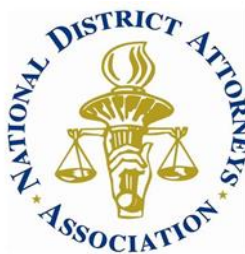


Domestic Minor Human Sex Trafficking (Child Prostitution)

Last Updated March 2015



Summary of Content

“If a 45-year-old-man had sex with a 14- year-old-girl and no money changed hands . . . he was likely to get jail time for statutory rape . . . [i]f the same man left \$80 on the table after having sex with her, she would probably be locked up for prostitution and he would probably go home with a fine as a john.”¹

Sgt. Byron A. Fassett

Dallas Police Department, Child Exploitation/High Risk Victims Trafficking Unit

Domestic minor sex trafficking (DMST) is the commercial sexual abuse of children through buying, selling or trading their sexual services.² Prostitution, pornography, stripping, escort services, and other sexual services are forms of DMST when children are victims.³

Youth at Risk

Children who have a history of neglect, physical abuse, sexual abuse, those in foster care, child protective service systems, those who have run away, or forced from their homes and refused permission to return (defined as throw away children) are among the most at risk for

¹ Rami S. Badawy, J.D., *Shifting the Paradigm from Prosecution to Protection of Child Victims of Prostitution*, Update (Nat’l Cent. For Prosecution of Child Abuse, Alexandria, Va) Vol. 22, No. 8 2010, at 1.

² Kimberly Kotrla, *Domestic Minor Sex Trafficking in the United States*, 55 J. Social Work 181, 182 (2010).

³ *Id.*

commercial sexual exploitation.⁴ Predators target children who appear to be vulnerable: runaways or children without money or job skills at bus stations, arcades, and malls.⁵ These predators often recruit them into sex trafficking by posing as a boyfriend, caretaker, and protector, and then groom them to perform sexual acts first on themselves and then on others.⁶ The period of grooming often involves giving gifts and compliments in order to elicit initial loyalty and trust, and solidifies the relationship using psychological manipulation, coercion, and force.⁷

Studies indicate that 70 percent of women involved in prostitution were introduced into the commercial sex trade before reaching 18 years of age.⁸ Children often become victims between the ages of 11 and 14, although some are as young as five.⁹

Legal Frame Work

In the recent decade, state legislatures have begun to shift the legal consequences of “prostitution” from the victims of trafficking to those predators exploiting children’s vulnerabilities, and those buying sexual services from children.¹⁰ Older statutes punished any person who for money or its equivalent performed sexual services with possible jail time under the charge of prostitution.¹¹ New reforms have added additional penalties for buyers of sex who frequent child victims of human trafficking, and even offer indemnity to those victims.¹²

⁴ *Id.* at 183; Heather Hammer, et. al., Runaway/Thrunaway Children: National Estimates and Characteristics, 1 (U.S. Dep’t of Justice 2010) available at <https://www.ncjrs.gov/html/ojjdp/nismart/04/index.html#ack>.

⁵ Kotrla at 183.

⁶ *Id.*; Brooke Axtell, *Selling American Girls: The Truth About Domestic Minor Sex-Trafficking*, Forbes.com (Dec. 12, 2012) <http://www.forbes.com/sites/shenegotiates/2012/12/03/selling-american-girls-the-truth-about-domestic-minor-sex-trafficking/>.

⁷ Brooke Axtell, *Selling American Girls: The Truth About Domestic Minor Sex-Trafficking*, Forbes.com (Dec. 12, 2012) <http://www.forbes.com/sites/shenegotiates/2012/12/03/selling-american-girls-the-truth-about-domestic-minor-sex-trafficking/>; See Also, Polaris Project, Survivor Stories: *Keisha-Domestic Minor Sex Trafficking* (accessed Feb 3, 2015); This American Life, *Pimp Anthology* (April 16, 1999) available at <http://www.thisamericanlife.org/radio-archives/episode/127/Pimp-Anthropology>.

⁸ Kimberly Kotrla, *Domestic Minor Sex Trafficking in the United States*, 55 J. Social Work 181, 182 (2010).

⁹ *Id.*

¹⁰ See Shared Hope International, *Protected Innocence Challenge: A Legal Framework of Protection for the Nation’s Children* (2014); See also COLO. REV. STAT. § 18-7-406 (2015). Patronizing a prostituted child/

¹¹ See ALASKA STAT. § 11.66.100 (2011). Prostitution.

¹² See ALASKA STAT. § 11.66.100 (2015). Prostitution; See Wash. Rev. Code Ann. § 13.40.219 (2015). Arrest for prostitution loitering—Alleged offender—Victim of severe form of trafficking, commercial sex abuse of a minor; Shared Hope International, *Protected Innocence Challenge: A Legal Framework of Protection for the Nation’s Children* (2014).

Scope of Content

This document is a survey of federal, state, and territorial penal statutes directly related to prosecuting those who facilitate the commercial sexual abuse of children, and those who buy children for sexual purposes. The survey generally does not include [restitution statutes](#), [facilitation and luring of children statutes](#), [statutory frameworks used to charge children for commercial sexual exploitation](#), and [statutes that address the production of pornography](#). Each set of those statutes may be found in separate surveys housed at www.ndaa.org. The dates on the citation of the statutes indicate the year the survey was compiled. Please see the credit(s) below for the date of enactment and history.

For further assistance, consult the National District Attorneys Association's National Center for Prosecution of Child Abuse at 703.549.9222, or via the free online prosecution assistance service http://www.ndaa.org/ta_form.php



National District Attorneys Association

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ALABAMA¹³

Ala. Stat. § 13A-6-151 (2015). Human Trafficking. Definitions.

As used in this article, the following terms shall have the following, or any combination of the following, meanings ascribed to them by this section:

(1) Coercion. Any of the following:

- a. Causing or threatening to cause physical injury or mental suffering to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer physical injury or mental suffering.
- b. Implementing any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in physical injury, mental suffering, or physical restraint of any person.
- c. Destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or

¹³ All Alabama legislation is current through the 2014 Regular Session and the 2015 Organizational Session

another person, the person's or any person's actual or purported government records, immigration documents, identifying information, or personal or real property.

d. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal prosecution, criminal or immigration proceedings, hatred, contempt, or ridicule.

e. Threatening to report the person or another person to immigration officials or to other law enforcement officials or otherwise blackmailing or extorting the person or another person.

f. Controlling a person's access to a controlled substance, as the term is defined in Section 20-2-2.

g. Rape or sodomy or threatened rape or sodomy of any person, as defined in Title 13A.

(2) Deception. Any of the following:

a. Creating or confirming an impression of any existing fact or past event which is false and which the accused knows or believes to be false.

b. Exerting financial control over the person or another person by placing the person or another person under the actor's control as a security or payment of a debt, if the value of the 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 or the principal amount of the debt does not reasonably reflect the value of the items or services for which debt was incurred or by preventing a person from acquiring information pertinent to the disposition of the debt, referenced in this paragraph.

c. Promising benefits or the performance of services which the accused does not intend to be delivered. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this article.

d. Using any scheme, plan, or pattern, whether overt or subtle, intended to cause any person to believe that, if the person did not perform such labor, services, acts, or performances, the person or another person would suffer physical injury or mental suffering.

(3) Labor servitude. Work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception.

(4) Mental suffering. A high degree of mental pain or emotional disturbances, such as distress, anxiety, public humiliation, or psychosomatic physical symptoms. It is more than mere disappointment, anger, resentment, wounded pride, or embarrassment and must be a direct result of the crime of human trafficking.

(5) Minor. A person under the age of 18.

(6) Physical injury. Impairment of physical condition or substantial pain.

(7) Sexual servitude. Any of the following:

a. Any sexual conduct as defined in subdivision (3) of Section 14-11-30, for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person.

b. Sexual conduct includes:

1. Sexually explicit performances, meaning an act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, videotaped, or projected over the Internet.

2. Commercial sex acts, meaning any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.

3. Acts defined in subdivision (3) of Section 14-11-30.

(8) Trafficking victim. Any person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude.

CREDIT(S)

(Act 2010-705, p. 1708, § 3.)

Ala. Stat. § 13A-6-152 (2015). Human trafficking in the first degree.

(a) A person commits the crime of human trafficking in the first degree if:

(1) He or she knowingly subjects another person to labor servitude or sexual servitude through use of coercion or deception.

(2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.

(3) For purposes of this section, it is not required that the defendant have knowledge of a minor victim's age, nor is reasonable mistake of age a defense to liability under this section.

(4) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of

the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(5) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class C felony.

(b) Human trafficking in the first degree is a Class A felony.

CREDIT(S)

(Act 2010-705, p. 1708, § 3.)

Ala. Stat. § 13A-6-153 (2015). Human trafficking in the second degree.

(a) A person commits the crime of human trafficking in the second degree if:

(1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.

(2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude.

(3) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(4) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class A misdemeanor.

(b) Human trafficking in the second degree is a Class B felony.

Ala. Stat. § 13A-6-154 (2015). Evidence of certain facts or conditions not deemed a defense.

Evidence of the following facts or conditions shall not constitute a defense in a prosecution for human trafficking in the first or second degree, nor shall the evidence preclude a finding of a violation:

- (1) A human trafficking victim's sexual history or history of commercial sexual activity.
 - (2) A human trafficking victim's connection by blood or marriage to a defendant in the case or to anyone involved in the victim's trafficking.
 - (3) Consent of or permission by a victim of human trafficking or anyone else on the victim's behalf to any commercial sex act or sexually explicit performance.
 - (4) Age of consent to sex, an act defined by paragraph b. of subdivision (7) of Section 13A-6-151 of the definition for sexual servitude, legal age of marriage, or other discretionary age.
 - (5) Mistake as to the human trafficking victim's age, even if the mistake is reasonable.
- CREDIT(S)
(Act 2010-705, p. 1708, § 3.)

ALASKA¹⁴

ALASKA STAT. § 11.66.100 (2015). Prostitution

(a) A person commits the crime of prostitution if the person

(1) engages in or agrees or offers to engage in sexual conduct in return for a fee; or

(2) offers a fee in return for sexual conduct.

(b) Except as provided in (c) of this section, prostitution is a class B misdemeanor.

(c) Prostitution is a class C felony if

(1) the defendant violates (a) of this section as a patron of a prostitute;

(2) the prostitute is under 18 years of age; and

(3) the defendant is over 18 years of age and at least three years older than the prostitute.

(d) In a prosecution under (c) of this section, it is an affirmative defense that, at the time of the alleged offense, the defendant

¹⁴ All Alaska statutes are current through Ch. 116 (End) of the 2014 2nd Reg. Sess. Of the 28th Legislature

(1) reasonably believed the prostitute to be 18 years of age or older; and

(2) undertook reasonable measures to verify that the prostitute was 18 years of age or older.

CREDIT(S)

SLA 1978, ch. 166, § 8. Amended by SLA 2007, ch. 24, § 8, eff. July 1, 2007; 3rd Sp. Sess. 2012, ch. 1, §§ 6, 7, eff. July 1, 2012.

Alaska. Stat. § 11.41.360 (2015). Human trafficking in the first degree

(a) A person commits the crime of human trafficking in the first degree if the person compels or induces another person to come to this state to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception.

(b) In this section,

(1) “adult entertainment” means the conduct described in AS 23.10.350(f)(1)–(3);

(2) “deception” has the meaning given in AS 11.46.180;

(3) “sexual conduct” has the meaning given in AS 11.66.150.

(c) Human trafficking in the first degree is a class A felony.

CREDIT(S)

SLA 2006, ch. 72, § 1, eff. July 1, 2006. Amended by 3rd Sp. Sess. 2012, ch. 1, § 4, eff. July 1, 2012.

Alaska. Stat. § 11.41.365 (2015). Human trafficking in the second degree

(a) A person commits the crime of human trafficking in the second degree if the person obtains a benefit from the commission of human trafficking under AS 11.41.360, with reckless disregard that the benefit is a result of the trafficking.

(b) Human trafficking in the second degree is a class B felony.

CREDIT(S)

SLA 2006, ch. 72, § 1, eff. July 1, 2006.

ARIZONA¹⁵

Ariz. Rev. Stat § 13-1307 (2015). Sex trafficking; classification; definitions

A. It is unlawful for a person to knowingly traffic another person who is eighteen years of age or older with either of the following:

1. The intent to cause the other person to engage in any prostitution or sexually explicit performance by deception, force or coercion.
2. The knowledge that the other person will engage in any prostitution or sexually explicit performance by deception, coercion or force.

B. It is unlawful for a person to traffic another person who is under eighteen years of age with either of the following:

1. The intent to cause the other person to engage in any prostitution or sexually explicit performance.
2. The knowledge that the other person will engage in any prostitution or sexually explicit performance.

C. Notwithstanding any other law, a sentence imposed on a person for a violation of subsection B of this section shall be consecutive to any other sentence imposed on the person at any time.

D. A person who violates this section is guilty of a class 2 felony, except that if the offense is committed against a person who is under fifteen years of age, the offense is a dangerous crime against children punishable pursuant to § 13-705.

E. For the purposes of this section:

1. "Coercion" includes:

(a) Abusing or threatening to abuse the law or the legal system.

¹⁵ All Arizona statutes are current through the Second Regular and Second Special Sessions of the Fifty-first Legislature

(b) Knowingly destroying, concealing, removing, confiscating, possessing or withholding another person's actual or purported passport or other immigration document, government issued identification document, government record or personal property.

(c) Extortion.

(d) Causing or threatening to cause financial harm to any person.

(e) Facilitating or controlling another person's access to a controlled substance.

2. "Force" includes causing or threatening to cause serious harm to another person or physically restraining or threatening to physically restrain another person.

3. "Sexually explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interest of patrons.

4. "Traffic" means to entice, recruit, harbor, provide, transport or otherwise obtain another person.

CREDIT(S)

Added by Laws 2005, Ch. 2, § 2. Amended by Laws 2007, Ch. 248, § 3, eff. June 13, 2007; Laws 2008, Ch. 301, § 56, eff. Jan. 1, 2009; Laws 2009, Ch. 185, § 1; Laws 2010, Ch. 76, § 1.

Ariz. Rev. Stat § 13-3212 (2015). Child prostitution; classification; increased punishment

A. A person commits child prostitution by knowingly:

1. Causing any minor to engage in prostitution.

2. Using any minor for the purposes of prostitution.

3. Permitting a minor who is under the person's custody or control to engage in prostitution.

4. Receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purpose of prostitution.

5. Receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor.

6. Financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor.

7. Transporting or financing the transportation of any minor with the intent that the minor engage in prostitution.

B. A person who is at least eighteen years of age commits child prostitution by knowingly:

1. Engaging in prostitution with a minor who is under fifteen years of age.

2. Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.

3. Engaging in prostitution with a minor who is fifteen, sixteen or seventeen years of age.

C. It is not a defense to a prosecution under subsection A and subsection B, paragraphs 1 and 2 of this section that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.

D. Notwithstanding any other law, a sentence imposed on a person for a violation of subsection A or subsection B, paragraph 2 of this section involving a minor who is fifteen, sixteen or seventeen years of age shall be consecutive to any other sentence imposed on the person at any time.

E. Child prostitution pursuant to subsection A of this section is a class 2 felony if the minor is under fifteen years of age and is punishable pursuant to § 13-705.

F. Child prostitution pursuant to subsection B, paragraph 1 of this section is a class 2 felony and is punishable pursuant to § 13-705.

G. If the minor is fifteen, sixteen or seventeen years of age, child prostitution pursuant to subsection A of this section is a class 2 felony, the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. The presumptive term may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E. The terms are as follows:

1. The term for a first offense is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
10 years	13.5 years	24 years

2. The term for a defendant who has one historical prior felony conviction is as follows:

Minimum
17 years

Presumptive
24 years

Maximum
31 years

3. The term for a defendant who has two or more historical prior felony convictions is as follows:

Minimum
24 years

Presumptive
31 years

Maximum
38 years

H. If the minor is fifteen, sixteen or seventeen years of age, child prostitution pursuant to subsection B, paragraph 2 of this section is a class 2 felony, the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. The presumptive term may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E. The terms are as follows:

1. The term for a first offense is as follows:

Minimum
7 years

Presumptive
10.5 years

Maximum
21 years

2. The term for a defendant who has one historical prior felony conviction is as follows:

Minimum
14 years

Presumptive
15.75 years

Maximum
28 years

3. The term for a defendant who has two or more historical prior felony convictions is as follows:

Minimum
21 years

Presumptive
28 years

Maximum
35 years

I. Child prostitution pursuant to subsection B, paragraph 3 of this section is a class 6 felony. If the court sentences the person to a term of probation, the court shall order that as an initial term of probation the person be imprisoned in the county jail for not less than one hundred eighty consecutive days. This jail term shall commence on the date of sentencing. The court may suspend ninety days of the jail sentence if the person has not previously been convicted of a violation of this section, a violation of § 13-3214 or a violation of any city or town ordinance that prohibits prostitution and that has the same or substantially similar elements as § 13-3214 and the person successfully completes an appropriate court ordered education or treatment program.

J. This section does not preclude the state from alleging and proving any other sentencing enhancements as provided by law.

CREDIT(S)

Added by Laws 1978, Ch. 200, § 1, eff. Oct. 1, 1978. Amended by Laws 1987, Ch. 166, § 3; Laws 2007, Ch. 248, § 6, eff. June 13, 2007; Laws 2008, Ch. 301, § 71, eff. Jan. 1, 2009. Amended by Laws 2010, Ch. 255, § 6; Laws 2011, Ch. 78, § 1; Laws 2014, Ch. 151, § 7.

ARKANSAS¹⁶

ARK. CODE ANN. § 5-18-103 (2015). Trafficking of persons

(a) A person commits the offense of trafficking of persons if he or she knowingly:

(1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person knowing that the person will be subjected to involuntary servitude;

(2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (a)(1) of this section;

(3) Subjects a person to involuntary servitude; or

(4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity.

(b) It is not a defense to prosecution under subdivision (a)(4) of this section that the actor:

(1) Did not have knowledge of a victim's age; or

(2) Mistakenly believed a victim was not a minor.

(c)(1) Trafficking of persons is a Class A felony.

(2) Trafficking of persons is a Class Y felony if a victim was a minor at the time of the offense.

(d) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor Fund for Sexually Exploited Children.

CREDIT(S)

Acts of 2013, Act 132, § 3, eff. Aug. 16, 2013; Acts of 2013, Act 133, § 3, eff. Aug. 16, 2013; Acts of 2013, Act 1257, § 4, eff. Aug. 16, 2013.

¹⁶ All Arkansas statutes are current through 2014 2nd Ex. Sess. and the Nov. 4, 2014, election, including changes made by the Ark. Code Rev. Comm. received through 11/15/2014.

ARK. CODE ANN. § 5-18-104 (2015). Patronizing a victim of human trafficking

(a) A person commits the offense of patronizing a victim of human trafficking if he or she knowingly engages in commercial sexual activity with another person knowing that the other person is a victim of human trafficking.

(b)(1) Patronizing a victim of human trafficking is a Class B felony.

(2) Patronizing a victim of human trafficking is a Class A felony if the victim was a minor at the time of the offense.

CREDIT(S)

Acts of 2013, Act 132, § 3, eff. Aug. 16, 2013; Acts of 2013, Act 133, § 3, eff. Aug. 16, 2013.

ARK. CODE ANN. § 5-27-305 (2015). Transportation of minors for prohibited sexual conduct.

(a) A person commits the offense of transportation of a minor for prohibited sexual conduct if the person transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of any minor, and the actor:

(1) Knows or has reason to know that prostitution or sexually explicit conduct involving the minor will be commercially exploited by any person; and

(2) Acts with the purpose that the minor will engage in:

(A) Prostitution; or

(B) Sexually explicit conduct.

(b) Transportation of a minor for prohibited sexual conduct is a Class A felony.

CREDIT(S)

Acts of 1979, Act 499, § 5; Acts of 2007, Act 248, § 1, eff. July 31, 2007; Acts of 2009, Act 748, § 18, eff. July 31, 2009.

CALIFORNIA¹⁷

CAL. PENAL CODE § 266e (2015). Inveiglement or enticement of unmarried female under 18 for purposes of prostitution, etc.; aiding and abetting; procuring female for illicit intercourse by false pretenses; punishment

Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment.

CREDIT(S)

(Enacted in 1872. Amended by Code Am.1873-74, c. 614, p. 429, § 24; Stats.1976, c. 1139, p. 5107, § 157, operative July 1, 1977; Stats.1983, c. 1092, § 256, eff. Sept. 27, 1983, operative Jan. 1, 1984.)

CAL. PENAL CODE § 236.1 (2015). Human trafficking defined; Punishment

a) Any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(b) Any person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars (\$500,000).

(c) Any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking. A violation of this subdivision is punishable by imprisonment in the state prison as follows:

¹⁷ Current with all 2014 Reg.Sess. laws, Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on 2014 ballot

(1) Five, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(2) Fifteen years to life and a fine of not more than five hundred thousand dollars (\$500,000) when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person.

(d) In determining whether a minor was caused, induced, or persuaded to engage in a commercial sex act, the totality of the circumstances, including the age of the victim, his or her relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.

(e) Consent by a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(f) Mistake of fact as to the age of a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(g) The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in Section 7102(8) of Title 22 of the United States Code.

(h) For purposes of this chapter, the following definitions apply:

(1) “Coercion” includes any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse or threatened abuse of the legal process; debt bondage; or providing and facilitating the possession of any controlled substance to a person with the intent to impair the person's judgment.

(2) “Commercial sex act” means sexual conduct on account of which anything of value is given or received by any person.

(3) “Deprivation or violation of the personal liberty of another” includes substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(4) “Duress” includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which he or she would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(5) “Forced labor or services” means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(6) “Great bodily injury” means a significant or substantial physical injury.

(7) “Minor” means a person less than 18 years of age.

(8) “Serious harm” includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sexual acts in order to avoid incurring that harm.

(i) The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of “deprivation or violation of the personal liberty of another,” “duress,” and “coercion” as described in this section.

CREDIT(S)

(Added by Stats.2005, c. 240 (A.B.22), § 7. Amended by Stats.2010, c. 219 (A.B.1844), § 3, eff. Sept. 9, 2010; Initiative Measure (Prop. 35, § 6, approved Nov. 6, 2012, eff. Nov. 7, 2012).)

COLORADO¹⁸

COLO. REV. STAT. § 18-3- 504 (2015).Human trafficking for sexual servitude--human trafficking of a minor for sexual servitude

(1)(a) A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, or obtains by any means another person for the purpose of coercing the person to engage in commercial sexual activity commits human trafficking for sexual servitude.

(b) Human trafficking for sexual servitude is a class 3 felony.

(2)(a) A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity commits human trafficking of a minor for sexual servitude.

(b) Human trafficking of a minor for sexual servitude is a class 2 felony.

(c) In any prosecution under this subsection (2), it is not a defense that:

(I) The minor consented to being sold, recruited, harbored, transported, transferred, isolated, enticed, provided, received, obtained, or maintained by the defendant for the purpose of engaging in commercial sexual activity;

(II) The minor consented to participating in commercial sexual activity;

(III) The defendant did not know the minor's age or reasonably believed the minor to be eighteen years of age or older; or

(IV) The minor or another person represented the minor to be eighteen years of age or older.

(3) A person does not need to receive any of the proceeds of any commercial sexual activity to commit an offense described in this section.

(4) Conviction for an offense described in this section does not preclude conviction for an offense described in article 6 or 7 of this title based in whole or in part on the same or related conduct, and the court shall not require the prosecution to elect at trial between such offenses.

CREDIT(S)

Repealed and reenacted by Laws 2014, Ch. 282, § 1, eff. July 1, 2014.

¹⁸ Current through the Second Regular Session of the Sixty-Ninth General Assembly (2014) and amendments adopted through the Nov. 4, 2014 General Election.

COLO. REV. STAT. § 18-7-406 (2015). Patronizing a prostituted child

(1) Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child:

(a) Engages in an act which is prostitution of a child or by a child, as defined in section 18-7-401(6) or (7); or

(b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child, as defined in section 18-7-401(6) or (7).

(2) Patronizing a prostituted child is a class 3 felony.

CREDIT(S)

Recreated and reenacted by Laws 1979, H.B.1574, § 1.

Colo. Rev. Stat. § 18-3-502 (2015). Trafficking & Slavery Definition

As used in this part 5, unless the context otherwise requires:

(1) “Adult” means a person eighteen years of age or older.

(2) “Coercing” means inducing a person to act or to refrain from acting, if the inducement is accomplished by any one or more of the following means:

(a) The use or threat of the use of force against, abduction of, causing of serious harm to, or physical restraint of a person;

(b) The use of a plan, pattern, or statement for the purpose of causing the person to believe that failure to perform the act or failure to refrain from performing the act will result in the use of force against, abduction of, causing of serious harm to, or physical restraint of that person or another person;

(c) Using or threatening to use the law or the legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed;

(d) Threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws;

(e) The destruction or taking, or a threat to destroy or take, a person's identification document or other property;

(f) Controlling or threatening to control a person's access to a controlled substance, as defined in section 18-18-102(5);

(g) The use of debt bondage; or

(h) The exploitation of a person's physical or mental impairment, where such impairment has a substantial adverse effect on the person's cognitive or volitional functions.

(3) “Commercial sexual activity” means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) “Debt bondage” means:

(a) Demanding commercial sexual activity as payment toward or satisfaction of a real or purported debt; or

(b) Demanding labor or services as payment toward or satisfaction of a real or purported debt and failing to apply the reasonable value of the labor or services toward the liquidation of the debt; or

(c) Demanding labor or services where the length of the labor or services is not limited and the nature of the labor or services is not defined.

(5) “Identification document” means a real or purported passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(6) “Maintain” means to provide sustenance or care for a minor and includes but is not limited to providing shelter, food, clothing, drugs, medical care, or communication services.

(7) “Makes available” means to facilitate contact between a minor and another person.

(8) “Minor” means a person less than eighteen years of age.

(9) “Person” has the same meaning as set forth in section 2-4-401(8), C.R.S.

(10) “Serious harm” means bodily injury or any other harm, whether physical or nonphysical, including psychological, financial, or reputational harm, which is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(11) “Sexual activity” means:

(a) Sexual contact, as defined in section 18-3-401(4);

(b) Sexual intrusion, as defined in section 18-3-401(5);

(c) Sexual penetration, as defined in section 18-3-401(6);

(d) Sexual exploitation of a child, pursuant to section 18-6-403(3)(a) and (3)(d); or

(e) An obscene performance, as defined in section 18-7-101.

(12) “Victim” means a person who is alleged to have been, or who has been, subjected to human trafficking, as described in section 18-3-503 or section 18-3-504.

CREDIT(S)

Repealed and reenacted by Laws 2014, Ch. 282, § 1, eff. July 1, 2014.

Colo. Rev. Stat. § 18-3-503 (2015). Coercion of involuntary servitude

(1) A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, or obtains by any means another person for the purpose of coercing the other person to perform labor or services commits human trafficking for involuntary servitude.

(2) Human trafficking for involuntary servitude is a class 3 felony; except that human trafficking of a minor for involuntary servitude is a class 2 felony.

CREDIT(S)

Repealed and reenacted by Laws 2014, Ch. 282, § 1, eff. July 1, 2014.

Colo. Rev. Stat. § 18-6-404 (2015). Procurement of a child for sexual exploitation

Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of sexual exploitation of a child commits procurement of a child for sexual exploitation, which is a class 3 felony.

CREDIT(S)

Added by Laws 1983, S.B.26, § 9.

CONNECTICUT¹⁹

CONN. GEN. STAT. § 53a-83 (2015). Patronizing a prostitute: Class A misdemeanor or class C felony

¹⁹ Current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2015.

(a) A person is guilty of patronizing a prostitute when: (1) Pursuant to a prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him; or (2) he pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or (3) he solicits or requests another person to engage in sexual conduct with him in return for a fee.

(b) Except as provided in subsection (c) of this section, patronizing a prostitute is a class A misdemeanor.

(c) Patronizing a prostitute is a class C felony if such person knew or reasonably should have known at the time of the offense that such other person (1) had not attained eighteen years of age, or (2) was the victim of conduct of another person that constitutes (A) trafficking in persons in violation of section 53a-192a, or (B) a criminal violation of 18 USC Chapter 77, as amended from time to time.

CREDIT(S)

(1969, P.A. 828, § 84, eff. Oct. 1, 1971; 2013, P.A. 13-166, § 4.)

CONN. GEN. STAT. § 53a-192a (2015). Trafficking in persons: Class B felony

(a) A person is guilty of trafficking in persons when such person compels or induces another person to engage in conduct involving more than one occurrence of sexual contact with one or more third persons, or provide labor or services that such person has a legal right to refrain from providing, by means of (1) the use of force against such other person or a third person, or by the threat of use of force against such other person or a third person, (2) fraud, or (3) coercion, as provided in section 53a-192. For the purposes of this subsection, “sexual contact” means any contact with the intimate parts of another person.

(b) Trafficking in persons is a class B felony.

CREDIT(S)

(2006, P.A. 06-43, § 1, eff. July 1, 2006; 2010, P.A. 10-36, § 26, eff. July 1, 2010; 2013, P.A. 13-166, § 2.)

DELAWARE²⁰

DEL. CODE ANN. TIT. 11, § 787(2015). Trafficking an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony; class A felony

(a) For the purposes of this section, the following definitions shall apply:

(1) “Adult” has the meaning ascribed in § 302 of Title 1;

(2) “Coercion” means:

a. The use or threat of force against, abduction of, serious harm to, or physical restraint of an individual;

b. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual;

c. The abuse or threatened abuse of law or legal process;

d. Controlling or threatening to control an individual's access to a controlled substance enumerated in § 4714, § 4716, § 4718, § 4720 or § 4722 of Title 16;

e. The destruction of, taking of, or the threat to destroy or take an individual's identification document or other property;

f. Use of debt bondage;

g. The use of an individual's physical, cognitive disability or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions; or

h. The commission of civil or criminal fraud;

(3) “Commercial sexual activity” means any sexual activity for which anything of value is given, promised to, or received by any person;

(4) “Debt bondage” means inducing an individual to provide:

²⁰ The statutes and constitution are current through bills approved through January 29, 2015, including H.B. 20 and S.B. 11 with S.A. 2. Authenticated chaptered versions of enumerated approved bills and revisions to 2015 Acts by the Delaware Code Revisors were unavailable at the time of publication

- a. Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or
 - b. Labor or services in payment toward or satisfaction of a real or purported debt if:
 - 1. The reasonable value of the labor or services is not applied toward the liquidation of the debt; or
 - 2. The length of the labor or services is not limited and the nature of the labor or services is not defined;
- (5) “Forced labor or services” means labor, as defined in this section, or services, as defined in this section, that are performed or provided by another person and are obtained or maintained through coercion as enumerated in paragraph (b)(1) of this section;
- (6) “Human trafficking” means the commission of any of the offenses created in subsection (b) of this section;
- (7) “Identification document” means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government, whether actual or purported;
- (8) “Labor or services” means activity having economic or financial value, including commercial sexual activity. Nothing in this definition should be construed to legitimize or legalize prostitution;
- (9) “Maintain” means in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service;
- (10) “Minor” has the meaning ascribed in § 302 of Title 1;
- (11) “Obtain” means in relation to labor or services, to secure performance thereof;
- (12) “Serious harm” means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm;
- (13) “Sexual activity” means any of the sex-related acts enumerated in § 761 of this Title, or in § 1342, § 1351, § 1352(1), § 1353(1), § 1354 or § 1355 of this title or sexually-explicit performances;
- (14) “Sexually explicit performance” means a live public act or show, production of pornography, or the digital transfer of any of such, intended to arouse or satisfy the sexual desires or appeal to the prurient interest of viewers;

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by state; and

(16) “Victim” means a person who is subjected to the practices set forth in subsection (b) of this section or to conduct that would have constituted a violation of subsection (b) of this section had this act [79 Laws 2014, ch. 276] been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted.

(b) Prohibited activities.--

(1) Trafficking an individual--A person is guilty of trafficking an individual if the person knowingly recruits, transports, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of forced labor in violation of paragraph (b)(2) of this section or sexual servitude in violation of paragraph (b)(3) of this section. Trafficking an individual is a class C felony unless the individual is a minor, in which case it is a class B felony.

(2) Forced labor--A person is guilty of forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except where such conduct is permissible under federal law or law of this State other than this act [79 Laws 2014, ch. 276]. Forced labor is a class C felony unless the individual is a minor, in which case it is a class B felony.

(3) Sexual servitude--

a. A person commits the offense of sexual servitude if the person knowingly:

1. Maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or

2. Uses coercion or deception to compel an adult to engage in commercial sexual activity.

b. Sexual servitude is a class C felony unless the individual is a minor, in which case it is a class B felony.

c. It is not a defense in a prosecution under paragraph (b)(3)a.1. of this section that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.

(4) Patronizing a victim of sexual servitude--A person is guilty of patronizing a victim of sexual servitude if the person knowingly gives, agrees to give, or offers to give anything of value so that the person may engage in commercial sexual activity with another person and the person knows that the other person is a victim of sexual servitude. Patronizing a victim of sexual servitude is a class D felony unless the victim of sexual servitude is a minor, in which case it is a class C felony. It is not a defense in a prosecution when the victim of sexual servitude is a minor that the minor

consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.

(5) Trafficking of persons for use of body parts.--A person is guilty of trafficking of persons for use of body parts when a person knowingly:

- a. Recruits, entices, harbors, provides or obtains by any means, another person, intending or knowing that the person will have body parts removed for sale; or
- b. Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of this section. Such person shall be guilty of a class A felony. Nothing contained herein shall be construed as prohibiting the donation of an organ by an individual at a licensed medical facility after giving an informed voluntary consent.

(6) Aggravating Circumstance.--An aggravating circumstance during the commission of an offense under paragraphs (b)(1)-(3) of this section occurs when:

- a. The person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless; or
- b. The person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim.

If an aggravating circumstance occurred, the classification of the offense under paragraphs (b)(1)-(3) of this section is elevated by 1 felony grade higher than the underlying offense.

(c) Organizational liability.--

(1) An organization may be prosecuted for an offense under this section pursuant to § 281 of this title (Criminal liability of organizations).

(2) The court may consider the severity of an organization's offense under this section and order penalties in addition to those otherwise provided for the offense, including:

- a. A fine of not more than \$25,000.00 per offense;
- b. Disgorgement of profit from illegal activity in violation of this section; and
- c. Debarment from state and local government contracts.

(d) Restitution is mandatory under this section.--

(1) In addition to any other amount of loss identified, the court shall order restitution, including the greater of:

a. The gross income or value to the defendant of the victim's labor or services; or

b. The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) [29 U.S.C. § 201 et seq.] or of Title 19, whichever is greater.

(2) The court shall order restitution under this subsection (d) even if the victim is unavailable to accept payment of restitution.

(3) If the victim is unavailable for 5 years from the date of the restitution order, the restitution ordered under this subsection (d) must be paid to the Victim Compensation Fund established under § 9016 of this title.

(e) Forfeiture.

(1) On motion, the court shall order a person convicted of an offense under paragraphs (b)(1)-(3) of this section to forfeit any interest in real or personal property that was used or intended to be used to commit or facilitate the commission of the offense or that constitutes or derives from proceeds that the person obtained, directly or indirectly, as a result of the offense.

(2) In any proceeding against real or personal property under this section, the owner may assert a defense, and has the burden of establishing, by a preponderance of the evidence, that the forfeiture is manifestly disproportional to the seriousness of the offense.

(3) Proceeds from the public sale or auction of property forfeited under this subsection must be distributed in the manner otherwise provided for the distribution of proceeds of judicial sales.

(f) Admissibility of certain evidence.--

(1) [FN1] In a prosecution or civil action for damages under this section, evidence of a specific instance of the alleged victim's past sexual behavior, or reputation or opinion evidence of past sexual behavior of the alleged victim, is not admissible unless the evidence is:

a. Admitted in accordance with §§ 3508 and 3509 of this title; or

b. Offered by the prosecution in a criminal case to prove a pattern of trafficking by the defendant.

(g) Special provisions regarding a minor.--

(1) A minor who has engaged in commercial sexual activity is presumed to be a neglected or abused child under § 901 et seq. of Title 10. Whenever a police officer has probable cause to believe that a minor has engaged in commercial sexual activity, the police officer shall make an

immediate report to the Department of Services for Children, Youth and Their Families pursuant to § 901 et seq. of Title 16.

(2) A party to a juvenile delinquency proceeding in which a minor is charged with prostitution or loitering, or an attorney guardian ad litem or court-appointed special advocate appointed in a proceeding under § 901 et seq. of Title 10, may file a motion on behalf of a minor in a juvenile delinquency proceeding seeking to stay the juvenile delinquency proceedings. Such motion may be opposed by the Attorney General. The Family Court may consider such a motion and, in its discretion, may stay the juvenile delinquency proceeding indefinitely. Upon such motion, the Department of Services for Children, Youth and Their Families and/or the Family Court may identify and order available specialized services for the minor that, in the opinion of the Department of Services for Children, Youth and Their Families or Family Court, are best suited to the needs of the juvenile. So long as the minor substantially complies with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Attorney General shall, upon motion, nolle prosequi the stayed charges no earlier than 1 year after the stay was imposed. Upon motion of the Attorney General that the minor has not substantially complied with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Family Court shall lift the stay for further proceedings in accordance with the regular course of such proceedings.

(h) Defense to charge of prostitution or loitering.--An individual charged with prostitution or loitering committed as a direct result of being a victim of human trafficking may assert as an affirmative defense that the individual is a victim of human trafficking.

(i) Civil action.--

(1) A victim may bring a civil action against a person that commits an offense under subsection (b) of this section for compensatory damages, punitive damages, injunctive relief, and any other appropriate relief.

(2) In an action under this subsection, the court shall award a prevailing victim reasonable attorneys' fees and costs, including reasonable fees for expert witnesses.

(3) An action under this subsection must be commenced not later than 5 years after the later of the date on which the victim:

a. Was freed from the human trafficking situation; or

b. Attained 18 years of age.

(4) Damages awarded to the victim under this subsection for an item must be offset by any restitution paid to the victim pursuant to subsection (d) of this section for the same item.

(5) This subsection does not preclude any other remedy available to the victim under federal law or law of this State other than this section.

(j) Application for pardon and petition to expunge; motion to vacate conviction and expunge record.

(1) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, a person convicted of prostitution, loitering or obscenity committed as a direct result of being a victim of human trafficking may file an application for a pardon pursuant to article VII of the Delaware Constitution and § 4361 et seq. of this title and may file a petition requesting expungement of such criminal record pursuant to § 4371 et seq. of this title.

(2) A person convicted of prostitution, loitering or obscenity as a direct result of being a victim of human trafficking may file a motion in the court in which the conviction was obtained to vacate the judgment of conviction. A motion filed under this paragraph must:

- a. Be in writing;
- b. Be sent to the Delaware Department of Justice;
- c. Be made 2 years after the person's last criminal conviction and within a reasonable period of time after the person ceases to be a victim of trafficking in persons; and
- d. Describe the evidence and provide copies of any official documents showing that the person is entitled to relief under this paragraph.

If the motion satisfies the foregoing requirements, the court shall hold a hearing on a motion, provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted. Official documentation of the person's status as a victim of this section, "trafficking in persons," or "a severe form of trafficking" from a federal, state, or local government agency shall create a presumption that the person's participation in the offense of prostitution, loitering or obscenity was a direct result of having been a victim of human trafficking, but shall not be required for the court to grant a petition under this paragraph. If the petitioner can show to the satisfaction of the court that he or she is entitled to relief in a proceeding under this paragraph, the court shall grant the motion and, pursuant to this paragraph, enter an order vacating the judgment of conviction and dismissing the accusatory pleading, and may take such additional action as is appropriate in the circumstances or as justice requires.

(3) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, any person filing a motion under paragraph (j)(2) of this section in Superior Court or Family Court may also seek in that motion expungement of the criminal record related to such conviction. If the court grants the motion to vacate the conviction under paragraph (j)(2) of this section and the movant also requested expungement, the court's order shall require expungement of the police and court records relating to the charge and conviction. Such order

shall contain a statement that the expungement is ordered pursuant to this paragraph and, notwithstanding any limitations to the contrary, that the provisions of §§ 4374(f), 4376 and 4377 of this title apply to such order.

(4) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, any person filing in Court of Common Pleas a motion under paragraph (j)(2) of this section may, upon the Court of Common Pleas' entry of an order granting the motion to vacate, file a petition in the Superior Court seeking expungement of the criminal record related to such conviction and attaching to the petition a certified copy of the Court of Common Pleas' order granting the motion to vacate. Upon finding that the Court of Common Pleas entered an order under paragraph (j)(2) of this section, the Superior Court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this paragraph and, notwithstanding any limitations to the contrary, that the provisions of §§ 4374(f), 4376 and 4377 of this title apply to such order.

(k) Human Trafficking Coordinating Council.--The General Assembly hereby creates a permanent Human Trafficking Coordinating Council.

(1) The Council shall consist of the following members or his or her designee:

- a. The President Judge of the Superior Court;
- b. The Chief Judge of the Family Court;
- c. The Chief Judge of the Court of Common Pleas;
- d. The Chief Magistrate of the Justice of the Peace Court;
- e. The Attorney General;
- f. The Public Defender;
- g. The Secretary of the Department of Safety and Homeland Security;
- h. A representative of the law-enforcement community appointed by the Secretary of the Department of Safety and Homeland Security;
- i. The Secretary of the Department of Education;
- j. The Secretary of the Department of Services for Children, Youth and Their Families;
- k. The Secretary of the Department of Health and Social Services;
- l. The Secretary of the Department of Labor;

m. A representative of the health-care community designated by the Board of Medical Licensure and Discipline;

n. The Commissioner of the Department of Correction; and

o. Three at-large members representing victims of human trafficking or whose expertise would benefit the council who elected by the Council at the first meeting of each calendar year.

(2) The Council shall:

a. Develop a comprehensive plan to provide victims of human trafficking with services;

b. Effectuate coordination between agencies, departments and the courts with victims of human trafficking;

c. Collect and evaluate data on human trafficking in this State;

d. Promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;

e. Create a public-awareness sign that contains the state and National Human Trafficking Resource Center hotline information;

f. Coordinate training on human trafficking prevention and victim services for state and local employees who may have recurring contact with victims or perpetrators; and

g. Conduct other appropriate activities.

(3) Meetings; quorum; officers; committees; procedure.

a. The Council shall meet at least 4 times per year. Seven members shall constitute a quorum.

b. The Chairperson shall have the duty to convene and preside over meetings of the Council and prepare an agenda for meetings.

c. The Attorney General shall convene the initial meeting of the Council. At the initial meeting of the Council a Chairperson and Vice Chairperson shall be elected by the council members. Thereafter, in December of each year, the Council shall elect a Chairperson and Vice Chairperson. The Vice Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

d. The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority recommendations and developing implementation plans to achieve the purposes of the Council.

e. The Council shall submit a written report of its activities and recommendations to the Governor, General Assembly and the Chief Justice of the Supreme Court at least once every year on or before September 15.

(l) Display of public awareness sign; penalty for failure to display.

(1) The Delaware Department of Transportation shall display a public-awareness sign required by this section in every transportation station, rest area, and welcome center in the State which is open to the public.

(2) A public awareness sign created under paragraph (k)(2)e. of this section shall be displayed at the following locations in a place that is clearly conspicuous and visible to employees:

a. An adult entertainment facility;

b. An entity found to be maintaining a criminal nuisance involving prostitution under § 7104 of Title 10;

c. A job recruitment center;

d. A hospital; and

e. An emergency care provider.

(3) The Delaware Department of Labor shall impose a fine of \$300 per violation on an employer that knowingly fails to comply with paragraph (k)(2)e. of this section. The fine is the exclusive remedy for failure to comply.

(m) Eligibility for services.--

(1) A victim of human trafficking is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph (k)(2)a. of this section, including compensation under § 9009 of this title, regardless of immigration status.

(2) A minor engaged in commercial sexual activity is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph (k)(2)a. of this section, regardless of immigration status.

(3) As soon as practicable after a first encounter with an individual who reasonably appears to a police officer to be a victim or a minor engaged in commercial sexual activity, the police officer shall notify the appropriate state or local agency, as identified in the plan developed under paragraph (k)(2)a. of this section, that the individual may be eligible for a benefit or service under this section.

(n) Law-enforcement agency protocol.--

(1) On request from an individual who a police officer or prosecutor reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. § 1101(a)(15)(T), as amended from time to time, or 8 U.S.C. § 1101(a)(15)(U), as amended from time to time, or for continued presence, under 22 U.S.C. § 7105(c)(3), as amended from time to time, the police officer or prosecutor, as soon as practicable after receiving the request, shall request that a certifying official in his or her law-enforcement agency complete, sign, and give to the individual the Form I-914B or Form I-918B provided by the United States Citizenship and Immigration Services on its Internet website, and ask a federal law-enforcement officer to request continued presence.

(2) If the law-enforcement agency having responsibility under paragraph (n)(1) of this section determines that an individual does not meet the requirements for such agency to comply with paragraph (n)(1) of this section, that agency shall inform the individual of the reason and that the individual may make another request under paragraph (n)(1) of this section and submit additional evidence satisfying the requirements.

(o) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

CREDIT(S)

Added by 76 Laws 2007, ch. 125, § 1, eff. July 1, 2007. Amended by 79 Laws 2014, ch. 276, § 1, eff. June 30, 2014.

DEL. CODE ANN. TIT. 11, § 787(2015).Trafficking an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony; class A felony

(a) For the purposes of this section, the following definitions shall apply:

(1) “Adult” has the meaning ascribed in § 302 of Title 1;

(2) “Coercion” means:

a. The use or threat of force against, abduction of, serious harm to, or physical restraint of an individual;

b. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual;

- c. The abuse or threatened abuse of law or legal process;
- d. Controlling or threatening to control an individual's access to a controlled substance enumerated in § 4714, § 4716, § 4718, § 4720 or § 4722 of Title 16;
- e. The destruction of, taking of, or the threat to destroy or take an individual's identification document or other property;
- f. Use of debt bondage;
- g. The use of an individual's physical, cognitive disability or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions; or
- h. The commission of civil or criminal fraud;

(3) “Commercial sexual activity” means any sexual activity for which anything of value is given, promised to, or received by any person;

(4) “Debt bondage” means inducing an individual to provide:

- a. Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or
- b. Labor or services in payment toward or satisfaction of a real or purported debt if:
 - 1. The reasonable value of the labor or services is not applied toward the liquidation of the debt; or
 - 2. The length of the labor or services is not limited and the nature of the labor or services is not defined;

(5) “Forced labor or services” means labor, as defined in this section, or services, as defined in this section, that are performed or provided by another person and are obtained or maintained through coercion as enumerated in paragraph (b)(1) of this section;

(6) “Human trafficking” means the commission of any of the offenses created in subsection (b) of this section;

(7) “Identification document” means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government, whether actual or purported;

(8) “Labor or services” means activity having economic or financial value, including commercial sexual activity. Nothing in this definition should be construed to legitimize or legalize prostitution;

(9) “Maintain” means in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service;

(10) “Minor” has the meaning ascribed in § 302 of Title 1;

(11) “Obtain” means in relation to labor or services, to secure performance thereof;

(12) “Serious harm” means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm;

(13) “Sexual activity” means any of the sex-related acts enumerated in § 761 of this Title, or in § 1342, § 1351, § 1352(1), § 1353(1), § 1354 or § 1355 of this title or sexually-explicit performances;

(14) “Sexually explicit performance” means a live public act or show, production of pornography, or the digital transfer of any of such, intended to arouse or satisfy the sexual desires or appeal to the prurient interest of viewers;

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by state; and

(16) “Victim” means a person who is subjected to the practices set forth in subsection (b) of this section or to conduct that would have constituted a violation of subsection (b) of this section had this act [79 Laws 2014, ch. 276] been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted.

(b) Prohibited activities.--

(1) Trafficking an individual--A person is guilty of trafficking an individual if the person knowingly recruits, transports, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of forced labor in violation of paragraph (b)(2) of this section or sexual servitude in violation of paragraph (b)(3) of this section. Trafficking an individual is a class C felony unless the individual is a minor, in which case it is a class B felony.

(2) Forced labor--A person is guilty of forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except where such conduct is permissible under federal law or law of this State other than this act [79 Laws 2014, ch. 276]. Forced labor is a class C felony unless the individual is a minor, in which case it is a class B felony.

(3) Sexual servitude--

a. A person commits the offense of sexual servitude if the person knowingly:

1. Maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or

2. Uses coercion or deception to compel an adult to engage in commercial sexual activity.

b. Sexual servitude is a class C felony unless the individual is a minor, in which case it is a class B felony.

c. It is not a defense in a prosecution under paragraph (b)(3)a.1. of this section that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.

(4) Patronizing a victim of sexual servitude--A person is guilty of patronizing a victim of sexual servitude if the person knowingly gives, agrees to give, or offers to give anything of value so that the person may engage in commercial sexual activity with another person and the person knows that the other person is a victim of sexual servitude. Patronizing a victim of sexual servitude is a class D felony unless the victim of sexual servitude is a minor, in which case it is a class C felony. It is not a defense in a prosecution when the victim of sexual servitude is a minor that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.

(5) Trafficking of persons for use of body parts.--A person is guilty of trafficking of persons for use of body parts when a person knowingly:

a. Recruits, entices, harbors, provides or obtains by any means, another person, intending or knowing that the person will have body parts removed for sale; or

b. Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of this section. Such person shall be guilty of a class A felony. Nothing contained herein shall be construed as prohibiting the donation of an organ by an individual at a licensed medical facility after giving an informed voluntary consent.

(6) Aggravating Circumstance.--An aggravating circumstance during the commission of an offense under paragraphs (b)(1)-(3) of this section occurs when:

a. The person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless; or

b. The person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim.

If an aggravating circumstance occurred, the classification of the offense under paragraphs (b)(1)-(3) of this section is elevated by 1 felony grade higher than the underlying offense.

(c) Organizational liability.--

(1) An organization may be prosecuted for an offense under this section pursuant to § 281 of this title (Criminal liability of organizations).

(2) The court may consider the severity of an organization's offense under this section and order penalties in addition to those otherwise provided for the offense, including:

- a. A fine of not more than \$25,000.00 per offense;
- b. Disgorgement of profit from illegal activity in violation of this section; and
- c. Debarment from state and local government contracts.

(d) Restitution is mandatory under this section.--

(1) In addition to any other amount of loss identified, the court shall order restitution, including the greater of:

- a. The gross income or value to the defendant of the victim's labor or services; or
- b. The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) [29 U.S.C. § 201 et seq.] or of Title 19, whichever is greater.

(2) The court shall order restitution under this subsection (d) even if the victim is unavailable to accept payment of restitution.

(3) If the victim is unavailable for 5 years from the date of the restitution order, the restitution ordered under this subsection (d) must be paid to the Victim Compensation Fund established under § 9016 of this title.

(e) Forfeiture.

(1) On motion, the court shall order a person convicted of an offense under paragraphs (b)(1)-(3) of this section to forfeit any interest in real or personal property that was used or intended to be used to commit or facilitate the commission of the offense or that constitutes or derives from proceeds that the person obtained, directly or indirectly, as a result of the offense.

(2) In any proceeding against real or personal property under this section, the owner may assert a defense, and has the burden of establishing, by a preponderance of the evidence, that the forfeiture is manifestly disproportional to the seriousness of the offense.

(3) Proceeds from the public sale or auction of property forfeited under this subsection must be distributed in the manner otherwise provided for the distribution of proceeds of judicial sales.

(f) Admissibility of certain evidence.--

(1) [FN1] In a prosecution or civil action for damages under this section, evidence of a specific instance of the alleged victim's past sexual behavior, or reputation or opinion evidence of past sexual behavior of the alleged victim, is not admissible unless the evidence is:

a. Admitted in accordance with §§ 3508 and 3509 of this title; or

b. Offered by the prosecution in a criminal case to prove a pattern of trafficking by the defendant.

(g) Special provisions regarding a minor.--

(1) A minor who has engaged in commercial sexual activity is presumed to be a neglected or abused child under § 901 et seq. of Title 10. Whenever a police officer has probable cause to believe that a minor has engaged in commercial sexual activity, the police officer shall make an immediate report to the Department of Services for Children, Youth and Their Families pursuant to § 901 et seq. of Title 16.

(2) A party to a juvenile delinquency proceeding in which a minor is charged with prostitution or loitering, or an attorney guardian ad litem or court-appointed special advocate appointed in a proceeding under § 901 et seq. of Title 10, may file a motion on behalf of a minor in a juvenile delinquency proceeding seeking to stay the juvenile delinquency proceedings. Such motion may be opposed by the Attorney General. The Family Court may consider such a motion and, in its discretion, may stay the juvenile delinquency proceeding indefinitely. Upon such motion, the Department of Services for Children, Youth and Their Families and/or the Family Court may identify and order available specialized services for the minor that, in the opinion of the Department of Services for Children, Youth and Their Families or Family Court, are best suited to the needs of the juvenile. So long as the minor substantially complies with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Attorney General shall, upon motion, nolle prosequi the stayed charges no earlier than 1 year after the stay was imposed. Upon motion of the Attorney General that the minor has not substantially complied with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Family Court shall lift the stay for further proceedings in accordance with the regular course of such proceedings.

(h) Defense to charge of prostitution or loitering.--An individual charged with prostitution or loitering committed as a direct result of being a victim of human trafficking may assert as an affirmative defense that the individual is a victim of human trafficking.

(i) Civil action.--

(1) A victim may bring a civil action against a person that commits an offense under subsection (b) of this section for compensatory damages, punitive damages, injunctive relief, and any other appropriate relief.

(2) In an action under this subsection, the court shall award a prevailing victim reasonable attorneys' fees and costs, including reasonable fees for expert witnesses.

(3) An action under this subsection must be commenced not later than 5 years after the later of the date on which the victim:

a. Was freed from the human trafficking situation; or

b. Attained 18 years of age.

(4) Damages awarded to the victim under this subsection for an item must be offset by any restitution paid to the victim pursuant to subsection (d) of this section for the same item.

(5) This subsection does not preclude any other remedy available to the victim under federal law or law of this State other than this section.

(j) Application for pardon and petition to expunge; motion to vacate conviction and expunge record.

(1) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, a person convicted of prostitution, loitering or obscenity committed as a direct result of being a victim of human trafficking may file an application for a pardon pursuant to article VII of the Delaware Constitution and § 4361 et seq. of this title and may file a petition requesting expungement of such criminal record pursuant to § 4371 et seq. of this title.

(2) A person convicted of prostitution, loitering or obscenity as a direct result of being a victim of human trafficking may file a motion in the court in which the conviction was obtained to vacate the judgment of conviction. A motion filed under this paragraph must:

a. Be in writing;

b. Be sent to the Delaware Department of Justice;

c. Be made 2 years after the person's last criminal conviction and within a reasonable period of time after the person ceases to be a victim of trafficking in persons; and

d. Describe the evidence and provide copies of any official documents showing that the person is entitled to relief under this paragraph.

If the motion satisfies the foregoing requirements, the court shall hold a hearing on a motion, provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted. Official documentation of the person's status as a victim of this section, "trafficking in persons," or "a severe form of trafficking" from a federal, state, or local government agency shall create a presumption that the person's participation in the offense of prostitution, loitering or obscenity was a direct result of having been a victim of human trafficking, but shall not be required for the court to grant a petition under this paragraph. If the petitioner can show to the satisfaction of the court that he or she is entitled to relief in a proceeding under this paragraph, the court shall grant the motion and, pursuant to this paragraph, enter an order vacating the judgment of conviction and dismissing the accusatory pleading, and may take such additional action as is appropriate in the circumstances or as justice requires.

(3) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, any person filing a motion under paragraph (j)(2) of this section in Superior Court or Family Court may also seek in that motion expungement of the criminal record related to such conviction. If the court grants the motion to vacate the conviction under paragraph (j)(2) of this section and the movant also requested expungement, the court's order shall require expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this paragraph and, notwithstanding any limitations to the contrary, that the provisions of §§ 4374(f), 4376 and 4377 of this title apply to such order.

(4) Notwithstanding any provision of Chapter 43 of this title or any other law to the contrary, any person filing in Court of Common Pleas a motion under paragraph (j)(2) of this section may, upon the Court of Common Pleas' entry of an order granting the motion to vacate, file a petition in the Superior Court seeking expungement of the criminal record related to such conviction and attaching to the petition a certified copy of the Court of Common Pleas' order granting the motion to vacate. Upon finding that the Court of Common Pleas entered an order under paragraph (j)(2) of this section, the Superior Court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this paragraph and, notwithstanding any limitations to the contrary, that the provisions of §§ 4374(f), 4376 and 4377 of this title apply to such order.

(k) Human Trafficking Coordinating Council.--The General Assembly hereby creates a permanent Human Trafficking Coordinating Council.

(1) The Council shall consist of the following members or his or her designee:

- a. The President Judge of the Superior Court;
- b. The Chief Judge of the Family Court;
- c. The Chief Judge of the Court of Common Pleas;

- d. The Chief Magistrate of the Justice of the Peace Court;
- e. The Attorney General;
- f. The Public Defender;
- g. The Secretary of the Department of Safety and Homeland Security;
- h. A representative of the law-enforcement community appointed by the Secretary of the Department of Safety and Homeland Security;
- i. The Secretary of the Department of Education;
- j. The Secretary of the Department of Services for Children, Youth and Their Families;
- k. The Secretary of the Department of Health and Social Services;
- l. The Secretary of the Department of Labor;
- m. A representative of the health-care community designated by the Board of Medical Licensure and Discipline;
- n. The Commissioner of the Department of Correction; and
- o. Three at-large members representing victims of human trafficking or whose expertise would benefit the council who elected by the Council at the first meeting of each calendar year.

(2) The Council shall:

- a. Develop a comprehensive plan to provide victims of human trafficking with services;
- b. Effectuate coordination between agencies, departments and the courts with victims of human trafficking;
- c. Collect and evaluate data on human trafficking in this State;
- d. Promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;
- e. Create a public-awareness sign that contains the state and National Human Trafficking Resource Center hotline information;
- f. Coordinate training on human trafficking prevention and victim services for state and local employees who may have recurring contact with victims or perpetrators; and

g. Conduct other appropriate activities.

(3) Meetings; quorum; officers; committees; procedure.

a. The Council shall meet at least 4 times per year. Seven members shall constitute a quorum.

b. The Chairperson shall have the duty to convene and preside over meetings of the Council and prepare an agenda for meetings.

c. The Attorney General shall convene the initial meeting of the Council. At the initial meeting of the Council a Chairperson and Vice Chairperson shall be elected by the council members. Thereafter, in December of each year, the Council shall elect a Chairperson and Vice Chairperson. The Vice Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

d. The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority recommendations and developing implementation plans to achieve the purposes of the Council.

e. The Council shall submit a written report of its activities and recommendations to the Governor, General Assembly and the Chief Justice of the Supreme Court at least once every year on or before September 15.

(l) Display of public awareness sign; penalty for failure to display.

(1) The Delaware Department of Transportation shall display a public-awareness sign required by this section in every transportation station, rest area, and welcome center in the State which is open to the public.

(2) A public awareness sign created under paragraph (k)(2)e. of this section shall be displayed at the following locations in a place that is clearly conspicuous and visible to employees:

a. An adult entertainment facility;

b. An entity found to be maintaining a criminal nuisance involving prostitution under § 7104 of Title 10;

c. A job recruitment center;

d. A hospital; and

e. An emergency care provider.

(3) The Delaware Department of Labor shall impose a fine of \$300 per violation on an employer that knowingly fails to comply with paragraph (k)(2)e. of this section. The fine is the exclusive remedy for failure to comply.

(m) Eligibility for services.--

(1) A victim of human trafficking is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph (k)(2)a. of this section, including compensation under § 9009 of this title, regardless of immigration status.

(2) A minor engaged in commercial sexual activity is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph (k)(2)a. of this section, regardless of immigration status.

(3) As soon as practicable after a first encounter with an individual who reasonably appears to a police officer to be a victim or a minor engaged in commercial sexual activity, the police officer shall notify the appropriate state or local agency, as identified in the plan developed under paragraph (k)(2)a. of this section, that the individual may be eligible for a benefit or service under this section.

(n) Law-enforcement agency protocol.--

(1) On request from an individual who a police officer or prosecutor reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. § 1101(a)(15)(T), as amended from time to time, or 8 U.S.C. § 1101(a)(15)(U), as amended from time to time, or for continued presence, under 22 U.S.C. § 7105(c)(3), as amended from time to time, the police officer or prosecutor, as soon as practicable after receiving the request, shall request that a certifying official in his or her law-enforcement agency complete, sign, and give to the individual the Form I-914B or Form I-918B provided by the United States Citizenship and Immigration Services on its Internet website, and ask a federal law-enforcement officer to request continued presence.

(2) If the law-enforcement agency having responsibility under paragraph (n)(1) of this section determines that an individual does not meet the requirements for such agency to comply with paragraph (n)(1) of this section, that agency shall inform the individual of the reason and that the individual may make another request under paragraph (n)(1) of this section and submit additional evidence satisfying the requirements.

(o) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

CREDIT(S)

Added by 76 Laws 2007, ch. 125, § 1, eff. July 1, 2007. Amended by 79 Laws 2014, ch. 276, § 1, eff. June 30, 2014.

DISTRICT OF COLUMBIA²¹

DC. Code § 22-1834 (2015). Sex trafficking of children.

(a) It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.

(b) In a prosecution under subsection (a) of this section in which the defendant had a reasonable opportunity to observe the person recruited, enticed, harbored, transported, provided, obtained, or maintained, the government need not prove that the defendant knew that the person had not attained the age of 18 years.

CREDIT(S)

(Oct. 23, 2010, D.C. Law 18-239, § 104, 57 DCR 5405.)

DC. Code § 22-1831 (2015). definitions.

For the purposes of this chapter, the term:

(1) “Abuse or threatened abuse of law or legal process” means the use or threatened use of law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock, trust, and any legal entity through which business is conducted.

(3) “Coercion” means any one of, or a combination of, the following:

(A) Force, threats of force, physical restraint, or threats of physical restraint;

(B) Serious harm or threats of serious harm;

(C) The abuse or threatened abuse of law or legal process;

²¹ All statutes are current through February 18, 2015

(D) Fraud or deception;

(E) Any scheme, plan, or pattern intended to cause a person to believe that if that person did not perform labor or services, that person or another person would suffer serious harm or physical restraint;

(F) Facilitating or controlling a person's access to an addictive or controlled substance or restricting a person's access to prescription medication; or

(G) Knowingly participating in conduct with the intent to cause a person to believe that he or she is the property of a person or business and that would cause a reasonable person in that person's circumstances to believe that he or she is the property of a person or business.

(4) “Commercial sex act” means any sexual act or sexual contact on account of which or for which anything of value is given to, promised to, or received by any person. The term “commercial sex act” includes a violation of § 22-2701, § 22-2704, §§ 22-2705 to 22-2712, §§ 22-2713 to 22-2720, and § 22-2722.

(5) “Debt bondage” means the status or condition of a person who provides labor, services, or commercial sex acts, for a real or alleged debt, where:

(A) The value of the labor, services, or commercial sex acts, as reasonably assessed, is not applied toward the liquidation of the debt;

(B) The length and nature of the labor, services, or commercial sex acts are not respectively limited and defined; or

(C) The amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(6) “Labor” means work that has economic or financial value.

(7) “Serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue to perform labor, services, or commercial sex acts to avoid incurring that harm.

(8) “Services” means legal or illegal duties or work done for another, whether or not compensated.

(9) “Sexual act” shall have the same meaning as provided in § 22-3001(8).

(10) “Sexual contact” shall have the same meaning as provided in § 22-3001(9).

(11) “Venture” means any group of 2 or more individuals associated in fact, whether or not a legal entity.

CREDIT(S)

(Oct. 23, 2010, D.C. Law 18-239, § 101, 57 DCR 5405.)

DC. CODE § 22-1833 (2015). TRAFFICKING IN LABOR OR COMMERCIAL SEX ACTS.

It is unlawful for an individual or a business to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person, knowing, or in reckless disregard of the fact that:

(1) Coercion will be used or is being used to cause the person to provide labor or services or to engage in a commercial sex act; or

(2) The person is being placed or will be placed or kept in debt bondage.

CREDIT(S)

(Oct. 23, 2010, D.C. Law 18-239, § 103, 57 DCR 5405.)

DC. Code § 22-1836 (2015). benefitting financially from human trafficking.

It is unlawful for an individual or business knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of § 22-1832, § 22-1833, § 22-1834, or § 22-1835, knowing or in reckless disregard of the fact that the venture has engaged in the violation.

CREDIT(S)

(Oct. 23, 2010, D.C. Law 18-239, § 107, 57 DCR 5405; June 11, 2013, D.C. Law 19-317, § 224, 60 DCR 2064.)

DC. Code § 22-1837 (2015). penalties.

(a) (1) Except as provided in paragraph (2) of this subsection, whoever violates § 22-1832, § 22-1833, or § 22-1834 shall be fined not more than \$200,000, imprisoned for not more than 20 years, or both.

(2) Whoever violates sections § 22-1832, § 22-1833, or § 22-1834 when the victim is held or provides services for more than 180 days shall be fined not more than 1 1/2 times the maximum fine authorized for the designated act, imprisoned for not more than 1 1/2 times the maximum term authorized for the designated act, or both.

(b) Whoever violates § 22-1835 shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both.

(c) Whoever violates § 22-1836 shall be fined or imprisoned up to the maximum fine or term of imprisonment for a violation of each referenced section.

(d) Whoever attempts to violate § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836 shall be fined not more than 1/2 the maximum fine otherwise authorized for the offense, imprisoned for not more than 1/2 the maximum term otherwise authorized for the offense, or both.

(e) No person shall be sentenced consecutively for violations of §§ 22-1833 and 22-1834 for an offense arising out of the same incident.

CREDIT(S)

(Oct. 23, 2010, D.C. Law 18-239, § 107, 57 DCR 5405; June 11, 2013, D.C. Law 19-317, § 224, 60 DCR 2064.)

DC. CODE § 22-2704 (2015). Abducting or enticing child from his or her home for purposes of prostitution; harboring such child.

(a) It is unlawful for any person, for purposes of prostitution, to:

(1) Persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the custody and control of the child's parents or guardian; or

(2) Secrete or harbor any child so persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.

(b) A person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years, or by a fine of not more than \$20,000, or both.

CREDIT(S)

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 813; May 21, 1994, D.C. Law 10-119, § 2(q), 41 DCR 1639; Apr. 24, 2007, D.C. Law 16-306, § 213, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 201(g), 60 DCR 2064.)

FLORIDA²²

FLA. STAT. ANN. § 787.06 (2015). Human trafficking

(1)(a) The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. Victims of human trafficking also include citizens of the United States and those persons trafficked domestically within the borders of the United States. The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.

(d) It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies. In furtherance of this policy, it is the intent of the Legislature that the state Supreme Court, The Florida Bar, and relevant state agencies prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others are able to identify traffickers and victims of human trafficking and direct victims to appropriate agencies for assistance. It is the intent of the Legislature that the Department of Children and Families and other state agencies cooperate with other state and federal agencies to ensure that victims of human trafficking can access social services and benefits to alleviate their plight.

(2) As used in this section, the term:

(a) "Coercion" means:

1. Using or threatening to use physical force against any person;

²² Current through Ch. 255 (End) of the 2014 2nd Reg. Sess. and Sp. "A" Sess. of the Twenty-Third Legislature

2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
 4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
 5. Causing or threatening to cause financial harm to any person;
 6. Enticing or luring any person by fraud or deceit; or
 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.
- (b) “Commercial sexual activity” means any violation of chapter 796 or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.
- (c) “Financial harm” includes extortionate extension of credit, loan sharking as defined in s. 687.071, or employment contracts that violate the statute of frauds as provided in s. 725.01.
- (d) “Human trafficking” means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.
- (e) “Labor” means work of economic or financial value.
- (f) “Maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service.
- (g) “Obtain” means, in relation to labor or services, to secure performance thereof.
- (h) “Services” means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- (i) “Sexually explicit performance” means an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

(j) “Unauthorized alien” means an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3). The term shall be interpreted consistently with that section and any applicable federal rules or regulations.

(k) “Venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

(3) Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

(a) 1. For labor or services of any child under the age of 18 commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Using coercion for commercial sexual activity of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) 1. For labor or services of any child under the age of 18 who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Using coercion for commercial sexual activity of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) 1. For labor or services who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) 1. For commercial sexual activity who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) For commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), is involved commits a life felony, punishable as provided in s. 775.082(3)(a) 6. [FN1], s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

(4)(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term “permanently branded” means a mark on the individual's body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

(5) The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. Every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

(6) Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.

(7) Any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

(8) In a prosecution under this section, the defendant's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the defendant's bona fide belief of the victim's age cannot be raised as a defense.

CREDIT(S)

Added by Laws 2004, c. 2004-391, § 2, eff. Oct. 1, 2004. Amended by Laws 2006, c. 2006-168, § 1, eff. Oct. 1, 2006; Laws 2012, c. 2012-97, § 5, eff. July 1, 2012; Laws 2014, c. 2014-19, § 300, eff. July 1, 2014; Laws 2014, c. 2014-160, § 7, eff. Oct. 1, 2014.

FLA. STAT. ANN. § 796.07(2015). Prohibiting prostitution and related acts

(1) As used in this section:

(a) “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

(b) “Lewdness” means any indecent or obscene act.

(c) “Assignment” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(d) “Sexual activity” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful:

(a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignment, or prostitution.

(b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.

(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignment, or to permit any person to remain there for such purpose.

(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignment.

(e) To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignment.

(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignment.

(g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.

(h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.

(i) To purchase the services of any person engaged in prostitution.

(3)(a) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(4) A person who violates any provision of this section commits:

(a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

(c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who is charged with a third or subsequent violation of this section shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.

CREDIT(S)

Laws 1943, c. 21664, §§ 1 to 5; Laws 1971, c. 71-136, § 769; Laws 1981, c. 81-281, § 3; Laws 1986, c. 86-143, § 1; Laws 1991, c. 91-110, § 39; Laws 1991, c. 91-224, § 181. Amended by Laws 1993, c. 93-227, § 5, eff. Oct. 1, 1993; Laws 2002, c. 2002-297, § 4, eff. July 1, 2002; Laws 2003,

c. 2003-402, § 118, eff. July 1, 2004; Laws 2005, c. 2005-219, § 1, eff. July 1, 2005; Laws 2012, c. 2012-105, § 7, eff. Jan. 1, 2013; Laws 2014, c. 2014-19, § 301, eff. July 1, 2014; Laws 2014, c. 2014-161, § 5, eff. July 1, 2014.

FLA. STAT. ANN. § 800.04 (2015). Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age

(1) Definitions.--As used in this section:

(a) "Sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(b) "Consent" means intelligent, knowing, and voluntary consent, and does not include submission by coercion.

(c) "Coercion" means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.

(d) "Victim" means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) Prohibited defenses.--Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) Ignorance or belief of victim's age.--The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) Lewd or lascivious battery.--

(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

(b) Except as provided in paragraph (c), an offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);
2. Section 787.01(3)(a) 2. or 3.;
3. Section 787.02(3)(a) 2. or 3.;
4. Chapter 794, excluding s. 794.011(10);
5. Section 825.1025;
6. Section 847.0135(5); or
7. This section.

(5) Lewd or lascivious molestation.--

(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. 775.082(3)(a) 4.

(c) 1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is 18 years of age or older and commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);

2. Section 787.01(3)(a) 2. or 3.;

3. Section 787.02(3)(a) 2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

(6) Lewd or lascivious conduct.--

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or

2. Solicits a person under 16 years of age to commit a lewd or lascivious act

commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits lewd or lascivious conduct commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Lewd or lascivious exhibition.--

(a) A person who:

1. Intentionally masturbates;

2. Intentionally exposes the genitals in a lewd or lascivious manner; or

3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Exception.--A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

CREDIT(S)

Laws 1943, c. 21974, § 1; Laws 1951, c. 26580, § 1; Laws 1971, c. 71-136, § 780; Laws 1974, c. 74-383, § 66; Laws 1975, c. 75-24, § 1; Laws 1975, c. 75-298, § 40; Laws 1979, c. 79-400, § 291; Laws 1984, c. 84-86, § 5; Laws 1990, c. 90-120, § 1. Amended by Laws 1993, c. 93-4, § 5, eff. March 9, 1993; Laws 1999, c. 99-201, § 6, eff. Oct. 1, 1999; Laws 2000, c. 2000-246, § 1, eff. Oct. 1, 2000; Laws 2005, c. 2005-28, § 5, eff. Sept. 1, 2005; Laws 2008, c. 2008-172, § 3, eff. Oct. 1, 2008; Laws 2008, c. 2008-182, § 3, eff. July 1, 2008; Laws 2014, c. 2014-4, § 6, eff. Oct. 1, 2014.

Fla. Stat. Ann. § 847.0145 (2015). Selling or buying of minors; penalties

(1) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either:

(a) With knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor, either:

(a) With knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1988, c. 88-283, § 2.

GEORGIA²³

GA. CODE ANN. § 16-5-46 (2015). Trafficking a person for labor or sexual servitude

(a) As used in this Code section, the term:

(1) “Coercion” means:

(A) Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person;

(B) Exposing or threatening to expose any fact or information or disseminating or threatening to disseminate any fact or information that would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule;

²³ Current through Acts 343 to 669 of the 2014 Regular Session.

(C) 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 any person;

(D) Providing a controlled substance, as such term is defined by Code Section 16-13-21, to such person for the purpose of compelling such person to engage in labor or sexual servitude against his or her will; or

(E) Causing or threatening to cause financial harm to any person or using financial control over any person.

(2) “Deception” means:

(A) Creating or confirming another's impression of an existing fact or past event which is false and which the accused knows or believes to be false;

(B) Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as 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, or preventing a person from acquiring information pertinent to the disposition of such debt; or

(C) Promising benefits or the performance of services which the accused does not intend to deliver or perform or knows will not be delivered or performed. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this Code section.

(3) “Labor servitude” means work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception.

(4) “Performance” shall have the same meaning as set forth in Code Section 16-12-100.

(5) “Sexually explicit conduct” shall have the same meaning as set forth in Code Section 16-12-100.

(6) “Sexual servitude” means:

(A) Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or

(B) Any sexually explicit conduct or performance involving sexually explicit conduct which is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.

(b) A person commits the offense of trafficking a person for labor servitude when that person knowingly subjects another person to or maintains another person in labor servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of labor servitude.

(c) A person commits the offense of trafficking a person for sexual servitude when that person knowingly subjects another person to or maintains another person in sexual servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of sexual servitude.

(d) The age of consent for sexual activity or the accused's lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.

(e) The sexual history or history of commercial sexual activity of a person alleged to have been trafficked or such person's connection by blood or marriage to an accused in the case or to anyone involved in such person's trafficking shall be excluded from evidence if the court finds at a hearing outside the presence of the jury that the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.

(f)(1) Except as provided in paragraph (2) of this subsection, any accused who commits the offense of trafficking a person for labor or sexual servitude shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years, a fine not to exceed \$100,000.00, or both.

(2) Any accused who commits the offense of trafficking a person for labor or sexual servitude against a person who is under the age of 18 years shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years, a fine not to exceed \$100,000.00, or both; provided, however, that if the offense is committed against a person under 18 years of age and such person under the age of 18 years was coerced or deceived into being trafficked for labor or sexual servitude, the accused shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment, a fine not to exceed \$100,000.00, or both.

(g) All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Code section shall be subject to forfeiture to the state. Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7. Prosecuting attorneys and the Attorney General may commence forfeiture proceedings under this Code section.

(h) Prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under the provisions of this Code section and to perform any duty that necessarily appertains thereto.

(i) Each violation of this Code section shall constitute a separate offense and shall not merge with any other offense.

(j) A corporation may be prosecuted under this Code section for an act or omission constituting a crime under this Code section only if an agent of the corporation performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of his or her employment on behalf of the corporation or constituted a pattern of illegal activity that an agent of the company knew or should have known was occurring.

CREDIT(S)

Laws 2006, Act 457, § 3, eff. July 1, 2007; Laws 2011, Act 54, § 1, eff. July 1, 2011.

Trafficking of persons for labor or sexual servitude (§16-5-46) Felony 10-20 years Max. \$100,000
Pandering a victim under 16 (§ 16-6-12) Felony 10-30 years Max. \$100,000 Pandering a victim
16 or 17 (§ 16-6-12)

GA. CODE ANN. § 16-6-12 (2015). Pandering

A person commits the offense of pandering when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third person or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution.

CREDIT(S)

Laws 1968, p. 1249, § 1; Laws 1970, p. 236, § 5; Laws 1988, p. 1797, § 1; Laws 1998, p. 1301, § 1.

HAWAII²⁴

HAW. REV. STAT. ANN. § 712-1209.1 (2015). Solicitation of a minor for prostitution

(1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person intentionally, knowingly, or recklessly offers or agrees to pay a fee to a minor or to a member of a police department, a sheriff, or a law enforcement officer who represents that person's self as a minor to engage in sexual conduct.

²⁴ Current through Act 235 [End] of the 2014 Regular Session of the Hawai'i Legislature

(2) Solicitation of a minor for prostitution is a class C felony.

(3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than \$5,000; provided that \$5,000 of the imposed fine shall be credited to the general fund.

(4) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer who offers or agrees to pay a fee to a minor while acting in the course and scope of duties.

(5) The state of mind requirement for this offense is not applicable to the fact that the person solicited was a minor. A person is strictly liable with respect to the attendant circumstance that the person solicited was a minor.

(6) For purposes of this section:

“Minor” means a person who is less than eighteen years of age.

“Sexual conduct” has the same meaning as in section 712-1200(2).

CREDIT(S)

Laws 2013, ch. 247, § 1, eff. July 1, 2013; Laws 2014, ch. 114, § 4, eff. June 20, 2014.

HAW. REV. STAT. ANN. 712-1202 (2015). Promoting prostitution in the first degree

(1) A person commits the offense of promoting prostitution in the first degree if the person knowingly:

(a) Advances prostitution by compelling or inducing a person by force, threat, fraud, or intimidation to engage in prostitution, or profits from such conduct by another; or

(b) Advances or profits from prostitution of a person less than eighteen years old.

(2) Promoting prostitution in the first degree is a class A felony.

(3) As used in this section:

“Fraud” means making material false statements, misstatements, or omissions.

“Threat” means any of the actions listed in section 707-764(1).

CREDIT(S)

Laws 1972, ch. 9, § 1; Laws 1993, ch. 130, § 2; Laws 2008, ch. 147, § 8, eff. June 6, 2008; Laws 2011, ch. 145, § 3, eff. July 1, 2011.

IDAHO²⁵

IDAHO CODE ANN. § 18-8602 (2015). Human trafficking defined

(1) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

CREDIT(S)

Added by S.L. 2006, ch. 85, § 1, eff. July 1, 2006. Redesignated from § 18-8502 by S.L. 2007, ch. 90, § 5, eff. July 1, 2007.

IDAHO CODE ANN. § 18-5610 (2015). Utilizing a person under eighteen years of age for prostitution--Penalties

(1) Every person who exchanges or offers to exchange anything of value for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment and fine.

(2) As used in this section:

(a) “Sexual conduct” means sexual intercourse or deviate sexual intercourse.

(b) “Sexual contact” means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

(c) “Anything of value” includes, but is not limited to, a fee, food, shelter, clothing, medical care or membership in a criminal gang as defined in section 18-8502, Idaho Code.

²⁵ Current through the 2014 Second Regular Session of the 62nd Idaho Legislature.

CREDIT(S)

Added by S.L. 2013, ch. 240, § 1, eff. July 1, 2013.

IDAHO CODE ANN. § 18-1507 (2015). SEXUAL EXPLOITATION OF A CHILD

(1) The legislature hereby finds and declares that the commercial sexual exploitation of children constitutes a wrongful invasion of the child's right of privacy and results in social, developmental, and emotional injury to the child; that a child below the age of eighteen (18) years is incapable of giving informed consent to the use of his or her body for a commercial purpose; and that to protect children from commercial sexual exploitation it is necessary to prohibit the production for trade or commerce of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce.

(2) As used in this section, unless the context otherwise requires:

(a) “Bestiality” means a sexual connection in any manner between a human being and any animal.

(b) “Child” means a person who is less than eighteen (18) years of age.

(c) “Commercial purpose” means the intention, objective, anticipation, or expectation of monetary gain or other material consideration, compensation, remuneration, or profit.

(d) “Erotic fondling” means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved. “Erotic fondling” shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(e) “Erotic nudity” means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(f) “Explicit sexual conduct” means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.

(g) “Masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or

pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(h) “Sadomasochism” means:

(i) Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or

(ii) The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(i) “Sexual excitement” means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(j) “Sexual intercourse” means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(k) “Sexually exploitative material” means any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material which depicts a child engaged in, participating in, observing, or being used for explicit sexual conduct.

(3) A person commits sexual exploitation of a child if, for any commercial purpose, he knowingly:

(a) Causes, induces, or permits a child to engage in, or be used for, any explicit sexual conduct; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses, or distributes any sexually exploitative material.

(4) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(5) The sexual exploitation of a child is a felony and shall be punishable by imprisonment in the state prison for a term not to exceed thirty (30) years or by a fine not to exceed fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

(6) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

CREDIT(S)

S.L. 1983, ch. 256, § 1; S.L. 1987, ch. 177, § 1; S.L. 1992, ch. 145, § 2; S.L. 2006, ch. 178, § 5, eff. March 24, 2006. Amended by S.L. 2012, ch. 269, § 2, eff. July 1, 2012.

IDAHO CODE ANN. § 18-5614 (2015). Patronizing a prostitute

(1) A person is guilty of patronizing a prostitute when he or she:

(a) Pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual conduct or sexual contact;

(b) Enters or remains in a house of prostitution for the purpose of engaging in sexual conduct or sexual contact.

(2) Patronizing a prostitute is a misdemeanor, provided that a third or subsequent conviction therefor shall be a felony.

CREDIT(S)

S.L. 1977, ch. 175, § 3; S.L. 1994, ch. 130, § 13.

ILLINOIS²⁶

720 ILL. COMP. STAT. 5/10-9 (2015). Patronizing a prostitute.

(a) Any person who knowingly performs any of the following acts with a person not his or her spouse commits patronizing a prostitute:

(1) Engages in an act of sexual penetration as defined in Section 11-0.1 of this Code with a prostitute; or

(2) Enters or remains in a place of prostitution with intent to engage in an act of sexual penetration as defined in Section 11-0.1 of this Code; or

²⁶ Current through P.A. 98-1174 of the 2014 Reg. Sess.

(3) Engages in any touching or fondling with a prostitute of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification.

(b) Sentence.

Patronizing a prostitute is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-15 (soliciting for a prostitute), 11-15.1 (soliciting for a juvenile prostitute), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is guilty of a Class 3 felony. If the court imposes a fine under this subsection (b), it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

(c) (Blank).

CREDIT(S)

Laws 1961, p. 1983, § 11-18, eff. Jan. 1, 1962. Amended by P.A. 77-2638, § 1, eff. Jan. 1, 1973; P.A. 80-360, § 1, eff. Oct. 1, 1977; P.A. 83-1067, § 2, eff. July 1, 1984; P.A. 84-1006, § 1, eff. Jan. 1, 1986; P.A. 85-1447, § 1, eff. Jan. 1, 1990; P.A. 88-325, § 5, eff. Jan. 1, 1994; P.A. 91-274, § 5, eff. Jan. 1, 2000; P.A. 91-498, § 5, eff. Jan. 1, 2000; P.A. 92-16, § 88, eff. June 28, 2001; P.A. 96-1464, § 15, eff. Aug. 20, 2010; P.A. 96-1551, Art. 2, § 5, eff. July 1, 2011; P.A. 98-1013, § 15, eff. Jan. 1, 2015.

720 ILL. COMP. STAT. 5/11-18.1 (2015) Patronizing a minor engaged in prostitution

(a) Any person who engages in an act of sexual penetration as defined in Section 11-0.1 of this Code with a person engaged in prostitution who is under 18 years of age or is a severely or profoundly intellectually disabled person commits patronizing a minor engaged in prostitution.

(a-5) Any person who engages in any touching or fondling, with a person engaged in prostitution who either is under 18 years of age or is a severely or profoundly intellectually disabled person, of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification, commits patronizing a minor engaged in prostitution.

(b) It is an affirmative defense to the charge of patronizing a minor engaged in prostitution that the accused reasonably believed that the person was of the age of 18 years or over or was not a

severely or profoundly intellectually disabled person at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a juvenile prostitute is guilty of a Class 3 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 2 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-15 (soliciting for a prostitute), 11-15.1 (soliciting for a juvenile prostitute), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of juvenile prostitution), 11-18 (patronizing a prostitute), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is guilty of a Class 2 felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

CREDIT(S)

Laws 1961, p. 1983, § 11-18.1, added by P.A. 85-1447, § 1, eff. Jan. 1, 1990. Amended by P.A. 96-1464, § 15, eff. Aug. 20, 2010; P.A. 96-1551, Art. 2, § 5, eff. July 1, 2011; P.A. 97-227, § 135, eff. Jan. 1, 2012; P.A. 97-1109, § 15-55, eff. Jan. 1, 2013.

720 ILL. COMP. STAT. 5/11-14.1 (2015). Solicitation of a sexual act.

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value for that person or any other person not his or her spouse to perform any act of sexual penetration as defined in Section 11-0.1 of this Code, or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class A misdemeanor. Solicitation of a sexual act from a person who is under the age of 18 or who is severely or profoundly intellectually disabled is a Class 4 felony. If the court imposes a fine under this subsection (b), it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

(b-5) It is an affirmative defense to a charge of solicitation of a sexual act with a person who is under the age of 18 or who is severely or profoundly intellectually disabled that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled person at the time of the act giving rise to the charge.

(c) This Section does not apply to a person engaged in prostitution who is under 18 years of age.

(d) A person cannot be convicted under this Section if the practice of prostitution underlying the offense consists exclusively of the accused's own acts of prostitution under Section 11-14 of this Code.

CREDIT(S)

Laws 1961, p. 1983, § 11-14.1, added by P.A. 88-325, § 5, eff. Jan. 1, 1994. Amended by P.A. 88-680, Art. 50, § 50-5, eff. Jan. 1, 1995. Re-enacted by P.A. 91-696, Art. 50, § 50-5, eff. April 13, 2000. Amended by P.A. 96-1464, § 15, eff. Aug. 20, 2010; P.A. 96-1551, Art. 2, § 5, eff. July 1, 2011; P.A. 97-227, § 135, eff. Jan. 1, 2012; P.A. 97-1109, § 15-55, eff. Jan. 1, 2013; P.A. 98-1013, § 15, eff. Jan. 1, 2015

720 ILL. COMP. STAT. 5/10-9 (2015). Trafficking in persons, involuntary servitude, and related offenses

Trafficking in persons, involuntary servitude, and related offenses.

(a) Definitions. In this Section:

(1) “Intimidation” has the meaning prescribed in Section 12-6.

(2) “Commercial sexual activity” means any sex act on account of which anything of value is given, promised to, or received by any person.

(3) “Financial harm” includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.

(4) (Blank).

(5) “Labor” means work of economic or financial value.

(6) “Maintain” means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform that type of service.

(7) “Obtain” means, in relation to labor or services, to secure performance thereof.

(7.5) “Serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(8) “Services” means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of activities that are

“services” under this Section. Nothing in this definition may be construed to legitimize or legalize prostitution.

(9) “Sexually-explicit performance” means a live, recorded, broadcast (including over the Internet), or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

(10) “Trafficking victim” means a person subjected to the practices set forth in subsection (b), (c), or (d).

(b) Involuntary servitude. A person commits involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to labor or services obtained or maintained through any of the following means, or any combination of these means:

(1) causes or threatens to cause physical harm to any person;

(2) physically restrains or threatens to physically restrain another person;

(3) abuses or threatens to abuse the law or legal process;

(4) knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(5) uses intimidation, or exerts financial control over any person; or

(6) uses any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform the labor or services, that person or another person would suffer serious harm or physical restraint.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (b)(1) is a Class X felony, (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4) is a Class 3 felony, (b)(5) and (b)(6) is a Class 4 felony.

(c) Involuntary sexual servitude of a minor. A person commits involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and:

(1) there is no overt force or threat and the minor is between the ages of 17 and 18 years;

(2) there is no overt force or threat and the minor is under the age of 17 years; or

(3) there is overt force or threat.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (c)(1) is a Class 1 felony, (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

(d) Trafficking in persons. A person commits trafficking in persons when he or she knowingly: (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or (2) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of this subsection is a Class 1 felony.

(e) Aggravating factors. A violation of this Section involving kidnapping or an attempt to kidnap, aggravated criminal sexual assault or an attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder is a Class X felony.

(f) Sentencing considerations.

(1) Bodily injury. If, pursuant to a violation of this Section, a victim suffered bodily injury, the defendant may be sentenced to an extended-term sentence under Section 5-8-2 of the Unified Code of Corrections. The sentencing court must take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.

(2) Number of victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially increased sentences in cases involving more than 10 victims.

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

(g-5) Fine distribution. If the court imposes a fine under subsection (b), (c), or (d) of this Section, it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

(h) Trafficking victim services. Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses defined in this Section.

(i) Certification. The Attorney General, a State's Attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Section has begun and the individual who is a likely victim of a crime described in this Section is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this Section who are under 18 years of age. This certification shall be made available to the victim and his or her designated legal representative.

(j) A person who commits involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons under subsection (b), (c), or (d) of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

CREDIT(S)

Laws 1961, p. 1983, § 10-9, added by P.A. 96-710, § 25, eff. Jan. 1, 2010. Amended by P.A. 96-1000, § 600, eff. July 2, 2010; P.A. 97-897, § 15, eff. Jan. 1, 2013; P.A. 98-756, § 695, eff. July 16, 2014; P.A. 98-1013, § 15, eff. Jan. 1, 2015

INDIANA²⁷

IND. CODE ANN. § 35-42-2.5-1 (2015). Promotion of human trafficking; sexual trafficking of a minor; human trafficking

Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage;

(B) prostitution; or

(C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) eighteen (18) years of age with the intent of:

(A) engaging the child in:

(i) forced labor; or

(ii) involuntary servitude; or

(B) inducing or causing the child to:

(i) engage in prostitution; or

(ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation); or

²⁷ The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

(2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Level 3 felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.

(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution;

commits human trafficking, a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or

(2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term “ongoing personal relationship” does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

CREDIT(S)

As added by P.L.173-2006, SEC.52. Amended by P.L.1-2012, SEC.4, eff. Jan. 30, 2012; P.L.72-2012, SEC.3; P.L.55-2013, SEC.1, eff. July 1, 2013; P.L.158-2013, SEC.436, eff. July 1, 2014; P.L.168-2014, SEC.66, eff. July 1, 2014.

IND. CODE ANN. § 35-45-4-3 (2015). Patronizing A Prostitute

Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

(1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person; or

(2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person;

commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.78; Acts 1979, P.L.301, SEC.2; P.L.310-1983, SEC.4; P.L.158-2013, SEC.527, eff. July 1, 2014.

IOWA²⁸

IOWA CODE § 710A.2 (2015). Human trafficking

²⁸ The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

1. A person who knowingly engages in human trafficking is guilty of a class “D” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “C” felony.
2. A person who knowingly engages in human trafficking by causing or threatening to cause serious physical injury to another person is guilty of a class “C” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “B” felony.
3. A person who knowingly engages in human trafficking by physically restraining or threatening to physically restrain another person is guilty of a class “D” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “C” felony.
4. A person who knowingly engages in human trafficking by soliciting services or benefiting from the services of a victim is guilty of a class “D” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “C” felony.
5. A person who knowingly engages in human trafficking by abusing or threatening to abuse the law or legal process is guilty of a class “D” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “C” felony.
6. A person who knowingly engages in human trafficking by 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 a victim is guilty of a class “D” felony, except that if that other person is under the age of eighteen, the person is guilty of a class “C” felony.
7. A person who benefits financially or by receiving anything of value from knowing participation in human trafficking is guilty of a class “D” felony, except that if the victim is under the age of eighteen, the person is guilty of a class “C” felony.
8. A person's ignorance of the age of the victim or a belief that the victim was older is not a defense to a violation of this section.

CREDIT(S)

Added by Acts 2006 (81 G.A.) ch. 1074, S.F. 2219, § 3. Amended by Acts 2012 (84 G.A.) ch. 1057, H.F. 2390, § 3; Acts 2013 (85 G.A.) ch. 90, H.F. 556, § 187.

IOWA CODE § 710A.2A (2015). Solicitation of commercial sexual activity

A person shall not entice, coerce, or recruit, or attempt to entice, coerce, or recruit, either a person who is under the age of eighteen or a law enforcement officer or agent who is representing that the officer or agent is under the age of eighteen, to engage in a commercial sexual activity. A person who violates this section commits a class “D” felony.

CREDIT(S)

Added by Acts 2012 (84 G.A.) ch. 1057, H.F. 2390, § 4. Amended by Acts 2013 (85 G.A.) ch. 90, H.F. 556, § 188.

IOWA CODE § 725.1 (2015). Prostitution

<[Text subject to final changes by the Iowa Code Editor for Code 2015.]>

1. a. Except as provided in paragraph “b”, a person who sells or offers for sale the person's services as a partner in a sex act commits an aggravated misdemeanor.

b. If the person who sells or offers for sale the person's services as a partner in a sex act is under the age of eighteen, the county attorney may elect, in lieu of filing a petition alleging that the person has committed a delinquent act, to refer that person to the department of human services for the possible filing of a petition alleging that the person is a child in need of assistance.

c. If the person who sells or offers for sale the person's services as a partner in a sex act is under the age of eighteen, upon the expiration of two years following the person's conviction for a violation of paragraph “a” or of a similar local ordinance, the person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged for a violation of paragraph “a”, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety.

2. a. Except as provided in paragraph “b”, a person who purchases or offers to purchase another person's services as a partner in a sex act commits an aggravated misdemeanor.

b. A person who purchases or offers to purchase services as a partner in a sex act from a person who is under the age of eighteen commits a class “D” felony.

CREDIT(S)

Added by Acts 1976 (66 G.A.) ch. 1245 (ch. 1), § 2501, eff. Jan. 1, 1978. Amended by Acts 2014 (85 G.A.) ch. 1097, S.F. 2311, § 6, eff. July 1, 2014.

KANSAS²⁹

KAN. STAT. ANN. § 21- 6421 (2015) Buying sexual relations

(a) Buying sexual relations is knowingly:

(1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(2) hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

(b)(1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto.

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(c) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or any prior version of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account; and

²⁹ Current through the end of the 2014 legislation

(2) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance which prohibits the acts of this section only once during the person's lifetime.

(d)(1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

CREDIT(S)

Laws 2010, ch. 136, § 231, eff. July 1, 2011; Laws 2013, ch. 120, § 18, eff. July 1, 2013; Laws 2014, ch. 28, § 3, eff. July 1, 2014.

Kan. Stat. Ann. § 21-5426 (2015). Trafficking; aggravated trafficking

(a) Human trafficking is:

(1) The intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;

(2) intentionally benefitting financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);

(3) knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:

(A) Causing or threatening to cause physical injury to any person;

(B) physically restraining or threatening to physically restrain another person;

(C) abusing or threatening to abuse the law or legal process;

(D) threatening to withhold food, lodging or clothing; or

(E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or

(4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.

(b) Aggravated human trafficking is:

(1) Human trafficking, as defined in subsection (a):

(A) Involving the commission or attempted commission of kidnapping, as defined in subsection (a) of K.S.A. 21-5408, and amendments thereto;

(B) committed in whole or in part for the purpose of the sexual gratification of the defendant or another; or

(C) resulting in a death; or

(2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.

(c)(1) Human trafficking is a severity level 2, person felony.

(2) Aggravated human trafficking is a severity level 1, person felony, except as provided in subsection (c) (3).

(3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.

(d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.

(e) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.

(f) As used in this section, “peonage” means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

CREDIT(S)

Laws 2010, ch. 136, § 61, eff. July 1, 2011; Laws 2011, ch. 30, § 26, eff. July 1, 2011; Laws 2012, ch. 150, § 5, eff. July 1, 2012.

KAN. STAT. ANN. § 21-6422 (2015). Commercial sexual exploitation of a child

(a) Commercial sexual exploitation of a child is knowingly:

(1) Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts:

(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another; or

(B) procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof;

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or

(4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations.

(b)(1) Commercial sexual exploitation of a child is a:

(A) Severity level 5, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

(d) This section shall be part of and supplemental to the Kansas criminal code.

CREDIT(S)

Laws 2013, ch. 120, § 4, eff. July 1, 2013; Laws 2014, ch. 28, § 4, eff. July 1, 2014.

KENTUCKY³⁰

KY. REV. STAT. ANN. § 529.100 (2015). Human trafficking.

(1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.

(2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.

(b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one (1) level higher than the level otherwise specified in this section.

CREDIT(S)

HISTORY: 2007 c 19, § 5, eff. 6-26-07

KY. REV. STAT. ANN. § 530.070 (2015).Unlawful transaction with minor in the third degree

(1) A person is guilty of unlawful transaction with a minor in the third degree when:

(a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor;

(b) He knowingly induces, assists, or causes a minor to engage in any other criminal activity;

(c) He knowingly induces, assists or causes a minor to become a habitual truant; or

(d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor in the third degree is a Class A misdemeanor.

CREDIT(S)

HISTORY: 1986 c 289, § 7, eff. 7-15-86; 1984 c 382, § 21; 1978 c 219, § 11; 1974 c 406, § 263

³⁰ Current through the end of the 2014 legislation

LOUISIANA³¹

LA. REV. STAT. ANN. § 14:46.3 (2015). Trafficking of children for sexual purposes

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions of this Section.

(4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

(5) For any person to knowingly advertise any of the activities prohibited by this Section.

(6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.

B. For purposes of this Section, “commercial sexual activity” means any sexual act performed or conducted when any thing of value has been given, promised, or received by any person.

C. (1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section.

(2) Lack of knowledge of the victim's age shall not be a defense to a prosecution pursuant to the provisions of this Section.

(3) It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, sold, purchased, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

D. (1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.

³¹ Current through the 2014 Regular Session.

(b) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section when the victim is under the age of fourteen years shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(c) Any person who violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section, who was previously convicted of a sex offense as defined in R.S. 15:541 when the victim of the sex offense was under the age of eighteen years, shall be fined not more than one hundred thousand dollars and shall be imprisoned at hard labor for not less than fifty years or for life. At least fifty years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be required to serve at least five years of the sentence provided for in Subparagraph (D)(1)(a) of this Section without benefit of probation, parole, or suspension of sentence. Whoever violates the provisions of Paragraph (A)(3) when the victim is under the age of fourteen years shall be required to serve at least ten years of the sentence provided for in Subparagraph (D)(1)(b) of this Section without benefit of probation, parole, or suspension of sentence.

(3)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

E. No victim of trafficking as provided by the provisions of this Section shall be prosecuted for unlawful acts committed as a direct result of being trafficked. Any child determined to be a victim pursuant to the provisions of this Subsection shall be eligible for specialized services for sexually exploited children.

F. The provisions of Chapter 1 of Title V of the Louisiana Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

G. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

CREDIT(S)

Added by Acts 2009, No. 375, § 1. Amended by Acts 2010, No. 763, § 1; Acts 2011, No. 64, § 1; Acts 2012, No. 446, § 1; Acts 2014, No. 564, § 1.

LA. REV. STAT. ANN. § 14:82.1(2015). Prostitution; persons under eighteen; additional offenses

A. It shall be unlawful:

(1) For any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.

(2) For any parent or tutor of any person under the age of eighteen knowingly to consent to the person's entrance or detention in the practice of prostitution.

B. (1) Lack of knowledge of the age of the person practicing prostitution shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution consented to the activity prohibited by this Section.

C. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

D. (1) Whoever violates the provisions of Paragraph (A)(1) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(2) Whoever violates the provisions of Paragraph (A)(1) of this Section when the person practicing prostitution is under the age of fourteen shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

(3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section shall be required to serve at least five years of the sentence imposed in Paragraph (1) of this Subsection without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of Paragraph (A)(2) of this Section when the person practicing prostitution is under the age of fourteen shall be required to serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection without benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include but shall not be limited to electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties.

F. Any person determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

CREDIT(S)

Added by Acts 1985, No. 777, § 1. Amended by Acts 2008, No. 138, § 1; Acts 2012, No. 446, § 1; Acts 2014, No. 564, § 1.

LA. REV. STAT. ANN. § 14:82 (2015).

A. It shall be unlawful:

(1) For any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.

(2) For any parent or tutor of any person under the age of eighteen knowingly to consent to the person's entrance or detention in the practice of prostitution.

B. (1) Lack of knowledge of the age of the person practicing prostitution shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution consented to the activity prohibited by this Section.

C. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

D. (1) Whoever violates the provisions of Paragraph (A)(1) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(2) Whoever violates the provisions of Paragraph (A)(1) of this Section when the person practicing prostitution is under the age of fourteen shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

(3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section shall be required to serve at least five years of the sentence imposed in Paragraph (1) of this Subsection without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of Paragraph (A)(2) of this Section when the person practicing prostitution is under the age of fourteen shall be required to serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection without benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include but shall not be limited to electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties.

F. Any person determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

CREDIT(S)

Added by Acts 1985, No. 777, § 1. Amended by Acts 2008, No. 138, § 1; Acts 2012, No. 446, § 1; Acts 2014, No. 564, § 1.

La. Rev. Stat. Ann. § 14:46.2 (2015). Human trafficking

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, solicit, receive, isolate, entice, obtain, or maintain the use of another person through fraud, force, or coercion to provide services or labor.

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

B. (1) Except as provided in Paragraphs (2) and (3) of this Subsection, whoever commits the crime of human trafficking shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not more than ten years.

(2) Whoever commits the crime of human trafficking when the services include commercial sexual activity or any sexual conduct constituting a crime under the laws of this state shall be fined not more than fifteen thousand dollars and shall be imprisoned at hard labor for not more than twenty years.

(3) Whoever commits the crime of human trafficking when the trafficking involves a person under the age of eighteen shall be fined not more than twenty-five thousand dollars and shall be imprisoned at hard labor for not less than five nor more than twenty-five years, five years of which shall be without the benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

C. For purposes of this Section:

(1) “Commercial sexual activity” means any sexual act performed or conducted when anything of value has been given, promised, or received by any person.

(2) “Debt bondage” means inducing an individual to provide any of the following:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:

(i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(3) “Fraud, force, or coercion” shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

- (b) Physically restraining or threatening to physically restrain another person.
 - (c) Abduction or threatened abduction of an individual.
 - (d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.
 - (e) The abuse or threatened abuse of law or legal process.
 - (f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.
 - (g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.
 - (h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.
 - (i) The use of debt bondage or civil or criminal fraud.
 - (j) Extortion as defined in R.S. 14:66.
- (4) "Labor or services" means activity having an economic value.

D. It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, solicited, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

F. (1) A victim of trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime pursuant to the laws of this state shall have an affirmative defense to prosecution for any of the following offenses which were committed as a direct result of being trafficked:

(a) R.S. 14:82 (Prostitution).

(b) R.S. 14:83.3 (Prostitution by massage).

(c) R.S. 14:83.4 (Massage; sexual conduct prohibited).

(d) R.S. 14:89 (Crime against nature).

(e) R.S. 14:89.2 (Crime against nature by solicitation).

(2) Any person seeking to raise this affirmative defense shall provide written notice to the state at least forty-five days prior to trial or at an earlier time as otherwise required by the court.

(3) Any person determined to be a victim pursuant to the provisions of this Subsection shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

CREDIT(S)

Added by Acts 2005, No. 187, § 1. Amended by Acts 2010, No. 382, § 1; Acts 2010, No. 763, § 1; Acts 2011, No. 64, § 1; Acts 2012, No. 446, § 1; Acts 2014, No. 564, § 1. MAINE

MAINE³²

ME. REV. STAT. ANN. tit. 17-A, § 855 (2015). Patronizing prostitution of minor or person with mental disability

1. A person is guilty of patronizing prostitution of a minor if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and that person knows that the person whose prostitution is sought has not yet attained 18 years of age. Violation of this paragraph is a Class C crime.

3. [FN1] A person is guilty of patronizing prostitution of a mentally disabled person if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought suffers from a mental disability that is reasonably apparent or known to

³² Current with legislation through the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct or conduct involved. Violation of this paragraph is a Class C crime.

CREDIT(S)

1981, c. 245, § 2; 2005, c. 444, § 1; 2013, c. 407, § 5, eff. Oct. 9, 2013.

Me. Rev. Stat. tit. 5, § 4701 (2015). Remedies for human trafficking

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. “Trafficked person” means a victim of a human trafficking offense.

B. “Criminal proceeding” includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court.

C. “Human trafficking offense” includes:

(1) Aggravated sex trafficking and sex trafficking under Title 17-A, sections 852 and 853, respectively; and

(2) All offenses in Title 17-A, chapters 11, 12 and 13 if accompanied by the destruction, concealment, removal, confiscation or possession of any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or done using any scheme, plan or pattern intended to cause the other person to believe that if that person does not perform certain labor or services, including prostitution, that the person or a 3rd person will be subject to a harm to their health, safety or immigration status.

2. Civil action for damages, relief. A trafficked person may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

3. Statute of limitations. An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.

A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent.

B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed.

C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:

(1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or

(2) Threats made by the defendant that caused duress to the plaintiff.

D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person.

4. Cause of action on trafficked person's behalf. A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

CREDIT(S)

2007, c. 684, § B-1, eff. Jan. 1, 2009; 2013, c. 407, § 1, eff. Oct. 9, 2013.

Me. Rev. Stat. tit. 17-A, § 852 (2015). Aggravated promotion of sex trafficking

1. A person is guilty of aggravated sex trafficking if the person knowingly:

A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution;

B. Promotes prostitution of a person less than 18 years old; or

C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

2. As used in this section, “compelling” includes but is not limited to:

A. The use of a drug or intoxicating substance to render a person incapable of controlling that person's conduct or appreciating its nature;

B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug or alcohol-dependent person. A “drug or alcohol-dependent person” is one who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis;

C. Making material false statements, misstatements or omissions;

D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;

E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and

F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will:

(1) Cause physical injury or death to a person;

(2) Cause damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;

(4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

3. Aggravated sex trafficking is a Class B crime.

CREDIT(S)

1975, c. 499, § 1, eff. May 1, 1976; 1989, c. 431, § 1; 2011, c. 672, § 1; 2013, c. 407, § 2, eff. Oct. 9, 2013.

MARYLAND³³

MD. CODE ANN., CRIM. LAW § 3-324 (2015). Sexual solicitation of minors

Definitions

(a) In this section, “solicit” means to command, authorize, urge, entice, request, or advise a person by any means, including:

- (1) in person;
- (2) through an agent or agency;
- (3) over the telephone;
- (4) through any print medium;
- (5) by mail;
- (6) by computer or Internet; or
- (7) by any other electronic means.

Prohibited

(b) A person may not, with the intent to commit a violation of § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article.

Jurisdiction

(c) A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:

- (1) originated in the State; or
- (2) is received in the State.

Penalty

³³ Current through the 2014 Regular Session of the General Assembly

(d) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both.

CREDIT(S)

Added by Acts 2004, c. 285, § 1, eff. Oct. 1, 2004. Amended by Acts 2007, c. 340, § 1, eff. Oct. 1, 2007; Acts 2007, c. 341, § 1, eff. Oct. 1, 2007.

Md. Code Ann., Crim. Law § 11-303 (2015). Pandering Prohibited—In general

(a)(1) A person may not knowingly:

(i) take or cause another to be taken to any place for prostitution;

(ii) place, cause to be placed, or harbor another in any place for prostitution;

(iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;

(iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;

(v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or

(vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

Minor status of victim

(b)(1) A person may not violate subsection (a) of this section involving a victim who is a minor.

(2) A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

Penalty

(c)(1)(i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

(ii) A person who violates subsection (a) of this section is subject to § 5-106(b) of the Courts Article.

(2) A person who violates subsection (b) of this section is guilty of the felony of human trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$15,000 or both.

Venue

(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.

Persons who benefit from participation or aiders or abettors to violations

(e)(1) A person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) or (b) of this section is subject to the same penalties that would apply if the person had violated that subsection.

(2) A person who knowingly aids, abets, or conspires with one or more other persons to violate any subsection of this section is subject to the same penalties that apply for a violation of that subsection.

CREDIT(S)

Added by Acts 2002, c. 26, § 2, eff. Oct. 1, 2002. Amended by Acts 2007, c. 340, § 1, eff. Oct. 1, 2007; Acts 2007, c. 341, § 1, eff. Oct. 1, 2007; Acts 2009, c. 143, § 1, eff. Oct. 1, 2009; Acts 2010, c. 529, § 1, eff. Oct. 1, 2010; Acts 2010, c. 530, § 1, eff. Oct. 1, 2010; Acts 2011, c. 218, § 1, eff. Oct. 1, 2011; Acts 2013, c. 653, § 1, eff. Oct. 1, 2013.

Md. Code Ann., Crim. Law § 11-304 (2015). Receiving earnings from a prostitute

(a) A person may not receive or acquire money or proceeds from the earnings of a person engaged in prostitution with the intent to:

(1) promote a crime under this subtitle;

(2) profit from a crime under this subtitle; or

(3) conceal or disguise the nature, location, source, ownership, or control of money or proceeds of a crime under this subtitle.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

Statute of limitations and in banc review

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.
CREDIT(S)

Added by Acts 2002, c. 26, § 2, eff. Oct. 1, 2002.

MASSACHUSETTS³⁴

MASS. ANN. LAWS CH. 265, § 50 (2015). Trafficking of persons for sexual servitude; trafficking of persons under 18 years for sexual servitude; trafficking by business entities; penalties; tort actions brought by victims

(a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of said chapter 272; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be

³⁴ Current through Chapters 1 to 505 of the 2014 2nd Annual Session

eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.

(c) A business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than \$1,000,000.

(d) A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred, where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venturer in trafficking of persons for sexual servitude shall be civilly liable for an offense under this section.

CREDIT(S)

Added by St.2011, c. 178, § 23, eff. Feb. 19, 2012.

MASS. ANN. LAWS CH. 272, § 53A (2015) . Engaging in sexual conduct for a fee; engaging in sexual conduct with child under age 18 for a fee; penalties

(a) Whoever engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, shall be punished by imprisonment in the house of correction for not more than 1 year or by a fine of not more than \$500, or by both such imprisonment and fine, whether such sexual conduct occurs or not.

(b) Whoever pays, agrees to pay or offers to pay another person to engage in sexual conduct, or to agree to engage in sexual conduct with another person, shall be punished by imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not less than \$1,000 and not more than \$5,000, or by both such imprisonment and fine, whether such sexual conduct occurs or not.

(c) Whoever pays, agrees to pay or offers to pay any person with the intent to engage in sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay or agrees that a third person be paid in return for aiding a person who intends to engage in sexual conduct with a child under the age of 18, shall be punished by imprisonment in the state prison for not more than 10 years, or in the house of correction for not more than 2 and one-half years and by a fine of not less than \$3,000 and not more than \$10,000, or by both such imprisonment and fine, whether such sexual conduct occurs or not; provided, however, that a prosecution commenced under this section shall not be continued without a finding or placed on file.

CREDIT(S)

Added by St.1983, c. 66, § 2. Amended by St.2006, c. 363, eff. Feb. 14, 2007; St.2011, c. 178, § 25, eff. Feb. 19, 2012.

MASS. ANN. LAWS CH. 265, § 26C (2015) .

(a) As used in this section, the term “entice” shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite.

(b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13B 1/2 , 13B 3/4 , 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265, section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years, or by both imprisonment and a fine of not more than \$5,000.

CREDIT(S)

Added by St.2002, c. 385, § 3. Amended by St.2010, c. 267, §§ 62 to 64, eff. Nov. 4, 2010.

MICHIGAN³⁵

MICH. COMP. LAWS § 750.449a (2015).Engaging or offering to engage services for purpose of prostitution, lewdness, or assignation; penalty

Sec. 449a. (1) Except as provided in subsection (2), a person who engages or offers to engage the services of another person, not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration, is guilty of a misdemeanor. A person convicted of violating this section is subject to part 52 of the public health code, 1978 PA 368, MCL 333.5201 to 333.5210.

(2) A person who engages or offers to engage the services of another person, who is less than 18 years of age and who is not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration, is guilty of a crime punishable as provided in section 451. [FN1]

CREDIT(S)

Amended by P.A.2014, No. 326, Eff. Jan. 14, 2015.

MICH. COMP. LAWS § 750.451 (2015). Violation of § 750.448, 750.449, 750.449a, 750.450, or 750.462; penalties; prior convictions; persons

³⁵ The statutes are current through P.A.2014, No. 572 of the 2014 Regular Session, 97th Legislature.

under 18 years of age; presumption; investigation of human trafficking violation

Sec. 451. (1) Except as otherwise provided in this section, a person convicted of violating section 448, 449, 449a(1), 450, or 462 [FN1] is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) A person 16 years of age or older who is convicted of violating section 448, 449, 449a(1), 450, or 462 and who has 1 prior conviction is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) A person convicted of violating section 448, 449, 449a(1), 450, or 462 and who has 2 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(4) A person convicted of violating section 449a(2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(5) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(6) In any prosecution of a person under 18 years of age for an offense punishable under this section, it shall be presumed that the person under 18 years of age was coerced into child sexually abusive activity or commercial sexual activity in violation of section 462e [FN2] or otherwise forced or coerced into committing that offense by another person engaged in human trafficking in violation of sections 462a to 462h. [FN3] The prosecution may overcome this presumption by proving beyond a reasonable doubt that the person was not forced or coerced into committing the offense. The state may petition the court to find the person under 18 years of age to be dependent and in danger of substantial physical or psychological harm under section 2(b)(3) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2. A person under 18 years of age who fails to substantially comply with court-ordered services under

section 2(b)(3) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is not eligible for the presumption under this section.

(7) Excluding any reasonable period of detention for investigation purposes, a law enforcement officer who encounters a person under 18 years of age engaging in any conduct that would be a violation of section 448, 449, 450, or 462, or a local ordinance substantially corresponding to section 448, 449, 450, or 462, if engaged in by a person 16 years of age or over shall immediately report to the department of human services a suspected violation of human trafficking involving a person under 18 years of age in violation of sections 462a to 462h.

(8) The department of human services shall begin an investigation of a human trafficking violation reported to the department of human services under subsection (7) within 24 hours after the report is made to the department of human services, as provided in section 8 of the child protection law, 1975 PA 238, MCL 722.628. The investigation shall include a determination as to whether the person under 18 years of age is dependent and in danger of substantial physical or psychological harm under section 2(b)(3) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(9) As used in this section, “prior conviction” means a violation of section 448, 449, 449a(1), 450, or 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to section 448, 449, 449a(1), 450, or 462.

CREDIT(S)

Amended by P.A.2002, No. 43, Eff. March 14, 2002; P.A.2002, No. 44, Eff. June 1, 2002; P.A.2014, No. 336, Eff. Jan. 14, 2015.

Mich. Comp. Laws § 750.462g (2015). Use of minor for child sexually abusive activity; prohibition; violation as felony; penalty

Sec. 462g. The testimony of a victim is not required in a prosecution under this chapter. However, if a victim testifies, that testimony need not be corroborated.

CREDIT(S)

P.A.1931, No. 328, § 462g, added by P.A.2006, No. 162, Eff. Aug. 24, 2006. Amended by P.A.2014, No. 329, Eff. Jan. 14, 2015.

MINNESOTA³⁶

MINN. STAT. § 609.324 (2015). Patrons; prostitutes; housing individuals engaged in prostitution; penalties

Subdivision 1. Engaging in, hiring, or agreeing to hire minor to engage in prostitution; penalties.

(a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both:

(1) engages in prostitution with an individual under the age of 13 years; or

(2) hires or offers or agrees to hire an individual under the age of 13 years to engage in sexual penetration or sexual contact.

(b) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

(1) engages in prostitution with an individual under the age of 16 years but at least 13 years; or

(2) hires or offers or agrees to hire an individual under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.

(c) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:

(1) engages in prostitution with an individual under the age of 18 years but at least 16 years; or

(2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.

Subd. 1a. Housing unrelated minor engaged in prostitution; penalties. Any person, other than one related by blood, adoption, or marriage to the minor, who permits a minor to reside, temporarily or permanently, in the person's dwelling without the consent of the minor's parents or guardian, knowing or having reason to know that the minor is engaging in prostitution may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; except that, this subdivision does not apply to residential placements made, sanctioned, or supervised by a public or private social service agency.

Subd. 2. Prostitution in public place; penalty for patrons. Whoever, while acting as a patron, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

³⁶ Current through 2014 Regular and First and Second Extraordinary Sessions.

(2) hires , offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision must, at a minimum, be sentenced to pay a fine of at least \$1,500.

Subd. 3. General prostitution crimes; penalties for patrons. (a) Whoever, while acting as a patron, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires , offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph must, at a minimum, be sentenced to pay a fine of at least \$500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least \$1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

Subd. 4. Community service in lieu of minimum fine. The court may order a person convicted of violating subdivision 2 or 3 to perform community work service in lieu of all or a portion of the minimum fine required under those subdivisions if the court makes specific, written findings that the convicted person is indigent or that payment of the fine would create undue hardship for the convicted person or that person's immediate family. Community work service ordered under this subdivision is in addition to any mandatory community work service ordered under subdivision 3.

Subd. 5. Use of motor vehicle to patronize prostitutes; driving record notation. (a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving record. Except as provided in paragraph (b), the finding is

classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

Subd. 6. Prostitution in public place; penalty for prostitutes. Whoever, while acting as a prostitute, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Subd. 7. General prostitution crimes; penalties for prostitutes. (a) Whoever, while acting as a prostitute, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor.

CREDIT(S)

Laws 1979, c. 255, § 4, eff. Aug. 1, 1979. Amended by Laws 1984, c. 628, art. 3, § 11, eff. May 3, 1984; Laws 1986, c. 448, §§ 5, 6, eff. Aug. 1, 1986; Laws 1990, c. 463, §§ 1 to 4; Laws 2003, 1st Sp., c. 2, art. 10, § 5; Laws 2004, c. 228, art. 1, § 72, subd. 3, par. (a); Laws 2009, c. 137, §§ 8, 9, eff. Aug. 1, 2009; Laws 2009, c. 170, §§ 2 to 4, eff. Aug. 1, 2009; Laws 2011, 1st Sp., c. 1, art. 5, §§ 4 to 7, eff. Aug. 1, 2011.

MINN. STAT. § 609.352 (2015). Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children

Subdivision 1. Definitions. As used in this section:

(a) “child” means a person 15 years of age or younger;

(b) “sexual conduct” means sexual contact of the individual's primary genital area, sexual penetration as defined in section 609.341, or sexual performance as defined in section 617.246; and

(c) “solicit” means commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means.

Subd. 2. Prohibited act. A person 18 years of age or older who solicits a child or someone the person reasonably believes is a child to engage in sexual conduct with intent to engage in sexual conduct is guilty of a felony and may be sentenced as provided in subdivision 4.

Subd. 2a. Electronic solicitation of children. A person 18 years of age or older who uses the Internet, a computer, computer program, computer network, computer system, an electronic communications system, or a telecommunications, wire, or radio communications system, or other electronic device capable of electronic data storage or transmission to commit any of the following acts, with the intent to arouse the sexual desire of any person, is guilty of a felony and may be sentenced as provided in subdivision 4:

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;

(2) engaging in communication with a child or someone the person reasonably believes is a child, relating to or describing sexual conduct; or

(3) distributing any material, language, or communication, including a photographic or video image, that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

Subd. 2b. Jurisdiction. A person may be convicted of an offense under subdivision 2a if the transmission that constitutes the offense either originates within this state or is received within this state.

Subd. 3. Defenses. (a) Mistake as to age is not a defense to a prosecution under this section.

(b) The fact that an undercover operative or law enforcement officer was involved in the detection or investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Subd. 4. Penalty. A person convicted under subdivision 2 or 2a is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both.

CREDIT(S)

Laws 1986, c. 445, § 3, eff. Aug. 1, 1986. Amended by Laws 2000, c. 311, art. 4, §§ 3, 4; Laws 2007, c. 54, art. 2, § 7, eff. Aug. 1, 2007; Laws 2009, c. 59, art. 1, § 6, eff. Aug. 1, 2009.

Minn. Stat. § 609.322 (2015). Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking

Subdivision 1. Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.

(a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$50,000, or both:

(1) solicits or induces an individual under the age of 18 years to practice prostitution;

(2) promotes the prostitution of an individual under the age of 18 years;

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or

(4) engages in the sex trafficking of an individual under the age of 18 years.

(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:

(1) the offender has committed a prior qualified human trafficking-related offense;

(2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;

(3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or

(4) the offense involved more than one sex trafficking victim.

Subd. 1a. Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.

Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000, or both:

(1) solicits or induces an individual to practice prostitution;

(2) promotes the prostitution of an individual;

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or

(4) engages in the sex trafficking of an individual.

Subd. 1b. Exceptions.

Subdivisions 1, paragraph (a), clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. Aggregation of cases.

Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

CREDIT(S)

Laws 1979, c. 255, § 2, eff. Aug. 1, 1979. Amended by Laws 1984, c. 628, art. 3, § 11, eff. May 3, 1984; Laws 1986, c. 448, § 2, eff. Aug. 1, 1986; Laws 1992, c. 571, art. 4, § 9; Laws 1998, c. 367, art. 2, §§ 12 to 14; Laws 2000, c. 431, § 2; Laws 2003, 1st Sp., c. 2, art. 10, § 1; Laws 2009, c. 137, § 7, eff. Aug. 1, 2009.

MISSISSIPPI³⁷

MISS. CODE ANN. §97-3- 54.1 (2015). Human trafficking; offenses

(1)(a) A person who recruits, entices, harbors, transports, provides or obtains by any means, or attempts 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, or who benefits, whether financially or by receiving anything of value from participating in an enterprise

³⁷ Current through 2014 Regular and First and Second Extraordinary Sessions.

that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of human-trafficking.

(b) A person who knowingly purchases the forced labor or services of a trafficked person or who otherwise knowingly subjects, or attempts to subject, another person to forced labor or services or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of procuring involuntary servitude.

(c) A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not less than five (5) nor more than thirty (30) years, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a defense in a prosecution under this section that a minor consented to engage in the commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or that the defendant reasonably believed that the minor was eighteen (18) years of age or older.

(2) If the victim is not a minor, a person who is convicted of an offense set forth in subsection (1)(a) or (b) of this section shall be committed to the custody of the Department of Corrections for not less than two (2) years nor more than twenty (20) years, or by a fine of not less than Ten Thousand Dollars (\$10,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), or both. If the victim of the offense is a minor, a person who is convicted of an offense set forth in subsection (1)(a) or (b) of this section shall be committed to the custody of the Department of Corrections for not less than five (5) years nor more than twenty (20) years, or by a fine of not less than Twenty Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), or both.

(3) An enterprise may be prosecuted for an offense under this chapter if:

(a) An agent of the enterprise knowingly engages in conduct that constitutes an offense under this chapter while acting within the scope of employment and for the benefit of the entity.

(b) An employee of the enterprise engages in conduct that constitutes an offense under this chapter and the commission of the offense was part of a pattern of illegal activity for the benefit of the enterprise, which an agent of the enterprise either knew was occurring or recklessly disregarded, and the agent failed to take effective action to stop the illegal activity.

(c) It is an affirmative defense to a prosecution of an enterprise that the enterprise had in place adequate procedures, including an effective complaint procedure, designed to prevent persons

associated with the enterprise from engaging in the unlawful conduct and to promptly correct any violations of this chapter.

(d) The court may consider the severity of the enterprise's offense and order penalties, including: (i) a fine of not more than One Million Dollars (\$1,000,000.00); (ii) disgorgement of profit; and (iii) debarment from government contracts. Additionally, the court may order any of the relief provided in Section 97-3-54.7.

(4) In addition to the mandatory reporting provisions contained in Section 97-5-51, any person who has reasonable cause to suspect a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Human Services and to the Statewide Human Trafficking Coordinator. The Department of Human Services shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse or neglect occurred as required in Section 43-21-353, and the department shall also commence an initial investigation into the suspected abuse or neglect as required in Section 43-21-353. A minor who has been identified as a victim of trafficking shall not be liable for criminal activity in violation of this section.

(5) It is an affirmative defense in a prosecution under this act that the defendant:

(a) Is a victim; and

(b) Committed the offense under a reasonable apprehension created by a person that, if the defendant did not commit the act, the person would inflict serious harm on the defendant, a member of the defendant's family, or a close associate.

CREDIT(S)

Added by Laws 2006, Ch. 583, § 3, eff. July 1, 2006. Amended by Laws 2013, Ch. 543 (H.B. 673), § 2, eff. July 1, 2013.

MISS. CODE ANN. §97-29-51 (2015). Procuring prostitutes

(1)(a) A person commits the misdemeanor of procuring the services of a prostitute if the person knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or sexual conduct with the person or with any other person. "Sexual conduct" includes cunnilingus, fellatio, masturbation of another, anal intercourse or the causing of penetration to any extent and with any object or body part of the genital or anal opening of another.

(b) Upon conviction under this subsection, a person shall be punished by a fine not exceeding Two Hundred Dollars (\$200.00) or by confinement in the county jail for not more than six (6) months, or both. A second or subsequent violation of this section shall be a felony, punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the custody of the Department of Corrections for not more than two (2) years, or both.

(c) However, in all cases, if the person whose services are procured in violation of this subsection (1) is a minor under eighteen (18) years of age, the person convicted shall be guilty of a felony and shall, upon conviction, be punished by imprisonment for not less than five (5) years, nor more than thirty (30) years, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both.

(d) Consent of a minor is not a defense to prosecution under this subsection (1).

(2)(a) A person commits the felony of promoting prostitution if the person:

(i) Knowingly or intentionally entices, compels, causes, induces, persuades, or encourages by promise, threat, violence, or by scheme or device, another person to become a prostitute;

(ii) Knowingly or intentionally solicits or offers or agrees to solicit, or receives or gives, or agrees to receive or give any money or thing of value for soliciting, or attempting to solicit, another person for the purpose of prostitution;

(iii) Knowingly induces, persuades, or encourages a person to come into or leave this state for the purpose of prostitution;

(iv) Having control over the use of a place or vehicle, knowingly or intentionally permits another person to use the place or vehicle for prostitution;

(v) Accepts, receives, levies or appropriates money or other property of value from a prostitute, without lawful consideration, with knowledge or reasonable cause to know it was earned, in whole or in part, from prostitution; or

(vi) Conducts, directs, takes, or transports, or offers or agrees to take or transport, or aids or assists in transporting, any person to any vehicle, conveyance, place, structure, or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution.

(b) Upon conviction, a person shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or both. A second or subsequent violation shall be punished by a fine not exceeding Twenty Thousand Dollars (\$20,000.00) or by imprisonment in the custody of the Department of Corrections for up to twenty (20) years, or both.

(c) However, in all cases, if the person whose services are promoted in violation of this subsection (2) is a minor under eighteen (18) years of age, the person convicted shall be guilty of a felony and shall, upon conviction, be punished by imprisonment for not less than five (5) years, nor more than thirty (30) years, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both. There is no requirement

that the defendant have actual knowledge of the age of the person and consent of a minor is not a defense to prosecution under this section.

(3) If it is determined that a person suspected of or charged with promoting prostitution is a trafficked person, as defined by Section 97-3-54. 4, that fact shall be considered a mitigating factor in any prosecution of that person for prostitution, and the person shall be referred to appropriate resources for assistance. If it is determined that a person suspected of or charged with promoting prostitution is a minor under eighteen (18) years of age who meets the definition of a trafficked person as defined in Section 97-3-54.4, the minor is immune from prosecution for promoting prostitution as a juvenile or adult and provisions of Section 97-3-54.1(4) shall be applicable.

(4) Any partnership, association, corporation or other entity violating any provision of subsection (2) against the promotion of prostitution shall, upon conviction, be punished by a fine not exceeding Fifty Thousand Dollars (\$50,000.00). If the person whose services are promoted is under eighteen (18) years of age, the partnership, association, corporation or other legal entity convicted shall be punished by a fine not exceeding One Million Dollars (\$1,000,000.00). There is no requirement that the defendant have knowledge of the age of the person. Consent of a minor is not a defense to prosecution under this section.

(5) Investigation and prosecution of a person, partnership, association, corporation or other entity under this section shall not preclude investigation or prosecution against that person, partnership, association, corporation or other entity for a violation of other applicable criminal laws, including, but not limited to, the Mississippi Human Trafficking Act, Section 97-3-54 et seq.

CREDIT(S)

Laws 1942, Ch. 284, § 2, eff. from and after passage (approved March 10, 1942). Amended by Laws 2013, Ch. 543 (H.B. 673), § 11, eff. July 1, 2013.

MISSOURI³⁸

MO. REV. STAT. § 566.212 (2015). Sexual trafficking of a child--penalty

<This section is transferred to § 566.211 by S.L. 2014, S.B. No. 491, § A, eff. Jan. 1, 2017.>

1. A person commits the crime of sexual trafficking of a child if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing

³⁸ Statutes are current through the end of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 4, 2014 General Election.

or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. Sexual trafficking of a child is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

CREDIT(S)

(L.2004, H.B. No. 1487, § A. Amended by L.2011, H.B. No. 214, § A.)

MO. REV. STAT. § 567.030 (2015). Patronizing prostitution--penalty

<Text of section eff. until Jan. 1, 2017. See, also, section eff. Jan. 1, 2017.>

1. A person commits the crime of patronizing prostitution if he patronizes prostitution.

2. It shall not be an affirmative defense that the defendant believed that the person he or she patronized for prostitution was eighteen years of age or older.

3. Patronizing prostitution is a class B misdemeanor, unless the individual who the person is patronizing is under the age of eighteen but older than the age of fourteen, in which case patronizing prostitution is a class A misdemeanor.

4. Patronizing prostitution is a class D felony if the individual who the person patronizes is fourteen years of age or younger. Nothing in this section shall preclude the prosecution of an individual for the offenses of:

(1) Statutory rape in the first degree pursuant to section 566.032;

(2) Statutory rape in the second degree pursuant to section 566.034;

(3) Statutory sodomy in the first degree pursuant to section 566.062; or

(4) Statutory sodomy in the second degree pursuant to section 566.064.

CREDIT(S)

(L.1977, S.B. No. 60, p. 662, § 1, eff. Jan. 1, 1979. Amended by L.2004, H.B. No. 1487, § A.)

Mo. Rev. Stat. § 566.206 (2015). Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor— penalty

1. A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, or benefits, financially or by receiving anything of value, from participation in such activities.

2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. Except as provided in subsection 4 of this section, trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars.

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not less than five years or life and a fine not to exceed two hundred and fifty thousand dollars.

CREDIT(S)

(L.2004, H.B. No. 1487, § A. Amended by L.2011, H.B. No. 214, § A.)

Mo. Rev. Stat. § 566.209 (2015). Trafficking for the purpose of sexual exploitation—penalty

<Text of section eff. until Jan. 1, 2017. See, also, section eff. Jan. 1, 2017.>

1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section 573.010, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

2. The crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred [FN1] fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred [FN1] fifty thousand dollars.

CREDIT(S)

(L.2004, H.B. No. 1487, § A. Amended by L.2011, H.B. No. 214, § A.)

MO. REV. STAT. § 566.212 (2015).SEXUAL TRAFFICKING OF A CHILD — PENALTY

<This section is transferred to § 566.211 by S.L. 2014, S.B. No. 491, § A, eff. Jan. 1, 2017.>

1. A person commits the crime of sexual trafficking of a child if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. Sexual trafficking of a child is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

CREDIT(S)

(L.2004, H.B. No. 1487, § A. Amended by L.2011, H.B. No. 214, § A.)

Mo. Rev. Stat. § 566.213 (2015). Sexual trafficking of a child under age twelve -- affirmative defense not allowed, when -- penalty

1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of twelve to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

CREDIT(S)

(L.2006, H.B. Nos. 1698, 1236, 995, 1362 & 1290, § A, eff. June 5, 2006. Amended by L.2011, H.B. No. 214, § A.)

MONTANA³⁹

MONT. CODE ANN. § 45-5-310 (2015). Sexual servitude of child

(1) A person commits the offense of sexual servitude of a child if the person purposely or knowingly:

(a) recruits, entices, solicits, isolates, harbors, transports, provides, obtains, or maintains through any means a child for the performance of commercial sexual activity; or

(b) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in the offense of sexual servitude of a child.

(2)(a) A person convicted of the offense of sexual servitude of a child, whether or not the person is aware of the child's age:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the person is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the person is released after the mandatory minimum period of imprisonment, the person is subject to supervision by the department of corrections for the remainder of the person's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

CREDIT(S)

Enacted by Laws 2013, ch. 374, § 3, eff. July 1, 2013.

³⁹ Current through the 2013 Session, and the 2014 general election. Court Rules in the Code are current with amendments received through August 1, 2014.

MONT. CODE ANN. § 45-5-311 (2015). Patronizing of child

(1) A person commits the offense of patronizing a child if the person purposely or knowingly engages in commercial sexual activity with a child while knowing or negligently disregarding that the child is a victim of the offense of sexual servitude of a child as provided in 45-5-310.

(2)(a) A person convicted of the offense of patronizing a child, whether or not the person is aware of the child's age:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the person is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the person is released after the mandatory minimum period of imprisonment, the person is subject to supervision by the department of corrections for the remainder of the person's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

CREDIT(S)

Enacted by Laws 2013, ch. 374, § 4, eff. July 1, 2013.

MONT. CODE ANN. § 45-5-601(3)(a) (2015). Prostitution

(1) A person commits the offense of prostitution if the person engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether the compensation is received or to be received or paid or to be paid.

(2)(a) A prostitute convicted of prostitution shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) Except as provided in subsection (3), a patron who is convicted of prostitution shall for the first offense be fined an amount not to exceed \$1,000 or be imprisoned for a term not to exceed 1 year, or both, and for a second or subsequent offense shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3)(a) If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child's age, the patron offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

CREDIT(S)

Enacted 94-5-602 by Laws 1973, ch. 513, § 1. Amended by Laws 1975, ch. 80, § 1; Revised Code of Montana 1947, 94-5-602; amended by Laws 2001, ch. 312, § 2; amended by Laws 2007, ch. 483, § 8; amended by Laws 2013, ch. 374, § 5, eff. July 1, 2013.

Mont. Code Ann. § 45-5-306 (2015). Trafficking of persons for involuntary servitude

(1) A person commits the offense of trafficking of persons for involuntary servitude if the person purposely or knowingly:

(a) recruits, entices, harbors, transports, provides, or obtains by any means another person, intending or knowing that the person will be subjected to involuntary servitude as described in 45-5-305; or

(b) benefits financially by receiving anything of value from participation in a venture that has engaged in the offense of subjecting another to involuntary servitude as described in 45-5-305.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of trafficking of persons for involuntary servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed \$ 100,000, or both.

(b) A person convicted of the offense of trafficking of persons for involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate

homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 100 years and may be fined not more than \$ 100,000.

CREDIT(S)

Enacted by Laws 2007, ch. 147, § 2. Amended by Laws 2013, ch. 374, § 2, eff. July 1, 2013.

NEBRASKA⁴⁰

NEB. REV. STAT. ANN. § 28-830 (2015). Human trafficking; forced labor or services; terms, defined

For purposes of sections 28-830 and 28-831, the following definitions apply:

(1) Actor means a person who solicits, procures, or supervises the services or labor of another person;

(2) Commercial sexual activity means any sex act on account of which anything of value is given, promised to, or received by any person;

(3) Debt bondage means inducing another person to provide:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(b) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined;

(4) Financial harm means theft by extortion as described by section 28-513;

(5) Forced labor or services means labor or services that are performed or provided by another person and are obtained or maintained through:

(a) Inflicting or threatening to inflict serious personal injury, as defined by section 28-318, on another person;

(b) Physically restraining or threatening to physically restrain the other person;

⁴⁰ Current through End of 2014 Regular Session

- (c) Abusing or threatening to abuse the legal process against another person to cause arrest or deportation for violation of federal immigration law;
- (d) Controlling or threatening to control another person's access to a controlled substance listed in Schedule I, II or III of section 28-405;
- (e) Exploiting another person's substantial functional impairment as defined in section 28-368 or substantial mental impairment as defined in section 28-369;
- (f) 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 the other person; or
- (g) Causing or threatening to cause financial harm to another person, including debt bondage;
- (6) Labor means work of economic or financial value;
- (7) Labor trafficking means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older intending or knowing that the person will be subjected to forced labor or services;
- (8) Labor trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor intending or knowing that the minor will be subjected to forced labor or services;
- (9) Maintain means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement by the other person to perform such type of service;
- (10) Minor means a person younger than eighteen years of age;
- (11) Obtain means, in relation to labor or services, to secure performance thereof;
- (12) Services means an ongoing relationship between the actor and another person in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of services under this section. Nothing in this subdivision shall be construed to legalize prostitution;
- (13) Sex trafficking means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older for the purpose of having such person engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a person eighteen years of age or older to engage in commercial sexual activity, sexually explicit performance, or the production of pornography;

(14) Sex trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography;

(15) Sexually-explicit performance means a live or public play, dance, show, or other exhibition intended to arouse or gratify sexual desire or to appeal to prurient interests; and

(16) Trafficking victim means a person subjected to any act or acts prohibited by section 28-831.

CREDIT(S)

Laws 2006, LB 1086, § 10; Laws 2013, LB 1, § 1, eff. Sept. 6, 2013; Laws 2013, LB 255, § 6, eff. Oct. 1, 2013; Laws 2014, LB 998, § 4, eff. April 10, 2014.

NEB. REV. STAT. ANN. § 28-831 (2015). Human trafficking; labor trafficking or sex trafficking; labor trafficking of a minor or sex trafficking of a minor; prohibited acts; penalties

(1) No person shall knowingly engage in labor trafficking or sex trafficking.

(2) If an actor knowingly engages in labor trafficking or sex trafficking by:

(a) Inflicting or threatening to inflict serious personal injury, as defined by section 28-318, on another person, the actor is guilty of a Class III felony;

(b) Physically restraining or threatening to physically restrain the other person, the actor is guilty of a Class III felony;

(c) Abusing or threatening to abuse the legal process against another person to cause arrest or deportation for violation of federal immigration law, the actor is guilty of a Class IV felony;

(d) Controlling or threatening to control another person's access to a controlled substance listed in Schedule I, II or III of section 28-405, the actor is guilty of a Class IV felony;

(e) Exploiting another person's substantial functional impairment as defined in section 28-368 or substantial mental impairment as defined in section 28-369, the actor is guilty of a Class IV felony;

(f) 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 the other person, the actor is guilty of a Class IV felony;
or

(g) Causing or threatening to cause financial harm to another person, including debt bondage, the actor is guilty of a Class I misdemeanor.

(3) No person shall engage in labor trafficking of a minor or sex trafficking of a minor. An actor who engages in labor trafficking of a minor or sex trafficking of a minor shall be punished as follows:

(a) In cases in which the actor uses overt force or the threat of force against the trafficking victim, the actor is guilty of a Class II felony;

(b) In cases in which the trafficking victim has not attained the age of fifteen years, the actor is guilty of a Class II felony; or

(c) In cases involving a trafficking victim between the ages of fifteen and eighteen years, and the actor does not use overt force or threat of force against the trafficking victim, the actor is guilty of a Class III felony.

(4) Any person who benefits, financially or by receiving anything of value, from participation in a venture which has, as part of the venture, an act that is in violation of this section, is guilty of a Class IV felony.

CREDIT(S)

Laws 2006, LB 1086, § 11; Laws 2013, LB 255, § 7, eff. Oct. 1, 2013; Laws 2014, LB 998, § 5, eff. April 10, 2014.

NEB. REV. STAT. ANN. § 28-801.01 (2015). Solicitation of prostitution; penalty; affirmative defense

(1) Any person who solicits another person not his or her spouse to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318, in exchange for money or other thing of value, commits solicitation of prostitution.

(2) Any person convicted of violating subsection (1) of this section shall be punished as follows:

(a) If such person has had no prior convictions, such person shall be guilty of a Class I misdemeanor and pay a fine of not less than two hundred fifty dollars, unless the person solicited is under the age of eighteen years, in which case such person violating this section shall be guilty of a Class IV felony. If the court places such person on probation, such order of probation shall include, as one of its conditions, the payment of a fine of not less than two hundred fifty dollars and such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment; and

(b) If such person has had one or more prior convictions, such person shall be guilty of a Class IV felony and pay a fine of not less than five hundred dollars. If the court places such person on probation, such order of probation shall include, as one of its conditions, the payment of a fine of not less than five hundred dollars and such person shall satisfactorily attend and complete an appropriate mental health and substance abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment.

(3) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830.

CREDIT(S)

Laws 2006, LB 1086, § 8; Laws 2013, LB 255, § 3, eff. Oct. 1, 2013

NEB. REV. STAT. ANN. § 28-802 (2015). Pandering; penalty

(1) A person commits pandering if such person:

(a) Entices another person to become a prostitute; or

(b) Procures or harbors therein an inmate for a house of prostitution or for any place where prostitution is practiced or allowed; or

(c) Inveigles, entices, persuades, encourages, or procures any person to come into or leave this state for the purpose of prostitution or debauchery; or

(d) Receives or gives or agrees to receive or give any money or other thing of value for procuring or attempting to procure any person to become a prostitute or commit an act of prostitution or come into this state or leave this state for the purpose of prostitution or debauchery.

(2) Pandering is a Class IV felony for a first offense, unless the person being enticed, procured, harbored, or otherwise persuaded to become a prostitute is under the age of eighteen years, in which case pandering is a Class III felony for a first offense. Pandering is a Class III felony for a second or subsequent offense.

CREDIT(S)

Laws 1977, LB 38, § 158; Laws 2012, LB 1145, § 1, eff. July 19, 2012; Laws 2013, LB 255, § 4, eff. Oct. 1, 2013.

NEVADA⁴¹

NEV. REV. STAT. ANN. § 201.300 (2015).Pandering and sex trafficking: Definitions; penalties; exception

1. A person who without physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or to continue to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution is guilty of pandering which is a category C felony and shall be punished as provided in NRS 193.130. This subsection does not apply to the customer of a prostitute.

2. A person:

(a) Is guilty of sex trafficking if the person:

(1) Induces, causes, recruits, harbors, transports, provides, obtains or maintains a child to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution;

(2) Induces, recruits, harbors, transports, provides, obtains or maintains a person by any means, knowing, or in reckless disregard of the fact, that threats, violence, force, intimidation, fraud, duress or coercion will be used to cause the person to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution;

⁴¹ Current through End of 28th Special Session (2014) and all technical corrections received by publisher from NV Legislative Counsel Bureau

(3) By threats, violence, force, intimidation, fraud, duress, coercion, by any device or scheme, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, induces, causes, compels or procures a person to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution; or

(4) Takes or detains a person with the intent to compel the person by force, violence, threats or duress to marry him or her or any other person.

(b) Who is found guilty of sex trafficking:

(1) An adult is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(2) A child:

(I) If the child is less than 14 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served, and may be further punished by a fine of not more than \$20,000.

(II) If the child is at least 14 years of age but less than 16 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

(III) If the child is at least 16 years of age but less than 18 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, and may be further punished by a fine of not more than \$10,000.

3. A court shall not grant probation to or suspend the sentence of a person convicted of sex trafficking a child pursuant to subsection 2.

4. Consent of a victim of pandering or sex trafficking to an act of prostitution is not a defense to a prosecution for any of the acts prohibited by this section.

5. In a prosecution for sex trafficking a child pursuant to subsection 2, it is not a defense that the defendant did not have knowledge of the victim's age, nor is reasonable mistake of age a valid defense to a prosecution conducted pursuant to subsection 2.

CREDIT(S)

Added by Laws 1913, c. 233, § 1. NRS amended by Laws 1959, p. 7; Laws 1967, p. 477; Laws 1977, p. 1054; Laws 1979, p. 1430; Laws 1995, p. 1201; Laws 1997, c. 137, § 2; Laws 2013, c. 426, § 42, eff. July 1, 2013.

NEV. REV. STAT. ANN. § 201.354(2015).Engaging in prostitution or solicitation for prostitution: Penalty; exception

1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.
2. Except as otherwise provided in subsection 3, a person who violates subsection 1 is guilty of a misdemeanor.
3. A person who violates subsection 1 by soliciting a child for prostitution is guilty of a category E felony and shall be punished as provided in NRS 193.130.

CREDIT(S)

Added by Laws 1987, p. 2027. Amended by Laws 1991, p. 462; Laws 2009, c. 291, § 1.5.

NEV. REV. STAT. ANN. § 207.030 (2015). Prohibited acts; penalty

1. It is unlawful to:
 - (a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;
 - (b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;
 - (c) Be a pimp, panderer or procurer or live in or about houses of prostitution;
 - (d) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;
 - (e) Keep a place where lost or stolen property is concealed;
 - (f) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; or
 - (g) Lodge in any building, structure or place, whether public or private:
- (1) Where a notice of default and election to sell has been recorded, unless the person is the owner, tenant or entitled to the possession or control thereof;

(2) Which has been placed on a registry of vacant, abandoned or foreclosed property by a local government, unless the person is the owner, tenant or entitled to the possession or control thereof; or

(3) Without the permission of the owner or person entitled to the possession or in control thereof.

2. A person who violates a provision of subsection 1 shall be punished:

(a) For the first violation of paragraph (a), (b) or (c) of subsection 1 and for each subsequent violation of the same paragraph occurring more than 3 years after the first violation, for a misdemeanor.

(b) For the second violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for not less than 30 days nor more than 6 months and by a fine of not less than \$250 nor more than \$1,000.

(c) For the third or subsequent violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

(d) For a violation of any provision of paragraphs (d) to (g), inclusive, of subsection 1, for a misdemeanor.

3. The terms of imprisonment prescribed by subsection 2 must be imposed to run consecutively.

4. A local government may enact an ordinance which regulates the time, place or manner in which a person or group of persons may beg or solicit alms in a public place or place open to the public.

CREDIT(S)

Added by C&P (1911), § 354. Amended by Laws 1915, p. 32; Laws 1923, p. 224; NRS amended by Laws 1963, p. 696; Laws 1967, p. 517; Laws 1971, p. 2025; Laws 1973, p. 1061; Laws 1979, p. 353; Laws 1985, pp. 749, 931; Laws 1993, p. 808; Laws 2013, c. 488, § 1.5.

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 645:2(I)(a)) (2015). Prostitution and Related Offenses.

I. A person is guilty of a misdemeanor if the person:

(a) Solicits, agrees to perform, or engages in sexual contact as defined in RSA 632-A:1, IV or sexual penetration as defined in RSA 632-A:1, V, in return for consideration; or

(b) Induces or otherwise purposely causes another to violate subparagraph (a); or

(c) Transports another into or within this state with the purpose of promoting or facilitating such other in engaging in conduct in violation of subparagraph (a); or

(d) Not being a legal dependent incapable of self support, knowingly is supported in whole or in part by the proceeds of violation of subparagraph (a); or

(e) Knowingly permits a place under such person's control to be used for violation of subparagraph (a); or

(f) Pays, agrees to pay, or offers to pay another person to engage in sexual contact as defined in RSA 632-A:1, IV or sexual penetration as defined in RSA 632-A:1, V, with the payor or with another person.

II. A person is guilty of a class B felony if such person violates the provisions of subparagraphs (b), (c), (d), or (e) of paragraph I and the violation:

(a) Involves another person who is under the age of 18; or

(b) Involved compelling another person by force or intimidation.

III. A person is guilty under this section regardless of the sex of the persons involved.

IV. It shall be an affirmative defense to a charge under subparagraph I(a) that the defendant engaged in the conduct because he or she was the victim of trafficking in persons, as defined in RSA 633:7.

V. A person under 18 years of age shall not be subject to a juvenile delinquency proceeding under RSA 169-B or criminal prosecution for the commission of an offense under subparagraph I(a).

CREDIT(S)

1971, 518:1. 1977, 311:1. 1985, 228:6. 1991, 82:1. 1993, 168:1, 2. 1995, 229:1-3, eff. Jan. 1, 1996. 2009, 211:2, eff. Jan. 1, 2010. 2014, 257:5, eff. Oct. 23, 2014.

N.H. Rev. Stat. Ann. § 633:7 (2015). Trafficking in Persons

I. (a) It is a class A felony to knowingly compel a person against his or her will to perform a service or labor, including a commercial sex act or a sexually-explicit performance, for the benefit of another, where the compulsion is accomplished by any of the following means:

(1) Causing or threatening to cause serious harm to any person.

(2) Confining the person unlawfully as defined in RSA 633:2, II, or threatening to so confine the person.

- (3) Abusing or threatening abuse of law or legal process.
- (4) Destroying, concealing, removing, confiscating, or otherwise making unavailable to that person any actual or purported passport or other immigration document, or any other actual or purported government identification document.
- (5) Threatening to commit a crime against the person.
- (6) False promise relating to the terms and conditions of employment, education, marriage, or financial support.
- (7) Threatening to reveal any information sought to be kept concealed by the person which relates to the person's legal status or which would expose the person to criminal liability.
- (8) Facilitating or controlling the person's access to an addictive controlled substance.
- (9) Engaging in any scheme, plan, or pattern, whether overt or subtle, intended to cause the person to believe that, if he or she did not perform such labor, services, commercial sex acts, or sexually explicit performances, that such person or any person would suffer serious harm or physical restraint.
- (10) Withholding or threatening to withhold food or medication that the actor has an obligation or has promised to provide to the person.
- (11) Coercing a person to engage in any of the foregoing acts by requiring such in satisfaction of a debt owed to the actor.
- (b) The means listed in subparagraphs (a)(4), (a)(10), and (a)(11) are not intended to criminalize the actions of a parent or guardian who requires his or her child to perform common household chores under threat of typical parental discipline.
- (c) A person performs a service or labor against his or her will if the person is coerced into performing the service or labor, or if the person willingly begins to perform the service or labor but later attempts to withdraw from performance and is compelled to continue performing. The payment of a wage or salary shall not be determinative on the question of whether or not a person was compelled to perform a service or labor against his or her will.

II. A person shall be guilty of a class A felony if such person maintains or makes available an individual under 18 years of age for the purpose of engaging the individual in a commercial sex act or sexually-explicit performance for the benefit of another. A person convicted under this paragraph shall be sentenced to a minimum term of imprisonment of not less than 7 years and a maximum term of not more than 30 years. Knowledge of the individual's actual age shall not be required as an element of this offense. Consent of the individual shall not constitute a defense to a charge under this paragraph.

III. It is a class A felony to recruit, entice, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking as defined in paragraph I or II. Notwithstanding RSA 651:2, a person convicted of an offense under this paragraph involving a victim under the age of 18 shall be subject to a minimum term of not less than 7 years and a maximum term of not more than 30 years, if the offender knew or believed it likely that the victim would be involved in a commercial sex act or sexually-explicit performance.

IV. Evidence of a trafficking victim's personal sexual history, history of commercial sexual activity, or reputation or opinion evidence regarding the victim's past sexual behavior shall not be admissible at trial unless the evidence is:

(a) Admitted pursuant to rule 412 of the New Hampshire rules of evidence; or

(b) Offered by the prosecution to prove a pattern of trafficking by the defendant.

V. In any investigation or prosecution for an offense under this section, the identity of the victim and the victim's family, and images of the victim and the victim's family, shall be confidential except to the extent disclosure is necessary for the purpose of investigation, prosecution, or provision of services and benefits to the victim and the victim's family, or if disclosure is required by a court order.

VI. (a) A victim under this section who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceeding under RSA 169-B, or prosecuted for conduct chargeable as indecent exposure and lewdness under RSA 645:1 or prostitution under RSA 645:2, where the conduct was committed as a direct result of being trafficked.

(b) An individual convicted of an offense under RSA 645:1 or RSA 645:2 for conduct committed as a direct result of being a victim of human trafficking may file a motion with the circuit court, district division, to vacate the conviction. A copy of the motion shall be provided to the agency that prosecuted the offense. After a hearing, the court may grant the request upon a finding, by clear and convincing evidence, that the defendant's participation in the offense was a direct result of being trafficked.

(c) The defendant shall not be required to provide any official documentation indicating that he or she was a victim of trafficking, but such documentation, if provided, shall create the presumption that the defendant's participation in the offense was a direct result of being a victim of trafficking.

HISTORY

Source. 2009, 211:1, eff. Jan. 1, 2010. 2014, 257:2, eff. Oct. 23, 2014.

NEW JERSEY⁴²

N.J. STAT. ANN. § 2C:13-8(3) (2015).Human trafficking

a. A person commits the crime of human trafficking if he:

(1) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1 or to provide labor or services:

(a) by causing or threatening to cause serious bodily harm or physical restraint against the person or any other person;

(b) by means of any scheme, plan, or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint;

(c) by committing a violation of N.J.S.2C:13-5 against the person;

(d) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document as defined in section 1 of P.L.1997, c. 1 (C.2C:21-31), or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information;

(e) by means of the abuse or threatened abuse of the law or legal process;

(f) by means of fraud, deceit, or misrepresentation against the person; or

(g) by facilitating access to a controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes; [FN1] or

(2) receives anything of value from participation as an organizer, supervisor, financier or manager in a scheme or course of conduct which violates paragraph (1) of this subsection; or

(3) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, a child under 18 years of age, to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1, whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.

b. An offense under this section constitutes a crime of the first degree.

⁴² Current with laws effective through L.2015, c. 18, 20, 21.

c. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense of human trafficking created by this section, the defendant was a victim of human trafficking.

d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of imprisonment imposed for a crime of the first degree under paragraph (2) or (3) of subsection a. of this section shall be either a term of 20 years during which the actor shall not be eligible for parole, or a specific term between 20 years and life imprisonment, of which the actor shall serve 20 years before being eligible for parole. Notwithstanding the provisions of N.J.S.2C:43-3, the sentence for a conviction for a crime of the first degree under this section shall include a fine in an amount of not less than \$25,000, which shall be collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c. 396 (C.2C:46-4) and forwarded to the Department of the Treasury to be deposited in the “Human Trafficking Survivor's Assistance Fund” established by section 2 of P.L.2013, c. 51 (C.52:17B-238).

e. In addition to any other disposition authorized by law, any person who violates the provisions of this section shall be ordered to make restitution to any victim. The court shall award to the victim restitution which is the greater of:

(1) the gross income or value to the defendant of the victim's labor or services; or

(2) the value of the victim's labor or services as determined by the “New Jersey Prevailing Wage Act,” P.L.1963, c. 150 (C.34:11-56.25 et seq.), the “New Jersey State Wage and Hour Law,” P.L.1966, c. 113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c. 71 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the “Fair Labor Standards Act of 1938,” 29 U.S.C. s.201 et seq., or any other applicable federal law.

CREDIT(S)

L.2005, c. 77, § 1, eff. April 26, 2005. Amended by L.2013, c. 51, § 3, eff. July 1, 2013.

Human trafficking (§ 2C:13-8(3)) 1st degree crime 20 years life \$25,000- \$200,000 Soliciting or engaging in prostitution with a minor (§ 2C:34-1(b)(7)) 3rd degree crime 3–5 years Max. \$15,000

N.J. STAT. ANN. § 2C:34-1(b)(7) (2015). Definitions

a. As used in this section:

(1) “Prostitution” is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value.

(2) “Sexual activity” includes, but is not limited to, sexual intercourse, including genital-genital, oral-genital, anal-genital, and oral-anal contact, whether between persons of the same or opposite sex; masturbation; touching of the genitals, buttocks, or female breasts; sadistic or masochistic abuse and other deviate sexual relations.

(3) “House of prostitution” is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another.

(4) “Promoting prostitution” is:

(a) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business;

(b) Procuring an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;

(c) Encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute;

(d) Soliciting a person to patronize a prostitute;

(e) Procuring a prostitute for a patron;

(f) Transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or

(g) Knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means.

b. A person commits an offense if:

(1) The actor engages in prostitution as a patron;

(2) The actor promotes prostitution;

(3) The actor knowingly promotes prostitution of a child under 18 whether or not the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable;

(4) The actor knowingly promotes prostitution of the actor's child, ward, or any other person for whose care the actor is responsible;

(5) The actor compels another to engage in or promote prostitution;

(6) The actor promotes prostitution of the actor's spouse;

(7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity

with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable; or

(8) The actor engages in prostitution by personally offering sexual activity in exchange for something of economic value.

c. Grading of offenses under subsection b.

(1) An offense under subsection b. constitutes a crime of the first degree if the offense falls within paragraph (3) or (4) of that subsection.

(2) An offense under subsection b. constitutes a crime of the second degree if the offense falls within paragraph (7) of that subsection.

(3) An offense under subsection b. constitutes a crime of the third degree if the offense falls within paragraph (5) or (6) of that subsection.

(4) An offense under paragraph (2) of subsection b. constitutes a crime of the third degree if the conduct falls within subparagraph (a), (b), (c), (f), or (g) of paragraph (4) of subsection a. Otherwise the offense is a crime of the fourth degree.

(5) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection except that a second or third conviction for such an offense constitutes a crime of the fourth degree, and a fourth or subsequent conviction for such an offense constitutes a crime of the third degree. In addition, where a motor vehicle was used in the commission of any offense under paragraph (1) of subsection b. the court shall suspend for six months the driving privilege of any such offender who has a valid driver's license issued by this State. Upon conviction, the court shall immediately collect the offender's driver's license and shall forward it, along with a report stating the first and last day of the suspension imposed pursuant to this paragraph, to the New Jersey Motor Vehicle Commission.

(6) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (8) of that subsection, except that a second or subsequent conviction for such an offense constitutes a crime of the fourth degree.

d. Presumption from living off prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution.

e. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking

pursuant to section 1 of P.L.2005, c. 77 (C.2C:13-8) or compelled by another to engage in sexual activity, regardless of the defendant's age .

f. (1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon a person by a municipal court for a conviction of a disorderly persons offense under this section shall be collected, notwithstanding the procedures for the collection of fines and restitutions in section 3 of P.L.1979, c. 396 (C. 2C:46-4), by the municipal court administrator and paid into the municipal treasury of the municipality in which the offense was committed.

(2) In addition to any fine, fee, assessment, or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of an offense of prostitution or related offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b. shall be assessed a penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a child under the age of 18, the penalty shall be at least \$25,000. All penalties provided for in this subsection, collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c. 396 (C.2C:46-4), shall be forwarded to the Department of the Treasury to be deposited in the “Human Trafficking Survivor's Assistance Fund” established by section 2 of P.L.2013, c. 51 (C.52:17B-238).

CREDIT(S)

L.1978, c. 95, § 2C:34-1, eff. Sept. 1, 1979. Amended by L.1991, c. 211, § 1, eff. Sept. 21, 1991; L.1997, c. 93, § 1, eff. May 8, 1997; L.1999, c. 9, § 1, eff. Jan. 25, 1999; L.2005, c. 77, § 2, eff. April 26, 2005; L.2011, c. 195, § 6, eff. Jan. 17, 2012; L.2013, c. 51, § 9, eff. July 1, 2013.

NEW MEXICO⁴³

N.M. STAT. ANN. §30-52-1 (2015). Human trafficking

A. Human trafficking consists of a person knowingly:

(1) recruiting, soliciting, enticing, transporting or obtaining by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject the person to labor, services or commercial sexual activity;

(2) recruiting, soliciting, enticing, transporting or obtaining by any means a person under the age of eighteen years with the intent or knowledge that the person will be caused to engage in commercial sexual activity; or

⁴³ Current through the end of the Second Regular Session of the 51st Legislature (2014).

(3) benefiting, financially or by receiving anything of value, from the labor, services or commercial sexual activity of another person with the knowledge that force, fraud or coercion was used to obtain the labor, services or commercial sexual activity.

B. The attorney general and the district attorney in the county of jurisdiction have concurrent jurisdiction to enforce the provisions of this section.

C. Whoever commits human trafficking is guilty of a third degree felony; except if the victim is under the age of:

(1) sixteen, the person is guilty of a second degree felony; or

(2) thirteen, the person is guilty of a first degree felony.

D. Prosecution pursuant to this section shall not prevent prosecution pursuant to any other provision of the law when the conduct also constitutes a violation of that other provision.

E. In a prosecution pursuant to this section, a human trafficking victim shall not be charged with accessory to the crime of human trafficking.

F. A person convicted of human trafficking shall, in addition to any other punishment, be ordered to make restitution to the victim for the gross income or value of the victim's labor or services and any other actual damages in accordance with Section 31-17-1 NMSA 1978.

G. As used in this section:

(1) “coercion” means:

(a) causing or threatening to cause harm to any person;

(b) using or threatening to use physical force against any person;

(c) abusing or threatening to abuse the law or legal process;

(d) threatening to report the immigration status of any person to governmental authorities; or

(e) knowingly destroying, concealing, removing, confiscating or retaining any actual or purported government document of any person; and

(2) “commercial sexual activity” means any sexual act or sexually explicit exhibition for which anything of value is given, promised to or received by any person.

CREDIT(S)

Added by L. 2008, Ch. 17, § 1, eff. July 1, 2008.

N.M. STAT. ANN. §30-6A-4(B)) (2015). Sexual exploitation of children by prostitution

A. Any person knowingly receiving any pecuniary profit as a result of a child under the age of sixteen engaging in a prohibited sexual act with another is guilty of a second degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a first degree felony.

B. Any person hiring or offering to hire a child over the age of thirteen and under the age of sixteen to engage in any prohibited sexual act is guilty of a second degree felony.

C. Any parent, legal guardian or person having custody or control of a child under sixteen years of age who knowingly permits that child to engage in or to assist any other person to engage in any prohibited sexual act or simulation of such an act for the purpose of producing any visual or print medium depicting such an act is guilty of a third degree felony.

CREDIT(S)

L. 1984, Ch. 92, § 4; L. 1989, Ch. 170, § 2.

N.M. Stat. Ann. §30-9-1 (2015). Enticement of child

Enticement of child consists of:

A. enticing, persuading or attempting to persuade a child under the age of sixteen years to enter any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 of the Criminal Code; or

B. having possession of a child under the age of sixteen years in any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 of the Criminal Code.

Whoever commits enticement of child is guilty of a misdemeanor.

CREDIT(S)

L. 1963, Ch. 303, § 9-10.

NEW YORK⁴⁴

N.Y. PENAL LAW § 230.04 (2015). Patronizing a prostitute in the third degree

A person is guilty of patronizing a prostitute in the third degree when he or she patronizes a prostitute. Patronizing a prostitute in the third degree is a class A misdemeanor.

CREDIT(S)

(Added L.1978, c. 627, § 2. Amended L.2007, c. 74, § 5, eff. Nov. 1, 2007.)

N.Y. PENAL LAW § 230.05 (2015). Patronizing a prostitute in the second degree

A person is guilty of patronizing a prostitute in the second degree when, being over eighteen years of age, he patronizes a prostitute and the person patronized is less than fourteen years of age.

Patronizing a prostitute in the second degree is a class E felony.

CREDIT(S)

(Added L.1978, c. 627, § 2.)

N.Y. PENAL LAW § 230.06 (2015). Patronizing a prostitute in the first degree

A person is guilty of patronizing a prostitute in the first degree when he patronizes a prostitute and the person patronized is less than eleven years of age.

Patronizing a prostitute in the first degree is a class D felony.

CREDIT(S)

(Added L.1978, c. 627, § 2.)

N.Y. Penal Law §230.33 (2015). Compelling Prostitution

A person is guilty of compelling prostitution when, being twenty-one years of age or older, he or she knowingly advances prostitution by compelling a person less than sixteen years old, by force or intimidation, to engage in prostitution.

Compelling prostitution is a class B felony.

⁴⁴ Current through L.2014, chapters 1 to 552.

CREDIT(S)

(Added L.2005, c. 450, § 1, eff. Nov. 1, 2005.)

N.Y. Penal Law §230.34 (2015). Sex trafficking

A person is guilty of sex trafficking if he or she intentionally advances or profits from prostitution by:

1. unlawfully providing to a person who is patronized, with intent to impair said person's judgment: (a) a narcotic drug or a narcotic preparation; (b) concentrated cannabis as defined in paragraph (a) of subdivision four of section thirty-three hundred two of the public health law; (c) methadone; or (d) gamma-hydroxybutyrate (GHB) or flunitrazepan, also known as Rohypnol;
2. making material false statements, misstatements, or omissions to induce or maintain the person being patronized to engage in or continue to engage in prostitution activity;
3. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;
4. requiring that prostitution be performed to retire, repay, or service a real or purported debt;
5. using force or engaging in any scheme, plan or pattern to compel or induce the person being patronized to engage in or continue to engage in prostitution activity by means of instilling a fear in the person being patronized that, if the demand is not complied with, the actor or another will do one or more of the following:
 - (a) cause physical injury, serious physical injury, or death to a person; or
 - (b) cause damage to property, other than the property of the actor; or
 - (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or
 - (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or
 - (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or
 - (f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

(h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status.

Sex trafficking is a class B felony

CREDIT(S)

(L.2007, c. 74, § 2, eff. Nov. 1, 2007.)

N.Y. Penal Law §230.36 (2015). Sex trafficking; Accomplice

In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

NORTH CAROLINA⁴⁵

N.C. GEN. STAT. § 14-43.11 (2015). Human trafficking

(a) A person commits the offense of human trafficking when that person (i) knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude or (ii) willfully or in reckless disregard of the consequences of the action causes a minor to be held in involuntary servitude or sexual servitude.

(b) A person who violates this section is guilty of a Class F felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(d) A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any

⁴⁵ The statutes and Constitution are current through the end of the 2014 Regular Session of the General Assembly.

State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law.

CREDIT(S)

Added by S.L. 2006-247, § 20(b), eff. Dec. 1, 2006. Amended by S.L. 2007-547, § 1, eff. Dec. 1, 2007; S.L. 2013-368, § 1, eff. Oct. 1, 2013.

N.C. GEN. STAT. § 14-43.13 (2015). Sexual servitude

(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects or maintains another in sexual servitude.

(b) A person who violates this section is guilty of a Class D felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

CREDIT(S)

Added by S.L. 2006-247, § 20(b), eff. Dec. 1, 2006. Amended by S.L. 2013-368, § 3, eff. Oct. 1, 2013.

N.C. GEN. STAT. § 14-205.2 (2015). Patronizing a prostitute

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

(1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.1, or any sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification with a prostitute.

(2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.1, or any sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification.

(b) Except as provided in subsections (c) and (d) of this section, a first violation of this section is a Class A1 misdemeanor. Unless a higher penalty applies, a second or subsequent violation of this section is a Class G felony.

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

(d) A violation of this section is a Class D felony if the prostitute is a severely or profoundly mentally disabled person.

NORTH DAKOTA⁴⁶

N.D. Cent. Code § 12.1-40-01 (2015). Human trafficking--Penalty

1. A person is guilty of human trafficking if the person:

a. Benefits financially or receives anything of value from knowing participation in human trafficking; or

b. Promotes, recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to promote, recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.

2. An offense under this section is a class AA felony if the person subject to human trafficking is less than eighteen years of age. Otherwise, the offense is a class A felony.

3. If the person subject to human trafficking is under the age of eighteen years, it is no defense that the actor did not know the child's age or reasonably believed the child to be eighteen years of age or older.

4. In addition to any sentence or fine imposed for a conviction of an offense under this chapter, the court shall order the person convicted to make restitution to the victim of the crime.

CREDIT(S)

S.L. 2009, ch. 139, § 1, eff. Aug. 1, 200

N.D. CENT. CODE § 12.1-29-06 (2015). Hiring an individual to engage in sexual activity

An individual who hires or offers or agrees to hire another individual with the intention of engaging in sexual activity is guilty of a class B misdemeanor.

CREDIT(S)

S.L. 2005, ch. 119, § 1.

⁴⁶ Current through chapter 522 (end) of the 2013 Regular Session of the 63rd Legislative Assembly.

OHIO⁴⁷

Ohio Rev. Code Ann. § 2905.32 (2015). Trafficking in Persons

(A) No person shall knowingly recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, or knowingly attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.

(B) For a prosecution under this section, the element “compelled” does not require that the compulsion be openly displayed or physically exerted. The element “compelled” has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.

(C) In a prosecution under this section, proof that the defendant engaged in sexual activity with any person, or solicited sexual activity with any person, whether or not for hire, without more, does not constitute a violation of this section.

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to any other offense based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(E) Whoever violates this section is guilty of trafficking in persons, a felony of the second degree.

CREDIT(S)

(2014 H 130, eff. 6-20-14; 2012 H 262, eff. 6-27-12; 2010 S 235, eff. 3-24-11)

OHIO REV. CODE ANN. § 2907.21 (2015). Compelling prostitution

(A) No person shall knowingly do any of the following:

(1) Compel another to engage in sexual activity for hire;

⁴⁷ Current through Files 1 to 195 and Statewide Issue 1 of the 130th GA (2013-2014).

(2) Induce, procure, encourage, solicit, request, or otherwise facilitate either of the following:

(a) A minor to engage in sexual activity for hire, whether or not the offender knows the age of the minor;

(b) A person the offender believes to be a minor to engage in sexual activity for hire, whether or not the person is a minor.

(3)(a) Pay or agree to pay a minor, either directly or through the minor's agent, so that the minor will engage in sexual activity, whether or not the offender knows the age of the minor;

(b) Pay or agree to pay a person the offender believes to be a minor, either directly or through the person's agent, so that the person will engage in sexual activity, whether or not the person is a minor.

(4)(a) Pay a minor, either directly or through the minor's agent, for the minor having engaged in sexual activity pursuant to a prior agreement, whether or not the offender knows the age of the minor;

(b) Pay a person the offender believes to be a minor, either directly or through the person's agent, for the person having engaged in sexual activity pursuant to a prior agreement, whether or not the person is a minor.

(5)(a) Allow a minor to engage in sexual activity for hire if the person allowing the child to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the minor;

(b) Allow a person the offender believes to be a minor to engage in sexual activity for hire if the person allowing the person to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the person the offender believes to be a minor, whether or not the person is a minor.

(B) For a prosecution under division (A)(1) of this section, the element "compel" does not require that the compulsion be openly displayed or physically exerted. The element "compel" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.

(C) Whoever violates this section is guilty of compelling prostitution. Except as otherwise provided in this division, compelling prostitution is a felony of the third degree. If the offender commits a violation of division (A)(1) of this section and the person compelled to engage in sexual activity for hire in violation of that division is sixteen years of age or older but less than eighteen years of age, compelling prostitution is a felony of the second degree. If the offender commits a violation of division (A)(1) of this section and the person compelled to engage in sexual activity for hire in violation of that division is less than sixteen years of age, compelling

prostitution is a felony of the first degree. If the offender in any case also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

CREDIT(S)

(2011 H 86, eff. 9-30-11; 2010 S 235, eff. 3-24-11; 2008 H 280, eff. 4-7-09; 2008 S 183, eff. 9-11-08; 1995 S 2, eff. 7-1-96; 1988 H 51, eff. 3-17-89; 1972 H 511)

OKLAHOMA⁴⁸

OKLA. STAT. ANN. TIT. 21, § 748 (2015). Human trafficking for forced labor or forced sexual exploitation

<Text of section as amended by Laws 2014, c. 147, § 2 and Laws 2014, c. 231, § 2. See also, text of section as amended by Laws 2014, c. 309, § 1.>

A. As used in Sections 748 and 748.2 of this title:

1. “Coercion” means compelling, forcing or intimidating a person to act by:
 - a. threats of harm or physical restraint against any person,
 - b. any act, scheme, plan, or pattern intended to cause a person to believe that performing, or failing to perform, an act would result in serious physical, financial, or emotional harm or distress to or physical restraint against any person,
 - c. the abuse or threatened abuse of the law or legal process,
 - d. knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport, labor or immigration document, or other government identification document, including but not limited to a driver license or birth certificate, of another person,
 - e. facilitating or controlling a person's access to any addictive or controlled substance other than for legal medical purposes,

⁴⁸ Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

f. blackmail,

g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution,

h. determining, dictating or setting the times at which another person will be available to engage in an act of prostitution with a third party,

i. determining, dictating or setting the places at which another person will be available for solicitation of, or to engage in, an act of prostitution with a third party, or

j. determining, dictating or setting the places at which another person will reside for purposes of making such person available to engage in an act of prostitution with a third party;

2. “Commercial sex” means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display;

3. “Debt bondage” means 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 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;

4. “Human trafficking” means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor;

5. “Human trafficking for labor” means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or

b. benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act of trafficking for labor;

6. “Human trafficking for commercial sex” means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act,

b. recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act, or

c. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex;

7. “Legal process” means the criminal law, the civil law, or the regulatory system of the federal government, any state, territory, district, commonwealth, or trust territory therein, and any foreign government or subdivision thereof and includes legal civil actions, criminal actions, and regulatory petitions or applications;

8. “Minor” means an individual under eighteen (18) years of age; and

9. “Victim” means a person against whom a violation of any provision of this section has been committed.

B. It shall be unlawful to knowingly engage in human trafficking.

C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years or for life, or by a fine of not more than One Hundred Thousand Dollars (\$100,000.00), or by both such fine and imprisonment. Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than fifteen (15) years or for life, or by a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or by both such fine and imprisonment. The court shall also order the defendant to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes. If the person is convicted of human trafficking, the person shall serve eighty-five percent (85%) of the sentence before being eligible for parole consideration or any earned credits. The terms of imprisonment specified in this subsection shall not be subject to statutory provisions for suspension, deferral or probation, or state correctional institution earned credits accruing from and after November 1, 1989, except for the achievement earned credits authorized by subsection H of Section 138 of Title 57 of the Oklahoma Statutes. To qualify for such achievement earned credits, such inmates must also be in compliance with the standards for Class level 2 behavior, as defined in subsection D of Section 138 of Title 57 of the Oklahoma Statutes.

D. It is an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.

E. The consent of a victim to the activity prohibited by this section shall not constitute a defense.

CREDIT(S)

Laws 2008, c. 134, § 1; Laws 2010, c. 325, § 1, emerg. eff. June 5, 2010; Laws 2012, c. 95, § 1, eff. Nov. 1, 2012; Laws 2014, c. 147, § 2, eff. Nov. 1, 2014; Laws 2014, c. 231, § 2, eff. Nov. 1, 2014.

OKLA. STAT. ANN. TIT. 21, § 1029 (2015). Engaging in prostitution, etc.--Soliciting or procuring--Residing or being in place for prohibited purpose--Aiding, abetting or participating--Child prostitution--Presumption of coercion

A. It shall further be unlawful:

1. To engage in prostitution, lewdness, or assignation;
2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
4. To aid, abet, or participate in the doing of any of the acts prohibited in paragraph 1, 2 or 3 of this subsection.

B. Any prohibited act described in paragraph 1, 2, 3 or 4 of subsection A of this section committed with a person under sixteen (16) years of age shall be deemed child prostitution, as defined in Section 1030 of this title, and shall be punishable as provided in Section 1031 of this title.

C. In any prosecution of a person sixteen (16) or seventeen (17) years of age for an offense described in subsection A of this section, there shall be a presumption that the actor was coerced into committing such offense by another person in violation of the human trafficking provisions set forth in Section 748 of this title.

CREDIT(S)

Laws 1943, p. 83, § 2, emerg. eff. Feb. 26, 1943; Laws 1992, c. 143, § 2, eff. Sept. 1, 1992; Laws 1993, c. 296, § 1, eff. Sept. 1, 1993; Laws 2013, c. 59, § 2, eff. Nov. 1, 2013.

Okla. Stat. Ann. tit. 21 §867 (2015). Trafficking in children a felony

A. The first conviction of the crime of trafficking in children by any person shall be a felony and punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor for more than three (3) years.

B. Conviction of the crime of trafficking in children, subsequent to a prior conviction for such offense in any form, shall be a felony and punishable by imprisonment in the custody of the Department of Corrections for not less than three (3) years. No suspension of judgment or sentence shall be permitted.

C. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

Laws 1957, p. 164, § 3; Laws 1985, c. 309, § 2, eff. Nov. 1, 1985; Laws 1997, c. 133, § 258, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 162, eff. July 1, 1999; Laws 2007, c. 261, § 6, eff. Nov. 1, 2007.

OREGON⁴⁹

OR. REV. STAT. § 163.266 (2015). Trafficking in persons

(1) A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and:

(a) The person knows that the other person will be subjected to involuntary servitude as described in ORS 163.263 or 163.264;

(b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act; or

(c) The person knows or recklessly disregards the fact that the other person is under 15 years of age and will be used in a commercial sex act.

(2) A person commits the crime of trafficking in persons if the person knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited by subsection (1) of this section or ORS 163.263 or 163.264.

(3) As used in this section, “commercial sex act” means sexual conduct or sexual contact, as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.

(4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.

⁴⁹ Current through End of the 2014 Reg. Sess. and ballot measures approved at the Nov. 4, 2014 General Election. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

(5) Violation of subsection (1)(b) or (c) of this section is a Class A felony.

CREDIT(S)

Added by Laws 2007, c. 811, § 4, eff. July 17, 2007. Amended by Laws 2013, c. 720, § 1, eff. Aug. 1, 2013.

PENNSYLVANIA⁵⁰

18 PA. CONS. STAT. ANN. § 3011 (2015). Trafficking in individuals

(a) Offense defined.--A person commits a felony of the second degree if the person:

(1) recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude; or

(2) knowingly benefits financially or receives anything of value from any act that facilitates any activity described in paragraph (1).

(b) Trafficking in minors.--A person commits a felony of the first degree if the person engages in any activity listed in subsection (a) that results in a minor's being subjected to sexual servitude.

CREDIT(S)

2014, July 2, P.L. 945, No. 105, § 3, effective in 60 days [Sept. 2, 2014].

18 PA. CONS. STAT. ANN. § 6318 (2015). Unlawful contact with minor

(a) Offense defined.--A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth:

(1) Any of the offenses enumerated in Chapter 31 (relating to sexual offenses).

(2) Open lewdness as defined in section 5901 (relating to open lewdness).

⁵⁰ Current through end of the 2014 Regular Session

(3) Prostitution as defined in section 5902 (relating to prostitution and related offenses).

(4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances).

(5) Sexual abuse of children as defined in section 6312 (relating to sexual abuse of children).

(6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).

(b) Grading.--A violation of subsection (a) is:

(1) an offense of the same grade and degree as the most serious underlying offense in subsection (a) for which the defendant contacted the minor; or

(2) a felony of the third degree;

whichever is greater.

(b.1) Concurrent jurisdiction to prosecute.--The Attorney General shall have concurrent prosecutorial jurisdiction with the district attorney for violations under this section and any crime arising out of the activity prohibited by this section when the person charged with a violation of this section contacts a minor through the use of a computer, computer system or computer network. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Computer.” An electronic, magnetic, optical, hydraulic, organic or other high-speed data processing device or system which performs logic, arithmetic or memory functions and includes all input, output, processing, storage, software or communication facilities which are connected or related to the device in a computer system or computer network.

“Computer network.” The interconnection of two or more computers through the usage of satellite, microwave, line or other communication medium.

“Computer system.” A set of related, connected or unconnected computer equipment, devices and software.

“Contacts.” Direct or indirect contact or communication by any means, method or device, including contact or communication in person or through an agent or agency, through any print

medium, the mails, a common carrier or communication common carrier, any electronic communication system and any telecommunications, wire, computer or radio communications device or system.

“Minor.” An individual under 18 years of age.

CREDIT(S)

1997, Dec. 19, P.L. 616, No. 62, § 1, imd. effective. Amended 2002, Nov. 20, P.L. 1104, No. 134, § 1, effective in 60 days; 2002, Dec. 9, P.L. 1391, No. 172, § 3, effective in 60 days; 2006, Nov. 29, P.L. 1567, No. 178, § 3, effective Jan. 1, 2007.

RHODE ISLAND⁵¹

R.I. GEN. LAWS § 11-67-6 (2015). Sex trafficking of a minor

(a) Definitions. As used in this section:

- (1) “Commercial sex act” means any sex act or sexually explicit performance on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.
- (2) “Minor” refers to any natural person under eighteen (18) years of age.
- (3) “Person” includes an individual, corporation, partnership, association, a government body, a municipal corporation, or any other legal entity.
- (4) “Sex act” means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital intrusion or intrusion by any object into the genital opening or anal opening of another person's body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the sexual desire of either person.
- (5) “Sexually-explicit performance” means an act or show, intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, or videotaped.

(b) Any person who:

- (1) Recruits, employs, entices, solicits, isolates, harbors, transports, provides, persuades, obtains, or maintains, or so attempts, any minor for the purposes of commercial sex acts; or
 - (2) Sells or purchases a minor for the purposes of commercial sex acts; or
 - (3) Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subdivision (1) or (2); or
- (c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.

(d) Obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a felony and subject to not more than twenty (20) years imprisonment, or a fine of up to twenty thousand dollars (\$20,000), or both.

(e) In a prosecution under this section, the government need not prove that the defendant knew the victim's age.

⁵¹ The statutes and Constitution are current through Chapter 555 of the January 2014 session.

CREDIT(S)

P.L. 2009, ch. 188, § 2, eff. Nov. 4, 2009; P.L. 2009, ch. 192, § 2, eff. Nov. 4, 2009

.R.I. GEN. LAWS § 11-37-8.8 (2015). Indecent solicitation of a child

(a) A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen (18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in an act of prostitution or in any act in violation of chapter 9, 34, or 37 of this title.

(b) As used in this section, the word “solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, through the Internet, or by advertisement of any kind.

CREDIT(S)

P.L. 2004, ch. 586, § 1; P.L. 2004, ch. 612, § 1.

R.I. Gen. Laws § 11-67-3 (2015). Trafficking of persons for forced labor or commercial sexual activity

Whoever knowingly:

(a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts 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 in order to commit a commercial sexual activity; or

(b) benefits, financially or by receiving anything of value, from knowing participation in a venture which has engaged in an act described in violation of § 11-67-2, or 11-67-3, is guilty of a felony and subject to not more than twenty (20) years imprisonment or a fine of not more than twenty thousand dollars (\$20,000), or both; provided, however, that this subsection shall not apply to a “victim” as defined in this chapter.

CREDIT(S)

P.L. 2007, ch. 123, § 1, eff. June 27, 2007; P.L. 2007, ch. 217, § 1, eff. July 2, 20

SOUTH CAROLINA⁵²

S.C. CODE ANN. § 16-15-425 (2015). Participating in prostitution of a minor defined; defenses; penalties.

(A) An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, “patronizing a minor prostitute” means:

- (1) soliciting or requesting a minor to participate in prostitution;
- (2) paying or agreeing to pay a minor, either directly or through the minor's agent, to participate in prostitution; or
- (3) paying a minor, or the minor's agent, for having participated in prostitution, pursuant to a prior agreement.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

CREDIT(S)

HISTORY: 1987 Act No. 168 § 3; 1993 Act No. 184, § 183.

S.C. CODE ANN. § 16-15-342 (2015). Criminal solicitation of a minor; defenses; penalties.

(A) A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

⁵² Current through End of 2014 Reg. Sess.

(B) Consent is a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is at least sixteen years old.

(C) Consent is not a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is under the age of sixteen.

(D) It is not a defense to a prosecution pursuant to this section, on the basis of consent or otherwise, that the person reasonably believed to be under the age of eighteen is a law enforcement agent or officer acting in an official capacity.

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than ten years, or both.

CREDIT(S)

HISTORY: 2004 Act No. 208, § 4, eff April 26, 2004.

SOUTH DAKOTA⁵³

S.D. CODIFIED LAWS § 22-24A-5 (2015). Solicitation of a minor--Felony--Assessment

A person is guilty of solicitation of a minor if the person eighteen years of age or older:

(1) Solicits a minor, or someone the person reasonably believes is a minor, to engage in a prohibited sexual act; or

(2) Knowingly compiles or transmits by means of a computer; or prints, publishes or reproduces by other computerized means; or buys, sells, receives, exchanges or disseminates, any notice, statement or advertisement of any minor's name, telephone number, place of residence, physical characteristics or other descriptive or identifying information for the purpose of soliciting a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act.

The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section does not constitute a defense to a prosecution under this section.

⁵³ Current through the 2014 Regular Session, 2014 general election results, and Supreme Court Rule 14-10

Consent to performing a prohibited sexual act by a minor or a minor's parent, guardian, or custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.

A violation of this section is a Class 4 felony.

The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.

CREDIT(S)

Source: SL 2002, ch 109, § 10; SDCL § 22-22-24.5; SL 2005, ch 120, §§ 407, 410; SL 2006, ch 121, § 8; SL 2010, ch 116, § 1.

S.D. CODIFIED LAWS § 22-23-9 (2015). Hiring for sexual activity-- Misdemeanor

Any person who hires or attempts to hire another person for a fee to engage in sexual activity is guilty of a Class 1 misdemeanor.

CREDIT(S)

Source: SL 1976, ch 158, § 23-5; SL 1977, ch 189, § 56; SL 1985, ch 183, § 2; SL 1987, ch 166; SL 2005, ch 120, § 180.

S.D. Codified Laws § 22-49-1 (2015). Human trafficking prohibited

No person may recruit, harbor, transport, provide, or obtain, by any means, another person knowing that force, fraud, or coercion will be used to cause the person to engage in prostitution, forced labor, or involuntary servitude. Nor may any person benefit financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in this section. Any violation of this section constitutes the crime of human trafficking.

CREDIT(S)

Source: SL 2011, ch 120, § 1.

S.D. Codified Laws § 22-49-2 (2015). First degree human trafficking— Felony

If the acts or the venture set forth in § 22-49-1:

(1) Involve committing or attempting to commit kidnapping;

(2) Involve a victim under the age of sixteen years;

(3) Involve prostitution or procurement for prostitution; or

(4) Result in the death of a victim;
any person guilty has committed human trafficking in the first degree, which is a Class 2 felony.

CREDIT(S)

Source: SL 2011, ch 120, § 2.

S.D. Codified Laws § 22-49-3 (2015). Second degree human trafficking — Felony

A person is guilty of human trafficking in the second degree if that person:

(1) Recruits, harbors, transports, provides, or obtains, by any means, another person knowing that force, fraud, or coercion will be used to cause the person to engage in prostitution, forced labor, or involuntary servitude; or

(2) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in this section.

Human trafficking in the second degree is a Class 4 felony.

CREDIT(S)

Source: SL 2011, ch 120, § 2.

TENNESSEE⁵⁴

TENN. CODE ANN. § 39-13-309 (2015). Trafficking a person for a commercial sex act

(a) A person commits the offense of trafficking a person for a commercial sex act who:

(1) Knowingly subjects, attempts to subject, benefits from or attempts to benefit from another person's provision of a commercial sex act; or

(2) Recruits, entices, harbors, transports, provides, purchases, or obtains by any other means, another person for the purpose of providing a commercial sex act.

(b) For purposes of subdivision (a)(2), such means may include, but are not limited to:

(1) Causing or threatening to cause physical harm to the person;

⁵⁴ Current through end of the 2014 Second Reg. Sess.

- (2) Physically restraining or threatening to physically restrain the person;
- (3) Abusing or threatening to abuse the law or legal process;
- (4) 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 the person;
- (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or
- (6) Facilitating or controlling a person's access to a controlled substance.

(c) A violation of subsection (a) is a Class B felony, except where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000') of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony.

CREDIT(S)

2008 Pub.Acts, c. 1140, § 3, eff. July 23, 2008; 2012 Pub.Acts, c. 1075, § 2, eff. July 1, 2012; 2013 Pub.Acts, c. 465, § 2, eff. July 1, 2013

Tenn. Code Ann. § 39-13-514 (2015). Patronizing prostitution

- (a) A person commits an offense under this section who patronizes prostitution.
- (b)(1) Patronizing prostitution is a Class B misdemeanor.
- (2) Patronizing prostitution within one hundred feet (100') of a church or within one and one-half (1 1/2) miles of a school, such distance being that established by § 49-6-2101, for state-funded school transportation, is a Class A misdemeanor.
- (3) A person convicted of patronizing prostitution within one and one-half (1 1/2) miles of a school shall, in addition to any other authorized punishment, be sentenced to at least seven (7) days of incarceration and be fined at least one thousand dollars (\$1,000).
- (4)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is punishable as trafficking for commercial sex acts under § 39-13-309.
- (B) Nothing in this subdivision (b)(4) shall be construed as prohibiting prosecution under any other applicable law.

(c) As used in subsection (b), “school” means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).

(d) It is not a defense to a violation of this section that:

(1) The subject of the offense is a law enforcement officer; or

(2) The victim of the offense is a minor and consented to the offense.

CREDIT(S)

1989 Pub.Acts, c. 591, § 1; 1995 Pub.Acts, c. 118, § 2, eff. July 1, 1995; 2011 Pub.Acts, c. 377, § 2, eff. June 1, 2011; 2014 Pub.Acts, c. 957, §§ 1, 2, eff. July 1, 2014.

TEXAS⁵⁵

TEX. PENAL CODE ANN. § 21.02 (2015). Continuous Sexual Abuse of Young Child or Children

(a) In this section, “child” has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

(c) For purposes of this section, “act of sexual abuse” means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

⁵⁵ Current through the end of the 2013 Third Called Session of the 83rd Legislature

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4);

(6) sexual performance by a child under Section 43.25;

(7) trafficking of persons under Section 20A.02(a)(7) or (8); and

(8) compelling prostitution under Section 43.05(a)(2).

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

CREDIT(S)

Added by Acts 2007, 80th Leg., ch. 593, § 1.17, eff. Sept. 1, 2007. Amended by Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 6.04, eff. Sept. 1, 2011.

TEX. PENAL CODE ANN. § 20A.02 (2015). Trafficking of Persons

(a) A person commits an offense if the person knowingly:

(1) traffics another person with the intent that the trafficked person engage in forced labor or services;

(2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;

(3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:

(A) Section 43.02 (Prostitution);

(B) Section 43.03 (Promotion of Prostitution);

(C) Section 43.04 (Aggravated Promotion of Prostitution); or

(D) Section 43.05 (Compelling Prostitution);

(4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5) traffics a child with the intent that the trafficked child engage in forced labor or services;

(6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

(A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault);

(D) Section 22.021 (Aggravated Sexual Assault);

(E) Section 43.02 (Prostitution);

(F) Section 43.03 (Promotion of Prostitution);

(G) Section 43.04 (Aggravated Promotion of Prostitution);

(H) Section 43.05 (Compelling Prostitution);

(I) Section 43.25 (Sexual Performance by a Child);

(J) Section 43.251 (Employment Harmful to Children); or

(K) Section 43.26 (Possession or Promotion of Child Pornography); or

(8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

CREDIT(S)

Added by Acts 2003, 78th Leg., ch. 641, § 2, eff. Sept. 1, 2003. Amended by Acts 2007, 80th Leg., ch. 258, § 16.02, eff. Sept. 1, 2007; Acts 2007, 80th Leg. ch. 849, § 5, eff. June 15, 2007; Acts 2009, 81st Leg., ch. 1002, § 7, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 1.02, eff. Sept. 1, 2011.

TEX. PENAL CODE ANN. § 43.02 (2015). Trafficking of Persons

(a) A person commits an offense if the person knowingly:

(1) traffics another person with the intent that the trafficked person engage in forced labor or services;

(2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;

(3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:

(A) Section 43.02 (Prostitution);

(B) Section 43.03 (Promotion of Prostitution);

(C) Section 43.04 (Aggravated Promotion of Prostitution); or

(D) Section 43.05 (Compelling Prostitution);

(4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5) traffics a child with the intent that the trafficked child engage in forced labor or services;

(6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

(A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault);

(D) Section 22.021 (Aggravated Sexual Assault);

(E) Section 43.02 (Prostitution);

(F) Section 43.03 (Promotion of Prostitution);

(G) Section 43.04 (Aggravated Promotion of Prostitution);

(H) Section 43.05 (Compelling Prostitution);

(I) Section 43.25 (Sexual Performance by a Child);

(J) Section 43.251 (Employment Harmful to Children); or

(K) Section 43.26 (Possession or Promotion of Child Pornography); or

(8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

CREDIT(S)

Added by Acts 2003, 78th Leg., ch. 641, § 2, eff. Sept. 1, 2003. Amended by Acts 2007, 80th Leg., ch. 258, § 16.02, eff. Sept. 1, 2007; Acts 2007, 80th Leg. ch. 849, § 5, eff. June 15, 2007; Acts 2009, 81st Leg., ch. 1002, § 7, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 1.02, eff. Sept. 1, 2011.

UTAH⁵⁶

UTAH CODE ANN. § 76-5-310 (2015). Aggravated human trafficking and aggravated human smuggling--Penalties

(1) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation or aggravated human smuggling if, in the course of committing a human trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or human smuggling offense under Section 76-5-308, the offense:

(a) results in the death of the trafficked or smuggled person;

(b) results in serious bodily injury of the trafficked or smuggled person;

(c) involves:

⁵⁶ Current through 2014 General Session.

- (i) rape under Section 76-5-402;
 - (ii) rape of a child under Section 76-5-402.1;
 - (iii) object rape under Section 76-5-402.2;
 - (iv) object rape of a child under Section 76-5-402.3;
 - (v) forcible sodomy under Section 76-5-403;
 - (vi) sodomy on a child under Section 76-5-403.1;
 - (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
 - (viii) aggravated sexual assault under 76-5-405;
- (d) involves 10 or more victims in a single episode of human trafficking or human smuggling; or
- (e) involves a victim who is held against the victim's will for longer than 30 consecutive days.
- (2) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation if the actor recruits, harbors, transports, or obtains a child for forced labor or forced sexual exploitation.
- (3) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:
- (a) a child; and
 - (b) not accompanied by a family member who is 18 years of age or older.
- (4)(a) Aggravated human trafficking is a first degree felony.
- (b) Aggravated human smuggling is a second degree felony.
- (c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

CREDIT(S)

Laws 2008, c. 343, § 4, eff. May 5, 2008; Laws 2013, c. 196, § 7, eff. May 14, 2013.

UTAH CODE ANN. § 76-10-1313 (2015). Sexual solicitation--Penalty

(1) A person is guilty of sexual solicitation when the person:

(a) offers or agrees to commit any sexual activity with another person for a fee;

(b) pays or offers or agrees to pay a fee to another person to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or to pay another person to commit any sexual activity for a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of a person's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of a person's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from a person's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3)(a) Sexual solicitation is a class B misdemeanor, except under Subsection (3)(b).

(b) Any person who is convicted a second or subsequent time under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

(4) If a person commits an act of sexual solicitation and the person solicited is a child, the offense is a third degree felony if the solicitation does not amount to human trafficking or human smuggling, a violation of Section 76-5-308, or aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310.

CREDIT(S)

Laws 1993, c. 179, § 8; Laws 2011, c. 32, § 1, eff. May 10, 2011; Laws 2013, c. 196, § 14, eff. May 14, 2013.

UTAH CODE ANN. § 76-10-1303 (2015). Patronizing a prostitute

(1) A person is guilty of patronizing a prostitute when the person:

(a) pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection (3) or (4) and Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other person, a violation of Subsection (1)(a) is a third degree felony.

CREDIT(S)

Laws 1973, c. 196, § 76-10-1303; Laws 1993, c. 179, § 3; Laws 2013, c. 30, § 1, eff. May 14, 2013; Laws 2013, c. 196, § 12, eff. May 14, 2013.

UTAH CODE ANN. § 76-5-309 (2015). HUMAN TRAFFICKING AND HUMAN SMUGGLING— PENALTIES

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling, under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; and

(b) human smuggling is guilty of a third degree felony.

(5) A person commits a separate offense of human trafficking or human smuggling for each person who is smuggled or trafficked under Section 76-5-308 or 76-5-310.

CREDIT(S)

Laws 2008, c. 343, § 3, eff. May 5, 2008; Laws 2010, c. 126, § 1, eff. May 11, 2010; Laws 2013, c. 196, § 6, eff. May 14, 2013; Laws 2014, c. 135, § 1, eff. May 13, 2014; Laws 2014, c. 141, § 1, eff. May 13, 2014.

UTAH CODE ANN. § 76-5-310 (2015). AGGRAVATED HUMAN TRAFFICKING AND AGGRAVATED HUMAN SMUGGLING —PENALTIES

(1) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation or aggravated human smuggling if, in the course of committing a human trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or human smuggling offense under Section 76-5-308, the offense:

- (a) results in the death of the trafficked or smuggled person;
- (b) results in serious bodily injury of the trafficked or smuggled person;
- (c) involves:
 - (i) rape under Section 76-5-402;
 - (ii) rape of a child under Section 76-5-402.1;
 - (iii) object rape under Section 76-5-402.2;
 - (iv) object rape of a child under Section 76-5-402.3;
 - (v) forcible sodomy under Section 76-5-403;
 - (vi) sodomy on a child under Section 76-5-403.1;
 - (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
 - (viii) aggravated sexual assault under 76-5-405;
- (d) involves 10 or more victims in a single episode of human trafficking or human smuggling; or
- (e) involves a victim who is held against the victim's will for longer than 30 consecutive days.

(2) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation if the actor recruits, harbors, transports, or obtains a child for forced labor or forced sexual exploitation.

(3) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

(a) a child; and

(b) not accompanied by a family member who is 18 years of age or older.

(4)(a) Aggravated human trafficking is a first degree felony.

(b) Aggravated human smuggling is a second degree felony.

(c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

CREDIT(S)

Laws 2008, c. 343, § 4, eff. May 5, 2008; Laws 2013, c. 196, § 7, eff. May 14, 2013.

VERMONT⁵⁷

VT. STAT. ANN. tit. 13, § 2652 (2015). Human trafficking

(a) No person shall knowingly:

(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;

(2) recruit, entice, harbor, transport, provide, or obtain a person through force, fraud, or coercion for the purpose of having the person engage in a commercial sex act;

(3) compel a person through force, fraud, or coercion to engage in a commercial sex act;

(4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;

(5) subject a person to labor servitude;

⁵⁷ Current through the laws of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

(6) recruit, entice, harbor, transport, provide, or obtain a person for the purpose of subjecting the person to labor servitude; or

(7) benefit financially or by receiving anything of value from participation in a venture, knowing that a person will be subject to labor servitude as part of the venture.

(b) A person who violates subsection (a) of this section shall be imprisoned for a term up to and including life or fined not more than \$500,000.00, or both.

(c)(1)(A) A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

(B) Notwithstanding any other provision of law, a person under the age of 18 shall be immune from prosecution in the Criminal Division of the Superior Court for a violation of section 2632 of this title (prohibited acts; prostitution), but may be treated as a juvenile under 33 V.S.A. chapter 52 or referred to the department for children and families for treatment under 33 V.S.A. chapter 53.

(2) If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title which arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

(d) In a prosecution for a violation of this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

(e) If a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision proceeding.

CREDIT(S)

2011, No. 55, § 2, eff. July 1, 2011.

Vt. STAT. ANN. tit. 13, § 2655 (2015). Solicitation

(a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

CREDIT(S)

2011, No. 55, § 2, eff. July 1, 2011.

Vt. STAT. ANN. tit. 13, § 2632 (2015). Prohibited acts

(a) A person shall not:

(1) Occupy a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

(2) Knowingly permit a place, structure, building or conveyance owned by the person or under the person's control to be used for the purpose of prostitution, lewdness or assignation;

(3) Receive or offer, or agree to receive, a person into a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

(4) Permit a person to remain in a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

(5) Direct, take or transport or offer or agree to take or transport a person to a place, structure, building or conveyance or to any other person knowingly, or with reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;

(6) Procure or solicit or offer to procure or solicit a person for the purpose of prostitution, lewdness or assignation;

(7) Reside in, enter or remain in a place, structure or building or enter or remain in a conveyance for the purpose of prostitution, lewdness or assignation;

(8) Engage in prostitution, lewdness or assignation; or

(9) Aid or abet prostitution, lewdness or assignation, by any means whatsoever.

(b) A person who violates a provision of subsection (a) of this section shall be fined not more than \$100.00 or may be imprisoned not more than one year. For a second offense such person shall be imprisoned for not more than three years.

CREDIT(S)

2001, No. 49, § 14.

Vt. Stat. Ann. tit. 13, § 2653 (2015). Aggravated Human Trafficking

(a) A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:

(1) The offense involves a victim of human trafficking who is a child under the age of 18;

- (2) The person has previously been convicted of a violation of section 2652 of this title;
 - (3) The victim of human trafficking suffers serious bodily injury or death; or
 - (4) The actor commits the crime of human trafficking under circumstances which constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.
- (b) A person who violates this section shall be imprisoned not less than 20 years and a maximum term of life or fined not more than \$100,000.00, or both.
- (c) The provisions of this section do not limit or restrict the prosecution for murder or manslaughter.

CREDIT(S)

2011, No. 55, § 2, eff. July 1, 2011.

Vt. Stat. Ann. tit. 13, § 2654 (2015). Patronizing or facilitating human trafficking

(a) No person shall knowingly:

- (1) Permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking;
- (2) Receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or
- (3) Permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

CREDIT(S)

2011, No. 55, § 2, eff. July 1, 2011.

Vt. Stat. Ann. tit. 13, § 2635 (2010). Slave traffic

(a) A person shall not:

- (1) Induce, entice or procure a person to come into the state or to go from the state for the

purpose of prostitution or for any immoral purpose or to enter a house of prostitution in the state;

(2) Willfully or knowingly aid such person in obtaining transportation to or within the state for such purposes;

(3) Place a person in the charge or custody of another person for immoral purposes or in a house of prostitution;

(4) Induce, entice, procure or compel such person to reside in a house of prostitution; or

(5) Induce, entice, procure or compel such person to live a life of prostitution.

(b) A person violating a provision hereof shall be imprisoned not more than 10 years nor less than one year or fined not more than \$ 2,000.00 nor less than \$ 200.00, or both.

CREDIT(S)

1971, Adj. Sess., No. 199, § 15; 2001, No. 49, § 15.

VIRGINIA⁵⁸

VA. CODE ANN. § 18.2-346 (2015). Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties

A. Any person who, for money or its equivalent, (i) commits adultery, fornication, or any act in violation of § 18.2-361, performs cunnilingus, fellatio, or anilingus upon or by another person, or engages in anal intercourse or (ii) offers to commit adultery, fornication, or any act in violation of § 18.2-361, perform cunnilingus, fellatio, or anilingus upon or by another person, or engage in anal intercourse and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

CREDIT(S)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1980, c. 534; Acts 1993, c. 609. Amended by Acts 2013, c. 417; Acts 2013, c. 467; Acts 2014, c. 794, eff. April 23, 2014.

⁵⁸ Current through the End of 2014 Reg. Sess. and the End of the 2014 Sp. S. I.

Va. Code Ann. § 18.2-355 (2015). Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking

Any person who:

- (1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or
- (2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or
- (3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; or
- (4) For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes; is guilty of pandering, and shall be guilty of a Class 4 felony.

CREDIT(S)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1980, c. 534; Acts 1997, c. 555. Amended by Acts 2014, c. 649; Acts 2014, c. 706.

WASHINGTON⁵⁹

Wash. Rev. Code Ann. § 9A.40.100 (2015). Trafficking

(1) A person is guilty of trafficking in the first degree when:

(a) Such person:

(i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact, (A) that force, fraud, or coercion as defined in RCW 9A.36.070 will be used to cause the person to engage in:

⁵⁹ Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

(I) Forced labor;

(II) Involuntary servitude;

(III) A sexually explicit act; or

(IV) A commercial sex act, or (B) that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or

(ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection; and

(b) The acts or venture set forth in (a) of this subsection:

(i) Involve committing or attempting to commit kidnapping;

(ii) Involve a finding of sexual motivation under RCW 9.94A.835;

(iii) Involve the illegal harvesting or sale of human organs; or

(iv) Result in a death.

(2) Trafficking in the first degree is a class A felony.

(3)(a) A person is guilty of trafficking in the second degree when such person:

(i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact, that force, fraud, or coercion as defined in RCW 9A.36.070 will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act, or that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or

(ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection.

(b) Trafficking in the second degree is a class A felony.

(4)(a) A person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for a violation of a trafficking crime shall be assessed a ten thousand dollar fee.

(b) The court shall not reduce, waive, or suspend payment of all or part of the fee assessed in this section unless it finds, on the record, that the offender does not have the ability to pay the

fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(c) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(i) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(ii) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(5) If the victim of any offense identified in this section is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.

(6) For purposes of this section:

(a) “Commercial sex act” means any act of sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, for which something of value is given or received by any person; and

(b) “Sexually explicit act” means a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons for which something of value is given or received.

CREDIT(S)

[2014 c 188 § 1, eff. June 12, 2014; 2013 c 302 § 6, eff. Aug. 1, 2013. Prior: 2012 c 144 § 2, eff. June 7, 2012; 2012 c 134 § 1, eff. June 7, 2012; 2011 c 111 § 1, eff. July 22, 2011; 2003 c 267 § 1, eff. July 27, 2003.]

WASH. REV. CODE ANN. § 9.68A.100 (2015). Commercial sexual abuse of a minor--Penalties--Consent of minor does not constitute defense

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

(2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) Consent of a minor to the sexual conduct does not constitute a defense to any offense listed in this section.

(5) For purposes of this section, “sexual conduct” means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

CREDIT(S)

[2013 c 302 § 2, eff. Aug. 1, 2013; 2010 c 289 § 13, eff. June 10, 2010; 2007 c 368 § 2, eff. July 22, 2007; 1999 c 327 § 4; 1989 c 32 § 8; 1984 c 262 § 9.]

Wash. Rev. Code Ann. § 9.68A.101 (2015). Promoting commercial sexual abuse of a minor —Penalty

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

(2) Promoting commercial sexual abuse of a minor is a class A felony.

(3) For the purposes of this section:

(a) A person “advances commercial sexual abuse of a minor” if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to

institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person “profits from commercial sexual abuse of a minor” if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(4) For purposes of this section, “sexual conduct” means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Wash. Rev. Code Ann. § 9.68A.102 (2015). Promoting travel for commercial sexual abuse of a minor—Penalty

(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

(2) Promoting travel for commercial sexual abuse of a minor is a class C felony.

(3) For purposes of this section, “travel services” has the same meaning as defined in RCW 19.138.021.

[2013 c 302 § 3, eff. Aug. 1, 2013; 2012 c 144 § 1, eff. June 7, 2012; 2010 c 289 § 14, eff. June 10, 2010; 2007 c 368 § 4, eff. July 22, 2007.]

Wash. Rev. Code Ann. § 13.40.219 (2015). Arrest for prostitution loitering—Alleged offender—Victim of severe form of trafficking, commercial sex abuse of a minor

In any proceeding under this chapter related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor.

CREDIT(S)

[2010 c 289 § 9, eff. June 10, 2010.]

WEST VIRGINIA⁶⁰

W. VA. CODE ANN. § 61-2- 17 (2015).Human trafficking; criminal penalties

(a) As used in this section:

(1) “Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for 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.

(2) “Forced labor or services” means labor or services that are performed or provided by another person and are obtained or maintained through a person's:

(A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services that person or another person would suffer serious bodily harm or physical restraint: Provided, That, this does not include work or services provided by a minor to the minor's parent or legal guardian so long as the legal guardianship or custody of the minor was not obtained for the purpose compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services.

(B) Physically restraining or threatening to physically restrain a person;

(C) Abuse or threatened abuse of the legal process; or

(D) 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.

“Forced labor or services” does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

(3) “Human trafficking” means the labor trafficking or sex trafficking involving adults or minors where two or more persons are trafficked within any one year period.

(4) “Labor trafficking” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:

(A) Debt bondage or forced labor or services; or

⁶⁰ Current with laws of the 2015 Regular Session, H.B. 2001

(B) Slavery or practices similar to slavery.

(5) “Sex trafficking of minors” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person under the age of eighteen by any means, whether a United States citizen or foreign national, for the purpose of causing the minor to engage in sexual acts, or in sexual conduct violating the provisions of subsection (b), section five, article eight of this chapter or article eight-c of this chapter.

(6) “Sex trafficking of adults” means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, receipt of a person eighteen years of age or older, whether a United States citizen or foreign national for the purposes of engaging in violations of subsection (b), section five, article eight of this chapter by means of force, threat, coercion, deception, abuse or threatened abuse of the legal process, or any scheme, plan, pattern, or other action intended to cause a person to believe that, if the person did not engage in a violation of subsection (b), section five, article eight of this chapter, that person or another person would suffer serious bodily harm or physical restraint.

(b) Any person who knowingly and wilfully engages in human trafficking is guilty of a felony and upon conviction shall be incarcerated in a state correctional facility for an indeterminate sentence of not less than three nor more than fifteen years or fined not more than \$200,000, or both.

(c) Any person who is a victim of human trafficking may bring a civil action in circuit court. The court may award actual damages, compensatory damages, punitive damages, injunctive relief and any other appropriate relief. A prevailing plaintiff is also entitled to attorneys fees and costs. Treble damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious.

(d) Notwithstanding the definition of victim in subsection (k), section three, article two-a, chapter fourteen of this code, a person who is a victim of human trafficking is a victim for all purposes of article two-a, chapter fourteen of this code.

(e) This article and the rights and remedies provided in this article are cumulative and in addition to other existing rights.

(f) Notwithstanding the age and criminal history limitations set forth in section twenty-six, article eleven of this chapter, any person convicted of prostitution in violation of subsection (b), section five, article eight of this chapter where the conviction was a result of the person being a victim of human trafficking as defined in this section, may petition the circuit court of the county of conviction for an order of expungement pursuant to section twenty-six, article eleven of this chapter.

No victim of human trafficking seeking relief under this subsection shall be required to prove her or she has rehabilitated himself or herself in order to obtain expungement.

CREDIT(S)

Acts 2012, c. 90, eff. June 8, 2012; Acts 2013, c. 101, eff. July 16, 2013.

W. VA. CODE ANN. § 61-8-5 (2015).Houses of ill fame and assignation; penalties; jurisdiction of courts

(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than one hundred dollars and not to exceed two hundred fifty dollars, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period of not less than sixty days nor more than six months, and by a fine of not less than fifty dollars and not to exceed one hundred dollars; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than one hundred dollars and not to exceed two hundred fifty dollars, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for not less than one year nor more than three years.

The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator or any person benefiting financially or otherwise from the earnings of a prostitute.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date any person who is a party to such an agreement shall be convicted of an offense hereunder. The term “tourist camp” shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and determine the misdemeanors set forth and described in this section.

CREDIT(S)

Acts 1882, c. 123, § 10; Acts 1893, c. 8, § 10; Acts 1897, c. 35, § 10; Acts 1943, c. 30.

WISCONSIN ⁶¹

WIS. STAT. ANN. § 948.08 (2015). Soliciting a child for prostitution

Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.

Soliciting a child for prostitution (§ 948.08) Class D felony Max. 25 years Max. \$100,000
Child enticement to engage in prostitution (§ 948.07) Class D felony Max. 25 years Max. \$100,000
Possession of child pornography (offender over 18) (§ 948.12)

CREDIT(S)

2007 Act 80, § 17, eff. March 27, 2008.

WIS. STAT. ANN. 948.07 (2015). Child enticement

Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

⁶¹ Current through 2013 Act 380, published 4/25/2014

(1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02, 948.085, or 948.095.

(2) Causing the child to engage in prostitution.

(3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.

(4) Recording the child engaging in sexually explicit conduct.

(5) Causing bodily or mental harm to the child.

(6) Giving or selling to the child a controlled substance or controlled substance analog in violation of ch. 961.

CREDIT(S)

2013 Act 362, § 41, eff. April 25, 2014.

WYOMING⁶²

Wyo. Stat. Ann. § 6-2-707 (2015). Patronizing a victim of sexual servitude

(a) A person is guilty of patronizing a victim of sexual servitude when the person pays, agrees to pay or offers to pay anything of value so that the person or another may engage in sexual activity with an individual when the person knows that the individual is a victim of sexual servitude in violation of W.S. 6-2-705 or 6-2-706.

(b) Patronizing a victim of sexual servitude is a felony punishable by a fine of not more than five thousand dollars (\$5,000.00), imprisonment for not more than three (3) years, or both.

WYO. STAT. ANN. § 6-4-102 (2015). Soliciting an act of prostitution; penalties

Except as provided in W.S. 6-2-701 through 6-2-710, a person is guilty of soliciting an act of prostitution if, with the intent that an act of sexual intrusion as defined by W.S. 6-2-301(a)(vii) be committed, that person knowingly or intentionally pays, or offers or agrees to pay money or other property to another person under circumstances strongly corroborative of the intention

⁶² Current though the 2014 Budget Session

that an act of prostitution be committed. Soliciting an act of prostitution is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

CREDIT(S)

Laws 1982, ch. 75, § 3; Laws 1983, ch. 171, § 1; Laws 1996, ch. 117, § 1, eff. March 28, 1996; Laws 2013, ch. 91, § 2, eff. July 1, 2013.

Wyo. Stat. Ann. § 6-4-103 (2015). Promoting prostitution; penalties

(a) Except as provided in W.S. 6-2-701 through 6-2-710, a person commits a felony if he:

(i) Knowingly or intentionally entices or compels another person to become a prostitute;

(ii) Knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;

(iii) Having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution; or

(iv) Receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution.

(b) The felony defined by this section is punishable by imprisonment for not more than three (3) years, a fine of not more than three thousand dollars (\$3,000.00), or both. However, the crime is a felony punishable by imprisonment for not more than five (5) years, a fine of not more than five thousand dollars (\$5,000.00), or both, under paragraph (i) of subsection (a) of this section if the person enticed or compelled is under eighteen (18) years of age.

CREDIT(S)

Laws 1982, ch. 75, § 3; Laws 1983, ch. 171, § 1; Laws 1993, ch. 1, § 1; Laws 2013, ch. 91, § 2, eff. July 1, 2013.

Wyo. Stat. Ann. § 6-4-303 (2015). Sexual exploitation of children; penalties; definitions

(a) As used in this section:

(i) “Child” means a person under the age of eighteen (18) years;

(ii) “Child pornography” means any visual depiction, including any photograph, film, video, picture, computer or computer-generated image or picture, whether or not made or produced by electronic, mechanical or other means, of explicit sexual conduct, where:

(A) The production of the visual depiction involves the use of a child engaging in explicit sexual conduct;

(B) The visual depiction is of explicit sexual conduct involving a child or an individual virtually indistinguishable from a child; or

(C) The visual depiction has been created, adapted or modified to depict explicit sexual conduct involving a child or an individual virtually indistinguishable from a child.

(D) Repealed by Laws 2005, ch. 70, § 2.

(iii) “Explicit sexual conduct” means actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex, bestiality, masturbation, sadistic or masochistic abuse or lascivious exhibition of the genitals or pubic area of any person;

(iv) “Visual depiction” means developed and undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image.

(b) A person is guilty of sexual exploitation of a child if, for any purpose, he knowingly:

(i) Causes, induces, entices, coerces or permits a child to engage in, or be used for, the making of child pornography;

(ii) Causes, induces, entices or coerces a child to engage in, or be used for, any explicit sexual conduct;

(iii) Manufactures, generates, creates, receives, distributes, reproduces, delivers or possesses with the intent to deliver, including through digital or electronic means, whether or not by computer, any child pornography;

(iv) Possesses child pornography, except that this paragraph shall not apply to:

(A) Peace officers, court personnel or district attorneys engaged in the lawful performance of their official duties;

(B) Physicians, psychologists, therapists or social workers, provided such persons are duly licensed in Wyoming and the persons possess such materials in the course of a bona fide treatment or evaluation program at the treatment or evaluation site; or

(C) Counsel for a person charged under this section.

(c) The sexual exploitation of a child pursuant to paragraphs (b)(i) through (iii) of this section is a felony punishable by imprisonment for not less than five (5) years nor more than twelve (12) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(d) The sexual exploitation of a child by possession of sexually exploitive material pursuant to paragraph (b)(iv) of this section is a felony punishable by imprisonment for not more than ten

(10) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(e) A second or subsequent conviction pursuant to paragraphs (b)(i) through (iv) of this section, or of a substantially similar law of any other jurisdiction, is a felony punishable by imprisonment for not less than seven (7) years nor more than twelve (12) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(f) Any person who is convicted of an offense under this section shall forfeit to the state the person's interest in:

(i) Any visual depiction of a child engaging in explicit sexual conduct in violation of this section, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, possessed or received in violation of this section;

(ii) Any property, real or personal, constituting or traceable to gross proceeds obtained from such offense;

(iii) Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

CREDIT(S)

Laws 1999, ch. 180, § 1, eff. July 1, 1999; Laws 2005, ch. 70, §§ 1, 2, eff. July 1, 2005; Laws 2007, ch. 159, § 2, eff. July 1, 2007.

FEDERAL LEGISLATION/U.S. TERRITORIES

FEDERAL LEGISLATION⁶³

18 USC § 1591 (2015). Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly--

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, or

⁶³ Current through P.L. 113-296 (excluding P.L. 113-235, 113-287, 113-291, and 113-295) approved 12-19-2014

maintains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is--

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 20 years, or both.

(e) In this section:

(1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term "coercion" means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

(4) The term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to

avoid incurring that harm.

(5) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

CREDIT(S)

(Added Pub.L. 106-386, Div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1487; amended Pub.L. 108-21, Title I, § 103(a)(3), Apr. 30, 2003, 117 Stat. 653; Pub.L. 108-193, § 5(a), Dec. 19, 2003, 117 Stat. 2879; Pub.L. 109-248, Title II, § 208, July 27, 2006, 120 Stat. 615; Pub.L. 110-457, Title II, § 222(b)(5), Dec. 23, 2008, 122 Stat. 5069.)

18 USC § 1592 (2015). Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a) [18 USCS § 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a)];

(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591 [18 USCS § 1581, 1583, 1584, 1589, 1590, or 1591]; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000 [22 USCS § 7102],

shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000 [22 USCS § 7102], if that conduct is caused by, or incident to, that trafficking.

(c) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

CREDIT(S)

(Added Pub.L. 106-386, Div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1488; amended Pub.L. 110-457, Title II, § 222(b)(6), Dec. 23, 2008, 122 Stat. 5070.)

18 USC § 1590 (2015). Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties under subsection (a).

CREDIT(S)

(Added Pub.L. 106-386, Div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1487; amended Pub.L. 110-457, Title II, § 222(b)(4), Dec. 23, 2008, 122 Stat. 5069.)

22 U.S.C.A. § 7102 (2015). Trafficking Victims Protection Act Definitions

In this chapter:

(1) Abuse or threatened abuse of law or legal process

The term “abuse or threatened abuse of the legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives.

(3) Coercion

The term “coercion” means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(4) Commercial sex act

The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

(5) Debt bondage

The term “debt bondage” means 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 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.

(6) Involuntary servitude

The term “involuntary servitude” includes a condition of servitude induced by means of--

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(7) Minimum standards for the elimination of trafficking

The term “minimum standards for the elimination of trafficking” means the standards set forth in section 7106 of this title.

(8) Nonhumanitarian, nontrade-related foreign assistance

The term “nonhumanitarian, nontrade-related foreign assistance” means--

(A) any assistance under the Foreign Assistance Act of 1961 [22 U.S.C.A. § 2151 et seq.], other than--

(i) assistance under chapter 4 of part II of that Act [22 U.S.C.A. § 2346 et seq.] in support of programs of nongovernmental organizations that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act [22 U.S.C.A. § 2151 et seq.];

(ii) assistance under chapter 8 of part I of that Act [22 U.S.C.A. § 2291 et seq.];

(iii) any other narcotics-related assistance under part I of that Act [22 U.S.C.A. § 2151 et seq.] or under chapter 4 or 5 [FN1] part II of that Act [22 U.S.C.A. §§ 2346 et seq., 2347 et seq.], but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act [22 U.S.C.A. § 2394-1];

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act [22 U.S.C.A. § 2292 et seq.];

(v) antiterrorism assistance under chapter 8 of part II of that Act [22 U.S.C.A. § 2349aa et seq.];

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act [22 U.S.C.A. § 2191 et seq.], relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act [22 U.S.C.A. § 2751 et seq.], other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961 [22 U.S.C.A. § 2394-1].

(9) Severe forms of trafficking in persons

The term “severe forms of trafficking in persons” means--

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(10) Sex trafficking

The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(11) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(12) Task Force

The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 7103 of this title.

(13) United States

The term “United States” means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(14) Victim of a severe form of trafficking

The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (9).

(15) Victim of trafficking

The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (9) or (10).

CREDIT(S)

(Pub.L. 106-386, Div. A, § 103, Oct. 28, 2000, 114 Stat. 1469; Pub.L. 108-193, § 8(b)(1), Dec. 19, 2003, 117 Stat. 2887; Pub.L. 110-457, Title III, § 304(a), Dec. 23, 2008, 122 Stat. 5087; Pub.L. 113-4, Title XII, § 1212(b)(1), Mar. 7, 2013, 127 Stat. 143.)

AMERICAN SAMOA⁶⁴

Am. Samoa Code Ann. §46.3532 (2007). Felonious restraint

(a) A person commits the crime of felonious restraint if he knowingly restrains another unlawfully and without consent interferes substantially with his liberty and exposes him to a substantial risk of serious physical injury.

(b) Felonious restraint is a class C felony.

⁶⁴ N/A

GUAM⁶⁵

Guam Code Ann. tit. 9 § 22.30 (2015). Felonious Restraint; Defined & Punished

A person commits a felony of the third degree if he knowingly:

- (a) restrains another unlawfully in circumstances exposing him to risk of serious bodily injury; or
- (b) holds another in a condition of involuntary servitude.

Guam Code Ann. tit. 9 § 22.60 (2015). Criminal intimidation, Defined & punished

(a) A person is guilty of criminal intimidation if he knowingly compels or induces another to do an act which the latter has a legal privilege not to do or to refrain from doing an act which the latter has a legal privilege to do by threatening to:

- (1) commit any criminal offense;
- (2) accuse anyone of a criminal offense;
- (3) expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
- (4) take or withhold action as an official or to cause an official to take or withhold action.

(b) Criminal intimidation is a misdemeanor.

Guam Code Ann. tit. 9 § 26.01 (2015). Definition

(a) Commercial sex acts means any sex act on account of which anything of value is given, promised to, or received, or exchanged, directly or indirectly, by any person.

(b) Debt coercion means exploitation of the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or those of a person under his or her control as a security or payment for 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 or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(c) Extortion is to be given its ordinary meaning as defined by existing Guam law.

(d) Financial harm includes credit extortion as defined by existing Guam laws and/or relevant Federal legislation, criminal violation of the usury laws as defined by existing Guam and/or Federal legislation or legal precedents, or employment contracts that violate relevant Statutes of Frauds as defined by Guam and Federal regulations.

(e) Labor means work of economic or financial value.

⁶⁵ N/A

(f) Minor refers to any natural person under 18 years of age.

(g) Person includes an individual, corporation, partnership, association, a government body, a municipal corporation, or any other legal entity.

(h) Services means any act committed at the behest of, under the supervision of, or for the benefit of another.

(i) Sex act refers to criminal sexual conduct, including sexual penetration and sexual contact, as defined in Title 9 GCA Chapter 25, and any other crime as defined in Title 9 GCA Chapter 25.01, Chapter 28, and Chapter 89.

(j) Sexually-explicit performance means an act or show, intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, or videotaped.

(k) Victim of trafficking in persons means any person, whether a U.S. citizen or foreign national, who has been subjected to the crime of trafficking in persons, involuntary servitude, sexual servitude of a minor, or transported in violation of trafficking of persons for forced labor or service as set forth herein.

Guam Code Ann. tit. 9 § 26.02 (2015). Criminal provisions

(a) Trafficking in Persons. Any person who knowingly:

(1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains by any means or attempts to recruit, entice, solicit, isolate, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subjected to sexual servitude of a minor or involuntary servitude, or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in paragraph 1(a), commits a second degree felony.

(b) Sexual Servitude of a Minor. Any person who knowingly:

(1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, by any means, or attempts to recruit, entice, solicit, isolate, harbor, transport, provide, or obtain by any means, any minor for the purpose of commercial sex acts or sexually explicit performance, or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in paragraph 2(a), commits a first degree felony.

(c) Involuntary Servitude. Any person who knowingly subjects, or attempts to subject, another person to:

(1) commercial sex acts or sexually explicit performance, or

(2) labor or services through the use of any of the following means:

(A) causing or threatening to cause serious harm to any person;

(B) physically restraining or threatening to physically restrain another person;

(C) abusing or threatening to abuse the law or legal process;

(D) 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;
(E) extortion or blackmail;
(F) deception or fraud;
(G) debt coercion;
(H) causing or threatening to cause financial harm to any person;
(I) facilitating or controlling a victim's access to an addictive controlled substance; or
(J) using any scheme, plan, or pattern, whether overt or subtle, intended to cause any person to believe that, if the person did not perform such labor, services, acts or performances, that person or another person would suffer serious harm or physical restraint, commits a first degree felony.

(d) Accomplice Liability. Any person who knowingly aids, abets, or conspires with one or more persons to violate the criminal provisions of this subsection shall be punishable in the same manner as for a completed violation of that section.

Guam Code Ann. tit. 9 § 26.03 (2015). Victim Immunity from Prosecution

(a) In any prosecution of a person who is a victim of trafficking in persons, it shall be an affirmative defense that he or she was under duress or coerced into committing the offenses for which he or she is being subject to prosecution.

(b) A victim of trafficking in persons is not criminally liable for any commercial sex act or illegal sexually-explicit performance committed as a direct result of, or incident or related to, being trafficked.

(c) The victims of human trafficking shall be eligible, without regard to their immigration status, for benefits available through Title 8 GCA, Chapter 161.

(d) Within fifteen (15) days, weekends and Government of Guam holidays excepted, of the first encounter with a victim of human trafficking, law enforcement agents shall provide the victim with a completed Form 1-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration) in accordance with 8 C.F.R. 10 52 14.1 l(Q)(1). Where Guam law enforcement agencies find the grant of an LEA Declaration is inappropriate for a trafficking victim, the agency shall within fifteen (15) days, weekends and Government of Guam holidays excepted, provide the victim with a letter explaining the grounds of the denial of the LEA Declaration. The victim may submit additional evidence to the law enforcement agency, which must reconsider the denial of the LEA Declaration within seven (7) days of the receipt of additional evidence.

(e) Law enforcement officers and agencies, for purposes of enforcement of this Act, shall be those designated by the Attorney General and by Guam law.

PUERTO RICO⁶⁶

P.R. LAWS ANN. TIT. 33, 4780 (2015). Proxenetism, pandering and human trafficking

The following shall incur a fourth degree felony:

(a) Any person who, for profit, or to satisfy the lewdness of another promotes or enables the prostitution of another person, even with the consent of said person;

(b) makes the prostitution of others his/her habitual means of livelihood, or

(c) promotes or enables the entry or exit from the Commonwealth of Puerto Rico of another person, even with the consent of said person, to have the person practice prostitution or sodomy.

— June 18, 2004, No. 149, § 152, eff. May 1, 2005.

VIRGIN ISLANDS⁶⁷

V.I. Code Ann. tit. 14, § 133 (2015). Definitions

As used in this chapter and unless the context requires otherwise:

(1) "forced labor or services" means labor or services that are performed or provided by another person and obtained through an actor's:

(i) threatening to cause bodily injury to another;

(ii) restraining another in a manner described by section 1051 of this title; or

(iii) withholding from another the person's:

(A) government records;

(B) identifying information; or

(C) personal property.

⁶⁶ N/A

⁶⁷ Current through Act 7578 of the 2013 Regular Session. Annotations current through April 7, 2014

(2) "traffic" means to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion, or force.

Credits

Added Mar. 5, 2005, No. 6730, § 8, Sess. L. 2005, pp. 70, 71.

V.I. Code Ann. tit. 14, § 134 (2015). Prosecution

(a) a person commits a felony if the person knowingly traffics another person with the intent that the trafficked person engage in:

- (1) forced labor or services;
- (2) labor or services that violate the labor laws of the Virgin Islands or the United States; or
- (3) conduct that constitutes an offense under chapter 81.

(b) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the offender may be prosecuted under either section or under both sections.

Added Mar. 5, 2005, No. 6730, § 8, Sess. L. 2005, p. 71.

V.I. Code Ann. tit. 14, § 1625 (2015). Pandering

Whoever, by promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages--

(1) a person to become an inmate of a house of prostitution, or procures for a person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed; or

(2) an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as such inmate; or

Whoever, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures any person to become an inmate of a house of ill-fame, or to enter any place in which prostitution is encouraged or allowed, or to come into the Virgin Islands or leave the Virgin Islands for the purpose of prostitution; or

Whoever receives or gives, or agrees to receive or give, any money or thing of value for procuring or attempting to procure, any person to become an inmate of a house of ill-fame within the Virgin Islands, or to come into the Virgin Islands or leave the Virgin Islands for the purpose of prostitution; or

Whoever, knowing a person to be a prostitute--

- (1) lives or derives support or maintenance, in whole or in part, from the earnings or

proceeds of the prostitution of such prostitute, or from monies loaned or advanced to or charged against such prostitute by any keeper, manager or inmate of a house or other place where prostitution is practiced or allowed; or

(2) touts or receives compensation for touting for such prostitute--

shall be fined not more than \$1,000 or imprisoned not more than 5 years, or both; Provided, That whoever induces a person under the age of 18 into becoming a prostitute, or receives compensation for pandering for such minor, shall be imprisoned not less than 2 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of this two-year minimum period of incarceration shall not be suspended; neither shall probation, parole or any other form of release be granted for this minimum period of incarceration.

V.I. Code Ann. tit. 14, § 1626 (2015). Conviction of pandering on unsupported testimony of person

Upon a trial for pandering, the defendant cannot be convicted upon the testimony of the person injured, unless it is corroborated by some other evidence tending to connect the defendant with the commission of the crime.

Added Mar. 5, 2005, No. 6730, § 8, Sess. L. 2005, p. 71.