the he or she would be used for child sexually abusive activity. A violation would be a felony punishable by up to 20 years' imprisonment.

If a violation of Chapter 67a involved kidnapping or an attempt to kidnap, CSC or attempted CSC, or an attempt to kill, the defendant would have to be imprisoned for life or any term of years.

Under the bill, "labor" would mean work of economic or financial value. "Services" would mean an ongoing relationship between a person and another person in which the other person performs activities under the supervision of or for the benefit of the person, including commercial sexual activity and sexually explicit performances.

House Bill 5748

The bill would include the felonies proposed by House Bill 5747 (H-1) in the sentencing guidelines, as shown in Table 1.

Table 1

Violation	Felony Class & Category	Stat. Max. Sentence
Human trafficking-Forced labor through physical harm, physical restraint, abuse of legal process, destruction of ID document, or blackmail, or recruiting a minor for forced labor	D - Person	10 years
Human trafficking-Violation described above causing injury	C- Person	15 years
Human trafficking-Violation described above causing death	A - Person	Life
Human trafficking-Obtaining a minor for child sexually abusive activity	B - Person	20 years
Human trafficking-Compound felony (kidnapping, CSC, attempt to kill)	A - Person	Life

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses related to human trafficking. Currently, there is no Michigan statute that specifies criminal penalties for human trafficking. Cases may be prosecuted federally or under various Michigan statutes related to the individual factors in the case. Nationwide, the U.S. Department of Justice convicted 109 offenders from 2001 to February 2005 under Federal statutes such as the Trafficking Victims Protection Act of 2000.

An offender convicted of the Class D offenses under the bills would receive a sentencing guidelines minimum sentence range of 0-6 months to 43-76 months. An offender convicted of the Class C offenses would receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. An offender convicted of the Class B offense would receive a sentencing guidelines minimum sentence range of 0-18 months to 117-160 months. An offender convicted of the Class A offenses would receive a sentencing guidelines minimum sentence range of 21-35 months to 270 months-life. To the extent that the bills would result in increased incarceration time, local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.