

Minnesota 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: 10

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; 6 Posting of a Hotline; 7 Safe Harbor for Minors; 8 Victim Assistance; and 9 Civil Remedy.

Categories Still Needed: 4(b) Human Trafficking Task Force and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

609.321 PROSTITUTION AND SEX TRAFFICKING; DEFINITIONS.

Subdivision 7.

7a. "Sex trafficking" means receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.

7b. "Sex trafficking victim" means a person subjected to the practices in subdivision 7a.

609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING.

Subdivision 1. Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.

(a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$50,000, or both:

- (1) solicits or induces an individual under the age of 18 years to practice prostitution;
- (2) promotes the prostitution of an individual under the age of 18 years;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
- (4) engages in the sex trafficking of an individual under the age of 18 years.



(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:

- (1) the offender has committed a prior qualified human trafficking-related offense;
- (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
- (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
- (4) the offense involved more than one sex trafficking victim.

Subd. 1a. Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.

Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000, or both:

- (1) solicits or induces an individual to practice prostitution;
- (2) promotes the prostitution of an individual;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or
- (4) engages in the sex trafficking of an individual.

Subd. 1b. Exceptions.

Subdivisions 1, paragraph (a), clause (3), and 1a, clause (3), do not apply to:

- (1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or
- (2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or
- (3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. Aggregation of cases.

Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

Category 2: Labor Trafficking Statute

609.281. Definitions

Subdivision 1. Generally.

As used in sections 609.281 to 609.284, the following terms have the meanings given.

Subd. 2. Blackmail.

"Blackmail" means a threat to expose any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule.

Subd. 3. Debt bondage.



"Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's 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.

Subd. 4. Forced labor or services.

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

- (1) threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer bodily harm or physical restraint;
- (2) physically restraining or threatening to physically restrain a person;
- (3) abuse or threatened abuse of the legal process;
- (4) 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; or
- (5) use of blackmail.

Subd. 5. Labor trafficking.

"Labor trafficking" means:

- (1) the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, for the purpose of:
 - (i) debt bondage or forced labor or services;
 - (ii) slavery or practices similar to slavery; or
 - (iii) the removal of organs through the use of coercion or intimidation; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

Subd. 6. Labor trafficking victim.

"Labor trafficking victim" means a person subjected to the practices in subdivision 5.

609.282 LABOR TRAFFICKING.

Subdivision 1. Individuals under age 18.

Whoever knowingly engages in the labor trafficking of an individual who is under the age of 18 is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both.

Subd. 2. Other offenses.

Whoever knowingly engages in the labor trafficking of another is guilty of a crime and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both.

Subd. 3. Consent or age of victim not a defense.

In a prosecution under this section the consent or age of the victim is not a defense.



Category 3(a): Asset Forfeiture

609.5315 DISPOSITION OF FORFEITED PROPERTY.

Subd. 5b. Disposition of certain forfeited proceeds; trafficking of persons; report required.

(a) For forfeitures resulting from violations of section 609.282, 609.283, or 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

- (1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;
- (2) 20 percent of the proceeds must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and
- (3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of public safety and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of trafficking offenses.

(b) By February 15 of each year, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house of representatives committees or divisions having jurisdiction over criminal justice funding on the money collected under paragraph (a), clause (3). The report must indicate the following relating to the preceding calendar year:

- (1) the amount of money appropriated to the commissioner;
- (2) how the money was distributed by the commissioner; and
- (3) what the organizations that received the money did with it.

Category 3(b): Investigative Tools

609.902 DEFINITIONS.

Subdivision 1. Definitions.

As used in sections 609.901 to 609.912, the following terms have the meanings given them.

Subd. 2. Criminal proceeding.

"Criminal proceeding" means a criminal proceeding begun under section 609.903.

Subd. 3. Enterprise.

"Enterprise" means a sole proprietorship, partnership, corporation, trust, or other legal entity, or a union, governmental entity, association, or group of persons, associated in fact although not a legal entity, and includes illicit as well as legitimate enterprises.

Subd. 4. Criminal act.

"Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.527, if the crime is punishable under subdivision 3, clause (4); 609.528, if the crime is punishable under subdivision 3, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 609.895; 624.713; 624.7191; or 626A.02, subdivision 1, if



the offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Subd. 5. Participation in a pattern of criminal activity.

A person "participates in a pattern of criminal activity" when the person is a principal with respect to conduct constituting at least three of the criminal acts included in the pattern and two of the acts constitute felonies other than conspiracy.

Subd. 6. Pattern of criminal activity.

"Pattern of criminal activity" means conduct constituting three or more criminal acts that:

- (1) were committed within ten years of the commencement of the criminal proceeding;
- (2) are neither isolated incidents, nor so closely related and connected in point of time or circumstance of commission as to constitute a single criminal offense; and
- (3) were either: (i) related to one another through a common scheme or plan or a shared criminal purpose or (ii) committed, solicited, requested, importuned, or intentionally aided by persons acting with the mental culpability required for the commission of the criminal acts and associated with or in an enterprise involved in those activities.

Subd. 7. Personal property.

"Personal property" includes personal property, an interest in personal property, or a right, including a bank account, debt, corporate stock, patent, or copyright. Personal property and a beneficial interest in personal property are deemed to be located where the trustee is, the personal property is, or the instrument evidencing the right is.

Subd. 8. Principal.

"Principal" means a person who personally engages in conduct constituting a violation or who is criminally liable under section 609.05 for the conduct of another constituting a violation.

Subd. 9. Prosecuting authority.

"Prosecuting authority" means the office of a county attorney or office of the attorney general.

Subd. 10. Real property.

"Real property" means any real property or an interest in real property, including a lease of, or mortgage on, real property. A beneficial interest in real property is deemed to be located where the real property is located.

609.903 RACKETEERING.

Subdivision 1. Crime.

A person is guilty of racketeering if the person:

- (1) is employed by or associated with an enterprise and intentionally conducts or participates in the affairs of the enterprise by participating in a pattern of criminal activity;
- (2) acquires or maintains an interest in or control of an enterprise, or an interest in real property, by participating in a pattern of criminal activity; or
- (3) participates in a pattern of criminal activity and knowingly invests any proceeds derived from that conduct, or any proceeds derived from the investment or use of those proceeds, in an enterprise or in real property.



Category 4(a): Training for Law Enforcement

299A.79 TRAFFICKING STUDY; ANALYSIS AND USE OF DATA.

Subdivision 1. Data analysis.

The commissioner shall analyze the data collected in section 299A.785 to develop a plan to address current trafficking and prevent future trafficking in this state. The commissioner may evaluate various approaches used by other state and local governments to address trafficking.

The plan must include, but not be limited to:

- (1) ways to train agencies, organizations, and officials involved in law enforcement, prosecution, and social services;
- (2) ways to increase public awareness of trafficking; and
- (3) procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

Subd. 2. Training plan.

The training plan required in subdivision 1 must include:

- (1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;
- (2) methods for prosecuting traffickers;
- (3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and
- (4) methods for promoting the safety of 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. See 609.322(a)(4).

Category 6: Posting of a Human Trafficking Hotline

299A.7957. Toll-free hotline for trafficking victims

(a) As used in this section, “trafficking victim” has the meaning given in section 299A.78, subdivision 1.

(b) The commissioner of public safety shall contract with a nonprofit organization that provides legal services to domestic and international trafficking victims to maintain a toll-free telephone hotline for trafficking victims. The hotline must be in place by January 1, 2007, and must be operated 24 hours a day, 365 days a year. The hotline must offer language interpreters for languages commonly spoken in Minnesota, including, but not limited to, Spanish, Vietnamese, Hmong, and Somali. At a minimum, the hotline must screen trafficking victims, both domestic and international, and provide appropriate referrals to attorneys and victims' services organizations.



Category 7: Safe Harbor

260C.007. Definitions

Subd. 31. Sexually exploited youth. "Sexually exploited youth" means an individual who:

- (1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;
- (2) is a victim of a crime described in section 609.342, 609.343, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;
- (3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or
- (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

260B.007 DEFINITIONS.

Subdivision 1.Scope.

As used in this chapter, the terms defined in this section have the same meanings given to them.

Subd. 2.Agency.

"Agency" means the local social services agency or a licensed child-placing agency.

Subd. 3.Child.

"Child" means an individual under 18 years of age and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to having become 18 years of age.

Subd. 4.Child-placing agency.

"Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

Subd. 5.Court.

"Court" means juvenile court unless otherwise specified in this section.

Subd. 6.Delinquent child.

(a) Except as otherwise provided in paragraphs (b) and (c), "delinquent child" means a child:

- (1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;
- (2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;
- (3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or
- (4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

(c) The term delinquent child does not include a child alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.



HF 3172 (2014)

Subd. 4. Safe harbor. underline end \$500,000 in fiscal year 2015 from the general fund is for housing and supportive services for sexually exploited youth.

145.4716 SAFE HARBOR FOR SEXUALLY EXPLOITED YOUTH.

Subdivision 1. Director.

The commissioner of health shall establish a position for a director of child sex trafficking prevention.

Subd. 2. Duties of director.

The director of child sex trafficking prevention is responsible for the following:

- (1) developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals;
- (2) collecting, organizing, maintaining, and disseminating information on sexual exploitation and services across the state, including maintaining a list of resources on the Department of Health Web site;
- (3) monitoring and applying for federal funding for anti-trafficking efforts that may benefit victims in the state;
- (4) managing grant programs established under sections 145.4716 to 145.4718;
- (5) managing the request for proposals for grants for comprehensive services, including trauma-informed, culturally specific services;
- (6) identifying best practices in serving sexually exploited youth, as defined in section 260C.007, subdivision 31;
- (7) providing oversight of and technical support to regional navigators pursuant to section 145.4717;
- (8) conducting a comprehensive evaluation of the statewide program for safe harbor of sexually exploited youth; and
- (9) developing a policy consistent with the requirements of chapter 13 for sharing data related to sexually exploited youth, as defined in section 260C.007, subdivision 31, among regional navigators and community-based advocates.

Category 8: Victim Assistance

299A.795 TRAFFICKING VICTIM ASSISTANCE.

The commissioner may review the existing services and facilities to meet trafficking victims' needs and recommend a plan that would coordinate the services including, but not limited to:

- (1) medical and mental health services;
- (2) housing;
- (3) education and job training;
- (4) English as a second language;
- (5) interpreting services;
- (6) legal and immigration services; and
- (7) victim compensation.

Category 9: Civil Remedy



§ 609.284. Labor or sex trafficking crimes; defenses; civil liability; corporate liability

Subdivision 1. Consent or age of victim not a defense. In an action under this section the consent or age of the victim is not a defense.

Subd. 2. Civil liability. A labor trafficking victim may bring a cause of action against a person who violates section 609.282 or 609.283. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.

Subd. 3. Corporate liability. If a corporation or other business enterprise is convicted of violating section 609.282, 609.283, or 609.322, in addition to the criminal penalties described in those sections and other damages provided elsewhere in law, the court may, when appropriate:

- (1) order its dissolution or reorganization;
- (2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or
- (3) order the surrender of its charter if it is organized under Minnesota law or the revocation of its certificate to conduct business in Minnesota if it is not organized under Minnesota law.

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.