

Maine 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 Two (yellow)

Total Points: 5

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; and 9 Civil Remedy.

Categories Still Needed: 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 6 Posting of a Hotline; 7 Safe Harbor for Minors; 8 Victim Assistance; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§852. Aggravated sex trafficking

1. A person is guilty of aggravated sex trafficking if the person knowingly:
 - A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution;
 - B. Promotes prostitution of a person less than 18 years old; or
 - C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.
2. As used in this section, "compelling" includes but is not limited to:
 - A. The use of a drug or intoxicating substance to render incapable of controlling that person's conduct or appreciating its nature;
 - B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug or alcohol-dependent person. A "drug or alcohol-dependent person" is one who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis.
 - C. Making material false statements, misstatements or omissions;



D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;

E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and

F. Using force or engaging in any scheme, play or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the action or another person will:

- (1) Cause physical injury or death to a person;
- (2) Cause damage to property, other than property of the actor;
- (3) Engage in other conduct constituting a Class A, B, or C crime or criminal restraining;
- (4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;
- (5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt, or ridicule;
- (6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;
- (7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or
- (8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety, or immigration status.

3. Aggravated sex trafficking is a Class B crime.

§853. Sex Trafficking

1. A person is guilty if:

A. The person knowingly promotes prostitution. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are any violation of this section or section 853-A, 853-B or 855 or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

Category 2: Labor Trafficking Statute

§301. Kidnapping

2. "Restrained" means to restrict substantially the movements of another person without the other person's consent or other lawful authority by:

A. Removing the other person from the other person's residence or place of business or from a school;

B. Moving the other person a substantial distance from the vicinity where the other person is found;



- C. Confining the other person for a substantial period either in the place where the restriction commences or in a place to which the other person has been moved;
- D. Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person; or
- E. Using any scheme, plan or pattern intended to cause the other person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint.

§302. Criminal restraint

1. A person is guilty of criminal restraint if:
 - A. Knowing the actor has no legal right to do so, the actor intentionally or knowingly takes, retains or entices another person who:
 - (1) Is less than 14 years of age. Violation of this subparagraph is a Class D crime;
 - (2) Is incompetent. Violation of this subparagraph is a Class D crime;
 - (3) Is either 14, 15 or 16 years of age from the custody of the other person's parent, guardian or other lawful custodian, with the intent to hold the other person permanently or for a prolonged period and the actor is at least 18 years of age. Violation of this subparagraph is a Class D crime; or
 - (4) Is in fact less than 8 years of age. Violation of this subparagraph is a Class C crime; or
 - B. The actor:
 - (1) Knowingly restrains another person. Violation of this subparagraph is a Class D crime; or
 - (2) Knowingly restrains another person who is in fact less than 8 years of age. Violation of this subparagraph is a Class C crime.

Category 3(a): Asset Forfeiture

§5821. Subject property

Except as provided in section 5821-A, the following are subject to forfeiture to the State and no property right may exist in them:

9. Assets in human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C.

Category 3(b): Investigative Tools

None.

Category 4(a): Training for Law Enforcement

None.

Category 4(b): Human Trafficking Task Force

None.



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

Yes. See §852(1)(b).

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

None.

Category 9: Civil Remedy

§ 4701. Remedies for human trafficking

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. “Trafficked person” means a victim of a human trafficking offense.

B. “Criminal proceeding” includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court.

C. “Human trafficking offense” means kidnapping or criminal restraint under Title 17-A, section 301 or 302 when the crime involves restraining a person by destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or using any scheme, plan or pattern intended to cause that person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint.

2. Civil action for damages, relief. A trafficked person may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

3. Statute of limitations. An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.

A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent.



- B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed.
 - C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:
 - (1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or
 - (2) Threats made by the defendant that caused duress to the plaintiff.
 - D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person.
4. Cause of action on trafficked person's behalf. A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

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.