

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1538

By: Dahm and Ivester of the
Senate

and

Kern of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to human trafficking; amending 21
13 O.S. 2011, Sections 748, as amended by Section 1,
14 Chapter 95, O.S.L. 2012 and 748.2, as amended by
15 Section 1, Chapter 59, O.S.L. 2013 (21 O.S. Supp.
16 2013, Sections 748 and 748.2), which relate to human
17 trafficking penalties and guidelines; adding
18 definition; stating venue for filing civil actions;
19 modifying statute of limitations requirement;
20 updating and clarifying language; and providing an
21 effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, as
24 amended by Section 1, Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013,
25 Section 748), is amended to read as follows:

26 Section 748. A. As used in Sections 748 and 748.2 of this
27 title:

1 1. "Coercion" means compelling, forcing or intimidating a
2 person to act by:

3 a. threats of harm or physical restraint against any
4 person,

5 b. any act, scheme, plan, or pattern intended to cause a
6 person to believe that performing, or failing to
7 perform, an act would result in serious physical,
8 financial, or emotional harm or distress to or
9 physical restraint against any person,

10 c. the abuse or threatened abuse of the law or legal
11 process,

12 d. knowingly destroying, concealing, removing,
13 confiscating or possessing any actual or purported
14 passport, labor or immigration document, or other
15 government identification document, including but not
16 limited to a driver license or birth certificate, of
17 another person,

18 e. facilitating or controlling a person's access to any
19 addictive or controlled substance other than for legal
20 medical purposes,

21 f. blackmail,

22 g. demanding or claiming money, goods, or any other thing
23 of value from or on behalf of a prostituted person
24

1 where such demand or claim arises from or is directly
2 related to the act of prostitution,

3 h. determining, dictating or setting the times at which
4 another person will be available to engage in an act
5 of prostitution with a third party,

6 i. determining, dictating or setting the places at which
7 another person will be available for solicitation of,
8 or to engage in, an act of prostitution with a third
9 party, or

10 j. determining, dictating or setting the places at which
11 another person will reside for purposes of making such
12 person available to engage in an act of prostitution
13 with a third party;

14 2. "Commercial sex" means any form of commercial sexual
15 activity such as sexually explicit performances, prostitution,
16 participation in the production of pornography, performance in a
17 strip club, or exotic dancing or display;

18 3. "Debt bondage" means the status or condition of a debtor
19 arising from a pledge by the debtor of his or her personal services
20 or of those of a person under his or her control as a security for
21 debt if the value of those services as reasonably assessed is not
22 applied toward the liquidation of the debt or the length and nature
23 of those services are not respectively limited and defined;

24

1 4. "Human trafficking" means modern-day slavery that includes,
2 but is not limited to, extreme exploitation and the denial of
3 freedom or liberty of an individual for purposes of deriving benefit
4 from that individual's commercial sex act or labor;

5 5. "Human trafficking for labor" means:

6 a. recruiting, enticing, harboring, maintaining,
7 transporting, providing or obtaining, by any means,
8 another person through deception, force, fraud, threat
9 or coercion or for purposes of engaging the person in
10 labor, or

11 b. benefiting, financially or by receiving anything of
12 value, from participation in a venture that has
13 engaged in an act of trafficking for labor;

14 6. "Human trafficking for commercial sex" means:

15 a. recruiting, enticing, harboring, maintaining,
16 transporting, providing or obtaining, by any means,
17 another person through deception, force, fraud, threat
18 or coercion for purposes of engaging the person in a
19 commercial sex act,

20 b. recruiting, enticing, harboring, maintaining,
21 transporting, providing, purchasing or obtaining, by
22 any means, a minor for purposes of engaging the minor
23 in a commercial sex act, or
24

1 c. benefiting, financially or by receiving anything of
2 value, from participating in a venture that has
3 engaged in an act of trafficking for commercial sex;

4 7. "Legal process" means the criminal law, the civil law, or
5 the regulatory system of the federal government, any state,
6 territory, district, commonwealth, or trust territory therein, and
7 any foreign government or subdivision thereof and includes legal
8 civil actions, criminal actions, and regulatory petitions or
9 applications; ~~and~~

10 8. "Minor" means an individual under eighteen (18) years of
11 age; and

12 9. "Victim" means a person against whom a violation of any
13 provision of this section has been committed.

14 B. It shall be unlawful to knowingly engage in human
15 trafficking.

16 C. Any person violating the provisions of this section shall,
17 upon conviction, be guilty of a felony punishable by imprisonment in
18 the custody of the Department of Corrections for not less than five
19 (5) years, or by a fine of not more than Ten Thousand Dollars
20 (\$10,000.00), or by both such fine and imprisonment. Any person
21 violating the provisions of this section where the victim of the
22 offense is under eighteen (18) years of age at the time of the
23 offense shall, upon conviction, be guilty of a felony punishable by
24 imprisonment in the custody of the Department of Corrections for not

1 less than ten (10) years, or by a fine of not more than Twenty
2 Thousand Dollars (\$20,000.00), or by both such fine and
3 imprisonment. The court shall also order the defendant to pay
4 restitution to the victim as provided in Section 991f of Title 22 of
5 the Oklahoma Statutes.

6 D. It is an affirmative defense to prosecution for a criminal
7 offense that, during the time of the alleged commission of the
8 offense, the defendant was a victim of human trafficking.

9 E. The consent of the minor to the activity prohibited by this
10 section shall not constitute a defense.

11 SECTION 2. AMENDATORY 21 O.S. 2011, Section 748.2, as
12 amended by Section 1, Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2013,
13 Section 748.2), is amended to read as follows:

14 Section 748.2 A. Human trafficking victims shall:

- 15 1. Be housed in an appropriate shelter as soon as practicable;
- 16 2. Not be detained in facilities inappropriate to their status
17 as crime victims;
- 18 3. Not be jailed, fined, or otherwise penalized due to having
19 been trafficked;
- 20 4. Receive prompt medical care, mental health care, food, and
21 other assistance, as necessary;
- 22 5. Have access to legal assistance, information about their
23 rights, and translation services, as necessary; and

24

1 6. Be provided protection if the safety of the victim is at
2 risk or if there is a danger of additional harm by recapture of the
3 victim by a trafficker, including:

4 a. taking measures to protect trafficked persons and
5 their family members from intimidation and threats of
6 reprisals, and

7 b. ensuring that the names and identifying information of
8 trafficked persons and their family members are not
9 disclosed to the public.

10 B. Any person aggrieved by a violation of subsection B of
11 Section 748 of this title may bring a civil action against the
12 person or persons who committed the violation to recover actual and
13 punitive damages and reasonable attorney fees and costs. The civil
14 action brought under this section may be instituted in the district
15 court in this state in the county in which the prospective defendant
16 resides or has committed any act which subjects him or her to
17 liability under this section. A criminal case or prosecution is not
18 a necessary precedent to the civil action. The statute of
19 limitations for the cause of action shall not commence until the
20 latter of the victim's emancipation from the defendant, ~~or~~ the
21 victim's twenty-first birthday, or the plaintiff discovers or
22 reasonably should have discovered that he or she was a victim of
23 human trafficking and that the defendant caused, was responsible for
24 or profited from the human trafficking.

1 C. Upon availability of funds, the Attorney General is
2 authorized to establish an emergency hotline number for victims of
3 human trafficking to call in order to request assistance or rescue.
4 The Attorney General is authorized to enter into agreements with the
5 county departments of health to require posting of the rights
6 contained in this section along with the hotline number for
7 publication in locations as directed by the State Department of
8 Health.

9 D. Any peace officer who comes in contact with a human
10 trafficking victim shall inform the victim of the human trafficking
11 emergency hotline number and give notice to the victim of certain
12 rights. The notice shall consist of handing the victim a written
13 statement of the rights provided for in subsection A of this
14 section.

15 E. Upon a showing that a ~~child~~ minor may be a victim of human
16 trafficking or sexual abuse, the law enforcement officer shall
17 immediately notify the Department of Human Services and the ~~child~~
18 minor shall be ~~remanded~~ transferred to the custody of the Department
19 of Human Services.

20 Law enforcement and the Department of Human Services shall
21 conduct a joint investigation into the claim.

22 The ~~child~~ minor shall remain in the custody of the Department of
23 Human Services until the investigation has been completed, but for
24 no longer than seventy-two (72) hours, for the show-cause hearing.

1 If criminal charges were filed against the minor and the
2 investigation shows, at the show-cause hearing, that it is more
3 likely than not that the ~~child~~ minor is a victim of human
4 trafficking or sexual abuse, then the criminal charges against the
5 minor shall be dismissed and the Department of Human Services case
6 and services shall proceed.

7 SECTION 3. This act shall become effective November 1, 2014.

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9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/09/2014 - DO
10 PASS, As Amended.

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