

Oklahoma 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; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 6 Posting of a Hotline; 8 Victim Assistance; and 9 Civil Remedy.

Categories Still Needed: 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 7 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 21-748. Human Trafficking.

A. As used in Sections 748 and 748.2 of this title:

1. "Coercion" means compelling, forcing or intimidating a person to act by:
 - a. threats of harm or physical restraint against any person,
 - b. any act, scheme, plan, or pattern intended to cause a person to believe that performing, or failing to perform, an act would result in serious physical, financial, or emotional harm or distress to or physical restraint against any person,
 - c. the abuse or threatened abuse of the law or legal process,
 - d. knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport, labor or immigration document, or other government identification document, including but not limited to a driver license or birth certificate, of another person,
 - e. facilitating or controlling a persons access to any addictive or controlled substance other than for legal medical purposes,
 - f. blackmail,
 - g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution,



- h. determining, dictating or setting the times at which another person will be available to engage in an act of prostitution with a third party,
 - i. determining, dictating or setting the places at which another person will be available for solicitation of, or to engage in, an act of prostitution with a third party, or
 - j. determining, dictating or setting the places at which another person will reside for purposes of making such person available to engage in an act of prostitution with a third party;
- 2. "Commercial sex" means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display;
 - 3. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her 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;
 - 4. "Human trafficking" means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individuals commercial sex act or labor;
 - 5. "Human trafficking for labor" means:
 - a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or
 - b. benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act of trafficking for labor;
 - 6. "Human trafficking for commercial sex" means:
 - a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act, or
 - b. recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act, or
 - c. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex
 - 7. "Legal process" means the criminal law, the civil law, or the regulatory system of the federal government, any state, territory, district, commonwealth, or trust territory therein, and any foreign government or subdivision thereof and includes legal civil actions, criminal actions, and regulatory petitions or applications; and
 - 8. "Minor" means an individual under eighteen (18) years of age.
 - 9. "Victim" means a person against whom a violation of any provision of this section has been committed.
- B. It shall be unlawful to knowingly engage in human trafficking.
- C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than five



(5) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than ten (10) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment. The court shall also order the defendant to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes. D. It is an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking. E. The consent of the minor to the activity prohibited by this section shall not constitute a defense.

§ 866. Elements of offense.

A.

1. The crime of trafficking in children is defined to consist of any of the following acts or any part thereof:

- a. the acceptance, solicitation, offer, payment or transfer of any compensation, in money, property or other thing of value, at any time, by any person in connection with the acquisition or transfer of the legal or physical custody or adoption of a minor child, except as ordered by the court or except as otherwise provided by Section 7505-3.2 of Title 10 of the Oklahoma Statutes,
- b. the acceptance or solicitation of any compensation, in money, property or other thing of value, by any person or organization for services performed, rendered or purported to be performed to facilitate or assist in the adoption or foster care placement of a minor child, except by the Department of Human Services, a child-placing agency licensed in Oklahoma pursuant to the Oklahoma Child Care Facilities Licensing Act,¹ or an attorney authorized to practice law in Oklahoma. The provisions of this paragraph shall not prohibit an attorney licensed to practice law in another state or an out-of-state licensed child-placing agency from receiving compensation when working with an attorney licensed in this state who is, or when working with a child-placing agency licensed in this state which is, providing adoption services or other services necessary for placing a child in an adoptive arrangement,
- c. bringing or causing to be brought into this state or sending or causing to be sent outside this state any child for the purpose of placing such child in a foster home or for the adoption thereof and thereafter refusing to comply upon request with the Interstate Compact on the Placement of Children.² Provided, however, that this provision shall have no application to the parent or guardian of the child nor to a person bringing said child into this state for the purpose of adopting the child into such person's own family,
- d. the solicitation or receipt of any money or any other thing of value for expenses related to the placement of a child for the purpose of an adoption by the birth parent of the child who at the time of the solicitation or receipt had no intent to consent to eventual adoption,
- e. the solicitation or receipt of any money or any other thing of value for expenses related to the placement of a child for adoption by a woman who knows she is not



pregnant but who holds herself out to be pregnant and offers to place a child upon birth for adoption,

f.

(1) the receipt of any money or any other thing of value for expenses related to the placement of a child for adoption by a birth parent, child-placing agency or attorney who receives, from one or more parties, any money or any other thing of value without disclosing to each prospective adoptive parent, child-placing agency, and attorney the receipt of any money or any other thing of value immediately upon receipt,

(2) the solicitation or receipt of any money or any other thing of value by a birth parent, an attorney or child-placing agency for expenses related to the placement of a child for the purpose of adoption from more than one prospective adoptive family for the adoption of one child. A birth parent, child-placing agency or attorney shall not represent that a child is, or will be, available for adoption to more than one prospective adoptive family at one time,

g. advertising of services for compensation to assist with or effect the placement of a child for adoption or for care in a foster home by any person or organization except by the Department of Human Services, or a child-placing agency licensed in this state. Nothing in this paragraph shall prohibit an attorney authorized to practice law in Oklahoma from the advertisement of legal services related to the adoption of children, and

h. advertisements for and solicitation of a woman who is pregnant to induce her to place her child upon birth for adoption, except by a child-placing agency licensed in this state or an attorney authorized to practice law in Oklahoma. Nothing in this section shall prohibit a person from advertising to solicit a pregnant woman to consider adoptive placement with the person or to locate a child for an adoptive placement into the person's own home, provided that such person has received a favorable preplacement home study recommendation in accordance with Section 7505-5.1 of Title 10 of the Oklahoma Statutes, which shall be verified by the signed written statement of the person or agency which performed the home study, and provided that no money or other thing of value is offered as part of such an inducement except as ordered by the court or except as otherwise provided by Section 7505-3.2 of Title 10 of the Oklahoma Statutes.

2.

a. Except as otherwise provided by this section, the violation of any of the subparagraphs in paragraph 1 of this subsection shall constitute a felony and shall be punishable by imprisonment of up to ten (10) years or a fine of up to Ten Thousand Dollars (\$10,000.00) per violation or both such fine and imprisonment.

b. Prospective adoptive parents who violate subparagraph a of paragraph 1 of this subsection, upon conviction thereof, shall be guilty of a misdemeanor and may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) per violation.

B.

1. No person shall knowingly publish for circulation within the borders of the State of Oklahoma an advertisement of any kind in any print, broadcast or electronic medium,



including, but not limited to, newspapers, magazines, telephone directories, handbills, radio or television, which violates subparagraph g or h of paragraph 1 of subsection A of this section.

2. Any person violating the provisions of this subsection shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) per violation.

C. The payment or acceptance of costs and expenses listed in Section 7505-3.2 of Title 10 of the Oklahoma Statutes shall not be a violation of this section as long as the petitioner or birth parent has complied with the applicable procedure specified in Section 7505-3.2 of Title 10 of the Oklahoma Statutes and such costs and expenses are approved by the court.

D. Any person knowingly failing to file an affidavit of all adoption costs and expenses before the final decree of adoption as required by Sections 7505-3.2 and 7505-6.2 of Title 10 of the Oklahoma Statutes shall be guilty of a misdemeanor.

Category 2: Labor Trafficking Statute

Yes. See § 21-748.

Category 3(a): Asset Forfeiture

§ 1738. Seizure and forfeiture proceedings--Vehicles, airplanes, vessels, etc. used in attempt or commission of certain crimes

A. 1. Any commissioned peace officer of this state is authorized to seize any equipment, vehicle, airplane, vessel or any other conveyance that is used in the commission of any armed robbery offense defined in Section 801 of this title, used to facilitate the intentional discharge of any kind of firearm in violation of Section 652 of this title, used in violation of the Trademark Anti-Counterfeiting Act, used in the attempt or commission of any act of burglary in the first or second degree, motor vehicle theft, unauthorized use of a vehicle, obliteration of distinguishing numbers on vehicles or criminal possession of vehicles with altered, removed or obliterated numbers as defined by Sections 1431, 1435, 1716, 1719 and 1720 of this title or Sections 4-104 and 4-107 of Title 47 of the Oklahoma Statutes, used in the commission of any arson offense defined in Section 1401, 1402, 1403, 1404 or 1405 of this title, used in any manner to facilitate or participate in the commission of any human trafficking offense in violation of Section 748 of this title, or used by any defendant when such vehicle or other conveyance is used in any manner by a prostitute, pimp or panderer to facilitate or participate in the commission of any prostitution offense in violation of Sections 1028, 1029 or 1030 of this title; provided, however, that the vehicle or conveyance of a customer or anyone merely procuring the services of a prostitute shall not be included.

12. Any and all property used in any manner or part to facilitate, participate or further the commission of a human trafficking offense in violation of Section 748 of this title, and all property, including monies, real estate, or any other tangible assets or property of or derived from or used by a prostitute, pimp or panderer in any manner or part to facilitate, participate or further the commission of any prostitution offense in violation of Sections 1028, 1029 or 1030 of this title; provided, however, any monies, real estate or any other tangible asset or property of a customer or anyone merely procuring the services of a prostitute shall not be included; and



Category 3(b): Investigative Tools

§ 1402. Definitions

As used in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act:

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

y. relating to human trafficking or trafficking in children pursuant to the provisions of Section 748, 866 or 867 of Title 21 of the Oklahoma Statutes . . .

Category 4(a): Training for Law Enforcement

None.

Category 4(b): Human Trafficking Task Force

None.

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

Yes. See § 21-748(A)(6)(b).

Category 6: Posting of a Human Trafficking Hotline

§ 748.2. Guidelines for treatment of human trafficking victims

C. Upon availability of funds, the Attorney General is authorized to establish an emergency hotline number for victims of human trafficking to call in order to request assistance or rescue. The Attorney General is authorized to enter into agreements with the county departments of health to require posting of the rights contained in this section along with the hotline number for publication in locations as directed by the State Department of Health.

Category 7: Safe Harbor

*Recognition for efforts, but no credit given.

§ 21-1029. Engaging in prostitution, etc. - Soliciting or procuring - Residing or being in place for prohibited purpose - Aiding, abetting or participating - Child prostitution – Presumption of coercion.

C. In any prosecution of a person sixteen (16) or seventeen (17) years of age for an offense described in subsection A of this section, there shall be a presumption that the actor was coerced into committing such offense by another person in violation of the human trafficking provisions set forth in Section 748 of this title.



Category 8: Victim Assistance

§ 748.2. Guidelines for treatment of human trafficking victims--Right to civil action

A. Human trafficking victims shall:

1. Be housed in an appropriate shelter as soon as practicable;
2. Not be detained in facilities inappropriate to their status as crime victims;
3. Not be jailed, fined, or otherwise penalized due to having been trafficked;
4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;
5. Have access to legal assistance, information about their rights, and translation services, as necessary; and
6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:
 - a. taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals, and
 - b. ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

§ 748.2. Guidelines for treatment of human trafficking victims--Right to civil action.

D. Any peace officer who comes in contact with a human trafficking victim shall inform the victim of the human trafficking emergency hotline number and give notice to the victim of certain rights. The notice shall consist of handing the victim a written statement of the rights provided for in subsection A of this section.

Category 9: Civil Remedy

§ 748.2. Guidelines for treatment of human trafficking victims--Right to civil action.

B. Any person aggrieved by a violation of subsection B of Section 748 of this title may bring a civil action against the person or persons who committed the violation to recover actual and punitive damages and reasonable attorney fees and costs. The civil action brought under this section may be instituted in the district court in this state in the county in which the prospective defendant resides or has committed any act which subjects him or her to liability under this section. A criminal case or prosecution is not a necessary precedent to the civil action. The statute of limitations for the cause of action shall not commence until the latter of the victim's emancipation from the defendant or, the victim's twenty-first birthday, or the plaintiff discovers or reasonably should have discovered that he or she was a victim of human trafficking and that the defendant caused, was responsible for or profited from the human trafficking.



Category 10: Vacating Convictions

*Recognition for efforts, but no credit given.

§22-19c. Arrest or charge as result of human trafficking – Expungement on motion of court or defendant.

The court, upon its own motion or upon petition by the defendant and for good cause shown, may enter an order for expungement of law enforcement and court records relating to a charge or conviction for a prostitution-related offense committed as a result of the defendant having been a victim of human trafficking. The order shall contain a statement that the expungement is ordered pursuant to this section. An order entered pursuant to this section shall be subject to the notice requirements and provisions of subsections B through M of Section 19 of Title 22 of the Oklahoma Statutes. Records expunged pursuant to this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes.

Added by Laws 2013, c. 57, § 1, eff. Nov. 1, 2013.

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