

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 956

6 By: Lamb

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending  
9 Sections 1 and 2, Chapter 134, O.S.L. 2008 (21 O.S.  
10 Supp. 2008, Sections 748 and 748.2), which relates to  
11 human trafficking; adding definitions; deleting  
12 language; prohibiting human trafficking; increasing  
13 age of certain victim for purposes of certain  
14 punishment; providing for certain victim to bring  
15 civil action for actual and punitive damages;  
16 allowing reasonable attorney's fees in certain civil  
17 action; allowing civil action without criminal  
18 action; setting certain statute of limitations for  
19 certain recovery in civil action; and declaring an  
20 emergency.

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

22 SECTION 1. AMENDATORY Section 1, Chapter 134, O.S.L.  
23 2008 (21 O.S. Supp. 2008, Section 748), is amended to read as  
24 follows:

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

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

- 1        a. threats of harm or physical restraint against any  
2        person,
- 3        b. any act, scheme, plan, or pattern intended to cause a  
4        person to believe that performing, or failing to  
5        perform, an act would result in serious physical,  
6        financial, or emotional harm or distress to or  
7        physical restraint against any person,
- 8        c. the abuse or threatened abuse of the law or legal  
9        process,
- 10       d. knowingly destroying, concealing, removing,  
11       confiscating or possessing any actual or purported  
12       passport, labor or immigration document, or other  
13       government identification document, including but not  
14       limited to a driver license or birth certificate, of  
15       another person,
- 16       e. facilitating or controlling a person's access to any  
17       addictive or controlled substance other than for legal  
18       medical purposes,
- 19       f. blackmail,
- 20       g. demanding or claiming money, goods, or any other thing  
21       of value from or on behalf of a prostituted person  
22       where such demand or claim arises from or is directly  
23       related to the act of prostitution,
- 24

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

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

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

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

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

22           4. "Human trafficking" ~~refers to~~ means modern-day slavery that  
23           includes, but is not limited to, extreme exploitation and the denial  
24

1 of freedom or liberty of an individual for purposes of deriving  
2 benefit from that individual's commercial sex act or labor;

3 ~~2- 5. "Human trafficking for forced labor" includes, but is not~~  
4 ~~limited to, forced labor in households, agricultural fields,~~  
5 ~~sweatshops, and any other workplace~~ 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; and

14 ~~3- 6. "Human trafficking for forced sexual exploitation~~  
15 ~~commercial sex" includes, but is not limited to, all forms of forced~~  
16 ~~commercial sexual activity such as forced sexually explicit~~  
17 ~~performances, forced prostitution, forced participation in the~~  
18 ~~production of pornography, forced performance in strip clubs and~~  
19 ~~forced exotic dancing or display~~ means:

20 a. recruiting, enticing, harboring, maintaining,  
21 transporting, providing or obtaining, by any means,  
22 another person through deception, force, fraud, threat  
23 or coercion for purposes of engaging the person in a  
24 commercial sex act, or

1           b. 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.

12          ~~B. A person commits the crime of~~ It shall be unlawful to  
13          ~~knowingly engage in human trafficking for forced labor or forced~~  
14          ~~sexual exploitation if the person recruits, harbors, transports or~~  
15          ~~obtains a person through the use of force, fraud or coercion by:~~

16           ~~1. Threats of serious harm or physical restraint against that~~  
17           ~~person or another person;~~

18           ~~2. Destroying, concealing, removing, confiscating, or~~  
19           ~~possessing any passport, immigration documents, or other government~~  
20           ~~identification document;~~

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

22           ~~4. Means of any scheme, plan or pattern intended to cause the~~  
23           ~~person to believe that the person or another person would suffer~~  
24           ~~serious harm or physical restraint or if the person benefits,~~

1 ~~financially or by receiving anything of value, from participation in~~  
2 ~~a venture that has engaged in an act of human trafficking.~~

3 C. Any person violating the provisions of this section shall,  
4 upon conviction, be guilty of a felony punishable by imprisonment in  
5 the custody of the Department of Corrections for not less than five  
6 (5) years, or by a fine of not more than Ten Thousand Dollars  
7 (\$10,000.00), or by both such fine and imprisonment. Any person  
8 violating the provisions of this section where the victim of the  
9 offense is under ~~fourteen (14)~~ eighteen (18) years of age at the  
10 time of the offense shall, upon conviction, be guilty of a felony  
11 punishable by imprisonment in the custody of the Department of  
12 Corrections for not less than ten (10) years, or by a fine of not  
13 more than Twenty Thousand Dollars (\$20,000.00), or by both such fine  
14 and imprisonment. The court shall also order the defendant to pay  
15 restitution to the victim as provided in Section 991f of Title 22 of  
16 the Oklahoma Statutes.

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

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

22 Section 748.2 A. Human trafficking victims shall:

23 1. Be housed in an appropriate shelter as soon as practicable;

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1 2. Not be detained in facilities inappropriate to their status  
2 as crime victims;

3 3. Not be jailed, fined, or otherwise penalized due to having  
4 been trafficked;

5 4. Receive prompt medical care, mental health care, food, and  
6 other assistance, as necessary;

7 5. Have access to legal assistance, information about their  
8 rights, and translation services, as necessary; and

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

12 a. taking measures to protect trafficked persons and  
13 their family members from intimidation and threats of  
14 reprisals, and

15 b. ensuring that the names and identifying information of  
16 trafficked persons and their family members are not  
17 disclosed to the public.

18 B. Any person ~~who is a victim of human trafficking~~ aggrieved by  
19 a violation of subsection b of Section 1 of this act may ~~file~~ bring  
20 a civil action against the ~~alleged perpetrator or perpetrators in~~  
21 ~~state court~~ person or persons who committed the violation to recover  
22 actual and punitive damages and reasonable attorney fees. ~~The court~~  
23 ~~may award actual damages, punitive damages, reasonable attorney~~  
24 ~~fees, and other costs reasonably incurred. Any civil action filed~~

1 ~~pursuant to this subsection shall be stayed during the pendency of~~  
2 ~~any criminal~~ A criminal case or prosecution is not a necessary  
3 precedent to the civil action arising out of the same occurrence in  
4 ~~which the claimant is the victim.~~ The statute of limitations for  
5 the cause of action shall not commence until the latter of the  
6 victim's emancipation from the defendant or the victim's twenty-  
7 first birthday.

8 SECTION 2. It being immediately necessary for the preservation  
9 of the public peace, health and safety, an emergency is hereby  
10 declared to exist, by reason whereof this act shall take effect and  
11 be in full force from and after its passage and approval.

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