

An Act

ENROLLED SENATE
BILL NO. 1538

By: Dahm and Ivester of the
Senate

and

Kern of the House

An Act relating to human trafficking; amending 21 O.S. 2011, Sections 748, as amended by Section 1, Chapter 95, O.S.L. 2012 and 748.2, as amended by Section 1, Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2013, Sections 748 and 748.2), which relate to human trafficking penalties and guidelines; adding definition; stating venue for filing civil actions; modifying statute of limitations requirement; updating and clarifying language; 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 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; and

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

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 not less than five (5) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), 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 not less than ten (10) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), 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 to the activity prohibited by this section shall not constitute a defense.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 748.2, as amended by Section 1, Chapter 59, O.S.L. 2013 (21 O.S. Supp. 2013, 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;
4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;
5. Have access to legal assistance, information about their rights, and translation services, as necessary; and
6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:
 - a. taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals, and
 - b. ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

B. Any person aggrieved by a violation of subsection B of Section 748 of this title may bring a civil action against the person or persons who committed the violation to recover actual and punitive damages and reasonable attorney fees and costs. The civil action brought under this section may be instituted in the district court in this state in the county in which the prospective defendant resides or has committed any act which subjects him or her to liability under this section. A criminal case or prosecution is not a necessary precedent to the civil action. The statute of limitations for the cause of action shall not commence until the latter of the victim's emancipation from the defendant ~~or~~, the victim's twenty-first birthday, or the plaintiff discovers or reasonably should have discovered that he or she was a victim of

human trafficking and that the defendant caused, was responsible for or profited from the human trafficking.

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

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

E. Upon a showing that a ~~child~~ minor may be a victim of human trafficking or sexual abuse, the law enforcement officer shall immediately notify the Department of Human Services and the ~~child~~ minor shall be ~~remanded~~ transferred to the custody of the Department of Human Services.

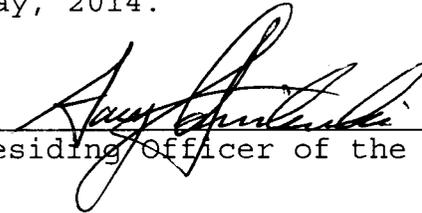
Law enforcement and the Department of Human Services shall conduct a joint investigation into the claim.

The ~~child~~ minor shall remain in the custody of the Department of Human Services until the investigation has been completed, but for no longer than seventy-two (72) hours, for the show-cause hearing.

If criminal charges were filed against the minor and the investigation shows, at the show-cause hearing, that it is more likely than not that the ~~child~~ minor is a victim of human trafficking or sexual abuse, then the criminal charges against the minor shall be dismissed and the Department of Human Services case and services shall proceed.

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

Passed the Senate the 8th day of May, 2014.


Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2014.


Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

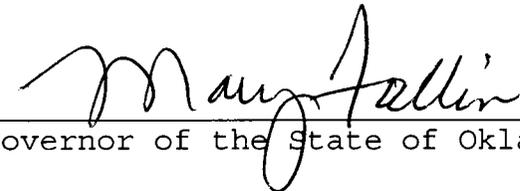
Received by the Office of the Governor this 12th

day of May, 20 14, at 2:48 o'clock P M.

By: Audrey Lockwell

Approved by the Governor of the State of Oklahoma this 16th

day of May, 20 14, at 10:09 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 16th

day of May, 20 14, at 1:25 o'clock P. M.

By: Chris Benz