

# Legislative Analysis



## **HUMAN TRAFFICKING: EXPAND DEFINITION OF COERCION**

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**House Bill 5438 as reported from committee w/o amendment**

Analysis available at  
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**Sponsor: Rep. Laura Cox**

**Committee: Law and Justice**

*(Enacted as Public Act 119 of 2018)*

**Complete to 2-28-18**

**BRIEF SUMMARY:** The bill would include in the definition of “coercion,” regarding human trafficking, facilitating or controlling an individual’s access to a controlled substance other than for a legitimate medical purpose.

**FISCAL IMPACT:** By adding to the definition of coercion, under which individuals can be convicted of a felony, House Bill 5438 would have an indeterminate fiscal impact on the state and on local units of government. (See *Fiscal Information*, below, for further discussion.)

### **THE APPARENT PROBLEM:**

Human traffickers use a variety of “tools” to manipulate and control their victims. Whether a person is being trafficked in the commercial sex trade or as a domestic laborer, factory worker, or agricultural worker, traffickers often use sleep deprivation, starvation, withholding of passports, isolation from family or friends, fear, threats of harm, or physical or sexual assault, or all or any combination of these, to control members of their crew. In particular, street drugs and opiates are often used either to initially entrap a person or to maintain control over her or him. Once the trafficker has addicted the person to cocaine or meth, or through the administration of other substances, it becomes easier to ensure that the person will do the trafficker’s bidding.

Although some have been charged under Michigan’s tough human trafficking laws as using drugs to control their victims, some feel that specifically including the use of controlled substances in the definition of *coercion*, one of the elements constituting an act of human trafficking, would strengthen the human trafficking laws and make it easier for judges and jurors to understand the coercive nature of drugs in controlling the behavior of another person.

### **THE CONTENT OF THE BILL:**

House Bill 5438 would amend Chapter LXVIIA (Human Trafficking) of the Michigan Penal Code to revise the definition of “coercion” to include facilitating or controlling an individual’s access to a controlled substance (as that term is defined in Section 7104 of the Public Health Code) other than for a legitimate medical purpose.

The human trafficking law makes it a crime to knowingly recruit, entice, harbor, transport, provide, or obtain an individual for ***forced labor or services***, which is defined to mean labor or services that are obtained or maintained by force, fraud, or ***coercion***.

Currently, ***coercion*** is defined in the human trafficking law to include, without limitation, any of the following:

- Threatening to harm or physically restrain any individual or creating a scheme, plan, or pattern intended to cause an individual to believe that failure to perform an act would result in psychological, reputational, or financial harm to, or physical restraint of, any individual.
- Abusing or threatening to abuse the legal system (including threats of arrest or deportation regardless of whether the person being threatened is subject to arrest or deportation).
- Knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document or government identification document from any individual regardless of whether the documents are fraudulent or fraudulently obtained.

To this definition, the bill would add *facilitating or controlling an individual's access to a controlled substance other than for a legitimate medical purpose*.

The bill would take effect 90 days after being enacted.

MCL 750.462a

### ***FISCAL INFORMATION:***

By adding to the definition of coercion, under which individuals can be convicted of a felony, House Bill 5438 would have an indeterminate fiscal impact on the state and on local units of government. The number of persons who might be convicted under provisions of the bill is unknown, but new felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. The fiscal impact on local court systems would depend on how provisions of the bill affect caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

### ***ARGUMENTS:***

#### ***For:***

People who have never been caught in the throes of addiction do not always understand the power that drugs can assume over a person's life. Between the cravings and the fear of

facing horrible withdrawal symptoms if the drug is withheld, not to mention the influence on judgment and decision-making, the use of drugs can become an important and useful tool for the management of victims, and particularly so in the commercial sex trade. Some have been enticed into prostitution over the promise of a steady supply of heroin, whereas others have had drugs forced upon them until they became addicted. If using controlled substances, such as opiates, Adderall, anti-anxiety, and other addictive or reality-altering drugs were linked to *coercive* conduct, the connection of using such drugs to control another person in human trafficking cases would be clearer and easier to understand.

***Against:***

No arguments were offered against the bill.

***POSITIONS:***

A representative of the Office of Attorney General testified in support of the bill. (2-13-18)

The Michigan Catholic Conference indicated support for the bill. (2-13-18)

The Michigan State Council of Junior League indicated support for the bill. (2-13-18)

The Prosecuting Attorneys Association of Michigan (PAAM) indicated support for the bill. (2-13-18)

The American Association of University Women indicated support for the bill. (2-20-18)

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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.