



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

A. Criminal Statutes

1. Human Trafficking and Related Crimes

a. Utah Code Ann. § 76-5-308 (2020) – Human Trafficking, Human Smuggling

i. Summary

A person commits human trafficking for labor or sexual exploitation:

if the actor recruits, harbors, transports, obtains, patronizes, or solicits a person through the use of force, fraud, or coercion, which may include:

- (a) threatening serious harm to, or physical restraint against, that person or a third person;
- (b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;
- (c) abusing or threatening abuse of the law or legal process against the person or a third person;
- (d) using a condition of a person being a debtor due to a pledge of the debtor’s personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
- (e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or
- (f) creating or exploiting a relationship where the person is dependent on the actor.

Utah Code Ann. § 76-5-308(1).

Human trafficking for labor exploitation includes any labor obtained through force, fraud, or coercion as described in Utah Code Ann. § 76-5-308(1). Utah Code Ann. § 76-5-308(2)(a).

Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):

- (i) sexually explicit performance;

- (ii) prostitution;
- (iii) participation in the production of pornography;
- (iv) performance in strip clubs; and
- (v) exotic dancing or display.

Utah Code Ann. § 76-5-308(2)(b).

“A person commits human smuggling by transporting or procuring the transportation for one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not:

- (a) citizens of the United States;
- (b) permanent resident aliens; or
- (c) otherwise lawfully in this state or entitled to be in this state.”

Utah Code Ann. § 76-5-308(3).

ii. Sentencing

Human trafficking for labor and human trafficking for sexual exploitation are each a second degree felony, except under Utah Code Ann. § 76-5-310 (aggravated human trafficking and aggravated human smuggling). Utah Code Ann. § 76-5-309(1). A second degree felony may be punished by imprisonment for one to 15 years and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(2), 76-3-301(1)(a).

Human smuggling of one or more persons is a third degree felony, except under Utah Code Ann. § 76-5-310 (aggravated human trafficking and aggravated human smuggling). Utah Code Ann. § 76-5-309(2). A third degree felony is punishable by up to five years of imprisonment and a possible fine not exceeding USD 5,000. Utah Code Ann. §§ 76-3-203(3), 76-3-301(1)(b).

Under circumstances not amounting to aggravated sexual abuse of a child, a person who benefits, receives, or exchanges anything of value from knowing participation in: (a) human trafficking for labor or for sexual exploitation in violation of Utah Code Ann. § 76-5-308 is guilty of a second degree felony; (b) human smuggling is guilty of a third degree felony; and (c) human trafficking of a child is guilty of a first degree felony. Utah Code Ann. § 76-5-309(4).

The penalty for a first degree felony is five years to life imprisonment and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(1), 76-3-301(1)(a). A second degree felony may be punishable by imprisonment for one to 15 years and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(2), 76-3-301(1)(a). A third degree felony is punishable by up to five years of imprisonment and a possible fine not exceeding USD 5,000. Utah Code Ann. §§ 76-3-203(3), 76-3-301(1)(b).

A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or trafficked. Utah Code Ann. § 76-5-309(5).

iii. Statute of Limitations

With limited exceptions, a felony prosecution shall be commenced within four years after it is committed. Utah Code Ann. § 76-1-302(1)(a).

b. Utah Code Ann. § 76-5-308.5 (2020) – Human Trafficking of a Child

i. Summary

A person “commits the crime of human trafficking of a child if the actor recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.” Utah Code Ann. § 76-5-308.5(2).

“Human trafficking of a child for labor includes any labor obtained through force, fraud, or coercion as described in section 76-5-308(1).” Utah Code Ann. § 76-5-308.5(3)(a).

“Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display.” Utah Code Ann. § 76-5-308.5(3)(b).

“‘Commercial sexual activity with a child’ means any sexual act with a child, on account of which anything of value is given to or received by any person.”

“It is not a defense to the crime of ... human trafficking of a child, a violation of Section 76-5-308.5, that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim’s true age.” Utah Code Ann. § 76-2-304.5(3).

ii. Sentencing

Human trafficking of a child in violation of this section is a first degree felony. Utah Code Ann. § 76-5-308.5(4). The penalty for a first degree felony is five years to life imprisonment and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(1), 76-3-301(1)(a).

iii. Statute of Limitations

A prosecution for human trafficking of a child may be commenced at any time. Utah Code Ann. § 76-1-301(2)(t).

c. Utah Code Ann. § 76-5-310 (2021) – Aggravated Human Trafficking and Aggravated Human Smuggling

i. Summary

An actor commits aggravated human trafficking for labor or sexual exploitation or aggravated human smuggling if, in the course of committing an offense under Section 76-5-308 [human trafficking for labor or for sexual exploitation, or human smuggling], the offense:

- (a) results in the death of the trafficked or smuggled person;
- (b) results in serious bodily injury of the trafficked or smuggled person;
- (c) involves:
 - (i) rape[];
 - (ii) rape of a child[];
 - (iii) object rape[];
 - (iv) object rape of a child[];
 - (v) forcible sodomy[];

- (vi) sodomy on a child[];
- (vii) aggravated sexual abuse of a child[]; or
- (viii) aggravated sexual assault[];
- (d) involves 10 or more victims; or
- (e) involves a victim who is trafficked for longer than 30 consecutive days.

Utah Code Ann. § 76-5-310(1).

“An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

- (a) a child; and
- (b) not accompanied by a family member who is 18 years of age or older.”

Utah Code Ann. § 76-5-310(2).

“It is not a defense to the crime of aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310, ... that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim’s true age.” Utah Code Ann. § 76-2-304.5(3).

ii. Sentencing

Aggravated human trafficking and aggravated human smuggling are first degree felonies. Utah Code Ann. § 76-5-310(3)(a)–(b). The penalty for a first degree felony is five years to life imprisonment and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(1), 76-3-301(1)(a).

iii. Statute of Limitations

A prosecution for aggravated human trafficking or aggravated human smuggling in violation of section 76-5-310 may be commenced at any time. Utah Code Ann. § 76-1-301(2)(r).

d. Utah Code Ann. § 76-5-311 (2020) – Human Trafficking of a Vulnerable Adult

i. Summary

“An actor commits human trafficking of a vulnerable adult if the actor:

- (a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or
- (b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim’s vulnerability.”

Utah Code Ann. § 76-5-311(2).

A “vulnerable adult” for purposes of this section means:

an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that individual’s ability to:

- (i) provide personal protection;

- (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
- (iii) obtain services necessary for health, safety, or welfare;
- (iv) carry out the activities of daily living;
- (v) manage the adult’s own resources; or
- (vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Utah Code Ann. §§ 76-5-311(1)(b), 76-5-111(1)(t).

“Human trafficking of a vulnerable adult for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308(1)” (human trafficking, human smuggling). Utah Code Ann. § 76-5-311(3)(a).

“Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

- (i) sexually explicit performances;
- (ii) prostitution;
- (iii) participation in the production of pornography;
- (iv) performance in a strip club; or
- (v) exotic dancing or display.”

Utah Code Ann. § 76-5-311(3)(b).

““Commercial sexual activity with a vulnerable adult’ means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.” Utah Code Ann. § 76-5-311(1)(a).

ii. Sentencing

Human trafficking of a vulnerable adult is a first degree felony. Utah Code Ann. § 76-5-311(4). The penalty for a first degree felony is five years to life imprisonment and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(1), 76-3-301(1)(a).

iii. Statute of Limitations

A prosecution for human trafficking of a vulnerable adult shall be commenced within four years after it is committed. Utah Code Ann. § 76-1-302(1)(a).

e. Utah Code Ann. § 76-10-1306 (2017) – Aggravated Exploitation of Prostitution

i. Summary

A person is guilty of aggravated exploitation if:

- (a) in committing an act of exploiting prostitution, as defined in Section 76-10-1305, the person uses any force, threat, or fear against any person;
- (b) the person procured, transported, or persuaded or with whom the person shares the proceeds of prostitution is a child or is the spouse of the actor; or

- (c) in the course of committing exploitation of prostitution, as defined in Section 76-10-1305, the person commits human trafficking or human smuggling, a violation of Section 76-5-308.

Utah Code Ann. § 76-10-1306(1).

ii. Sentencing

Aggravated exploitation of prostitution is generally a second degree felony. Utah Code Ann. § 76-10-1306(2). A second degree felony may be punishable by imprisonment for one to 15 years and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(2), 76-3-301(1)(a).

If the aggravated exploitation of prostitution involves a child, it is a first degree felony. Utah Code Ann. § 76-10-1306(3). The penalty for a first degree felony is five years to life imprisonment and a possible fine not to exceed USD 10,000. Utah Code Ann. §§ 76-3-203(1), 76-3-301(1)(a).

“Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.” Utah Code Ann. § 76-10-1306(4).

iii. Statute of Limitations

If the crime involves exploitation of a child, a prosecution for aggravated exploitation of prostitution may be commenced at any time. Utah Code Ann. § 76-1-301(2)(s).

If the crime involves exploitation of an adult, a prosecution shall be commenced within four years after it is committed. Utah Code Ann. § 76-1-302(1)(a).

f. Utah Code Ann. § 76-10-1315 (2020) – Safe Harbor for Children as Victims in Commercial Sex or Sexual Solicitation

The Utah Code provides that:

[u]pon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

- (a) conduct an investigation regarding possible human trafficking of the child pursuant to [Utah’s human trafficking and human trafficking of a child statutes];
- (b) refer the child to the division [of Child and Family Services];
- (c) bring the child to a receiving center, if available; and
- (d) contact the child’s parent or guardian, if practicable.

Utah Code Ann. § 76-10-1315(2); *see also* Utah Code Ann. § 76-10-1313(6).

g. Utah Code Ann. § 76-5-404.1 (2019) – Aggravated Sexual Abuse of a Child

An individual commits aggravated sexual abuse of a child when the actor touches the anus, buttocks, pubic area, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, with intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant in circumstances including that the individual “encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other

individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling.” Utah Code Ann. § 76-5-404.1(4)(i).

h. Utah Code Ann. § 76-10-1603 (2019) – Trafficking as Unlawful Activity Under Racketeering Statute

Under Utah’s racketeering statute:

[i]t is unlawful for any person who has received any proceeds derived, whether directly or indirectly, from a pattern of “unlawful activity” in which the person has participated as a principal, to use or invest, directly or indirectly, any part of that income, or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of any interest in, or the establishment or operation of, any enterprise.

Utah Code Ann. § 76-10-1603(1). It is also “unlawful for any person through a pattern of ‘unlawful activity’ to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or to conduct or participate, whether directly or indirectly, in the conduct of [an] enterprise’s affairs through a pattern of unlawful activity.” Utah Code Ann. § 76-10-1603(2), (3).

“Unlawful activity” means “to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage” in conduct that is or attempts the crime of human trafficking, human trafficking of a child, human smuggling, aggravated human trafficking, and sexual exploitation of a minor. Utah Code Ann. § 76-10-1602(4).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Utah Code Ann. § 62A-1-122 – Child Pornography

Utah Code Ann. § 76-4-401 – Enticing a Minor

Utah Code Ann. § 76-5-401 – Unlawful Sexual Activity with a Minor

Utah Code Ann. § 76-5-401.1 – Sexual Abuse of a Child – Aggravated Sexual Abuse of a Child

Utah Code Ann. § 76-5-401.2 – Unlawful Sexual Conduct with a 16 or 17 Year Old

Utah Code Ann. § 76-5-402.1 – Rape of a Child

Utah Code Ann. § 76-5-402.3 – Object Rape of a Child

Utah Code Ann. § 76-5-403.1 – Sodomy on a Child

Utah Code Ann. § 76-5-404.1 – Sexual Abuse of a Minor

Utah Code Ann. § 76-5b-201 – Sexual Exploitation of a Minor

Utah Code Ann. § 76-5b-203 – Distribution of an Intimate Image

Utah Code Ann. § 76-5b-204 – Sexual Extortion

Utah Code Ann. § 76-9-702.5 – Lewdness Involving a Child

Utah Code Ann. § 76-9-702.7 – Voyeurism Offenses

Utah Code Ann. § 76-10-1204.5 – Reporting of Child Pornography by a Computer Technician

Utah Code Ann. § 76-9-702.5 – Lewdness Involving a Child

Utah Code Ann. § 76-10-1204 – Distributing Pornographic Material

Utah Code Ann. § 76-10-1205 – Inducing Acceptance of Pornographic Material

Utah Code Ann. § 76-10-1206 – Dealing in Material Harmful to a Minor

Utah Code Ann. § 76-10-1222 – Distribution of Pornographic Films

Utah Code Ann. § 76-10-1228 – Indecent Public Displays – Prohibitions

Utah Code Ann. § 76-10-1231 – Data Service Providers — Internet Content Harmful to Minors

Utah Code Ann. § 76-10-1233 - Content Providers — Material Harmful to Minors

Utah Code Ann. § 76-10-1235 - Accessing Pornographic or Indecent Material on School Property

Utah Code Ann. § 76-10-1303 – Patronizing a Prostitute

Utah Code Ann. § 76-10-1313 – Sexual Solicitation

3. Utah Code Ann. §§ 77-414-101 – 77-414-112 (2019) – Sex Offender Registry

Offenses that require registration as a sex offender include enticing a minor, sexual exploitation of a vulnerable adult, human trafficking for sexual exploitation, human trafficking of a child for sexual exploitation, human trafficking of a vulnerable adult for sexual exploitation, sexual abuse of a minor, and aggravated exploitation of prostitution. Utah Code Ann. § 77-41-102(17).

B. Civil Liability Statutes

1. Utah Code Ann. § 77-38-15 (2021) – Civil Lawsuit Against Human Traffickers and Human Smugglers

a. Summary

A victim of a person who commits an offense of human trafficking or human smuggling, human trafficking of a child, aggravated human trafficking or aggravated human smuggling, or benefitting from human trafficking may bring a civil lawsuit against that person. Utah Code Ann. § 77-38-15(1).

b. Damages and Other Relief

The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief. Utah Code Ann. § 77-38-15(2)(a). If the court finds that the person’s acts were willful and malicious, the court may award three times the amount of actual damages. Utah Code Ann. § 77-38-15(2)(b). The court shall also award a prevailing victim reasonable attorney’s fees and costs. Utah Code Ann. § 77-38-15(3).

c. Statute of Limitations

A lawsuit “under this section shall be commenced no later than 10 years after the later of:

- (a) the day on which the victim was freed from the human trafficking or human smuggling situation;
- (b) the day on which the victim attains 18 years old; or
- (c) if the victim was unable to bring [a lawsuit] due to a disability, the day on which the victim’s disability ends.”

Utah Code Ann. § 77-38-15(4).

This time period “is tolled during a period of time when the victim fails to bring [a lawsuit] due to the person:

- (a) inducing the victim to delay filing the [lawsuit];
- (b) preventing the victim from filing the [lawsuit]; or
- (c) threatening and causing duress upon the victim in order to prevent the victim from filing the [lawsuit].”

Utah Code Ann. § 77-38-15(5).

C. Additional Statutes Specific to Human Trafficking

1. Utah Code Ann. §§ 34-28-1 *et seq.* – Utah Payment of Wages Act

Unless an exception applies, an employee must first exhaust administrative remedies before filing a civil lawsuit if the employee’s claim is USD 10,000 or less. A claim for more than USD 10,000 may be filed in court without first filing a claim with the Labor Commission. A court may award a prevailing employee actual damages, an amount equal to 2.5% of the unpaid wages assessed daily for a period of no more than 20 days, and applicable penalties. Utah Code Ann. § 34-28-9.5. A noncompliant employer may be subject to additional criminal penalties. Utah Code Ann. § 34-28-12.

More information is available at: <https://laborcommission.utah.gov/divisions/utah-antidiscrimination-and-labor-uald/wage-claim/>.

2. Utah Code Ann. § 53G-9-207 (2019) – Child Sexual Abuse and Human Trafficking Training

School districts and charter schools must provide training on child sexual abuse and human trafficking prevention and awareness every other year to school personnel and parents. In addition, training may be provided to students.

3. Utah Code Ann. § 62A-4a-105 (2021) – Division of Child and Family Services and Minor Victims

The Division of Child and Family Services shall provide services for minors who are victims of human trafficking or human smuggling, or who have engaged in prostitution or sexual solicitation.

4. Utah Code Ann. § 67-5-22.7 (2011) – Multi-Agency Strike Force to Combat Violent and Other Major Felony Crimes Associated with Illegal Immigration and Human Trafficking

The Office of the Attorney General is authorized to “administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.” Utah Code Ann. § 67-5-22.7.

5. Utah Code Ann. § 76-5-608 (2020) – Law Enforcement Training; Human Trafficking

The Office of the Attorney General is to develop and offer training for law enforcement and peace officers in investigating human trafficking offenses.

6. Utah Code Ann. § 77-38-3 (2021) – Notification to Victims; Protected Victim Information; Pretrial No Contact Order

A court may issue a pretrial “no contact” order regarding alleged victims of human trafficking, human smuggling, and select sexual offenses. Provisions regarding notice to victims and sealing of certain identifying information of victims from the public record also apply to human trafficking victims. Utah Code Ann. § 77-38-3(14).

7. Utah Code Ann. § 80-1-102 (2021) – Child Abuse

Utah’s child protection statutes include human trafficking of a child and sexual exploitation within the definition of “abuse.”

8. Utah Code Ann. § 80-6-1002 (2021) – Vacatur of Juvenile Adjudications

A juvenile found guilty of prostitution, aiding prostitution, or sex solicitation, or of “an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Utah Code Ann. § 76-5-308” (human trafficking, human smuggling), may petition the juvenile court for vacatur of the person’s juvenile court and related records.

D. Significant Cases

1. *Friedman v. Salt Lake Cnty.*, 305 P.3d 162 (Utah Ct. App. 2013)

An inmate in a county jail alleged that an officer’s order to clean his cell on the prisoner’s day of Sabbath constituted involuntary servitude in violation of the Utah Constitution, which provided: “Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this State.” Utah Const. art. I, § 21. The appellate court ruled that the inmate’s allegations did not rise to the level of involuntary servitude because the inmate “essentially chose to disobey the officer’s order to clean the wall and thereby have his recreation hour discontinued” and did not allege any other repercussion, nor did the alleged facts support a claim of servitude performed for another.

E. Academic Research/Papers

Amanda Peters, *Reconsidering Federal and State Obstacles to Human Trafficking Victim Status and Entitlements*, 2016 UTAH L. REV. 535 (2016).

Michelle Jeffs, Note, *Punishing Pimps and Johns: Sex Trafficking and Utah’s Laws*, 28 BYU J. PUB. L. 219 (2013).

F. Resources

National Human Trafficking Hotline (Utah):

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

Shared Hope International, Utah Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_UT.pdf

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

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_UT.pdf

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

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

Utah Attorney General’s Trafficking in Persons Task Force:

<https://attorneygeneral.utah.gov/initiatives/human-trafficking/>

Utah Children’s Justice Center Program:

<https://utahcjc.org/>

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