

## **Mississippi 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:** 11

**Credited Categories:** 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 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; 9 Civil Remedy; and 10 Vacating Convictions.

**Categories Still Needed:** 7 Safe Harbor for Minors.

**Category By Category Break-Down:**

### **Category 1: Sex Trafficking Statute**

#### **§ 97-3-54.1. Human trafficking; offenses**

- (1) (a) A person who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services, or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of human-trafficking.
- (b) A person who knowingly purchases the forced labor or services of a trafficked person or who otherwise knowingly subjects, or attempts to subject, another person to forced labor or services or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of procuring involuntary servitude.
- (c) A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity, sexually-explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not less than five (5) nor more than thirty (30) years, or by a fine of not less than Fifty Thousand



Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a defense in a prosecution under this section that a minor consented to engage in the commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or that the defendant reasonably believed that the minor was eighteen (18) years of age or older.

(2) If the victim is not a minor, a person who is convicted of an offense set forth in subsection (1)(a) or (b) of this section, or who benefits, whether financially or by receiving anything of value, from participation in a venture that has engaged in an act described in this section, shall be committed to the custody of the Department of Corrections for not less than two (2) years nor more than twenty (20) years, or by a fine of not less than Ten Thousand Dollars (\$10,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), or both. If the victim of the offense is a minor, a person who is convicted of an offense set forth in subsection (1)(a) or (b) of this section shall be committed to the custody of the Department of Corrections for not less than five (5) years nor more than twenty (20) years, or by a fine of not less than Twenty Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), or both.

**§ 97-3-54.2. Human trafficking; prevention or restriction of liberty of victim; offense; penalty**

Anyone who knowingly destroys, conceals, removes, confiscates or possesses, or attempts to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other immigration document, or any other actual or purported government identification document of any person to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel in order to maintain the labor or services of that person, when the person is or has been a victim of a violation set out in Section 97-3-5.1, shall be punished by commitment to the custody of the Department of Corrections for not more than five (5) years.

**§ 97-3-54.3. Aiding or abetting human trafficking**

A person who knowingly aids, abets or conspires with one or more persons to violate Sections 97-3-54 through 97-3-54.4 shall be considered a principal in the offense and shall be indicted and punished as such whether the principal has been previously convicted or not.

**§ 97-3-54.4. Definitions relating to human trafficking**

For the purposes of Sections 2 through 6 of this act, the following words and phrases shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Actor" means a person who violates any of the provisions of this act.

(b) "Blackmail" means obtaining property or things of value of another by threatening to (i) inflict bodily injury on anyone; (ii) commit any other criminal offense; or (iii) expose any secret tending to subject any person to hatred, contempt or ridicule.

(c) "Commercial sexual activity" means any sex act on account of which anything of value is given to, promised to, or received by any person.

(d) "Financial harm" includes, but is not limited to, extortion as defined by Section 97-3-82, Mississippi Code of 1972, or violation of the usury law as defined by Title 75, Chapter 17, Mississippi Code of 1972.

(e) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor:

(i) Causing or threatening to cause serious harm to any person;

(ii) Physically restraining or threatening to physically restrain any person;

(iii) Abusing or threatening to abuse the law or legal process;



- (iv) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
- (v) Using blackmail;
- (vi) Causing or threatening to cause financial harm to any person; or
- (vii) Using any scheme, plan or pattern intended to cause any person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.
- (f) “Labor” means work of economic or financial value.
- (g) “Maintain” means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the trafficked person to perform such labor or service.
- (h) “Minor” means a person under the age of eighteen (18) years.
- (i) “Obtain” means, in relation to labor or services, to secure performance thereof.
- (j) “Services” means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor or a third party. Commercial sexual activity and sexually-explicit performances shall be considered services under Sections 97-3-54 through 97-3-54.4.
- (k) “Sexually-explicit performance” means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.
- (l) “Trafficked person” means a person subjected to the practices prohibited by this act and is a term used interchangeably with the terms “victim of trafficking” and “trafficking victim.”
- (m) “Venture” means any group of two (2) or more individuals associated in fact, whether or not a legal entity.
- (n) “Sexually oriented material” shall have the meaning ascribed in Section 97-5-27, Mississippi Code of 1972.

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

Yes. See § 97-3-54.1.

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

### **§97-3-54.7 Forfeiture of assets and disposition of proceeds.**

(1) In addition to any other civil or criminal penalties provided by law, any property used in the commission of a violation of this act shall be forfeited as provided herein.

(a) The following property shall be subject to forfeiture if used or intended for use as an instrumentality in or used in furtherance of a violation of this act:

- (i) Conveyances, including aircraft, vehicles or vessels;
- (ii) Books, records, telecommunication equipment, or computers;
- (iii) Money or weapons;
- (iv) Everything of value furnished, or intended to be furnished, in exchange for an act in violation and all proceeds traceable to the exchange;
- (v) Negotiable instruments and securities;
- (vi) Any property, real or personal, directly or indirectly acquired or received in a violation or as an inducement to violate;
- (vii) Any property traceable to proceeds from a violation; and
- (viii) Any real property, including any right, title and interest in the whole of or any part of any lot or tract of land used in furtherance of a violation of this act.



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

#### **§ 97-43-3.**

The following terms shall have the meanings ascribed to them herein unless the context requires otherwise:

(a) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit any crime which is chargeable under the following provisions of the Mississippi Code of 1972:

(10) Sections 97-29-49 \* \* \* and 97-29-51 \* \* \*, which relate to prostitution.

(11) Sections 97-5-5 and 97-5-31 through 97-5-37, which relate to the exploitation of children and enticing children for concealment, prostitution or marriage.

(16) Sections 97-3-54 et seq., which relate to human trafficking.

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

#### **§97-3-54.8**

(2) The monies in the Relief for Victims of Human Trafficking Fund shall be used by the Mississippi Attorney General's office solely for the administration of programs designed to assist victims of human trafficking, to conduct training on human trafficking to law enforcement, court personnel, attorneys, and nongovernmental service providers, and to support the duties of the statewide human trafficking coordinator as set forth in this act.

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

#### **§ 97-3-54.9. Statewide Human Trafficking Coordinator; duties**

(1) There is created the position of statewide human trafficking coordinator within the Attorney General's office. The duties of the coordinator shall be as follows:

(a) Coordinate the implementation of this act;

(b) Evaluate state efforts to combat human trafficking;

(c) Collect data on human trafficking activity within the state on an ongoing basis, including types of activities reported, efforts to combat human trafficking, and impact on victims and on the state;

(d) Exclude from publicly released portions of the data collected under subsection (1)(c) the identity of any victim and the victim's family;

(e) Promote public awareness about human trafficking, remedies and services for victims, and national hotline information;

(f) Create and maintain a website to publicize the coordinator's work;

(g) Submit to the Legislature an annual report of its evaluation under subsection (1)(b), including any recommendations, and summary of data collected under subsection (1)(c);

(h) Develop and implement rules and regulations pertaining to the use of the Relief for Victims of Human Trafficking Fund to support services for victims of human trafficking in Mississippi;

(i) Assist in the creation and operations of local human trafficking task forces or working groups around the state, including serving on a task force; and

(j) Conduct other activities, including, but not limited to, applying for grants to enhance investigation and prosecution of trafficking offenses or to improve victim services to combat human trafficking within this state which are appropriate.

(2) The coordinator shall be authorized to seek input and assistance from state agencies, nongovernmental agencies, service providers and other individuals in the performance of the foregoing duties.



- (3) Each state agency, board and commission shall be required to fully cooperate with the coordinator in the performance of the duties of that position.
- (4) Every investigation of an offense under this chapter shall be reported to the coordinator by the initiating law enforcement agency pursuant to guidelines established by the coordinator.
- (5) Notwithstanding the provisions of Section 43-21-261, disclosure by any state agency, nongovernmental agency, service provider or local or state law enforcement agency of nonidentifying information regarding a minor victim to the coordinator for the purposes of evaluating and collecting data regarding trafficking offenses in the state is specifically authorized.

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

Yes. See § 97-3-54.1 (1)(c).

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

#### **97-3-54.9. Statewide Human Trafficking Coordinator; duties.**

- (1) There is created the position of statewide human trafficking coordinator within the Attorney General's office. The duties of the coordinator shall be as follows:
  - (e) Promote public awareness about human trafficking, remedies and services for victims, and national hotline information;

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

\*Recognition for efforts, but no credit awarded.

### **§ 97-3-54.1. Human trafficking; offenses**

- (4) In addition to the mandatory reporting provisions contained in Section 97-5-51, any person who has reasonable cause to suspect a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Human Services and to the Statewide Human Trafficking Coordinator. The Department of Human Services shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse or neglect occurred as required in Section 43-21-353, and the department shall also commence an initial investigation into the suspected abuse or neglect as required in Section 43-21-353. A minor who has been identified as a victim of trafficking shall not be liable for criminal activity in violation of this section.

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

#### **97-3-54.8. Relief for Victims of Human Trafficking Fund.**

- (1) There is hereby created in the State Treasury a special fund to be known as the "Relief for Victims of Human Trafficking Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of:
  - (a) Monies appropriated by the Legislature;
  - (b) The interest accruing to the fund;
  - (c) Donations or grant funds received; and
  - (d) Monies received from such other sources as may be provided by law.



(2) The monies in the Relief for Victims of Human Trafficking Fund shall be used by the Mississippi Attorney General's office solely for the administration of programs designed to assist victims of human trafficking, to conduct training on human trafficking to law enforcement, court personnel, attorneys, and nongovernmental service providers, and to support the duties of the statewide human trafficking coordinator as set forth in this act.

### **Category 9: Civil Remedy**

#### **97-3-54.6. Injunctive and other relief for victims of trafficking; confidentiality**

(3) Any person who is injured by reason of any violation of the provisions of this chapter shall have a cause of action against any person or enterprise convicted of engaging in activity in violation of this chapter for threefold the actual damages sustained and, when appropriate, punitive damages. The person shall also recover attorney's fees in the trial and appellate courts and reasonable costs of investigation and litigation.

### **Category 10: Vacating Convictions**

#### **97-3-54.6. Injunctive and other relief for victims of trafficking; confidentiality**

(5) At any time after a conviction under this act, the court in which the conviction was entered may, upon appropriate motion, vacate the conviction if the court finds the defendant's participation in the offense was the result of being a victim. Official documentation from a federal, state or local government agency as to the defendant's status as a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a result of being a victim, but official documentation is not required to grant a motion under this subsection.

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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).