

HUMAN TRAFFICKING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: Luz Escamilla

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

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

30a ~~that~~ **with a child**, 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 ~~the purpose of~~ **sexual exploitation or forced** labor ~~for~~ **[or sexual**

33a **exploitation]**.

34 (3) (a) Human trafficking of a child for ~~the purpose of~~ **forced** labor includes labor in

34a industrial facilities,

35 sweatshops, households, agricultural enterprises, ~~and~~ [and] or 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** ~~that~~ **[or human trafficking of a child under Section **76-5-308.5**]** is guilty

54a 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.

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

Office of Legislative Research and General Counsel