

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 865

By: Jett

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5
6 AS INTRODUCED

7 An Act relating to illegal organ harvesting; amending
8 21 O.S. 2011, Section 748, as last amended by Section
9 1, Chapter 69, O.S.L. 2017 (21 O.S. Supp. 2020,
10 Section 748), which relates to human trafficking;
11 modifying definition of human trafficking; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 748, as last
15 amended by Section 1, Chapter 69, O.S.L. 2017 (21 O.S. Supp. 2020,
16 Section 748), is amended to read as follows:

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

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

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

23 b. any act, scheme, plan, or pattern intended to cause a
24 person to believe that performing, or failing to
25 perform, an act would result in serious physical,

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

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

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

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

17 4. "Human trafficking" means:

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

23 b. recruiting, enticing, harboring, maintaining,
24 transporting, providing or obtaining, by any means,

1 another person through deception, force, fraud, threat
2 or coercion or for purposes of illegally obtaining
3 body parts, members or organs or performing
4 transplants from any source not legally affiliated
5 with a hospital or other medical facility;

6 5. "Human trafficking for labor" means:

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

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

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

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

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

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

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

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

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

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

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

1 of Corrections for a term of not less than fifteen (15) years or for
2 life, or by a fine of not more than Two Hundred Fifty Thousand
3 Dollars (\$250,000.00), or by both such fine and imprisonment. The
4 court shall also order the defendant to pay restitution to the
5 victim as provided in Section 991f of Title 22 of the Oklahoma
6 Statutes. If the person is convicted of human trafficking, the
7 person shall serve eighty-five percent (85%) of the sentence before
8 being eligible for parole consideration or any earned credits. The
9 terms of imprisonment specified in this subsection shall not be
10 subject to statutory provisions for suspension, deferral or
11 probation, or state correctional institution earned credits accruing
12 from and after November 1, 1989, except for the achievement earned
13 credits authorized by subsection H of Section 138 of Title 57 of the
14 Oklahoma Statutes. To qualify for such achievement earned credits,
15 such inmates must also be in compliance with the standards for Class
16 level 2 behavior, as defined in subsection D of Section 138 of Title
17 57 of the Oklahoma Statutes.

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

21 E. The consent of a victim to the activity prohibited by this
22 section shall not constitute a defense.
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F. Lack of knowledge of the age of the victim shall not constitute a defense to the activity prohibited by this section with respect to human trafficking of a minor.

SECTION 2. This act shall become effective November 1, 2021.

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