

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1569

By: Shaw

AS INTRODUCED

An Act relating to human trafficking; amending 21 O.S. 2011, Section 748.2, as last amended by Section 1, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2019, Section 748.2), which relates to guidelines for treatment of human trafficking victims; providing certain assessment form; amending 70 O.S. 2011, Section 3311.5, as last amended by Section 2, Chapter 339, O.S.L. 2019 (70 O.S. Supp. 2019, Section 3311.5), which relates to law enforcement certification; requiring certain training; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 748.2, as last amended by Section 1, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2019, Section 748.2), is amended to read as follows:

Section 748.2. A. Human trafficking victims shall:

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. Upon preliminary investigation of a possible human
14 trafficking crime, any peace officer who interviews the victim shall
15 assess the potential for danger by asking a series of questions
16 provided on a lethality assessment form. The lethality assessment
17 form shall include, but not be limited to, the following questions:

18 1. For victims under the age of eighteen (18) years of age:

19 a. who do they live with; persons, relationships, address
20 and phone number,

21 b. ask about school; present grade, name of school,
22 subjects of interest, sports, music and organizations
23 involvement,

24 c. ask about daily and nightly schedule, and
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1 d. inquire regarding basic needs, when have they eaten,
2 where do they sleep, who drives them where they need
3 to go;

4 2. Depending on the answers received in paragraph 1 of this
5 subsection, then consider the following additional questions:

6 a. any family member, friends or pet been threatened if
7 the child did not do what was asked,

8 b. when was the first time the child did drugs or drank
9 alcohol? Who secured it for them; what drugs,

10 c. if female, have they been pregnant, had a child or had
11 an abortion? If so, where is the child; who took them
12 to get abortion and who paid for it,

13 d. as anyone ever given you money or things for a date,
14 and

15 e. has anyone asked you to find friends who could party
16 with them and take dates;

17 3. For victims over the age of eighteen (18) years of age:

18 a. identify if they are afraid or angry; if so, what are
19 they afraid of or angry about,

20 b. find out where they live and who they live with,

21 c. how do they pay their rent, provide for their basic
22 needs; where they live,

23 d. what legal cases have they had; if there were cases
24 from when they were minors; and

1 4. Depending on the answers received in paragraph 3 of this
2 subsection, then consider the following additional questions:

3 a. have they ever been forced to take drugs or drink,

4 b. do they have identification; if not, who is taking
5 care of those documents now,

6 c. can they contact family or friends; do they stay in
7 contact with them,

8 d. can they go to church or a job; if yes, where is the
9 job or church,

10 e. are they being asked to take dates with others in
11 exchange for money,

12 f. will there be physical harm if they do not bring back
13 a certain amount of money to the person having them go
14 on a date? Will sleep, food or drugs be withheld, and

15 g. do they feel afraid to talk to law enforcement or to
16 someone that can provide help?

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

23 ~~E.~~ F. Any peace officer or employee of a district court,
24 juvenile bureau or Office of Juvenile Affairs who has reasonable
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1 suspicion that a minor may be a victim of human trafficking and is
2 in need of immediate protection shall assume protective custody over
3 the minor and immediately notify the Department of Human Services.
4 The minor shall be transferred to the emergency custody of the
5 Department pursuant to the provisions of Section 1-4-201 of Title
6 10A of the Oklahoma Statutes. While in custody of the Department,
7 the minor shall be provided with any necessary emergency social
8 services which include, but shall not be limited to, medical
9 examination or 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 two (2) judicial days, for the show-cause hearing. The
15 Department may release the minor to the custody of a parent or legal
16 guardian if it determines the minor will not be subject to further
17 exploitation. If no such determination is made, the minor shall be
18 subject to the deprived child provisions of the Oklahoma Children's
19 Code and made eligible for appropriate child welfare services.

20 The minor shall not be subject to juvenile delinquency
21 proceedings for prostitution or other nonviolent misdemeanor
22 offenses committed as a direct result of being a victim of human
23 trafficking. It shall be an affirmative defense to delinquency or
24 criminal prosecution for any misdemeanor or felony offense that the

1 offense was committed during the time of and as the direct result of
2 the minor being the victim of human trafficking.

3 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3311.5, as
4 last amended by Section 2, Chapter 339, O.S.L. 2019 (70 O.S. Supp.
5 2019, Section 3311.5), is amended to read as follows:

6 Section 3311.5. A. On and after November 1, 2007, the Council
7 on Law Enforcement Education and Training (CLEET), pursuant to its
8 authority granted by Section 3311 of this title, shall include in
9 its required basic training courses for law enforcement
10 certification a minimum of four (4) hours of education and training
11 relating to recognizing and managing a person appearing to require
12 mental health treatment or services. The Council shall further
13 offer a minimum of four (4) hours of education and training on
14 specific mental health issues pursuant to Section 3311.4 of this
15 title to meet the annual requirement for continuing education in the
16 areas of mental health issues.

17 B. By January 1, 2008, CLEET, pursuant to its authority granted
18 by Sections 3311 and 3311.4 of this title, shall include in its
19 required courses of study for law enforcement certification a
20 minimum of six (6) hours of evidence-based sexual assault and sexual
21 violence training. A portion of the sexual assault and sexual
22 violence training shall include instruction presented by a certified
23 sexual assault service provider.
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1 C. By January 1, 2012, every active full-time peace officer,
2 previously certified by CLEET pursuant to Section 3311 of this
3 title, shall be required to attend and complete the evidence-based
4 sexual assault and sexual violence training provided in subsection B
5 of this section.

6 D. CLEET shall promulgate rules to enforce the provisions of
7 subsections B and C of this section and shall, with the assistance
8 of certified sexual assault service providers, establish a
9 comprehensive integrated curriculum for the teaching of evidence-
10 based sexual assault and sexual violence issues.

11 E. The Council is required to update that block of training or
12 course materials relating to legal issues, concepts, and state laws
13 annually, but not later than ninety (90) days following the
14 adjournment of any legislative session.

15 F. By January 1, 2009, CLEET, pursuant to its authority granted
16 by Sections 3311 and 3311.4 of this title, shall include in its
17 required courses of study for law enforcement certification oil
18 field equipment theft training.

19 G. By January 1, 2012, CLEET, pursuant to its authority granted
20 by Sections 3311 and 3311.4 of this title, shall establish and
21 include in its required courses of study for law enforcement
22 certification a minimum of eight (8) hours of evidence-based
23 domestic violence and stalking investigation training. The training
24 should include, at a minimum, the importance of reporting domestic

1 violence incidents, determining the predominant aggressor, evidence-
2 based investigation of domestic violence and stalking, lethality
3 assessment, and personal safety planning necessary at the pretrial
4 stages of a potential criminal case. A portion of the training
5 shall include instruction presented by an expert victim advocate
6 selected from recommendations provided by the Office of the Attorney
7 General or the Domestic Violence Fatality Review Board. The
8 training shall be developed in collaboration with the Domestic
9 Violence Fatality Review Board, and where applicable, shall replace
10 existing domestic violence and stalking courses currently required.

11 H. By January 1, 2012, the evidence-based domestic violence and
12 stalking investigation curriculum developed in collaboration with
13 the Domestic Violence Fatality Review Board shall be submitted to
14 the Council for approval.

15 I. CLEET shall establish the training provided in subsection G
16 of this section as a part of CLEET's peace officer continuing
17 education program and develop a plan to train full-time peace
18 officers previously certified by CLEET pursuant to Section 3311 of
19 this title where applicable. The Office of the Attorney General
20 shall provide a list of expert victim advocates that are available
21 to assist in the training.

22 J. The Council is authorized to pay for and send training staff
23 and employees to one or more training and education courses in
24 jurisdictions outside this state for the purpose of expanding
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1 curriculum, training skill development, and general knowledge within
2 the field of law enforcement education and training.

3 K. On and after November 1, 2013, CLEET, pursuant to its
4 authority granted by Section 3311 of this title, shall include in
5 its required basic training courses for law enforcement
6 certification a minimum of two (2) hours of education and training
7 relating to recognizing and managing a person experiencing dementia
8 or Alzheimer's disease.

9 L. By November 1, 2019, CLEET shall establish appropriate
10 training resources focused on protocol for handling and processing
11 sexual assault calls. The training shall include, but not be
12 limited to:

- 13 1. How to handle the sexual assault call upon first contact;
- 14 2. Determining when the assault occurred;
- 15 3. Where to take the victim;
- 16 4. Questioning witnesses and collecting evidence; and
- 17 5. Informing and assisting the victim in accessing resources,
18 help and information.

19 M. The Council shall promulgate rules to evaluate and approve
20 municipalities and counties that are deemed capable of conducting
21 separate basic law enforcement training academies in their
22 jurisdiction and to certify officers successfully completing such
23 academy training courses. Upon application to the Council, any
24 municipality with a population of sixty-five thousand (65,000) or
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1 more or any county with a population of five hundred thousand
2 (500,000) or more shall be authorized to operate a basic law
3 enforcement academy. The Council shall approve an application when
4 the municipality or county making the application meets the criteria
5 for a separate training academy and demonstrates to the satisfaction
6 of the Council that the academy has sufficient resources to conduct
7 the training, the instructional staff is appropriately trained and
8 qualified to teach the course materials, the curriculum is composed
9 of comparable or higher quality course segments to the CLEET academy
10 curriculum, and the facilities where the academy will be conducted
11 are safe and sufficient for law enforcement training purposes. Any
12 municipality or county authorized to operate a basic law enforcement
13 academy after November 1, 2007, shall not be eligible to receive
14 funds pursuant to subsection E of Section 1313.2 of Title 20 of the
15 Oklahoma Statutes. The Council shall not provide any funding for
16 the operation of any separate training academy authorized by this
17 subsection.

18 N. Any municipality or county that, prior to November 1, 2007,
19 was authorized to conduct a basic law enforcement academy shall
20 continue to receive funding pursuant to subsection E of Section
21 1313.2 of Title 20 of the Oklahoma Statutes.

22 O. By November 1, 2020, CLEET shall establish appropriate
23 training resources focused on human trafficking to include, but not
24 be limited to, identification, understanding effects of trauma and

1 victimization and protocol and training of effective use of the
2 screening tool and assessment form as provided in Section 748.2 of
3 Title 21 of the Oklahoma Statutes.

4 SECTION 3. This act shall become effective November 1, 2020.

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