

# HOUSE BILL No. 5203

November 1, 2017, Introduced by Rep. Kosowski and referred to the Committee on Law and Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 449a, 451, 452, 454, 455, 456, 457, 458, 459, and 462 (MCL 750.449a, 750.451, 750.452, 750.454, 750.455, 750.456, 750.457, 750.458, 750.459, and 750.462), section 449a as amended by 2014 PA 326, section 451 as amended by 2016 PA 338, sections 452, 455, 456, 457, and 458 as amended by 2014 PA 331, section 454 as amended by 2002 PA 672, section 459 as amended by 2016 PA 485, and section 462 as amended by 2002 PA 46.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 449a. (1) Except as provided in subsection (2), a person  
2 **18 YEARS OF AGE OR OLDER** who engages or offers to engage the  
3 services of another person, not his or her spouse, for the purpose  
4 of prostitution, lewdness, or assignation, by the payment in money  
5 or other forms of consideration, is guilty of a misdemeanor. A

1 person convicted of violating this section is subject to part 52 of  
2 the public health code, 1978 PA 368, MCL 333.5201 to 333.5210.

3 (2) A person **18 YEARS OF AGE OR OLDER** who engages or offers to  
4 engage the services of another person, who is less than 18 years of  
5 age and who is not his or her spouse, for the purpose of  
6 prostitution, lewdness, or assignation, by the payment in money or  
7 other forms of consideration, is guilty of a crime punishable as  
8 provided in section 451.

9 Sec. 451. (1) Except as otherwise provided in this section, a  
10 person convicted of violating section 448, 449, 449a(1), 450, or  
11 462 is guilty of a misdemeanor punishable by imprisonment for not  
12 more than 93 days or a fine of not more than \$500.00, or both.

13 (2) A person ~~16~~**18** years of age or older who is convicted of  
14 violating section 448, 449, 449a(1), 450, or 462 and who has 1  
15 prior conviction is guilty of a misdemeanor punishable by  
16 imprisonment for not more than 1 year or a fine of not more than  
17 \$1,000.00, or both.

18 (3) A person convicted of violating section 448, 449, 449a(1),  
19 450, or 462 and who has 2 or more prior convictions is guilty of a  
20 felony punishable by imprisonment for not more than 2 years or a  
21 fine of not more than \$2,000.00, or both.

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

25 (5) If the prosecuting attorney intends to seek an enhanced  
26 sentence based upon the defendant having 1 or more prior  
27 convictions, the prosecuting attorney shall include on the

1 complaint and information a statement listing the prior conviction  
2 or convictions. The existence of the defendant's prior conviction  
3 or convictions ~~shall~~**MUST** be determined by the court, without a  
4 jury, at sentencing or at a separate hearing for that purpose  
5 before sentencing. The existence of a prior conviction may be  
6 established by any evidence relevant for that purpose, including,  
7 but not limited to, 1 or more of the following:

8 (a) A copy of the judgment of conviction.

9 (b) A transcript of a prior trial, plea-taking, or sentencing.

10 (c) Information contained in a presentence report.

11 (d) The defendant's statement.

12 (6) ~~In any prosecution of~~**IF** a person under 18 years of age  
13 ~~for an offense punishable under~~**IS FOUND ENGAGING IN CONDUCT THAT**  
14 **WOULD BE A VIOLATION OF** this section or a local ordinance  
15 substantially corresponding to an offense punishable under this  
16 section **IF ENGAGED IN BY A PERSON MORE THAN 18 YEARS OF AGE**, it  
17 ~~shall~~**MUST** be presumed that the person under 18 years of age was  
18 coerced into child sexually abusive activity or commercial sexual  
19 activity in violation of section 462e or otherwise forced or  
20 coerced into committing that offense by another person engaged in  
21 human trafficking in violation of sections 462a to 462h. ~~The~~  
22 ~~prosecution may overcome this presumption by proving beyond a~~  
23 ~~reasonable doubt that the person was not forced or coerced into~~  
24 ~~committing the offense.~~The state may petition the court to find  
25 the person under 18 years of age to be dependent and in danger of  
26 substantial physical or psychological harm under section 2(b)(3) of  
27 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

1 ~~A person under 18 years of age who fails to substantially comply~~  
2 ~~with court-ordered services under section 2(b)(3) of chapter XIIIA~~  
3 ~~of the probate code of 1939, 1939 PA 288, MCL 712A.2, is not~~  
4 ~~eligible for the presumption under this section.~~

5 (7) Excluding any reasonable period of detention for  
6 investigation purposes, a law enforcement officer who encounters a  
7 person under 18 years of age engaging in any conduct that would be  
8 a violation of section 448, 449, 450, or 462, or a local ordinance  
9 substantially corresponding to section 448, 449, 450, or 462, if  
10 engaged in by a person ~~16~~**18** years of age or over shall immediately  
11 report to the department of health and human services a suspected  
12 violation of human trafficking involving a person under 18 years of  
13 age in violation of sections 462a to 462h.

14 (8) The department of health and human services shall begin an  
15 investigation of a human trafficking violation reported to the  
16 department of health and human services under subsection (7) within  
17 24 hours after the report is made to the department of health and  
18 human services, as provided in section 8 of the child protection  
19 law, 1975 PA 238, MCL 722.628. The investigation ~~shall~~**MUST** include  
20 a determination as to whether the person under 18 years of age is  
21 dependent and in danger of substantial physical or psychological  
22 harm under section 2(b)(3) of chapter XIIIA of the probate code of  
23 1939, 1939 PA 288, MCL 712A.2.

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

1 449, 449a(1), 450, or 462.

2 Sec. 452. A person **18 YEARS OF AGE OR OLDER** who keeps,  
3 maintains, or operates, or aids and abets in keeping, maintaining,  
4 or operating, a house of ill-fame, bawdy house, or any house or  
5 place ~~resorted to~~ **UTILIZED** for ~~the purpose of~~ prostitution or  
6 lewdness is guilty of a felony punishable by imprisonment for not  
7 more than 5 years or by a fine of not more than \$5,000.00, or both.

8 Sec. 454. Any person **18 YEARS OF AGE OR OLDER** who ~~shall let~~  
9 **LEASES** any dwelling house, knowing that the lessee intends to use  
10 it as a house of ill-fame or place ~~of resort for the purpose of~~  
11 **UTILIZED FOR** prostitution and lewdness, or for the purpose of  
12 gambling for money or other property, or who ~~shall knowingly permit~~  
13 ~~such~~ **PERMITS A** lessee to use the ~~same for such purpose,~~ **DWELLING**  
14 **HOUSE FOR PROSTITUTION OR GAMBLING FOR MONEY OR OTHER PROPERTY,** or  
15 who ~~shall receive~~ **RECEIVES** any rent for any dwelling, house, room,  
16 or apartment which is used as a house of ill-fame or place of  
17 resort for prostitutes, or for the purpose of prostitution and  
18 lewdness, or for the purpose of gambling for money or other  
19 property, ~~having~~ **WHO HAS** reasonable cause to believe such house,  
20 room, or apartment is used for any such purpose, is guilty of a  
21 misdemeanor punishable by imprisonment for not more than 6 months  
22 or a fine of not more than \$750.00. However, ~~no~~ **A** person ~~shall be~~  
23 **IS NOT** liable for receiving rent ~~as aforesaid~~ **UNDER THIS SECTION**  
24 for any period prior to the time when he or she has reasonable  
25 cause to believe that such house, room, or apartment is used for  
26 any such purpose.

27 Sec. 455. A person **18 YEARS OF AGE OR OLDER** who does any of

1 the following is guilty of a felony punishable by imprisonment for  
2 not more than 20 years:

3 (a) Procures an inmate for a house of prostitution.

4 (b) Induces, persuades, encourages, inveigles, or entices a  
5 person to become a prostitute.

6 (c) By promise, threat, or violence, or by any device or  
7 scheme, causes, induces, persuades, encourages, takes, places,  
8 harbors, inveigles, or entices a person to become an inmate of a  
9 house of prostitution or assignation place or any place where  
10 prostitution is practiced, encouraged, or allowed.

11 (d) By any promise or threat, or by violence or any device or  
12 scheme, causes, induces, persuades, encourages, inveigles, or  
13 entices an inmate of a house of prostitution or place of  
14 assignation to remain there as an inmate.

15 (e) By any promise or threat, or by violence, any device or  
16 scheme, fraud or artifice, or by duress of person or goods, or by  
17 abuse of any position of confidence or authority, or having legal  
18 charge, takes, places, harbors, inveigles, entices, persuades,  
19 encourages, or procures any person to engage in prostitution.

20 (f) Inveigles, entices, persuades, encourages, or procures any  
21 person to come into this state or to leave this state for the  
22 purpose of prostitution.

23 (g) Upon the pretense of marriage, takes or detains a person  
24 for the purpose of sexual intercourse.

25 (h) Receives or gives, or agrees to receive or give, any money  
26 or thing of value for procuring or attempting to procure any person  
27 to become a prostitute or to come into this state or leave this

1 state for the purpose of prostitution.

2       Sec. 456. Any person **18 YEARS OF AGE OR OLDER** who by force,  
3 fraud, intimidation, or threat places or leaves, or procures any  
4 other person to place or leave, his or her spouse in a house of  
5 prostitution or to lead a life of prostitution, is guilty of a  
6 felony punishable by imprisonment for not more than 20 years.

7       Sec. 457. (1) Any person **18 YEARS OF AGE OR OLDER** who  
8 knowingly accepts, receives, levies, or appropriates any money or  
9 valuable thing without consideration from the proceeds of the  
10 earnings of any person engaged in prostitution, or any person,  
11 knowing a person to be a prostitute, who lives or derives support  
12 or maintenance, in whole or in part, from the earnings or proceeds  
13 of the prostitution of a prostitute, or from money loaned or  
14 advanced to or charged against a prostitute by any keeper or  
15 manager or inmate of a house or other place where prostitution is  
16 practiced or allowed, is guilty of a felony punishable by  
17 imprisonment for not more than 20 years.

18       (2) The acceptance, receipt, levy, or appropriation of money  
19 or any thing of value described in subsection (1) is presumptive  
20 evidence of lack of consideration.

21       Sec. 458. Any person **18 YEARS OF AGE OR OLDER** who attempts to  
22 detain any person in a disorderly house or house of prostitution  
23 because of any debt or debts the person has contracted, or is said  
24 to have contracted while living in that house, is guilty of a  
25 felony punishable by imprisonment for not less than 2 years or more  
26 than 20 years.

27       Sec. 459. (1) A person **18 YEARS OF AGE OR OLDER** shall not

1 knowingly transport or cause to be transported, or aid or assist in  
2 obtaining transportation for, by any means of conveyance, into,  
3 through, or across this state, any person for the purpose of  
4 prostitution or with the intent and purpose to induce, entice, or  
5 compel that person to become a prostitute. A person who violates  
6 this subsection is guilty of a felony punishable by imprisonment  
7 for not more than 20 years or a fine of not more than \$20,000.00,  
8 or both.

9 (2) A person **18 YEARS OF AGE OR OLDER** shall not knowingly sell  
10 or offer to sell travel services that include or facilitate travel  
11 for the purpose of engaging in what would be a violation of this  
12 chapter, concerning prostitution, or of chapter LXVIIA, concerning  
13 human trafficking, if the violation occurred in this state. Except  
14 as provided in subsection (3), a person who violates this  
15 subsection is guilty of a felony punishable by imprisonment for not  
16 more than 5 years or a fine of not more than \$10,000.00, or both.

17 (3) If a person violates subsection (2) and the violation  
18 involves conduct against a minor, the person is guilty of a felony  
19 punishable by imprisonment for not more than 10 years or a fine of  
20 not more than \$15,000.00, or both.

21 (4) A person who violates this section may be prosecuted,  
22 indicted, tried, and convicted in any county or city in or through  
23 which he or she ~~shall transport~~ **TRANSPORTED** or ~~attempt~~ **ATTEMPTED** to  
24 transport any person in violation of this section.

25 (5) As used in this section, "travel services" means  
26 transportation by air, sea, or ground, hotel or other lodging  
27 accommodations, package tours, or the provision of vouchers or



1 coupons to be redeemed for future travel, or accommodations for a  
2 fee, commission, or other valuable consideration.

3 Sec. 462. A person **18 YEARS OF AGE OR OLDER** who, for a purpose  
4 other than prostitution, takes or conveys to, or employs, receives,  
5 detains, or allows a person 16 years of age or less to remain in, a  
6 house of prostitution, house of ill-fame, bawdy-house, house of  
7 assignation, or any house or place for the resort of prostitutes or  
8 other disorderly persons is guilty of a crime punishable as  
9 provided in section 451.

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

12 Enacting section 2. This amendatory act does not take effect  
13 unless all of the following bills of the 99th Legislature are  
14 enacted into law:

15 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5202 (request no.  
16 03517'17 a).

17 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5204 (request no.  
18 03518'17).

19 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5205 (request no.  
20 03519'17).

21 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 5206 (request no.  
22 03520'17).