

South Carolina 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: 9

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 6 Posting of a Hotline; 8 Victim Assistance; and 9 Civil Remedy.

Categories Still Needed: 3(b) Investigative Tools; 7 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 16-3-2010. Definitions.

As used in this article:

- (1) 'Business' means a corporation, partnership, proprietorship, firm, enterprise, franchise, organization, or self-employed individual.
- (2) 'Charitable organization' means a charitable organization pursuant to Section 33-56-20.
- (3) 'Debt bondage' means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his 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 or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.
- (4) 'Forced labor' means any type of labor or services performed or provided by a person rendered through another person's coercion of the person providing the labor or services. This definition does not include labor or services performed or provided by a person in the custody of the Department of Corrections or a local jail, detention center, or correctional facility.
- (5) 'Involuntary servitude' means a condition of servitude induced through coercion.
- (6) 'Person' means an individual, corporation, partnership, charitable organization, or another legal entity.



(7) 'Sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person forced to perform the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by another person:

- (a) criminal sexual conduct pursuant to Section 16-3-651;
- (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
- (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
- (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
- (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
- (f) engaging a child for sexual performance pursuant to Section 16-3-810;
- (g) performance pursuant to Section 16-3-800;
- (h) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;
- (i) sexual battery pursuant to Section 16-3-661;
- (j) sexual conduct pursuant to Section 16-3-800; or
- (k) sexual performance pursuant to Section 16-3-800.

(8) 'Services' means an act committed at the behest of, under the supervision of, or for the benefit of another person.

(9) 'Trafficking in persons' means when a victim is subjected to or a person attempts to subject a victim to sex trafficking, forced labor or services, involuntary servitude, or debt bondage by employing one of the following:

- (a) physically restraining or threatening to physically restrain another person;
- (b) knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or another actual or purported government identification document, of the victim;
- (c) extortion or blackmail;
- (d) causing or threatening to cause financial harm to the victim;
- (e) facilitating or controlling a victim's access to a controlled substance; or
- (f) coercion.

(10) 'Victim of trafficking in persons' or 'victim' means a person who has been subjected to the crime of trafficking in persons.

§ 16-3-2020. Trafficking in Persons; penalties; defenses

(A) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.

(B) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, for the purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of trafficking in persons.

(C) For a first offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(D) For a second offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) For a third or subsequent offense, the person is guilty of a felony, and upon conviction, must be imprisoned not more than forty-five years.



(F) If the victim of an offense contained in this section is under the age of eighteen, an additional term of fifteen years may be imposed in addition and must be consecutive to the penalty prescribed for a violation of this section.

(G) A person who aids, abets, or conspires with another person to violate the criminal provisions of this section must be punished in the same manner as provided for the principal offender and is considered a trafficker.

(H) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

Category 2: Labor Trafficking Statute

Yes. See § 16-3-2020.

Category 3(a): Asset Forfeiture

§ 16-3-2090. Forfeiture

(A)(1) The following are subject to forfeiture:

- (a) all monies used, or intended for use, in violation of Section 16-3-2020;
- (b) all property constituting the proceeds obtained directly or indirectly, for a violation of Section 16-3-2020;
- (c) all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of Section 16-3-2020;
- (d) all property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of Section 16-3-2020;
- (e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of Section 16-3-2020;
- (f) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels, which are used or intended for use unlawfully to conceal or transport or facilitate a violation of Section 16-3-2020. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 16-3-2020;
- (g) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any kind of services under Section 16-3-2020, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange under Section 16-3-2020; and
- (h) overseas assets of persons convicted of trafficking in persons also are subject to forfeiture to the extent they can be retrieved by the government.

Category 3(b): Investigative Tools

None.

Category 4(a): Training for Law Enforcement

§ 16-3-2050. Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities.



(A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(E) The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

- (7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;

Category 4(b): Human Trafficking Task Force

§ 16-3-2050. Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities.

(A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(B) The task force shall consist of, at a minimum, representatives from:

- (1) the Office of the Attorney General, who must be chair;
- (2) the South Carolina Labor, Licensing and Regulation;
- (3) the South Carolina Police Chiefs Association;
- (4) the South Carolina Sheriffs' Association;
- (5) the State Law Enforcement Division;
- (6) the Department of Health and Environmental Control Board;
- (7) the United States Department of Labor;
- (8) the State Office of Victim Assistance;
- (9) the South Carolina Commission on Prosecution Coordination;
- (10) the Department of Social Services;
- (11) a representative from the Governor's office;
- (12) a representative from the Employment Security Commission; and
- (13) two persons appointed by the Attorney General from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.

(C) The Attorney General shall invite representatives of the United States Attorneys' offices and of federal law enforcement agencies' offices within the State, including the Federal Bureau of Investigations and the United States Immigration and Customs Enforcement office, to be members of the task force.

(D) The task force shall carry out the following activities either directly or through one or more of its constituent agencies:

- (1) develop the state plan within eighteen months of the effective date of this act;
- (2) coordinate the implementation of the state plan; and
- (3) starting one year after the formation after the task force, submit an annual report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before December thirty-first of each calendar year.



(E) The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

- (1) coordinate the collection and sharing of trafficking data among government agencies, which data collection must respect the privacy of victims of trafficking in persons;
- (2) coordinate the sharing of information between agencies for the purposes of detecting criminal groups engaged in trafficking in persons;
- (3) explore the establishment of state policies for time limits for the issuance of Law Enforcement Agency (LEA) endorsements as described in C.F.R. Chapter 8, Section 214.11(f)(1);
- (4) establish policies to enable state government to work with nongovernmental organizations and other elements of civil society to prevent trafficking in persons and provide assistance to United States citizens and foreign national victims;
- (5) review the existing services and facilities to meet trafficking victims' needs and recommend a system to coordinate services including, but not limited to, health services, including mental health, housing, education and job training, English as a second language classes, interpreting services, legal and immigration services, and victim compensation;
- (6) evaluate various approaches used by state and local governments to increase public awareness of the trafficking in persons, including United States citizens and foreign national victims of trafficking in persons;
- (7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;
- (8) collect and periodically publish statistical data on trafficking, that must be posted on the Attorney General's website;
- (9) prepare public awareness programs designed to educate potential victims of trafficking in persons and their families on the risks of victimization. These public awareness programs must include, but are not limited to:
 - (a) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV or AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;
 - (b) information about the risks of engaging in commercial sex and possible punishment;
 - (c) information about victims' rights in the State;
 - (d) methods for reporting suspected recruitment activities; and
 - (e) information on hotlines and available victims' services;
- (10) preparation and dissemination of awareness materials to the general public to educate the public on the extent of trafficking in persons, both United States citizens and foreign nationals, within the United States and to discourage the demand that fosters the exploitation of persons that leads to trafficking in persons.
 - (a) The general public awareness materials may include information on the impact of trafficking on individual victims, whether United States citizens or foreign nationals, aggregate information on trafficking in persons worldwide and domestically, and warnings of the criminal consequences of engaging in trafficking in persons. These materials may include pamphlets, brochures, posters, advertisements in mass media, and other appropriate media. All materials must be designed to communicate to the target population.
 - (b) Materials described in this section may include information on the impact of trafficking in persons on individual victims. However, information on the experiences of individual victims must preserve the privacy of the victim and the victim's family.
 - (c) All public awareness programs must be evaluated periodically by the task force to ensure their effectiveness.



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

Yes. See § 16-3-2010(7).

Category 6: Posting of a Human Trafficking Hotline

§ 16-3-2050. Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities.

(A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(E) The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

(9) prepare public awareness programs designed to educate potential victims of trafficking in persons and their families on the risks of victimization. These public awareness programs must include, but are not limited to:

- (a) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV or AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;
- (b) information about the risks of engaging in commercial sex and possible punishment;
- (c) information about victims' rights in the State;
- (d) methods for reporting suspected recruitment activities; and
- (e) information on hotlines and available victims' services;

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

§ 16-3-2050. Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities.

(A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(D) The task force shall carry out the following activities either directly or through one or more of its constituent agencies:



- (1) Develop the state plan within eighteen months of the effective date of this act;
- (2) Coordinate the implementation of the state plan;

§ 16-3-2070. Compensation for victims of trafficking; identity of victim and victim's family confidential.

(A) Victims of trafficking in persons pursuant to this article are considered victims for purposes of the Victims' Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the State Crime Victim's Compensation Fund in accordance with the provisions of Article 13, Chapter 3, Title 16. Victims of trafficking in persons pursuant to this article also are entitled to the rights provided in Article 15, Chapter 3, Title 16.

(B) In addition to the provisions of subsection (A), in a prosecution for violations of the criminal provisions of this article, the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.

(C) Pursuant to Section 16-3-1240, it is unlawful, except for purposes directly connected with the administration of the victim's compensation fund, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards without the written consent of the applicant or recipient. The records, papers, files, and communications of the board, its panel and the director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 3, Title 30.

§ 16-3-2080. Unlawful disclosure; trespassing notice; unlawful entrance or presence on grounds of domestic violence or trafficking shelter; exceptions; penalties.

(A) For purposes of this section:

(1) 'Domestic violence shelter' means a facility whose purpose is to serve as a shelter to receive and house persons who are victims of criminal domestic violence and that provides services as a shelter.

(2) 'Trafficking shelter' means a confidential location which provides emergency housing for victims of trafficking in persons.

(3) 'Grounds' means the real property of the parcel of land upon which a domestic violence or trafficking shelter or a domestic violence or trafficking shelter's administrative offices are located, whether fenced or unfenced.

(B) A person who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the location of a trafficking victim, a trafficking shelter, a domestic violence shelter, or another place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter, or domestic violence shelter, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(C) It is unlawful for a person who has been charged with or convicted of a violation of Section 16-3-2020 to enter or remain upon the grounds or structure of a domestic violence or trafficking shelter in which the victim resides or the domestic violence shelter's administrative offices or the trafficking shelter's administrative offices.

(D) The domestic violence shelter and trafficking shelter must post signs at conspicuous places on the grounds of the domestic violence shelter, trafficking shelter, the domestic violence shelter's administrative offices, and the trafficking shelter's administrative offices which, at a minimum, must read substantially as follows: 'NO TRESPASSING – VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES'.



(E) This section does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence or trafficking shelter or the domestic violence or trafficking shelter's administrative offices.

(F) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

Category 9: Civil Remedy

§ 16-3-2060. Civil action for victim of trafficking; statute of limitations.

(A) A person who is a victim of trafficking in persons may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney's fees and costs. Treble damages must be awarded on proof of actual damages when the defendant's acts were wilful and malicious.

(B) Pursuant to Section 16-3-1110, the applicable statute of limitations for a crime victim who has a cause of action against an incarcerated offender is tolled and does not expire until three years after the offender's sentence is completed, including probation and parole, or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the victim.

(C) The statute of limitations for the filing of a civil suit does not begin to run until a minor victim has reached the age of majority.

(D) If a victim entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(E) The running of the statute of limitations may be suspended when a victim could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(F) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the victim to delay the filing of the action or placing the victim under duress.

Category 10: Vacating Convictions

None.

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