

District of Columbia 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: 6

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; 8 Victim Assistance; 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 the National Hotline; 7 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 22-1831. Definitions

For the purposes of this chapter, the term:

- (1) "Abuse or threatened abuse of law or legal process" means the use or threatened use of law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, to exert pressure on another person to cause that person to take some action or refrain from taking some action.
- (2) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock, trust, and any legal entity through which business is conducted.
- (3) "Coercion" means any one of, or a combination of, the following:
 - (A) Force, threats of force, physical restraint, or threats of physical restraint;
 - (B) Serious harm or threats of serious harm;
 - (C) The abuse or threatened abuse of law or legal process;
 - (D) Fraud or deception;
 - (E) Any scheme, plan, or pattern intended to cause a person to believe that if that person did not perform labor or services, that person or another person would suffer serious harm or physical restraint;
 - (F) Facilitating or controlling a person's access to an addictive or controlled substance or restricting a person's access to prescription medication; or
 - (G) Knowingly participating in conduct with the intent to cause a person to believe that he or she is the property of a person or business and that would cause a reasonable



person in that person's circumstances to believe that he or she is the property of a person or business.

(4) "Commercial sex act" means any sexual act or sexual contact on account of which or for which anything of value is given to, promised to, or received by any person. The term "commercial sex act" includes a violation of § 22-2701 et seq.; § 22-2704; § 22-2705 et seq.; § 22-2713 et seq.; and § 22-2722.

(5) "Debt bondage" means the status or condition of a person who provides labor, services, or commercial sex acts, for a real or alleged debt, where:

(A) The value of the labor, services, or commercial sex acts, as reasonably assessed, is not applied toward the liquidation of the debt;

(B) The length and nature of the labor, services, or commercial sex acts are not respectively limited and defined; or

(C) The amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(6) "Labor" means work that has economic or financial value.

(7) "Serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue to perform labor, services, or commercial sex acts to avoid incurring that harm.

(8) "Services" means legal or illegal duties or work done for another, whether or not compensated.

(9) "Sexual act" shall have the same meaning as provided in § 22-3001(8).

(10) "Sexual contact" shall have the same meaning as provided in § 22-3001(9).

(11) "Venture" means any group of 2 or more individuals associated in fact, whether or not a legal entity.

§ 22-1833. Trafficking in labor or commercial sex acts

It is unlawful for an individual or a business to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person, knowing, or in reckless disregard of the fact that:

(1) Coercion will be used or is being used to cause the person to provide labor or services or to engage in a commercial sex act; or

(2) The person is being placed or will be placed or kept in debt bondage.

Category 2: Labor Trafficking Statute

§ 22-1832. Forced labor

(a) It is unlawful for an individual or a business knowingly to use coercion to cause a person to provide labor or services.

(b) It is unlawful for an individual or a business knowingly to place or keep any person in debt bondage.

Category 3(a): Asset Forfeiture

§ 22-1838. Forfeiture

(a) In imposing sentence on any individual or business convicted of a violation of this chapter, the court shall order, in addition to any sentence imposed, that the individual or business shall forfeit to the District of Columbia:

(1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and



- (2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation.
- (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them:
 - (1) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.
 - (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

Category 3(b): Investigative Tools

None.

Category 4(a): Training for Law Enforcement

None.

Category 4(b): Human Trafficking Task Force

None.

Category 5: Lower Burden of Proof for Sex Trafficking of Minors

§ 22-1834. Sex trafficking of children.

- (a) It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.
- (b) In a prosecution under subsection (a) of this section in which the defendant had a reasonable opportunity to observe the person recruited, enticed, harbored, transported, provided, obtained, or maintained, the government need not prove that the defendant knew that the person had not attained the age of 18 years.

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor; Protecting Sex Trafficked Minors

None.

Category 8: Victim Assistance

§ 14-311. Human trafficking counselors.

- (a) For the purposes of this section, the term:
 - (1) “Confidential communication” means information exchanged between a victim and a human trafficking counselor during the course of the counselor providing counseling, support, and assistance to a victim, including all records kept by the counselor and the human trafficking program concerning the victim and services provided to the victim.



- (2) “Human trafficking counselor” means an employee, contractor, or volunteer of a human trafficking program who:
 - (A) Is rendering support, counseling, or assistance to a victim;
 - (B) Has undergone not less than 40 hours of human trafficking counselor training conducted by a human trafficking program that includes dynamics of human trafficking, trauma resulting from human trafficking, crisis intervention, personal safety, risk management, criminal and civil court processes, and resources available to victims; and
 - (C)(i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or
 - (ii) Is or is under the supervision of a person who has a minimum of 5 years of experience rendering support, counseling, or assistance to persons against whom severe emotional abuse or a criminal offense has been committed or is alleged to have been committed, of which at least 2 years of experience involves human trafficking victims.
- (3) “Human trafficking offense” means abducting or enticing a child from his or her home for purposes of prostitution (§ 22-2704); harboring such child (§ 22-2704); pandering (§ 22-2705); inducing or compelling an individual to engage in prostitution (§ 22-2705); compelling an individual to live life of prostitution against his or her will (§ 22-2706); causing spouse to live in prostitution (§ 22-2708); sexual performance using minors (§ 22-3102); forced labor as prohibited by [§ 22-1832]; trafficking in labor or commercial sex as prohibited by [§ 22-1833]; sex trafficking of children as prohibited by [§ 22-1834]; unlawful conduct with respect to documents in furtherance of human trafficking as prohibited by [22-1835]; or benefitting financially from human trafficking, as prohibited by [§ 22-1836].
- (4) “Human trafficking program” means a nonprofit, non-governmental organization that supports, counsels, and assists victims of human trafficking.
- (5) “Intrafamily offense” shall have the same meaning as provided in § 16-1001(8).
- (6) “Victim” means a person against whom a human trafficking offense has been committed or is alleged to have been committed.
- (b)(1) A human trafficking counselor shall not disclose a confidential communication except:
 - (A) As required by statute or by a court of law;
 - (B) As voluntarily authorized in writing by the victim;
 - (C) To other individuals employed at the human trafficking program and third party providers when and to the extent necessary to facilitate the delivery of services to the victim;
 - (D) To the Metropolitan Police Department or other law enforcement agency to the extent necessary to protect the victim or another individual from a substantial risk of imminent and serious physical injury or kidnapping;
 - (E) To compile statistical or anecdotal information, without personal identifying information, for research or public information purposes; or
 - (F) For any confidential communications relevant to a claim or defense if the victim files a lawsuit against a human trafficking counselor or a human trafficking program.
- (2) Unless the disclosure is public, confidential communications disclosed pursuant to paragraph (1) of this subsection shall not be further disclosed by the recipient except as authorized in paragraph (1) of this subsection.
- (3) Confidential communications are not waived by the presence of a sign language or foreign language interpreter. Such an interpreter is subject to the same disclosure



- limitations set forth in paragraph (1) of this subsection and the same privilege set forth in subsection (c) of this section.
- (c) (1) Except as provided in paragraph (2) of this subsection, when a victim is under 12 years of age, has been adjudicated incompetent by a court of competent jurisdiction for the purpose of asserting or waiving the privilege established by this section, or is deceased, the victim's parent, guardian, or personal representative may assert or waive the privilege.
- (2) If the parent, guardian, or personal representative of a victim described in paragraph (1) of this subsection has been charged with an intrafamily offense or has had a protection order or a neglect petition entered against him or her at the request of or on behalf of the victim, or otherwise has interests adverse to those of the victim with respect to the assertion or waiver of the privilege, the court shall appoint an attorney for purposes of asserting or waiving the privilege.
- (d) The assertion of any privilege under this section is not admissible in evidence.

Category 9: Access to Civil Damages

§ 22-1840. Civil action.

- (a) An individual who is a victim of an offense prohibited by § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836 may bring a civil action in the Superior Court of the District of Columbia. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where a defendant's acts were willful and malicious.
- (b) Any statute of limitation imposed for the filing of a civil suit under this section shall not begin to run until the plaintiff knew, or reasonably should have known, of any act constituting a violation of § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836, or until a minor plaintiff has reached the age of majority, whichever is later.
- (c) If a person entitled to sue is imprisoned, insane, or similarly incapacitated at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the incapacity is not part of the time limited for the commencement of the action.
- (d) 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 plaintiff to delay the filing of the action.

Category 10: Vacating Convictions for Sex Trafficking Victims

None.

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