



NEW YORK

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.Y. Penal Law § 135.35 (2015) – Labor Trafficking

i. Summary

A person is guilty of labor trafficking if the person:

compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of intentionally:

- (1) requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic course of conduct with intent to defraud such person;
- (2) withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;
- (3) using force or engaging in any scheme, plan, or pattern to compel or induce such person to engage in or continue to engage in labor activity by means of instilling a fear in such person, that if the demand is not complied with, the actor or another will do one or more of the following:
 - (a) cause physical injury, serious physical injury, or death to a person; or
 - (b) cause damage to property, other than the property of the actor; or
 - (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this article; or
 - (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

- (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule; or
- (f) testify or provide information or withhold testimony or information with respect to another’s legal claim or defense; or
- (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

N.Y. Penal Law § 135.35.

ii. Sentencing

“Labor trafficking is a Class D felony.” N.Y. Penal Law § 135.35. The maximum possible sentence is imprisonment for seven years. N.Y. Penal Law § 70.00(3)(c).

In addition to any other penalty, the court may require restitution or reparation to the victim as part of the sentence. N.Y. Penal Law § 60.27(1).

iii. Statute of Limitations

The statute of limitations for a prosecution for labor trafficking is five years. N.Y. Crim. Proc. Law § 30.10(2)(b).

b. N.Y. Penal Law § 135.36 (2015) – Labor Trafficking Accomplice Liability

“In a prosecution for labor trafficking, a person who has been compelled, induced, recruited, enticed, harbored, or transported to engage in labor shall not be deemed to be an accomplice.” N.Y. Penal Law § 135.36.

c. N.Y. Penal Law § 135.37 (2016) – Aggravated Labor Trafficking

i. Summary

“A person is guilty of aggravated labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person to engage in labor by means of intentionally unlawfully providing a controlled substance to such person with intent to impair said person’s judgment.” N.Y. Penal Law § 135.37.

ii. Sentencing

“Aggravated labor trafficking is a Class C felony.” N.Y. Penal Law § 135.37. The maximum possible sentence is imprisonment for 15 years. N.Y. Penal Law § 70.00(2)(c).

In addition to any other penalty, the court may require restitution or reparation to the victim as part of the sentence. N.Y. Penal Law § 60.27(1).

iii. Statute of Limitations

The statute of limitations for a prosecution for aggravated labor trafficking is five years. N.Y. Crim. Proc. Law § 30.10(2)(b).

d. N.Y. Penal Law § 230.34 (2015) – Sex Trafficking

i. Summary

A person is guilty of sex trafficking if the person:

intentionally advances or profits from prostitution by:

- (1) unlawfully providing to a person who is patronized, with intent to impair said person’s judgment:
 - (a) a narcotic drug or a narcotic preparation;
 - (b) concentrated cannabis as defined in paragraph (a) of subdivision four of section 3302 of the public health law;
 - (c) methadone; or
 - (d) gamma-hydroxybutyrate (GHB) or flunitrazepan, also known as Rohypnol;
- (2) making material false statements, misstatements, or omissions to induce or maintain the person being patronized to engage in or continue to engage in prostitution activity;
- (3) withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document of another person with intent to impair said person’s freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;
- (4) requiring that prostitution be performed to retire, repay, or service a real or purported debt;
- (5) using force or engaging in any scheme, plan, or pattern to compel or induce the person being patronized to engage in or continue to engage in prostitution activity by means of instilling a fear in the person being patronized that, if the demand is not complied with, the actor or another will do one or more of the following:
 - (a) cause physical injury, serious physical injury, or death to a person; or
 - (b) cause damage to property, other than property of the actor; or
 - (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or
 - (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or
 - (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule; or

- (f) testify or provide information or withhold testimony or information with respect to another’s legal claim or defense; or
- (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
- (h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status.

N.Y. Penal Law § 230.34.

ii. Sentencing

“Sex trafficking is a Class B felony.” N.Y. Penal Law § 230.34. The maximum possible sentence is 25 years. N.Y. Penal Law § 70.00(2)(b).

In addition to any other penalty, the court may require restitution or reparation to the victim as part of the sentence. N.Y. Penal Law § 60.27(1).

iii. Statute of Limitations

A Class B felony has a statute of limitations of five years. N.Y. Penal Law § 30.10(2)(b).

e. N.Y. Penal Law § 230.34-A (2018) – Sex Trafficking of a Child

i. Summary

A person is guilty of sex trafficking of a child when the person “being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old.” N.Y. Penal Law § 230.34-A(1).

The defendant’s knowledge of the child’s age is not an element of the offense. It is not a defense that the defendant did not know the age of the child or believed the child to be 18 or older. N.Y. Penal Law § 230.34-A(1).

“A person ‘advances prostitution’ when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.” N.Y. Penal Law § 230.34-A(2)(a).

A person “profits from prostitution” when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person where he or she participates in the proceeds of prostitution activity.

N.Y. Penal Law § 230.34-A(2)(b).

ii. Sentencing

Sex trafficking of a child is a Class B felony. N.Y. Penal Law § 230.34-A. The maximum possible sentence is imprisonment for 25 years. N.Y. Penal Law § 70.00(2)(b).

In addition to any other penalty, the court may require restitution or reparation to the victim as part of the sentence. N.Y. Penal Law § 60.27(1).

iii. Statute of Limitations

A Class B felony has a statute of limitations of five years. N.Y. Penal Law § 30.10(2)(b).

f. N.Y. Penal Law § 230.36 (2015) – Sex Trafficking Accomplice Liability

“In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.” N.Y. Penal Law § 230.36.

g. N.Y. Penal Law § 230.01 (2018) – Affirmative Defense

In any prosecution under section 230.00, section 230.03, section 230.19, 230.20, subdivision 2 of section 230.25, subdivision 2 of section 230.30 or section 230.34-a of this article, it is an affirmative defense that the defendant’s participation in the offense was a result of having been a victim of compelling prostitution under section 230.33, a victim of sex trafficking under section 230.34 of this article, a victim of sex trafficking of a child under section 230.34-a of this article or a victim of trafficking in persons under the [federal] trafficking victims protection act (United States Code, Title 22, Chapter 78).

N.Y. Penal Law § 230.01.

h. N.Y. Crim. Pro. Law § 440.10 (2021) – Motion to Vacate Judgment

A defendant may file a motion to vacate a judgment if:

[t]he judgment is a conviction where the defendant’s participation in the offense was a result of having been a victim of sex trafficking under N.Y. Penal Law section 230.34, sex trafficking of a child under section 230.34-a, labor trafficking under section 135.35, aggravated labor trafficking under section 135.37, compelling prostitution under section 230.33, or trafficking in persons under the federal Trafficking Victims Protection Act (United States Code, title 22, chapter 78).

N.Y. Crim. Pro. Law § 440.10(h)(i).

i. N.Y. Fam. Ct. Act § 311.4 (2010) – Presumption for Juveniles in Arrest for Prostitution

In a juvenile court proceeding based upon an arrest for prostitution, the respondent is presumed to be a victim of a severe form of trafficking as defined in 18 U.S.C. § 7105 (federal Trafficking Victims Protection Act). N.Y. Fam. Ct. Act § 311.4(3).

j. N.Y. Penal Law § 460.20 (2018) – Racketeering

New York’s racketeering statute includes labor trafficking, sex trafficking, and sex trafficking of a child among its predicate acts. N.Y. Penal Law § 460.10(1)(a).

2. Online Child Sexual Exploitation and Child Pornography Offenses

N.Y. Penal Law § 235.22 – Disseminating Indecent Material to Minors in the First Degree

N.Y. Penal Law § 263.05 – Use of a Child in Sexual Performance

N.Y. Penal Law § 263.10 – Promoting an Obscene Sexual Performance by a Child

N.Y. Penal Law § 263.11 – Possessing an Obscene Sexual Performance by a Child

N.Y. Penal Law § 263.15 – Promoting a Sexual Performance by a Child

N.Y. Penal Law § 263.16 – Possessing a Sexual Performance by a Child

N.Y. Penal Law § 263.30 – Facilitating a Sexual Performance by a Child with a Controlled Substance or Alcohol

N.Y. Penal Law § 410.00 – Seizure and Forfeiture of Equipment Used in Photographing, Filming, Producing, Manufacturing, Projecting or Distributing Pornographic Still or Motion Pictures

3. N.Y. Correct. Law §§ 168 to 168-Wf (2012) – Sex Offender Registry

A “sex offender” must register prior to their release on probation or discharge. A “sex offender” includes a person convicted of, among other crimes, sex trafficking (N.Y. Penal Law § 230.34), sex trafficking of a child (N.Y. Penal Law § 230.34-A), promoting or compelling prostitution, even as an accomplice (N.Y. Penal Law § 230.25), or possession of child pornography and child prostitution. N.Y. Correct. Law § 168-a(1) and § 168-a(2)(a).

B. Civil Liability Statutes

1. N.Y. Soc. Serv. Law § 483-bb(c)(2018) – Civil Lawsuits

a. Summary

An individual who is a victim of the conduct prohibited by section 230.33 (compelling prostitution), section 230.34 (sex trafficking), section 230.34-a (sex trafficking of a child), section 135.35 (labor trafficking), or section 135.37 (aggravated labor trafficking) of the New York Penal Law may bring a civil lawsuit against the perpetrator or whoever knowingly advances or profits from, or whoever should have known they were advancing or profiting from, an act in violation of these sections. N.Y. Soc. Serv. Law § 483-bb(c).

b. Damages and Other Relief

The victim may recover “actual, compensatory and punitive damages, injunctive relief, any combination of those or any other appropriate relief, as well as reasonable attorney’s fees.” N.Y. Soc. Serv. Law § 483-bb(c)(i).

c. Statute of Limitations

A lawsuit “brought pursuant to this subdivision shall be commenced within fifteen years of the date on which the trafficking victim was freed from the trafficking situation or, if the victim was a minor when the act of human trafficking against the victim occurred, within fifteen years after the date the victim attains the age of majority.” N.Y. Soc. Serv. Law § 483-bb(c)(ii).

“If a person entitled to sue is under a disability at the time the [claim] accrues so that it is impossible or impracticable for him or her to bring [a lawsuit] under this subdivision, the time of the disability is not part of the time limited for the commencement of the [lawsuit]. Disability will toll the running of the statute of limitations for this [lawsuit].” N.Y. Soc. Serv. Law § 483-bb(c)(iii).

C. Additional Statutes Specific to Human Trafficking

1. N.Y. Lab. Law § 215 (2019) – Wage Theft Prevention Act

An employee may recover unpaid wages in a civil lawsuit against an employer. In addition to unpaid wages, an employee may receive liquidated damages, plus attorney’s fees and costs. N.Y. Lab. Law § 198. Employers may face civil and criminal penalties. N.Y. Lab. Law §§ 197, 198-a, 215.

More information is available at: <https://dol.ny.gov/unpaidwithheld-wages-and-wage-supplements>.

2. N.Y. Exec. Law § 214-d (2016) – State Police Officers and Human Trafficking Awareness

The law enforcement superintendent must create and disseminate information to all state police officers regarding human trafficking policies and procedures and establish and implement written procedures and policies in the event a state police member encounters an individual believed to be a trafficking victim.

3. N.Y. Fam. Ct. Act § 1012(e)(iii) (2021) – Abused Child Definition Includes Child Trafficking Victims

The definition of “abused child” in New York’s Family Court Act includes “a child less than eighteen years of age whose parent or other adult responsible for [the child’s] care ... (E) permits or encourages such child to engage in any act or commits or allows to be committed against such child any offense that would render such child either a victim of sex trafficking or a victim of severe forms of trafficking in persons pursuant to 22 U.S.C. 7102” N.Y. Fam. Ct. Act § 1012(e)(iii)(E).

4. N.Y. Gen. Bus. Law § 69-a (2014) – Sale of Goods Produced with Child Labor

Under New York law,

[n]o goods, wares, or merchandise, manufactured or produced in or for a factory or by industrial homework or produced or mined in a mine or quarry in this or any other state, or in any territory, dependency or possession of the United States, on or after the date this article takes effect, wholly or in part through the use of child labor shall be sold in this state to any person, firm, association or corporation, provided that the seller shall have notice that such goods, wares or merchandise were so manufactured, produced or mined.

N.Y. Gen. Bus. Law § 69-a.

5. N.Y. Pub. Health Law § 2805-y(2) (2017) – Requirements for Certain Medical Care and Hospital Facilities Regarding Human Trafficking Victims

Certain medical care and hospital facilities must provide for identification, assessment, and appropriate treatment of persons suspected as human trafficking victims.

6. N.Y. Soc. Serv. Law § 483-ee (2016) – Interagency Task Force on Human Trafficking

A human trafficking task force consisting of 14 different state agencies or representatives has duties including collecting and organizing data on human trafficking, identifying programs to provide services to victims, and establishing interagency protocols.

7. N.Y. Soc. Serv. Law § 483-ff (2016) – Poster

The Commissioner of Temporary and Disability Assistance must create a National Human Trafficking Resources Center hotline poster and make it available on its website.

8. N.Y. Soc. Serv. Law § 483-bb (2018) – Services for Human Trafficking Victims

The office of temporary and disability assistance shall enter into contracts with non-government organizations for providing services to victims of human trafficking Such services shall be culturally competent, to the extent practicable, and shall include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, post-employment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in New York state or the United States.

N.Y. Soc. Serv. Law § 483-bb(b).

“Such services shall also include appropriate voluntary placement in a short-term or long-term safe house” N.Y. Soc. Serv. Law § 483-bb(b). A short-term safe house “provides emergency shelter, services and care, food, shelter, clothing, medical care, counseling and appropriate crisis intervention services” N.Y. Soc. Serv. Law § 483-aa(c). A long-term safe house additionally:

provide[s] or assist[s] with securing necessary services for such human trafficking victims either through direct provision of services, or through written agreements with other community and public agencies for the provision of services including but not limited to housing, assessment, case management, medical care, legal, mental health and substance use disorder services. Such safe house, in accordance with a service plan for such human trafficking victim, shall also provide counseling and therapeutic services, educational services including life skills services, job training and placement and planning services to successfully transition such person back into the community.

N.Y. Soc. Serv. Law § 483-aa(d).

D. Significant Cases

1. *People v. Hayes*, 180 A.D. 3d 423 (N.Y. App. Div. 2020)

The alleged victim, her mother, and a third woman sought to earn more money than they were earning in Florida. They voluntarily traveled with the defendant to New York to earn money as prostitutes, and the defendant left them alone at times in Florida and New York. The court ruled that insufficient evidence supported the defendant’s conviction for sex trafficking, reasoning that the “evidence failed to prove beyond a reasonable doubt that [the defendant] used force or engaged in a scheme, pattern, or plan to compel or induce the alleged victim, who did not testify at trial, to engage in prostitution by any threat of physical harm [as required by Penal Law § 230.34(5)(a)].” No evidence was presented at trial that the defendant ever threatened to harm the alleged victim if they failed to work as a prostitute.

2. *People v. Elleby*, 146 A.D. 3d 687 (N.Y. App. Div. 2017)

The appellate court ruled that the trial court did not abuse its discretion by admitting, for the purpose of impeaching the defendant’s testimony that he had not been involved in prostitution, a video of the defendant performing a song in which he boasted about being a pimp. The court upheld convictions for sex trafficking and promoting prostitution.

3. *People v. Blue*, 186 A.D. 3d 1088 (N.Y. App. Div. 2020)

The defendant had to register as a sex offender under N.Y. Correction Law § 168-a(2)(a)(i) because, even if her federal conviction for conspiracy to commit sex trafficking of a minor did not perfectly overlap with those of an analogous New York offense, her underlying conduct (enticing a 14-year-old victim to engage in commercial sex acts) constituted the promotion of prostitution under N.Y. Penal Law § 230.25(2).

E. Academic Research/Papers

Aya Gruber, Amy J. Cohen, & Kate Mogulescu, *Penal Welfare and the New Human Trafficking Intervention Courts*, 68 FLA. L. REV. 1333 (2016).

Hon. Jonathan Lippman, *New York’s Efforts to Combat Human Trafficking in the Modern Era*, 7 ALB. GOV’T L. REV. vii (2014).

Hon. Toko Serita, In Our Own Backyards: *The Need for a Coordinated Judicial Response to Human Trafficking*, 36 N.Y.U. REV. L. & SOC. CHANGE 635 (2012).

Alyssa M. Barnard, Note, *“The Second Chance They Deserve”*: Vacating Convictions of Sex Trafficking Victims, 114 COLUM. L. REV. 1463 (2014).

F. Resources

National Human Trafficking Hotline (New York):

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

New York Anti-Trafficking Network:

<https://www.nyxt.nyc/ny-anti-trafficking-network/>

New York State Division of Criminal Justice Services:

<https://www.criminaljustice.ny.gov/pio/humantrafficking/humantrafficking.htm>

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

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_NY.pdf

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

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_NY.pdf

New York Office of Temporary and Disability Assistance

<https://otda.ny.gov/programs/bria/trafficking.asp>

Referral of Human Trafficking Victim

<https://www.surveygizmo.com/s3/5633227/NYS-Human-Trafficking-Referral-Form>

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

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

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