

## Indiana State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

**Rating:** Tier One (green)

**Total Points:** 8

**Credited Categories:** 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 8 Victim Assistance; and 9 Civil Remedy.

**Categories Still Needed:** 4(b) Human Trafficking Task Force; 6 Posting of a Hotline; 7 Safe Harbor for Minors; and 10 Vacating Convictions.

**Category By Category Break-Down:**

### Category 1: Sex Trafficking Statute

#### **§35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking**

(a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage;

(B) prostitution; or

(C) participating in sexual conduct (as defined in IC 35-42-4-4);

commits promotion of human trafficking, a Class B felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) eighteen (18) years of age with the intent of:

(A) engaging the child in:

(i) forced labor; or

(ii) involuntary servitude; or

(B) inducing or causing the child to:

(i) engage in prostitution; or



- (ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation); or
  - (2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);
- commits promotion of human trafficking of a minor, a Class B felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.
- (c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Class A felony.
- (d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:
- (1) forced labor;
  - (2) involuntary servitude; or
  - (3) prostitution;
- commits human trafficking, a Class C felony.
- (e) It is a defense to a prosecution under subsection (b)(2)(B) if:
- (1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or
  - (2) all the following apply:
    - (A) The person is not more than four (4) years older than the victim.
    - (B) The relationship between the person and the victim was a dating relationship or ongoing personal relationship. The term “ongoing personal relationship” does not include a family relationship.
    - (C) The crime:
      - (i) was not committed by a person who is at least twenty-one (21) years of age;
      - (ii) was not committed by using or threatening the use of deadly force;
      - (iii) was not committed while armed with a deadly weapon;
      - (iv) did not result in serious bodily injury;
      - (v) was not facilitated by furnishing the victim, without the victim’s knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim’s knowledge; and
      - (vi) was not committed by a person having a position of authority or substantial influence over the victim.
    - (D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

## **Category 2: Labor Trafficking Statute**

Yes. See IC 35-42-3.5-1.



### **Category 3(a): Asset Forfeiture**

#### **34-24-1-1 Seizure of vehicles or other property**

(a) The following may be seized:

- (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

### **Category 3(b): Investigative Tools**

## **Chapter 6: Racketeer Influenced Corrupt Organizations Act**

### **35-45-6-1 Definitions**

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (8) Human and sexual trafficking crimes (IC 35-42-3.5).

## **ARTICLE 33.5. INTERCEPTION OF TELEPHONIC OR TELEGRAPHIC COMMUNICATIONS**

### **IC 35-33.5-1-3 "Designated offense" defined**

Sec. 3. "Designated offense" means the following:

(7) Child solicitation (IC 35-42-4-6).

(8) Human and sexual trafficking crimes under IC 35-42-3.5.

(12) An offense under the law of the United States or in another state or country that is substantially similar to an offense described in subdivisions (1) through (11).

### **Category 4(a): Training for Law Enforcement**

#### **IC 5-2-1-9. Rules -- Implementation of chapter -- Town marshal basic training program -- Police chief executive training program.**

(a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

- (10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or



academy and for in service training programs for law enforcement officers. The course must cover the following topics:

- (A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).
- (B) Identification of human and sexual trafficking.
- (C) Communicating with traumatized persons.
- (D) Therapeutically appropriate investigative techniques.
- (E) Collaboration with federal law enforcement officials.
- (F) Rights of and protections afforded to victims.
- (G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.
- (H) The availability of community resources to assist human and sexual trafficking victims.

#### **Category 4(b): Human Trafficking Task Force**

None.

#### **Category 5: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors**

Yes. IC §35-42-3.5-1.

#### **Category 6: Posting of a Human Trafficking Hotline**

None.

#### **Category 7: Safe Harbor**

None.

#### **Category 8: Victim Assistance**

##### **5-2-6-3 Purposes of institute; sex and violent offender directory**

Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
  - (A) the prevention, detection, and solution of criminal offenses;
  - (B) law enforcement; and
  - (C) the administration of criminal and juvenile justice.
- (17) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

##### **35-37-6-1 “Confidential communication” defined**

Sec. 1. (a) As used in this chapter, “confidential communication” means any information:

- (1) Exchanged between a victim and a victim advocate in the course of the relationship between the victim and the victim advocate;



- (2) Exchanged or disclosed in a support group in which a victim is or was a participant;  
or
  - (3) Exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.
- (b) The term includes communication that is verbal or written and includes:
- (1) Advice;
  - (2) Notes;
  - (3) Reports;
  - (4) Statistical data;
  - (5) Memoranda;
  - (6) Working papers;
  - (7) Records; and
  - (8) Personally identifying information; produced in the course of advocating for a victim.

**IC 35-42-3.5-4. Treatment of alleged victim of offense; LEA Declaration; denial and reconsideration of LEA Declaration**

Sec. 4.

- (a) An alleged victim of an offense under section 1 of this chapter:
- (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;
  - (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and
  - (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:
    - (A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and
    - (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.
- This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.
- (b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.



## **Category 9: Civil Remedy**

### **IC 35-42-3.5-3 Civil cause of action for victim; limitation**

(a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs (including fees).

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

## **Category 10: Vacating Convictions for Sex Trafficking Victims**

None.

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If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at [policy@polarisproject.org](mailto:policy@polarisproject.org).