



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 515 and 517 (Substitute S-1 as passed by the Senate)
Senate Bill 516 (as passed by the Senate)
Sponsor: Senator Rosemary Bayer (S.B. 515)
Senator Sue Shink (S.B. 516)
Senator Stephanie Chang (S.B. 517)
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 2-7-24

CONTENT

Senate Bill 515 (S-1) would amend Chapter VIII (Trials) of the Code of Criminal Procedure to allow a statement concerning prostitution or human trafficking to be admissible as evidence.

Senate Bill 516 would amend Chapter VIII of the Code of Criminal Procedure to allow evidence of a defendant's prior commission of commercial sexual activity, human trafficking, or prostitution to be admissible for any relevant purpose.

Senate Bill 517 (S-1) would amend Chapter LXVIIA (Human Trafficking) of the Code of Criminal Procedure to prohibit a victim, complainant, or witness necessary for the prosecution from being excused from testifying or complying with an investigation, proceeding, or trial involving human trafficking if evidence would tend to degrade or incriminate the individual. The bill specifies that truthful testimony by the individual generally could not be used against the individual in a criminal case.

Senate Bill 515 (S-1)

Under the Code of Criminal Procedure, evidence of a statement is admissible if the statement 1) claimed to describe or explain the infliction or threat of physical injury upon the declarant; 2) was made near the time of the infliction or threat of physical injury; 3) indicated trustworthiness; and 4) was made to a police officer.

Currently, the Code only allows a statement that meets the requirements described above to be admissible if the statement concerns an offense involving domestic abuse. Under the bill, a statement that met the requirements described above and that concerned an offense involving prostitution or human trafficking also would be admissible.¹

Additionally, the bill would define "infliction or threat of physical injury" as including all the following:

- Physically harming or restraining any individual.
- Threatening to harm or physically restrain any 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 physical, psychological, reputational, or financial harm to, or physical restraint of, any individual.

¹ Generally, "human trafficking" and "prostitution" would mean violations of chapters concerning them within the Michigan Penal Code.

- Facilitating or controlling an individual's access to a controlled substance, other than for a legitimate medical purpose.

("Controlled substance" means a drug, substance, or immediate precursor included in schedules one to seven of Part 72 (Standards and Schedules) of the Public Health Code.

Senate Bill 516

Under Section 27b of the Code, except as provided for acts occurring more than 10 years before the charged offense, in a criminal action in which the defendant is accused of an offense involving domestic violence or sexual assault, evidence of the defendant's commission of other acts of domestic violence or sexual assault are admissible for any purpose for which it is relevant, if it is not excluded under Michigan Rule of Evidence 403.² Under the bill, if a defendant were accused of commercial sexual activity, human trafficking, or prostitution, evidence of the defendant's commission of other acts of commercial sexual activity, human trafficking, or prostitution also would be admissible for any relevant purpose and if not excluded under Michigan Rule of Evidence 403.

"Commercial sexual activity" would mean at least one of the following for which anything of value is given or received by any person:

- An act of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.
- Intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for revenge, humiliation, or out of anger.
- Any child sexually abusive activity or material.
- Any motion picture, video game, exhibition, show, representation, or other presentation that, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

Senate Bill 517 (S-1)

Chapter LXVIIA of the Code specifies that the testimony of a victim of a human trafficking offense is not required in a prosecution for that offense; however, if the victim testifies, that testimony need not be corroborated. Additionally, it allows for expert testimony on behavioral patterns of human trafficking victims.

Under the bill, a victim, complainant, or witness for the prosecution could not be excused from attending and testifying or producing any books, papers, or other documents before a court or magistrate upon an investigation, proceeding, or trial for a violation of the Chapter on the grounds that the testimony or evidence could tend to degrade or incriminate the victim, complainant, or witness for the prosecution. Truthful testimony, evidence, or other truthful information compelled under this provision and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information could not be used against

² Michigan Rule of Evidence 403 states, "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

MCL 768.27c (S.B. 515)
768.27b (S.B. 516)
750.462g (S.B. 517)

BRIEF RATIONALE

Hearsay is a statement made by an individual outside of a trial or hearing and is generally not admissible as evidence. The Code grants exceptions to the inadmissibility of hearsay in specific instances, such as when the statement concerns an offense of domestic violence. According to testimony, granting a similar exception for a statement concerning an offense of human trafficking would help prosecutors hold human traffickers legally accountable.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bill 515 is a reintroduction of House Bill 4214 and Senate Bill 1015 of the 2021-2022 Legislative Session. Senate Bill 516 is a reintroduction of House Bill 4095 of the 2021-2022 Legislative Session and House Bill 5638 of the 2019-2020 Legislative Session.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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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.