

HOUSE BILL No. 4914

June 13, 2007, Introduced by Reps. Spade, Dean, Valentine, Corriveau and Gonzales 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, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
10 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN

1 \$20,000.00, OR BOTH.

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

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

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

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

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

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

25 (4) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR
26 VIOLATING THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
27 IMPRISONMENT IMPOSED FOR THE COMMISSION OF ANY OTHER CRIME,

1 INCLUDING ANY OTHER VIOLATION OF LAW ARISING OUT OF THE SAME
2 TRANSACTION AS THE VIOLATION OF THIS SECTION.

3 (5) THE COURT SHALL ORDER A PERSON CONVICTED OF VIOLATING THIS
4 SECTION TO PAY RESTITUTION TO THE VICTIM. THE COURT SHALL ALSO
5 ORDER THE PERSON TO PAY 1 OF THE FOLLOWING TO THE VICTIM, AS
6 APPLICABLE:

7 (A) IF THE VICTIM WAS NOT PAID FOR HIS OR HER WORK, THE FAIR
8 AND PREVAILING WAGE PAID TO THOSE LAWFULLY EMPLOYED IN THAT
9 INDUSTRY FOR THAT WORK.

10 (B) IF THE VICTIM WAS PAID FOR HIS OR HER WORK AT A RATE BELOW
11 THAT OF THE PREVAILING WAGE PAID THOSE LAWFULLY EMPLOYED IN THAT
12 INDUSTRY, THE DIFFERENCE BETWEEN THE WAGES PAID TO THE VICTIM AND
13 THAT FAIR AND PREVAILING WAGE.

14 (6) AS USED IN THIS SECTION:

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

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

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

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

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

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

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

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

16 (D) "FORCE" INCLUDES, BUT IS NOT LIMITED TO, PHYSICAL VIOLENCE
17 OR ACTUAL PHYSICAL RESTRAINT OR CONFINEMENT, BUT INJURY IS NOT
18 REQUIRED.

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

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

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

25 (H) "SERIOUS PHYSICAL HARM" MEANS ANY PHYSICAL INJURY THAT
26 SERIOUSLY IMPAIRS A PERSON'S HEALTH OR PHYSICAL WELL-BEING,
27 INCLUDING, BUT NOT LIMITED TO, ANY BRAIN DAMAGE, A SKULL OR BONE

1 FRACTURE, A SUBDURAL HEMORRHAGE OR HEMATOMA, A DISLOCATION OR
2 SPRAIN, ANY INTERNAL INJURY, POISONING, A BURN OR SCALD, OR A
3 SEVERE CUT.