

Colorado 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.

Recognition: Most Improved in 2014

Rating: Tier One (green)

Total Points: 8

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 Sex Trafficking of Minors; and 9 Civil Remedy.

Categories Still Needed: 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

HB 14-1273 (2014)

§18-3-501 Legislative declaration.

(1) Hereby finds and declares that:

- (a) Human trafficking constitutes a serious problem in Colorado and across the nation;
- (b) Human trafficking is abhorrent to a civilized society and deserving of the most diligent response from the state;
- (c) Human trafficking often involves minors who have been forced into involuntary servitude and commercial sexual activity;
- (d) Human trafficking can take many forms but generally includes the use of physical abuse, threats of harm, or fear of other consequences to prevent victims from reporting the activity; and
- (e) Human trafficking creates a cycle of violence, impacting victims, families, and communities.

(2) The general assembly further finds and declares that:

- (a) Legislation is required to combat this despicable practice, to make it easier to prosecute and punish persons who engage in human trafficking, and to protect the victims; and



(b) The general assembly supports a comprehensive approach to combating human trafficking, which approach includes prevention, protection, prosecution, and partnerships.

(3) Now, therefore, the general assembly joins the federal government and other states around the nation in passing legislation in order to combat human trafficking and protect the victims.

§18-3-502. Definitions

(1) "Adult" means a person eighteen years of age or older.

(2) "Coercing" means inducing a person to act or to refrain from acting, if the inducement is accomplished by any one or more of the following means:

(a) The use or threat of the use of force against, abduction of, causing of serious harm to, or physical restraint of a person;

(b) The use of a plan, pattern, or statement for the purpose of causing the person to believe that failure to perform the act or failure to refrain from performing the act will result in the use of force against, abduction of, causing of serious harm to, or physical restraint of that person or another person;

(c) Using or threatening to use the law or the legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed;

(d) Threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws;

(e) The destruction or taking, or a threat to destroy or take, a person's identification document or other property;

(f) Controlling or threatening to control a person's access to a controlled substance, as defined in section 18-18-102 (5);

(g) The use of debt bondage; or

(h) The exploitation of a person's physical or mental impairment, where such impairment has a substantial adverse effect on the person's cognitive or volitional functions.

(3) "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) "Debt-bondage" means:

(a) Demanding commercial sexual activity as payment toward or satisfaction of a real or purported debt; or

(b) Demanding labor or services as payment toward or satisfaction of a real or purported debt and failing to apply the reasonable value of the labor or services toward the liquidation of the debt; or

(c) Demanding labor or services where the length of the labor or services is not limited and the nature of the labor or services is not defined.

(5) "Identification document" means a real or purported passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(6) "Maintain" means to provide sustenance or care for a minor and includes but is not limited to providing shelter, food, clothing, drugs, medical care, or communication services.

(7) "Makes available" means to facilitate contact between a minor and another person.

(8) "Minor" means a person less than eighteen years of age.

(9) "Person" has the same meaning as set forth in section 2-4-401 (8), C.R.S.

(10) "Serious harm" means bodily injury or any other harm, whether physical or nonphysical, including psychological, financial, or reputational harm, which is sufficiently serious, under all



the surrounding circumstances, to compel a reasonable person to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(11) "Sexual activity" means:

- (a) Sexual contact, as defined in section 18-3-401 (4);
- (b) Sexual intrusion, as defined in section 18-3-401 (5);
- (c) Sexual penetration, as defined in section 18-3-401 (6);
- (d) Sexual exploitation of a child, pursuant to section 18-6-403 (3) (a) and (3) (d); or
- (e) An obscene performance, as defined in section 18-7-101.

(12) "Victim" means a person who is alleged to have been, or who has been, subjected to human trafficking, as described in section 18-3-503 or section 18-3-504.

§18-3-504. Human trafficking for sexual servitude – human trafficking of a minor for sexual servitude.

(1) (a) A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, or obtains by any means another person for the purpose of coercing the person to engage in commercial sexual activity commits human trafficking for sexual servitude.

(b) Human trafficking for sexual servitude is a class 3 felony.

(2) (a) A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity commits human trafficking of a minor for sexual servitude.

(b) Human trafficking of a minor for sexual servitude is a class 2 felony.

(c) In any prosecution under this subsection (2), it is not a defense that:

- (i) The minor consented to being sold, recruited, harbored, transported, transferred, isolated, enticed, provided, received, obtained, or maintained by the defendant for the purpose of engaging in commercial sexual activity;
- (ii) The minor consented to participating in commercial sexual activity;
- (iii) The defendant did not know the minor's age or reasonably believed the minor to be eighteen years of age or older; or
- (iv) The minor or another person represented the minor to be eighteen years of age or older.

(3) A person does not need to receive any of the proceeds of any commercial sexual activity to commit an offense described in this section.

(4) Conviction for an offense described in this section does not preclude conviction for an offense described in article 6 or 7 of this title based in whole or in part on the same or related conduct, and the court shall not require the prosecution to elect at trial between such offenses.

Category 2: Labor Trafficking Statute

HB 14-1273 (2014)

§18-3-503. Human trafficking for involuntary servitude—human trafficking of a minor for involuntary servitude.

(1) A person who knowingly sells, recruits, harbors, transports, isolates, entices, provides, receives, or obtains by any means another person for the purpose of coercing the other person to perform labor or services commits human trafficking for involuntary servitude.



(2) Human trafficking for involuntary servitude is a class 3 felony; except that human trafficking of a minor for involuntary servitude is a class 2 felony.

Category 3(a): Asset Forfeiture

§16-13-303. Class 1 public nuisance

(1) Every building or part of a building including the ground upon which it is situated and all fixtures and contents thereof, every vehicle, and any real property shall be deemed a class 1 public nuisance when:

(a) Used as a public or private place of prostitution or used as a place where the commission of soliciting for prostitution, as defined in section 18-7-202, C.R.S., pandering, as defined in section 18-7-203, C.R.S., keeping a place of prostitution, as defined in section 18-7-204, C.R.S., pimping, as defined in section 18-7-206, C.R.S.; human trafficking as described in section 18-3-503 or 18-3-504, C.R.S.; occurs;

Category 3(b): Investigative Tools

§ 18-17-103. Definitions: (Colorado Organized Crime Control Act): 18-3-501-503(5)(I)(V)(VI)

(5) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(I) Offenses against the person, as defined in sections 18-3-102 (first degree murder), 18-3-103 (second degree murder), 18-3-104 (manslaughter), 18-3-202 (first degree assault), 18-3-203 (second degree assault), 18-3-204 (third degree assault), 18-3-206 (menacing), 18-3-207 (criminal extortion), 18-3-301 (first degree kidnapping), 18-3-302 (second degree kidnapping), 18-3-503 (human trafficking for involuntary servitude), and 18-3-504 (human trafficking for sexual servitude);

(V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children);

(VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child);

Category 4(a): Training for Law Enforcement

HB 14-1273 (2014)

18-3-505. Human trafficking council—created—duties—repeal.

(1)(a) There is created in the department of public safety the Colorado human trafficking council, referred to within this section as the “council”. The purpose of the council is to bring together leadership from community-based and statewide anti-trafficking efforts, to build and enhance collaboration among communities and counties within the state, to establish and improve comprehensive services for victims and survivors of human trafficking, to assist in the successful prosecution of human traffickers, and to help prevent human trafficking in Colorado.

(4) The council shall hold its first meeting on or before November 1, 2014, at a time and place to be designated by the executive director of the department of public safety, or by his or her



designee. The council shall meet at least four times each year and shall carry out the following duties:

(e) Develop training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies;

Category 4(b): Human Trafficking Task Force

§18-3-505. Human trafficking council - created - duties - repeal.

(1) (a) There is created in the department of public safety the Colorado human trafficking council, referred to within this section as the "council". The purpose of the council is to bring together leadership from community-based and statewide anti-trafficking efforts, to build and enhance collaboration among communities and counties within the state, to establish and improve comprehensive services for victims and survivors of human trafficking, to assist in the successful prosecution of human traffickers, and to help prevent human trafficking in Colorado.

(b) The membership of the council shall reflect, to the extent possible, representation of urban and rural areas of the state and a balance of expertise, both governmental and non-governmental, in issues relating to human trafficking. The council shall include members with expertise in child welfare and human services to address the unique needs of child victims, including those child victims who are involved in the child welfare system. The membership of the council shall consist of the following persons, who shall be appointed as follows:

- (i) Two representatives from the department of human services, each to be appointed by the executive director of the department of human services;
- (ii) A representative of the department of law, to be appointed by the attorney general;
- (iii) A representative of the state department of labor and employment, to be appointed by the executive director of the department of labor and employment;
- (iv) A representative of the division of the Colorado state patrol that addresses human smuggling and human trafficking pursuant to section 24-33.5-211, C.R.S., to be appointed by the executive director of the Department of Public Safety;
- (v) A representative of a statewide association of police chiefs, to be appointed by the governor or his or her designee;
- (vi) A representative of a statewide association of county sheriffs, to be appointed by the governor or his or her designee;
- (vii) A representative of a statewide coalition for victims of sexual assault, to be appointed by the governor or his or her designee;
- (viii) A representative of a statewide organization that provides services to crime victims, to be appointed by the governor or his or her designee;
- (ix) A representative of a statewide immigrant rights organization, to be appointed by the governor or his or her designee;
- (x) A representative of a statewide organization of district attorneys, to be appointed by the governor or his or her designee;
- (xi) A representative of a statewide organization of criminal defense attorneys, to be appointed by the governor or his or her designee;
- (xii) At least three but not more than five persons, each representing a regional or city-wide human trafficking task force or coalition, each to be appointed by the governor or his or her designee;



(xiii) A representative of a nonprofit organization that facilitates the treatment or housing of human trafficking victims, to be appointed by the governor or his or her designee;

(xiv) A representative of a college or university department that conducts research on human trafficking, to be appointed by the governor or his or her designee;

(xv) A representative of a statewide organization that provides legal advocacy to abused, neglected, and at-risk children, to be appointed by the governor or his or her designee;

(xvi) Two representatives of organizations that provide direct services to victims of human trafficking, to be appointed by the governor or his or her designee;

(xvii) One representative of a faith-based organization that assists victims of human trafficking, to be appointed by the governor or his or her designee;

(xviii) Two persons, each of whom is a director of a county department of social services, one from an urban county and the other from a rural county, each to be appointed by the governor or his or her designee;

(xix) One person who provides child welfare services for a county department of social services, to be appointed by the governor or his or her designee;

(xx) Two persons who are former victims of human trafficking, one who is a former victim of human trafficking for involuntary servitude and one who is a former victim of human trafficking for sexual servitude, each to be appointed by the governor or his or her designee;

(xxi) A representative of a child advocacy center; and

(xxii) One person to be appointed by the commissioner of agriculture.

(2) Each appointing authority described in subsection (1) of this section shall make his or her appointments to the council on or before August 1, 2014. The members of the council shall elect presiding officers for the council, including a chair and vice-chair, from among the council members appointed pursuant to subsection (1) of this section, which presiding officers shall serve terms of two years. Council members may reelect a presiding officer.

(3) Each member of the council shall serve at the pleasure of his or her appointing authority for a term of four years. The appointing authority may reappoint the member for an additional term or terms. Members of the council shall serve without compensation.

(4) The council shall hold its first meeting on or before November 1, 2014, at a time and place to be designated by the executive director of the department of public safety, or by his or her designee. The council shall meet at least four times each year and shall carry out the following duties:

(a) On or before January 1, 2016, make recommendations to the judiciary committees of the house of representatives and senate, or any successor committees, concerning:

(i) Whether the general assembly should establish standards and a process for the certification of organizations that provide services to victims of human trafficking; and

(ii) Whether the general assembly should establish a grant program to which organizations that provide services to victims of human trafficking may apply for grants, including consideration of how such a grant program may be funded;

(b) On or before January 1, 2017, and on or before January 17 of each year thereafter, submit a report to the judiciary committees of the house of representatives and senate, or any successor committees, summarizing the activities of the council during the preceding year.

(c) Consider and make, as it deems necessary, recommendations to the judiciary committees of the house of representatives and senate, or to any successor committees,



concerning any statutory changes that the council deems necessary to facilitate the prosecution and punishment of persons who engage in, and to protect the victims of, human trafficking;

(d) Develop an implementation plan for a public awareness campaign to educate the public about human trafficking and place victims services contact information in places where victims of human trafficking are likely to see it;

(e) Develop training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies;

(f) Identify best practices for the prevention of human trafficking, particularly for the prevention of child sex trafficking;

(g) Collect data relating to the prevalence of, and the efforts of law enforcement to combat, human trafficking in Colorado. The council shall annually report the data to the judiciary committees of the house of representatives and senate, or to any successor committees; and

(h) Research and pursue funding opportunities for the council.

(5) The Department of Public Safety is authorized to accept and expend gifts, grants, and donations for the purpose of assisting the council in fulfilling its duties pursuant to this section.

(6) This section is repealed, effective September 1, 2019. Before repeal, the Department of Regulatory Agencies shall review the council pursuant to section 2-3-1203, C.R.S.

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

Yes. See §18-3-504.

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

None.

Category 9: Civil Remedy

HB 14-1273 (2014)

§13-21-127. Civil damages for human trafficking and involuntary servitude.

(1) In addition to all other remedies, a victim, as defined in section 18-3-502(12), C.R.S., is entitled to recover damages proximately caused by any person who commits human trafficking for involuntary servitude, as described in section 18-3-503, C.R.S., or human trafficking for sexual servitude, as described in section 18-3-504, C.R.S.

(2) A conviction for human trafficking for involuntary servitude, as described in section 18-3-503, C.R.S., or human trafficking for sexual servitude, as described in section 18-3-504, C.R.S.,



is not a condition precedent to maintaining a civil action pursuant to the provisions of this section.

Category 10: Vacating Convictions

* Recognition for efforts, but no credit awarded

§19-1-306

(d) The court shall order expunged all records in the custody of the court and any records in the custody of any other agency or official that pertain to the petitioner's conviction for prostitution, as described in section 18-7-201, C.R.S.; soliciting for prostitution, as described in section 18-7-202, C.R.S.; keeping a place of prostitution, as described in section 18-7-204, C.R.S.; public indecency, as described in section 18-7-301, C.R.S.; soliciting for child prostitution, as described in section 18-7-402, C.R.S., or any corresponding municipal code or ordinance if, at the hearing, the court finds that the petitioner who is the subject of the hearing has established by a preponderance of the evidence that, at the time he or she committed the offense, he or she:

- (I) Had been trafficked by another person, as described in section 18-3-503 or 18-3-504, C.R.S., for the purpose of performing the offense; or
- (II) Was coerced by another person, as described in section 18-3-503, C.R.S., to perform the offense.

§24-72-308.7. Sealing of criminal conviction records information for offenses committed by victims of human trafficking.

(2) **Sealing of conviction records.** (a)(II) If a petition is filed pursuant to subparagraph (I) of this paragraph (a) for the sealing of a record of conviction for prostitution, as described in section 18-7-201, C.R.S.; soliciting for prostitution, as described in section 18-7-202, C.R.S.; keeping a place of prostitution, as described in section 18-7-204, C.R.S.; or public indecency, as described in section 18-7-301, C.R.S., the court shall order the record sealed after:

- (C) The defendant establishes by a preponderance of the evidence that, at the time he or she committed the offense, he or she had been sold, exchanged, bartered, or leased trafficked by another person, as described in section 18-3-501 or 18-3-502 18-3-503 or 18-3-504, C.R.S., for the purpose of performing the offense, or he or she was coerced by another person, as described in section 18-3-503, C.R.S., to perform the offense.

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