



STATE STATUTES
CURRENT THROUGH JULY 2020

Definitions of Human Trafficking

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Human trafficking can be compared to a modern-day form of slavery. It involves the exploitation of people through force, coercion, threat, and deception and includes human rights abuses such as debt bondage, deprivation of liberty, and lack of control over freedom and labor.¹ Trafficking can be for purposes of sexual exploitation or labor exploitation. Sexual exploitation includes forcing an individual to engage in commercial sex acts, including prostitution or the production of pornography. The types of labor exploitation include domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work. Victims of trafficking can include adults and minors as well as both U.S. citizens and foreign nationals.

¹ Human trafficking should not be confused with human smuggling. According to the U.S. Department of State, human smuggling is the facilitation, transportation, attempted transportation, or illegal entry of a person across an international border in violation of the laws of one or more countries, either clandestinely or through deception, such as the use of fraudulent documents. Human smuggling generally occurs with the consent of the person being smuggled, although that person subsequently may become a victim of trafficking, and the two crimes often co-occur. For more information, see the factsheet [Human Trafficking & Migrant Smuggling: Understanding the Difference](#) (from the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State).

WHAT'S INSIDE

Defined in child protection laws

Definitions of labor trafficking

Definitions of sex trafficking of minors

The Federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386)² defines human trafficking in terms of "involuntary servitude," which includes a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint. A person also may be induced to a condition of servitude by the abuse or threatened abuse of the legal process.³

Other definitions from the act include the following:

- **Debt bondage:** 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 the debt when the value of those services, as reasonably assessed, are not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined
- **Severe forms of trafficking in persons:** Includes (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such act is younger than age 18 or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery

- **Sex trafficking:** The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act

The Justice for Victims of Trafficking Act of 2015 (P. L. 114-22 (2015)) amended the Federal definition of child abuse and neglect provided by the Child Abuse Prevention and Treatment Act (P. L. 111-320 (2010)) with the addition of the following special rule:

A child shall be considered a victim of "child abuse and neglect" and of "sexual abuse" if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of sex trafficking (as defined in § 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102)) or a victim of severe forms of trafficking in persons described in § 103(9)(A) [22 U.S.C. § 7102(9)(A)].⁴

DEFINED IN CHILD PROTECTION LAWS

Many States have expanded their civil child protection definitions to include trafficking of children. The inclusion of trafficking within the definitions enables child protective agencies to respond to reports of trafficking as child abuse—regardless of whether the perpetrator of the trafficking is a parent or other caregiver—and to provide services to victims of trafficking. In approximately 20 States, the crime of human trafficking, including labor trafficking, involuntary

² P.L. 106-386 has been reauthorized six times since its enactment in 2000 by the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193); the Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164); the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-457); title XII of the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4); the Justice for Victims of Trafficking Act of 2015 (P.L. 114-22); and the Trafficking Victims Protection Reauthorization Act of 2017 (P.L. 115-427).

³ 22 U.S.C. § 7102 (2020). As defined in Federal law, the term "abuse or threatened abuse of the legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

⁴ 42 U.S.C. § 5106g(b) (2020)

servitude, or trafficking of minors, is included in the definition of physical child abuse.⁵

All States include sexual abuse in their definitions of child abuse, and sexual exploitation is an element of the definition of sexual abuse in most jurisdictions. Sexual exploitation includes allowing the child to engage in prostitution or in the production of child pornography.⁶ In 35 States, the definition of child abuse or neglect or sexual abuse includes human trafficking, including sex trafficking or trafficking of children for sexual purposes.⁷ These definitions, however, do not always describe in any detail what elements constitute an act of trafficking in persons. For that, it often is necessary to look at a State's criminal definitions of human trafficking.

DEFINITIONS OF LABOR TRAFFICKING

Labor trafficking occurs when 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 forced labor or services. A person also commits trafficking of persons if he or she benefits, financially or by receiving anything of value, from participation in such activities. In 49 States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, there are laws that

prohibit trafficking of persons for the purpose of involuntary servitude.⁸

Federal and most State definitions of labor trafficking do not distinguish between minors and adults, so some element of force, fraud, coercion, or deception must be present for children to be defined as victims of labor trafficking. Conditions that are considered force, fraud, coercion, or deception in the labor trafficking of adults or minors include the following:

- Threatening serious harm to, or physical restraint against, the victim or a third person
- Destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government identification document
- Abusing or threatening abuse of the law or legal process against the victim or a third person
- Placing a person in debt bondage
- Providing a drug, including alcohol, to another person with the intent to impair the person's judgment or maintain a state of chemical dependence
- Wrongfully taking, obtaining, or withholding any property of another person
- Blackmail
- Asserting control over the finances of another person
- Withholding or threatening to withhold food or medication

⁵ The word "approximately" is used to stress the fact that the States frequently amend their laws. This information is current through July 2020. Arkansas, Colorado, Hawaii, Idaho, Illinois, Indiana, Kansas, Louisiana, Mississippi, Nebraska, New Hampshire, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Texas, Utah, Virginia, and West Virginia include labor trafficking in their definitions of child abuse.

⁶ Commercial sexual exploitation, including the production of child pornography, can be regarded as a type of sex trafficking.

⁷ The States that specifically include the term "sex trafficking" in their civil definitions of child abuse include Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

⁸ Virginia and American Samoa currently do not have laws defining labor trafficking.

DEFINITIONS OF SEX TRAFFICKING OF MINORS

All States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands have laws prohibiting trafficking of persons for the purpose of commercial sexual activity. The term "sex trafficking" refers to criminal activity whereby one or more persons are subjected to engaging in commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is younger than age 18, the commercial sexual activity need not involve force, fraud, or coercion. In fact, according to the Federal Victims of Trafficking and Violence Protection Act of 2000, any child younger than age 18 who is induced to engage in commercial sexual activity is a victim of sex trafficking.

Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including prostitution and participation in the production of pornography. In 28 States, Guam, the Northern Mariana Islands, and the Virgin Islands, the term "commercial sexual activity" includes sexually explicit performance, such as performance in a strip club or exotic dancing.⁹ The term "commercial sexual activity" also means any sexual activity,

such as those described in this paragraph, for which anything of value is given to or received by any person.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

SUGGESTED CITATION:

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⁹ Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, Utah, Vermont, Washington, and Wisconsin



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