

Effective 5/14/2019

Superseded 7/1/2021

77-38-15 Civil action against human traffickers and human smugglers.

- (1) A victim of a person that commits the offense of human trafficking or human smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5, aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action against that person.
- (2)
 - (a) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.
 - (b) The court may award treble damages on proof of actual damages if the court finds that the person's acts were willful and malicious.
- (3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.
- (4) An action under this section shall be commenced no later than 10 years after the later of:
 - (a) the day on which the victim was freed from the human trafficking or human smuggling situation;
 - (b) the day on which the victim attains 18 years of age; or
 - (c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.
- (5) The time period described in Subsection (4) is tolled during a period of time when the victim fails to bring an action due to the person:
 - (a) inducing the victim to delay filing the action;
 - (b) preventing the victim from filing the action; or
 - (c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.
- (6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter 38a, Crime Victims Restitution Act.
- (7) A victim may bring an action described in this section in any court of competent jurisdiction where:
 - (a) a violation described in Subsection (1) occurred;
 - (b) the victim resides; or
 - (c) the person that commits the offense resides or has a place of business.
- (8) If the victim is deceased or otherwise unable to represent the victim's own interests in court, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.
- (9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.