

## HOUSE BILL NO. HB0133

Human trafficking.

Sponsored by: Representative(s) Connolly, Berger, Davison,  
Esquibel, K., Gingery, Petroff and  
Zwonitzer, Dn. and Senator(s) Barnard,  
Craft, Hastert and Schiffer

A BILL

for

1 AN ACT relating to crimes and offenses; defining criminal  
2 offenses related to human trafficking as specified;  
3 providing penalties; providing for restitution; providing  
4 an affirmative defense to prosecution of human trafficking  
5 victims as specified; providing for services to victims of  
6 human trafficking; making conforming amendments; and  
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 6-2-701 through 6-2-710 are created  
12 to read:

13

14

ARTICLE 7

15

HUMAN TRAFFICKING

1

2       **6-2-701. Definitions.**

3

4       (a) As used in this article:

5

6               (i) "Benefit" means to receive anything of  
7 value;

8

9               (ii) "Coercion" means any one (1) or more of the  
10 following:

11

12                       (A) The use or threat of force, abduction,  
13 serious harm to or physical restraint against any  
14 individual;

15

16                       (B) The use of a scheme, plan, pattern or  
17 fraudulent statement with intent to cause an individual to  
18 believe that failure to perform an act will result in  
19 serious harm to or physical restraint against any  
20 individual;

21

22                       (C) The abuse or threatened abuse of the  
23 law or legal process;

24

1 (D) The abuse of a position of power or  
2 taking advantage of a position of vulnerability;

3

4 (E) Providing to an individual or  
5 controlling an individual's access to a controlled  
6 substance;

7

8 (F) Interfering with lawful custody of or  
9 access to an individual's children;

10

11 (G) The destruction of, taking of or the  
12 threat to destroy or take an individual's identification  
13 document;

14

15 (H) The use of an individual's personal  
16 services as security payment or satisfaction for a real or  
17 purported debt if:

18

19 (I) The reasonable value of the  
20 services is not applied toward the liquidation of the debt;

21

22 (II) The length of the services is not  
23 limited and their nature is not defined;

24

1                   (III) The principal amount of the debt  
2 does not reasonably reflect the value of the items or  
3 services for which the debt was incurred; or

4  
5                   (IV) The individual is prevented from  
6 acquiring accurate and timely information about the  
7 disposition of the debt.

8  
9                   (iii) "Commercial sex act" means any sexual act  
10 for which anything of value is given to, promised or  
11 received by a person;

12  
13                   (iv) "Deception" means:

14  
15                   (A) A person's creation or confirmation of  
16 an individual's impression of material fact or event which  
17 is false and which the person knows or has reason to  
18 believe is false, including:

19  
20                   (I) The nature of labor or services to  
21 be provided;

22  
23                   (II) The fundamental conditions of  
24 labor; or

1

2 (III) The extent to which the  
3 individual will be free to leave the individual's place of  
4 residence or workplace; and

5

6 (B) The promise of a benefit to or  
7 performance of a service to an individual which the person  
8 does not intend to be delivered or performed.

9

10 (v) "Financial harm" means a detrimental  
11 position in relation to wealth, property or other monetary  
12 benefits that occurs as a result of another person's  
13 illegal act including, but not limited to, extortion or  
14 illegal employment contracts;

15

16 (vi) "Forced services" means services performed  
17 or provided by a person that are obtained or maintained by  
18 another person who:

19

20 (A) Causes or threatens to cause serious  
21 harm to any person;

22

23 (B) Physically restrains or threatens to  
24 physically restrain another person;

1

2 (C) Abuses or threatens to abuse the law or  
3 legal process;

4

5 (D) Knowingly destroys, conceals, removes  
6 or confiscates any actual or purported passport or other  
7 immigration document, or any other actual or purported  
8 government identification document, of another person;

9

10 (E) Engages in extortion; or

11

12 (F) Causes or threatens to cause financial  
13 harm to any person.

14

15 (vii) "Identification document" includes a  
16 passport, driver's license, immigration document, travel  
17 document and any other government issued identification  
18 document;

19

20 (viii) "Labor" means work of economic or  
21 financial value;

22

23 (ix) "Minor" means any natural person younger  
24 than eighteen (18) years of age;

1

2           (x) "Pecuniary damage" means all damages which a  
3 victim could recover against the defendant in a civil  
4 action arising out of the same facts or event, including  
5 damages for wrongful death. It does not include punitive  
6 damages and damages for pain, suffering, mental anguish and  
7 loss of consortium;

8

9           (xi) "Person" means an individual, partnership,  
10 corporation, joint stock company or any other association  
11 or entity, public or private;

12

13           (xii) "Restitution" means full or partial  
14 payment of pecuniary damage to a victim;

15

16           (xiii) "Serious harm" means any harm, physical  
17 or nonphysical, including, but not limited to,  
18 psychological, financial or reputational harm, that is  
19 sufficiently serious, under all the surrounding  
20 circumstances, to compel a reasonable person of the same  
21 background and in the same circumstances as the victim to  
22 perform or to continue performing labor or a service, or a  
23 commercial sex act, in order to avoid incurring that harm;

24

1           (xiv) "Services" means activities resulting from  
2 a relationship between a person and the actor in which the  
3 person performs activities under the supervision of or for  
4 the benefit of the actor. Commercial sexual activity is  
5 "services" in this article. Nothing in this definition may  
6 be construed to legitimize or legalize prostitution;

7

8           (xv) "Victim" means the person alleged to have  
9 been subjected to human trafficking;

10

11           (xvi) "This act" means W.S. 6-2-701 through  
12 6-2-710.

13

14           **6-2-702. Human trafficking in the first degree;**  
15 **penalty.**

16

17           (a) A person is guilty of human trafficking in the  
18 first degree when the person intentionally or knowingly  
19 recruits, transports, transfers, harbors, receives,  
20 provides, obtains, isolates, maintains or entices an  
21 individual for the purpose of:

22

23           (i) Forced labor or servitude in violation of  
24 W.S. 6-2-704;



1

2 (ii) Sexual servitude in violation of W.S.  
3 6-2-705; or

4

5 (iii) Sexual servitude of a minor in violation of  
6 W.S. 6-2-706.

7

8 (b) Human trafficking in the first degree is a felony  
9 punishable by imprisonment for not less than five (5) nor  
10 more than fifty (50) years unless the victim is a minor in  
11 which case it is a felony punishable by imprisonment for not  
12 less than twenty-five (25) nor more than fifty (50) years  
13 and a fine of not more than ten thousand dollars  
14 (\$10,000.00), or both.

15

16 **6-2-703. Human trafficking in the second degree;**  
17 **penalty.**

18

19 (a) A person is guilty of human trafficking in the  
20 second degree when the person recklessly recruits,  
21 transports, transfers, harbors, receives, provides, obtains,  
22 isolates, maintains or entices an individual for the purpose  
23 of:

24

1           (i) Forced labor or servitude in violation of  
2 W.S. 6-2-704;

3

4           (ii) Sexual servitude in violation of W.S.  
5 6-2-705;

6

7           (iii) Sexual servitude of a minor in violation of  
8 W.S. 6-2-706.

9

10          (b) Human trafficking in the second degree is a felony  
11 punishable by imprisonment for not less than two (2) nor  
12 more than twenty (20) years and a fine of not more than ten  
13 thousand dollars (\$10,000.00), or both.

14

15          **6-2-704. Forced labor or servitude; penalty.**

16

17          (a) A person is guilty of forced labor or servitude  
18 when the person intentionally, knowingly or recklessly uses  
19 coercion, deception or fraud to compel an individual to  
20 provide labor or forced services.

21

22          (b) Intentionally, knowingly or recklessly compelling  
23 forced labor or servitude is a felony punishable by

1 imprisonment for not more than fifteen (15) years and a fine  
2 of not more than ten thousand dollars (\$10,000.00), or both.

3  
4 **6-2-705. Sexual servitude of adult.**

5  
6 (a) A person is guilty of sexual servitude of an adult  
7 when the person intentionally, knowingly or recklessly uses  
8 coercion, deception or fraud to compel an individual  
9 eighteen (18) years of age or older to engage in commercial  
10 sexual services.

11  
12 (b) Intentionally, knowingly or recklessly compelling  
13 the sexual servitude of an adult is a felony punishable by  
14 imprisonment for not more than three (3) years and a fine of  
15 not more than three thousand dollars (\$3,000.00), or both.

16  
17 **6-2-706. Sexual servitude of a minor.**

18  
19 (a) A person is guilty of sexual servitude of a minor  
20 when the person intentionally, knowingly or recklessly  
21 offers, obtains, procures or provides an individual less  
22 than eighteen (18) years of age to engage in commercial  
23 sexual services.

1 (b) Intentionally, knowingly or recklessly compelling  
2 the sexual servitude of a minor is a felony punishable by  
3 imprisonment for not more than five (5) years and a fine of  
4 not more than five thousand dollars (\$5,000.00), or both.

5  
6 (c) It is not a defense in a prosecution under this  
7 section that the individual consented to engage in  
8 commercial sexual services or that the defendant reasonably  
9 believed the individual was at least eighteen (18) years of  
10 age.

11  
12 **6-2-707. Patronizing a victim of sexual servitude.**

13  
14 (a) A person is guilty of patronizing a victim of  
15 sexual servitude when the person pays, agrees to pay or  
16 offers to pay anything of value so that the person or  
17 another may engage in sexual activity with an individual  
18 when the person knows that the individual is a victim of  
19 sexual servitude in violation of W.S. 6-2-705 or 6-2-706.

20  
21 (b) Patronizing a victim of sexual servitude is a  
22 felony punishable by a fine of not more than five thousand  
23 dollars (\$5,000.00), imprisonment for not more than three  
24 (3) years, or both.

1

2       **6-2-708. Victim defenses; vacating convictions.**

3

4       (a) A victim of human trafficking is not criminally  
5 liable for any commercial sex act or other criminal acts  
6 committed as a direct result of, or incident to, being a  
7 victim of human trafficking in violation of W.S. 6-2-702  
8 through 6-2-707.

9

10       (b) If a victim who is not criminally liable because  
11 of subsection (a) of this section and is a minor, the victim  
12 shall be deemed a "child in need of protection" and treated  
13 in accordance with the Child Protection Act.

14

15       (c) At any time after the entry of a conviction, the  
16 court in which it was entered may vacate the conviction if  
17 the defendant's participation in the offense is found to  
18 have been the result of having been a victim. Official  
19 documentation of the defendant's status as a victim at the  
20 time of the offense from a federal, state or local  
21 government agency shall create a presumption that the  
22 defendant's participation in the offense was a result of  
23 having been a victim, but shall not be required for granting  
24 a motion under this section.

1

2       **6-2-709. Victims' rights; services.**

3

4       (a) As soon as possible after the initial encounter  
5 with a person who reasonably appears to a law enforcement  
6 agency, district or county and prosecuting attorneys' office  
7 to be a victim of human trafficking, the agency or office  
8 shall:

9

10               (i) Notify the victim services division within  
11 the office of the attorney general that the person may be  
12 eligible for services under this article; and

13

14               (ii) Make a preliminary assessment of whether the  
15 victim or possible victim of human trafficking appears to  
16 meet the criteria for certification as a victim of a severe  
17 form of trafficking in persons as defined in the Trafficking  
18 Victims Protection Act, 22 U.S.C. section 7105, or appears  
19 to be otherwise eligible for any federal, state or local  
20 benefits and services. If it is determined that the victim  
21 appears to meet such criteria, the agency or office shall  
22 report the finding to the victim and shall refer the victim  
23 to services available, including legal service providers. If  
24 the possible victim is a minor or is a vulnerable adult, the

1 agency or office shall also notify the department of family  
2 services.

3  
4 (b) The attorney general, a district or county and  
5 prosecuting attorney or any law enforcement official shall  
6 certify in writing to the United States Department of  
7 Justice or other federal agency, such as the United States  
8 Department of Homeland Security, that an investigation or  
9 prosecution under this article has begun and the individual  
10 who is a likely victim of a crime described in this article  
11 is willing to cooperate or is cooperating with the  
12 investigation to enable the individual, if eligible under  
13 federal law, to qualify for an appropriate special immigrant  
14 visa and to access available federal benefits. Cooperation  
15 with law enforcement shall not be required of victims of a  
16 crime described in this article who are minors. This  
17 certification shall be made available to the victim and his  
18 or her designated legal representative.

19  
20 (c) Victims of human trafficking under W.S. 6-2-702  
21 through 6-2-706 shall be informed of the rights enumerated  
22 in this section, the victim's right to informed consent and  
23 the victim's rights as a victim of crime. The victim shall

1 also be informed of available housing, educational, medical,  
2 legal and advocacy services.

3

4 (d) Victims of human trafficking are entitled to  
5 restitution and forms of compensation under the Crime  
6 Victims Compensation Act.

7

8 (e) In a prosecution for an offense under this  
9 article, police and prosecuting agencies shall keep the  
10 identity of the victim and the victim's family confidential.  
11 The prosecutor shall take reasonable steps to protect the  
12 victim and the victim's family from being revictimized.

13

14 **6-2-710. Restitution.**

15

16 (a) In addition to any other punishment prescribed by  
17 law, upon conviction for any misdemeanor or felony under  
18 this article, the court shall order a defendant to pay  
19 mandatory restitution to each victim as determined under  
20 W.S. 7-9-103 and 7-9-114.

21

22 (b) If the victim of human trafficking to whom  
23 restitution has been ordered dies before restitution is  
24 paid, any restitution ordered shall be paid to the victim's



1 heir or legal representative provided that the heir or legal  
2 representative has not benefited in any way from the  
3 trafficking.

4  
5 (c) The return of the victim of human trafficking to  
6 his or her home country or other absence of the victim from  
7 the jurisdiction shall not limit the victim's right to  
8 receive restitution pursuant to this section.

9  
10 **Section 2.** W.S. 6-4-101, 6-4-102, 6-4-103(a)(intro)  
11 and 7-19-301(a)(iv) by creating a new subparagraph (J) and  
12 (viii) are amended to read:

13  
14 **6-4-101. Prostitution; penalties.**

15  
16 Except as provided in W.S. 6-2-701 through 6-2-710, a  
17 person who knowingly or intentionally performs or permits,  
18 or offers or agrees to perform or permit an act of sexual  
19 intrusion, as defined by W.S. 6-2-301(a)(vii), for money or  
20 other property commits prostitution which is a misdemeanor  
21 punishable by imprisonment for not more than six (6)  
22 months, a fine of not more than seven hundred fifty dollars  
23 (\$750.00), or both.

1           **6-4-102. Soliciting an act of prostitution;**  
2 **penalties.**

3  
4 Except as provided in W.S. 6-2-701 through 6-2-710, a  
5 person is guilty of soliciting an act of prostitution if,  
6 with the intent that an act of sexual intrusion as defined  
7 by W.S. 6-2-301(a)(vii) be committed, that person knowingly  
8 or intentionally pays, or offers or agrees to pay money or  
9 other property to another person under circumstances  
10 strongly corroborative of the intention that an act of  
11 prostitution be committed. Soliciting an act of  
12 prostitution is a misdemeanor punishable by imprisonment  
13 for not more than six (6) months, a fine of not more than  
14 seven hundred fifty dollars (\$750.00), or both.

15

16           **6-4-103. Promoting prostitution; penalties.**

17

18           (a) Except as provided in W.S. 6-2-701 through  
19 6-2-710, a person commits a felony if he:

20

21           **7-19-301. Definitions.**

22

23           (a) Unless otherwise provided, for the purposes of  
24 this act:

1

2 (iv) "Criminal offense against a minor" means  
3 the offenses specified in this paragraph in which the  
4 victim is less than eighteen (18) years of age. "Criminal  
5 offense against a minor" includes an offense committed in  
6 another jurisdiction, including a federal court or courts  
7 martial, which, if committed in this state, would  
8 constitute a "criminal offense against a minor" as defined  
9 in this paragraph. "Criminal offense against a minor"  
10 includes:

11

12 (J) Human trafficking under W.S. 6-2-702 or  
13 6-2-703 or sexual servitude under W.S. 6-2-705 or 6-2-706.

14

15 (viii) "Offender" means a person convicted of a  
16 criminal offense specified in W.S. 7-19-302(g) through (j),  
17 6-2-702, 6-2-703, 6-2-705 or 6-2-706 or convicted of a  
18 criminal offense from Wyoming or any other jurisdiction  
19 containing the same or similar elements, or arising out of  
20 the same or similar facts or circumstances, as a criminal  
21 offense specified in W.S. 7-19-302(g) through (j), 6-2-702,  
22 6-2-703, 6-2-705 or 6-2-706;

23

24 **Section 3.**

1

2           (a) The division of victim services shall develop  
3 comprehensive training regarding provisions of this act to  
4 be used for presentation to law enforcement agencies, the  
5 law enforcement academy, prosecutors, public defenders,  
6 judges and others involved in the juvenile and criminal  
7 justice systems. The training may include:

8

9                   (i) State and federal laws on human trafficking;

10

11                   (ii) Methods used to identify United States  
12 citizen and foreign national victims of human trafficking;

13

14                   (iii) Methods of prosecuting human traffickers;  
15 and

16

17                   (iv) Methods of protecting the rights of victims  
18 of human trafficking, including collaboration with  
19 nongovernmental and other social service agencies in the  
20 course of investigating and prosecuting human trafficking  
21 cases.

22

