

HUMAN TRAFFICKING NOTIFICATION ACT

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House Bill 5107 (reported by committee as H-1)

Sponsor: Rep. Kurt Heise

Committee: Criminal Justice

Complete to (2-11-16)

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: The bill creates a new act to require a human trafficking notice to be posted in all state rest stops and welcome facilities, public bus or rail facilities, adult entertainment establishments, public airports, and on property found to constitute a public nuisance due to prostitution or human trafficking, and to allow the Department of Licensing and Regulatory Affairs (LARA) to impose administrative fines for noncompliance of the posting requirement.

FISCAL IMPACT: House Bill 5107, as introduced, would have a fiscal impact, although likely nominal, on the Department of Licensing and Regulatory Affairs (LARA) to the extent that LARA would be required to develop the human trafficking notice and determine noncompliance with the bill's requirements and notify and collect fines from noncompliant entities. The bill does not explicitly specify where fine revenue would be deposited; however, Section 443 of The Management and Budget Act stipulates that, "except as otherwise provided by law, all money received by [LARA] shall be...credited to the state General Fund."

THE APPARENT PROBLEM:

Human trafficking, despite attempts to deter incidents by increasing criminal penalties for traffickers, continues to be the second fastest growing criminal industry in the nation. Called "modern-day slavery," human trafficking most frequently involves compelling a person to engage in the commercial sex trade, domestic servitude, or labor services for little or no pay through the use of force, fraud, or coercion. Some victims are lured by the promise of legitimate employment, others are deceived by persons acting as "boyfriends," others are abducted. Once under the control of the trafficker, say knowledgeable observers, victims find it difficult to impossible to leave of their own free will.

The 2013 Report on Human Trafficking issued by the Michigan Commission on Human Trafficking included in its recommendations that the Legislature enact a human trafficking awareness poster law listing the National Human Trafficking Resource Council (NHTRC) hotline, (1-888-373-7888). Though almost two-dozen human trafficking bills enacting recommendations of the Commission were signed into law in 2014, the poster law was not one of them. According to Polaris, a global leader in the fight against human trafficking, at least 30 states either require or encourage a hotline to be posted or promoted within the state. Most of the poster laws focus on transit locations such as bus and rail stations and airports and also on places where trafficked persons may be located, for instance, hotels, strip clubs, and farms. Most of the states use the NHTRC hotline, though some use a statewide hotline number.

A recent study which looked at the efficacy of anti-trafficking efforts in the U.S. reported that the leading provision in states' efforts to curb human trafficking that led to more arrests is requiring the National Human Trafficking Hotline number to be posted in public places, such as those mentioned earlier. [Bouche, V., Farrell, A., Wittmer, D. (2015). Identifying Effective Counter-Trafficking Programs and Practices in the U.S.: Legislative, Legal, and Public Opinion Strategies that Work (Document No. 249670, Award No. 2012-MU-CX-0027). Retrieved from the National Criminal Justice Reference Service <https://www.ncjrs.gov/pdffiles1/nij/grants/249670.pdf>]

With the latest research showing that posting the hotline number is a very effective way to increase public awareness and reporting of human trafficking, and to reach those who are currently enslaved, some feel it is time for Michigan to enact its own poster law.

THE CONTENT OF THE BILL:

House Bill 5107 creates the Human Trafficking Notification Act. The bill would take effect 90 days after enactment. A detailed description follows.

Affected entities. The following entities must post a human trafficking notice:

- The Department of Transportation on the premises of each rest stop and welcome facility in the state.
- Each local unit of government that operates a rest stop or welcome facility on the premises of that rest stop or welcome facility.
- Each local unit of government that provides bus or rail transportation services to the public on the premises of any facility providing bus or rail services.
- Any entity owning property that has been found by a court to constitute a public nuisance due to acts of prostitution or human trafficking being conducted on the property or arising out of the ownership or use of the property—on that property.
- An adult entertainment establishment (defined to mean an establishment that holds a topless activity permit under the Michigan Liquor Control Code **or** any other retail establishment in which performers disrobe or perform in an unclothed state for entertainment)—on the premises of the establishment.
- Public airports.

Notice requirements. The notice must be posted in a conspicuous manner clearly visible to the public and employees within each facility operated by an entity described above that is open to use by the public. Further, the notice must meet the following specifications:

- Be of a design and style to provide proper notice.
- Be no smaller than 8-1/2 inches by 11 inches and contain the following notice in boldfaced type of not less than a 14-point font determined appropriate by LARA:
 - "If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 (BeFree) to

access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

- Be of durable construction.
- Be posted in both English and Spanish and in any other language determined appropriate by LARA in consultation with the attorney general. LARA could require the posting of other languages in specified areas of the state due to the languages used in those areas.

Department responsibilities. Lara would have to post a sample of the notice described above on its website so to be available for downloading. LARA could promulgate rules to implement the act. Further, LARA must provide each affected entity with written notice of the new act's requirements.

Appropriations by Legislature. The new act would not apply unless the Legislature appropriated sufficient funds to allow LARA to carry out its required duties.

Penalties for noncompliance. If LARA determined that an affected entity has failed to comply with the notification requirements, LARA must notify the entity that it is in violation of the act and provide the entity with 48 hours to come into compliance.

If the entity is subsequently notified a second time of a failure to comply within one year of the previous notification, the entity could be fined not more than \$250. Upon notification a third time of a failure to comply, the entity could be fined not more than \$500. (Presumably, a fine imposed under the new act would be an administrative fine issued by LARA.)

ARGUMENTS:

For:

The bill puts into law one of the 2013 recommendations made by the Michigan Human Trafficking Commission. Publicly posting the National Human Trafficking Resource Center hotline or text number is a low-cost way to effectively educate the public about human trafficking, increase tips that may lead to arrests and convictions, and reach out to victims of human trafficking to connect them to the assistance and services needed to reclaim their lives.

According to 2015 statistics compiled by Polaris, the anti-human trafficking advocacy group that sponsors the NHTRC hotline, almost 22,000 calls were received by the hotline representing 5,544 cases. Of those cases, 4,136 involved sex trafficking and 721 involved labor trafficking, with the rest comprising a combination of sex and labor trafficking or not specified. The BeFree Textline received close to 1500 texts, with 177 cases of human trafficking identified. In addition, 24 percent more survivors of human trafficking reached out to the NHTRC hotline and BeFree Textline for help in 2015 than in 2014. These statistics are reinforced by the study cited earlier that found that posting the hotline number is an effective strategy to increase a state's arrests of human traffickers. By requiring the hotline and textline numbers to be posted in more public places, the chances increase that

a trafficked person or survivor will see the poster and call or text for help. The posters also may encourage more people to call and report suspected cases of trafficking. Tips and calls for assistance are reviewed by NHTRC specialists and then referred to specialized law enforcement and/or service providers for assistance. Most importantly, calls/texts to the NHTRC are instrumental in rescuing trafficked individuals, assisting survivors of human trafficking, and apprehending those who would enslave others for personal gain.

For:

Proponents of the bill say that the human toll on victims of human trafficking, their families, and society is so great, every place accessible by the public should post the NHTRC hotline and textline numbers. However, in order to avoid putting mandates on private businesses, the bill focuses on publicly-owned or operated areas often used as recruiting platforms by traffickers who target runaways, tourists, or others who may be vulnerable. For example, many traffickers look for potential victims at municipal transit centers and public airports or use public transportation to move their victims from one location to another. Since the bill focuses on those transportation hubs operated by local governments, not all bus and train facilities in the state will be required to have the hotline and textline numbers posted, as some stations are owned by the company providing the service.

The only non-public entities that must post the notices are ones most likely to be used by traffickers or are associated with the sex trade such as strip clubs or houses of prostitution found to be a public nuisance.

Proponents say that complying with the bill's requirements should not be overly burdensome to either the Department of Transportation or Licensing and Regulatory Reform, nor to the local governments or business owners required to post one or more notices on the specified premises. Enforcement of the posting requirement by LARA would likely be driven by complaints directed to the department by concerned citizens who do not see a notice posted. However, a first violation would result in a warning; only if the entity failed to post the notice within 48 hours after being contacted by LARA would an administrative fine be imposed. A notice can easily be downloaded from LARA's website, laminated or protected by a plastic covering for durability, and then posted in a conspicuous place such as in restrooms.

Further, it is hoped that more businesses, especially hotels and restaurants, shopping malls, and sports venues (public places where victims often are recruited or are forced to work), as well as other public entities like courthouses, libraries, and universities, would voluntarily post the notices. Polaris and other advocacy groups also encourage notices to be posted in emergency rooms and places where farm laborers may see them. Increased visibility of the posters may encourage more victims and survivors to call for help, or more citizens to report potential trafficking incidents, as well as prevent some young people from falling prey to traffickers.

Response:

A concern has been raised that some of the terms in the bill are vague and could therefore result in uncertainty as to exactly where notices would be required to be posted. In

particular, the terms "local unit of government" and bus or rail "facility" may benefit from clarification. Neither term is defined in the bill, which would create a stand-alone act. "Local unit of government" is defined by many statutes, but the definitions vary greatly. Some acts limit it to only a village, township, or city, where others expand the term to include counties, public authorities (some operate local transportation services or airports), even community colleges and K-12 schools. Few, if any, local governments may operate rest stops, but some colleges and county, township, or city parks may operate welcome facilities. In addition, would "facility" refer to a bus or rail *station* (e.g., an enclosed building where passengers can go inside and where restrooms are provided) or include outdoor covered platforms or plexiglass shelters? Though most would assume that postings would be best suited for stations, adding guidance could spare a local government from imposition of a fine or reduce calls to LARA on the part of well-meaning citizens who don't see a poster where they believed one should be.

POSITIONS:

A representative of the Michigan Human Trafficking Task Force testified in support of the bill. (1-26-16)

Representatives of the Michigan State Council of Junior Leagues testified in support of the bill. (1-26-16)

The Michigan Coalition to End Domestic and Sexual Violence indicated support for the bill. (1-26-16)

The Michigan Catholic Conference indicated support for the bill. (1-26-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.