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Senate Bill 591 (as introduced 10-3-13)
Sponsor: Senator John Proos
Committee: Families, Seniors and Human Services

(Senate-passed version)

Date Completed: 11-12-13

CONTENT

The bill would amend Public Act 213 of 1965, which provides for the setting aside of criminal convictions, to allow a victim of human trafficking to have a conviction set aside under certain conditions.

The Act allows a person who is convicted of an offense to file an application with the convicting court for an order setting aside the conviction (unless it is for a felony punishable by up to life imprisonment, an offense involving child sexually abusive activity or material, use of the internet or a computer to commit certain offenses, second- or third-degree criminal sexual conduct, or assault with intent to commit criminal sexual conduct). As a rule, a person with more than one conviction may not apply for a set-aside, and an application may not be filed until at least five years after the sentencing or five years after the completion of a prison term, whichever is later.

Under the bill, a person could apply to have any offense, other than first-or second-degree murder, or manslaughter, set aside if: 1) he or she committed the offense while he or she was a victim of a human trafficking violation; and 2) he or she committed the offense only because of his or her status as a victim of the human trafficking violation. A person could file the application at any time following the date of the conviction, and could apply to have more than one conviction set aside.

The Act requires an application to contain certain information and statements. If a person were applying to have one or more convictions set aside under the bill, the application also would have to include the following:

- A statement that the applicant committed the offense while he or she was a victim of a human trafficking violation.
- A statement that the applicant committed the offense only because of his or her status as a victim of the human trafficking violation.

The Act also requires an applicant to submit a copy of the application, two sets of fingerprints, and a \$50 fee to the State Police. A copy of the application also must be served on the prosecuting attorney who prosecuted the crime and the Attorney General, who must be given an opportunity to contest the application.

If the court determines that the circumstances and behavior of the applicant from the date of the conviction to the filing of the application warrant setting aside the conviction, and that setting aside the conviction is consistent with the public welfare, the court may order the conviction set aside.

If the conviction set aside is for a listed offense under the Sex Offenders Registration Act, the applicant is considered to have been convicted of that offense for purposes of that Act. Under the bill, this would not apply to a conviction set aside for a victim of human trafficking.

The bill would define "human trafficking" as a violation of Chapter LXVIIA of the Michigan Penal Code. (That chapter pertains to human trafficking, and generally prohibits forced labor or services through threats, physical harm or restraint, abuse of law, blackmail, and other methods, and the use of a minor for sexually abusive activity.)

MCL 780.621 et al.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor