

**HUMAN TRAFFICKING AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

Senate Sponsor: Luz Escamilla

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Criminal Code regarding the kidnapping, trafficking, and smuggling of persons younger than 18 years of age.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of the crime of human trafficking of a child; and
- ▶ provides that a person who is convicted of human trafficking of a child is guilty of a first degree felony.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-5-309**, as last amended by Laws of Utah 2014, Chapters 135 and 141

**76-5-310**, as last amended by Laws of Utah 2013, Chapter 196

ENACTS:

**76-5-308.5**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **76-5-308.5** is enacted to read:

29 **76-5-308.5. Human trafficking of a child -- Penalties.**

30 (1) "Commercial sexual activity with a child" means any sexual act, on account of  
31 which anything of value is given to or received by any person.

32 (2) An actor commits human trafficking of a child if the actor recruits, harbors,  
33 transports, or obtains a child for labor or sexual exploitation.

34 (3) (a) Human trafficking of a child for labor includes labor in industrial facilities,  
35 sweatshops, households, agricultural enterprises, and any other workplace.

36 (b) Human trafficking of a child for sexual exploitation includes all forms of  
37 commercial sexual activity with a child, including sexually explicit performance, prostitution,  
38 participation in the production of pornography, performance in a strip club, and exotic dancing  
39 or display.

40 (4) Human trafficking of a child in violation of this section is a first degree felony.

41 Section 2. Section **76-5-309** is amended to read:

42 **76-5-309. Human trafficking and human smuggling -- Penalties.**

43 (1) Human trafficking for forced labor and human trafficking for forced sexual  
44 exploitation are each a second degree felony, except under Section [76-5-310](#).

45 (2) Human smuggling under Section [76-5-308](#) of one or more persons is a third degree  
46 felony, except under Section [76-5-310](#).

47 (3) Human trafficking for forced labor or for forced sexual exploitation, human  
48 trafficking of a child, and human smuggling are each a separate offense from any other crime  
49 committed in relationship to the commission of either of these offenses.

50 (4) Under circumstances not amounting to aggravated sexual abuse of a child, a  
51 violation of Subsection [76-5-404.1\(4\)\(h\)](#), a person who benefits, receives, or exchanges  
52 anything of value from knowing participation in:

53 (a) human trafficking for forced labor or for forced sexual exploitation in violation of  
54 Section [76-5-308](#) or human trafficking of a child under Section [76-5-308.5](#) is guilty of a second  
55 degree felony; and

56 (b) human smuggling is guilty of a third degree felony.

57 (5) A person commits a separate offense of human trafficking, human trafficking of a  
58 child, or human smuggling for each person who is smuggled or trafficked under Section

59 [76-5-308](#), [76-5-308.5](#), or [76-5-310](#).

60 Section 3. Section **76-5-310** is amended to read:

61 **76-5-310. Aggravated human trafficking and aggravated human smuggling --**  
 62 **Penalties.**

63 (1) An actor commits aggravated human trafficking for forced labor or forced sexual  
 64 exploitation or aggravated human smuggling if, in the course of committing a human  
 65 trafficking for forced labor or for forced sexual exploitation, a violation of Section [76-5-308](#), or  
 66 human smuggling offense under Section [76-5-308](#), the offense:

- 67 (a) results in the death of the trafficked or smuggled person;
- 68 (b) results in serious bodily injury of the trafficked or smuggled person;
- 69 (c) involves:
  - 70 (i) rape under Section [76-5-402](#);
  - 71 (ii) rape of a child under Section [76-5-402.1](#);
  - 72 (iii) object rape under Section [76-5-402.2](#);
  - 73 (iv) object rape of a child under Section [76-5-402.3](#);
  - 74 (v) forcible sodomy under Section [76-5-403](#);
  - 75 (vi) sodomy on a child under Section [76-5-403.1](#);
  - 76 (vii) aggravated sexual abuse of a child under Section [76-5-404.1](#); or
  - 77 (viii) aggravated sexual assault under [76-5-405](#);
- 78 (d) involves 10 or more victims in a single episode of human trafficking or human  
 79 smuggling; or
- 80 (e) involves a victim who is held against the victim's will for longer than 30  
 81 consecutive days.

82 [~~(2) An actor commits aggravated human trafficking for forced labor or forced sexual~~  
 83 ~~exploitation if the actor recruits, harbors, transports, or obtains a child for forced labor or~~  
 84 ~~forced sexual exploitation.]~~

85 [(3)] (2) An actor commits aggravated human smuggling if the actor commits human  
 86 smuggling under Section [76-5-308](#) and any human being whom the person engages in  
 87 smuggling is:

- 88 (a) a child; and
- 89 (b) not accompanied by a family member who is 18 years of age or older.

- 90            [~~4~~] (3) (a) Aggravated human trafficking is a first degree felony.
- 91            (b) Aggravated human smuggling is a second degree felony.
- 92            (c) Aggravated human trafficking and aggravated human smuggling are each a separate
- 93 offense from any other crime committed in relationship to the commission of either of these
- 94 offenses.

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**Legislative Review Note**  
as of 2-4-15 8:53 AM

**Office of Legislative Research and General Counsel**