

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2561

By: Cooksey

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5  
6 AS INTRODUCED

7 An Act relating to human trafficking; amending  
8 Sections 1 and 2, Chapter 134, O.S.L. 2008 (21 O.S.  
9 Supp. 2009, Sections 748 and 748.2), which relate to  
10 human trafficking penalties and court proceedings;  
11 adding and modifying definitions; prohibiting human  
12 trafficking; modifying what constitutes unlawful  
13 human trafficking; increasing age of certain victim  
14 for purposes of punishment; authorizing victims to  
15 bring civil actions for actual and punitive damages;  
16 allowing reasonable attorney fees in certain civil  
17 action; allowing civil action without criminal  
18 action; setting statute of limitations for certain  
19 recovery in civil action; amending 22 O.S. 2001,  
20 Section 1402, which relates to the Oklahoma Corrupt  
21 Organizations Prevention Act; adding crime to  
22 racketeering activity definition; and declaring an  
23 emergency.

24  
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. 2009, Section 748), is amended to read as  
follows:

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

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

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

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

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

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

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

22           a. recruiting, enticing, harboring, maintaining,  
23           transporting, providing or obtaining, by any means,  
24           another person through deception, force, fraud, threat

1 or coercion for purposes of engaging the person in an  
2 exploited sex act, or

3 b. any pecuniary benefit derived either financially or by  
4 receiving anything of value from an act of trafficking  
5 for exploited sex;

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

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

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

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

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

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

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

20       D. It is an affirmative defense to prosecution for a criminal  
21 offense that, during the time of the alleged commission of the  
22 offense, the defendant was a victim of human trafficking.  
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1 SECTION 2. AMENDATORY Section 2, Chapter 134, O.S.L.  
2 2008 (21 O.S. Supp. 2009, Section 748.2), is amended to read as  
3 follows:

4 Section 748.2 A. Human trafficking victims shall:

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

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

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

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

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

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

17 a. taking measures to protect trafficked persons and  
18 their family members from intimidation and threats of  
19 reprisals, and

20 b. ensuring that the names and identifying information of  
21 trafficked persons and their family members are not  
22 disclosed to the public.

23 B. Any person ~~who is a victim of human trafficking~~ aggrieved by  
24 a violation of subsection B of Section 748 of this title may file

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

13 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1402, is  
14 amended to read as follows:

15 Section 1402. As used in the Oklahoma Corrupt Organizations  
16 Prevention Act:

17 1. "Beneficial interest" includes:

18 a. the interest of a person as a beneficiary pursuant to  
19 a trust, in which the trustee holds legal title to  
20 personal or real property, or

21 b. the interest of a person as a beneficiary pursuant to  
22 any other arrangement under which any other person  
23 holds legal title to personal or real property for the  
24 benefit of such person.

1 The term beneficial interest does not include the interest of a  
2 stockholder in a corporation or the interest of a partner in either  
3 a general or limited partnership;

4 2. "Enterprise" includes any individual, sole proprietorship,  
5 partnership, corporation, trust, governmental entity, or other legal  
6 entity, or any union, association, unincorporated association or  
7 group of persons, associated in fact although not a legal entity,  
8 involved in any lawful or unlawful project or undertaking;

9 3. "Innocent party" includes bona fide purchasers and victims;

10 4. "Lien notice" means the notice pursuant to the provisions of  
11 Section 1412 of this title;

12 5. "Pattern of racketeering activity" means two or more  
13 occasions of conduct:

14 a. that include each of the following:

15 (1) constitute racketeering activity,

16 (2) are related to the affairs of the enterprise,

17 (3) are not isolated, and

18 (4) are not so closely related to each other and  
19 connected in point of time and place that they  
20 constitute a single event, and

21 b. where each of the following is present:

22 (1) at least one of the occasions of conduct occurred  
23 after November 1, 1988,

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1 (2) the last of the occasions of conduct occurred  
2 within three (3) years, excluding any period of  
3 imprisonment served by any person engaging in the  
4 conduct, of a prior occasion of conduct, and

5 (3) for the purposes of Section 1403 of this title  
6 each of the occasions of conduct constituted a  
7 felony pursuant to the laws of this state;

8 6. "Pecuniary value" means:

9 a. anything of value in the form of money, a negotiable  
10 instrument, or a commercial interest, or anything  
11 else, the primary significance of which is economic  
12 advantage, or

13 b. any other property or service that has a value in  
14 excess of One Hundred Dollars (\$100.00);

15 7. "Person" means any individual or entity holding or capable  
16 of holding a legal or beneficial interest in property;

17 8. "Personal property" includes any personal property, or any  
18 interest in such personal property, or any right, including bank  
19 accounts, debts, corporate stocks, patents or copyrights. Personal  
20 property and beneficial interest in personal property shall be  
21 deemed to be located where the trustee, the personal property, or  
22 the instrument evidencing the right is located;

23 9. "Principal" means a person who engages in conduct  
24 constituting a violation of the Oklahoma Corrupt Organizations

1 Prevention Act or who is legally accountable for the conduct of  
2 another who engages in a violation of the Oklahoma Corrupt  
3 Organizations Prevention Act;

4 10. "Racketeering activity" means engaging in, attempting to  
5 engage in, conspiring to engage in, or soliciting, coercing, or  
6 intimidating another person to engage in any conduct which is  
7 chargeable or indictable as constituting a felony violation of one  
8 or more of the following provisions of the Oklahoma Statutes,  
9 regardless of whether such act is in fact charged or indicted:

- 10 a. relating to homicide pursuant to the provisions of  
11 Sections 651, 652, 653, 701.7, 701.8, 701.16, 711 or  
12 716 of Title 21 of the Oklahoma Statutes or relating  
13 to concealment of homicidal death pursuant to the  
14 provisions of Section 543 of Title 21 of the Oklahoma  
15 Statutes,
- 16 b. relating to kidnapping pursuant to the provisions of  
17 Sections 741, 745, 891 or 1119 of Title 21 of the  
18 Oklahoma Statutes,
- 19 c. relating to sex offenses pursuant to the provisions of  
20 ~~Sections~~ Section 886, 888, 1021, 1021.2, 1021.4,  
21 1024.2, ~~1040.51~~, 1111, 1111.1, 1114 or 1123 of Title  
22 21 of the Oklahoma Statutes,

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- 1 d. relating to bodily harm pursuant to the provisions of  
2 ~~Sections~~ Section 645, 650, 650.2, 1289.16, 1302, 1303  
3 or 1767.1 of Title 21 of the Oklahoma Statutes,
- 4 e. relating to theft, where the offense constitutes a  
5 felony, pursuant to the provisions of ~~Sections~~ Section  
6 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719,  
7 1720, 1721, 1722, 1723 or 1731 of Title 21 of the  
8 Oklahoma Statutes,
- 9 f. relating to forgery pursuant to the provisions of  
10 ~~Sections~~ Section 1561, 1562, 1571, 1572, 1574, 1575,  
11 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585,  
12 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21  
13 of the Oklahoma Statutes,
- 14 g. relating to robbery pursuant to the provisions of  
15 ~~Sections~~ Section 797, 800 or 801 of Title 21 of the  
16 Oklahoma Statutes,
- 17 h. relating to burglary pursuant to the provisions of  
18 ~~Sections~~ Section 1431, 1435 or 1437 of Title 21 of the  
19 Oklahoma Statutes,
- 20 i. relating to arson pursuant to the provisions of  
21 ~~Sections~~ Section 1368, 1401, 1402, 1403 or 1404 of  
22 Title 21 of the Oklahoma Statutes,
- 23 j. relating to use or possession of a firearm or other  
24 offensive weapon while committing or attempting to

1           commit a felony pursuant to the provisions of ~~Sections~~  
2           Section 1287, 1289.20 or 1289.21 of Title 21 of the  
3           Oklahoma Statutes,

4           k.   relating to gambling pursuant to the provisions of  
5           ~~Sections~~ Section 941, 942, 944, 945, 946, 948, 954,  
6           956, 957, ~~962,~~ 969, 970, 971, 981, 982, 983, 984, 985,  
7           986, 987, 991, or ~~992, 995.7, 995.8, 995.11 or 995.12~~  
8           of Title 21 of the Oklahoma Statutes,

9           l.   relating to bribery in contests pursuant to the  
10           provisions of ~~Sections~~ Section 399 or 400 of Title 21  
11           of the Oklahoma Statutes,

12           m.   relating to interference with public officers pursuant  
13           to the provisions of ~~Sections~~ Section 434, 436, 437,  
14           438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543,  
15           545 or 546 of Title 21 of the Oklahoma Statutes,

16           n.   relating to interference with judicial procedure  
17           pursuant to the provisions of ~~Sections~~ Section 388,  
18           453, 455, 456, 491, 496 or 504 of Title 21 of the  
19           Oklahoma Statutes,

20           o.   relating to official misconduct pursuant to the  
21           provisions of ~~Sections~~ Section 380, 381, 382, 383,  
22           384, 385, 386, 389, 390, 950 or 976 of Title 21 of the  
23           Oklahoma Statutes,

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- 1 p. relating to the Uniform Controlled Dangerous  
2 Substances Act, where the offense constitutes a  
3 felony, pursuant to the provisions of Section 2-101 et  
4 seq. of Title 63 of the Oklahoma Statutes,
- 5 q. relating to automobile theft pursuant to the  
6 provisions of ~~Sections~~ Section 4-102, 4-103, 4-107,  
7 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma  
8 Statutes,
- 9 r. relating to embezzlement pursuant to the provisions of  
10 Section 1412 of Title 6 of the Oklahoma Statutes,  
11 Section 641 of Title 19 of the Oklahoma Statutes,  
12 ~~Sections~~ Section 341, 531, or 1451, ~~1452, 1453, 1454,~~  
13 ~~1455, 1456, 1463 or 1464~~ of Title 21 of the Oklahoma  
14 Statutes, Section 163.4 of Title 37 of the Oklahoma  
15 Statutes, ~~Section 25 of Title 41 of the Oklahoma~~  
16 ~~Statutes,~~ Section 114 of Title 64 of the Oklahoma  
17 Statutes or ~~Sections 506 or~~ Section 1361 of Title 68  
18 of the Oklahoma Statutes,
- 19 s. relating to extortion, where the offense constitutes a  
20 felony, pursuant to the provisions of ~~Sections~~ Section  
21 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of  
22 the Oklahoma Statutes,
- 23 t. relating to fraud, where the offense constitutes a  
24 felony, pursuant to the provisions of ~~Sections~~ Section

1 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma  
2 Statutes, Section 552.18 of Title 18 of the Oklahoma  
3 Statutes, ~~Sections~~ Section 358, 1411, 1412, 1413,  
4 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.3, 1542,  
5 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24,  
6 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30,  
7 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of  
8 the Oklahoma Statutes, Section 243 of Title 56 of the  
9 Oklahoma Statutes, or Section 604 of Title 62 of the  
10 Oklahoma Statutes,

11 u. relating to conspiracy, where the offense constitutes  
12 a felony, pursuant to the provisions of ~~Sections~~  
13 Section 421, 422 or 424 of Title 21 of the Oklahoma  
14 Statutes,

15 v. relating to prostitution, pornography or obscenity  
16 pursuant to the provisions of Sections 1021, 1040.52,  
17 1081, 1085, 1086, 1087 or 1088 of Title 21 of the  
18 Oklahoma Statutes,

19 w. relating to the Oklahoma Alcoholic Beverage Control  
20 Act, where the offense constitutes a felony, pursuant  
21 to the provisions of Section 506.1 et seq. of Title 37  
22 of the Oklahoma Statutes,

23 x. relating to the Oklahoma Uniform Securities Act of  
24 2004, where the offense constitutes a felony, pursuant

1 to the provisions of Section ~~1-et seq.~~ 1-101 through  
2 1-701 of Title 71 of the Oklahoma Statutes, or  
3 y. relating to human trafficking or trafficking in  
4 children pursuant to the provisions of Sections 748,  
5 866 and 867 of Title 21 of the Oklahoma Statutes;

6 In addition, "racketeering activity" may be proven by proof of  
7 engaging in, attempting to engage in, conspiring to engage in, or  
8 soliciting, coercing, or intimidating another person to engage in  
9 any of the above described conduct within another state, regardless  
10 of whether said conduct is chargeable or indictable in that state.

11 11. "Real property" means any real property or any interest in  
12 real property, including any lease of, or mortgage upon real  
13 property. Real property and beneficial interest in real property  
14 shall be deemed to be located where the real property is located;

15 12. "Trustee" includes trustees, a corporate as well as a  
16 natural person and a successor or substitute trustee in accordance  
17 with the Oklahoma Trust Act, Section 175.1 et seq. of Title 60 of  
18 the Oklahoma Statutes; and

19 13. "Unlawful debt" means any money or other thing of value  
20 constituting principal or interest of a debt that is unenforceable  
21 in the courts of Oklahoma, because the debt was incurred or  
22 contracted in violation of a law relating to the business of  
23 gambling activity or in violation of federal or state law but does  
24 not include any debt owed to a bank, savings and loan association,

1 credit union or supervised lender licensed by the Oklahoma  
2 Administrator of Consumer Credit or to any debt referred or assigned  
3 to a debt collection agency, which referral or assignment is  
4 accepted in good faith by the debt collection agency as a debt  
5 collectible under the Uniform Commercial Code or other laws of this  
6 state and enforceable in the courts of this state.

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

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