

Senate Bill 1052

Sponsored by Senators TAYLOR, KNOPP, Representatives MORGAN, MARSH (at the request of Attorney General Ellen F. Rosenblum)

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**.

Modifies crimes related to involuntary servitude and human trafficking. Establishes affirmative defense for human trafficking victims. Directs Oregon Criminal Justice Commission to classify subjecting another person to involuntary servitude crimes as specified crime categories when victim was under 18 years of age at time of offense.

Provides that certain evidence concerning victim of human trafficking involving involuntary servitude is not admissible.

Extends statute of limitations for civil action based on violation of conduct constituting involuntary servitude or human trafficking.

Requires alcohol service permittee to report suspected human trafficking on licensed premises.

Directs Board on Public Safety Standards and Training to include human trafficking investigation training in minimum training required for basic police officer certification.

Directs Department of Justice to develop training for certain state agencies concerning human trafficking awareness and prevention. Requires employees designated by specified agencies to annually complete training.

A BILL FOR AN ACT

1
2 Relating to human trafficking; creating new provisions; and amending ORS 30.867, 40.210, 163.261,
3 163.263, 163.264, 163.266, 163.269, 181A.480 and 471.271.

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

5 **SECTION 1.** ORS 163.261 is amended to read:

6 163.261. As used in **this section and** ORS 163.263 and 163.264[,]:

7 (1) **“Controlled substance” has the meaning given that term in ORS 475.005.**

8 (2) **“Debt bondage” means the inducement of another person to provide labor or services**
9 **in payment towards or satisfaction of a real or purported debt if:**

10 (a) **The reasonable value of the labor or services is not applied towards the repayment**
11 **of the debt; or**

12 (b) **The length of the labor or services is unlimited and the nature of the labor or services**
13 **is not defined.**

14 (3) **“Services” means activities performed by one person under the supervision or for the benefit**
15 **of another person.**

16 **SECTION 2.** ORS 163.263 is amended to read:

17 163.263. (1) A person commits the crime of subjecting another person to involuntary servitude
18 in the second degree if the person knowingly and without lawful authority forces or attempts to
19 force the other person to engage in **or continue to engage in** services by:

20 (a) Abusing or threatening to abuse the law or legal process;

21 (b) Destroying, concealing, removing, confiscating or possessing an actual or purported passport
22 or immigration document or another actual or purported government identification document of a
23 person;

24 (c) Threatening to report a person to a government agency for the purpose of arrest or

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 deportation;

2 (d) [*Threatening to collect an unlawful debt; or*] **Subjecting the person to debt bondage;**

3 (e) Instilling in the other person a fear that the actor will withhold from the other person the
4 necessities of life, including but not limited to lodging, food, **medical care** and clothing[.];

5 (f) **Controlling or threatening to control the other person's access to a controlled sub-**
6 **stance; or**

7 (g) **Fraud or misrepresentation.**

8 (2) **When determining whether force or attempted force is present in a prosecution under**
9 **this section, the finder of fact shall consider the totality of the circumstances, including but**
10 **not limited to the age of the other person, the relationship between the other person and the**
11 **defendant, the immigration status of the other person and any handicap or disability of the**
12 **other person.**

13 [(2)] (3) Subjecting another person to involuntary servitude in the second degree is a Class C
14 felony.

15 (4) **The Oregon Criminal Justice Commission shall classify subjecting another person to**
16 **involuntary servitude in the second degree as crime category 8 of the sentencing guidelines**
17 **grid of the commission when the victim was under 18 years of age at the time of the offense.**

18 **SECTION 3.** ORS 163.264 is amended to read:

19 163.264. (1) A person commits the crime of subjecting another person to involuntary servitude
20 in the first degree if the person knowingly and without lawful authority forces or attempts to force
21 the other person to engage in **or continue to engage in** services by:

22 (a) Causing or threatening to cause the death of or serious physical injury to a person; or

23 (b) Physically restraining or threatening to physically restrain a person.

24 (2) **When determining whether force or attempted force is present in a prosecution under**
25 **this section, the finder of fact shall consider the totality of the circumstances, including but**
26 **not limited to the age of the other person, the relationship between the other person and the**
27 **defendant, the immigration status of the other person and any handicap or disability of the**
28 **other person.**

29 [(2)] (3) Subjecting another person to involuntary servitude in the first degree is a Class B fel-
30 ony.

31 (4) **The Oregon Criminal Justice Commission shall classify subjecting another person to**
32 **involuntary servitude in the first degree as crime category 9 of the sentencing guidelines grid**
33 **of the commission when the victim was under 18 years of age at the time of the offense.**

34 **SECTION 4.** ORS 163.266 is amended to read:

35 163.266. (1) A person commits the crime of trafficking in persons if the person knowingly re-
36 cruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice,
37 harbor, transport, provide or obtain by any means, another person and:

38 (a) The person knows **or recklessly disregards the fact** that the other person will be subjected
39 to involuntary servitude as described in ORS 163.263 or 163.264;

40 (b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used
41 to cause the other person to engage in a commercial sex act; or

42 (c) The person knows or recklessly disregards the fact that the other person is under 18 years
43 of age and will be used in a commercial sex act.

44 (2) A person commits the crime of trafficking in persons if the person knowingly benefits finan-
45 cially or receives something of value from participation in a venture that involves an act prohibited

1 by subsection (1) of this section or ORS 163.263 or 163.264.

2 (3) As used in this section, “commercial sex act” means sexual conduct or sexual contact, as
3 those terms are defined in ORS 167.002, performed in return for a fee or anything of value.

4 (4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.

5 (5) Violation of subsection (1)(b) or (c) of this section is a Class A felony.

6 **SECTION 5.** ORS 163.269 is amended to read:

7 163.269. (1) A person who is the victim of a crime described in ORS 163.263, 163.264 or 163.266
8 may assert the defense of duress, as described in ORS 161.270, if the person is prosecuted for con-
9 duct that constitutes services under ORS 163.261, that the person was caused to provide.

10 (2) **In a prosecution for a crime other than a person crime based on conduct that con-**
11 **stitutes services under ORS 163.261 that a person was caused to provide, it is an affirmative**
12 **defense that the person was a human trafficking victim at the time of engaging in the con-**
13 **duct and engaged in the conduct due to being a human trafficking victim.**

14 (3) **As used in this section:**

15 (a) **“Human trafficking” means conduct constituting an offense under ORS 163.263,**
16 **163.264 or 163.266.**

17 (b) **“Human trafficking victim” means a person who is subjected to human trafficking**
18 **regardless of whether the perpetrator of the human trafficking is identified, apprehended,**
19 **prosecuted or convicted.**

20 (c) **“Person crime” means a person felony or a person Class A misdemeanor, as those**
21 **terms are defined in the rules of the Oregon Criminal Justice Commission.**

22 **SECTION 6.** ORS 40.210 is amended to read:

23 40.210. (1) Notwithstanding any other provision of law, in a prosecution for a crime described
24 in ORS 163.266 [(1)(b) or (c)] (1), 163.355 to 163.427, 163.670 or 167.017, in a prosecution for an at-
25 tempt to commit one of those crimes or in a proceeding conducted under ORS 163.760 to 163.777, the
26 following evidence is not admissible:

27 (a) Reputation or opinion evidence of the past sexual behavior of an alleged victim or a cor-
28 roborating witness; or

29 (b) Reputation or opinion evidence presented for the purpose of showing that the manner of
30 dress of an alleged victim incited the crime or, in a proceeding under ORS 163.760 to 163.777, incited
31 the sexual abuse, or indicated consent to the sexual acts that are alleged.

32 (2) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to
33 commit a crime listed in subsection (1) of this section or in a proceeding conducted under ORS
34 163.760 to 163.777, evidence of an alleged victim’s past sexual behavior other than reputation or
35 opinion evidence is also not admissible, unless the evidence other than reputation or opinion evi-
36 dence:

37 (a) Is admitted in accordance with subsection (4) of this section; and

38 (b) Is evidence that:

39 (A) Relates to the motive or bias of the alleged victim;

40 (B) Is necessary to rebut or explain scientific or medical evidence offered by the state; or

41 (C) Is otherwise constitutionally required to be admitted.

42 (3) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to
43 commit a crime listed in subsection (1) of this section or in a proceeding conducted under ORS
44 163.760 to 163.777, evidence, other than reputation or opinion evidence, of the manner of dress of
45 the alleged victim or a corroborating witness, presented by a person accused of committing the

1 crime or, in a proceeding conducted under ORS 163.760 to 163.777, by the respondent, is also not
 2 admissible, unless the evidence:

3 (a) Is admitted in accordance with subsection (4) of this section; and

4 (b) Is evidence that:

5 (A) Relates to the motive or bias of the alleged victim;

6 (B) Is necessary to rebut or explain scientific, medical or testimonial evidence offered by the
 7 state;

8 (C) Is necessary to establish the identity of the alleged victim; or

9 (D) Is otherwise constitutionally required to be admitted.

10 (4)(a) If the person accused of a crime or an attempt to commit a crime listed in subsection (1)
 11 of this section, or the respondent in a proceeding conducted under ORS 163.760 to 163.777, intends
 12 to offer evidence under subsection (2) or (3) of this section, the accused or the respondent shall make
 13 a written motion to offer the evidence not later than 15 days before the date on which the trial in
 14 which the evidence is to be offered is scheduled to begin, except that the court may allow the mo-
 15 tion to be made at a later date, including during trial, if the court determines either that the evi-
 16 dence is newly discovered and could not have been obtained earlier through the exercise of due
 17 diligence or that the issue to which the evidence relates has newly arisen in the case. Any motion
 18 made under this paragraph shall be served on all other parties and, in a criminal proceeding, on the
 19 alleged victim through the office of the prosecutor.

20 (b) The motion described in paragraph (a) of this subsection shall be accompanied by a written
 21 offer of proof. If the court determines that the offer of proof contains evidence described in sub-
 22 section (2) or (3) of this section, the court shall order a hearing in camera to determine if the evi-
 23 dence is admissible. At the hearing the parties may call witnesses, including the alleged victim, and
 24 offer relevant evidence. Notwithstanding ORS 40.030 (2), if the relevancy of the evidence that the
 25 accused or the respondent seeks to offer in the trial depends upon the fulfillment of a condition of
 26 fact, the court, at the hearing in camera or at a subsequent hearing in camera scheduled for the
 27 same purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and
 28 shall determine the issue.

29 (c) If the court determines on the basis of the hearing described in paragraph (b) of this sub-
 30 section that the evidence the accused or the respondent seeks to offer is relevant and that the
 31 probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be ad-
 32 missible in the trial to the extent an order made by the court specifies evidence that may be offered
 33 and areas with respect to which a witness may be examined or cross-examined.

34 (d) An order admitting evidence under this subsection in a criminal prosecution may be appealed
 35 by the state before trial.

36 (5) For purposes of this section:

37 (a) "Alleged victim" includes the petitioner in a proceeding conducted under ORS 163.760 to
 38 163.777.

39 (b) "In camera" means out of the presence of the public and the jury.

40 (c) "Past sexual behavior" means sexual behavior other than:

41 (A) The sexual behavior with respect to which the crime or attempt to commit the crime listed
 42 in subsection (1) of this section is alleged; or

43 (B) In a proceeding conducted under ORS 163.760 to 163.777, the alleged sexual abuse.

44 (d) "Trial" includes a hearing conducted under ORS 163.760 to 163.777.

45 **SECTION 7.** ORS 30.867 is amended to read:

1 30.867. (1) Irrespective of any criminal prosecution or the result of a criminal prosecution, a
 2 person injured by a violation of ORS 163.263, 163.264 or 163.266 may bring a civil action for damages
 3 against a person whose actions are unlawful under ORS 163.263, 163.264 or 163.266.

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

5 (a) Both special and general damages, including damages for emotional distress; and

6 (b) Punitive damages.

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

12 (4) An action under this section must be commenced within [*six years of the conduct giving rise*
 13 *to the claim*] **10 years after the following, whichever occurs later:**

14 (a) **The date on which the conduct giving rise to the claim ceases; or**

15 (b) **If the plaintiff was a minor when the conduct giving rise to the claim occurred, the**
 16 **date on which the plaintiff attains 18 years of age.**

17 **SECTION 8.** ORS 471.271 is amended to read:

18 471.271. (1) As used in this section, “law enforcement agency” means:

19 (a) A city or municipal police department;

20 (b) A county sheriff’s office; or

21 (c) The Oregon State Police.

22 (2) An employee of a premises licensed for full on-premises sales or limited on-premises sales
 23 who is a permittee shall:

24 (a) Report to a law enforcement agency and to the Oregon Liquor and Cannabis Commission if
 25 the permittee has a reasonable belief that sex trafficking **or other human trafficking** is occurring
 26 at the licensed premises; and

27 (b) Report to the commission if the permittee has a reasonable belief that a minor is employed
 28 or contracted as a performer at the licensed premises in a manner that violates commission rules.

29 (3) A permittee making a report under this section in good faith is immune from any criminal
 30 or civil liability for making the report.

31 (4) The commission may adopt rules to carry out this section.

32 **SECTION 9.** ORS 181A.480 is amended to read:

33 181A.480. (1) **The Board on Public Safety Standards and Training shall include training**
 34 **on recognizing, investigating and reporting cases involving labor trafficking and sex traf-**
 35 **ficking of children and adults in the minimum training required to obtain basic certification**
 36 **as a police officer under ORS 181A.490.**

37 (2) The [*Board on Public Safety Standards and Training*] **board** may require that all police of-
 38 ficers and certified reserve officers are trained to recognize, investigate and report cases involving
 39 labor trafficking and sex trafficking of children and adults at any advanced training program oper-
 40 ated or authorized by the Department of Public Safety Standards and Training.

41 **SECTION 10.** (1) **No later than January 1, 2025, the Department of Justice shall develop**
 42 **a training program for state agency employees concerning human trafficking awareness and**
 43 **prevention.**

44 (2) **Beginning January 1, 2025, the training described in subsection (1) of this section shall**
 45 **be completed on an annual basis by those employees of the following agencies who the agency**

1 **determines are likely to come into contact with potential human trafficking victims, and any**
2 **other employees each agency determines should attend the training in order to support the**
3 **work of the agency:**

4 (a) **The Department of Justice;**

5 (b) **The State Department of Agriculture;**

6 (c) **The Oregon Liquor and Cannabis Commission;**

7 (d) **The Department of Consumer and Business Services, including the Occupational**
8 **Safety and Health Division;**

9 (e) **The Bureau of Labor and Industries;**

10 (f) **The Oregon Criminal Justice Commission;**

11 (g) **The Department of Human Services;**

12 (h) **The Employment Department;**

13 (i) **The Department of Environmental Quality;**

14 (j) **The Housing and Community Services Department; and**

15 (k) **The Department of State Police.**

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