

Missouri 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: 7

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 4(a) Training for Law Enforcement; 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(b) Human Trafficking Task Force; 6 Posting of a Hotline; 7 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 566.200. Definitions

As used in sections 566.200 to 566.221, the following terms shall mean:

- (1) “Basic rights information”, information applicable to a noncitizen, including but not limited to information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;
- (2) “Blackmail”, any threat to reveal damaging or embarrassing information about a person to that person's spouse, family, associates, or the public at large, including a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;
- (3) “Client”, a person who is a resident of the United States and the State of Missouri and who contracts with an international marriage broker to meet recruits;
- (4) “Coercion”:
 - (a) Threats of serious harm to or physical restraint against any person;
 - (b) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;
 - or
 - (c) The abuse or threatened abuse of the legal process;
- (5) “Commercial sex act”, any sex act on account of which anything of value is given to, promised, or received by any person;
- (6) “Criminal history record information”, criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;



(7) “Financial harm”, detriment, injury, or loss of a financial nature, including credit extortion, criminal violation of the usury laws under chapter 408, or employment contracts that violate the statute of frauds provisions under chapter 432;

(8) “International marriage broker”:

(a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and nonresident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:

a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or

b. Providing an opportunity for an in-person meeting;

(b) Such term shall not include:

a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;

b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or

c. An organization that does not charge a fee to any party for the services provided;

(9) “Involuntary servitude or forced labor”, a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer serious physical injury or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

(10) “Marital history information”, a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;

(11) “Nudity”, the showing of the human male or female genitals, pubic area, vulva, anus, or any part of the nipple or areola of the female breast;

(12) “Peonage”, illegal and involuntary servitude in satisfaction of debt;

(13) “Recruit”, a noncitizen, nonresident recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services;

(14) “Sexual conduct”, sexual intercourse as defined in section 566.010; deviate sexual intercourse as defined in section 566.010; actual or simulated acts of human masturbation; physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(15) “Sexual performance”, any play, motion picture, still picture, film, videotape, video recording, dance, or exhibition which includes sexual conduct or nudity, performed before an audience of one or more, whether in person or online or through other forms of telecommunication;

(16) “Victim of trafficking”, a person who is a victim of offenses under section 566.203, 566.206, 566.209, 566.212, or 566.213.



§ 566.209. Trafficking for the purpose of sexual exploitation--penalty

1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section 573.010, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.
2. The crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred and fifty thousand dollars.

Category 2: Labor Trafficking Statute

§ 566.203. Abusing an individual through forced labor--penalty.

1. A person commits the crime of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:
 - (1) By threats of serious harm or physical restraint against such person or another person;
 - (2) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer substantial bodily harm or physical restraint; or
 - (3) By means of the abuse or threatened abuse of the law or the legal process.
2. A person who pleads guilty to or is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.
3. The crime of abuse through forced labor is a class B felony.

§ 566.206. Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor--penalty.

1. A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, harbors, transports, provides, or obtains by any means another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor.
2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.
3. The crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a class B felony.



Category 3(a): Asset Forfeiture

§ 513.607. Property subject to forfeiture--procedure--report required, when, contents--annual state auditor's report, contents--violations, penalty.

1. All property of every kind, including cash or other negotiable instruments, used or intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture. Civil forfeiture shall be had by a civil procedure known as a CAFA forfeiture proceeding.
2. A CAFA forfeiture proceeding shall be governed by the Missouri rules of court, rules of civil procedure, except to the extent that special rules of procedure are stated herein.
3. Any property seized by a law enforcement officer or agent shall not be disposed of pursuant to section 542.301 or by the uniform disposition of unclaimed property act, sections 447.500 through 447.595, unless the CAFA proceeding involving the seized property does not result in a judgment of forfeiture.
4. In cases where the property is abandoned or unclaimed, an in rem CAFA forfeiture proceeding may be instituted by petition by the prosecuting attorney of the county in which the property is located or seized by the attorney general's office. The proceeding may be commenced before or after seizure of the property.
5. In lieu of, or in addition to, an in rem proceeding under subsection 4 of this section, the prosecuting attorney or attorney general may bring an in personam action for the forfeiture of property, which may be commenced by petition before or after the seizure of property.
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(1) If the petition is filed before seizure, it shall state what property is sought to be forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all persons known to have or claim an interest in the property. The court shall determine ex parte whether there is reasonable cause to believe that the property is subject to forfeiture and that notice to those persons having or claiming an interest in the property prior to seizure would cause the loss or destruction of the property. If the court finds that reasonable cause does not exist to believe the property is subject to forfeiture, it shall dismiss the proceeding. If the court finds that reasonable cause does exist to believe the property is subject to forfeiture but there is not reasonable cause to believe that prior notice would result in loss or destruction, it shall order service on all persons known to have or claim an interest in the property prior to a further hearing on whether a writ of seizure should issue. If the court finds that there is reasonable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction, it shall without any further hearing or notice issue a writ of seizure directing the sheriff of the county or other authorized law enforcement agency where the property is found to seize it.

(2) Seizure may be effected by a law enforcement officer authorized to enforce the criminal laws of this state prior to the filing of the petition and without a writ of seizure if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within four days of the date of seizure, such seizure shall be reported by said officer to the prosecuting attorney of the county in which the seizure is effected or the attorney general; and if in the opinion of the prosecuting attorney or attorney general forfeiture is warranted, the prosecuting attorney or attorney general shall, within ten days after receiving notice of seizure, file a petition for forfeiture. The petition shall state, in addition to the information required in subdivision (1) of this subsection, the date and place of seizure. The burden of proof will be on the investigative agency to prove all allegations contained in the petition.



7. After the petition is filed or the seizure effected, whichever is later, every person known to have or claim an interest in the property shall be served, if not previously served, with a copy of the petition and a notice of seizure in the manner provided by the Missouri rules of court and rules of civil procedure. Service by publication may be ordered upon any party whose whereabouts cannot be determined or if there be unknown parties.

8. The prosecuting attorney or attorney general to whom the seizure is reported shall report annually by January thirty-first for the previous calendar year all seizures. Such report shall include the date, time, and place of seizure, the property seized, the estimated value of the property seized, the person or persons from whom the property was seized, the criminal charges filed, and the disposition of the seizure, forfeiture and criminal actions. The report shall be made to the director of the Missouri department of public safety and shall be considered an open record. The prosecuting attorney or attorney general shall submit a copy of the report to the state auditor at the time the report is made to the director of the department of public safety.

9. The state auditor shall make an annual report compiling the data received from law enforcement, prosecuting attorneys and the attorney general, and shall submit the report regarding seizures for the previous calendar year to the general assembly annually by February twenty-eighth.

10. Intentional or knowing failure to comply with any reporting requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.

Category 3(b): Investigative Tools

None.

Category 4(a): Training for Law Enforcement

§ 566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when--affirmative defense--procedures to identify victims, training on protocols.

3. The department of public safety is authorized to establish procedures for identifying victims of trafficking under sections 566.200 to 566.223. The department may establish training programs as well as standard protocols for appropriate agencies to educate officials and employees on state statutes and federal laws regulating human trafficking and with the identification and assistance of victims of human trafficking. Such agencies may include but not be limited to state employees and contractors, including the children's division of the department of social services, juvenile courts, state law enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

Category 4(b): Human Trafficking Task Force

None.

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

§ 566.212. Sexual trafficking of a child--penalty

1. A person commits the crime of sexual trafficking of a child if the individual knowingly:
 - (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production



of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. Sexual trafficking of a child is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

§ 566.213. Sexual trafficking of a child under age twelve--affirmative defense not allowed, when--penalty

1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of twelve to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

§ 566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when--affirmative defense--procedures to identify victims, training on protocols

1. Any individual who is alleging that a violation of sections 566.200 to 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.



2. It is an affirmative defense for the offense of prostitution under section 567.020 that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself or herself or a third person, which force or threatened force a person of reasonable firmness in his or her situation would have been unable to resist.

3. The department of public safety is authorized to establish procedures for identifying victims of trafficking under sections 566.200 to 566.223. The department may establish training programs as well as standard protocols for appropriate agencies to educate officials and employees on state statutes and federal laws regulating human trafficking and with the identification and assistance of victims of human trafficking. Such agencies may include but not be limited to state employees and contractors, including the children's division of the department of social services, juvenile courts, state law enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

4. As soon as possible after a first encounter with a person who reasonably appears to a law enforcement agency to be a victim of trafficking as defined in section 566.200, that agency or office shall notify the department of social services and, where applicable, juvenile justice authorities that the person may be a victim of trafficking, in order that such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance.

5. The department of social services may coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking. State agencies may implement programs and enter into contracts with nonprofit agencies, domestic and sexual violence shelters, and other nongovernment organizations to provide services to confirmed victims of trafficking, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, alcohol and drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training, and placement assistance.

Category 9: Civil Remedy

§ 566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when--affirmative defense--procedures to identify victims, training on protocols

6. A victim of trafficking may bring a civil action against a person or persons who plead guilty to or are found guilty of a violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, to recover the actual damages sustained by the victim, court costs, including reasonable attorney's fees, and punitive damages, when determined to be appropriate by the court. Any action commenced under this section shall be filed within ten years after the later of:

- (1) The final order in the related criminal case;
- (2) The victim's emancipation from the defendant; or
- (3) The victim's eighteenth birthday.

7. The attorney general may bring a civil action, in the circuit court in which the victim of trafficking was found, to recover from any person or entity that benefits, financially or by receiving anything of value, from violations of section 566.203, 566.206, 566.209, 566.212, or 566.213, a civil penalty of not more than fifty thousand dollars for each violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and injunctive and other equitable relief as the court may, in its discretion, order. The first priority of any money or property collected under such an action shall be to pay restitution to the victims of trafficking on whose behalf the civil action was brought.



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.