

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 4224

By: Boatman

COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending 21 O.S. 2021, Sections 748 and 748.2, which relate to human trafficking; expanding scope of affirmative defense to include certain prosecution; excluding human trafficking victims from certain court proceedings; deleting affirmative defense provision; amending 21 O.S. 2021, Section 1029, which relates to engaging in or soliciting prostitution; removing presumption of coercion; excluding child victims of human trafficking from certain court proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, 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 perform, an act would result in serious physical, financial, or emotional harm or distress to or physical restraint against any person,
- c. the abuse or threatened abuse of the law or legal process,
- d. knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport, labor or immigration document, or other government identification document, including but not limited to a driver license or birth certificate, of another person,
- e. facilitating or controlling a person's access to any addictive or controlled substance other than for legal medical purposes,
- f. blackmail,
- g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution,

1           h.   determining, dictating or setting the times at which  
2               another person will be available to engage in an act  
3               of prostitution with a third party,

4           i.   determining, dictating or setting the places at which  
5               another person will be available for solicitation of,  
6               or to engage in, an act of prostitution with a third  
7               party, or

8           j.   determining, dictating or setting the places at which  
9               another person will reside for purposes of making such  
10              person available to engage in an act of prostitution  
11              with a third party;

12        2.   "Commercial sex" means any form of commercial sexual  
13   activity such as sexually explicit performances, prostitution,  
14   participation in the production of pornography, performance in a  
15   strip club, or exotic dancing or display;

16        3.   "Debt bondage" means the status or condition of a debtor  
17   arising from a pledge by the debtor of his or her personal services  
18   or of those of a person under his or her control as a security for  
19   debt if the value of those services as reasonably assessed is not  
20   applied toward the liquidation of the debt or the length and nature  
21   of those services are not respectively limited and defined;

22        4.   "Human trafficking" means modern-day slavery that includes,  
23   but is not limited to, extreme exploitation and the denial of  
24

1 freedom or liberty of an individual for purposes of deriving benefit  
2 from that individual's commercial sex act or labor;

3 5. "Human trafficking for labor" means:

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

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

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

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

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

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

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

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

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

11        B. It shall be unlawful to knowingly engage in human  
12 trafficking.

13        C. Any person violating the provisions of this section shall,  
14 upon conviction, be guilty of a felony punishable by imprisonment in  
15 the custody of the Department of Corrections for a term of not less  
16 than five (5) years or for life, or by a fine of not more than One  
17 Hundred Thousand Dollars (\$100,000.00), or by both such fine and  
18 imprisonment. Any person violating the provisions of this section  
19 where the victim of the offense is under eighteen (18) years of age  
20 at the time of the offense shall, upon conviction, be guilty of a  
21 felony punishable by imprisonment in the custody of the Department  
22 of Corrections for a term of not less than fifteen (15) years or for  
23 life, or by a fine of not more than Two Hundred Fifty Thousand  
24 Dollars (\$250,000.00), or by both such fine and imprisonment. The

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

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

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

21 F. Lack of knowledge of the age of the victim shall not  
22 constitute a defense to the activity prohibited by this section with  
23 respect to human trafficking of a minor.  
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1       SECTION 2.       AMENDATORY       21 O.S. 2021, Section 748.2, is  
2 amended to read as follows:

3       Section 748.2   A.   Human trafficking victims shall:

4       1.   Be housed in an appropriate shelter as soon as practicable;

5       2.   Not be detained in facilities inappropriate to their status  
6 as crime victims;

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

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

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

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

16           a.   taking measures to protect trafficked persons and  
17                their family members from intimidation and threats of  
18                reprisals, and

19           b.   ensuring that the names and identifying information of  
20                trafficked persons and their family members are not  
21                disclosed to the public.

22       B.   Any person aggrieved by a violation of subsection B of  
23 Section 748 of this title may bring a civil action against the  
24 person or persons who committed the violation to recover actual and

1 punitive damages and reasonable attorney fees and costs. The civil  
2 action brought under this section may be instituted in the district  
3 court in this state in the county in which the prospective defendant  
4 resides or has committed any act which subjects him or her to  
5 liability under this section. A criminal case or prosecution is not  
6 a necessary precedent to the civil action. The statute of  
7 limitations for the cause of action shall not commence until the  
8 latter of the victim's emancipation from the defendant, the victim's  
9 twenty-first birthday, or the plaintiff discovers or reasonably  
10 should have discovered that he or she was a victim of human  
11 trafficking and that the defendant caused, was responsible for or  
12 profited from the human trafficking.

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

21 D. Any peace officer who comes in contact with a human  
22 trafficking victim shall inform the victim of the human trafficking  
23 emergency hotline number and give notice to the victim of certain  
24 rights. The notice shall consist of handing the victim a written



1 statement of the rights provided for in subsection A of this  
2 section.

3 E. 1. Any peace officer or employee of a district court,  
4 juvenile bureau or Office of Juvenile Affairs who has reasonable  
5 suspicion that a minor may be a victim of human trafficking and is  
6 in need of immediate protection shall assume protective custody over  
7 the minor and immediately notify the Department of Human Services.  
8 The minor shall be transferred to the emergency custody of the  
9 Department pursuant to the provisions of Section 1-4-201 of Title  
10 10A of the Oklahoma Statutes. While in custody of the Department,  
11 the minor shall be provided with any necessary emergency social  
12 services which include, but shall not be limited to, medical  
13 examination or treatment, or a mental health assessment.

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

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

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

9        SECTION 3.        AMENDATORY        21 O.S. 2021, Section 1029, is  
10 amended to read as follows:

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

12        1. To engage in prostitution, lewdness, or assignation;

13        2. To solicit, induce, entice, or procure another to commit an  
14 act of lewdness, assignation, or prostitution, with himself or  
15 herself;

16        3. To reside in, enter, or remain in any house, place,  
17 building, or other structure, or to enter or remain in any vehicle,  
18 trailer, or other conveyance with the intent of committing an act of  
19 prostitution, lewdness, or assignation; or

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

22        B. Any prohibited act described in paragraph 1, 2, 3 or 4 of  
23 subsection A of this section committed with a person under eighteen  
24 (18) years of age shall be deemed child prostitution, as defined in

1 Section 1030 of this title, and shall be punishable as provided in  
2 Section 1031 of this title.

3 C. ~~In any prosecution of a person sixteen (16) or seventeen~~  
4 ~~(17) years of age for an offense described in subsection A of this~~  
5 ~~section, there shall be a presumption that the actor was coerced~~  
6 ~~into committing such offense by another person in violation of the~~  
7 No child who is a victim of human trafficking provisions set forth  
8 in Section 748 of this title shall be subject to juvenile  
9 delinquency or criminal proceedings for the offenses described in  
10 subsection A of this section which occurred as a result of the child  
11 being a victim of human trafficking.

12 SECTION 4. This act shall become effective November 1, 2022.

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