

CIVIL REMEDIES FOR VICTIMS

An individual who is a victim may bring a civil action against the perpetrator or whoever knowingly benefits financially or who receives anything of value in an appropriate district court of the United States and may recover damages and reasonable attorneys' fees.¹⁹ Texas law also creates civil liability for traffickers.²⁰ Under the Texas provision, victims can sue their traffickers for actual damages (including mental anguish), exemplary damages, court costs, and attorneys' fees.²¹

FEDERAL IMMIGRATION VISAS FOR VICTIMS

There are two types of visas available to victims of human trafficking offenses which allow a victim to remain in the United States while assisting law enforcement with the investigation and prosecution of human trafficking offenses.

T nonimmigrant status is specifically available to victims of human trafficking who agree to cooperate with a law enforcement investigation, or is a trafficking victim under the age of 18.²² T-visas are limited to 5,000 per year.

U nonimmigrant status is available more broadly to victims of violent crime, including victims of trafficking, but also victims of rape, torture, sexual assault, sexual exploitation, and other crimes. To obtain a U-visa, the applicant must obtain a certification from a law enforcement officer that an investigation or prosecution would be harmed without the assistance of the immigrant.²³



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19 18 U.S.C. § 1595. 22 8 U.S.C. § 1101(a)(15)(T).
20 Tex. Civ. Prac. & Rem. Code § 98.002. 23 8 U.S.C. § 1101(a)(15)(U).
21 Tex. Civ. Prac. & Rem. Code § 98.003.

REPORT

HUMAN TRAFFICKING

Call the National Human Trafficking Resource Center, and specialists will help to connect victims to local services and resources.

1-888-3737-888

CONFIDENTIAL CALL

Toll-free | 24-hours, 7 days a week
Confidential | Interpretation Available

LEARN MORE ABOUT HUMAN TRAFFICKING

U.S. Department of Health and Human Services –
Campaign to Rescue and Restore Victims of
Human Trafficking
<http://www.acf.hhs.gov/trafficking>

U.S. Department of State – Office to Monitor and
Combat Trafficking in Persons
<http://www.state.gov/g/tip>

The Polaris Project
<http://www.polarisproject.org>

Children at Risk
<http://childrenatrisk.org>

Freedom Network
<http://freedomnetworkusa.org>

American Gateways
<http://www.americangateways.org>

Catholic Charities
<http://www.catholiccharitiesusa.org>



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SLAVERY OUT OF THE SHADOWS:

SPOTLIGHT ON HUMAN
TRAFFICKING

LEGAL ISSUES AND RESOURCES RELATED TO HUMAN TRAFFICKING



LEGAL ISSUES AND RESOURCES RELATED TO HUMAN TRAFFICKING

WHAT IS HUMAN TRAFFICKING?

Both the State of Texas and the federal government have taken a proactive role to identify and outlaw human trafficking crimes. Under Texas law, human trafficking is transporting, enticing, recruiting, harboring, providing, or otherwise obtaining another person by any means with the intent that the person engage in forced labor or services.¹ Likewise federal law defines human trafficking as recruiting, providing, harboring, transporting, or obtaining by any means, any person who is being held into compulsory service or involuntary servitude.² In addition, any person who knowingly receives a benefit (financial or otherwise) from the trafficking activity is subject to prosecution for human trafficking under both state and federal law.³

LABOR TRAFFICKING

Labor trafficking is a common form of human trafficking in Texas. Under Texas law, “forced labor or services” is defined as labor or services (other than labor or services that constitute sexual conduct) that are performed or provided by another person and obtained through an actor’s use of force, fraud, or coercion.⁴ Similarly under federal law, “forced labor” is defined as providing or obtaining the labor or services of a person by any one of (or a combination of) the following:

- (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
- (2) by means of serious harm or threats of serious harm to that person or another person;
- (3) by means of the abuse or threatened abuse of law or legal process; or
- (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.⁵

Under both Texas and federal law, labor trafficking is generally punishable by up to 20 years in prison.⁶

SEX TRAFFICKING

In addition to forced labor, the Texas human trafficking statute addresses sex trafficking. Specifically, sex trafficking includes the inducement of a trafficked person through force, fraud, or coercion⁷ to engage in prostitution, the

promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution,⁸ and is punishable by up to 20 years in prison.⁹

Under federal law, if the human trafficking includes aggravated sexual abuse or an attempt to commit aggravated sexual abuse, then the maximum punishment is increased by up to life in prison.¹⁰

Both Texas and federal law recognize enhanced penalties when human trafficking offenses involve children.¹¹ In Texas, any person who traffics a child with the intent that the child engage in “forced labor or services,” or traffics a child and by any means causes the child to engage in, or become, the victim of sex trafficking faces up to life in prison.¹² Likewise under federal law, whoever engages in human trafficking with a child and through means of force, threats of force, fraud, or coercion, causes the child to engage in a commercial sex act, is subject to a sentence of up to life in prison.¹³

RESTITUTION

Texas Law – Restitution for Child Victims and Victims of Compelled Prostitution

Under state law, any victim of human trafficking and compelled prostitution who is younger than 18 years of age is entitled to restitution.¹⁴ The restitution is equal to the cost of necessary rehabilitation, which includes medical, psychiatric, and psychological care and treatment. The Court shall take into consideration the financial circumstances of the defendant and specify the manner in which the restitution is to be paid.

A restitution order may be enforced by the State, and also the victim, who is authorized to collect the restitution in the same manner as a civil judgment.

Federal Law – Mandatory Restitution

Under federal law, a Court shall order restitution for any person who is a victim of human trafficking. The order of restitution shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the Court and may include the forfeiture of property.¹⁵

PROTECTION FOR VICTIMS

Texas Law – Protective Orders

Under Texas law, a protective order may be sought by trafficking victims; their parents (if the victim is younger than 18); or by the prosecuting attorney.¹⁶

The Court shall enter a protective order if there are *reasonable grounds* to believe that the person is a victim of: (1) trafficking; (2) stalking; (3) sexual assault and is younger than 18 years of age, OR (4) regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm.

In a protective order, the Court may order the alleged offender to take any action specified by the Court that the Court determines *is necessary or appropriate to prevent or reduce the likelihood of future harm* to the applicant or the applicant’s family or household.

The protective order for victims of human trafficking, continuous sexual abuse, indecency, sexual assault, or aggravated sexual assault can last as long as the duration of the lives of the offender and victim OR for any shorter period stated in the order; however if a time period is not stated in the order, then the order is effective until the second anniversary of the date the order was issued.

Texas Law – Ex Parte Orders

If the Court finds that there is a *clear and present danger* of sexual assault, stalking, or that the alleged offender will traffic the applicant or cause other harm to the applicant, the Court may enter a temporary ex parte order to protect the applicant or any other member of the applicant’s family or household.¹⁷

If a temporary protective order is ordered by the Court, it will be effective until the date the alleged offender is convicted or acquitted, or until the date on which the case involving the trafficking of persons offense is finally disposed.

Federal Law – Witness Protection

Federal human trafficking crimes are considered an “organized criminal activity,” which thereby makes victims of human trafficking crimes eligible for federal witness protection.¹⁸

1 Tex. Pen. Code § 20A.02.
2 18 U.S.C. §§ 1581, 1590;
Clyatt v. United States, 197
U.S. 207, 215 (1905).

3 Tex. Pen. Code §§ 20A.02(a)(2),
(4), (6), and (8); 18 U.S.C.
§§ 1589(b), and 1593A.

4 Tex. Pen. Code § 20A.01(2).

5 18 U.S.C. § 1589.

6 Tex. Pen. Code §§ 12.33 &
20A.02(b); 18 U.S.C. § 1589(d).

7 Force, fraud, or coercion do
not have to be proved under
Federal or Texas law when the
victim is under the age of 18.
18 U.S.C. § 1591(a); Tex. Pen.
Code § 20A.02(a)(7).

8 Tex. Pen. Code § 20A.02(a)(3).

9 Tex. Pen. Code §§ 12.33 &
20A.02(b).

10 18 U.S.C. §§ 1590 & 2241
 (“Aggravated sexual abuse” is
knowingly causing another person to
engage in a sexual act by use of force
or threats against that person.).

11 A “child” is any person younger than
18 years of age. Tex. Pen. Code
§ 20A.01(1); 18 U.S.C. § 1591(a).

12 Tex. Pen. Code §§ 12.33,
20A.02(a)(5), & (7).

13 18 U.S.C. § 1591 (If the child is
under the age of 14 then the offense
carries a minimum sentence of 15
years to life. If the child has not
reached the age of 18, then the
offense carries a minimum sentence
of 10 years to life.).

14 Tex. Code Crim. P. § 42.0372.
15 18 U.S.C. § 1593.

16 Tex. Code Crim. P. §§ 7A.01,
7B.01.

17 Tex. Code Crim. P. §§ 7A.02,
7B.02, 7B.03.

18 18 U.S.C. § 1594(f).