

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2518

By: Kern

4  
5 AS INTRODUCED

6 An Act relating to crimes and punishments; amending  
7 21 O.S. 2011, Section 748, which relates to human  
trafficking; modifying certain definition;  
8 prohibiting use of certain defense; amending 21 O.S.  
2011, Section 1029, which relates to engaging in  
9 prostitution; providing presumption for certain  
persons charged with prostitution crimes; and  
10 providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, is  
15 amended to read as follows:

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

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

20 a. threats of harm or physical restraint against any  
21 person,

22 b. any act, scheme, plan, or pattern intended to cause a  
23 person to believe that performing, or failing to  
24 perform, an act would result in serious physical,

- 1 financial, or emotional harm or distress to or  
2 physical restraint against any person,
- 3 c. the abuse or threatened abuse of the law or legal  
4 process,
- 5 d. knowingly destroying, concealing, removing,  
6 confiscating or possessing any actual or purported  
7 passport, labor or immigration document, or other  
8 government identification document, including but not  
9 limited to a driver license or birth certificate, of  
10 another person,
- 11 e. facilitating or controlling a person's access to any  
12 addictive or controlled substance other than for legal  
13 medical purposes,
- 14 f. blackmail,
- 15 g. demanding or claiming money, goods, or any other thing  
16 of value from or on behalf of a prostituted person  
17 where such demand or claim arises from or is directly  
18 related to the act of prostitution,
- 19 h. determining, dictating or setting the times at which  
20 another person will be available to engage in an act  
21 of prostitution with a third party,
- 22 i. determining, dictating or setting the places at which  
23 another person will be available for solicitation of,  
24

1 or to engage in, an act of prostitution with a third  
2 party, or

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

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

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

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

21 5. "Human trafficking for labor" 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 or for purposes of engaging the person in  
2 labor, or

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

6 6. "Human trafficking for commercial sex" means:

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

12 b. recruiting, enticing, harboring, maintaining,  
13 transporting, providing, purchasing or obtaining, by  
14 any means, a minor for purposes of engaging the minor  
15 in a commercial sex act, or

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

19 7. "Legal process" means the criminal law, the civil law, or  
20 the regulatory system of the federal government, any state,  
21 territory, district, commonwealth, or trust territory therein, and  
22 any foreign government or subdivision thereof and includes legal  
23 civil actions, criminal actions, and regulatory petitions or  
24 applications; and

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

3 B. It shall be unlawful to knowingly engage in human  
4 trafficking.

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

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

22 E. The consent of the minor to the activity prohibited by this  
23 section shall not constitute a defense.

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1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1029, is  
2 amended to read as follows:

3 Section 1029. A. It shall further be unlawful:

4 1. To engage in prostitution, lewdness, or assignation;

5 2. To solicit, induce, entice, or procure another to commit an  
6 act of lewdness, assignation, or prostitution, with himself or  
7 herself;

8 3. To reside in, enter, or remain in any house, place,  
9 building, or other structure, or to enter or remain in any vehicle,  
10 trailer, or other conveyance with the intent of committing an act of  
11 prostitution, lewdness, or assignation; or

12 4. To aid, abet, or participate in the doing of any of the acts  
13 prohibited in paragraph 1, 2 or 3 of this subsection.

14 B. Any prohibited act described in paragraph 1, 2, 3 or 4 of  
15 subsection A of this section committed with a person under sixteen  
16 (16) years of age shall be deemed child prostitution, as defined in  
17 Section 1030 of this title, and shall be punishable as provided in  
18 Section 1031 of this title.

19 C. In any prosecution of a person sixteen (16) years or  
20 seventeen (17) years of age for an offense described in subsection A  
21 of this section, there shall be a presumption that the actor was  
22 coerced into committing such offense by another person in violation  
23 of the human trafficking provisions set forth in Section 748 of this  
24 title.

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SECTION 3. This act shall become effective November 1, 2012.

53-2-8169            GRS            01/15/12