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BILL ANALYSIS

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Senate Bill 584 (as enacted)

PUBLIC ACT 324 of 2014

Sponsor: Senator Judy K. Emmons

Senate Committee: Families, Seniors and Human Services

House Committee: Criminal Justice

Date Completed: 2-3-15

CONTENT

The bill amended the Code of Criminal Procedure to allow an indictment to be filed within 25 years after the following offenses:

- **Enticing away a female who is under 16 years old for purpose of prostitution, concubinage, sexual intercourse, or marriage.**
- **Recruiting, enticing, transporting, or obtaining an individual for forced labor or services, or debt bondage.**
- **Recruiting, enticing, transporting, or obtaining an individual, knowing that he or she will be subjected to forced labor or services, or debt bondage.**
- **Recruiting, enticing, transporting, or obtaining a minor for commercial sexual activity, or forced labor or services.**

The bill took effect on January 14, 2015. The provisions that the bill enacted are named "Theresa Flores's Law".

The Code prescribes the time frame in which an indictment for a crime must be found and filed. This is commonly referred to as the "statute of limitations". Some crimes, such as murder and first-degree criminal sexual conduct, are not subject to a statute of limitation, meaning that an indictment can be found and filed at any time.

The bill specifies that an indictment for a violation or attempted violation of Section 13, 462b, 462c, 462d, or 462e of the Michigan Penal Code can be found and filed within 25 years after the offense is committed. Previously, the statute of limitations for those crimes was six years. Each crime is discussed in detail below.

The bill was tie-barred to House Bill 5234 (Public Act 329 of 2014), which amended Sections 462b, 462c, 462d, and 462e.

Enticing Away Female Under 16

Section 13 of the Penal Code makes it a felony to take or entice away any female under the age of 16 years, from her father, mother, guardian, or other person having the legal charge of her, without that person's consent, for the purpose of prostitution, concubinage, sexual intercourse, or marriage. A violation is a felony punishable by imprisonment for up to 10 years.

Forced Labor or Services; Debt Bondage

Section 462b of the Penal Code prohibits a person from knowingly recruiting, enticing, harboring, transporting, providing, or obtaining an individual for forced labor or services.

Under Section 462c, it is a felony to knowingly recruit, entice, harbor, transport, provide, or obtain an individual for the purpose of holding him or her debt bondage.

Under Section 462d, knowingly recruiting, enticing, harboring, transporting, providing, or obtaining a person by any means, knowing that he or she will be subjected to forced labor or services or debt bondage, is a felony.

Additionally, Section 462d makes it a felony to benefit financially or receive anything of value from participation in an enterprise, as that term is defined by Section 159f, that has engaged in an acts prohibited under Chapter 67A (Human Trafficking) of the Penal Code. (Under Section 159f, "enterprise" includes an individual, sole proprietorship, partnership, corporation, limited liability company, trust, union, association, governmental unit, or other legal entity or a group of persons associated in fact although not a legal entity. Enterprise includes illicit as well as licit enterprises.)

A violation of Section 462b, 462c, or 462d is punishable by imprisonment for up to 10 years or a fine of up to \$10,000, or both. If the violation results in bodily injury to an individual, the penalty is imprisonment for up to 15 years or a maximum fine of \$15,000, or both. If serious bodily injury results, the penalty is up to 20 years' imprisonment or a \$20,000 maximum fine, or both. If the violation involves kidnapping, attempted kidnapping, first-degree criminal sexual conduct (CSC), attempted first-degree CSC, or an attempt to kill or the death of an individual, the penalty is imprisonment for life or any term of years or a maximum fine of \$50,000, or both.

Minors & Commercial Sexual Activity, Forced Labor or Services

Section 462e of the Penal Code makes it a felony for a person to recruit, harbor, transport, provide, or obtain a minor for commercial sexual activity or for forced labor or services, regardless of whether the person knows the age of the minor.

A violation is punishable by imprisonment for up to 20 years or a \$20,000 maximum fine, or both.

MCL 767.24

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill will have an indeterminate, but likely minor fiscal impact on State and local government. Previously, the statute of limitations for the crimes covered by the bill was six years after the offense was committed. The bill moves these sex trafficking-related offenses into a separate category in which the statute of limitations is 25 years.

In 2013, the sections of the Michigan Penal Code that the bill applies to resulted in only two felony dispositions. Only one of the cases resulted in a sentence to prison. Because felony dispositions for such crimes are relatively infrequent, the impact of the bill on the costs of incarceration and/or community supervision will likely be small. There are no data to indicate how many additional offenders will be convicted with a 25-year statute of limitations applicable to these crimes.

Fiscal Analyst: John Maxwell

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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.