



# MISSISSIPPI

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. Miss. Code Ann. § 97-3-54.1 (2019) – Human Trafficking; Offenses

##### i. Summary

A person is guilty of the crime of human trafficking if the person coerces, recruits, entices, harbors, transports, provides, or obtains another person intending or knowing that the person will be subjected to forced labor or services. It is also a crime to attempt to engage in human trafficking or to benefit from participating in an enterprise that one knows or reasonably should have known has engaged in human trafficking. Miss. Code Ann. § 97-3-54.1(1)(a).

A person is guilty of the crime of procuring involuntary servitude if the person knowingly purchases the forced labor or services of a trafficked person, knowingly subjects or attempts to subject another person to forced labor or services, or benefits from participating in an enterprise that the person knows or reasonably should have known has engaged in involuntary servitude. Miss. Code Ann. § 97-3-54.1(1)(b).

A person commits the crime of procuring sexual servitude of a minor if the person causes a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or subjects, recruits, entices, harbors, transports, provides, or obtains by any means a minor knowing that the minor will engage in such activity. Attempting to procure the sexual servitude of a minor is also a crime. Miss. Code Ann. § 97-3-54.1(1)(c).

An enterprise may be prosecuted for human trafficking, involuntary servitude, or sexual servitude of a minor if:

- (a) An agent of the enterprise knowingly engages in conduct that constitutes an offense under this chapter while acting within the scope of employment and for the benefit of the entity.
- (b) An employee of the enterprise engages in conduct that constitutes an offense under this chapter and the commission of the offense was part of a pattern of illegal activity for the benefit of the enterprise, which an agent of the enterprise either knew was occurring or recklessly disregarded, and the agent failed to take effective action to stop the illegal activity.

Miss. Code Ann. § 97-3-54.1(3)(a) and (b). “It is an affirmative defense to a prosecution of an enterprise that the enterprise had in place adequate procedures, including an effective complaint procedure, designed to prevent persons associated with the enterprise from engaging in the unlawful conduct and to promptly correct any violations of this chapter.” Miss. Code Ann. § 97-3-54.1(3)(c).

A minor who has been identified as a victim of trafficking is not liable for human trafficking, involuntary servitude, or sexual servitude of a minor. Miss. Code Ann. § 97-3-54.1(4). Further, it is an affirmative defense that the defendant:

- (a) Is a victim; and
- (b) Committed the offense under a reasonable apprehension created by a person that, if the defendant did not commit the offense, a person would inflict serious harm on the defendant, a member of the defendant’s family, or a close associate.

Miss. Code Ann. § 97-3-54.1(5). Consent of the victim is not a defense, nor is a reasonable belief that the victim was 18 years of age or older. Miss. Code Ann. § 97-3-54.1(1)(c).

“[A]ny person who has reasonable cause to suspect that a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Child Protection Services and to the Statewide Human Trafficking Coordinator.” Miss. Code Ann. § 97-3-54.1(4).

**ii. Sentencing**

If the victim is not a minor, human trafficking or procuring involuntary servitude is punishable by imprisonment for two to 20 years, a fine of USD 10,000 to USD 100,000, or both. Miss. Code Ann. § 97-3-54.1(2).

If the victim is a minor, human trafficking or procuring involuntary servitude is punishable by imprisonment for 20 years to life in prison, a fine of USD 20,000 to USD 100,000, or both. Miss. Code Ann. § 97-3-54.1(2).

Sexual servitude of a minor is punishable by imprisonment for 20 years to life in prison, a fine of USD 50,000 to USD 500,000, or both. Miss. Code Ann. § 97-3-54.1(1)(c).

In addition to any other penalty, the Mississippi Human Trafficking Act provides that a court shall order restitution in the full amount of the victim’s pecuniary damages. The court may also order injunctive relief. Miss. Code Ann. § 97-3-54.6.

When sentencing an enterprise that has been convicted of human trafficking, procuring involuntary servitude, or procuring sexual servitude of a minor, the court may consider the severity of the enterprise’s offense and order penalties including a fine of not more than USD 1 million, disgorgement of profit, and debarment from government contracts. Miss. Code Ann. § 97-3-54.1(3)(d).

**iii. Statute of Limitations**

A prosecution for human trafficking, involuntary servitude, or sexual servitude of a minor may be brought at any time. Miss. Code Ann. § 99-1-5.

**b. Miss. Code Ann. § 97-3-54.2 (2006) – Prevention or Restriction of Liberty of a Victim of Human Trafficking**

**i. Summary**

It is a crime to knowingly destroy, conceal, remove, confiscate, or possess any actual or purported passport, immigration document, or government identification document to prevent or restrict, without lawful authority, the person’s liberty to move or travel to maintain the labor or services of a person who has been a victim of human trafficking, involuntary servitude, or sexual servitude of a minor. It is also a crime to attempt to do so. Miss. Code Ann. § 97-3-54.2.

**ii. Sentencing**

This offense is punishable by imprisonment for not more than five years. Miss. Code Ann. § 97-3-54.2.

In addition to any other penalty, the Mississippi Human Trafficking Act provides that a court shall order restitution in the full amount of the victim’s pecuniary damages. The court may also order injunctive relief. Miss. Code Ann. § 97-3-54.6.

**iii. Statute of Limitations**

A prosecution may be brought at any time. Miss. Code Ann. § 99-1-55.

**c. Miss. Code Ann. § 97-3-54.3 (2013) – Aiding or Abetting Human Trafficking**

**i. Summary**

A person who knowingly aids, abets, or conspires to violate the Mississippi Human Trafficking Act shall be considered a principal in the offense. Miss. Code Ann. § 97-3-54.3.

**ii. Sentencing**

A person convicted of aiding or abetting human trafficking is punishable as the principal in the offense, whether the principal has been previously convicted or not. Miss. Code Ann. § 97-3-54.3.

In addition to any other penalty, the Mississippi Human Trafficking Act provides that a court shall order restitution in the full amount of the victim’s pecuniary damages. The court may also order injunctive relief. Miss. Code Ann. § 97-3-54.6.

**iii. Statute of Limitations**

A prosecution may be brought at any time. Miss. Code Ann. § 99-1-5.

**d. Miss. Code Ann. § 97-3-54.5 (2013) – Use of Undercover Operative in Detection of Offense Permitted**

The use of an undercover operative or law enforcement officer in the detection or investigation of an offense under the Mississippi Human Trafficking Act is not a defense to a prosecution. Miss. Code Ann. § 97-3-54.5.

**e. Miss. Code Ann. § 97-3-54.7 (2013) – Forfeiture and Disposition of Proceeds**

Any property used in violating the Mississippi Human Trafficking Act shall be forfeited, Miss. Code Ann. § 97-3-54.7(1), except for property used by common carriers not party or privy to the violation and property used without the owner’s knowledge or consent, Miss. Code Ann. § 97-3-54.7(2).

All forfeited personal property shall be liquidated. After deduction of court costs and the expense of liquidation, 50% of the proceeds shall be deposited in the Relief for Victims of Human Trafficking Fund and 50% shall be divided among the law enforcement agencies that participated in the criminal case. Miss. Code Ann. § 97-3-54.7(13). The Relief for Victims of Human Trafficking Fund is a continuing fund within the State Treasury that is used solely for the administration of programs designed to assist victims of human trafficking, conduct training on human trafficking, and support the duties of the Statewide Human Trafficking Coordinator. Miss. Code Ann. § 97-3-54.8.

**f. Miss. Code Ann. §§ 97-29-49(4) (2019), 97-29-51(3) (2013) – Prostitution, Immunity for Trafficking Victims**

A person who engaged in prostitution as a direct result of being a trafficked person is immune from prosecution for prostitution. Miss. Code Ann. § 97-29-49(4).

A trafficked person who is a minor is immune from prosecution for promoting prostitution as a juvenile or adult. Miss. Code Ann. § 97-29-51(3). If a person charged with promoting prostitution is a trafficked person but not a minor,

that fact shall be considered a mitigating factor, and the person shall be referred to appropriate resources for assistance. Miss. Code Ann. § 97-29-51(3).

**g. Miss. Code Ann. § 97-43-3 (2013) – Racketeering Activity**

For the purposes of Mississippi’s Racketeer Influenced and Corrupt Organization Act, “racketeering activity” includes violating the Mississippi Human Trafficking Act, Miss. Code Ann. § 97-43-3(a)(11), and attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit such crimes, Miss. Code Ann. § 97-43-3(a).

**h. Miss. Code Ann. § 97-3-52 (2009) – Buying and Selling of a Child**

**i. Summary**

It is a crime to sell, buy, offer to sell, or offer to buy a child. Miss. Code Ann. § 97-3-52(1).

**ii. Sentencing**

This crime is punishable by imprisonment for not more than 10 years, a fine up to USD 20,000, or both. Miss. Code Ann. § 97-3-52.

**iii. Statute of Limitations**

A prosecution must be brought within two years. Miss. Code Ann. § 99-1-5.

**i. Miss. Code Ann. § 97-5-5 (2013) – Enticing a Child Under 14 Years of Age**

**i. Summary**

It is a crime to lead, take, carry, decoy, or entice away any child under 14 years old if done (1) with intent to detain or conceal the child from the child’s parents or guardian, or (2) for the purpose of prostitution, concubinage, or marriage. Miss. Code Ann. § 97-5-5.

Defendants can be prosecuted for both enticing a child under 14 years old and violating the Mississippi Human Trafficking Act. Miss. Code Ann. § 97-5-5.

**ii. Sentencing**

The offense is punishable by imprisonment for two to 10 years, a fine up to USD 10,000, or both. Miss. Code Ann. § 97-5-5.

**iii. Statute of Limitations**

The statute of limitations for the crime of enticing a child under 14 years old is two years. Miss. Code Ann. § 99-1-5.

**j. Miss. Code Ann. § 97-5-7 (2013) – Enticing a Child under 18 Years of Age**

**i. Summary**

It is a crime to persuade, entice, or decoy away from a child’s father or mother, with whom the child resides, any unmarried child under 18 years old for the purposes of employing the child without the consent of at least one of the child’s parents. Miss. Code Ann. § 97-5-7.

Defendants can be prosecuted for both enticing a child under 18 years old and violating the Mississippi Human Trafficking Act. Miss. Code Ann. § 97-5-7.

## ii. Sentencing

The offense is punishable by imprisonment for not more than one year, a fine up to USD 1,000, or both. Miss. Code Ann. § 97-5-7.

## iii. Statute of Limitations

The statute of limitations for the crime of enticing a child under 18 years old is two years. Miss. Code Ann. § 99-1-5.

### 2. Online Child Sexual Exploitation and Child Pornography Offenses

Miss. Code Ann. § 97-5-27 – Disseminating Sexually Oriented Material to Children; Computer Luring

Miss. Code Ann. §§ 97-5-31 *et seq.* – Offenses Affecting Children

Miss. Code Ann. § 97-5-33 – Depicting Child Engaging in Sexual Conduct

### 3. Reporting and Registration Requirements

#### a. Miss. Code Ann. § 43-21-353 (2019) – Reporting Abuse or Neglect

Anyone with reasonable cause to suspect that a child is a victim of human trafficking must make a report to the Department of Child Protection Services. Miss. Code Ann. § 43-21-353(1). The Department of Child Protection Services, in turn, must notify law enforcement and prosecutors in the relevant jurisdiction as well as the Statewide Human Trafficking Coordinator. Miss. Code Ann. § 43-21-353(1). Willful failure to comply with a reporting requirement is punishable by imprisonment for not more than one year, a fine up to USD 5,000, or both. Miss. Code Ann. § 43-21-353(7).

#### b. Miss. Code Ann. § 45–33 (2020) – Sex Offenders Registration Law

Any person who resides, is employed, or attends school in Mississippi and who has been convicted of a registrable offense shall register with the responsible agency and the Mississippi Department of Public Safety. Miss. Code Ann. § 45-33-25(1)(a). Offenses that must be registered include: procuring sexual servitude of a minor; aiding, abetting, or conspiring to procure sexual servitude of a minor; enticing a child for concealment, prostitution, or marriage; depicting a child engaging in sexual conduct; and disseminating sexually oriented material to children. Miss. Code Ann. § 45–33–23(h).

## B. Civil Liability Statutes

### 1. Miss. Code Ann. § 97-3-54.6(3) (2013) – Civil Lawsuits for Violations of the Mississippi Human Trafficking Act

#### a. Summary

Any person who is injured by a violation of the Mississippi Human Trafficking Act can file a civil lawsuit against any person or enterprise convicted of violating the Act. Miss. Code Ann. § 97-3-54.6(3).

#### b. Damages and Other Relief

A plaintiff can recover three times the actual damages sustained, appropriate punitive damages, attorney’s fees, and costs. Miss. Code Ann. § 97-3-54.6(3).

### c. Statute of Limitations

The statute of limitations for a civil lawsuit based on a violation of the Mississippi Human Trafficking Act is three years after the claim accrued. *See* Miss. Code Ann. §§ 15-1, 15-1-49. The statute of limitations is tolled while the injured person is a minor. Miss. Code. Ann. § 15-1-59.

## C. Additional Statutes Specific to Human Trafficking

### 1. Miss. Code Ann. § 19-5-353 (2021) – 911 Telecommunicators’ Standards and Training

All 911 operators must complete at least two hours of training related to handling complaints of human trafficking, communicating with victims, and contacting the Department of Child Protection Services.

### 2. Miss. Code Ann. § 43-15-51 (2021) – Child Abuse Task Force

Mississippi provides a mechanism for creating child abuse task forces responsible for implementing a coordinated multidisciplinary team approach to intervention in reports involving human trafficking.

### 3. Miss. Code Ann. § 45-6-7 (2019) – Law Enforcement Officer Standards and Training

Law enforcement officers must complete at least two hours of training on handling complaints of human trafficking, communicating with victims, and interfacing with the Department of Child Protection Services.

### 4. Miss. Code Ann. § 71-1-35 (1991) – Regulating Payment of Employee Wages

Although Mississippi law regulates the payment of wages, the law does not expressly provide employees with a private right to file a lawsuit to recover unpaid wages. However, employers may be subject to criminal penalties for violating the section governing the payment of wages.

Persons not paid wages owed may have relief under the federal Fair Labor Standards Act. *See* 29 U.S.C. §§ 201 *et seq.*

### 5. Miss. Code Ann. § 93-15-121(h)(i) (2017) – Termination of Parental Rights

A conviction for human trafficking of a child or depicting a child engaging in sexual conduct may be grounds for termination of parental rights.

### 6. Miss. Code Ann. § 97-3-54.6 (2013) – Injunctive Relief, Restitution, Vacatur, and Confidentiality

Mississippi circuit courts may enjoin violations of the Mississippi Human Trafficking Act, issue orders of restitution for victims, and vacate a conviction at any time if the court finds that the defendant’s participation was the result of being a trafficking victim. Miss. Code Ann. §§ 97-3-54.6(1), (2), and (5). Law enforcement agencies and prosecutors must take all reasonable efforts to keep the identity of the victim and the victim’s family confidential. Miss. Code Ann. § 97-3-54.6(7).

### 7. Miss. Code Ann. § 97-3-54.8 (2019) – Relief for Victims of Human Trafficking Fund

The Relief for Victims of Human Trafficking Fund is a continuing fund to be used solely for the administration of programs designed to assist victims of human trafficking, conduct training on human trafficking, and support the duties of the Statewide Human Trafficking Coordinator.

## 8. Miss. Code Ann. § 97-3-54.9 (2019) – Statewide Human Trafficking Coordinator

The Statewide Human Trafficking Coordinator is responsible for coordinating the implementation of the Mississippi Human Trafficking Act.

Any person who has reasonable cause to suspect that a minor under the age of 18 is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Child Protection Services and to the Statewide Human Trafficking Coordinator. Miss. Code Ann. § 97-3-54.1.

### D. Significant Cases

#### 1. *Shaffer v. State*, 72 So. 3d 1070 (Miss. 2011)

A 29-year-old woman impersonated a 13-year-old girl on the internet in an attempt to catch sexual predators. She developed a two-month internet relationship with the defendant, eventually agreeing to meet with him to have sex. When he arrived at the meeting place, the defendant was arrested for violating Miss. Code Ann. § 97-5-33(6).

Miss. Code Ann. § 97-5-33(6) makes it illegal for anyone to use “any means including a computer” to “knowingly ... solicit ... a child to meet with the person for the purpose of engaging in sexually explicit conduct.” The court ruled that the defendant violated Miss. Code Ann. § 97-5-33(6) when he solicited sex from a person he believed to be a child, even though that person was not actually a child.

#### 2. *Hooks v. State*, 197 So. 2d 238 (Miss. 1967)

The defendant, a 46-year-old drummer in a lounge band, became acquainted with a 13-year-old child who worked at a nearby café. The defendant and the child had sexual relations in the defendant’s quarters three times, and the defendant once promised to marry her. He was arrested for violating Miss. Code Ann. § 97-5-5.

The court reasoned that the defendant did not violate Miss. Code Ann. § 97-5-5, which makes it a crime to entice away any child under 14 “for the purpose of ... concubinage, or marriage,” because, despite his promise, the defendant did not intend to marry or live with the child.

#### 3. *Cotten v. State*, 202 So. 3d 216 (Miss. Ct. App. 2016)

The petitioner pleaded guilty to exploitation of children in violation of Miss. Code Ann. § 97-5-33. He filed a motion for post-conviction relief claiming that his indictment was defective because it described the two victims as “minors under the age of eighteen (18) years” without stating their names or exact ages.

The court concluded that the names and exact ages of minor victims do not need to be stated on an indictment, as they are not necessary elements of exploitation of children in violation of Miss. Code Ann. § 97-5-33. Accordingly, the petitioner was not eligible for post-conviction relief.

#### 4. *Westbrook v. State*, 109 So. 3d 609 (Miss. Ct. App. 2013)

The defendant molested a 12-year-old child until the child was sent to live with his father out of state. After the child had moved, the defendant sent the child a letter suggesting that they “[m]aybe go for some pizza and then to my hotel to visit for a while.” The defendant was convicted of violating Miss. Code Ann. § 97-5-33(6).

Miss. Code Ann. § 97-5-33(6) makes it illegal for a person to use “any means including a computer” to “knowingly ... solicit ... a child to meet with the person for purpose of engaging in sexually explicit conduct.” The court ruled that a defendant can “solicit” a meeting with a child without setting a place for the meeting. Accordingly, the jury was permitted to conclude that the defendant violated Miss. Code Ann. § 97-5-33(6) by sending the letter, even though no meeting place had been set.

#### 5. *Matheny v. State*, 289 So. 3d 328 (Miss. Ct. App. 2020)

The defendant pleaded guilty to exploitation of children in violation of Miss. Code Ann. § 97-5-33. He appealed claiming that the law was unconstitutionally vague because “the phrase ‘no person shall’ and the word ‘child’ fail to provide persons of ordinary intelligence an opportunity to know whom the statute regulates or what is prohibited.” The court rejected this argument because Miss. Code Ann. § 97-5-31(a) defines a child as anyone younger than 18 years old.

The defendant also argued that the law was unconstitutional as applied because prosecutors selectively enforce Miss. Code Ann. § 97-5-33 against adult offenders but not against juveniles. In particular, one of his victims had not been prosecuted, despite sending him a sexually explicit photograph of herself. The court rejected this “unconscionable” argument because the law prohibits adults from exploiting minors, not vice versa. Lastly, the court ruled that the defendant’s 40-year sentence was constitutional.

### E. Academic Research/Papers

Patricia R. Williams, Wendyann Wyatt & Angela Gaddis, *Identification of Client Involvement in Sex Trafficking in Mississippi*, 15 J. EVIDENCE-INFORMED SOC. WORK, 170–85 (2018).

### F. Resources

Mississippians Against Human Trafficking:

<https://www.nomorems.org/>

Mississippi Attorney General:

<https://www.ago.state.ms.us/wp-content/uploads/2020/10/Human-Trafficking-NGL-002.pdf>

Mississippi Department of Health

[https://msdh.ms.gov/msdhsite/\\_static/44,0,388,747.html](https://msdh.ms.gov/msdhsite/_static/44,0,388,747.html)

Mississippi Office Against Interpersonal Violence:

[https://msdh.ms.gov/msdhsite/\\_static/44,0,388.html](https://msdh.ms.gov/msdhsite/_static/44,0,388.html)

National Human Trafficking Hotline (Mississippi):

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

Shared Hope International, Mississippi Report Card (2019):

[http://sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_MS.pdf](http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_MS.pdf)

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

[http://sharedhope.org/PICframe9/analysis/PIC\\_AR\\_2019\\_MS.pdf](http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_MS.pdf)

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

[https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/mississippi\\_profile\\_efforts\\_to\\_combat\\_human\\_trafficking.pdf](https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/mississippi_profile_efforts_to_combat_human_trafficking.pdf).

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