

Oregon 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: 8

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; 8 Victim Assistance; and 9 Civil Remedy.

Categories Still Needed: 4(b) Human Trafficking Task Force; 5 Posting of a Hotline; 6 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 163.266. Trafficking in persons.

(1) A person commits the crime of trafficking in persons if the person knowingly 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 and:

(a) The person knows that the other person will be subjected to involuntary servitude as described in ORS 163.263 or 163.264;

(b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act; or

(c) The person knows or recklessly disregards the fact that the other person is under 15 years of age and will be used in a commercial sex act.

(2) A person commits the crime of trafficking in persons if the person knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited by subsection (1) of this section or ORS 163.263 or 163.264.

(3) As used in this section, “commercial sexact” means sexual conduct or sexual contact, as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.

(4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.

(5) Violation of subsection (1)(b) or (c) of this section is a Class A felony



Category 2: Labor Trafficking Statute

Yes. See §163.266.

§ 163.263 Subjecting another person to involuntary servitude in the second degree.

(1) A person commits the crime of subjecting another person to involuntary servitude in the second degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- (a) Abusing or threatening to abuse the law or legal process;
- (b) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification document of a person;
- (c) Threatening to report a person to a government agency for the purpose of arrest or deportation;
- (d) Threatening to collect an unlawful debt; or
- (e) Instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing.

(2) Subjecting another person to involuntary servitude in the second degree is a Class C felony.

§ 163.264 Subjecting another person to involuntary servitude in the first degree.

(1) A person commits the crime of subjecting another person to involuntary servitude in the first degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- (a) Causing or threatening to cause the death of or serious physical injury to a person; or
- (b) Physically restraining or threatening to physically restrain a person.

(2) Subjecting another person to involuntary servitude in the first degree is a Class B felony.

Category 3(a): Asset Forfeiture

§ 131.602 Prohibited conduct for purposes of instrumentalities of crime.

The crimes to which ORS 131.550 (12)(b) applies are:

(136) Subjecting another person to involuntary servitude in the first degree, as defined in ORS 163.264.

(137) Subjecting another person to involuntary servitude in the second degree, as defined in ORS 163.263.

(138) Trafficking in persons, as defined in ORS 163.266.

§ 131.550 Definitions for ORS 131.550 to 131.600. As used in ORS 131.550 to 131.600:

(1) “Acquiesce in prohibited conduct” means that a person knew of the prohibited conduct and knowingly failed to take reasonable action under the circumstances to terminate or avoid the use of the property in the course of prohibited conduct.

(12) “Prohibited conduct” means:

- (a) For purposes of proceeds, a felony or a Class A misdemeanor.
- (b) For purposes of instrumentalities, any crime listed in ORS 131.602.



Category 3(b): Investigative Tools

§ 166.715 Definitions for ORS 166.715 to 166.735.

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(6) “Racketeering activity” includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(CCC) ORS 163.263, 163.264 or 163.266.

§ 133.724. Order for Interception of Communications.

An ex parte order for the interception of wire, electronic or oral communications may be issued by any circuit court judge upon written application made upon oath or affirmation of the individual who is the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought. The application shall include:

(a) The name of the district attorney or the deputy district attorney making the application and the authority of the district attorney or the deputy district attorney to make the application;

(b) The identity of the investigative or law enforcement officer making the application and the officer authorizing the application;

(c) A statement demonstrating that there is probable cause to believe that an individual is committing, has committed or is about to commit:

(A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime dangerous to life and punishable as a felony;

(B) A crime punishable as a felony under ORS 163.266 (Trafficking in persons) (1)(b) or (c), 163.413 (Purchasing sex with a minor), 166.720 (Racketeering activity unlawful), 167.012 (Promoting prostitution), 167.017 (Compelling prostitution), 475.752 (Prohibited acts generally), 475.806 (Unlawful manufacture of hydrocodone) to 475.894 (Unlawful possession of methamphetamine) or 475.904 (Unlawful manufacture or delivery of controlled substance within 1,000 feet of school) to 475.910 (Application of controlled substance to the body of another person) or as a misdemeanor under ORS 167.007 (Prostitution) or 167.008 (Patronizing a prostitute); or

(C) Any conspiracy to commit any of the foregoing crimes;

Category 4(a): Training for Law Enforcement

§ 181.649. Labor trafficking and sex trafficking recognition, investigation and reporting training for police officers and certified reserve officers

The Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate and report cases involving labor trafficking and sex trafficking of children and adults at any advanced training program operated or authorized by the Department of Public Safety Standards and Training.

Category 4(b): Human Trafficking Task Force

None.



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

Yes. See § 167.017 (1)(b).

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

§ 192.854 Application assistance

(1) The Attorney General may designate employees of or volunteers serving public or private entities that provide counseling and shelter services to victims of domestic violence, a sexual offense, stalking or human trafficking as application assistants to assist individuals applying to participate in the Address Confidentiality Program.

(2) Any assistance rendered to applicants for participation in the Address Confidentiality Program by the Attorney General or an application assistant is not considered legal advice.

Category 9: Civil Remedy

§ 30.867. Civil action; attorney fees

(1) Irrespective of any criminal prosecution or the result of a criminal prosecution, a person injured by a violation of ORS 163.263, 163.264 or 163.266 may bring a civil action for damages against a person whose actions are unlawful under ORS 163.263, 163.264 or 163.266.

(2) Upon prevailing in an action under this section, the plaintiff may recover:

- (a) Both special and general damages, including damages for emotional distress; and
- (b) Punitive damages.

(3) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a circuit court.

(4) An action under this section must be commenced within six years of the conduct giving rise to the claim.

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.