

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 34

 By: David and Pittman of the
 Senate

6 and

7 Biggs of the House

8
9 An Act relating to human trafficking; amending 21
10 O.S. 2011, Section 748, as last amended by Section 2,
11 Chapter 231, O.S.L. 2014 (21 O.S. Supp. 2016, Section
12 748), which relates to human trafficking; prohibiting
13 a certain defense; and providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, as last
16 amended by Section 2, Chapter 231, O.S.L. 2014 (21 O.S. Supp. 2016,
17 Section 748), is amended to read as follows:

18 Section 748. A. As used in Sections 748 and 748.2 of this
19 title:

20 1. "Coercion" means compelling, forcing or intimidating a
21 person to act by:

- 22 a. threats of harm or physical restraint against any
23 person,

- 1 b. any act, scheme, plan, or pattern intended to cause a
2 person to believe that performing, or failing to
3 perform, an act would result in serious physical,
4 financial, or emotional harm or distress to or
5 physical restraint against any person,
- 6 c. the abuse or threatened abuse of the law or legal
7 process,
- 8 d. knowingly destroying, concealing, removing,
9 confiscating or possessing any actual or purported
10 passport, labor or immigration document, or other
11 government identification document, including but not
12 limited to a driver license or birth certificate, of
13 another person,
- 14 e. facilitating or controlling a person's access to any
15 addictive or controlled substance other than for legal
16 medical purposes,
- 17 f. blackmail,
- 18 g. demanding or claiming money, goods, or any other thing
19 of value from or on behalf of a prostituted person
20 where such demand or claim arises from or is directly
21 related to the act of prostitution,
- 22 h. determining, dictating or setting the times at which
23 another person will be available to engage in an act
24 of prostitution with a third party,

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

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

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

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

19 4. "Human trafficking" means modern-day slavery that includes,
20 but is not limited to, extreme exploitation and the denial of
21 freedom or liberty of an individual for purposes of deriving benefit
22 from that individual's commercial sex act or labor;

23 5. "Human trafficking for labor" means:
24

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

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

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

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

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

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

22 7. "Legal process" means the criminal law, the civil law, or
23 the regulatory system of the federal government, any state,
24 territory, district, commonwealth, or trust territory therein, and

1 any foreign government or subdivision thereof and includes legal
2 civil actions, criminal actions, and regulatory petitions or
3 applications;

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

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

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

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

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

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

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

17 F. Lack of knowledge of the age of the victim shall not
18 constitute a defense to the activity prohibited by this section with
19 respect to human trafficking of a minor.

20 SECTION 2. This act shall become effective November 1, 2017.

21

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
23 CORRECTIONS, dated 04/05/2017 - DO PASS, As Coauthored.

24

24