

## Michigan State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

**Rating:** Tier Two (yellow)

**Total Points:** 5.5

**Credited Categories:** 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 5 Lower Burden of Proof for Sex Trafficking of Minors; and 7 Safe Harbor.

**Categories Still Needed:** 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 6 Posting of a Hotline; 8 Victim Assistance; 9 Access to Civil Damages; and 10 Vacating Convictions for Sex Trafficking Victims.

**Category By Category Break-Down:**

### Category 1: Sex Trafficking Statute

**§750.462j Providing or obtaining labor or services by force, fraud, or coercion as crime; penalty; recruiting, harboring, transporting, providing, or obtaining person for involuntary servitude or debt bondage as crime; penalty; other violations of law; consecutive terms; restitution; definitions.**

(1) A person shall not knowingly provide or obtain the labor or services of another person by force, fraud, or coercion. Except as provided in subsections (2) and (3), a person who violates this subsection is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(b) If the violation involves the forced labor of a minor or a commercial sex act, or if the violation involves serious physical harm to any person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(c) If the violation involves the death of any person, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$50,000.00, or both.

(2) A person shall not knowingly recruit, harbor, transport, provide, or obtain a person for labor or services for the purpose of holding that person in involuntary servitude or debt bondage. A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.



(b) If the violation involves the trafficking of a minor or a commercial sex act, or if the violation involves serious physical harm to any person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(c) If the violation involves the death of any person, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$50,000.00, or both.

(3) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(4) The court may order a term of imprisonment imposed for violating this section to be served consecutively to a term of imprisonment imposed for the commission of any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

(5) The court shall order a person convicted of violating this section to pay restitution to the victim in the manner provided in section 16b of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766b, and to reimburse any governmental entity for its expenses incurred as a result of the violation, in the manner provided in section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(6) As used in this section:

(a) "Coercion" includes, but is not limited to, any of the following:

(i) A threat to harm or physically restrain any person or the creation of any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in harm to or physical restraint against any person.

(ii) The confiscation of documents without regard to whether the documents are fraudulent or fraudulently obtained; and the abuse or threatened abuse of the legal system, including threats of arrest or deportation without regard to whether the person being threatened is subject to arrest or deportation under the laws of this state or the United States.

(b) "Commercial sex act" means either of the following:

(i) Any act of sexual penetration or sexual contact as defined in section 520a for which anything of value is given to, or is received by, any person.

(ii) Any sexually explicit performance as defined in section 3 of 1978 PA 33, MCL 722.673, for which anything of value is given to, or is received by, any person.

(iii) A violation of section 145c(2) or (3) involving any child sexually abusive activity or material.

(c) "Debt bondage" includes, but is not limited to, the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(d) "Force" includes, but is not limited to, physical violence or actual physical restraint or confinement, but injury is not required.

(e) "Fraud" includes, but is not limited to, a false or deceptive offer of employment or marriage.

(f) "Involuntary servitude" includes, but is not limited to, a state of providing labor or services entered into or maintained by means of force, fraud, or coercion.

(g) "Minor" means an individual less than 18 years of age.

(h) "Serious physical harm" means any physical injury that seriously impairs a person's health or physical well-being, including, but not limited to, any brain damage, a skull or



bone fracture, a subdural hemorrhage or hematoma, a dislocation or sprain, any internal injury, poisoning, a burn or scald, or a severe cut.

## **Category 2: Labor Trafficking Statute**

### **§750.462a Definitions.**

As used in this chapter:

- (a) "Child sexually abusive activity" means that phrase as defined in section 145c.
- (b) "Commercial sexual activity" means 1 or more of the following:
  - (i) An act of sexual penetration or sexual contact as those terms are defined in section 520a for which anything of value is given or received by any person.
  - (ii) Any conduct prohibited under section 145c(2) or (3).
- (c) "Extortion" means conduct prohibited under section 213, including, but not limited to, a threat to expose any secret tending to subject a person to hatred, contempt, or ridicule.
- (d) "Financial harm" means any of the following:
  - (i) Conduct prohibited under section 1 of 1968 PA 259, MCL 438.41.
  - (ii) Extortion.
  - (iii) Employment contracts that violate 1978 PA 390, MCL 408.471 to 408.490.
  - (iv) Any other adverse financial consequence.
- (e) "Forced labor or services" means labor or services that are obtained or maintained through 1 or more of the following:
  - (i) Causing or threatening to cause serious physical harm to another person.
  - (ii) Physically restraining or threatening to physically restrain another person.
  - (iii) Abusing or threatening to abuse the law or legal process.
  - (iv) 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, of another person.
  - (v) Blackmail.
  - (vi) Causing or threatening to cause financial harm to any person.
- (f) "Labor" means work of economic or financial value.
- (g) "Maintain" means, in relation to labor or services, to secure continued performance of labor or services, regardless of any initial agreement on the part of the victim to perform the labor or services.
- (h) "Minor" means a person under 18 years of age.
- (i) "Obtain" means to secure performance of labor or services.
- (j) "Services" means an ongoing relationship between a person and another person in which the other person performs activities under the supervision of or for the benefit of the person, including, but not limited to, commercial sexual activity and sexually explicit performances.

### **§750.462b Forced labor or services; threat of physical harm; prohibition; violation as felony; penalty.**

- (1) A person shall not knowingly subject or attempt to subject another person to forced labor or services by causing or threatening to cause physical harm to another person. Except as provided in subsections (2) and (3), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 10 years.
- (2) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.
- (3) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.



**§750.462c Forced labor or services; physical restraint; prohibition; violation as felony; penalty.**

(1) A person shall not knowingly subject or attempt to subject another person to forced labor or services by physically restraining or threatening to physically restrain another person. Except as provided in subsections (2) and (3), a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years.

(2) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.

(3) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.

**§750.462d Forced labor or services; abuse of law or legal process; prohibition; violation as felony; penalty.**

(1) A person shall not knowingly subject or attempt to subject another person to forced labor or services by abusing or threatening to abuse the law or legal process. Except as provided in subsections (2) and (3), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 10 years.

(2) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.

(3) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.

**§750.462e Forced labor or services; destroying, concealing, removing, confiscating, or possessing passport or immigration document of another person; prohibition; violation as felony; penalty.**

(1) A person shall not knowingly subject or attempt to subject another person to forced labor or services by knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person. Except as provided in subsections (2) and (3), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 10 years.

(2) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.

(3) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.

**§750.462f Forced labor or services; blackmail or threat of financial harm; prohibition; violation as felony; penalty.**

(1) A person shall not knowingly subject or attempt to subject another person to forced labor or services by using blackmail, using or threatening to cause financial harm to, or exerting or threatening to exert financial control over another person. Except as provided in subsections (2) and (3), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 10 years.

(2) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.

(3) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.

**§750.462h Prohibited acts; violation as felony; penalty.**

(1) A person shall not knowingly do 1 or both of the following:



- (a) Recruit, entice, harbor, transport, provide, or obtain by any means, or attempt to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services.
- (b) Benefit financially or receive anything of value from participation in a venture that has engaged in an act described in this chapter.
- (2) Except as provided in subsections (3) and (4), a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years.
- (3) If in the violation of subsection (1) the person causes another person injury, the person is guilty of a felony punishable by imprisonment for not more than 15 years.
- (4) If in the violation of subsection (1) the person causes the death of another person, the person shall be imprisoned for life or any term of years.

### **Category 3(a): Asset Forfeiture**

#### **§600.4701 Definitions.**

Sec. 4701.

As used in this chapter:

- (a) "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought:
  - (vii) A violation of any of the following:
    - (B) Chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462j.

#### **§600.4702 Property subject to seizure and forfeiture; encumbrances; substituted proceeds of crime.**

Sec. 4702.

- (1) Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:
  - (a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.
  - (b) All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.

### **Category 3(b): Investigative Tools**

#### **§750.159g "Racketeering" defined.**

As used in this chapter, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the following:

- (gg) A violation of chapter LXVIIA, concerning human trafficking.

### **Category 4(a): Training for Law Enforcement**

None.



#### **Category 4(b): Human Trafficking Task Force**

None.

#### **Category 5: Lower Burden of Proof for Sex Trafficking of Minors**

##### **§750.462g. Recruitment, transportation, etc. of minor knowing that minor will be used for sexually abusive activity; penalties**

A person shall not knowingly recruit, entice, harbor, transport, provide, or obtain by any means, or attempt to recruit, entice, harbor, provide, or obtain by any means, a minor knowing that the minor will be used for child sexually abusive activity. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years.

#### **Category 6: Posting of a Human Trafficking Hotline**

None.

#### **Category 7: Safe Harbor; Protecting Sex Trafficked Minors**

##### **§750.448. Soliciting and accosting**

A person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act, is guilty of a crime punishable as provided in section 451.

#### **Category 8: Victim Assistance**

None.

#### **Category 9: Access to Civil Damages**

None.

#### **Category 10: Vacating Convictions for Sex Trafficking Victims**

None.

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If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at [policy@polarisproject.org](mailto:policy@polarisproject.org).