

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1072

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to human trafficking; amending 21
8 O.S. 2011, as last amended by Section 2, Chapter 309,
9 O.S.L. 2014 (21 O.S. Supp. 2017, Section 748.2),
10 which relates to notice of rights and remand to
11 Department of Human Services; authorizing protective
12 custody of certain minor; establishing procedures for
13 assuming emergency custody under certain
14 circumstances; requiring provision of certain
15 services; authorizing certain release; prohibiting
16 delinquency proceedings or criminal prosecution under
17 certain circumstances; 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 2017, Section 748.2), is amended to read as follows:

23 Section 748.2. A. Human trafficking victims shall:

- 24 1. Be housed in an appropriate shelter as soon as practicable;
2. Not be detained in facilities inappropriate to their status
as crime victims;
3. Not be jailed, fined, or otherwise penalized due to having
been trafficked;

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

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

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

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

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

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

1 twenty-first birthday, or the plaintiff discovers or reasonably
2 should have discovered that he or she was a victim of human
3 trafficking and that the defendant caused, was responsible for or
4 profited from the human trafficking.

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

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

19 ~~E. Upon a showing that a minor may be a victim of human~~
20 ~~trafficking or sexual abuse, the law enforcement officer shall~~
21 ~~immediately notify the Department of Human Services and the minor~~
22 ~~shall be transferred to the custody of the Department of Human~~
23 ~~Services~~ Any peace officer or employee of a district court, Juvenile
24 Bureau or Office of Juvenile Affairs who has reasonable suspicion

1 that a minor may be a victim of human trafficking and is in need of
2 immediate protection shall assume protective custody over the minor
3 and immediately notify the Department of Human Services. The minor
4 shall be transferred to the emergency custody of the Department
5 pursuant to the provisions of Section 1-4-201 of Title 10A of the
6 Oklahoma Statutes. While in custody of the Department, the minor
7 shall be provided with any necessary emergency social services which
8 include, but shall not be limited to, medical examination or
9 treatment, or a mental health assessment.

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

12 The minor shall remain in the custody of the Department of Human
13 Services until the investigation has been completed, but for no
14 longer than ~~seventy-two (72) hours~~ two (2) judicial days, for the
15 show-cause hearing. The Department may release the minor to the
16 custody of a parent or legal guardian if it determines the minor
17 will not be subject to further exploitation. If no such
18 determination is made, the minor shall be subject to the deprived
19 child provisions of the Oklahoma Children's Code and made eligible
20 for appropriate child welfare services.

21 ~~If criminal charges were filed against the minor and the~~
22 ~~investigation shows, at the show-cause hearing, that it is more~~
23 ~~likely than not that the minor is a victim of human trafficking or~~
24 ~~sexual abuse, then the criminal charges against the minor shall be~~

1 ~~dismissed and the Department of Human Services case and services~~
2 ~~shall proceed~~ The minor shall not be subject to juvenile delinquency
3 proceedings for prostitution or other nonviolent misdemeanor
4 offenses committed as a direct result of being a victim of human
5 trafficking. It shall be an affirmative defense to delinquency or
6 criminal prosecution for any misdemeanor or felony offense that the
7 offense was committed during the time of and as the direct result of
8 the minor being the victim of human trafficking.

9 SECTION 2. This act shall become effective November 1, 2018.

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