

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 956 By: Lamb of the Senate

3 and
4 Peterson of the House

5
6
7 (crimes and punishments - human trafficking -
8 emergency)

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11 AUTHORS: Add the following House Coauthors: Nelson, Cooksey,
12 Coody, Reynolds, Kern and Tibbs

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "An Act relating to crimes and punishments; amending
16 Sections 1 and 2, Chapter 134, O.S.L. 2008 (21 O.S.
17 Supp. 2008, Sections 748 and 748.2), which relate to
18 human trafficking; adding and modifying definitions;
19 prohibiting human trafficking; modifying what
20 constitutes unlawful human trafficking; increasing
21 age of certain victim for purposes of certain
22 punishment; providing for certain victim to bring
23 civil action for actual and punitive damages;
24 allowing reasonable attorney fees in certain civil
action; allowing civil action without criminal
action; setting certain statute of limitations for
certain recovery in civil action; and declaring an
emergency.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 134, O.S.L.
2 2008 (21 O.S. Supp. 2008, Section 748), is amended to read as
3 follows:

4 Section 748. A. As used in Sections 748 and 748.2 of this act
5 title:

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

8 a. threats of harm or physical restraint against any
9 person,

10 b. any act, scheme, plan, or pattern intended to cause a
11 person to believe that performing, or failing to
12 perform, an act would result in serious physical,
13 financial, or emotional harm or distress to or
14 physical restraint against any person,

15 c. the abuse or threatened abuse of the law or legal
16 process,

17 d. knowingly destroying, concealing, removing,
18 confiscating or possessing any actual or purported
19 passport, labor or immigration document, or other
20 government identification document, including but not
21 limited to a driver license or birth certificate, of
22 another person,

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- 1 e. facilitating or controlling a person's access to any
2 addictive or controlled substance other than for legal
3 medical purposes,
- 4 f. blackmail,
- 5 g. demanding or claiming money, goods, or any other thing
6 of value from or on behalf of a prostituted person
7 where such demand or claim arises from or is directly
8 related to the act of prostitution,
- 9 h. determining, dictating or setting the times at which
10 another person will be available to engage in an act
11 of prostitution with a third party,
- 12 i. determining, dictating or setting the places at which
13 another person will be available for solicitation of,
14 or to engage in, an act of prostitution with a third
15 party, or
- 16 j. determining, dictating or setting the places at which
17 another person will reside for purposes of making such
18 person available to engage in an act of prostitution
19 with a third party;

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

1 3. "Debt bondage" means the status or condition of a debtor
2 arising from a pledge by the debtor of his or her personal services
3 or of those of a person under his or her control as a security for
4 debt, if the value of those services as reasonably assessed is not
5 applied toward the liquidation of the debt or the length and nature
6 of those services are not respectively limited and defined;

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

11 ~~2- 5. "Human trafficking for forced labor" includes, but is not~~
12 ~~limited to, forced labor in households, agricultural fields,~~
13 ~~sweatshops, and any other workplace means:~~

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

19 b. benefiting, financially or by receiving anything of
20 value, from participation in a venture that has
21 engaged in an act of trafficking for labor; and

22 ~~3- 6. "Human trafficking for forced sexual exploitation~~
23 ~~commercial sex" includes, but is not limited to, all forms of forced~~
24 ~~commercial sexual activity such as forced sexually explicit~~

1 ~~performances, forced prostitution, forced participation in the~~
2 ~~production of pornography, forced performance in strip clubs and~~
3 ~~forced exotic dancing or display~~ means:

4 a. recruiting, enticing, harboring, maintaining,
5 transporting, providing or obtaining, by any means,
6 another person through deception, force, fraud, threat
7 or coercion for purposes of engaging the person in a
8 commercial sex act, or

9 b. benefiting, financially or by receiving anything of
10 value, from participating in a venture that has
11 engaged in an act of trafficking for commercial sex;

12 7. "Legal process" means the criminal law, the civil law, or
13 the regulatory system of the federal government, any state,
14 territory, district, commonwealth, or trust territory therein, and
15 any foreign government or subdivision thereof and includes legal
16 civil actions, criminal actions, and regulatory petitions or
17 applications; and

18 8. "Minor" means an individual under eighteen (18) years of
19 age.

20 B. ~~A person commits the crime of~~ It shall be unlawful to
21 knowingly engage in human trafficking for forced labor or forced
22 sexual exploitation if the person recruits, harbors, transports or
23 obtains a person through the use of force, fraud or coercion by:
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1 ~~1. Threats of serious harm or physical restraint against that~~
2 ~~person or another person;~~

3 ~~2. Destroying, concealing, removing, confiscating, or~~
4 ~~possessing any passport, immigration documents, or other government~~
5 ~~identification document;~~

6 ~~3. Abuse or threatened abuse of the law or legal process; or~~

7 ~~4. Means of any scheme, plan or pattern intended to cause the~~
8 ~~person to believe that the person or another person would suffer~~
9 ~~serious harm or physical restraint or if the person benefits,~~
10 ~~financially or by receiving anything of value, from participation in~~
11 ~~a venture that has engaged in an act of human trafficking.~~

12 C. Any person violating the provisions of this section shall,
13 upon conviction, be guilty of a felony punishable by imprisonment in
14 the custody of the Department of Corrections for not less than five
15 (5) years, or by a fine of not more than Ten Thousand Dollars
16 (\$10,000.00), or by both such fine and imprisonment. Any person
17 violating the provisions of this section where the victim of the
18 offense is under ~~fourteen (14)~~ eighteen (18) years of age at the
19 time of the offense shall, upon conviction, be guilty of a felony
20 punishable by imprisonment in the custody of the Department of
21 Corrections for not less than ten (10) years, or by a fine of not
22 more than Twenty Thousand Dollars (\$20,000.00), or by both such fine
23 and imprisonment. The court shall also order the defendant to pay

1 restitution to the victim as provided in Section 991f of Title 22 of
2 the Oklahoma Statutes.

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

6 SECTION 2. AMENDATORY Section 2, Chapter 134, O.S.L. 2008
7 (21 O.S. Supp. 2008, Section 748.2), is amended to read as follows:

8 Section 748.2 A. Human trafficking victims shall:

- 9 1. Be housed in an appropriate shelter as soon as practicable;
- 10 2. Not be detained in facilities inappropriate to their status
11 as crime victims;
- 12 3. Not be jailed, fined, or otherwise penalized due to having
13 been trafficked;
- 14 4. Receive prompt medical care, mental health care, food, and
15 other assistance, as necessary;
- 16 5. Have access to legal assistance, information about their
17 rights, and translation services, as necessary; and
- 18 6. Be provided protection if the safety of the victim is at
19 risk or if there is a danger of additional harm by recapture of the
20 victim by a trafficker, including:
 - 21 a. taking measures to protect trafficked persons and
22 their family members from intimidation and threats of
23 reprisals, and
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1 b. ensuring that the names and identifying information of
2 trafficked persons and their family members are not
3 disclosed to the public.

4 B. Any person ~~who is a victim of human trafficking~~ aggrieved by
5 a violation of subsection B of Section 748 of this title may ~~file~~
6 bring a civil action against the ~~alleged perpetrator or perpetrators~~
7 ~~in state court~~ person or persons who committed the violation to
8 recover actual and punitive damages and reasonable attorney fees.
9 ~~The court may award actual damages, punitive damages, reasonable~~
10 ~~attorney fees, and other costs reasonably incurred. Any civil~~
11 ~~action filed pursuant to this subsection shall be stayed during the~~
12 ~~pendency of any criminal~~ A criminal case or prosecution is not a
13 necessary precedent to the civil action ~~arising out of the same~~
14 ~~occurrence in which the claimant is the victim. The statute of~~
15 limitations for the cause of action shall not commence until the
16 latter of the victim's emancipation from the defendant or the
17 victim's twenty-first birthday.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval."
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1 Passed the House of Representatives the 6th day of April, 2009.

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4 Presiding Officer of the House of
Representatives
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6 Passed the Senate the ____ day of _____, 2009.

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9 Presiding Officer of the Senate
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