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BILL



ANALYSIS

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House Bill 5438 (as passed by the House)
Sponsor: Representative Laura Cox
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 3-20-18

CONTENT

The bill would amend Chapter 67A (Human Trafficking) of the Michigan Penal Code to specify that "coercion" would include facilitating or controlling an individual's access to a controlled substance other than for a legitimate medical purpose.

Chapter 67A generally prohibits a person from knowingly recruiting, enticing, harboring, transporting, providing, or obtaining an individual for forced labor or services. "Forced labor or services" means labor or services that are obtained or maintained by force, fraud, or coercion. "Coercion" includes any of the following:

- Threatening to harm or physically restrain an individual or the creation of any 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 abuse of the legal system, including threats of arrest or deportation without regard to whether the individual being threatened is subject to arrest or deportation under State or Federal law.
- Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document from an individual without regard to whether the documents are fraudulent or fraudulently obtained.

Under the bill, coercion also would include facilitating or controlling an individual's access to a controlled substance other than for a legitimate medical purpose. "Controlled substance" would be defined as that term is defined in Section 7104 of the Public Health Code: a drug, substance, or immediate precursor included in Schedules 1 to 5 of Part 72 (Standards and Schedules) of the Code.

(A person who violates this prohibition is guilty of a felony punishable by up to 10 years' imprisonment or a maximum fine of \$10,000, or both. Increased penalties apply if the offense results in bodily injury or serious bodily injury to an individual, results in an individual engaging in commercial sexual activity, or involves kidnapping, first-degree criminal sexual conduct, or an attempt to kill or the death of an individual, or involves a minor.)

The bill would take effect 90 days after its enactment.

MCL 750.462a

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have a negative fiscal impact on the State and local government. Expanding the definition of "coercion" could allow more people to be charged with violations. More felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

Fiscal Analyst: Ryan Bergan

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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.