An Act

ENROLLED HOUSE
BILL NO. 2353

By: Kern of the House

and

Treat, David and Ivester of the Senate

An Act relating to crimes and punishment; amending 21 O.S. Section 2011, Section 13.1, which relates to required service of minimum percentage of sentence; adding crime; amending 21 O.S. 2011, Section 748, as amended by Section 1, Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013, Section 748), which relates to human trafficking; increasing penalties; modifying consent provision; and providing an effective date.

SUBJECT: Human trafficking

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 13.1, is amended to read as follows:

Section 13.1 Persons convicted of:

1. First degree murder as defined in Section 701.7 of this title;

2. Second degree murder as defined by Section 701.8 of this title;

3. Manslaughter in the first degree as defined by Section 711 of this title;

4. Poisoning with intent to kill as defined by Section 651 of this title;

5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of this title;

6. Assault with intent to kill as provided for in Section 653 of this title;

7. Conjoint robbery as defined by Section 800 of this title;

8. Robbery with a dangerous weapon as defined in Section 801 of this title;

9. First degree robbery as defined in Section 797 of this title;

10. First degree rape as provided for in Section 1115 of this title;

11. First degree arson as defined in Section 1401 of this title;

12. First degree burglary as provided for in Section 1436 of this title;

13. Bombing as defined in Section 1767.1 of this title;

14. Any crime against a child provided for in Section 843.5 of this title;

15. Forcible sodomy as defined in Section 888 of this title;

16. Child pornography as defined in Section 1021.2, 1021.3 or 1024.1 of this title;

17. Child prostitution as defined in Section 1030 of this title;

18. Lewd molestation of a child as defined in Section 1123 of this title;

19. Abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility;

20. Aggravated trafficking as provided for in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes; ~~or~~

21. Aggravated assault and battery upon any person defending another person from assault and battery; or

22. Human trafficking as provided for in Section 748 of this title,

shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 748, as amended by Section 1, Chapter 95, O.S.L. 2012 (21 O.S. Supp. 2013, 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,

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

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

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

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

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

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

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

5. "Human trafficking for labor" means:

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

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

6. "Human trafficking for commercial sex" means:

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

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

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

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

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

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

C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years or for life, or by a fine of not more than ~~Ten Thousand Dollars ($10,000.00)~~ One Hundred Thousand Dollars ($100,000.00), or by both such fine and imprisonment. Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than ~~ten (10) years~~ fifteen (15) years or for life, or by a fine of not more than ~~Twenty Thousand Dollars ($20,000.00)~~ Two Hundred Fifty Thousand Dollars ($250,000.00), or by both such fine and imprisonment. The court shall also order the defendant to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes.

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

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

SECTION 3. This act shall become effective November 1, 2014.

Passed the House of Representatives the 5th day of March, 2014.

Presiding Officer of the House
of Representatives

Passed the Senate the 16th day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 21st
day of April, 20 14, at 5:40 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 25th
day of April, 20 14, at 9:46 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25th
day of April, 20 14, at 1:50 o'clock P M.
By: