

Legislative Analysis



HUMAN TRAFFICKING COMMISSION

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House Bill 5158 (Adopted H-1 Floor Substitute)

Sponsor: Rep. Kurt Heise

Committee: Criminal Justice

First Analysis (1-17-14)

BRIEF SUMMARY: The bill would create a 15-member Human Trafficking Commission, prescribe its duties, and create the Human Trafficking Commission Fund.

FISCAL IMPACT: The Department of Attorney General has estimated the costs of the Human Trafficking Commission under HB 5158 to be approximately \$100,000 annually, which would cover members' expenses, staff support, and the costs of fulfilling the responsibilities and duties of the commission.

THE APPARENT PROBLEM:

Human trafficking did not end hundreds of years ago with the abolition of slavery in the Western world. Today, it is the second largest and the fastest growing criminal industry in the world. Some anti-human trafficking advocates estimate that at least 29 million people are trafficked worldwide, with more than two million of those children. Human trafficking comprises forced labor (agriculture, industrial, and domestic) and the sex trade. It is characterized by elements of force, fraud, and coercion. Victims often are physically, emotionally, and/or sexually brutalized. And it is happening in Michigan.

Last year, a joint effort between the state attorney general, governor, and Legislature launched the Michigan Commission on Human Trafficking to study the issue and make recommendations. Among other issues, it became clear that data on the scope of human trafficking in Michigan was scarce, services to victims even scarcer, and that many law enforcement personnel and mental and physical health professionals, as well as the general public, lacked training and awareness of the issue to identify or effectively aid victims.

Some states have created permanent commissions to begin gathering information and coordinate training and services between public and private agencies. Many believe that Michigan should take a similar approach. Whether an isolated case of a family enslaving a young girl to domestic servitude, or a sex-ring that is part of a larger criminal enterprise, it is clear that a more systematic, organized, and thorough approach is needed to identify the scope of human trafficking within the state and formulate effective strategies to combat it and provide meaningful services to victims. It has therefore been recommended that a permanent commission be established to, among other tasks, coordinate data gathering and dissemination of information between agencies involved with human trafficking.

THE CONTENT OF THE BILL:

House Bill 5158 would create the Human Trafficking Commission Act. The Commission would be established within the Department of Attorney General and would include the following 15 members:

- The governor and the state attorney general, or their designees.
- The directors, or their designees, of the Departments of State Police, Human Services, Community Health, and Licensing and Regulatory Affairs.
- One individual appointed by the Senate Majority Leader and one by the Minority Leader.
- One individual appointed by the Speaker and one by the Minority Leader of the House of Representatives.
- Two individuals appointed by the governor who represent the interests of those who advocate for or protect the interests of human trafficking victims.
- Three individuals appointed by the governor as follows;
 - One circuit court judge who serves in family court and who is a member of the Michigan Judges Association, from a list of three names submitted by that organization.
 - One county prosecuting attorney who is a member of the Prosecuting Attorneys Association of Michigan, from a list of three names submitted by that organization.
 - One individual representing law enforcement who is a member of the Michigan Association of Chiefs of Police, from a list of three names submitted by that organization.

Executive branch members would serve until a successor was appointed, all other members would serve two-year terms or until a successor was appointed, whichever was later. An individual could be reappointed to serve additional terms. Members representing the circuit court, law enforcement, and county prosecutors could only serve while a member of their appointing organization. The first legislative and gubernatorial appointments would have to be made within 90 days after the bill's effective date. Members would serve without compensation, but could be reimbursed for actual and necessary expenses incurred in the performance of official Commission duties. The appointing authority may remove a member for any good cause and also for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance. Vacancies would be filled by the appointing authority in the same manner as the original appointment.

The first meeting would have to be called within 180 days after the bill's effective date, at which the chairperson and other officers would be elected. Thereafter, the Commission must meet at least four times annually, but could meet more frequently. A majority of the members appointed and serving would constitute a quorum, and a quorum would be needed to conduct official business.

All business performed by the Commission would have to be conducted at public meetings in compliance with the Open Meetings Act. However, members could attend and participate via the use of telecommunication or other electronic equipment if

authorized by the Commission bylaws and the meeting is otherwise conducted in compliance with the Open Meetings Act.

Writings prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function would be subject to the Freedom of Information Act.

Commission duties. Subject to funding, the Commission would be required to do all of the following:

- ❖ Identify sources for grants to assist in examining and countering human trafficking in Michigan, and applying for those grants when appropriate.
- ❖ Fund research programs to determine the extent and nature of the problem in the state.
- ❖ Provide information and training regarding human trafficking to police officers, prosecutors, court personnel, health care providers, social services personnel, and other individuals the Commission considers appropriate.
- ❖ Collect and analyze information regarding human trafficking in the state.
- ❖ Identify state and local agencies within Michigan and other states, and within the federal government, involved with issues relating to human trafficking, and coordinate the dissemination of information in this state to those agencies.
- ❖ Review existing services available to victims, including crime victim assistance, health care, and legal assistance, and establish a program to increase victim awareness of those programs.
- ❖ Establish a program to improve public awareness of human trafficking.
- ❖ Review existing state laws and administrative rules relating to human trafficking and make recommendations to the legislature to improve those laws and rules.
- ❖ File an annual report with the governor, Secretary of the Senate, and Clerk of the House regarding statutory activities. The report must be filed not later than February 1 of the year following the year for which the report is due.

Human Trafficking Commission Fund. The Human Trafficking Commission Fund would be created within the Department of Treasury and administered by the Department of Attorney General. Money or other assets could be received from any source for deposit into the Fund. The state treasurer would direct the Fund's investments and credit interest and earnings from those investments to the Fund. Money could be expended from the Fund only upon appropriation and only in a manner to carry out the purposes specified in the bill. Money in the Fund at the close of a fiscal year would be considered a work project, would remain in the Fund, and could not lapse to the General Fund.

BACKGROUND INFORMATION:

January is Human Trafficking Awareness Month. For more information on human trafficking, see www.polarisproject.org and information provided by the U.S. Justice Department at www.justice.gov/crt/about/crm/httpu.php, among other informative sites.

The full "2013 Report on Human Trafficking" by the (temporary) Michigan Commission on Human Trafficking can be found at:

ARGUMENTS:

For:

Human trafficking, including forced prostitution, is happening in Michigan. In summer of 2013, the FBI conducted "Operation Cross Country," part of a decade-old partnership between federal authorities and the National Center for Missing and Exploited Children. The sting swept through more than 70 cities, culminating in the arrest of 159 pimps and the rescue of over one hundred children. Fifty-nine of the arrests and 10 of the rescued children were from the Detroit area. However, the full extent of the human trafficking problem in the state is not known. Creating a permanent commission to investigate the problem and develop effective strategies to combat it is both necessary and timely. The problem continues to grow at an explosive rate and increasingly involves organized criminal enterprises. Since commission members would not receive compensation, the annual funds needed to support commission functions are low. In light of the human and economic toll experienced by individual victims and society as a whole, creation of a permanent commission to address the issue of human trafficking makes good public policy.

Against:

Though no opposition to House Bill 5158 was voiced at the committee level, there may be some who believe a permanent commission is not needed. The 2013 report has recommendations that social service and law enforcement agencies, advocacy organizations, and the Legislature can adopt in creating fairer treatment of victims and harsher consequences for perpetrators.

POSITIONS:

The following organizations and associations indicated support for the bill on 12-4-13:

Michigan Citizens for Prison Reform
Michigan Catholic Conference
Department of State Police
Michigan State Council of Junior Leagues
Department of Attorney General

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ 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.