

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; providing for forfeiture of property as  
7 specified; making conforming amendments; and providing for  
8 an effective date.

9

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

11

12 **Section 1.** W.S. 6-2-701 through 6-2-711 are created  
13 to read:

14

15

ARTICLE 7

## 1 HUMAN TRAFFICKING

2

3 **6-2-701. Definitions.**

4

5 (a) As used in this article:

6

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

9

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

12

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

16

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

22

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

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2

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

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

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

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

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

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

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

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

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

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

(iv) "Deception" means:

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

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

1 (II) The fundamental conditions of  
2 labor; or

3

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

7

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

11

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

17

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

21

22 (A) Causes or threatens to cause serious  
23 harm to any person;

24

1                   (B) Physically restrains or threatens to  
2 physically restrain another person;

3

4                   (C) Abuses or threatens to abuse the law or  
5 legal process;

6

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

12

13                   (E) Engages in extortion; or

14

15                   (F) Causes or threatens to cause financial  
16 harm to any person.

17

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

22

23                   (viii) "Labor" means work of economic or  
24 financial value;

1

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

4

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

11

12 (xi) "Person" means an individual, partnership,  
13 corporation, joint stock company or any other association  
14 or entity, public or private;

15

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

18

19 (xiii) "Serious harm" means any harm, physical  
20 or nonphysical, including, but not limited to,  
21 psychological, financial or reputational harm, that is  
22 sufficiently serious, under all the surrounding  
23 circumstances, to compel a reasonable person of the same  
24 background and in the same circumstances as the victim to

1 perform or to continue performing labor or a service, or a  
2 commercial sex act, in order to avoid incurring that harm;

3

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

10

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

13

14 (xvi) "This act" means W.S. 6-2-701 through  
15 6-2-711.

16

17 **6-2-702. Human trafficking in the first degree;**  
18 **penalty.**

19

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



1

2 (i) Forced labor or servitude in violation of  
3 W.S. 6-2-705;

4

5 (ii) Sexual servitude in violation of W.S.  
6 6-2-706; or

7

8 (iii) Sexual servitude of a minor in violation of  
9 W.S. 6-2-707.

10

11 (b) Human trafficking in the first degree is a felony  
12 punishable by imprisonment for not less than five (5) nor  
13 more than fifty (50) years unless the victim is a minor in  
14 which case it is a felony punishable by imprisonment for not  
15 less than twenty-five (25) nor more than fifty (50) years  
16 and a fine of not more than ten thousand dollars  
17 (\$10,000.00), or both.

18

19 **6-2-703. Human trafficking in the second degree;**  
20 **penalty.**

21

22 (a) A person is guilty of human trafficking in the  
23 second degree when the person wantonly or recklessly  
24 recruits, transports, transfers, harbors, receives,

1 provides, obtains, isolates, maintains or entices an  
2 individual for the purpose of:

3

4 (i) Forced labor or servitude in violation of  
5 W.S. 6-2-705;

6

7 (ii) Sexual servitude in violation of W.S.  
8 6-2-706;

9

10 (iii) Sexual servitude of a minor in violation of  
11 W.S. 6-2-707.

12

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

17

18 **6-2-704. Forced labor or servitude; penalty.**

19

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

24

1           (b) Intentionally or knowingly compelling forced  
2 labor or servitude is a felony punishable by imprisonment  
3 for not more than fifteen (15) years and a fine of not more  
4 than ten thousand dollars (\$10,000.00), or both.

5

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

7

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

13

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

18

19           **6-2-706. Sexual servitude of a minor.**

20

21           (a) A person is guilty of sexual servitude of a minor  
22 when the person intentionally, knowingly or recklessly  
23 offers, obtains, procures or provides an individual less

1 than eighteen (18) years of age to engage in commercial  
2 sexual services.

3

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

8

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

14

15 **6-2-707. Patronizing a victim of sexual servitude.**

16

17 (a) A person is guilty of patronizing a victim of  
18 sexual servitude in the first degree when the person pays,  
19 agrees to pay or offers to pay anything of value so that the  
20 person or another may engage in sexual activity with an  
21 individual when the person knows that the individual is a  
22 victim of sexual servitude in violation of W.S. 6-2-706 or  
23 6-2-707.

24

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

5

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

7

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

13

14           (b) It is an affirmative defense in a prosecution for  
15 a criminal offense that the defendant:

16

17                   (i) Is a victim; and

18

19                   (ii) Committed the offense under a reasonable  
20 apprehension in the mind of the defendant created by another  
21 person that if the defendant did not commit the act, that  
22 the person would inflict serious harm upon the defendant,  
23 or a member of the defendant's family or a close associate.

24

1           (c) If a victim who is not criminally liable because  
2 of subsection (b) of this section and is a minor, the victim  
3 shall be deemed a "child in need of protection" and treated  
4 in accordance with the Child Protection Act.

5

6           (d) At any time after the entry of a conviction, the  
7 court in which it was entered may vacate the conviction if  
8 the defendant's participation in the offense is found to  
9 have been the result of having been a victim. Official  
10 documentation of the defendant's status as a victim at the  
11 time of the offense from a federal, state or local  
12 government agency shall create a presumption that the  
13 defendant's participation in the offense was a result of  
14 having been a victim, but shall not be required for granting  
15 a motion under this section.

16

17           **6-2-709. Victims' rights; services.**

18

19           (a) As soon as possible after the initial encounter  
20 with a person who reasonably appears to a law enforcement  
21 agency, district or county and prosecuting attorneys' office  
22 or the office of the attorney general to be a victim of  
23 human trafficking, the agency or office shall:

24

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

4  
5           (ii) Make a preliminary assessment of whether the  
6 victim or possible victim of human trafficking appears to  
7 meet the criteria for certification as a victim of a severe  
8 form of trafficking in persons as defined in the Trafficking  
9 Victims Protection Act, 22 U.S.C. section 7105, or appears  
10 to be otherwise eligible for any federal, state or local  
11 benefits and services. If it is determined that the victim  
12 appears to meet such criteria, the agency or office shall  
13 report the finding to the victim and shall refer the victim  
14 to services available, including legal service providers. If  
15 the possible victim is a minor or is a vulnerable adult, the  
16 agency or office shall also notify the department of family  
17 services.

18  
19           (b) The attorney general, a district or county and  
20 prosecuting attorney or any law enforcement official shall  
21 certify in writing to the United States Department of  
22 Justice or other federal agency, such as the United States  
23 Department of Homeland Security, that an investigation or  
24 prosecution under this article has begun and the individual

1 who is a likely victim of a crime described in this article  
2 is willing to cooperate or is cooperating with the  
3 investigation to enable the individual, if eligible under  
4 federal law, to qualify for an appropriate special immigrant  
5 visa and to access available federal benefits. Cooperation  
6 with law enforcement shall not be required of victims of a  
7 crime described in this article who are minors. This  
8 certification shall be made available to the victim and his  
9 or her designated legal representative.

10

11 (c) Victims of human trafficking under W.S. 6-2-702  
12 through 6-2-706 shall be informed of the rights enumerated  
13 in this section, the victim's right to informed consent and  
14 the victim's rights as a victim of crime. The victim shall  
15 also be informed of available housing, educational, medical,  
16 legal and advocacy services.

17

18 (d) Victims of human trafficking are entitled to  
19 restitution and forms of compensation under the Crime  
20 Victims Compensation Act.

21

22 (e) In a prosecution for an offense under this  
23 article, police and prosecuting agencies shall keep the  
24 identity of the victim and the victim's family confidential.



1 The prosecutor shall take reasonable steps to protect the  
2 victim and the victim's family from being revictimized.

3

4 **6-2-710. Restitution.**

5

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

11

12 (b) If the victim of human trafficking to whom  
13 restitution has been ordered dies before restitution is  
14 paid, any restitution ordered shall be paid to the victim's  
15 heir or legal representative provided that the heir or legal  
16 representative has not benefited in any way from the  
17 trafficking.

18

19 (c) The return of the victim of human trafficking to  
20 his or her home country or other absence of the victim from  
21 the jurisdiction shall not limit the victim's right to  
22 receive restitution pursuant to this section.

23

1           **6-2-711. Asset forfeiture; human trafficking victims**  
2 **trust fund.**

3

4           (a) The following are subject to forfeiture to the  
5 state, and no property right shall exist in:

6

7                   (i) All assets, foreign, domestic and within this  
8 state:

9

10                           (A) Of an individual, entity or organization  
11 engaged in planning or perpetrating an act in this state  
12 which violates this article and all assets, foreign or  
13 domestic, affording a person a source of influence over a  
14 trafficked individual;

15

16                           (B) Acquired or maintained by a person with  
17 the intent and for the purpose of supporting, planning,  
18 conducting or concealing an act in this state which violates  
19 this article; or

20

21                           (C) Derived from, involved in or used or  
22 intended to be used to commit an act in this state which  
23 violates this article.

24

1           (ii) All books, records and products and  
2 materials, which are used, or intended for use, in violation  
3 of this article;

4  
5           (iii) All conveyances including aircraft,  
6 vehicles or vessels, knowingly used or intended for use to  
7 transport or in any manner to knowingly facilitate the  
8 transportation for human trafficking described in this  
9 article may be seized and forfeited to the state pursuant to  
10 subsection (e) of this section, provided:

11

12           (A) No conveyance used by any person as a  
13 common carrier in the transaction of business as a common  
14 carrier is subject to forfeiture under this section unless  
15 it appears that the owner or corporate officer is a  
16 consenting party or privy to a violation of this article;

17

18           (B) No conveyance is subject to forfeiture  
19 under this section by reason of any act committed without  
20 the knowledge or consent of the owner;

21

22           (C) A forfeiture of a conveyance encumbered  
23 by a bona fide security interest is subject to the interest

1 of the secured party if he neither had knowledge of nor  
2 consented to the act.

3

4 (iv) All buildings knowingly used or intended for  
5 use to further human trafficking if the owner has knowledge  
6 of or gives consent to the act of violation. A forfeiture of  
7 property encumbered by a bona fide security interest is  
8 subject to the interest of the secured party if he did not  
9 have knowledge of or give consent to the act;

10

11 (v) Any property or other thing of pecuniary  
12 value furnished in exchange for human trafficking in  
13 violation of this article including any proceeds, assets or  
14 other property of any kind traceable to the exchange and any  
15 money, securities or other negotiable instruments used to  
16 facilitate a violation of this article. Property used or  
17 furnished without the consent or knowledge of the owner is  
18 not forfeitable under this section to the extent of his  
19 interest;

20

21 (vi) Overseas assets of persons convicted of  
22 human trafficking under this article shall also be subject  
23 to forfeiture to the extent they can be retrieved by the  
24 state.

1

2 (b) Property subject to forfeiture under this article  
3 may be seized by any law enforcement officer of the state  
4 upon process issued by any district or circuit court having  
5 jurisdiction over the property. Seizure without process may  
6 be made if:

7

8 (i) The seizure is incident to an arrest or a  
9 search under a search warrant or an inspection under an  
10 administrative inspection warrant;

11

12 (ii) The property subject to seizure has been the  
13 subject of a prior judgment in favor of the state in a  
14 criminal, injunction or forfeiture proceeding based upon  
15 this article;

16

17 (iii) There is probable cause to believe that the  
18 property was used or is intended to be used in violation of  
19 this article.

20

21 (c) In the event of seizure pursuant to subsection (b)  
22 of this section, proceedings under subsection (d) of this  
23 section shall be instituted promptly.

24

1           (d) Property taken or detained under this section  
2 shall not be subject to replevin, but is deemed to be in the  
3 custody of and subject only to the orders and decrees of the  
4 court having jurisdiction over the forfeiture proceedings.  
5 When property is seized under this article, the court may:

6

7           (i) Place the property under seal;

8

9           (ii) Remove the property to a place designated by  
10 the court; or

11

12           (iii) Require the appropriate law enforcement  
13 agency to take custody of the property and remove it to an  
14 appropriate location for disposition in accordance with the  
15 Crime Victims Compensation Act.

16

17           (e) The proceeds of a public sale or auction of the  
18 forfeited property shall be distributed as follows:

19

20           (i) The amount necessary to pay court-ordered  
21 restitution shall be applied to pay that restitution;

22

1           (ii) The amount necessary to pay a civil award to  
2 a victim entered against the person by the time the  
3 forfeiture occurs shall be applied to pay the civil award;

4  
5           (iii) If a remainder exists, to the crime victims  
6 compensation account.

7  
8           **Section 2.** W.S. 6-4-101, 6-4-102 and 6-4-103(a) (intro)  
9 are amended to read:

10  
11           **6-4-101. Prostitution; penalties.**

12  
13 Except as provided in W.S. 6-2-701 through 6-2-711, a  
14 person who knowingly or intentionally performs or permits,  
15 or offers or agrees to perform or permit an act of sexual  
16 intrusion, as defined by W.S. 6-2-301(a) (vii), for money or  
17 other property commits prostitution which is a misdemeanor  
18 punishable by imprisonment for not more than six (6)  
19 months, a fine of not more than seven hundred fifty dollars  
20 (\$750.00), or both.

21

22           **6-4-102. Soliciting an act of prostitution;**  
23 **penalties.**

24

1 Except as provided in W.S. 6-2-701 through 6-2-711, a  
2 person is guilty of soliciting an act of prostitution if,  
3 with the intent that an act of sexual intrusion as defined  
4 by W.S. 6-2-301(a)(vii) be committed, that person knowingly  
5 or intentionally pays, or offers or agrees to pay money or  
6 other property to another person under circumstances  
7 strongly corroborative of the intention that an act of  
8 prostitution be committed. Soliciting an act of  
9 prostitution is a misdemeanor punishable by imprisonment  
10 for not more than six (6) months, a fine of not more than  
11 seven hundred fifty dollars (\$750.00), or both.

12

13 **6-4-103. Promoting prostitution; penalties.**

14

15 (a) Except as provided in W.S. 6-2-701 through  
16 6-2-711, a person commits a felony if he:

17

18 **Section 3.** This act is effective July 1, 2013.

19

20

(END)