

Laws on Human Trafficking

Federal Laws

The Trafficking Victims Protection Act provides the United States with tools to combat trafficking in persons both domestically and abroad. The law first passed in 2000 and has been reauthorized in 2003, 2005, 2008, and 2013. The law focuses on protection and services for victims, prosecution of traffickers, and prevention. The act sets forth the criminal definitions of both sex and labor trafficking as follows:

Labor Trafficking (Involuntary Servitude): Taken from 22 USC §7102(8)

“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 (Sexual Servitude): Taken from 22 USC §7102(9)

“The recruitment, harboring, transportation, provision, obtaining, *patronizing or soliciting*¹ of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of 18 years.”²

Commercial Sex Act: Taken from 22 USC § 7102(2)

“Any sexual act for which anything of value is given to or received by any person.”

Colorado State Laws

HB 14-1273 passed in 2014 in order to bring Colorado’s laws on human trafficking into greater alignment with federal human trafficking statutes. The law was also responsible for the establishment of the Human Trafficking Council. The law repealed and reenacted state criminal statutes related to human trafficking from the previous statute enacted in 2006. The criminal definitions of human trafficking read as follows:

Involuntary Servitude: Taken from C.R.S. §18-3-503

“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 other person to perform labor or services commits human trafficking for involuntary servitude.”

¹ The Justice for Victims of Trafficking Act, 2015 (JVTA) changed the definition of sex trafficking by adding the language “patronizing or soliciting” as illegal conduct that constitutes sex trafficking. Along these lines the JVTA also adds a provision that would allow a prosecutor to charge producers of child pornography with sex trafficking as well as individuals who transport a victim and an advertiser who knowingly advertises victims of sex trafficking.

² When an individual is under 18 years of age and has engaged in a commercial sex act, there is no need to prove the elements of force, fraud, or coercion. It is assumed that the act was compelled due to the age of the victim. It is illegal to both offer and obtain a minor, and cause that individual to engage in any sexual activity in exchange for anything of value.

Involuntary servitude of an adult is classified as a class 3 felony; involuntary servitude of a minor is a class 2 felony.³

Sexual Servitude of an Adult: Taken from C.R.S. §18-3-504

“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 other person to engage in commercial sexual activity.”

Sexual servitude of an adult is a class 3 felony.

Sexual Servitude of a Minor: Taken from C.R.S. §18-3-504

“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.”⁴

Sexual servitude of a minor is a class 2 felony. The patronizing of a prostituted child is a class 3 felony.

C.R.S. §18-3-504 further states that it is not a defense of the defendant being charged with sexual servitude of a minor that:

- The minor consented to being sold, recruited, harbored, transported, transferred, isolated, enticed, provided, received, obtain, or maintained for the purpose of engaging in sexual activity;
- The minor consented to participating in commercial sexual activity;
- The defendant did not know the minor’s age or reasonably believed the individual was 18 years of age or older;
- The minor or another person represented the minor to be 18 years of age or older.

What does coercion mean in Colorado? C.R.S. §18-3-502

Coercion is defined as inducing a person to act by:

- The use or threat of the use of force against, abduction of, causing of serious harm to, or physical restraint of the person;
- The use of a plan, pattern, or statement to cause a person to believe failure to perform the act or failure to refrain from performing the act will result in grave consequence;
- 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;
- Threatening to notify law enforcement of an immigration violation;
- The destruction or taking, or a threat to destroy or take a person’s identification documents or other property;
- Controlling or threatening to control access to controlled substances;
- The use of debt bondage;
- Exploitation of physical or mental impairment

³ Class 3 felonies carry the weight of four (4) to twelve (12) years in prison and a fine of \$3,000 to \$750,000. Class 2 felonies carry the weight of eight (8) to twenty-four (24) years in prison and a fine of \$5,000 to \$1,000,000. By way of context, murder is categorized as a class 1 felony.

⁴Similar to the federal definition of sex trafficking, Colorado statute does not require proof of coercion in instances of commercial sex acts involving a minor.