

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part III. Crimes Against the Person

Chapter 25: Kidnapping

§ 748. Human trafficking for forced labor or forced sexual exploitation

Cite as: 21 CNCA § 748

A. As used in Sections 748 and 748.2 of this title:

1. "Coercion" means compelling, forcing or intimidating a person to act by:

a. threats of harm or physical restraint against any person.

b. any act, scheme, plan, or pattern intended to cause a person to believe that performing, or failing to perform, an act would result in serious physical, financial, or emotional harm or distress to or physical restraint against any person,

c. the abuse or threatened abuse of the law or legal process.

d. knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport, labor or immigration document, or other government identification document, including but not limited to a driver license or birth certificate, of another person.

e. facilitating or controlling a person's access to any addictive or controlled substance other than for legal medical purposes.

f. blackmail.

g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution,

h. determining, dictating or setting the times at which another person will be available to engage in an act of prostitution with a third party,

i. determining, dictating or setting the places at which another person will be available for solicitation of, or to engage in, an act of prostitution with a third party, or

j. determining, dictating or setting the places at which another person will reside for purposes of making such person available to engage in an act of prostitution with a third party;

2. "Commercial sex" means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display;

3. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

4. "Human trafficking" means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor;

5. "Human trafficking for labor" means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or

b. benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act of trafficking for labor;

6. "Human trafficking for commercial sex" means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act,

b. recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act, or

c. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex;

7. "Legal process" means the criminal law, the civil law, or the regulatory system of the Cherokee Nation, the federal government, any state, territory, district, commonwealth, or trust territory therein, and any foreign government or subdivision thereof and includes legal civil actions, criminal actions, and regulatory petitions or applications;

8. "Minor" means an individual under eighteen (18) years of age; and

9. "Victim" means a person against whom a violation of any provision of this section has been committed.

10. It shall be unlawful to knowingly engage in human trafficking.

11. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, or by a fine of not more than Fifteen Thousand Dollars (\$15,000.00), or by both such fine and imprisonment. The court shall also order the defendant to pay restitution to the victim as provided in 22 CNCA § 991F.

12. It is an affirmative defense to prosecution for a criminal offense that during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.

13. The consent of a victim to the activity prohibited by this section shall not constitute a defense.

14. Lack of knowledge of the age of the victim shall not constitute a defense to the activity prohibited by this section with respect to human trafficking of a minor.

Historical Data

LA 29-21, eff. June 18, 2021.