

**PLEASE REMEMBER: SURVIVORS SHOULD NOT BE CRIMINALIZED FOR CRIMES
THEY WERE FORCED TO COMMIT**

Human Trafficking Judicial Bench Card

By Judge Laurie A. Clark and Laboratory to Combat Human Trafficking

August 19, 2021

THREE CATEGORIES OF TRAFFICKING¹

1. Those under 18 involved in commercial sex acts
2. Those 18 and over involved in commercial sex acts through force, fraud or coercion
3. Those forced to perform labor and/or services in conditions of involuntary servitude, peonage, debt bondage or slavery through force, fraud or coercion

**Not limited to people who are foreign-born, youth, or females*

Federal Definition of Human Trafficking*

- A. Human Trafficking is a crime involving the exploitation of someone for the purposes of compelled labor or a commercial* sex act** through the use of force, fraud, or coercion.
**commercial: exchange for anything of value (drugs, a place to stay, money, etc.)*
***any sex act: pornography, cam work, stripping, etc.*
- B. Where a person younger than 18 is induced to perform a commercial sex act, it is a crime regardless of whether there is any force, fraud, or coercion.

**from the Trafficking Victims Protection Acts of 2000, 2003, 2005, 2008, 2013, 2017²*

Colorado Human Trafficking Laws³

Human Trafficking and Slavery - C.R.S. § 18-3-501 et seq.

§ 18-3-501 C.R.S. (Legislative Declaration)

§ 18-3-502 C.R.S. (Definitions)

§ 18-3-503 C.R.S. (Involuntary Servitude - Adults and Minors)

§ 18-3-504 C.R.S. (Sexual Servitude - Adults and Minors)

§ 18-3-505 C.R.S. (Creation of Human Trafficking Council)

Colorado House Bill on Human Trafficking: HB14-1273⁴

Human Trafficking for Involuntary Servitude: A person who knowingly sells, recruits, harbors, transports, transfers, isolates, induces, entices, provides, receives, or obtains by any means another person for the purpose of coercing the other person to perform labor or services commits human trafficking for involuntary servitude. **Human trafficking of an adult for involuntary servitude is a class 3 felony. Human trafficking of a minor for involuntary servitude is a class 2 felony.**

Human Trafficking for Sexual Servitude: A person who knowingly sells, recruits, harbors, transports, transfers, isolates, induces, entices, provides, receives, or obtains by any means a person for the purpose of coercing the person to engage in commercial sexual activity commits human trafficking for sexual servitude. **Human trafficking of an adult for sexual servitude is a class 3 felony. Human trafficking of a minor for sexual servitude is a class 2 felony.**

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Restitution Is Required By Law

Restitution is required by H.R.5368 - Victims' Rights and Restitution Act of 1990 which, "Requires Federal courts to order convicted criminals to pay restitution to cover the full amount of the victim's losses."⁵

Restitution is federally required, but Colorado does not have comparable state legislation requiring it. Restitution is recommended by survivor groups like the National Survivor Advisory Council⁶, and is considered a promising practice.

Labor and Sex Trafficking Often Intersect

Vulnerable and marginalized individuals often **experience multiple forms of exploitation and violence**. An example is "trick rolls"⁷, in which victims of human sex trafficking are forced to commit crimes, such as robbing sex buyers.

Has **TRAUMA been part of someone's lived experience?**

A traumatic experience is defined as: "**An exposure to a situation in which a person is confronted with an event that involves actual or threatened death or serious injury, or a threat to others' physical well-being.**"⁸ Complex trauma can lead to identity challenges and memory loss. Individuals who have experienced trauma behave differently than those who haven't: they may resist support, experience memory lapses, have mood swings, and mistrust systems. The following questions can help determine if trauma has been part of someone's lived experience:

- ☐ Have they been disciplined at school?
- ☐ Are they or were they part of the child welfare system?
- ☐ Did they face child abuse, or domestic violence?
- ☐ Are they experiencing:
 - ☐ housing precarity?
 - ☐ gender based violence?
 - ☐ a language barrier?
 - ☐ mental health problems?
 - ☐ discrimination (for example racism or identity-based violence)?

Have you considered if the **basic needs of this individual are being met?**

Traffickers often fill gaps in basic needs for vulnerable individuals. Please note survivors need support to prevent recidivism. Needs may include:

- ☐ **Civil/legal support:** Does this person have unmet civil/legal needs?

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- ☐ **Housing:** Does this person have a safe place to go once they leave the courtroom?
- ☐ **Employment support:** Does this person have any way to support themselves?
- ☐ **Food assistance:** Does this person know where their next meal is coming from?
- ☐ **Mental/Physical Health:** Is this person in poor mental/physical health?

Safety Concerns

- ☐ Is this person at risk of harm from their trafficker/family/community?
- ☐ Is someone related to the survivor, or a perpetrator in the courtroom?
- ☐ Will this person be endangered (physically, psychologically, etc.) by the court process, including testifying?

Trauma Informed Practices for the Courtroom^{9,10}

- ☐ Do not rush the person when asking questions
- ☐ Ask the person if you can get them anything, (a drink, a snack) to make them more comfortable
- ☐ Do not express shock or judgement at the individual's experience
- ☐ Mirror the language and speaking pace the person uses
- ☐ Use a calm tone of voice
- ☐ Do not suggest the individual is responsible for their exploitation for not leaving the situation
- ☐ Do not ask for unnecessary details about the person, or their experience
- ☐ Have a stress-reduction plan if the person experiences a trauma reaction

Human Trafficking Screening Questions¹¹

Use these questions to help determine if an individual has experienced trafficking.

- ☐ Have you or your family/loved ones been threatened?
- ☐ Have you been forced to do things you didn't want to do to make money for another person or to pay off a debt to them?
- ☐ Have your own identification or travel documents been taken from you?
- ☐ Have you done unfair, unsafe, or dangerous work, or stayed in a dangerous situation out of fear of being hurt or someone you love being hurt?
- ☐ Were you lied to or tricked into accepting a job that didn't exist, and/or are you trapped in a job or situation you never wanted?
- ☐ Have you ever been told to lie about your situation, including the type of work that you do?
- ☐ Have you ever worked or spent time with someone who didn't let you contact your family, spend time with your friends, or go where you wanted when you wanted?

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REMEMBER: Trafficking victims may not see themselves as victims. They may trust/love the trafficker. Do not rely on an individual's self-representation when it comes to identifying potential trafficking survivors.¹²

Citations:

¹"International and Domestic Law - United States Department of State." United States Department of State, <https://www.state.gov/international-and-domestic-law/>. Accessed 27 Jan. 2021.

²See 1

³"Part 5 - Human Trafficking and Slavery :: 2016 Colorado Revised Statutes :: US Codes and Statutes :: US Law :: Justia." Justia Law, <https://law.justia.com/codes/colorado/2016/title-18/article-3/part-5/>. Accessed 27 Jan. 2021.

⁴"Colorado House Bill 14-1273." Colorado Department of Public Safety, https://cdpsdocs.state.co.us/ovp/Human_Trafficking/ActHB14-1273.pdf. Accessed 27 Jan. 2021.

⁵"Text - H.R.5368 - 101st Congress (1989-1990): Victims' Rights and Restitution Act of 1990 | Congress.Gov | Library of Congress." *Congress.Gov | Library of Congress*, <https://www.congress.gov/bill/101st-congress/house-bill/5368/text?r=14&s=1>. Accessed 27 Jan. 2021.

⁶Tina Frundt, et al. "United States Advisory Council on Human Trafficking Annual Report 2019", United States Advisory Council on Human Trafficking, May 2019 pp. 12-15

⁷"Trick Roll Study: Forced Criminality in Sex Trafficking Situations." Arizona State University School of Social Work, https://socialwork.asu.edu/sites/default/files/stir/asu_lvmpd_amber_alert_trick_roll_report_january_2020-reduced.pdf. Accessed 27 Jan. 2021.

⁸American Psychiatric Association (APA). Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition). American Psychiatric Association. Washington DC, 2000.

⁹Konstantopoulos, Wendy & Owens, Julie. (2018). Adult Human Trafficking Screening Tool and Guide - funded by the U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office on Trafficking in Persons (OTIP).

¹⁰"Screening for Human Trafficking Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)." VERA Institute of Justice <https://www.vera.org/downloads/publications/human-trafficking-identification-tool-and-user-guidelines.pdf>. Accessed 27 Jan. 2021.

¹¹See 9

¹²Office of Court Improvement. "Grace Court Benchbook 2017." Florida Courts. Accessed March 23, 2021. https://www.flcourts.org/content/download/217037/file/GRACE_Court_Benchbook.pdf.