

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1731

6 By: Roberts (Sean)

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending  
9 21 O.S. 2011, Section 748.2, as last amended by  
10 Section 2, Chapter 309, O.S.L. 2014 (21 O.S. Supp.  
11 2014, Section 748.2), which relates to human  
12 trafficking victims; modifying language; amending 21  
13 O.S. 2011, Section 1029, as amended by Section 2,  
14 Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2014, Section  
15 1029), which relates to prostitution offenses;  
16 requiring placement of victims in appropriate  
17 preidentified locations; and providing an effective  
18 date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748.2, as  
21 last amended by Section 2, Chapter 309, O.S.L. 2014 (21 O.S. Supp.  
22 2014, Section 748.2), is amended to read as follows:

23 Section 748.2 A. Human trafficking victims shall:

- 24
- 25 1. Be housed in an appropriate shelter as soon as practicable;
  - 26 2. Not be detained in facilities inappropriate to their status  
27 as crime victims;

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

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

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

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

10 a. taking measures to protect trafficked persons and  
11 their family members from intimidation and threats of  
12 reprisals, and

13 b. ensuring that the names and identifying information of  
14 trafficked persons and their family members are not  
15 disclosed to the public.

16 B. Any person aggrieved by a violation of subsection B of  
17 Section 748 of this title may bring a civil action against the  
18 person or persons who committed the violation to recover actual and  
19 punitive damages and reasonable attorney fees and costs. The civil  
20 action brought under this section may be instituted in the district  
21 court in this state in the county in which the prospective defendant  
22 resides or has committed any act which subjects him or her to  
23 liability under this section. A criminal case or prosecution is not  
24 a necessary precedent to the civil action. The statute of

1 limitations for the cause of action shall not commence until the  
2 latter of the victim's emancipation from the defendant, the victim's  
3 twenty-first birthday, or the plaintiff discovers or reasonably  
4 should have discovered that he or she was a victim of human  
5 trafficking and that the defendant caused, was responsible for or  
6 profited from the human trafficking.

7 C. Upon availability of funds, the Attorney General is  
8 authorized to establish an emergency hotline number for victims of  
9 human trafficking to call in order to request assistance or rescue.  
10 The Attorney General is authorized to enter into agreements with the  
11 county departments of health to require posting of the rights  
12 contained in this section along with the hotline number for  
13 publication in locations as directed by the State Department of  
14 Health.

15 D. Any peace officer who comes in contact with a human  
16 trafficking victim shall inform the victim of the human trafficking  
17 emergency hotline number and give notice to the victim of certain  
18 rights. The notice shall consist of handing the victim a written  
19 statement of the rights provided for in subsection A of this  
20 section.

21 E. Upon a showing that a minor may be a victim of human  
22 trafficking or sexual abuse, the law enforcement officer shall  
23 immediately notify the Department of Human Services and the minor  
24

1 shall be transferred to the custody of the Department of Human  
2 Services.

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

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

8 If criminal charges were filed against the minor and the  
9 investigation shows, at the show-cause hearing, that it is more  
10 likely than not that the minor is a victim of human trafficking or  
11 sexual abuse, then the criminal charges against the minor shall be  
12 dismissed and the case and services of the Department of Human  
13 Services ~~case and services~~ shall proceed.

14 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1029, as  
15 amended by Section 2, Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2014,  
16 Section 1029), is amended to read as follows:

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

- 18 1. To engage in prostitution, lewdness, or assignation;
- 19 2. To solicit, induce, entice, or procure another to commit an  
20 act of lewdness, assignation, or prostitution, with himself or  
21 herself;
- 22 3. To reside in, enter, or remain in any house, place,  
23 building, or other structure, or to enter or remain in any vehicle,  
24

1 trailer, or other conveyance with the intent of committing an act of  
2 prostitution, lewdness, or assignation; or

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

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

10 C. In any prosecution of a person sixteen (16) or seventeen  
11 (17) years of age for an offense described in subsection A of this  
12 section, there shall be a presumption that the actor was coerced  
13 into committing such offense by another person in violation of the  
14 human trafficking provisions set forth in Section 748 of this title.  
15 Upon determining that the person is a victim of human trafficking,  
16 the person shall be ensured immediate placement in appropriate,  
17 preidentified locations by the Department of Human Services without  
18 undue questioning or delay.

19 SECTION 3. This act shall become effective November 1, 2015.  
20

21 55-1-6860 EK 02/17/15  
22  
23  
24