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Human Trafficking: Key Federal Criminal Statutes

Federal law criminalizes human trafficking, which typically involves the threat or use of force, fraud, or coercion to obtain commercial sex acts, labor, or other services. *See* 22 U.S.C. § 7102(11) (defining “severe forms of trafficking in persons”). Trafficking-related offenses tend to carry lengthy prison terms, potentially including life imprisonment for conduct involving actual or attempted killing, kidnapping, or aggravated sexual abuse. Attempts or conspiracies to commit trafficking offenses are subject to similar penalties, and convictions may result in forfeiture of property and proceeds related to the offense. *See* 18 U.S.C. §§ 1594, 2433(e), 2428.

Some federal prohibitions on human trafficking have their roots in the Thirteenth Amendment’s guarantees against slavery and involuntary servitude, while prohibitions focusing on commercial sex acts often seem premised on Congress’s power over interstate and foreign commerce. While federal law has barred slavery and involuntary servitude since the Reconstruction era, and the transportation of persons across state lines for purposes of prostitution, Congress has passed several comprehensive bills in recent decades to deter human trafficking. In particular, the Trafficking Victims Protection Act of 2000 (TVPA), as amended, added new criminal provisions and strengthened penalties for already-existing laws. *See* Pub. L. No. 106-386, § 112.

This In Focus outlines key federal criminal laws addressing human trafficking within the United States, found mainly in Chapters 77 and 117 of the U.S. Criminal Code. It also highlights federal immigration-related crimes that may sometimes be relevant to trafficking activity, such as those addressing the smuggling of non-U.S. nationals (aliens) into the United States. Besides crimes discussed in this In Focus, other laws may also be relevant, including those targeting the sexual exploitation of children (regardless of whether done for commercial purposes). *See, e.g.*, 18 U.S.C. ch. 110. Still other criminal laws may be primarily relevant to trafficking abroad. *See, e.g.*, 18 U.S.C. § 2442 (conscription of child soldiers into hostilities). These and other laws may be discussed in other CRS products.

Trafficking in Children and Others for Sex Acts

Added by the TVPA, Section 1591 of the U.S. Criminal Code criminalizes the trafficking in persons for commercial sex acts. 18 U.S.C. § 1591. Both purchasers and providers of commercial sex acts may be criminally liable. *See United States v. Cook*, 782 F.3d 983, 987 (8th Cir. 2015). Section 1591 covers sex trafficking for both children and adults. This provision, however, applies to trafficking in adults aged 18 or older for commercial sex acts only if done by actual or threatened force, fraud, or coercion. The use of force, fraud, or coercion is not necessary for criminal liability to attach when the victim is under 18 years of age.

Instead, Section 1591 makes it an offense to knowingly recruit, entice, harbor, transport, provide, obtain, or maintain a minor, while knowing or in reckless disregard of the fact that the victim is a minor. A conviction for sex trafficking of a child under the TVPA does not require that the child actually engage in a sex act. *See United States v. Basa*, 817 F.3d 645, 649 (9th Cir. 2016). Actual or attempted obstruction of enforcement of Section 1591 is also subject to penalty. 18 U.S.C. § 1591(d).

A violation carries a fine and/or prison sentence of a minimum of 10 years with the possibility of enhanced penalties, including life imprisonment. These heightened penalties exist when, for example force, fraud, or coercion is used against a victim under 18 years of age, or when an offense involves a minor under 14 years of age (regardless of whether force or coercion is used).

Trafficking with Respect to Peonage, Involuntary Servitude, or Forced Labor

A person violates 18 U.S.C. § 1590 if he or she “knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of” the statutory provisions prohibiting peonage, slavery, forced labor, and involuntary servitude. *See also, e.g., Adia v. Grandeur Management, Inc.*, 933 F.3d 89, 94 (2d Cir. 2019) (person recruited to work by employer who promised to transfer and sponsor his visa and forced him to work for less than he was owed by threatening to revoke that sponsorship). A violation carries a penalty of a fine and/or imprisonment for up to 20 years. In aggravating circumstances, an offender may be fined and imprisoned for any term of years, including life imprisonment.

Peonage

Under 18 U.S.C. § 1581, it is a crime to hold or place a person into the condition of peonage—involuntary servitude based on real or alleged indebtedness. A violation carries a term of imprisonment of up to 20 years and/or a fine, with the possibility of any number of years or life imprisonment in aggravating circumstances.

Sale into Involuntary Servitude

Federal law proscribes holding or selling a person for involuntary servitude or bringing a person into the United States held in servitude. 18 U.S.C. § 1584(a). An offense carries a term of imprisonment of up to 20 years and/or a fine, with the possibility of any number of years or life imprisonment in aggravating circumstances. Actual or attempted obstruction of enforcement of this prohibition is likewise punishable. *Id.* § 1584(b). The Supreme Court has construed the phrase “involuntary servitude” in Section 1584 to have the same contours as in the Thirteenth Amendment. *See United States v. Kozminski*, 487 U.S. 931, 944–45 (1988).

Enticement into Slavery

Under 18 U.S.C. § 1583, it is a crime to kidnap another person to sell that person into involuntary servitude or hold that person as a slave. Section 1583 also bars the enticement, persuasion, or inducement of another to go on a vessel or other place for the purpose of holding that person as a slave or sending that other person abroad for the purpose of being held as a slave. A Section 1583 violation may result in a fine and/or imprisonment up to 30 years, with the possibility of imprisonment for any number of years or life in certain circumstances.

Forced Labor

The federal forced labor statute, 18 U.S.C. § 1589, makes it a crime to knowingly obtain the labor or services of another person by (1) actual or threatened force or physical restraint; (2) actual or threatened serious harm, including to a third party; (3) actual or threatened abuse of law or legal process; or (4) a scheme, plan, or pattern intended to cause the person to believe that he or she would suffer serious harm or physical restraint if the victim did not perform such services. *See, e.g., United States v. Callahan*, 801 F.3d 606, 620–21 (6th Cir. 2015) (upholding forced labor conviction for compelling a disabled woman to perform domestic labor through extreme circumstances—squalid living conditions, extreme isolation, threat of legal process, and violence). Section 1589 also penalizes those who knowingly benefit financially or receive anything of value from participating in a forced labor scheme. Those who violate this provision may be fined and/or imprisoned for up to 20 years, with the possibility of any number of years, including life imprisonment in aggravating circumstances.

Documents in Furtherance of Peonage, Involuntary Servitude, or Forced Labor

It is a crime under 18 U.S.C. § 1592 to knowingly destroy, conceal, remove, confiscate, or possess an actual or purported passport or government-issued identification document, including an immigration document, of another either in conjunction with intended violations of the above-mentioned human trafficking offenses, or for the purpose of attempting to or actually restricting a person’s freedom of movement or travel in order to maintain that person’s labor or services. *See, e.g., United States v. Farrell*, 563 F.3d 364, 376–77 (8th Cir. 2009) (workers’ passports, visas, and entry cards were confiscated and held by the perpetrators). Violations are subject to fine and/or imprisonment for up to five years. A victim of trafficking is not guilty of this crime if his or her conduct was caused by, or incident to, that trafficking. 18 U.S.C. § 1592(b).

Interstate Sex Trafficking Crimes

Chapter 117 of the Criminal Code, in addition to including offenses related to prostitution generally, addresses sex trafficking of children and coercion of persons into prostitution. Unlike offenses discussed above, crimes in this Chapter generally involve transporting persons across state lines or international boundaries.

18 U.S.C. § 2422 makes it an offense to knowingly persuade, induce, entice, or coerce an individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or

in any other criminal sex act. Violators are generally subject to fine and/imprisonment for up to 20 years. Use of the mail or other facility or means (e.g., electronic communication) to knowingly persuade, induce, or coerce a person under 18 years of age to engage in prostitution or other criminal sex acts may face fine and imprisonment for not less than 10 years or for life.

It is a crime under 18 U.S.C. § 2423 to transport persons under the age of 18 in interstate or foreign commerce to engage in prostitution or other criminal sexual activity. Violations carry a penalty of a fine and/or a minimum prison sentence of 10 years. Further, this provision criminalizes engaging in “illicit sexual conduct” while traveling in interstate commerce or into the United States. *Id.* § 2423(b). U.S. citizens and permanent residents traveling abroad who engage in “illicit sexual conduct” may also be criminally liable. *Id.* § 2423(c). “Illicit sexual conduct” means (1) a sexual act with a person under 18 years of age; (2) any commercial sex act with a person under 18 years of age; or (3) the production of child pornography. *Id.* § 2423(f). This statutory provision also penalizes those who facilitate the travel of a person for the purpose of commercial advantage or private gain, while knowing that person is engaging in illicit sexual conduct, *Id.* § 2423(d). A violation of these provisions may result in a fine and/or imprisonment of up to 30 years. A defendant may evade criminal liability by establishing that he or she believed the person with whom the commercial sex act was committed was 18 years of age or older. *Id.* § 2423(g).

Relevant Immigration-Related Criminal Statutes

Conduct punishable under human trafficking laws is sometimes punishable under other federal laws, including immigration statutes when the victim is a noncitizen. The Immigration and Nationality Act (INA) governs the admission, removal, and presence of aliens, and Congress has established therein criminal penalties for those who undermine immigration rules. In particular, 8 U.S.C. § 1324 criminalizes conduct that involves smuggling aliens into the United States, transporting aliens within the country, or otherwise facilitating unlawfully present aliens to remain in the United States. Smuggled aliens may not necessarily be trafficking victims, but immigration crimes may be relevant to human trafficking activities that involve facilitating an alien’s unlawful entry and presence. Criminal liability attaches regardless of whether the smuggling, transportation, or harboring of the alien is for sex acts or forced labor. Violations carry lengthy prison sentences, including enhanced penalties if the conduct was performed for private gain or resulted in injury or death.

Other immigration criminal statutes can also apply to trafficking-related activities, such as fraud and misuse of visas, permits, and other immigration documents (18 U.S.C. § 1546), importation, holding, or keeping of an alien for prostitution or “any other immoral purpose” (8 U.S.C. § 1328), failing to file a factual statement about an alien harbored for purposes of prostitution (18 U.S.C. § 2424), and marriage fraud (8 U.S.C. § 1325(c)).

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