



## Michigan State Report State Ratings 2012

The Polaris Project annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris Project 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

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

**Categories Still Needed:** 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 5 Posting of the National Hotline; 6 Safe Harbor; Protecting Sex Trafficked Minors; 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

Yes. See Section 750.462a – j.

### 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.

**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 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: Posting of a Human Trafficking Hotline**

None.

**Category 6: 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 7: 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 8: Victim Assistance**

None.

**Category 9: Access to Civil Damages**

None.

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

None.

For guidelines and examples of bill language, please consult [Polaris Project's Model Provisions of Comprehensive State Legislation to Combat Human Trafficking and Commentary](#) available on our website ([www.polarisproject.org](http://www.polarisproject.org)). If you need technical assistance in enacting laws to fill in the gaps, please contact the Polaris Project Policy Program at [policy@polarisproject.org](mailto:policy@polarisproject.org).



# POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY



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123 West Allegan Street, Rm. 210  
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Dear Chairman Emmons:

Thank you for holding this meeting to hear presentations from Human Trafficking Advocacy and Victim Services Groups. My colleague, Brittany Vanderhoof, Policy Associate for Polaris Project, and I, Director of Policy, recently visited Michigan in an effort to meet with stakeholders and legislators to discuss human trafficking legislation in the state. We had the opportunity to meet with your staff, in addition to a number of other legislators and the Attorney General's office, and we are excited about the creation of the Michigan Commission on Human Trafficking led by Attorney General Bill Schuette and the growing momentum in Michigan to improve the legal framework in an effort to combat human trafficking.

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Polaris Project provides direct intervention, survivor support, policy advocacy, and public awareness campaigns among communities, and we operate the National Human Trafficking Resource Center and National Hotline in order to end human trafficking in the United States. Since December 2007, we have answered over 65,000 calls to the National Hotline and identified over 7,600 potential human trafficking victims nationwide. In particular, the National Hotline received 966 calls from Michigan, corresponding to over 99 cases with high indicators of human trafficking.

In August 2012, Polaris Project's U.S. Policy Program rated all U.S. states' legal frameworks to combat human trafficking on the basis of ten categories of law. This year, Michigan's rating fell into the "yellow" tier two category, meaning that the state enacted 5 of the 10 categories of laws. Clearly, Michigan has passed numerous laws to combat human trafficking, yet at the same time should take more steps to improve and implement its laws. Michigan received credit for its legislation criminalizing sex and labor trafficking, laws in favor of asset forfeiture and investigative tools, in addition to creating a lower burden of proof for sex trafficking of minors. However, Michigan is still in need of additional provisions, including mandated training for law enforcement, the establishment of a Human Trafficking Task Force, required posting of the National Hotline number, safe harbor to protect sexually exploited children, victim assistance, access to civil damages, and vacating convictions for sex trafficking victims, in order to create a comprehensive human trafficking framework. We are grateful that you have recognized that importance of passing anti-trafficking legislation and to improving investigative measures to combat this crime.

**Executive Director & CEO**  
Bradley Myles



Polaris Project is partnering with International Justice Mission (IJM) to provide assistance to state government agencies and officials in Michigan. Our priority in 2013 will be to shift the paradigm from treating human trafficking victims as criminals toward treating them as crime victims. Foremost among our legislative priorities is the safe harbor legislation, and secondarily the affirmative defense and vacating convictions provisions. We are also anxious to see that the National Hotline number is widely posted throughout the state, so that victims have a resource to call and Polaris Project can continue to provide tips to local law enforcement to investigate human trafficking cases. We hope that you will continue to rely on Polaris Project as a resource.

Thank you again for holding this hearing, and we look forward to working with legislators to develop a legal framework that further protects victims and strengthens Michigan's capacity to respond to this problem.

Sincerely,



Mary C. Ellison, J.D.  
Director of Policy  
Polaris Project



Britanny Vanderhoof, LL.M.  
Policy Associate  
Polaris Project





### Human Trafficking in Michigan: The Problem

Human Trafficking is a form of modern-day slavery and is generally divided into two categories: labor trafficking and sex trafficking. Sex trafficking of children is a brutal form of human trafficking and child sexual abuse. The International Labour Organization estimates that **20.9 million people are trafficked around the world at any time. In the U.S., hundreds of thousands of people are trafficked at any time.**

In 2011, the National Human Trafficking Resource Center (NHTRC) Hotline received calls identifying **thirty-seven** cases that reference potential trafficking situations in Michigan, **eight** cases where the situation involves a minor, **eleven** cases of sex trafficking, and **five** cases of domestic pimp-control trafficking. The call volume likely only represents a fraction of the total trafficking problem in the state and shows that this is an issue Michigan must address.

Traffickers target the vulnerable, such as runaway and homeless youth or children who have been mistreated or abandoned. Children do not have the legal, psychological or emotional capacity to consent to engage in commercial sex acts. While the prostitution of a child is a form of human trafficking under U.S. federal law, many states still do not offer legal protections for minor victims, appropriate penalties to curb demand, or services to care for victimized children. Despite the fact that children do not have the legal capacity to consent to engage in commercial sex acts, in many cases child victims of trafficking are treated as criminals or delinquents by law enforcement, charged with prostitution or vice offences and causing further harm to the child.

A sex trafficking victim is compelled or induced to engage in acts of prostitution by his or her trafficker, which often results in the victim being convicted of prostitution. As a result of these convictions, victims are hindered from getting jobs, safe housing, immigration visas, loans, and continuing education. Arresting, prosecuting, and incarcerating victimized children re-traumatize them, making the process of recovery more difficult. It is important to provide victims of trafficking with the opportunity to vacate convictions that occurred as a result of their trafficking situation and to divert children into services that address their needs outside of the justice system.

### Enacting Anti-Human Trafficking Legislation: The Solution

Michigan already has recognized the importance of passing anti-trafficking legislation by championing legislation that criminalizes sex trafficking and labor trafficking, provides investigative tools to law enforcement, and requires the forfeiting of assets by convicted traffickers, in addition to establishing a lower burden of proof for sex trafficking of minors. Additional legislation is critically needed to protect, and to provide emergency services for, minor trafficking victims and sexually exploited children:

- **“Safe harbor”** provisions prevent children under 18 years of age victims of sex trafficking from being prosecuted for prostitution. Instead, these provisions provide child victims with specialized services.
- **“Affirmative defense”** provisions permit human trafficking victims to explain, during criminal proceedings, the reason they engaged in prostitution was as a result of their trafficking situation.
- **“Vacating conviction”** provisions provide human trafficking victims the opportunity to clear their criminal records even after being convicted of prostitution.

**Please consider supporting legislation by contacting your local legislator.** Together, let us make 2013 the year the Michigan legislature protected child victims of human trafficking. Be the voice for victims of human trafficking whose voices are too often silenced. Thank you.

For additional information, please contact Mary Ellison, Director of Policy for Polaris Project, by email at [mellison@polarisproject.org](mailto:mellison@polarisproject.org) or by phone at (202) 745-1001, ext. 131, or Erica Boonstra, Advocacy Manager for International Justice Mission, by email at [eboonstra@ijm.org](mailto:eboonstra@ijm.org) or by phone at (703) 465-5495.

