

CS for SB 956

THE STATE SENATE  
Monday, February 23, 2009

Committee Substitute for  
Senate Bill No. 956

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 956 - By: Lamb of the Senate and Peterson of the House.

[ crimes and punishments - human trafficking - emergency ]

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

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

Section 748. A. As used in Sections 748 and 748.2 of this act ~~act~~ 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,

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

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

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

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

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

19           ~~2. 5. "Human trafficking for forced labor" includes, but is not~~  
20 ~~limited to, forced labor in households, agricultural fields,~~  
21 ~~sweatshops, and any other workplace~~ means:

22           a. recruiting, enticing, harboring, maintaining,  
23           transporting, providing or obtaining, by any means,

1 another person through deception, force, fraud, threat  
2 or coercion or for purposes of engaging the person in  
3 labor, or

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

7 ~~3- 6. "Human trafficking for forced sexual exploitation~~  
8 ~~commercial sex" includes, but is not limited to, all forms of forced~~  
9 ~~commercial sexual activity such as forced sexually explicit~~  
10 ~~performances, forced prostitution, forced participation in the~~  
11 ~~production of pornography, forced performance in strip clubs and~~  
12 ~~forced exotic dancing or display means:~~

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

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

21 7. "Legal process" means the criminal law, the civil law, or  
22 the regulatory system of the federal government, any state,  
23 territory, district, commonwealth, or trust territory therein, and

1 any foreign government or subdivision thereof and includes legal  
2 civil actions, criminal actions, and regulatory petitions or  
3 applications; and

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

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

10 ~~1. Threats of serious harm or physical restraint against that~~  
11 ~~person or another person;~~

12 ~~2. Destroying, concealing, removing, confiscating, or~~  
13 ~~possessing any passport, immigration documents, or other government~~  
14 ~~identification document;~~

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

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

21 C. Any person violating the provisions of this section shall,  
22 upon conviction, be guilty of a felony punishable by imprisonment in  
23 the custody of the Department of Corrections for not less than five

1 (5) years, or by a fine of not more than Ten Thousand Dollars  
2 (\$10,000.00), or by both such fine and imprisonment. Any person  
3 violating the provisions of this section where the victim of the  
4 offense is under ~~fourteen (14)~~ eighteen (18) years of age at the  
5 time of the offense shall, upon conviction, be guilty of a felony  
6 punishable by imprisonment in the custody of the Department of  
7 Corrections for not less than ten (10) years, or by a fine of not  
8 more than Twenty Thousand Dollars (\$20,000.00), or by both such fine  
9 and imprisonment. The court shall also order the defendant to pay  
10 restitution to the victim as provided in Section 991f of Title 22 of  
11 the Oklahoma Statutes.

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

15 SECTION 2. AMENDATORY Section 2, Chapter 134, O.S.L. 2008  
16 (21 O.S. Supp. 2008, Section 748.2), is amended to read as follows:

17 Section 748.2 A. Human trafficking victims shall:

- 18 1. Be housed in an appropriate shelter as soon as practicable;
- 19 2. Not be detained in facilities inappropriate to their status  
20 as crime victims;
- 21 3. Not be jailed, fined, or otherwise penalized due to having  
22 been trafficked;

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

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

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

8 a. taking measures to protect trafficked persons and  
9 their family members from intimidation and threats of  
10 reprisals, and

11 b. ensuring that the names and identifying information of  
12 trafficked persons and their family members are not  
13 disclosed to the public.

14 B. Any person ~~who is a victim of human trafficking~~ aggrieved by  
15 a violation of subsection b of Section 1 of this act may ~~file~~ bring  
16 a civil action against the ~~alleged perpetrator or perpetrators in~~  
17 ~~state court~~ person or persons who committed the violation to recover  
18 actual and punitive damages and reasonable attorney fees. ~~The court~~  
19 ~~may award actual damages, punitive damages, reasonable attorney~~  
20 ~~fees, and other costs reasonably incurred. Any civil action filed~~  
21 ~~pursuant to this subsection shall be stayed during the pendency of~~  
22 ~~any criminal~~ A criminal case or prosecution is not a necessary  
23 precedent to the civil action arising out of the same occurrence in

1 ~~which the claimant is the victim.~~ The statute of limitations for  
2 the cause of action shall not commence until the latter of the  
3 victim's emancipation from the defendant or the victim's twenty-  
4 first birthday.

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

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
10 2-19-09 - DO PASS, As Amended and Coauthored.