

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1433

By: Newberry and Ivester of the
Senate

6 and

7 Peterson of the House

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9
10 COMMITTEE SUBSTITUTE

11 An Act relating to human trafficking; amending 21
12 O.S. 2011, Section 13.1, which relates to required
13 service of minimum percentage of prison sentence;
14 adding certain crime to list of offenses; amending 21
15 O.S. 2011, Section 748, as amended by Section 1,
16 Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013, Section
17 748), which relates to definitions and penalties for
18 human trafficking; adding definition; requiring
19 certain percentage of prison sentence be served prior
20 to parole consideration or earned credit eligibility;
21 prohibiting certain sentencing and earned credit
22 options; providing an exception; and providing an
23 effective date.

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2011, Section 13.1, is
amended to read as follows:

Section 13.1. Persons convicted of:

- 1 1. First degree murder as defined in Section 701.7 of this
2 title;
- 3 2. Second degree murder as defined by Section 701.8 of this
4 title;
- 5 3. Manslaughter in the first degree as defined by Section 711
6 of this title;
- 7 4. Poisoning with intent to kill as defined by Section 651 of
8 this title;
- 9 5. Shooting with intent to kill, use of a vehicle to facilitate
10 use of a firearm, crossbow or other weapon, assault, battery, or
11 assault and battery with a deadly weapon or by other means likely to
12 produce death or great bodily harm, as provided for in Section 652
13 of this title;
- 14 6. Assault with intent to kill as provided for in Section 653
15 of this title;
- 16 7. Conjoint robbery as defined by Section 800 of this title;
- 17 8. Robbery with a dangerous weapon as defined in Section 801 of
18 this title;
- 19 9. First degree robbery as defined in Section 797 of this
20 title;
- 21 10. First degree rape as provided for in Section 1115 of this
22 title;
- 23 11. First degree arson as defined in Section 1401 of this
24 title;

1 12. First degree burglary as provided for in Section 1436 of
2 this title;

3 13. Bombing as defined in Section 1767.1 of this title;

4 14. Any crime against a child provided for in Section 843.5 of
5 this title;

6 15. Forcible sodomy as defined in Section 888 of this title;

7 16. Child pornography as defined in Section 1021.2, 1021.3 or
8 1024.1 of this title;

9 17. Child prostitution as defined in Section 1030 of this
10 title;

11 18. Lewd molestation of a child as defined in Section 1123 of
12 this title;

13 19. Abuse of a vulnerable adult as defined in Section 10-103 of
14 Title 43A of the Oklahoma Statutes who is a resident of a nursing
15 facility;

16 20. Aggravated trafficking as provided for in subsection C of
17 Section 2-415 of Title 63 of the Oklahoma Statutes; ~~or~~

18 21. Aggravated assault and battery upon any person defending
19 another person from assault and battery; or

20 22. Human trafficking as provided for in Section 748 of this
21 title,

22 shall be required to serve not less than eighty-five percent
23 (85%) of any sentence of imprisonment imposed by the judicial system
24 prior to becoming eligible for consideration for parole. Persons

1 convicted of these offenses shall not be eligible for earned credits
2 or any other type of credits which have the effect of reducing the
3 length of the sentence to less than eighty-five percent (85%) of the
4 sentence imposed.

5 SECTION 2. AMENDATORY 21 O.S. 2011, Section 748, as
6 amended by Section 1, Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013,
7 Section 748), is amended to read as follows:

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

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

12 a. threats of harm or physical restraint against any
13 person,

14 b. any act, scheme, plan, or pattern intended to cause a
15 person to believe that performing, or failing to
16 perform, an act would result in serious physical,
17 financial, or emotional harm or distress to or
18 physical restraint against any person,

19 c. the abuse or threatened abuse of the law or legal
20 process,

21 d. knowingly destroying, concealing, removing,
22 confiscating or possessing any actual or purported
23 passport, labor or immigration document, or other
24 government identification document, including but not

1 limited to a driver license or birth certificate, of
2 another person,

3 e. facilitating or controlling a person's access to any
4 addictive or controlled substance other than for legal
5 medical purposes,

6 f. blackmail,

7 g. demanding or claiming money, goods, or any other thing
8 of value from or on behalf of a prostituted person
9 where such demand or claim arises from or is directly
10 related to the act of prostitution,

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

14 i. determining, dictating or setting the places at which
15 another person will be available for solicitation of,
16 or to engage in, an act of prostitution with a third
17 party, or

18 j. determining, dictating or setting the places at which
19 another person will reside for purposes of making such
20 person available to engage in an act of prostitution
21 with a third party.

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

3 3. "Debt bondage" means the status or condition of a debtor
4 arising from a pledge by the debtor of his or her personal services
5 or of those of a person under his or her control as a security for
6 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
8 of those services are not respectively limited and defined;

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

13 5. "Human trafficking for labor" means:

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

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

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

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

1 another person through deception, force, fraud, threat
2 or coercion for purposes of engaging the person in a
3 commercial sex act,

4 b. recruiting, enticing, harboring, maintaining,
5 transporting, providing, purchasing or obtaining, by
6 any means, a minor for purposes of engaging the minor
7 in a commercial sex act, or

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

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

17 8. "Minor" means an individual under eighteen (18) years of
18 age; and

19 9. "Victim" means a person against whom a violation of any
20 provision of this section has been committed.

21 B. It shall be unlawful to knowingly engage in human
22 trafficking.

23 C. Any person violating the provisions of this section shall,
24 upon conviction, be guilty of a felony punishable by imprisonment in

1 the custody of the Department of Corrections for not less than five
2 (5) years, or by a fine of not more than Ten Thousand Dollars
3 (\$10,000.00), or by both such fine and imprisonment. Any person
4 violating the provisions of this section where the victim of the
5 offense is under eighteen (18) years of age at the time of the
6 offense shall, upon conviction, be guilty of a felony punishable by
7 imprisonment in the custody of the Department of Corrections for not
8 less than ten (10) years, or by a fine of not more than Twenty
9 Thousand Dollars (\$20,000.00), or by both such fine and
10 imprisonment. The court shall also order the defendant to pay
11 restitution to the victim as provided in Section 991f of Title 22 of
12 the Oklahoma Statutes. If the person is convicted of human
13 trafficking, the person shall serve eighty-five percent (85%) of the
14 sentence before being eligible for parole consideration or any
15 earned credits. The terms of imprisonment specified in this
16 subsection shall not be subject to statutory provisions for
17 suspension, deferral or probation, or state correctional institution
18 earned credits accruing from and after November 1, 1989, except for
19 the achievement earned credits authorized by subsection H of Section
20 138 of Title 57 of the Oklahoma Statutes. To qualify for such
21 achievement earned credits, such inmates must also be in compliance
22 with the standards for Class level 2 behavior, as defined in
23 subsection D of Section 138 of Title 57 of the Oklahoma Statutes.
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1 D. It is an affirmative defense to prosecution for a criminal
2 offense that, during the time of the alleged commission of the
3 offense, the defendant was a victim of human trafficking.

4 E. The consent of ~~the minor~~ a victim to the activity prohibited
5 by this section shall not constitute a defense.

6 SECTION 3. This act shall become effective November 1, 2014.

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