

SENATE FLOOR VERSION

February 21, 2017

SENATE BILL NO. 34

By: David of the Senate

and

Biggs of the House

An Act relating to human trafficking; amending 21 O.S. 2011, Section 748, as last amended by Section 2, Chapter 231, O.S.L. 2014 (21 O.S. Supp. 2016, Section 748), which relates to human trafficking; prohibiting a certain defense; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, as last amended by Section 2, Chapter 231, O.S.L. 2014 (21 O.S. Supp. 2016, Section 748), is amended to read as follows:

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

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

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

b. any act, scheme, plan, or pattern intended to cause a person to believe that performing, or failing to

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

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,

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;

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

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

5 B. It shall be unlawful to knowingly engage in human
6 trafficking.

7 C. Any person violating the provisions of this section shall,
8 upon conviction, be guilty of a felony punishable by imprisonment in
9 the custody of the Department of Corrections for a term of not less
10 than five (5) years or for life, or by a fine of not more than One
11 Hundred Thousand Dollars (\$100,000.00), or by both such fine and
12 imprisonment. Any person violating the provisions of this section
13 where the victim of the offense is under eighteen (18) years of age
14 at the time of the offense shall, upon conviction, be guilty of a
15 felony punishable by imprisonment in the custody of the Department
16 of Corrections for a term of not less than fifteen (15) years or for
17 life, or by a fine of not more than Two Hundred Fifty Thousand
18 Dollars (\$250,000.00), or by both such fine and imprisonment. The
19 court shall also order the defendant to pay restitution to the
20 victim as provided in Section 991f of Title 22 of the Oklahoma
21 Statutes. If the person is convicted of human trafficking, the
22 person shall serve eighty-five percent (85%) of the sentence before
23 being eligible for parole consideration or any earned credits. The
24 terms of imprisonment specified in this subsection shall not be

1 subject to statutory provisions for suspension, deferral or
2 probation, or state correctional institution earned credits accruing
3 from and after November 1, 1989, except for the achievement earned
4 credits authorized by subsection H of Section 138 of Title 57 of the
5 Oklahoma Statutes. To qualify for such achievement earned credits,
6 such inmates must also be in compliance with the standards for Class
7 level 2 behavior, as defined in subsection D of Section 138 of Title
8 57 of the Oklahoma Statutes.

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

12 E. The consent of a victim to the activity prohibited by this
13 section shall not constitute a defense.

14 F. Lack of knowledge of the age of the victim shall not
15 constitute a defense to the activity prohibited by this section with
16 respect to human trafficking of a minor.

17 SECTION 2. This act shall become effective November 1, 2017.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 February 21, 2017 - DO PASS
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