

Human Trafficking

Judicial Bench Card

Pennsylvania Law

18 Pa.C.S. §§ 3001 – 3072

In 2014, Pennsylvania enacted its first comprehensive anti-trafficking statute. The law focuses on prosecuting traffickers, preventing trafficking, and protecting survivors.

The crime of human trafficking is committed if a person “recruits, entices, solicits, advertises, harbors, transports, provides, obtains, or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude or if the person “knowingly benefits financially or receives anything of value from any act that facilitates any [such] activity.”

18 Pa.C.S. § 3011

Sexual servitude is any sex act or performance involving a sex act for which **anything of value** is **directly or indirectly** given, promised to or received by any individual or which is performed or provided by any individual, and is induced or obtained from (1) a minor; or (2) Any other individual by any of the means set forth in section 3012(b)(relating to involuntary servitude).

18 Pa.C.S. § 3001

Labor servitude is labor which is performed or provided by another individual and is induced or obtained by any of the means set forth in section 3012(b) (relating to involuntary servitude).

18 Pa.C.S. § 3001

Trafficking Victims are Often Charged with Crimes Including

- Criminal trespass (§ 3503)*
- Disorderly conduct (§ 5503)*
- False identification to law enforcement officer (§ 4914)
- Loitering and prowling at night time (§ 5506)*
- Obstruction of the highways and other public passages (§ 5507)*
- Possession of a controlled substance*
- Prostitution (§ 5902)*
- Retail theft (§ 3929)

**Criminal convictions that human trafficking survivors can petition the court to have vacated under § 3019(d) if the crime was committed as direct result of that person being a victim of human trafficking.*

Safe Harbor for Sexually Exploited Children - Act 130 (2018)

Immunizes sexually exploited children from criminal prosecution for the crimes of prostitution and obstruction of the highway.

Mandates a trauma-informed alternative to delinquency through the intervention of child protective services for sexually exploited children accused of engaging in other minor offenses, including criminal trespass, disorderly conduct, loitering and prowling at nighttime, presenting false identification to law enforcement, and simple possession of a controlled substance.

42 Pa.C.S. § 6328

Where does trafficking occur?

Sex Trafficking

- Escort services
- Massage parlors
- Residential and “underground” brothels
- Street corners
- Websites promoting commercial sex
- Strip clubs
- Hotels and motels
- Pornography production

Labor Trafficking

- Nail salons
- Restaurants
- Landscaping companies
- Agricultural industries
- Large-scale factories
- Housekeeping services

Common Victim Indicators

- Improper or missing identification
- Intense fear or emotional numbness
- Untreated illness
- Substance use disorder
- “Branding” tattoos (conveying ownership)
- Burns, injuries, or cuts
- Homelessness
- Seasonally inappropriate clothing
- Lengthy criminal history
- History of past victimization
- Confused about court proceedings
- Unusually resigned to their circumstances
- Willing to accept a guilty plea without counsel
- Wants to rush through proceedings
- Providing “canned” or “scripted” answers
- Looking toward another person in the courtroom for affirmation before answering questions
- Unaware of their present location

Practice Tips

Encourage the use of “trauma-informed” courtroom techniques

- Use language that does not convey blame.
- Save questions about sensitive issues for when the courtroom is empty or allow the participant to approach the bench.
- If ongoing abuse or intimidation is suspected, engage those people in activities outside the courtroom while the participant shares her story.
- When practical, ask the participant to come close; speak to them beside or right in front of the bench.
- Tell the participant what is happening and why.
- Change the paradigm from “What Is Wrong with You” to “What Happened to You”.

A trauma-informed courtroom is one in which, “judges recognize the people appearing before them have personally experienced acts of violence or other traumatic life events, and are also cognizant of the stress of the courtroom environment impact on trauma survivors”.

SAMHSA

(Substance Abuse and Mental Health Services Administration)

Exercise judicial leadership

- Consider sealing, expunging, or vacating records to protect trafficking victims identity.
- Encourage human trafficking training for court staff and community partners.
- Collaborate with community service providers.
- Adopt local court rules and procedures for managing human trafficking cases.



For more information please visit www.CSEInstitute.org or contact CSEILegal@law.villanova.edu

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