

2018 Kansas Statutes

21-5426. Human trafficking; aggravated human trafficking. (a) Human trafficking is:

- (1) Except as provided in subsection (b)(4) and (5), the intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;
- (2) intentionally benefitting financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);
- (3) knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:
 - (A) Causing or threatening to cause physical injury to any person;
 - (B) physically restraining or threatening to physically restrain another person;
 - (C) abusing or threatening to abuse the law or legal process;
 - (D) threatening to withhold food, lodging or clothing; or
 - (E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or
- (4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.

(b) Aggravated human trafficking is:

- (1) Human trafficking, as defined in subsection (a), involving the commission or attempted commission of kidnapping, as defined in K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;
- (2) human trafficking, as defined in subsection (a), committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
- (3) human trafficking, as defined in subsection (a), resulting in a death;
- (4) recruiting, harboring, transporting, providing or obtaining, by any means, a child knowing that the child, with or without force, fraud, threat or coercion, will be used to engage in: (A) Forced labor; (B) involuntary servitude; or (C) sexual gratification of the defendant or another involving the exchange of anything of value; or
- (5) hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act, and the offender recklessly disregards the age of the child.

(c) (1) Human trafficking is a severity level 2, person felony.

(2) Aggravated human trafficking is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.

(4) In addition to any other sentence imposed, a person convicted under subsection (c)(1) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (c)(2) or (c)(3) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2018 Supp. 75-758, and amendments thereto.

(5) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

(d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) K.S.A. 2018 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;

(2) K.S.A. 2018 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and

(3) K.S.A. 2018 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.

(e) It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant: (1) Was under 18 years of age at the time of the violation; and (2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.

(f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that: (1) The victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another; or (2) the offender had no knowledge of the age of the victim.

(g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A. 2018 Supp. 21-6422, and amendments thereto, or for any form of homicide.

(h) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.

(i) As used in this section:

(1) "Child" means a person under 18 years of age; and

(2) "peonage" means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

History: L. 2010, ch. 136, § 61; L. 2011, ch. 30, § 26; L. 2012, ch. 150, § 5; L. 2017, ch. 78, § 10; July 1.