

1 ENGROSSED SENATE  
2 BILL NO. 1538

By: Dahm and Ivester of the  
Senate

3 and

4 Kern of the House

5  
6 [ human trafficking - civil actions - statute of  
7 limitations - effective date ]  
8

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

10 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, as  
11 amended by Section 1, Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013,  
12 Section 748), is amended to read as follows:

13 Section 748. A. As used in Sections 748 and 748.2 of this  
14 title:

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

17 a. threats of harm or physical restraint against any  
18 person,

19 b. any act, scheme, plan, or pattern intended to cause a  
20 person to believe that performing, or failing to  
21 perform, an act would result in serious physical,  
22 financial, or emotional harm or distress to or  
23 physical restraint against any person,  
24

- 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  
24

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

19           5.    "Human trafficking for labor" means:

20                a.    recruiting, enticing, harboring, maintaining,  
21                    transporting, providing or obtaining, by any means,  
22                    another person through deception, force, fraud, threat  
23                    or coercion or for purposes of engaging the person in  
24                    labor, or

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

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

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

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

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

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

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

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

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.

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 748.2, as  
2 amended by Section 1, Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2013,  
3 Section 748.2), is amended to read as 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 aggrieved by a violation of subsection B of  
24 Section 748 of this title may bring a civil action against the

1 person or persons who committed the violation to recover actual and  
2 punitive damages and reasonable attorney fees and costs. The civil  
3 action brought under this section may be instituted in the district  
4 court in this state in the county in which the prospective defendant  
5 resides or has committed any act which subjects him or her to  
6 liability under this section. A criminal case or prosecution is not  
7 a necessary precedent to the civil action. The statute of  
8 limitations for the cause of action shall not commence until the  
9 latter of the victim's emancipation from the defendant, ~~or~~ the  
10 victim's twenty-first birthday, or the plaintiff discovers or  
11 reasonably should have discovered that he or she was a victim of  
12 human trafficking and that the defendant caused, was responsible for  
13 or profited from the human trafficking.

14 C. Upon availability of funds, the Attorney General is  
15 authorized to establish an emergency hotline number for victims of  
16 human trafficking to call in order to request assistance or rescue.  
17 The Attorney General is authorized to enter into agreements with the  
18 county departments of health to require posting of the rights  
19 contained in this section along with the hotline number for  
20 publication in locations as directed by the State Department of  
21 Health.

22 D. Any peace officer who comes in contact with a human  
23 trafficking victim shall inform the victim of the human trafficking  
24 emergency hotline number and give notice to the victim of certain

1 rights. The notice shall consist of handing the victim a written  
2 statement of the rights provided for in subsection A of this  
3 section.

4 E. Upon a showing that a ~~child~~ minor may be a victim of human  
5 trafficking or sexual abuse, the law enforcement officer shall  
6 immediately notify the Department of Human Services and the ~~child~~  
7 minor shall be ~~remanded~~ transferred to the custody of the Department  
8 of Human Services.

9 Law enforcement and the Department of Human Services shall  
10 conduct a joint investigation into the claim.

11 The ~~child~~ minor shall remain in the custody of the Department of  
12 Human Services until the investigation has been completed, but for  
13 no longer than seventy-two (72) hours, for the show-cause hearing.

14 If criminal charges were filed against the minor and the  
15 investigation shows, at the show-cause hearing, that it is more  
16 likely than not that the ~~child~~ minor is a victim of human  
17 trafficking or sexual abuse, then the criminal charges against the  
18 minor shall be dismissed and the Department of Human Services case  
19 and services shall proceed.

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