

Human Trafficking and Trafficking of a Child

The U.S. Department of State estimates that 14,500-17,500 men, women, and children are trafficked annually into the United States and many more are trafficked within US borders. The International Labor Organization and CIA report that over two million people are trafficked worldwide each year. Human Trafficking is a 32 billion dollar business and the U.S. Department of Justice currently has investigations open in 48 U.S. states. In 2008, Wisconsin enacted legislation that is intended to increase the prosecution of human and child traffickers, improve the protection provided to victims of trafficking, and enhance methods of prevention (2007 WI Act 116). Wisconsin created two new crimes: Human Trafficking and Trafficking of a Child. Human Trafficking includes both labor exploitation and sexual exploitation. Trafficking of a Child includes sexual exploitation only. These laws are first effective for offences occurring on and after April 3, 2008.

HUMAN TRAFFICKING - WISCONSIN STATUTE §940.302:

Definitions:

- Trafficking means recruiting, enticing, harboring, transporting, providing, or obtaining an individual without consent of the individual or attempting to do any of the same
- Commercial sex act means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person
- Debt bondage means the condition of a debtor arising from the debtor's pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined
- Services means activities performed by one individual at the request, under the supervision, or for the benefit of another person
- Penalty for a Class D felony is a fine not exceeding \$100,000, prison time not exceeding 25 years, or both

Human Trafficking:

A person is guilty of a Class D felony if he or she knowingly engages in trafficking for the purpose of a commercial sex act or labor or services and the trafficking is done through any of the following:

- Causing or threatening to cause bodily harm to any individual
 - Causing or threatening to cause financial harm to any individual
 - Restraining or threatening to restrain any individual
 - Violating or threatening to violate a law
 - Destroying, concealing, removing, confiscating or possessing any actual or purported passport or official document of any individual or threatening to do the same
 - Extortion
 - Fraud or deception
 - Debt bondage
 - Controlling any individual's access to an addictive controlled substance
 - Using a scheme or pattern to cause an individual to believe that any individual would suffer bodily harm, financial harm, restraint, or other harm
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Penalties for those who benefit from Human Trafficking:

Whoever benefits in any manner from a violation of Human Trafficking, as described above, is also guilty of a Class D felony if the person knew that the benefits came from an act of Human Trafficking.

Affirmative Defense:

A victim of Human Trafficking or Trafficking of a Child has an affirmative defense for any crime he or she committed as a direct result of the trafficking without regard to whether anyone was prosecuted or convicted for trafficking.

Civil options for victims of Human Trafficking:

A person who incurs an injury or death as a result of Human Trafficking may bring a civil action against the person responsible for the trafficking, and the court may award punitive damages in addition to actual damages.

TRAFFICKING OF A CHILD - WISCONSIN STATUTE §948.051:

Definitions:

- Child means a person who has not attained the age of 18 years
- Commercial sex act means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person
- Penalty for a Class C felony is a fine not exceeding \$100,000, prison time not exceeding 40 years, or both

Trafficking of a Child:

Whoever knowingly recruits, entices, provides, obtains, or harbors any child for the purpose of commercial sex acts or sexually explicit performance¹, or knowingly attempts to do any of the same, is guilty of a Class C felony.

Penalties for those who benefit from Trafficking of a Child:

- Whoever benefits in any manner from a violation of Trafficking of a Child, as described above, is guilty of a Class C felony if the person knew that the benefits came from an act of Trafficking of a Child.
- Wisconsin recognizes the commission of a violation of 948.051, involving any child, as grounds for termination of parental rights, pursuant to Wis. Stat. 48.415 (9m)(am).

Civil options for victims of Trafficking of a Child:

A person who incurs an injury or death as a result of Trafficking of a Child may bring a civil action against the person responsible for the trafficking, and the court may award punitive damages in addition to actual damages.

Statute of Limitations for Trafficking of a Child:

A prosecution for Trafficking of a Child may be commenced until the victim reaches the age of 45.

¹This term is not defined in the Wisconsin Statutes, however "sexually explicit conduct" is defined in Wis. Stat. § 948.01.

WCASA is a membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 56 sexual assault service provider (SASP) agencies throughout the state that offer support, advocacy and information to victims of sexual assault and their families. For information sheets on other topics and for more information about sexual assault, please visit our website. This sheet may be reproduced in its original format only.

This information does not constitute legal advice.

Please note that this is an abridged information sheet; the statutes have not been printed in their entirety due to space restrictions.