



TENNESSEE

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. Tenn. Code Ann. § 39-13-307 (2012) – Involuntary Labor Servitude

i. Summary

A person commits the offense of involuntary labor servitude who knowingly subjects, or attempts to subject, another person to forced labor or services by:

- (1) Causing or threatening to cause serious bodily harm to the person;
- (2) Physically restraining or threatening to physically restrain the person;
- (3) Abusing or threatening to abuse the law or legal process;
- (4) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;
- (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or
- (6) Facilitating or controlling the person's access to an addictive controlled substance; or
- (7) Controlling the person's movements through threats or violence.

Tenn. Code Ann. § 39-13-307(a).

ii. Sentencing

Involuntary labor servitude is generally a Class C felony. Tenn. Code Ann. § 39-13-307(d)(1). A Class C felony is punishable by no less than three years nor more than 15 years in prison, and a possible fine of no more than USD 10,000. Tenn. Code Ann. § 40-35-111(b)(3).

Involuntary labor servitude is a Class B felony if:

- (A) The violation resulted in the serious bodily injury or death of a victim;
- (B) The period of time during which the victim was held in servitude exceeded one (1) year;
- (c) The defendant held ten (10) or more victims in servitude at any time during the course of the defendant's criminal episode; or
- (d) The victim was under thirteen (13) years of age.

Tenn. Code Ann. § 39-13-307(d)(2).

A Class B felony is punishable by imprisonment for eight to 30 years and a possible fine not to exceed USD 25,000. Tenn. Code Ann. § 40-35-111(b)(2).

“In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of: (1) The gross income or value to the defendant of the victim’s labor or services; or (2) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the [federal] Fair Labor Standards Act (FLSA), compiled in 29 U.S.C. § 201 et seq., or the minimum wage required in this state, whichever is higher.” Tenn. Code Ann. § 39-13-307(b).

iii. Statute of Limitations

The statute of limitations is eight years for a Class B felony. Tenn. Code Ann. § 40-2-101(b)(2). It is four years for a Class C felony. Tenn. Code Ann. § 40-2-101(b)(3).

b. Tenn. Code Ann. § 39-13-308 (2008) – Trafficking Persons for Forced Labor or Services

i. Summary

A person commits the offense of trafficking persons for forced labor or services who knowingly:

- (1) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or
- (2) Benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act described in § 39-13-307 [involuntary labor servitude].

Tenn. Code Ann. § 39-13-308(a).

ii. Sentencing

Trafficking for forced labor or services is a Class C felony. Tenn. Code Ann. § 39-13-308(c). A Class C felony is punishable by imprisonment for three to 15 years and a possible fine not to exceed USD 10,000. Tenn. Code Ann. § 40-35-111(b)(3).

“In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of: (1) The gross income or value of the benefit received by the defendant as the result of the victim’s labor or services; or (2) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the [federal] Fair Labor Standards Act (FLSA), compiled in 29 U.S.C. § 201 et seq., or the minimum wage required in this state, whichever is higher.” Tenn. Code Ann. § 39-13-308(b).

iii. Statute of Limitations

The statute of limitations for a prosecution for trafficking for forced labor or services is four years. Tenn. Code Ann. § 40-2-101(b).

c. Tenn. Code Ann. § 39-13-309 (2019) – Trafficking a Person for a Commercial Sex Act

i. Summary

A “commercial sex act” is defined as:

- (A) Any sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age; or
- (B) Any sexually explicit conduct that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age.

Tenn. Code Ann. § 39-13-301(4).

A person commits the offense of trafficking a person for a commercial sex act who:

- (1) Knowingly subjects, attempts to subject, benefits from or attempts to benefit from another person’s provision of a commercial sex act;
- (2) Recruits, entices, harbors, transports, provides, purchases, or obtains by any means another person for the purpose of providing a commercial sex act; or
- (3) Commits the acts in this subsection (a) when the intended victim of the offense is a law enforcement officer or a law enforcement officer eighteen (18) years of age or older posing as a minor.

Tenn. Code Ann. § 39-13-309(a).

Subsection (b) of section 39-13-309 provides that:

For purposes of subdivision (a)(2), such means may include, but are not limited to:

- (1) Causing or threatening to cause physical harm to the person;
- (2) Physically restraining or threatening to physically restrain the person;
- (3) Abusing or threatening to abuse the law or legal process;
- (4) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;
- (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or
- (6) Facilitating or controlling a person’s access to a controlled substance.

“It is not a defense to a violation of this section that: (1) The intended victim of the offense is a law enforcement officer; (2) The victim of the offense is a minor who consented to the act or acts constituting the offense; or (3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or the law enforcement officer could not engage in the solicited offense.” Tenn. Code Ann. § 39-13-309(d).

A corporation may be prosecuted for trafficking a person for a commercial sex act “only if an agent of the corporation performs the conduct that is an element of the crime while acting within the scope of the agent’s office or employment and on behalf of the corporation and the commission of the crime was either authorized, requested, commanded, performed or within the scope of the agent’s employment on behalf of the corporation or constituted a pattern of illegal activity that an agent of the company knew or should have known was occurring.” Tenn. Code Ann. § 39-13-311.

ii. Sentencing

The crime of trafficking a person for a commercial sex act is generally a Class B felony punishable by imprisonment for eight to 30 years and a possible fine not to exceed USD 25,000. Tenn. Code Ann. §§ 39-13-309(c), 40-35-111(b)(2).

The crime is a Class A felony “where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand (1,000) feet of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park.” Tenn. Code Ann. § 39-13-309(c). A Class A felony is punishable by imprisonment for 15 to 60 years and a possible fine not to exceed USD 50,000. Tenn. Code Ann. § 40-35-111(b)(1).

A person who is defined as a “child sexual predator” based on their conviction of designated offenses on or after July 1, 2007, including trafficking for a commercial sex act, is required to serve the entire sentence imposed by the court. Tenn. Code Ann. § 39-13-523.

The court may order a convicted defendant to pay restitution to the victim. Tenn. Code Ann. § 39-11-118.

iii. Statute of Limitations

The statute of limitations for a Class A felony is 15 years. Tenn. Code Ann. § 40-2-101(b)(1).

The statute of limitations for a Class B felony is eight years. Tenn. Code Ann. § 40-2-101(b)(2).

No later than 15 years from the date a child becomes 18 years of age, a person may be prosecuted for any offense against the child that constitutes trafficking a person for a commercial sex act and that occurred on or after July 1, 2013. Tenn. Code Ann. § 40-2-101(k)(1). For any offense against a child committed on or after July 1, 2021, a person may be prosecuted at any time after the offense was committed. Tenn. Code Ann. § 40-2-101(r).

In addition, a person may be prosecuted at any time after the commission of the offense of trafficking for a commercial sex act if:

- (A) The victim was under thirteen (13) years of age at the time of the offense; or
- (B) (i) The victim was at least thirteen (13) years of age but no more than seventeen (17) years of age at the time of the offense; and
 - (ii) The victim reported the offense to another person prior to the victim attaining twenty-three (23) years of age.

Tenn. Code Ann. § 40-2-101(q)(2).

d. Tenn. Code Ann. § 39-13-311(2008) – Trafficking Offenses by Corporations

A corporation may be prosecuted for a violation of Tennessee’s laws against trafficking persons for forced labor or trafficking a person for a commercial sex act “only if an agent of the corporation performs the conduct that is an element of the crime while acting within the scope of the agent’s office or employment and on behalf of the corporation and the commission of the crime was either authorized, requested, commanded, performed or within the scope of the agent’s employment on behalf of the corporation or constituted a pattern of illegal activity that an agent of the company knew or should have known was occurring.” Tenn. Code Ann. § 39-13-311.

e. Tenn. Code Ann. § 39-11-611 (2021) – Self-Defense

A person who is not engaged in conduct that would constitute a felony or a Class A misdemeanor and is in a place where the person has a right to be has no duty to retreat before threatening or using force against another person when and to the degree the person reasonably believes the force is necessary to protect against the other's use or attempted use of unlawful force. Tenn. Code Ann. § 39-11-611(b)(1).

For purposes of Tenn. Code Ann. § 39-11-611(b), a person is not engaged in conduct that would constitute a felony or a Class A misdemeanor or is in a place where the person does not have a right to be if the person is engaged in the activity or is in the place due to the person's status as a victim of human trafficking. The person must prove the person's status as a victim of human trafficking by clear and convincing evidence. Clear and convincing evidence of the person's status as a victim of human trafficking may be provided through testimony. Tenn. Code Ann. § 39-11-611(b)(3).

f. Tenn. Code Ann. § 39-13-514 (2019) – Patronizing Prostitution

Patronizing prostitution from a person who is younger than 18 years of age or who has an intellectual disability is punishable as trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309 (trafficking a person for a commercial sex act). Tenn. Code Ann. § 39-13-514(b)(3).

"Patronizing prostitution" is defined as "soliciting or hiring another person with the intent that the other person engage in prostitution, or entering or remaining in a house of prostitution for the purpose of engaging in sexual activity." Tenn. Code Ann. § 39-13-512(3).

g. Tenn. Code Ann. § 39-13-515 (2019) – Promoting Prostitution

The offense of promoting prostitution is punishable as trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309 if the person being promoted is less than 18 years of age. Tenn. Code Ann. § 39-13-515(c).

"Promoting prostitution" means:

- (i) Owning, controlling, managing, supervising, or in any way keeping, alone or in association with others, a business for the purpose of engaging in prostitution, or a house of prostitution;
- (ii) Procuring an inmate for a house of prostitution;
- (iii) Encouraging, inducing, or otherwise purposely causing another to become a prostitute;
- (iv) Soliciting a person to patronize a prostitute;
- (v) Procuring a prostitute for a patron; or
- (vi) Soliciting, receiving, or agreeing to receive any benefit for engaging in any of the activities defined in subdivisions (4)(A)(i)–(v); and

"Promoting prostitution" does not include a person who solicits, procures, induces, encourages, or attempts to cause another to patronize a prostitute if:

- (i) The person promoting the prostitute and the prostitute being promoted are the same person; and
- (ii) The intent of the promotion is the solicitation of business for only the prostitute engaging in the promotion.

Tenn. Code Ann. § 39-13-512(4)(A)–(B).

h. Tenn. Code Ann. § 39-13-528 (2013) – Solicitation of Person Under 18 Years of Age

i. Summary

It is an offense for a person 18 years of age or older, “by means of oral, written, or electronic communication, electronic mail, or Internet services, directly or through another, to intentionally command, request, hire, persuade, invite, or attempt to induce a person whom the person making the solicitation knows, or should know, is less than eighteen (18) years of age, or solicits a law enforcement officer posing as a minor, and whom the person making the solicitation reasonably believes to be less than eighteen (18) years of age, to engage in conduct that, if completed, would constitute a violation by the soliciting adult of” offenses including trafficking for commercial sex acts pursuant to Tenn. Code Ann. § 39–13–309. Tenn. Code Ann. § 39-13-528(a).

It is no defense that the solicitation was unsuccessful, that the conduct solicited was not engaged in, or that the law enforcement officer could not engage in the solicited offense. It is also no defense that the minor solicited was unaware of the criminal nature of the conduct solicited. Tenn. Code Ann. § 39-13-528(b).

ii. Sentencing

Soliciting a person under 18 years old is an offense one classification lower than the most serious crime solicited, unless the offense solicited was a Class E felony, in which case the offense shall be a Class A misdemeanor. Tenn. Code Ann. § 39-13-528(c).

A court may order a convicted defendant to pay restitution to the victim. Tenn. Code Ann. § 39-11-118.

iii. Statute of Limitations

A person may be prosecuted at any time for a felony violation of the crime of solicitation of a person under 18 if: (1) the victim was under 13 years of age at the time of the offense; or (2) (i) the victim was at least 13 years of age but no more than 17 years of age at the time of the offense; and (ii) the victim reported the offense to another person prior to the victim attaining 23 years of age. Tenn. Code Ann. § 40-2-101(q).

i. Tenn. Code Ann. § 39-13-513 (2021) – Prostitution; Minors; Affirmative Defense for Trafficking Victims

With respect to minors, Tennessee’s prostitution statute provides:

[I]f it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the Tennessee human trafficking resource center hotline, notify the department of children’s services, and release the minor to the custody of a parent or legal guardian or transport the minor to a shelter care facility designated by the juvenile court judge to facilitate the release of the minor to the custody of a parent or legal guardian.

Tenn. Code Ann. § 39-13-513(d).

A person charged with a violation of the prostitution statute has a defense to the prosecution on the grounds that the violation “was so charged for conduct that occurred because the person was a victim of an act committed in violation of § 39-13-307 or § 39-13-309, or because the person was a victim as defined under the [federal] Trafficking Victims Protection Act, compiled in 22 U.S.C. § 7102.” Tenn. Code Ann. § 39-13-513(e).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Tenn. Code Ann. § 39-13-529 – Sexual Exploitation of Minors via Electronic Means

Tenn. Code Ann. § 39-17-1003 – Sexual Exploitation

Tenn. Code Ann. § 39-17-1004 – Aggravated Sexual Exploitation

Tenn. Code Ann. § 39-17-1005 – Especially Aggravated Sexual Exploitation

3. Tenn. Code Ann. §§ 40-39-203 (2015), 40-39-204 (2020) – Sex Offender Registration Act

With limited exceptions, an “offender” must register on the Sexual Offender and Violent Sexual Offender Registry. Tenn. Code Ann. § 40-39-204. An “offender” includes a person convicted of offenses including sexual exploitation of a minor, solicitation of a minor, solicitation generally, child pornography, and trafficking of commercial sex (which is considered a “violent sexual offense”). Tenn. Code Ann. § 40-39-202.

A person who must register on the Sexual Offender and Violent Sexual Offender Registry based solely upon a conviction for aggravated prostitution under Tenn. Code Ann. § 39-13-516 may petition the sentencing court for termination of the registration requirements based on the person’s status as a victim of a human trafficking offense. Tenn. Code Ann. § 40-39-218.

B. Civil Liability Statutes

1. Tenn. Code Ann. § 39-13-314 (2012) – Human Trafficking; Victims’ Civil Lawsuits; Damages

a. Summary

Under Tennessee law, a “trafficked person” may bring a civil lawsuit. A “[t]rafficked person” means a victim of a human trafficking offense.” A “[h]uman trafficking offense” means the commission of any act that constitutes the criminal offense of involuntary labor servitude, under § 39-13-307; trafficking persons for forced labor or services, under § 39-13-308; trafficking for a commercial sex act, under § 39-13-309; or promoting the prostitution of a minor, under § 39-13-512.” Tenn. Code Ann. § 39-13-314(a).

b. Damages and Other Relief

“A trafficked person may bring a [lawsuit] for 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.” Tenn. Code Ann. § 39-13-314(b).

Restitution available under Tennessee’s civil liability statute includes:

items covered by the criminal injuries compensation fund under § 40-24-107 and any of the following, if not already covered by the court’s restitution order:

- (1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court’s discretion;
- (2) Costs of necessary transportation, temporary housing, and child care, at the court’s discretion;
- (3) Attorney’s fees and other court-related costs, such as victim advocate fees;
- (4) The greater of:

- (A) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the [federal] Fair Labor Standards Act (FLSA), compiled in 29 U.S.C. §§ 201 *et seq.* or state equivalent; or
- (B) The gross income or value to the defendant of the victim’s labor or services or of any commercial sex acts engaged in by the victim while in the human trafficking situation;
- (5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;
- (6) Compensation for emotional distress, pain, and suffering;
- (7) (A) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or the defendant’s 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;
- (B) Expenses incurred pursuant to subdivision (c)(7)(A) shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim;
- (8) Repatriation of the victim to the victim’s home country, if applicable; and
- (9) Any and all other losses suffered by the victim as a result of human trafficking offenses.

Tenn. Code Ann. § 39-13-314(c).

c. Statute of Limitations

Tennessee’s general statute of limitations provides that a civil lawsuit for personal injuries shall be commenced within two years after the claim accrued, if:

- (A) Criminal charges are brought against any person alleged to have caused or contributed to the injury;
- (B) The conduct, transaction, or occurrence that gives rise to the [lawsuit] for civil damages is the subject of a criminal prosecution commenced within one (1) year by:
 - (i) A law enforcement officer;
 - (ii) A district attorney general; or
 - (iii) A grand jury; and
- (C) The [lawsuit] is brought by the person injured by the criminal conduct against the party prosecuted for such conduct.

Tenn. Code Ann. § 28-3-104(a)(2). Otherwise, a lawsuit for injuries to the person shall be commenced within one year after the claim accrued. Tenn. Code Ann. § 28-3-104(a)(1).

C. Additional Statutes Specific to Human Trafficking

1. Tenn. Code Ann. §§ 4-3-3001, 4-3-3002 (2015) – Human Trafficking Advisory Council

The Tennessee Bureau of Investigation shall form a human trafficking advisory council to further develop and implement a state plan for the prevention of human trafficking and appoint its members.

2. Tenn. Code Ann. § 9-4-214 (2019) – Victims of Human Trafficking Fund

A fund within the state treasury shall be established for the purposes of providing comprehensive treatment and specialized support systems for the victims of human trafficking. The department of finance and administration's office of criminal justice programs shall distribute moneys in the fund in the form of grants to agencies that provide specialized comprehensive treatment and support services for the victims of human trafficking.

3. Tenn. Code Ann. § 37-1-102 (2019) – Juvenile Courts and Proceedings

Tennessee's child protection statutes include trafficking for a commercial sex act within the definition of "severe child abuse."

4. Tenn. Code Ann. § 37-1-408 (2018) – Child Abuse Training Programs

The department of children's services shall develop guidelines on the best practices for identifying and reporting signs of child abuse, child sexual abuse, and human trafficking in which the victim is a child, and the department of education shall use the guidelines in training teachers.

5. Tenn. Code Ann. § 38-6-114 (2017) – Course of Instruction Concerning Human Trafficking; Protocols and Procedures for Law Enforcement Response; Training Requirements; Special Agents

The Tennessee Bureau of Investigation shall implement "a course or courses of instruction, composed of live instruction, telecommunication, video or other medium, or any combination of methods, for the training of law enforcement officers and other government officials who are directly involved with human trafficking, including the investigation of and the intake of human trafficking complaints; and ... [d]evelop recommended best practice uniform protocols and procedures for law enforcement response to human trafficking."

6. Tenn. Code Ann. § 39-13-312 (2011) – Use of Proceeds from Judicial Forfeiture

Twenty percent of proceeds from criminal forfeitures related to trafficking offenses shall go "to the law enforcement agency conducting the investigation that resulted in the forfeiture for use in training and equipment for the enforcement of the human trafficking laws," and another twenty percent shall go to "the district attorneys general conference for education, expenses, expert services, training or the enhancement of resources for the prosecution of and asset forfeiture in human trafficking cases."

7. Tenn. Code Ann. § 39-13-313 (2011) – Tennessee Human Trafficking Resource Center Hotline Act

The state created the Tennessee Human Trafficking Hotline Resource Center and Hotline. Businesses are strongly encouraged to post a sign with the Hotline's phone number and information. The Hotline is anonymous and confidential, available 24/7, in multiple languages, and toll-free.

8. Tenn. Code Ann. § 40-32-105 (2019) – Petition for Expunction of Certain Offenses Committed by Victim of Human Trafficking; § 37-1-153 (2019) – Expungement (Juveniles)

A year after the completion of a person’s most recent criminal sentence, a person may file a petition to expunge that person’s public records involving offenses related to the person’s status as a victim of human trafficking if certain conditions are met.

In addition, a court may order all or any portion of a juvenile’s court files and juvenile records expunged if the court finds that the conduct upon which the adjudication is based occurred as a result of the person being a victim of human trafficking.

9. Tenn. Code Ann. § 40-38-602 (2020) – Victim Address Confidentiality Program

The Secretary of State must establish a victim address confidentiality program open to victims of human trafficking.

10. Tenn. Code Ann. § 50-2-113 (2013) – Tennessee Wage Protection Act

The Department of Labor and Workforce Development is responsible for collecting wage claims on behalf of employees. Accordingly, an aggrieved employee must submit a complaint to the Department. Tenn. Code § 50-2-108.

More information is available at: <https://www.tn.gov/workforce/employees/labor-laws/labor-laws-redirect/wages-breaks.html>.

11. Tenn. Code Ann. § 71-1-135 (2019) – Victims of Human Trafficking; Plan for Delivery of Services

The Tennessee Commissioner of Human Services must establish a plan for delivery of services to human trafficking victims.

D. Academic Research/Papers

A. Knisely, *When the Defendant Is a Victim: New Court Offers Hope to Victims of Sex Trafficking*, 52 APR Tenn. B. J. 16 (2016).

E. Significant Cases

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

F. Resources

National Human Trafficking Hotline (Tennessee):
<https://humantraffickinghotline.org/state/tennessee>

Shared Hope International, Tennessee Report Card (2019):
http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_TN.pdf

Shared Hope International, Tennessee Analysis and Recommendations (2019):
http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_TN.pdf

Tennessee Anti-Slavery Alliance:
<http://tnantislaveryalliance.org/>

Tennessee Bureau of Investigation:

<https://www.tn.gov/tbi/crime-issues/crime-issues/human-trafficking.html>

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

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

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