



NEW HAMPSHIRE

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Statutes

a. N.H. Rev. Stat. Ann. § 633:7(I) (2020) – Trafficking in Persons

i. Summary

A person is criminally liable for trafficking in persons in New Hampshire if the person knowingly compels another person against their will to perform a service or labor, including a commercial sex act or a sexually explicit performance, for the benefit of another, by:

- (1) Causing or threatening to cause serious harm to any person;
- (2) Confining another person unlawfully or threatening to so confine another person;
- (3) Abusing or threatening abuse of law or legal process;
- (4) Destroying, concealing, removing, confiscating, or otherwise making unavailable to another person any actual or purported passport or other immigration document, or any other actual or purported government identification document;
- (5) Threatening to commit a crime against another person;
- (6) Making a false promise relating to the terms and conditions of employment, education, marriage, or financial support;
- (7) Threatening to reveal any information sought to be kept concealed by another person which relates to the other person's legal status or which would expose the other person to criminal liability;
- (8) Facilitating or controlling another person's access to an addictive controlled substance;
- (9) Engaging in any scheme, plan, or pattern, whether overt or subtle, intended to cause another person to believe that, if they did not perform such labor, services, commercial sex acts, or sexually explicit performances, that any person would suffer serious harm or physical restraint;
- (10) Withholding or threatening to withhold food or medication that the actor has an obligation or has promised to provide to the person; or
- (11) Coercing another to engage in any of these prohibited acts to satisfy a debt owed to the actor.

N.H. Rev. Stat. Ann. § 633:7(I)(a).

It is also a Class A felony to recruit, entice, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking. N.H. Rev. Stat. Ann. § 633:7(III).

A person performs a service or labor against their will if the person is coerced into performing the service or labor, or if the person willingly begins to perform the service or labor but later attempts to withdraw from performance and is compelled to continue performing. N.H. Rev. Stat. Ann. § 633:7(I)(c).

The payment of a wage or salary is not determinative on the question of whether persons were compelled to perform a service or labor against their will. N.H. Rev. Stat. Ann. § 633:7(I)(c).

Evidence of a trafficking victim’s “personal sexual history, history of commercial sexual activity, or reputation or opinion evidence regarding the victim’s past sexual behavior is not admissible at trial” except for certain limited purposes, including if offered by the prosecution to prove a pattern of trafficking by the defendant. N.H. Rev. Stat. Ann. § 633:7(IV).

ii. Sentencing

The crime of trafficking in persons is a Class A felony under New Hampshire Law. N.H. Rev. Stat. Ann. § 633:7(III). Class A felonies carry a maximum penalty of 15 years in prison and a USD 4,000 fine. N.H. Rev. Stat. Ann. §§ 651:2(II)(a), IV(a).

Paying or attempting to pay a trafficked person for sex or a sexual performance is a Class B felony. N.H. Rev. Stat. Ann. § 633:7(III-a). Class B felonies carry a maximum penalty of seven years in prison and a USD 4,000 fine. N.H. Rev. Stat. Ann. §§ 651:2(II)(b), IV(a).

A person may be placed on probation if the court finds that the person is in need of the supervision and guidance that the probation services can provide under conditions that the court may impose for a period not to exceed five years for a felony. N.H. Rev. Stat. Ann. § 651:2(IV)(a).

A person convicted of trafficking in persons shall be ordered to pay restitution to the victim, including (1) any economic loss incurred as a direct result of the trafficking, and (2) the value of the trafficking victim’s labor as guaranteed under the minimum wage law and overtime provisions of the federal Fair Labor Standards Act or the state minimum wage law, whichever is greater. N.H. Rev. Stat. Ann. § 633:10(I).

“Economic loss” means out-of-pocket losses or other expenses incurred as a direct result of a criminal offense, including:

- (a) Reasonable charges incurred for reasonably needed products, services, and accommodations, including, but not limited to, charges for medical and dental care, rehabilitation, and other remedial treatment and care, including mental health services for the victim or, in the case of the death of the victim, for the victim’s spouse and immediate family;
- (b) Loss of income by the victim or the victim’s dependents;
- (c) The value of damaged, destroyed, or lost property;
- (d) Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured or deceased victim would have performed, if the crime had not occurred, for the benefit of the victim or the victim’s dependents; and
- (e) Reasonable expenses related to funeral and burial or crematory services for the decedent victim.

N.H. Rev. Stat. Ann. § 651:62(III).

To the extent not included in “economic loss” that is compensable under section 633:10(1), the court may also order a convicted trafficker to pay additional compensation to victims: (a) costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation; (b) costs of necessary transportation, temporary housing, and child care; (c) return of property, cost of damage to property, or full value of property if destroyed or

damaged beyond repair; (d) expenses incurred by a victim and any household members or other family members in relocating away from the defendant or their associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and (e) any and all other losses suffered by the victim as a result of the trafficking. N.H. Rev. Stat. Ann. § 633:10(II).

iii. Statute of Limitations

The statute of limitations for a trafficking in persons prosecution is generally 20 years. If the victim was under 18 years of age when the alleged offense occurred, a prosecution must be brought within 20 years of the victim's eighteenth birthday. N.H. Rev. Stat. Ann. § 625:8(III)(i).

The period of limitations does not run (a) during any time when the accused is continuously absent from the state or has no reasonably ascertained place of abode or work within the state; or (b) during any time when a prosecution is pending against the accused in New Hampshire based on the same conduct. N.H. Rev. Stat. Ann. § 625:8(VI).

b. N.H. Rev. Stat. Ann. § 633:7(II) (2020) – Trafficking in Persons (Minors)

i. Summary

A person is criminally liable for a Class A felony for trafficking in persons if the person “maintains or makes available an individual under 18 years of age for the purpose of engaging the individual in a commercial sex act or sexually-explicit performance for the benefit of another.” Knowledge of the trafficked minor’s actual age is not required as an element of the offense. The trafficked minor’s consent also is not a defense. N.H. Rev. Stat. Ann. § 633:7(II).

A person is guilty of a Class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact or sexual penetration with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or to a third party. Neither the actor’s lack of knowledge of the other person’s age nor the other person’s consent is a defense. N.H. Rev. Stat. Ann. § 633:7(III-a).

ii. Sentencing

A person who maintains or makes available a person under the age of 18 for the purpose of engaging the minor in a commercial sex act or sexually explicit performance for another person shall be sentenced to imprisonment for not less than seven years and not more than 30 years. N.H. Rev. Stat. Ann. § 633:7(II).

A person may be placed on probation if the court finds that the person is in need of the supervision and guidance that the probation services can provide under conditions that the court may impose for a period not to exceed five years for a felony. N.H. Rev. Stat. Ann. § 651:2(IV)(a).

A person convicted of trafficking in persons for recruiting, enticing, harboring, transporting, providing, obtaining, or otherwise making available a person, knowing or believing it likely that the person will be subjected to trafficking, when the offense involves a victim under the age of 18, shall be subject to prison for not less than seven years and not more than 30 years, if the offender knew or believed it likely that the victim would be involved in a commercial sex act or sexually explicit performance. N.H. Rev. Stat. Ann. § 633:7(III).

A person convicted of trafficking a minor shall be ordered to pay restitution to the victim, including: (1) any “economic loss” incurred as a direct result of the trafficking, and (2) the value of the trafficking victim’s labor as guaranteed under the minimum wage law and overtime provisions of the federal Fair Labor Standards Act or the state minimum wage law, whichever is greater. N.H. Rev. Stat. Ann. § 633:10(I).

“Economic loss” means out-of-pocket losses or other expenses incurred as a direct result of the trafficking offense:

- (a) Reasonable charges incurred for reasonably needed products, services, and accommodations, including, but not limited to, charges for medical and dental care, rehabilitation, and other remedial

- treatment and care, including mental health services for the victim or, in the case of the death of the victim, for the victim’s spouse and immediate family;
- (b) Loss of income by the victim or the victim’s dependents;
 - (c) The value of damaged, destroyed, or lost property;
 - (d) Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured or deceased victim would have performed, if the crime had not occurred, for the benefit of the victim or the victim’s dependents; and
 - (e) Reasonable expenses related to funeral and burial or crematory services for the decedent victim.

N.H. Rev. Stat. Ann. § 651:62(III).

To the extent not included in economic loss that is compensable under section 633:10(I), the court may also award additional compensation to victims to be paid by the convicted trafficker: (a) costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation; (b) costs of necessary transportation, temporary housing, and child care; (c) return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair; (d) expenses incurred by a victim and any household members or other family members in relocating away from the defendant or their associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and (d) any and all other losses suffered by the victim as a result of the trafficking. N.H. Rev. Stat. Ann. § 633:10(I).

iii. Statute of Limitations

Where the victim was under 18 years of age when the alleged offense occurred, a trafficking in persons prosecution must be brought within 20 years of the victim’s 18th birthday. N.H. Rev. Stat. Ann. § 625:8(III)(i).

The period of limitations does not run (a) during any time when the accused is continuously absent from the state or has no reasonably ascertained place of abode or work within the state; or (b) during any time when a prosecution is pending against the accused in New Hampshire based on the same conduct. N.H. Rev. Stat. Ann. § 625:8(VI).

c. N.H. Rev. Stat. Ann. § 633:7(VI)(2020) – Protections for Trafficking Victims; Vacatur of Convictions

A victim of trafficking of persons who was under the age of 18 when committing acts constituting indecent exposure, lewdness, prostitution, or any other misdemeanor or Class B felony shall not be subject to prosecution or a juvenile delinquency proceeding when the conduct was “a direct result of being trafficked” and was not an act of violence. N.H. Rev. Stat. Ann. § 633:7(VI)(a).

Any trafficked individual, regardless of age, who was convicted or adjudicated delinquent of indecent exposure, lewdness, prostitution, or any other misdemeanor or Class B felony as a direct result of being a victim of human trafficking may file a motion to vacate the conviction. The individual need not present any official documentation of being trafficked. The conviction may be vacated after a hearing and a finding of clear and convincing evidence that the individual’s participation in the illegal act was a direct result of being trafficked. Any official documentation that the person was a victim of trafficking creates a presumption that the person committed the illegal sexual act as a direct result of being a victim of trafficking. N.H. Rev. Stat. Ann. § 633:7(VI)(b)–(c).

d. N.H. Rev. Stat. Ann. § 633:8 (2014) – Forfeiture of Items Used in Connection with Trafficking in Persons

All human trafficking offenses under N.H. Rev. Stat. Ann. § 633:7 (trafficking in persons) qualify as offenses eligible for forfeiture. Items subject to forfeiture include all materials, products, equipment, and money used in committing the crime of trafficking in persons. The state shall have a lien on any property subject to forfeiture under this section

upon seizure of the property. Upon forfeiture, the state’s title to the property relates back to the date of the seizure. N.H. Rev. Stat. Ann. § 633:8(I)(a)–(e).

e. N.H. Rev. Stat. Ann. § 633:5 (2007) – Peonage

i. Summary

A person is guilty of a Class A misdemeanor if “such person knowingly holds a victim in a condition of involuntary servitude in satisfaction of a debt owed to the actor.” For the purposes of the peonage statute, “involuntary servitude” means “a condition of servitude in which the victim is forced to work for the actor by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.” N.H. Rev. Stat. Ann. § 633:5(I).

ii. Sentencing

A Class A misdemeanor carries a maximum prison term not in excess of one year. N.H. Rev. Stat. Ann. § 625:9(IV)(a).

The court may also order an offender “to make restitution in an amount determined by the court.” If the court does not order restitution, it shall state its reasons on the record. N.H. Rev. Stat. Ann. § 651:63(I).

iii. Statute of Limitations

Prosecutions for misdemeanors must be commenced within one year of the offense. N.H. Rev. Stat. Ann. § 625:8(I)(c).

f. N.H. Rev. Stat. Ann. § 645:2 (2018) – Prostitution and Related Offenses – Affirmative Defense

It is an affirmative defense to a prostitution or related charge under section 645:2 that the defendant engaged in the conduct because they were the victim of trafficking in persons as defined in section 633:7. N.H. Rev. Stat. Ann. § 645:2(IV).

2. Online Child Sexual Exploitation and Child Pornography Offenses

N.H. Rev. Stat. Ann. § 169-C – Child Protection Act

N.H. Rev. Stat. Ann. § 639:3 – Endangering Welfare of Child or Incompetent

N.H. Rev. Stat. Ann. § 645:2 – Prostitution and Related Offenses

N.H. Rev. Stat. Ann. § 649-A:3 – Possession of Child Sex Abuse Images

N.H. Rev. Stat. Ann. § 649-A:3-a – Distribution of Child Sex Abuse Images

N.H. Rev. Stat. Ann. § 649-A:3-b – Manufacture of Child Sex Abuse Images

N.H. Rev. Stat. Ann. § 649-B:3 – Computer Pornography Prohibited

N.H. Rev. Stat. Ann. § 649-B:4 – Certain Uses of Computer Services Prohibited

3. N.H. Rev. Stat. Ann. § 651-B:1(VII) (2017) – Registration as Sexual Offender

A person convicted of a sexual offense crime, including trafficking in persons, must register as a sexual offender. N.H. Rev. Stat. Ann. § 651-B:1(VII); N.H. Rev. Stat. Ann. § 651-B:2.

B. Civil Liability Statutes

1. N.H. Rev. Stat. Ann. § 633:11 (2014) – Civil Lawsuit

a. Summary

A victim of human trafficking may bring a civil lawsuit against a person who commits a human trafficking offense. N.H. Rev. Stat. Ann. § 633:11(I).

b. Damages and Other Relief

A plaintiff may recover damages, injunctive relief, or any other appropriate relief. In addition, the court shall award a prevailing victim reasonable attorney's fees and costs. Any damages awarded to a human trafficking victim in a civil lawsuit shall be offset by any restitution paid to the victim as a result of a criminal conviction. N.H. Rev. Stat. Ann. §§ 633:11(II), (IV).

Pursuing a civil claim under this statute does not preclude a human trafficking victim from pursuing any other remedy available to the victim under state or federal law. N.H. Rev. Stat. Ann. § 633:11(V).

c. Statute of Limitations

A civil lawsuit under this provision must be commenced within 10 years of the date on which the victim was released from the human trafficking situation or 10 years after the date on which the victim attains 18 years of age, whichever is later. N.H. Rev. Stat. Ann. § 633:11(III).

2. N.H. Rev. Stat. Ann. § 508:4-g (2009) – Lawsuits Based on Sexual Assault and Related Offenses

A person alleged to have been subjected to sexual assault (section 632-A) or incest (section 639.2) may commence a personal lawsuit at any time. N.H. Rev. Stat. Ann. § 508:4-g.

C. Additional Statutes Specific to Human Trafficking

1. N.H. Rev. Stat. Ann. § 21-M:8-h(I)(a) (2015) – Victims' Assistance Commission – Claimant Eligibility; Compensation

Victims eligible for compensation through the state's Victims' Assistance Commission include any person who sustains personal injury as a result of a felony or misdemeanor, any person who is a victim of sexual abuse and is under the age of 18 at the time the claim is filed, and any person who is a victim of human trafficking and has been tattooed by the offender with an identifying mark of human trafficking. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses, rehabilitation expenses, and lost wages directly resulting from the crime.

2. N.H. Rev. Stat. Ann. § 169-C:3(e) (2019) – Child Protection Act

New Hampshire's child protection statute defines "abused child" to include a person who was subject to human trafficking.

3. N.H. Rev. Stat. Ann. § 275:42 *et seq.* (2012) – Payment of Wages

An employee may bring a civil lawsuit to recover unpaid wages and liquidated damages. The court may award a successful employee reasonable attorney's fees and costs. N.H. Rev. Stat. Ann. § 275:53. A noncompliant employer may be charged with a misdemeanor. N.H. Rev. Stat. Ann. § 275:53.

More information is available at: <https://www.nh.gov/labor/faq/wage-hour.htm#wageclaim>.

4. N.H. Rev. Stat. Ann. § 633:7, V (2014) – Protections for Trafficking Victims

In any investigation or prosecution for a trafficking offense, the identity of the victim and the victim’s family, and images of the victim and the victim’s family, shall be confidential except to the extent disclosure is necessary for the purpose of investigation, prosecution, or provision of services and benefits to the victim and the victim’s family, or if a court order requires disclosure.

D. Significant Cases

No significant cases regarding New Hampshire’s human trafficking statutes were found.

E. Academic Research/Papers

No academic research or papers were found regarding New Hampshire’s human trafficking statutes.

F. Resources

National Human Trafficking Hotline (New Hampshire):

<https://humantraffickinghotline.org/state/new-hampshire>

New Hampshire Human Trafficking Collaborative Task Force:

<https://www.nhhumantraffickingtaskforce.com/>

New Hampshire Coalition Against Domestic & Sexual Violence, Human Trafficking Section:

<https://www.nhcadv.org/human-trafficking.html>

Shared Hope International, New Hampshire Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_NH.pdf

Shared Hope International, New Hampshire Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_NH.pdf

U.S. Department of Health & Human Services, *Efforts to Combat Human Trafficking: New Hampshire* (2017):

https://www.acf.hhs.gov/sites/default/files/otip/new_hampshire_profile_efforts_to_combat_human_trafficking.pdf

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