



MAINE

| 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. Me. Rev. Stat. Ann. tit. 17-A, § 852 (2021) – Aggravated Sex Trafficking

i. Summary

A person is guilty of aggravated sex trafficking if the person knowingly:

- A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution;
- B. Promotes prostitution of a person 15, 16 or 17 years of age; or
- C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

Me. Rev. Stat. Ann. tit. 17-A, § 852(1). “Violation of this subsection is a Class B crime.” Me. Rev. Stat. Ann. tit. 17-A, § 852(1).

Additionally, “[a] person is guilty of aggravated sex trafficking if the person knowingly promotes prostitution of a person 14 years of age or younger. Violation of this subsection is a Class A crime.” Me. Rev. Stat. Ann. tit. 17-A, § 852(1-A).

As used in Maine’s sex trafficking statute,

“compelling” includes but is not limited to:

- A. The use of a drug or intoxicating substance to render a person incapable of controlling that person’s conduct or appreciating its nature;
- B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug or alcohol-dependent person. A “drug or alcohol-dependent person” is one who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis;
- C. Making material false statements, misstatements or omissions;
- D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person’s freedom of movement;

- E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and
- F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will:
 - (1) Cause physical injury or death to a person;
 - (2) Cause damage to property, other than property of the actor;
 - (3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;
 - (4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;
 - (5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;
 - (6) Testify or provide information or withhold testimony or information regarding another person’s legal claim or defense;
 - (7) Use a position as a public servant to perform some act related to that person’s official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or
 - (8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person’s health, safety or immigration status.

Me. Rev. Stat. Ann. tit. 17-A, § 852(2).

“Promotes prostitution” means:

- A. Causing or aiding another to commit or engage in prostitution, other than as a patron;
- B. Publicly soliciting patrons for prostitution. Publicly soliciting patrons for prostitution includes, but is not limited to, an offer, made in a public place, to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person making the offer or a 3rd [third] person;
- C. Providing persons for purposes of prostitution;
- D. Leasing or otherwise permitting a place controlled by the defendant, alone or in association with others, to be regularly used for prostitution;
- E. Owning, controlling, managing, supervising or otherwise operating, in association with others, a house of prostitution or a prostitution business;
- F. Transporting a person into or within the State with the intent that such other person engage in prostitution; or
- G. Accepting or receiving, or agreeing to accept or receive, a pecuniary benefit pursuant to an agreement or understanding with any person, other than with a patron, whereby the person participates or the person is to participate in the proceeds of prostitution.

Me. Rev. Stat. Ann. tit. 17-A, § 851(2).

ii. Sentencing

A person who knowingly promoted prostitution of a person 14 years of age or younger commits a Class A crime, carrying a maximum term of imprisonment of 30 years and a maximum fine of USD 50,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 852(1-A), 1604, 1704. Otherwise, aggravated sex trafficking is a Class B crime, carrying a maximum term of imprisonment of 10 years and a maximum fine of USD 20,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 852(1), 1604, 1704.

A court also may order a defendant to make restitution to the victim. Me. Rev. Stat. Ann. tit. 17-A, §§ 2003, 2005. If the court decides not to impose restitution, the court must place its reasons on the record. Me. Rev. Stat. Ann. tit. 17-A, § 2003(2).

The court shall impose an additional assessment of USD 1,000 on any person convicted of aggravated sex trafficking, to accrue to the Victims' Compensation Fund. Me. Rev. Stat. Ann. tit. 5, § 3360-I.

iii. Statute of Limitations

The statute of limitations for a Class A or B crime is six years. Me. Rev. Stat. Ann. tit. 17-A, § 8(2).

b. Me. Rev. Stat. Ann. tit. 17-A, § 853 (2018) – Sex Trafficking

i. Summary

“A person is guilty of sex trafficking if ... [t]he person knowingly promotes prostitution.” Me. Rev. Stat. Ann. tit. 17-A, § 853(1).

“It is an affirmative defense to prosecution under this section that the person engaged in sex trafficking because the person was compelled to do so as described in” Me. Rev. Stat. Ann. tit. 17-A, § 852(2). Me. Rev. Stat. Ann. tit. 17-A, § 853(3).

ii. Sentencing

Generally, sex trafficking is a Class D crime, carrying a maximum term of imprisonment of less than one year and a maximum fine of USD 2,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 853(1)(A), 1604, 1704.

If the defendant who commits sex trafficking also has two or more prior convictions for aggravated sex trafficking, sex trafficking, or patronizing prostitution of a minor or a person with a mental disability or attempts to commit any of these crimes, the crime class rises to C, carrying a maximum term of imprisonment of five years and maximum fine of USD 5,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 853(B), 1604, 1704.

Additionally, the circumstances of the offense, including commission of the crime with the use of a dangerous weapon, can elevate the class of crime. Me. Rev. Stat. Ann. tit. 17-A, § 1604(5).

A court also may order a defendant to make restitution to the victim. Me. Rev. Stat. Ann. tit. 17-A, §§ 2003, 2005. If the court decides not to impose restitution, the court must place its reasons on the record. Me. Rev. Stat. Ann. tit. 17-A, § 2003(2).

The court shall impose an additional assessment of USD 500 on any person convicted of sex trafficking, to accrue to the Victims' Compensation Fund. Me. Rev. Stat. Ann. tit. 5, § 3360-I.

iii. Statute of Limitations

The statute of limitations for a Class D crime is three years. The statute of limitations for a Class C crime, except as otherwise provided, is six years. Me. Rev. Stat. Ann. tit. 17-A, § 8.

c. Me. Rev. Stat. Ann. tit. 17-A, § 304 (2018) – Criminal Forced Labor

i. Summary

A person is guilty of criminal forced labor if the actor, without the legal right to do so, intentionally or knowingly:

- A. Withholds or threatens to withhold a scheduled drug or alcohol from a person who is in a state of psychic or physical dependence, or both, arising from the use of the drug or alcohol on a continuing basis in order to compel that person to provide labor or services having economic value;
- B. Withholds or threatens to withhold a substance or medication from a person who has a prescription or medical need for the substance or medication in order to compel that person to provide labor or services having economic value;
- C. Uses a person's physical or mental impairment that has substantial adverse effects on that person's cognitive or volitional functions as a means to compel that person to provide labor or services having economic value;
- D. Makes material false statements, misstatements or omissions in order to compel a person to provide labor or services having economic value;
- E. Withholds, destroys or confiscates an actual or purported passport or other immigration document or other actual or purported government identification document in order to compel a person to provide labor or services having economic value;
- F. Compels a person to provide labor or services having economic value to retire, repay or service an actual or purported debt if:
 - (1) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or
 - (2) The length of labor or services is not limited and the nature of the labor or services is not defined; or
- G. Uses force or engages in any scheme, plan or pattern to instill in a person a fear that, if that person does not provide labor or services having economic value, the actor or another person will:
 - (1) Cause physical injury to or death of a person;
 - (2) Cause destruction of or consequential damage to property, other than property of the actor;
 - (3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;
 - (4) Accuse a person of a crime or cause criminal charges or deportation proceedings to be instituted against a person;
 - (5) Expose a secret or publicize an asserted fact, regardless of veracity, that would subject a person, except the actor, to hatred, contempt or ridicule;
 - (6) Testify or provide information or withhold testimony or information regarding a person's legal claim or defense;

- (7) Use a position as a public servant to perform some act related to an official duty or fail or refuse to perform an official duty in a manner that affects a person; or
- (8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

Me. Rev. Stat. Ann. tit. 17-A, § 304(1).

"It is an affirmative defense to prosecution under this section that the person engaged in criminal forced labor because the person was compelled to do so as described in subsection 1." Me. Rev. Stat. Ann. tit. 17-A, § 304(3).

ii. Sentencing

Criminal forced labor is a Class C crime, punishable by a maximum term of imprisonment of five years and a maximum fine of USD 5,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 304(2), 1604, 1704.

A court also may order a defendant to make restitution to the victim. Me. Rev. Stat. Ann. tit. 17-A, §§ 2003, 2005. If the court decides not to impose restitution, the court must place its reasons on the record. Me. Rev. Stat. Ann. tit. 17-A, § 2003(2).

The court shall impose an assessment of USD 35 for any person convicted of a Class C crime, to accrue to the Victims' Compensation Fund. Me. Rev. Stat. Ann. tit. 5, § 3360-I.

iii. Statute of Limitations

The statute of limitations for a Class C crime is six years. Me. Rev. Stat. Ann. tit. 17-A, § 8.

d. Me. Rev. Stat. Ann. tit. 17-A, § 305 (2018) – Aggravated Criminal Forced Labor

i. Summary

A person is guilty of aggravated criminal forced labor "if the actor violates section 304 [criminal forced labor] and the person compelled to provide labor or services having economic value has not in fact attained 18 years of age." Me. Rev. Stat. Ann. tit. 17-A, § 305(1).

"It is an affirmative defense to prosecution under this section that the person engaged in aggravated criminal forced labor because the person was compelled to do so as described in" Me. Rev. Stat. Ann. tit. 17-A, § 304(1). Me. Rev. Stat. Ann. tit. 17-A, § 305(3).

ii. Sentencing

Aggravated criminal forced labor is a Class B crime, carrying a maximum term of imprisonment of 10 years and a maximum fine of USD 20,000. Me. Rev. Stat. Ann. tit. 17-A, §§ 305(2), 1604, 1704.

A court also may order a defendant to make restitution to the victim. Me. Rev. Stat. Ann. tit. 17-A, §§ 2003, 2005. If the court decides not to impose restitution, the court must place its reasons on the record. Me. Rev. Stat. Ann. tit. 17-A, § 2003(2).

The court shall impose an assessment of USD 35 for any person convicted of a Class B crime, to accrue to the Victims' Compensation Fund. Me. Rev. Stat. Ann. tit. 5, § 3360-I.

iii. Statute of Limitations

The statute of limitations for a Class B crime is six years. Me. Rev. Stat. Ann. tit. 17-A, § 8(2).

e. Me. Rev. Stat. Ann. tit. 15, § 5821 (2019) – Forfeiture

All assets used or intended for use or traceable to a human trafficking offense, aggravated sex trafficking offense, sex trafficking offense, aggravated criminal forced labor offense, or criminal forced labor offense may be subject to criminal forfeiture. Me. Rev. Stat. Ann. tit. 15, § 5821(9)–(11).

f. Me. Rev. Stat. Ann. tit. 17-A, §§ 853(3) (2021), 853-A(4) (2019), 304(3) (2018), and 305(3) (2018) – Affirmative Defenses

It is an affirmative defense to a prosecution for sex trafficking, prostitution, criminal forced labor, or aggravated criminal forced labor that the person engaged in the charged conduct because the person was compelled to do so. See Me. Rev. Stat. Ann. tit. 17-A, §§ 853(3), 853-A(4), 304(3), and 305(3). Refer also to Sections A.1.b.i., A.1.c.i., and A.1.d.i.

g. Me. Rev. Stat. Ann. tit. 22, § 4002 (2019) – Child Abuse or Neglect and Trafficking

Maine’s child protection statutes include sex trafficking of a child within the definition of “abuse or neglect.”

2. Online Child Sexual Exploitation and Child Pornography Offenses

Me. Rev. Stat. Ann. tit. 17-A, § 259-A (2012) – Solicitation of a Minor to Commit a Prohibited Act

Me. Rev. Stat. Ann. tit. 17-A, § 281 (2003) – Definitions

Me. Rev. Stat. Ann. tit. 17-A, § 282 (2019) – Sexual Exploitation of a Minor

Me. Rev. Stat. Ann. tit. 17-A, § 283 (2016) – Dissemination of Sexually Explicit Material

Me. Rev. Stat. Ann. tit. 17-A, § 284 (2016) – Possession of Sexually Explicit Material

Me. Rev. Stat. Ann. tit. 17-A, § 285 (2003) – Forfeiture of Equipment Used to Facilitate Violations

3. Me. Rev. Stat. Ann. tit. 34-A, §§ 11203, 11222 (2015) – Sex Offender Registry

With limited exceptions, a person found guilty of a “sex offense” must register as a sex offender. Me. Rev. Stat. Ann. tit. 34A, § 11222. A “sex offense” for registration purposes includes aggravated sex trafficking as set forth in Me. Rev. Stat. Ann. tit. 17A, § 852(1)(B). Me. Rev. Stat. Ann. tit. 34A, § 11203.

B. Civil Liability Statutes

1. Me. Rev. Stat. Ann. tit. 5, § 4701 (2019) – Civil Lawsuits

a. Summary

A victim of a “human trafficking offense” may bring a civil lawsuit for damages and other relief. Me. Rev. Stat. Ann. tit. 5, § 4701(2).

A “human trafficking offense” includes aggravated sex trafficking, sex trafficking, aggravated criminal forced labor, and criminal forced labor under the criminal code. Me. Rev. Stat. Ann. tit. 5, § 4701(1)(C)(1).

A “human trafficking offense” also includes all offenses under title 17-1, chapter 11 (sexual assaults), chapter 12 (sexual exploitation of minors), and chapter 13 (kidnapping, criminal restraint, and forced labor):

if accompanied by the destruction, concealment, removal, confiscation or possession of any actual or purported passport or other immigration document or other actual or purported government

identification document of the other person or done using any scheme, plan or pattern intended to cause the other person to believe that if that person does not perform certain labor or services, including prostitution, that the person or a 3rd [third] person will be subject to a harm to their health, safety or immigration status.

Me. Rev. Stat. Ann. tit. 5, § 4701(1)(C)(2).

“A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person’s estate if deceased.” Me. Rev. Stat. Ann. tit. 5, § 4701(4).

b. Damages and Other Relief

A trafficking victim may recover “actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney’s fees and costs.” Me. Rev. Stat. Ann. tit. 5, § 4701(2).

c. Statute of Limitations

The lawsuit must be brought “within 10 years of the date on which the victim was freed from the trafficking situation.” The defendant cannot assert a statute of limitations defense if the defendant induced the plaintiff to delay, prevented the plaintiff from filing, or caused duress by threatening the plaintiff. The statute of limitations is tolled when a person is under a disability that makes it impossible or impracticable for the person to sue when the claim arises. For these purposes, “disability” means that the “person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent.” The statute of limitations is also tolled while any criminal proceeding is pending against the trafficked person. Me. Rev. Stat. Ann. tit. 5, § 4701(3).

C. Additional Statutes Specific to Human Trafficking

1. Me. Rev. Stat. Ann. tit. 26, § 639 (2019) – Wage Theft Remedies

An employee may bring a civil lawsuit against an employer to recover unpaid wages. The employee is also entitled to reasonable attorney’s fees, costs, and an amount equal to twice the amount of unpaid wages as liquidated damages. Me. Rev. Stat. Ann. tit. 26, § 626-A. Maine also provides additional remedies for the nonpayment of wages, or wage theft, which include injunctive relief to enjoin further wage theft and in some cases an order for a business to cease operations. Me. Rev. Stat. Ann. tit. 26, § 639.

More information is available at: https://www.maine.gov/labor/labor_laws/wagehour.html.

2. Me. Rev. Stat. Ann. tit. 5, § 1825-L (2006) – State Purchasing Code of Conduct

An organization that contracts with the state to supply apparel, footwear, or textiles must comply with certain human trafficking laws. Those contractors must agree to “[c]omply with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled. These may include obligations with regard to forced labor, indentured labor, slave labor, child labor, involuntary prison labor, physical and sexual abuse and freedom of association.” Me. Rev. Stat. Ann. tit. 5, § 1825-L(2).

3. Me. Rev. Stat. Ann. tit. 26, § 879 (2018) – Posters

The Department of Labor shall provide specified employers (e.g., hospitals, eating/lodging places, adult entertainment bars, adult spas, money transmitters, check cashing businesses, and foreign currency businesses) with public awareness signs that contain a telephone number for a human trafficking hotline. Those employers must post the signs and keep them posted in a conspicuous manner clearly visible to the public and to their employees.

4. Me. Rev. Stat. Ann. tit. 29-A, § 1253(6) (2017) – Commercial Driver’s Licenses and Trafficking Information

All commercial driver’s licenses issued in the state must be accompanied by information that outlines how to recognize human trafficking and how to report human trafficking, including a telephone number for the national human trafficking hotline.

D. Significant Cases

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

E. Academic Research/Papers

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

F. Resources

Maine Sex Trafficking & Exploitation Network:

<http://www.mainesten.org/>

National Human Trafficking Hotline (Maine):

<https://humantraffickinghotline.org/state/maine>

Shared Hope International, Maine Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_ME.pdf

Shared Hope International, Maine Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_ME.pdf

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

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/maine_profile_efforts_to_combat_human_trafficking.pdf.

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