

Legislative Analysis



PROHIBIT SELLING OF TRAVEL SERVICES FOR PURPOSE OF PROSTITUTION/HUMAN TRAFFICKING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5838 as reported without amendment
Sponsor: Rep. Tom Barrett

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

House Bill 5839 as reported without amendment
Sponsor: Rep. Jason M. Sheppard

Committee: Criminal Justice
Complete to 9-20-16

(Enacted as Public Acts 485 and 486 of 2016)

SUMMARY:

The bill package would create a new crime category of *knowingly selling, or offering to sell, travel services for purposes relating to prostitution or human trafficking*. In addition, House Bill 5838 will allow a court to order a fine for the crime of transporting a person with the intent to compel that person to become a prostitute.

The bills take effect 90 days after enactment.

Specifically, House Bill 5838 amends the Michigan Penal Code to create a new crime category regarding prostitution (MCL 750.459). Under the bill, a person could not knowingly sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in what would be a violation—if the violation occurred in Michigan— of Chapter LXVII (Prostitution) or a violation of Chapter LXVIIA (Human Trafficking). "Travel services" is defined to mean transportation by air, sea, or ground; hotel or other lodging accommodations; package tours; or the provisions of vouchers or coupons to be redeemed for future travel. The term also includes accommodations for a fee, commission, or other valuable consideration.

If the conduct were against an adult, a violation of this new crime would be a felony punishable by imprisonment for not more than five years and/or a fine of not more than \$10,000. Conduct against a minor would also be a felony, but punishable by imprisonment for not more than 10 years and/or a fine of not more than \$15,000.

Currently, transporting, or aiding or abetting transporting, any person for the purpose of prostitution or to induce or compel that person into prostitution is a felony punishable by a maximum term of imprisonment of up to 20 years. The bill will allow a court to impose a fine of not more than \$20,000 either instead of, or in addition to, any term of imprisonment.

House Bill 5839 amends the Code of Criminal Procedure to place the penalty for the new crime within the sentencing guidelines (MCL 777.16w). The bill specifies that selling travel services to facilitate prostitution or human trafficking in other jurisdictions is a Class E felony against a person with a five-year maximum term of imprisonment. Conduct

involving a minor would be a Class D felony against a person with a ten-year maximum term of imprisonment. The bill also revises a statutory reference for the crime of transporting a person for prostitution to incorporate the changes made to the numbering of subsections by House Bill 5838.

House Bill 5839 is tie-barred to House Bill 5838, meaning it cannot take effect unless House Bill 5838 is also signed into law.

FISCAL IMPACT:

HB 5838: The bill would have an indeterminate fiscal impact on the state's correctional system and on local court systems. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,400 per supervised offender per year. The fiscal impact on local court systems would depend on how the provisions of the bill affected caseloads and related administrative costs. An increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

HB 5839: The bill amends sentencing guidelines and so does not have a direct fiscal impact on the state or on local units of government.

BRIEF DISCUSSION ON THE ISSUES:

Arguments in favor of the bills

House Bill 5838 attempts to address the issue of sex tourism. By some definitions, "sex tourism" refers to traveling to other jurisdictions to engage in sexual conduct that would be illegal in the person's country or state of residence. According to some media reports, sex tourism is reaching an epidemic, ranked by the United Nations with human trafficking as the third most prevalent criminal activity behind only drug trafficking and arms dealing. With human trafficking, it is not uncommon for traffickers to use public or private transportation to transport their victims across state and city borders.

Observers note that sex tourism and human trafficking is big business, with earnings topping \$30 billion annually, but victimizing millions of men, women, and children worldwide. Michigan is said to rank second in the US for human trafficking by some reports, and, according to Citizens for Community Values, an Ohio non-profit, nearby Toledo ranks fourth in the country.

The bill seeks to create a disincentive for travel agencies or individuals from knowingly arranging or coordinating travel from Michigan to other countries or jurisdictions within the US for people to engage in sex tourism, and for bringing sex workers from other jurisdictions to Michigan for the purpose of facilitating prostitution. Workers in the sex trade are often brought into the state to work high profile events such as Art Prize in Grand

Rapids and major sporting events in Detroit. If children are involved, either arranging travel for someone to have sex with children in another jurisdiction, or bringing children to Michigan for people to victimize here, the maximum term of imprisonment is doubled and the fine limit increased. It is imperative that steps are taken to make sex tourism less attractive for those who would facilitate it.

Arguments in opposition to the bills

Outside of applying the bills to identified human trafficking rings using public or private transportation to move their workers from state to state, city to city, or to or from another country, it is unclear how the bills would be implemented. Some concern was raised that the bills represent a slippery slope of making criminals out of tourist agents and other Michigan citizens if the people for whom they arrange travel engage in an activity that is illegal here but legal in another place. What if a customer lets slip that he or she intends to visit a brothel when visiting Nevada. Will the person selling the plane ticket be criminally liable under the legislation? Simply put, critics say, the language casts too wide a net and may, as broad language often does, result in unintended consequences.

POSITIONS:

The Department of State Police indicated support for the bills. (9-13-16)

The Michigan State Counsel of Junior Leagues indicated support for the bills. (9-13-16)

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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.