

MCA

November 2013

Mental Health Courts

Legislation authorizing the state-wide expansion of mental health courts – HB 4694 – 4697 – were heard this week (November 5) before the Senate Judiciary Committee.

There are currently about 12 mental health “pilot” courts around the state. This legislation, broadly, would create a structure under which local courts could (if they have the funds and wherewithal) create their own mental health court. The courts would differ from drug and/or sobriety courts in that the focus is specifically on “non-violent, mentally-ill offenders.”

The bills had a few minor technical changes added. Costs will be borne by the public mental health system unless enrollees have access to insurance or another program that will cover those services. Further, courts can still, at their discretion, provide mental health services *before* a plea and acceptance into a mental health court. Additionally, there is language in the bill authorizing the State Court Administrative Office (SCAO) – the organization that oversees all Michigan courts – to create an advisory commission, much like the one that exists for Drug and Sobriety Courts.

Again, the bills passed the Senate Judiciary Committee unanimously, and are expected to receive a final vote before the legislature breaks for two weeks in November.

FIP Assistance, Unemployment Benefits, and Drugs

In the last GC report, the report outlined HB 4949-4954, which is a rather omnibus package of bills dealing with Unemployment Insurance (UI) benefits. Within that package of bills is HB 4952, which specifies that an individual is considered to have “refused an offer of suitable work” (and is thus disqualified for UI benefits) if a prospective employer requires a drug test as a condition of a job offer, and later rescinds that job offer because the individual either a) tested positive for a controlled substance and couldn’t offer a prescription; or (b) refused without good cause to take the test. Submit to a drug test if your new employer wants it, or lose UI benefits.

HB 4952 passed with total support from the Republican caucus; the Democratic caucus was split nearly 50-50. Since the last report, the bills passed the Senate and have been signed by the Governor.

Human Trafficking

One of the bigger issue the legislature will tackle for the rest of this year and next is human trafficking. Back in March, the Attorney General formed a Human Trafficking Task Force to do a 6-month investigation and set of recommendations to help fight both sex trafficking and labor trafficking in Michigan. Michigan, given its international border and proximity to important interstate arteries for the

rest of the country, is one of a few states where modern-day slavery is prevalent. The AG's Task Force was co-Chaired by State Representative Kurt Heise (R – Plymouth), Chair of the House Criminal Justice Committee.

Shortly before the release of the “official” report, the Senate introduced their own package of bills. A list of those bills is attached to this report. Most of the legislation is positive – including “safe harbor” provisions .

On Wednesday, October 6, the “official” Human Trafficking Task Force report was unveiled. The full report can be found online on the Attorney General's website, www.michigan.gov/ag. Though there will be probably nearly as many bills as the Senate package – 19 – this legislation is broken into 11 broad recommendations:

- Safe Harbor laws for victims (increase the minimum age for prostitution crimes, thus creating the presumption that minors engaging in prostitution are victims, and providing services for them)
- Increase penalties for “johns”
- Update Michigan's prostitution act (remove or modify gender-specific and archaic language)
- Change aspects of the Omnibus Forfeiture Act to stop traffickers from evading forfeiture
- Modify nuisance abatement laws to include human trafficking
- Amend the 2 existing Human Trafficking Acts passed in 2006 and 2010 to bring their language together
- Vacate victims' criminal records
- Require certain professionals to report human trafficking to law enforcement
- Extend statute of limitations on human trafficking to 10 years
- Urge Congress to amend the federal Communication Decency Act (“Back Page”)
- Enact a human trafficking mandatory poster law

Some more detail on each of these principles is available in the Task Force Report, and the bills will be introduced in very short order.

Senate Anti Human Trafficking Package

SB 584 Eliminating statute of limitations. Eliminate the statute of limitations for trafficking offenses and commercial exploitation of children offenses.

SB 585 Safe Harbor. This bill increases the minimum age from 16 to 18 for prostitution-related crimes and prohibits local units of government from enacting ordinances that establish lower minimum ages. A police officer must immediately take into custody a person they believe is committing prostitution who is under the age of 18. The court can then determine if the individual is a victim of human trafficking and refer them to Department of Human Services (DHS) for services.

SB 586 Safe Harbor- Probate Court jurisdiction. Probate court would have jurisdiction and continued jurisdiction concerning a juvenile less than 18 years of age found to be violating section in the prostitution chapter of Michigan law. They would promptly conduct a hearing to determine if there is reasonable cause that the juvenile is a victim of human trafficking. The court shall then refer the juvenile to DHS for services.

SB 587 Safe Harbor - DHS referral. DHS shall perform assessment/psychological evaluation and medical examination when a juvenile is referred to the Department. In addition to any reunification, adoption, or other services provided to a child under DHS' care, counseling services appropriate to the victim will be provided.

SB 588 Affirmative Defense. An affirmative defense provision would allow a victim of human trafficking to introduce evidence of being a victim of human trafficking as a defense to certain types of crimes.

SB 589 Additions to grounds for termination of parental rights. This bill would now include offenses including sex trafficking or commercial sexual exploitation of children (CSEC) in order to remove the children of traffickers from their control and potential exploitation.

SB 590 Allow victims to sue captors. To be known as the "human trafficking victims compensation act," this bill will allow victims of human trafficking to sue their captors for damages that result from physical and mental suffering, damage, and destruction of property and expenses incurred.

SB 591 Criminal conviction cleared. This bill will allow individuals to apply to have their criminal convictions cleared from their record if the offense was committed due to their status as a victim of human trafficking.

SB 592 Medical and psychological treatment for victims. This bill expands the social welfare act to include victims of human trafficking on the list of potential recipients for medical assistance benefits and psychological treatment.

SB 593 Modify victim status for foster care minors who are human trafficking victims. Allows DHS to use a different status for children who are victims of human trafficking in order to provide them with additional services or to give special consideration that traditional foster care services may not be suitable for the victim. This is to avoid re-victimizing these children as they move from one placement to the next.

SB 594 Municipality ordinances for adult entertainers. This bill would allow municipalities to adopt ordinances requiring anyone working at an adult entertainment business (i.e. strip club) to obtain a permit from the municipality. Some requirements for the permit would include a background check.

SB 595 Adult entertainment business customer fee. This bill would require adult entertainment businesses to pay a \$3 fee for each customer who enters. The fee money is deposited into the domestic violence and sexual assault fund.

SB 596 Creation of a Human Trafficking Board. Establishing a human trafficking board in statute ensures that this issue will be taken seriously and continuously. This will also ensure that the board can look into and can apply for federal grants to help fight human trafficking.

SB 597 Training for medical professionals. Requires that medical professionals be trained to identify the signs of human trafficking in patients.

SB 598 Racketeering. Currently, Michigan law does include child sexually abusive activity or material, computer crimes, prostitution, and human trafficking under the racketeering definition. This bill would add another provision: commercial sexual exploitation of children (CSEC).

SB 599 Prohibit use of the internet to solicit a minor. Michigan does not expressly criminalize the use of the internet to lure, entice, recruit, or purchase commercial sex acts with a minor; however, the use of the internet to communicate with a minor while intending to commit, or attempting to commit, a violation of specified sexual offense laws is indeed illegal. Specifically prohibiting the use of the internet to lure, entice, recruit, or sell commercial sex acts with a minor as a separate crime adds another penalty for traffickers.

SB 600 & 601 Wire tapping (2 bills). Allows a prosecutor to, in limited circumstances, utilize wire tapping

SB 602 Require "Johns" to register on the sex offense registry. Requiring the purchasers of sex (AKA Johns) to register on the sex offender registry is a step in fixing the demand for sex and hopefully curbing human trafficking.