



# MICHIGAN STATE POLICE LEGAL UPDATE

**No. 114**  
March 12, 2015

This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit. Questions and comments may be directed to [MSPLegal@michigan.gov](mailto:MSPLegal@michigan.gov). Past editions can be found at [www.michigan.gov/msp-legal](http://www.michigan.gov/msp-legal).

## CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is now available for purchase in print and eBook formats.

The manual is published by [Kendall Hunt Publishing Co.](http://www.kendallhunt.com/michigan_criminal_law/) Copies may be ordered online at [https://www.kendallhunt.com/michigan\\_criminal\\_law/](https://www.kendallhunt.com/michigan_criminal_law/) or by calling Kendall Hunt Customer Service at (800) 228-0810.

## CRIMINAL LAW

### Various human trafficking and prostitution statutes amended.

#### Michigan Penal Code

Public Acts [326](#), [329](#), [330](#), [331](#), and [336](#) of 2014 amended various sections of the Michigan Penal Code related to human trafficking and prostitution.

#### Definitions

The definitions for terms used in the [Human Trafficking chapter](#) of the Michigan Penal Code, as detailed in [MCL 750.462a](#), were amended.

#### Human Trafficking Crimes

The following human trafficking crimes were amended in the sections noted.

A person shall not knowingly recruit, entice, harbor, transport, provide, or obtain an individual:

- For forced labor or services. [MCL 750.462b](#).
- For the purpose of holding the individual in debt bondage. [MCL 750.462c](#).
- By any means, knowing the individual will be subjected to forced labor or services, or debt bondage. [MCL 750.462d\(a\)](#).

#### Penalties - [MCL 750.462f](#)

No injury	10-year felony
Bodily injury to an individual	15-year felony
Serious bodily injury to an individual	20-year felony
Violation involved kidnapping or its attempt, CSC 1 <sup>st</sup> degree or its attempt, death of an individual or an attempt to kill	Life

[MCL 750.462d\(b\)](#) was amended to provide that a person shall not knowingly benefit financially or receive anything of value from participation in an "enterprise" as defined in [MCL 750.159f](#), if the enterprise has engaged in a human trafficking offense.

#### Penalties - [MCL 750.462f](#)

No injury	10-year felony
Bodily injury to an individual	15-year felony
Serious bodily injury to an individual	20-year felony
Violation involved kidnapping or its attempt, CSC 1 <sup>st</sup> degree or its attempt, death of an individual or an attempt to kill	Life

[MCL 750.462e](#) was amended to provide that a person shall not recruit, entice, harbor, transport, provide, or obtain by any means a minor for any of the following, regardless of whether the person knows the age of the minor. A person who violates this section is guilty of a 20-year felony.

- Commercial sexual activity. [MCL 750.462e\(a\)](#).
- Forced labor or services. [MCL 750.462e\(b\)](#).

#### Inchoate Offenses

[MCL 750.462f\(3\)](#) was amended to provide that a person who attempts, conspires, or solicits another to commit a violation of the [Human Trafficking chapter](#) of the Michigan Penal Code is subject to the same penalty as a person who commits the violation.

#### Prosecution

[MCL 750.462g](#) was amended to provide that the testimony of a victim is not required in a prosecution under the [Human Trafficking chapter](#) of the Michigan Penal Code and if a victim testifies, the testimony need not be corroborated.

[MCL 750.462h](#) was amended to provide that a victim's resistance or lack of resistance to the actor is not relevant to a prosecution under the Human Trafficking chapter of the Michigan Penal Code.

#### Statute of Limitations

[MCL 767.24](#) was amended to increase the statute of limitations on violations of the [Human Trafficking chapter](#) of the Michigan Penal Code to 25 years. If the violation is otherwise punishable by life in prison, there is no limitation on when charges may be found and filed.

### *Prostitution Crimes*

[MCL 750.449a\(1\)](#) was amended to provide that, except as detailed in [MCL 750.449a\(2\)](#), a person who engages or offers to engage the services of another person, not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration is guilty of a 93-day misdemeanor with increasing penalties for second or subsequent offenses.

[MCL 750.449a\(2\)](#) was added to provide that a person who engages or offers to engage the services of another person who is less than 18 years of age and who is not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment of money or other forms of consideration is guilty of a 5-year felony.

Prior to the above amendments, only a male could be in violation of [MCL 750.449a](#) for engaging or offering to engage the services of a woman other than his wife.

[MCL 750.450](#) was amended to provide that a person 16 years of age or older who aids, assists, or abets another person to commit a violation of [MCL 750.448](#), [MCL 750.449](#), or [MCL 750.449a](#) is guilty of a 93-day misdemeanor with increasing penalties for second or subsequent offenses.

#### *Presumption of Force or Coercion of Persons Under 18*

[MCL 750.451\(6\)](#) was added to create a presumption in prosecutions of a person under 18 years of age for certain prostitution offenses that the person under 18 years of age was coerced or forced into committing that offense by another person engaged in human trafficking. The prosecution may overcome this presumption by proving beyond a reasonable doubt that the person was not forced or coerced into committing the offense.

Police officers investigating prostitution offenses where the suspect is under 18 years of age are encouraged to investigate whether the person was forced or coerced to commit the offense.

#### Mandatory Reporting Requirements

[MCL 750.451\(7\)](#) was added to require a police officer to immediately report to the Michigan Department of Human Services any time he or she encounters a person under 18 years of age engaging in any conduct that would be a violation of the following statutes, or a local ordinance substantially corresponding to one of these statutes:

- Soliciting for prostitution. [MCL 750.448](#).
- Permitting a place of prostitution. [MCL 750.449](#).
- Aiding, assisting, or abetting prostitution. [MCL 750.450](#).
- Allowing a person 16 or less to remain in a house of prostitution. [MCL 750.462](#).

The requirement to immediately report excludes any reasonable period of detention for investigative purposes.

### *Kidnapping*

[MCL 750.349](#) was amended to add knowing restraint of a minor with the intent to engage in child sexually abusive activity with that minor to the list of acts that constitute kidnapping. A person who violates this section is guilty of a felony punishable by imprisonment for life.

#### Sex Offender Registration Act

[MCL 28.722\(s\)](#) was amended to add engaging or offering to engage the services of a minor for purposes of prostitution, [MCL 750.449a\(2\)](#), to the list of crimes constituting a Tier I offense. [MCL 28.722\(u\)](#) was amended to add commercial sexual activity involving a minor, [MCL 750.462e\(a\)](#), to the list of crimes constituting a Tier II offense.

## FORFEITURE

### **Various forfeiture provisions amended.**

Public Acts [332](#) and [333](#) of 2014 amended various sections of the [Revised Judicature Act of 1961](#) related to forfeiture proceedings.

#### Required Notice

[MCL 600.4704](#) was amended to increase the time period in which notice of the seizure of personal property or the filing of a lien notice against real property must be given to 28 days. Previously, notice had to be given within seven days.

#### Forfeiture in Human Trafficking Cases

[MCL 600.4702\(1\)](#) was amended to allow for the seizure and forfeiture of certain property for crimes committed in violation of the [Human Trafficking chapter](#) of the Michigan Penal Code.

#### Willful Blindness

[MCL 600.4702\(2\)](#) was amended to provide that property is not subject to seizure or forfeiture if the owner of the property did not have prior knowledge of or consent to the commission of the crime, but only if the lack of knowledge was not the result of the owner's "willful blindness." [MCL 600.4701](#) was amended to include the definition of "willful blindness."

#### Additional Crimes Subject to Forfeiture

[MCL 600.4701\(a\)](#) was amended to add the following offenses to the list of crimes for which forfeiture of property may be sought:

- Home invasion 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree. [MCL 750.110a](#).
- Transporting a person for prostitution. [MCL 750.459](#).
- CSC – 1<sup>st</sup> degree, 2<sup>nd</sup>, and 3<sup>rd</sup> degree. [MCL 750.520b](#) - [MCL 750.520d](#).
- Assault with intent to commit CSC. [MCL 750.520g](#).
- Human trafficking violations. [MCL 750.462a](#) - [MCL 750.462h](#).

#### SUBSCRIPTIONS

To receive the Update via email, click [here](#) or go to [www.michigan.gov/msp-legal](http://www.michigan.gov/msp-legal) and click on "subscribe to legal updates."