

1 **SENATE FLOOR VERSION**

2 February 26, 2014

3 **AS AMENDED**

4 SENATE BILL NO. 1433

5 By: Newberry and Ivester of the  
6 Senate

7 and

8 Peterson of the House

9 **[ human trafficking - required service of minimum  
10 percentage of sentence.-. certain level of behavior -  
11 effective date ]**

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

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

15 Section 13.1. Persons convicted of:

16 1. First degree murder as defined in Section 701.7 of this  
17 title;

18 2. Second degree murder as defined by Section 701.8 of this  
19 title;

20 3. Manslaughter in the first degree as defined by Section 711  
21 of this title;

22 4. Poisoning with intent to kill as defined by Section 651 of  
23 this title;

24 5. Shooting with intent to kill, use of a vehicle to facilitate  
use of a firearm, crossbow or other weapon, assault, battery, or

1 assault and battery with a deadly weapon or by other means likely to  
2 produce death or great bodily harm, as provided for in Section 652  
3 of this title;

4 6. Assault with intent to kill as provided for in Section 653  
5 of this title;

6 7. Conjoint robbery as defined by Section 800 of this title;

7 8. Robbery with a dangerous weapon as defined in Section 801 of  
8 this title;

9 9. First degree robbery as defined in Section 797 of this  
10 title;

11 10. First degree rape as provided for in Section 1115 of this  
12 title;

13 11. First degree arson as defined in Section 1401 of this  
14 title;

15 12. First degree burglary as provided for in Section 1436 of  
16 this title;

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

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

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

21 16. Child pornography as defined in Section 1021.2, 1021.3 or  
22 1024.1 of this title;

23 17. Child prostitution as defined in Section 1030 of this  
24 title;

1 18. Lewd molestation of a child as defined in Section 1123 of  
2 this title;

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

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

8 21. Aggravated assault and battery upon any person defending  
9 another person from assault and battery; or

10 22. Human trafficking as provided for in Section 748 of this  
11 title,

12 shall be required to serve not less than eighty-five percent  
13 (85%) of any sentence of imprisonment imposed by the judicial system  
14 prior to becoming eligible for consideration for parole. Persons  
15 convicted of these offenses shall not be eligible for earned credits  
16 or any other type of credits which have the effect of reducing the  
17 length of the sentence to less than eighty-five percent (85%) of the  
18 sentence imposed.

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

22 Section 748. A. As used in Sections 748 and 748.2 of this  
23 title:  
24

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  
24

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

24

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

5       5. "Human trafficking for labor" means:

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

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

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

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

20          b. recruiting, enticing, harboring, maintaining,  
21          transporting, providing, purchasing or obtaining, by  
22          any means, a minor for purposes of engaging the minor  
23          in a commercial sex act, or

24

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

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

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

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

14 B. It shall be unlawful to knowingly engage in human  
15 trafficking.

16 C. Any person violating the provisions of this section shall,  
17 upon conviction, be guilty of a felony punishable by imprisonment in  
18 the custody of the Department of Corrections for not less than five  
19 (5) years, or by a fine of not more than Ten Thousand Dollars  
20 (\$10,000.00), or by both such fine and imprisonment. Any person  
21 violating the provisions of this section where the victim of the  
22 offense is under eighteen (18) years of age at the time of the  
23 offense shall, upon conviction, be guilty of a felony punishable by  
24 imprisonment in the custody of the Department of Corrections for not

1 less than ten (10) years, or by a fine of not more than Twenty  
2 Thousand Dollars (\$20,000.00), or by both such fine and  
3 imprisonment. The court shall also order the defendant to pay  
4 restitution to the victim as provided in Section 991f of Title 22 of  
5 the Oklahoma Statutes. If the person is convicted of human  
6 trafficking, the person shall serve eighty-five percent (85%) of the  
7 sentence before being eligible for parole consideration or any  
8 earned credits. The terms of imprisonment specified in this  
9 subsection shall not be subject to statutory provisions for  
10 suspension, deferral or probation, or state correctional institution  
11 earned credits accruing from and after November 1, 1989, except for  
12 the achievement earned credits authorized by subsection H of Section  
13 138 of Title 57 of the Oklahoma Statutes. To qualify for such  
14 achievement credits, such inmates must also be in compliance with  
15 the standards for Class level 2 behavior, as defined in subsection D  
16 of Section 138 of Title 57 of the Oklahoma Statutes.

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
24 February 26, 2014 - DO PASS AS AMENDED