

# Senate Bill 578

Sponsored by Senators BROWN, VERGER, Representatives BOONE, MINNIS; Senators ATKINSON, AVAKIAN, BATES, BEYER, CARTER, COURTNEY, DECKERT, DEVLIN, FERRIOLI, G GEORGE, L GEORGE, GORDLY, JOHNSON, KRUSE, METSGER, MONNES ANDERSON, MONROE, MORRISSETTE, MORSE, PROZANSKI, WALKER, WESTLUND, WHITSETT, Representatives BARKER, BARNHART, BERGER, BEYER, BONAMICI, BOQUIST, BRUUN, BUCKLEY, BURLEY, BUTLER, CAMERON, CANNON, CLEM, COWAN, DALLUM, DINGFELDER, C EDWARDS, D EDWARDS, ESQUIVEL, FLORES, GALIZIO, GARRARD, GELSER, GILLIAM, GILMAN, GIROD, GREENLICK, HANNA, HOLVEY, HUNT, JENSON, KOMP, KOTEK, KRIEGER, KRUMMEL, LIM, MAURER, MERKLEY, MORGAN, NATHANSON, NELSON, OLSON, READ, RICHARDSON, RILEY, ROBLAN, ROSENBAUM, SCHAUFLEER, SCOTT, G SMITH, P SMITH, THATCHER, TOMEI, WHISNANT, WITT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates crime of trafficking in persons in first degree. Punishes by maximum of 20 years' imprisonment, \$375,000 fine, or both.

Creates crime of trafficking in persons in second degree. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Creates civil cause of action for damages caused by persons engaging in trafficking.

Provides immunity from criminal prosecution for victims of trafficking.

Creates Task Force on Trafficking in Persons.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to trafficking in persons; creating new provisions; amending ORS 131.602 and 161.005; and  
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A person commits the crime of trafficking in persons in the second de-**  
6 **gree if the person:**

7 (a) **Recruits, provides, obtains, harbors or transports another person knowing that force,**  
8 **fraud or coercion will be used to cause the other person to provide labor or services; or**

9 (b) **Knowingly receives anything of value from participation in a venture that engages in**  
10 **acts described in paragraph (a) of this subsection.**

11 (2) **Trafficking in persons in the second degree is a Class B felony.**

12 **SECTION 2. (1) A person commits the crime of trafficking in persons in the first degree**  
13 **if the person:**

14 (a) **Violates section 1 of this 2007 Act; and**

15 (b) **The victim:**

16 (A) **Was under 12 years of age at the time the victim was recruited, provided, obtained,**  
17 **harbored or transported;**

18 (B) **Suffered physical injury as a result of the crime; or**

19 (C) **Was obtained by kidnapping.**

20 (2) **Trafficking in persons in the first degree is a Class A felony.**

21 **SECTION 3. (1) Irrespective of any criminal prosecution or the result of a criminal**  
22 **prosecution, a person injured by a violation of section 1 or 2 of this 2007 Act has a civil action**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 for damages against a person whose actions are unlawful under section 1 or 2 of this 2007  
2 Act.

3 (2) Upon prevailing in an action under this section, the plaintiff may recover:

- 4 (a) Both special and general damages, including damages for emotional distress; and
- 5 (b) Punitive damages.

6 (3) The court shall award reasonable attorney fees to the prevailing plaintiff in an action  
7 under this section. The court may award reasonable attorney fees and expert witness fees  
8 incurred by a defendant who prevails in the action if the court determines that the plaintiff  
9 had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing  
10 an adverse decision of a circuit court.

11 (4) An action under this section must be commenced within two years of the conduct  
12 giving rise to the claim.

13 **SECTION 4.** A person who is the victim of a crime described in section 1 or 2 of this 2007  
14 Act is immune from criminal liability for any labor or service that constitutes a crime under  
15 the laws of this state that the person was caused to provide.

16 **SECTION 5.** (1) There is created the Task Force on Trafficking in Persons consisting of:

- 17 (a) The Attorney General or the Attorney General's designee;
- 18 (b) The Director of Human Services or the director's designee;
- 19 (c) The Director of the Employment Department or the director's designee;
- 20 (d) The Commissioner of the Bureau of Labor and Industries or the commissioner's  
21 designee; and

22 (e) Nine members appointed by the Attorney General. In appointing members under this  
23 paragraph, the Attorney General shall select persons who represent public and private or-  
24 ganizations that provide assistance to persons who are victims of trafficking in persons.

25 (2) The task force shall:

26 (a) Measure and evaluate the progress of the state's efforts at preventing trafficking in  
27 persons;

28 (b) Identify available federal, state and local programs that provide services to persons  
29 who are victims of trafficking in persons, including but not limited to health care, human  
30 services, housing, education, legal assistance, job training or preparation, interpreting ser-  
31 vices and victims' compensation; and

32 (c) Make recommendations on methods to provide a coordinated system of support and  
33 assistance to persons who are victims of trafficking in persons.

34 (3) A majority of the members of the task force constitutes a quorum for the transaction  
35 of business.

36 (4) Official action by the task force requires the approval of a majority of the members  
37 of the task force.

38 (5) The task force shall elect one of its members to serve as chairperson.

39 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
40 ment to become immediately effective.

41 (7) The task force shall meet at times and places specified by the call of the chairperson  
42 or of a majority of the members of the task force.

43 (8) The task force may adopt rules necessary for the operation of the task force.

44 (9) The task force shall submit a report, and may include recommendations for legis-  
45 lation, to an interim committee related to the judiciary no later than October 1, 2008.

1       **(10) The Department of Justice shall provide staff support to the task force.**

2       **(11) Members of the task force are not entitled to compensation, but may be reimbursed**  
 3 **for actual and necessary travel and other expenses incurred by them in the performance of**  
 4 **their official duties in the manner and amounts provided for in ORS 292.495. Claims for ex-**  
 5 **penditures shall be paid out of funds appropriated to the Department of Justice for that purpose.**

6       **(12) All agencies of state government, as defined in ORS 174.111, are directed to assist**  
 7 **the task force in the performance of its duties and, to the extent permitted by laws relating**  
 8 **to confidentiality, to furnish such information and advice as the members of the task force**  
 9 **consider necessary to perform their duties.**

10       **(13) All appointments to the task force made under subsection (1) of this section must**  
 11 **be completed within 30 days after the effective date of this 2007 Act.**

12       **(14) The Department of Justice may accept contributions of moneys and assistance from**  
 13 **the United States Government or its agencies or from any other source, public or private,**  
 14 **and agree to conditions placed on the moneys not inconsistent with the duties of the task**  
 15 **force.**

16       **(15) All moneys received by the Department of Justice under subsection (14) of this sec-**  
 17 **tion shall be used for the purpose of carrying out the duties of the task force.**

18       **SECTION 6. Section 5 of this 2007 Act is repealed on the date of the convening of the next**  
 19 **regular biennial legislative session.**

20       **SECTION 7. Sections 1 to 4 of this 2007 Act and the amendments to ORS 131.602 and**  
 21 **161.005 by sections 8 and 9 of this 2007 Act become operative on January 1, 2008.**

22       **SECTION 8. ORS 161.005 is amended to read:**

23       161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290  
 24 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,  
 25 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
 26 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.160 to 163.208, 163.215 to 163.257, 163.275,  
 27 163.285, 163.305 to 163.467, 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.140,  
 28 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.877, 165.002 to 165.109, 165.805,  
 29 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.060 to 167.100, 167.117,  
 30 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820 **and**  
 31 **sections 1 and 2 of this 2007 Act**, shall be known and may be cited as Oregon Criminal Code of  
 32 1971.

33       **SECTION 9. ORS 131.602 is amended to read:**

34       131.602. The crimes to which ORS 131.550 (11)(b) applies are:

- 35       (1) Bribe giving, as defined in ORS 162.015.
- 36       (2) Bribe receiving, as defined in ORS 162.025.
- 37       (3) Public investment fraud, as defined in ORS 162.117.
- 38       (4) Bribing a witness, as defined in ORS 162.265.
- 39       (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 40       (6) Simulating legal process, as defined in ORS 162.355.
- 41       (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 42       (8) Custodial interference in the second degree, as defined in ORS 163.245.
- 43       (9) Custodial interference in the first degree, as defined in ORS 163.257.
- 44       (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 45       (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.

- 1 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 2 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 3 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 4 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
- 5 defined in ORS 163.688.
- 6 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
- 7 as defined in ORS 163.689.
- 8 (17) Theft in the second degree, as defined in ORS 164.045.
- 9 (18) Theft in the first degree, as defined in ORS 164.055.
- 10 (19) Aggravated theft in the first degree, as defined in ORS 164.057.
- 11 (20) Theft by extortion, as defined in ORS 164.075.
- 12 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 13 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 14 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 15 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 16 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 17 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 18 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
- 19 in ORS 164.172.
- 20 (28) Burglary in the second degree, as defined in ORS 164.215.
- 21 (29) Burglary in the first degree, as defined in ORS 164.225.
- 22 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 23 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 24 (32) Arson in the second degree, as defined in ORS 164.315.
- 25 (33) Arson in the first degree, as defined in ORS 164.325.
- 26 (34) Computer crime, as defined in ORS 164.377.
- 27 (35) Robbery in the third degree, as defined in ORS 164.395.
- 28 (36) Robbery in the second degree, as defined in ORS 164.405.
- 29 (37) Robbery in the first degree, as defined in ORS 164.415.
- 30 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 31 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 32 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 33 (41) A violation of ORS 164.877.
- 34 (42) Endangering aircraft, as defined in ORS 164.885.
- 35 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 36 (44) Forgery in the second degree, as defined in ORS 165.007.
- 37 (45) Forgery in the first degree, as defined in ORS 165.013.
- 38 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 39 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 40 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 41 (49) Criminal simulation, as defined in ORS 165.037.
- 42 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 43 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 44 (52) Negotiating a bad check, as defined in ORS 165.065.
- 45 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.

- 1 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 2 (55) Falsifying business records, as defined in ORS 165.080.
- 3 (56) Sports bribery, as defined in ORS 165.085.
- 4 (57) Sports bribe receiving, as defined in ORS 165.090.
- 5 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 6 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 7 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 8 (61) A violation of ORS 165.543.
- 9 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 10 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 11 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 12 (65) Identity theft, as defined in ORS 165.800.
- 13 (66) A violation of ORS 166.190.
- 14 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 15 (68) A violation of ORS 166.240.
- 16 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 17 (70) A violation of ORS 166.270.
- 18 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or  
19 firearms silencer, as defined in ORS 166.272.
- 20 (72) A violation of ORS 166.275.
- 21 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 22 (74) A violation of ORS 166.370.
- 23 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 24 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 25 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 26 (78) A violation of ORS 166.410.
- 27 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS  
28 166.416.
- 29 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 30 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 31 (82) A violation of ORS 166.429.
- 32 (83) A violation of ORS 166.470.
- 33 (84) A violation of ORS 166.480.
- 34 (85) A violation of ORS 166.635.
- 35 (86) A violation of ORS 166.638.
- 36 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 37 (88) A violation of ORS 166.720.
- 38 (89) Prostitution, as defined in ORS 167.007.
- 39 (90) Promoting prostitution, as defined in ORS 167.012.
- 40 (91) Compelling prostitution, as defined in ORS 167.017.
- 41 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 42 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 43 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 44 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 45 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.

- 1 (97) Possession of a gambling device, as defined in ORS 167.147.  
2 (98) Possession of a gray machine, as defined in ORS 167.164.  
3 (99) Cheating, as defined in ORS 167.167.  
4 (100) Tampering with drug records, as defined in ORS 167.212.  
5 (101) A violation of ORS 167.262.  
6 (102) Research and animal interference, as defined in ORS 167.312.  
7 (103) Animal abuse in the first degree, as defined in ORS 167.320.  
8 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.  
9 (105) Animal neglect in the first degree, as defined in ORS 167.330.  
10 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS  
11 167.352.  
12 (107) Involvement in animal fighting, as defined in ORS 167.355.  
13 (108) Dogfighting, as defined in ORS 167.365.  
14 (109) Participation in dogfighting, as defined in ORS 167.370.  
15 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.  
16 (111) Interference with livestock production, as defined in ORS 167.388.  
17 (112) A violation of ORS 167.390.  
18 (113) A violation of ORS 471.410.  
19 (114) Failure to report missing precursor substances, as defined in ORS 475.955.  
20 (115) Illegally selling drug equipment, as defined in ORS 475.960.  
21 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.  
22 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.  
23 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.  
24 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.  
25 (120) A violation of ORS 475.916.  
26 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.  
27 (122) A violation of ORS 475.904 (2).  
28 (123) Misuse of an identification card, as defined in ORS 807.430.  
29 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as  
30 defined in ORS 807.500.  
31 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.  
32 (126) Using an invalid license, as defined in ORS 807.580.  
33 (127) Permitting misuse of a license, as defined in ORS 807.590.  
34 (128) Using another's license, as defined in ORS 807.600.  
35 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-  
36 ony.  
37 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a  
38 felony.  
39 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.  
40 (132) A violation of ORS 180.440 (2).  
41 (133) A violation described in ORS 475.846 to 475.894, if it is a felony.  
42 **(134) Trafficking in persons in the first or second degree, as defined in sections 1 and 2**  
43 **of this 2007 Act.**  
44 [(134)] **(135)** An attempt, conspiracy or solicitation to commit a crime in subsections (1) to  
45 [(133)] **(134)** of this section if the attempt, conspiracy or solicitation is a felony or a Class A

1 misdemeanor.

2       **SECTION 10. This 2007 Act being necessary for the immediate preservation of the public**  
3 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
4 **on its passage.**

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