

THE HOUSE OF REPRESENTATIVES  
Thursday, March 26, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 956

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 956 - By: LAMB of the Senate and PETERSON, NELSON AND COOKSEY of the House.

An Act relating to crimes and punishments; amending Sections 1 and 2, Chapter 134, O.S.L. 2008 (21 O.S. Supp. 2008, Sections 748 and 748.2), which relate to human trafficking; adding and modifying definitions; prohibiting human trafficking; modifying what constitutes unlawful human trafficking; increasing age of certain victim for purposes of certain punishment; providing for certain victim to bring civil action for actual and punitive damages; 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. 2008 (21 O.S.  
2   Supp. 2008, Section 748), is amended to read as follows:  
3       Section 748. A. As used in Sections 748 and 748.2 of this act title:  
4       1. “Coercion” means compelling, forcing or intimidating a person to act by:  
5           a.   threats of harm or physical restraint against any person,  
6           b.   any act, scheme, plan, or pattern intended to cause a person to believe  
7               that performing, or failing to perform, an act would result in serious

- 1                   physical, financial, or emotional harm or distress to or physical  
2                   restraint against any person,
- 3           c.   the abuse or threatened abuse of the law or legal process,
- 4           d.   knowingly destroying, concealing, removing, confiscating or possessing  
5                   any actual or purported passport, labor or immigration document, or  
6                   other government identification document, including but not limited to  
7                   a driver license or birth certificate, of another person,
- 8           e.   facilitating or controlling a person's access to any addictive or  
9                   controlled substance other than for legal medical purposes,
- 10          f.   blackmail,
- 11          g.   demanding or claiming money, goods, or any other thing of value from  
12                   or on behalf of a prostituted person where such demand or claim arises  
13                   from or is directly related to the act of prostitution,
- 14          h.   determining, dictating or setting the times at which another person  
15                   will be available to engage in an act of prostitution with a third party,
- 16          i.   determining, dictating or setting the places at which another person  
17                   will be available for solicitation of, or to engage in, an act of  
18                   prostitution with a third party, or
- 19          j.   determining, dictating or setting the places at which another person  
20                   will reside for purposes of making such person available to engage in  
21                   an act of prostitution with a third party;

1           2. “Commercial sex” means any form of commercial sexual activity such as sexually  
2 explicit performances, prostitution, participation in the production of pornography,  
3 performance in a strip club, or exotic dancing or display;

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

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

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

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

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

21           ~~3. 6. “Human trafficking for forced sexual exploitation commercial sex” includes,~~  
22 ~~but is not limited to, all forms of forced commercial sexual activity such as forced~~

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

- 4 a. recruiting, enticing, harboring, maintaining, transporting, providing or  
5 obtaining, by any means, another person through deception, force,  
6 fraud, threat or coercion for purposes of engaging the person in a  
7 commercial sex act, or
- 8 b. benefiting, financially or by receiving anything of value, from  
9 participating in a venture that has engaged in an act of trafficking for  
10 commercial sex;

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

15 8. “Minor” means an individual under eighteen (18) years of age.

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

19 1. ~~Threats of serious harm or physical restraint against that person or another~~  
20 ~~person;~~

21 2. ~~Destroying, concealing, removing, confiscating, or possessing any passport,~~  
22 ~~immigration documents, or other government identification document;~~

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

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

6       C. Any person violating the provisions of this section shall, upon conviction, be  
7 guilty of a felony punishable by imprisonment in the custody of the Department of  
8 Corrections for not less than five (5) years, or by a fine of not more than Ten Thousand  
9 Dollars (\$10,000.00), or by both such fine and imprisonment. Any person violating the  
10 provisions of this section where the victim of the offense is under ~~fourteen (14)~~ eighteen  
11 (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony  
12 punishable by imprisonment in the custody of the Department of Corrections for not less  
13 than ten (10) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00),  
14 or by both such fine 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 the Oklahoma Statutes.

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

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

21       Section 748.2 A. Human trafficking victims shall:

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

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

13           B. Any person ~~who is a victim of human trafficking~~ aggrieved by a violation of  
14 subsection B of Section 748 of this title may file bring a civil action against the ~~alleged~~  
15 ~~perpetrator or perpetrators in state court~~ person or persons who committed the violation  
16 to recover actual and punitive damages and reasonable attorney fees. ~~The court may~~  
17 ~~award actual damages, punitive damages, reasonable attorney fees, and other costs~~  
18 ~~reasonably incurred. Any civil action filed pursuant to this subsection shall be stayed~~  
19 ~~during the pendency of any criminal~~ A criminal case or prosecution is not a necessary  
20 precedent to the civil action arising out of the same occurrence in which the claimant is  
21 ~~the victim.~~ The statute of limitations for the cause of action shall not commence until the

1 latter of the victim's emancipation from the defendant or the victim's twenty-first  
2 birthday.

3 SECTION 3. It being immediately necessary for the preservation of the public  
4 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
5 this act shall take effect and be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-25-09 - DO PASS,  
7 As Amended and Coauthored.