



INDIANA

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

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Ind. Code Ann. § 35-42-3.5-1 (2018) – Promotion of Human Labor Trafficking

i. Summary

“A person who, by force, threat of force, coercion, or fraud, knowingly or intentionally recruits, harbors, provides, obtains, or transports an individual to engage the individual in labor or services commits [the crime of] promotion of human labor trafficking....” Ind. Code Ann. § 35-42-3.5-1.

ii. Sentencing

Violation of this statute constitutes a Level 4 felony. Ind. Code Ann. § 35-50-2.5.5. For Level 4 felonies, the possible prison sentence is between two and 12 years, with an advisory sentence of six years. In addition, a person convicted of this offense may be fined not more than USD 10,000. Ind. Code Ann. § 35-50-2.5.5.

iii. Statute of Limitations

Prosecution for a Level 4 felony is barred unless it is commenced within five years after the commission of the offense. Ind. Code Ann. § 35-41-4-2(a) (2020).

b. Ind. Code Ann. § 35-42-3.5-1.1 (2018) – Promotion of Human Sexual Trafficking

i. Summary

A person commits the crime of promotion of human sexual trafficking if the person “knowingly or intentionally uses force, threat of force, coercion, or fraud to recruit, entice, harbor, or transport an individual with the intent of causing the individual to:

- (1) marry another person;
- (2) engage in prostitution; or
- (3) participate in sexual conduct....”

Ind. Code Ann. § 35-42-3.5-1.1.

ii. Sentencing

Violation of this statute constitutes a Level 4 felony. Ind. Code Ann. § 35-50-2-5.5. For Level 4 felonies, the possible prison sentence is between two and 12 years, with an advisory sentence of six years. In addition, the person may be fined not more than USD 10,000. Ind. Code Ann. § 35-50-2-5.5.

iii. Statute of Limitations

Prosecution for a Level 4 felony must be commenced within five years after the commission of the offense. Ind. Code Ann. § 35-41-4-2(a) (2020).

c. Ind. Code Ann. § 35-42-3.5-1.2 (2018) – Promotion of Child Sexual Trafficking; Promotion of Sexual Trafficking of a Younger Child

i. Summary

A person commits the crime of promotion of child sexual trafficking if the person “knowingly or intentionally recruits, entices, harbors, or transports a child less than eighteen (18) years of age with the intent of causing the child to engage in:

- (1) prostitution or juvenile prostitution; or
- (2) a performance or incident that includes sexual conduct in violation of [Ind. Code Ann. §] 35-42-4-4(b) or [Ind. Code Ann. §] 35-42-4-4(c) (child exploitation)....”

Ind. Code Ann. § 35-42-3.5-1.2(a).

“It is not a defense to a prosecution under this section that the:

- (1) child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct; or
- (2) intended victim of the offense is a law enforcement officer.”

Ind. Code Ann. § 35-42-3.5-1.2(b).

A person commits the offense of promotion of sexual trafficking of a younger child if the person “knowingly or intentionally recruits, entices, harbors, or transports a child less than 16 years of age with the intent of inducing or causing the child to participate in sexual conduct.” Ind. Code Ann. § 35-42-3.5-1.2(c). It is a defense to a prosecution for promotion of sexual trafficking of a younger child if:

- (1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or
- (2) all the following apply:
 - (A) The person is not more than four (4) years older than the victim.
 - (B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term “ongoing personal relationship” does not include a family relationship.
 - (C) The crime:

- (i) was not committed by a person who is at least twenty-one (21) years of age;
 - (ii) was not committed by using or threatening the use of deadly force;
 - (iv) was not committed while armed with a deadly weapon;
 - (v) did not result in serious bodily injury;
 - (vi) was not facilitated by furnishing the victim, without the victim’s knowledge, with a drug (as defined in [Ind. Code Ann. §] 16-42-19-2(1)) or a controlled substance (as defined in [Ind. Code Ann. §] 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim’s knowledge; and
 - (vii) was not committed by a person having a position of authority or substantial influence over the victim.
- (D) The person has not committed another sex offense (as defined in [Ind. Code Ann. §] 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.
- (E) The person is not promoting prostitution (as defined in [Ind. Code Ann. §] 35-45-4-4) with respect to the victim even though the person has not been charged with or convicted of the offense.

Ind. Code Ann. § 35-42-3.5-1.2(c).

ii. Sentencing

Violation of this statute constitutes a Level 3 felony. Ind. Code Ann. § 35-50-2-5. For Level 3 felonies, the possible prison sentence is between three and 16 years, with an advisory sentence of nine years. In addition, a person convicted of this offense may be fined not more than USD 10,000. Ind. Code Ann. § 35-50-2-5.

iii. Statute of Limitations

A prosecution for promotion of child sex trafficking or promotion of sexual trafficking of a younger child must be brought within 10 years of the commission of the offense or within four years after the person ceases to be a dependent of the person alleged to have committed the offense, whichever occurs later. Ind. Code Ann. § 35-41-4-2(m).

d. Ind. Code Ann. § 35-42-3.5-1.3 (2018) – Child Sexual Trafficking

i. Summary

“A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct commits [the crime of] child sexual trafficking....” Ind. Code Ann. § 35-42-3.5-1.3.

ii. Sentencing

Violation of this statute constitutes a Level 2 felony. Ind. Code Ann. § 35-42-3.5-1.3. For Level 2 felonies, the possible prison sentence is between 10 and 30 years, with an advisory sentence of 17.5 years. Ind. Code Ann. § 35-50-2-4.5.

In addition, a person convicted of this offense may be fined not more than USD 10,000. Ind. Code Ann. § 35-50-2-4.5.

iii. Statute of Limitations

Level 2 felonies have no statute of limitations, and a prosecution can be commenced at any time after the offense is committed (for a crime committed after June 30, 2014). Ind. Code Ann. § 35-41-4-2(c) (2020).

e. Ind. Code Ann. § 35-42-3.5-1.4 (2018) – Human Trafficking

i. Summary

Indiana law also provides for a general human trafficking offense. Under this statute, “[a] person who knowingly or intentionally pays to, offers to pay to, or agrees to pay money or other property to, or benefits in some other manner another person for a human trafficking victim or an act performed by a human trafficking victim commits human trafficking....” Ind. Code Ann. § 35-42-3.5-1.4.

ii. Sentencing

Violation of this statute constitutes a Level 5 felony. Ind. Code Ann. § 35-50-2-6. For Level 5 felonies, the possible prison sentence is one to six years, with an advisory sentence of three years. In addition, a person convicted of this offense may be fined not more than USD 10,000. Ind. Code Ann. § 35-50-2-6.

iii. Statute of Limitations

Prosecution for a Level 5 felony is barred unless it is commenced within five years after the commission of the offense. Ind. Code Ann. § 35-41-4-2(a).

f. Ind. Code Ann. § 35-42-3.5-2 (2018) – Restitution Orders

In addition to any prison sentence or fine imposed for a conviction of promotion of human labor trafficking, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or human trafficking, the court shall order the person convicted to make restitution to the victim of the crime. Ind. Code Ann. § 35-42-3.5-2.

Restitution includes the greater of the “gross income or value to the person of the victim’s labor or services or the value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of: (A) the [federal] Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 - 209); or (B) [Ind. Code Ann. §] 22-2-2 (Minimum Wage)....” Restitution may also include payment for property damages and payment of medical and hospital costs and resulting funeral, burial, or cremation expenses. Ind. Code Ann. § 35-50-5-3.

g. Ind. Code Ann. § 34-24-1-1 (2021) – Asset Forfeiture

Real or personal property is subject to forfeiture if it is used by a person to commit, attempt to commit, or conspire to commit, facilitate the commission of, or escape from the commission of, a violation of the human trafficking statute. Ind. Code Ann. § 34-24-1-1(a)(17).

h. Ind. Code Ann. § 35-45-4-2(b) (2018) – Prostitution

It is a defense to a prosecution for prostitution that the person was a victim or an alleged victim of human or sexual trafficking at the time the person engaged in the prohibited conduct. Ind. Code Ann. § 35-45-4-2(b).

i. Ind. Code Ann. § 35-45-6-1 (2019) – Racketeer Influenced and Corrupt Organizations

Indiana’s racketeering statute includes human and sexual trafficking crimes within its predicate acts. Ind. Code Ann. § 35-45-6-1(e).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Ind. Code Ann. § 35-42-4-4 – Child Exploitation; Child Pornography

Ind. Code Ann. § 35-49-3-1 – Sale, Distribution, or Exhibition of Obscene Matter

Ind. Code Ann. § 35-49-3-3 – Dissemination of Matter or Conducting Performance Harmful to Minors

Ind. Code Ann. § 35-42-4-12 – Use of Internet Social Networking Site or Chat Room Program

3. Ind. Code Ann. § 11-8-8-7 (2013) – Sex Offender Registration

With limited exceptions, a “sex offender” must register as a sex offender. A “sex offender” includes a person convicted of possession of child pornography, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or human trafficking under Ind. Code Ann. § 35-42-3.5-1.4 if the victim is less than 18 years of age. Ind. Code Ann. § 11-8-8-4.5.

B. Civil Liability Statutes

1. Ind. Code Ann. § 35-42-3.5-3 (2018) – Civil Lawsuits for Trafficking Victims

a. Summary

A victim may bring a civil lawsuit against a person convicted in Indiana for promotion of human labor trafficking, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or human trafficking. Ind. Code Ann. § 35-42-3.5-3(a)(1).

b. Damages and Other Relief

In a civil lawsuit, the victim may recover actual damages, court costs, punitive damages when determined to be appropriate by the court, and reasonable attorney’s fees. Ind. Code Ann. § 35-42-3.5-3(a)(2).

c. Statute of Limitations

A civil lawsuit under this section must be brought not more than two years after the date the person is convicted of an offense under the Indiana anti-trafficking laws. Ind. Code Ann. § 35-42-3.5-3(b).

C. Additional Statutes Specific to Human Trafficking

1. Ind. Code Ann. § 5-2-6-25 (2015) – Human Trafficking Prevention and Victim Assistance Fund

Indiana created a fund for services and treatment for victims of human trafficking.

2. Ind. Code Ann. § 5-2-1-9(a)(10) (2021); Ind. Code Ann. § 36-8-3-20 (2017) – Minimum Standards and Requirements for Law Enforcement Training Programs

These statutes provide “minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice

training programs for law enforcement officers” and also provide that police reserve officers must receive training on human and sexual trafficking.

3. Ind. Code Ann. § 5-22-15-24.2 (2001) – Government Contracts and Forced Labor

If an offeror offers to furnish supplies made in a country other than the United States, a governmental body may not award a purchase contract to the offeror for those supplies if the supplies were made using forced labor.

4. Ind. Code Ann. § 7.1-3-23-20.5 (2017) – Retail Permit Holders that Provide Adult Entertainment

A holder of a retailer’s permit that provides adult entertainment must require all performers and other employees to sign a document that acknowledges their awareness of the problem of human trafficking and must display human trafficking awareness posters on its premises.

5. Ind. Code Ann. § 20-19-3-11.7 (2018) – Resources or Best Practices Regarding Identification and Reporting of Human Trafficking

The Indiana Department of Education must maintain a link on its website that provides parents and school officials with resources or best practices regarding the identification and reporting of human trafficking.

6. Ind. Code Ann. § 20-28-3-7 (2020) – Inservice Training for School Employees Regarding Identification and Reporting of Human Trafficking

“Each school corporation and accredited nonpublic school shall require all school employees likely to have direct, ongoing contact with children within the scope of the employee’s employment to attend or participate in inservice training pertaining to the identification and reporting of human trafficking. The training shall be conducted in a manner prescribed by the state board...”

7. Ind. Code Ann. § 22-2-5-2 (2015) – Failure to Pay Wages; Damages; Lawsuits for Recovery

Employers who fail to pay wages owed may be held liable in a civil lawsuit for the amount of unpaid wages. An employee who successfully recovers wages owed is entitled to reasonable attorney’s fees and costs. If the employer did not act in good faith in failing to pay wages, the employee may also recover an amount equal to two times the amount of wages due to the employee.

More information is available at: <https://www.in.gov/dol/wagehour.htm>.

8. Ind. Code Ann. § 25-1-9-4.5 (2018) – Duties of Health Care Practitioners to Patients Suspected to be Human Trafficking Victims

Indiana imposes a duty on health care practitioners to provide patients with information concerning available services and resources if a practitioner is presented with evidence that would cause the practitioner to believe the patient is a victim of human trafficking. Failure to do so may subject the practitioner to disciplinary sanctions.

9. Ind. Code Ann. § 31-37-22-11 (2020) –Trafficked Child

Persons who, as minors, were victims of human trafficking may move to vacate an adjudication (court finding) that they were delinquent if they prove by a preponderance of the evidence that:

- (1) the child was a trafficked child at the time the child performed the delinquent act that resulted in the adjudication;
- (2) the delinquent act did not result in bodily injury to another person; and

- (3) at the time the child committed the delinquent act, the child was:
- (A) coerced by; or
 - (B) under the control of; another person.

Ind. Code Ann. § 31-37-22-11(b). “As used in this section, ‘trafficked child’ means a child who was the victim of human trafficking ([Ind. Code Ann. §] 35-42-3.5), regardless of whether the person who committed the human trafficking offense was charged, tried, or convicted. The term includes a person who is now an adult.” Ind. Code Ann. § 31-37-22-11(a).

10. Ind. Code Ann. § 35-38-10-2 (2017) – Vacatur for Victims of Human Trafficking

Persons who committed an offense that did not result in bodily injury to another are entitled to have their convictions vacated if they prove by a preponderance of the evidence that they were a trafficked person and were coerced or under the control of another at the time the offense was committed.

11. Ind. Code Ann. § 35-42-3.5-4 (2018) – Treatment of Alleged Victims

An alleged trafficking victim may not be detained in a facility that is inappropriate to the victim’s status as a crime victim, nor be jailed, fined, or otherwise penalized due to having been the victim of the offense. A victim will be provided protection if the victim’s safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense. Ind. Code Ann. § 35-42-3.5-4(a).

If a law enforcement agency detains an alleged trafficking victim who is less than 18 years of age, the law enforcement agency shall immediately notify the Department of Child Services that the alleged victim has been detained and may be a victim of child abuse or neglect. Ind. Code Ann. § 35-42-3.5-4 (c).

12. Office of the Indiana Attorney General – Address Confidentiality Program for Trafficking Victims

The Office of the Indiana Attorney General provides an Address Confidentiality Program (**ACP**) for human trafficking victims. The ACP is a free program that allows human trafficking victims to maintain a confidential address through a substitute address. More information is available at: <https://www.in.gov/attorneygeneral/victim-services/address-confidentiality-program/>.

D. Significant Cases

1. *Singh v. State*, 40 N.E.3d 981 (Ind. Ct. App. 2015)

The defendant abused his wife and attempted to force her to engage in prostitution. The appellate court affirmed the defendant’s conviction for attempted promotion of human trafficking, finding sufficient evidence that the defendant harbored the victim to force her into prostitution or sexual conduct.

E. Academic Research/Papers

Katherine M. Forbes, Note, *Highways and Byways: Following Connecticut’s Path in Creating Holistic Domestic Sex Trafficking Laws in Indiana*, 51 IND. L. REV. 499 (2018).

May Li, Note, *Did Indiana Deliver in Its Fight Against Human Trafficking? A Comparative Analysis Between Indiana’s Human Trafficking Laws and the International Legal Framework*, 23 IND. INT’L & COMP. L. REV. 277 (2013).

Note, *Remedying the Injustices of Human Trafficking Through Tort Law*, 119 HARV. L. REV. 2575 (2006).

F. Resources

Office of the Indiana Attorney General, Human Trafficking:
<https://www.in.gov/attorneygeneral/3463.htm>

Office of the Indiana Attorney General, *The 2020 Indiana State Report on Human Trafficking*:
<https://www.in.gov/attorneygeneral/investigations/human-trafficking/files/2020-Indiana-State-Report-on-Human-Trafficking.pdf>

National Human Trafficking Hotline (Indiana):
<https://humantraffickinghotline.org/state/indiana>

Shared Hope International, Indiana Report Card (2019):
http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_IN.pdf

Shared Hope International, Indiana Analysis and Recommendations (2019):
http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_IN.pdf

U.S. Department of Health & Human Services, *Indiana: Efforts to Combat Human Trafficking* (2017):
https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/indiana_profile_efforts_to_combat_human_trafficking.pdf

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