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Prostituted Teens and the Law

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Federal Law

The Juvenile Justice and Delinquency Prevention Act of 1974 prohibits the secure detention of runaways. Practically speaking, this means that law enforcement officers may not arrest children and youth for running away. One undesired consequence of this policy is that runaway youth often are left to fend for themselves on the streets (Children of the Night, 2002).

The Mann Act prohibits transportation of individuals younger than the age of 18 in interstate or foreign commerce with the intent that they engage in sexual activity or prostitution. This is the primary law that makes prostitution a federal offense (Davidson & Loken, 1987). The Mann Act is important because it grants equal protection to children and teenagers until the age of 18. Some state statutes, on the other hand, only offer protection to those under age 16 (Davidson & Loken, 1987); Michigan is one of those states.

Title 18 of the United States Code includes other laws regarding the prostitution of children. Section 2422 prohibits knowingly persuading, inducing, enticing, or coercing a youth under the age of 18 to engage in prostitution or criminal sexual activity, or attempting to do so. Section 2423 prohibits knowingly transporting juveniles under the age of 18 with intent that the youth engage in prostitution or criminal sexual activity. It also prohibits travel in foreign commerce with intent to engage in sexual activity with a juvenile, or conspiracy to do so. These offenses are punishable by imprisonment for up to 15 years and/or fine.

Section 2241 prohibits crossing state lines with the intent of engaging in a sexual act with a minor, knowingly engaging in a sexual act with a minor, attempting to engage in a sexual act with a minor, or knowingly engaging in a sexual act by force or threat. The government need not prove the defendant knew the age of the victim. These offenses are punishable by any term of years or life imprisonment. If the defendant was previously convicted under this subsection, he or she may be punished by life in prison or by death.

State Law

The tradition of state legislatures has been to *not* penalize patrons of prostituted youth (Education Development Center, 1995), despite the fact that passing laws that protect young prostituted girls and boys by punishing "johns," "pimps," and others who sexually exploit children is one of the most effective ways a state can deal with the problem. Most

prosecution that occurs under state statutes, if it occurs at all, falls under child sexual abuse or statutory rape laws (Education Development Center, 1995).

Michigan's Current and Proposed Laws

In the spring of 2001 the Michigan House of Representatives introduced a package of bills to combat the problem of juvenile prostitution.

HB 5032, passed unanimously by the House of Representatives on December 4, 2001, amended the Michigan Penal Code (§750.145a) to make it a Class F felony—punishable by up to four years imprisonment and/or a \$2,000 fine—to accost, entice, or solicit a child for immoral purposes. HB 5032 also stipulates that accosting, enticing, or soliciting a child for prostitution is prohibited regardless of whether the person knew the age of the child. The bill was received by the Senate on December 5, 2001, and referred to the Committee on Judiciary. At the time that this report was printed, HB 5032 still was under consideration in the Senate.

HB 5033, passed by both legislative bodies, now is law in Michigan. HB 5033 increases the penalties for second and subsequent offenses of the Michigan Penal Code (§750.145b), accosting children for immoral purposes. Under HB 5033, conviction of a person with a prior conviction for the offense of accosting children for immoral purposes is a Class D felony punishable by up to 10 years in prison.

A Comparison of Michigan's Laws with Statutes from Other Midwestern States

Age

Like most other states nationwide, Minnesota and Indiana protect children under the age of 18 from being sexually exploited. Michigan, Ohio, and Illinois, however, are three of 14 states in which juveniles are protected only until they reach the age of 16 years (Flowers, 2001).

Punishment

If HB 5032 passes, Michigan will catch up with other regional states in making it a felony to accost, entice, or solicit a child for prostitution. However, the sentence imposed under this bill will require imprisonment only up to four years and/or up to a \$2,000 fine (www.michiganlegislature.org)—sanctions that are less severe than those imposed by other states. In Illinois, for example, a conviction of a crime of this nature would lead to 4 to 15 years imprisonment (ILCS 5/11-15.1, www.legis.state.il.us). Similarly, in Minnesota, it is a felony, punishable by up to 20 years imprisonment and/or up to \$40,000, to solicit, induce or receive profit from a child for the act of prostitution (Criminal Code, Section 609.322, www.state.mn.us/leg/statutes.html).

Affirmative Defense

HB 5032 would amend Michigan's Penal Code (§750.145a) to stipulate that accosting, enticing or soliciting a child for prostitution is prohibited whether the individual knew the actual age of the child or not. This change acknowledges "that a child engaged in prostitution is the real victim of the crime, and therefore puts the burden on the adult to avoid sex with children" (www.michiganlegislature.org). Illinois statutes 720 ILCS 5/11-15.1; 11-18.1; 11-19.1, state that "It is an affirmative defense to a charge of" soliciting, patronizing, or pimping "that the accused reasonably believed the person was of the age of 16 years or over" (www.legis.state.il.us). An affirmative defense is one "which serves as a basis for providing some new fact; in such a defense, the defendant does not simply

deny a charge, but offers new evidence to avoid judgment against him" (Gifis, 1996). Michigan's HB 5032 joins Ohio and Minnesota in prohibiting such a defense.

Statutes Providing Prevention and Protection

Minnesota has one of the most comprehensive sets of laws dealing with prostituted teens in the nation. Included in these laws are statutes that provide for prevention, protection and outreach to sexually exploited children.

- Section 299A.71 of Minnesota law provides for the establishment of a grant program for "enhanced law enforcement efforts and peace officer education and training to combat juvenile prostitution." The statute also requires law enforcement agencies that receive grants to utilize all the funding for efforts to combat juvenile prostitution.
- Section 626.558 establishes a multidisciplinary child protection team that may "provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other community-based agencies." This team can also assist agencies and organizations in developing a program of outreach services to juveniles engaged in prostitution.

These are just two of the statutes that Minnesota has enforced to protect children being prostituted. As Table 2 shows, no other Midwestern state has passed such extensive laws protecting their youth from the men and women who seek to exploit them sexually for pleasure or profit.

Should Prostitution Be Legalized?

Some individuals argue that legalizing prostitution will reduce violence toward prostitutes and reduce child prostitution because there will be strict monitoring and no deviations from the law. Data from a variety of sources show the fallacy of this argument. For example, when prostitution was legalized in Victoria, Australia, Sullivan and Jeffreys (n.d.) found that:

- Trafficked women and children often were kept in slave-like conditions and still were exposed to violence, fear, and isolation.
- Child prostitution increased. Of all the Australian states and territories, the highest incidence of children involved in prostitution occurred in Victoria.
- Men once seen as pimps were considered respectable "businessmen" when prostitution was legalized in Victoria, despite the fact that managers/owners or brothers received up to 60% of the money generated by prostituted women.
- The state lived off the earnings of prostitution through increased taxation, licensing fees, and promotion of prostitution tourism.

For these reasons, among others, legalizing prostitution is a poor policy option. Preferred policy options are described in the next two sections of this report.

**TABLE 2
JUVENILE PROSTITUTION POLICY BY MIDWESTERN STATE**

<i>State</i>	<i>Age Determining "Juvenile"</i>	<i>Punishment for "Accosting/Enticing/Soliciting or Pimping"</i>	<i>Punishment for "Engaging"</i>	<i>Affirmative Defense Allowed?</i>
Michigan HB 5032 (proposed)	≤16	Class F Felony; up to 4 years Imprisonment and/or \$2,000 fine		No
Indiana	≤18	Class B felony; <6 years imprisonment		
Illinois	≤16	Class 1 felony; 4-15 years imprisonment	Class 4 felony; 1-3 years imprisonment	Yes
Ohio	≤16	2 nd degree felony; 2-8 years imprisonment and/or \$15,000		No
Minnesota	<13 13-16 <16 >16 but <18	<20 years imprisonment and/or \$40,000 fine; <10 years imprisonment and/or \$20,000 fine	20 years imprisonment and/or \$40,000 fine; 10 years imprisonment and/or \$20,000 fine; 5 years imprisonment and/or \$10,000 fine	No

*Accosting = approaching and speaking in a challenging or aggressive way.

Enticing = attracting artfully or cleverly or by arousing hope or desire.

Soliciting = offering to have sexual relations with someone for money.

Pimping = inducing any female to become a prostitute.