



# WASHINGTON

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. Wash. Rev. Code Ann. § 9A.40.100 (2017) – Human Trafficking

##### i. Summary

A person is criminally liable for human trafficking in the first degree when:

- (a) Such person:
  - (i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives another person knowing, or in reckless disregard of the fact,
    - (A) that force, fraud, or coercion as defined in [Wash. Rev. Code Ann. §] 9A.36.070 will be used to cause the person to engage in:
      - (I) Forced labor;
      - (II) Involuntary servitude;
      - (III) A sexually explicit act; or
      - (IV) A commercial sex act, or
    - (B) that the individual has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or
  - (ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection; and
- (b) The acts or venture set forth in (a) of this subsection:
  - (i) Involve committing or attempting to commit kidnapping;
  - (ii) Involve a finding of sexual motivation under [Wash. Rev. Code Ann. §] 9.94A.835;
  - (iii) Involve the illegal harvesting or sale of human organs; or
  - (iv) Result in a death.

Wash. Rev. Code Ann. § 9A.40.100(1).

If the human trafficking “acts or venture” does not involve kidnapping or attempted kidnapping, a finding of sexual motivation, illegal harvesting or sale of human organs, or result in death, the crime is human trafficking in the second degree. Wash. Rev. Code Ann. § 9A.40.100(3)(a).

“If the victim of any offense identified in [Washington’s human trafficking statute] is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.” Wash. Rev. Code Ann. § 9A.40.100(5).

“In any prosecution under [Washington’s trafficking statute] in which the offense or degree of the offense depends on the victim’s age, it is not a defense that the perpetrator did not know the victim’s age, or that the perpetrator believed the victim to be older .... ” Wash. Rev. Code Ann. § 9A.40.100(4)(a).

“Commercial sex act” is defined under the statute as “any act of sexual contact or sexual intercourse, both as defined in chapter 9A.44 [of the Revised Code of Washington], for which something of value is given or received by a person.” Wash. Rev. Code Ann. § 9A.40.100(6)(a).

“Sexually explicit act” is defined under the statute as “a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons for which something of value is given or received.” Wash. Rev. Code Ann. § 9A.40.100(6)(b).

## ii. Sentencing

Trafficking in the first or second degree is a Class A Felony. Wash. Rev. Code Ann. § 9A.40.100(2), (3)(b). Class A felonies are punishable by a maximum term of life imprisonment, a maximum fine of USD 50,000, or both. Wash. Rev. Code Ann. § 9A.20.021(1)(a).

## iii. Statute of Limitations

The offense of human trafficking in violation of Wash. Rev. Code Ann. § 9A.40.100 shall not be prosecuted more than 10 years after its commission. Wash. Rev. Code Ann. § 9A.04.080(1)(c)(v).

## b. Wash. Rev. Code Ann. § 9A.40.110 (2014) – Coercion of Involuntary Servitude

### i. Summary

A person is guilty of coercion of involuntary servitude if he or she coerces, as defined in [Wash. Rev. Code Ann. §] 9A.36.070, another person to perform labor or services by:

- (a) Withholding or threatening to withhold or destroy documents relating to a person’s immigration status; or
- (b) Threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws.

Wash. Rev. Code Ann. § 9A.40.110(1).

Coercion for these purposes “does not include reports to law enforcement that a person is present in the United States in violation of federal immigration laws.” Wash. Rev. Code Ann. § 9A.40.110(2).

“A person may commit coercion of involuntary servitude regardless of whether the person provides any sort of compensation or benefits to the person who is coerced.” Wash. Rev. Code Ann. § 9A.40.110(3).

## ii. Sentencing

“Coercion of involuntary servitude is a Class C felony.” Wash. Rev. Code Ann. § 9A.40.110(4). Class C felonies are punishable by a maximum prison term of five years, a maximum fine of USD 10,000, or both. Wash. Rev. Code Ann. § 9A.20.021(1)(c).

## iii. Statute of Limitations

The statute of limitations for the offense of coercion of involuntary servitude is three years after its commission. Wash. Rev. Code Ann. § 9A.04.080(1)(i).

### c. Wash. Rev. Code Ann. § 9A.88.040 (2012) – Affirmative Defense

In any prosecution for prostitution under [Wash. Rev. Code Ann. §] 9A.88.030, it is an affirmative defense that the actor committed the offense as a result of being a victim of human trafficking [as defined in Wash. Rev. Code Ann. § 9A.40.100] ... or trafficking in persons under the [federal] trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 *et seq.* Documentation that the actor is named as a current victim in an information or the investigative records upon which a conviction is obtained for trafficking ... or trafficking in persons shall create a presumption that the person’s participation in prostitution was a result of having been a victim of trafficking ... or trafficking in persons.

Wash. Rev. Code Ann. § 9A.88.040.

### d. Wash. Rev. Code Ann. § 13.40.219 (2010) – Presumption in Arrest for Prostitution or Prostitution Loitering

In any proceeding under [Chapter 13.40, Juvenile Justice Act of 1977,] related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined [under the federal anti-trafficking law, 22 U.S.C. § 7105,] and that the alleged offender is also a victim of commercial sex abuse of a minor.

Wash. Rev. Code Ann. § 13.40.219.

### e. Wash. Rev. Code Ann. § 9.96.080 (2021) – Vacating Records of Convictions

A victim of sex trafficking may seek to vacate a record of conviction for a certain gross misdemeanor or misdemeanor offenses. Wash. Rev. Code Ann. § 9.96.080.

### f. Wash. Rev. Code Ann. § 9A.82.010 (2013) – Criminal Profiteering – Trafficking in Persons Is Predicate Act

For purposes of Washington’s criminal profiteering activity statute, trafficking in persons as defined in Wash. Rev. Code Ann. § 9A.40.100, promoting travel for commercial sexual abuse of a minor, as defined in Wash. Rev. Code Ann. § 9.68A.102, and permitting commercial sexual abuse of a minor, as defined in Wash. Rev. Code Ann. § 9.68A.103, regardless of whether the act is charged or indicted, is a predicate act. Wash. Rev. Code Ann. § 9A.82.010(4)(tt).

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

Wash. Rev. Code Ann. § 9.68A.001 – Legislative Findings, Intent

Wash. Rev. Code Ann. § 9.68A.011 – Definitions

Wash. Rev. Code Ann. § 9.68A.040 – Sexual Exploitation of a Minor

Wash. Rev. Code Ann. § 9.68A.050 – Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct in the First or Second Degree

Wash. Rev. Code Ann. § 9.68A.060 – Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct in the First or Second Degree

Wash. Rev. Code Ann. § 9.68A.070 – Possession of Depictions of Minor Engaged in Sexually Explicit Conduct in the First or Second Degree

Wash. Rev. Code Ann. § 9.68A.075 – Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct in the First or Second Degree

Wash. Rev. Code Ann. § 9.68A.080 – Reporting of Depictions of Minors Engaged in Sexually Explicit Conduct – Civil Immunity

Wash. Rev. Code Ann. § 9.68A.090 – Communication with a Minor for Immoral Purposes, Consent of Minor Does Not Constitute Defense

Wash. Rev. Code Ann. § 9.68A.100–103 – Commercial Sex Abuse of a Minor

Wash. Rev. Code Ann. § 9.68A.120 – Seizure and Forfeiture of Property

## B. Civil Liability Statutes

### 1. Wash. Rev. Code Ann. § 9A.82.100 (2012) – Civil Lawsuits

#### a. Summary

A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity or by an offense defined in [Wash. Rev. Code Ann. § 9A.40.100 (human trafficking)] ... may file a lawsuit in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney’s fees.

Wash. Rev. Code Ann. § 9A.82.100(1)(a).

“A defendant convicted in any criminal proceeding is precluded in any civil proceedings from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted.” Wash. Rev. Code Ann. § 9A.82.100(6).

#### b. Damages and Other Relief

A prevailing plaintiff may recover damages and the costs of the lawsuit, including reasonable investigative and attorney’s fees. Wash. Rev. Code Ann. § 9A.82.100(1)(a).

In an action [lawsuit] filed to prevent, restrain, or remedy a pattern of criminal profiteering or an offense defined in [Wash. Rev. Code Ann. § 9A.40.100 (human trafficking)], ... the court, upon proof of the violation, may impose a civil penalty not exceeding [USD 250,000], in addition to awarding the cost of the suit, including reasonable investigative and attorney’s fees.

Wash. Rev. Code Ann. § 9A.82.100(1)(d).

### c. Statute of Limitations

The initiation of civil proceedings under [Wash. Rev. Code Ann. § 9A.82.100] shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered or, in the case of an offense that is defined in [Wash. Rev. Code Ann. §] 9A.40.100, within three years after the final disposition of any criminal charges relating to the offense, whichever is later.

Wash. Rev. Code Ann. § 9A.82.100(7).

#### 2. Wash. Rev. Code Ann. § 9.68A.130 (1984) – Minor’s Recovery of Costs of Lawsuit

A minor who prevails in a civil lawsuit arising from a violation of Wash. Rev. Code Chapter 9.68A, Sexual Exploitation of Children, including dealing in depictions of a minor engaged in sexually explicit conduct, is entitled to recover costs, including reasonable attorney’s fees. Wash. Rev. Code Ann. § 9.68A.130.

## C. Additional Statutes Specific to Human Trafficking

#### 1. Wash. Rev. Code Ann. §§ 49.48.010 *et seq.* (2010) – Wage Payment Act

An employee may bring a civil lawsuit to recover unpaid wages. Wash. Rev. Code Ann. §§ 49.46.090, 49.48.030. A prevailing employee may also recover attorney’s fees. Wash. Rev. Code Ann. § 49.48.030. A noncompliant employer may be subject to additional civil and criminal penalties. Wash. Rev. Code Ann. §§ 49.48.020, 49.48.125.

More information is available at: <https://www.lni.wa.gov/workers-rights/workplace-complaints/worker-rights-complaints>.

#### 2. Wash. Rev. Code Ann. § 7.68.350 (2015) – Task Force Against the Trafficking of Persons

A state task force against the trafficking of persons is established with defined members.

#### 3. Wash. Rev. Code Ann. § 7.68.360 (2015) – Coordinated State Agency Protocols for Services to Trafficking Victims

The director of the Department of Community, Trade, and Economic Development or the director’s designee shall convene and chair a work group to develop written protocols for delivery of services to victims of human trafficking.

#### 4. Wash. Rev. Code Ann. § 18.83.090 (2009) – Psychologists’ Continuing Education Requirements on Trafficking Issues

The board responsible for establishing the rules for license renewal of psychologists shall establish rules governing mandatory continuing education requirements relating to human trafficking issues.

#### 5. Wash. Rev. Code Ann. § 19.320.050 (2010) – Posters

The Department of Labor and Industries shall integrate information on assisting victims of human trafficking in posters and brochures.

#### 6. Wash. Rev. Code Ann. § 40.24.030 (1991) – Address Confidentiality Program

The Secretary of State administers a program allowing human trafficking victims to receive a post office box to protect their address in public information such as driver licenses, voter registries, and marriage records.

More information is available at: <https://www.sos.wa.gov/acp/about.aspx>.

**7. Wash. Rev. Code Ann. § 43.280.091 (2013) – Statewide Coordinating Committee on Sex Trafficking**

A statewide coordinating committee is established to develop a statewide plan to address sex trafficking.

**8. Wash. Rev. Code Ann. § 43.280.095 (2015) – Training on Human Trafficking for Criminal Justice Personnel**

The Office of Crime Victims Advocacy shall establish a statewide training program on Washington’s human trafficking laws for criminal justice personnel.

**9. Wash. Rev. Code Ann. § 43.280.110 (2015) – Model Public Restroom Notice on Human Trafficking**

Every establishment that has public restrooms may voluntarily post the model notice on human trafficking in a conspicuous place within all of its restrooms.

**10. Wash. Rev. Code Ann. § 47.38.080 (2010) – Human Trafficking Informational Posters at Rest Areas**

The Department of Labor and Industries shall work with human trafficking victim advocates to develop informational posters for placement in rest areas.

**11. Wash. Rev. Code Ann. § 49.17.470 (2019) – Human Trafficking Training for Adult Entertainers**

The Department of Labor and Industries shall develop or contract for the development of training for adult entertainers on the risk of human trafficking.

**12. Wash. Rev. Code Ann. § 74.01.005 (2021) – Public Assistance to Victims of Human Trafficking (Definitions)**

Effective Feb. 1, 2022, victims of human trafficking (including qualifying family members) regardless of citizenship status can apply for public assistance under Wash. Rev. Code Ann. §§ 74.08A.12, 74.09.035.

**13. Wash. Rev. Code Ann. § 74.08A.120 (2021) – Food Assistance for Human Trafficking Victims**

Effective Feb. 1, 2022, the department of social and health services may establish a food assistance program for human trafficking victims ineligible for federal food stamps. Wash. Rev. Code Ann. § 74.08A.120.

**14. Wash. Rev. Code Ann. § 74.09.035 (2021) – Medical Care for Human Trafficking Victims**

Effective Feb. 1, 2022, “medical care may be provided to victims of human trafficking not eligible for medicaid ... , section 1902(a)(10)(A)(i)(VIII) of the social security act, or apple health for kids,” if they meet assistance qualifications. Wash. Rev. Code Ann. § 74.09.035(1).

**D. Significant Cases**

**1. *State v. Johnson*, 270 P.3d 591 (Wash. 2012) (en banc)**

The defendant was arrested following a sting operation targeting the commercial sexual abuse of minors in Seattle. Undercover police officers posed as minors to target recruiters of children into prostitution. After approaching the undercover officers, the defendant asked their ages, and the officers told him they were 17 years old. The defendant then told the officers they could make money for themselves and him by soliciting men to pay for different sexual services.

The Washington Supreme Court affirmed the defendant’s conviction for attempted promotion of commercial sexual abuse of a minor. The court held that while the defendant’s knowledge of the victims’ stated ages was material and

the state had the burden of proving that the defendant believed them to be minors, the evidence was sufficient to show that the officers told the defendant they were 17 years old, the defendant acknowledged it, and then asked them to work for him by providing sexual services for payment.

2. *J.S. v. Village Voice Media Holdings, LLC*, 359 P.3d 714 (Wash. 2015) (en banc)

In this case, the minor plaintiffs were featured in advertisements for sexual services located on the defendants' website, Backpage.com. They brought a lawsuit alleging various state law claims against the defendant owners of the website. The defendants moved to dismiss the lawsuit on the grounds that they were immune from the state laws claims under the federal Communications Decency Act of 1996 (CDA), 47 U.S.C. § 230.

The defendants' motion raised the issue of whether Backpage merely hosted the advertisements (actions for which the CDA provides immunity) or whether Backpage also helped develop the content of those advertisements. The court denied the motion to dismiss, finding that the complaint had sufficiently alleged that the website assisted in content development.

## E. Academic Research/Papers

Kirsten A. Foot, *COLLABORATING AGAINST HUMAN TRAFFICKING: CROSS-SECTOR CHALLENGES AND PRACTICES* (Rowman & Littlefield 2016).

Sutapa Basu & Norma Timbang, *KING COUNTY AND WASHINGTON STATE AS A DESTINATION FOR INTERNATIONAL TRAFFICKING: ASSESSING THE LOCAL NEEDS AND FRAMING SURVIVOR CENTERED RESPONSES* (University of Washington Anti-Human Trafficking Research & Policy Development 2009).

## F. Resources

National Human Trafficking Hotline (Washington):

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

The Lantern Project:

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

Shared Hope International, Washington Report Card (2019):

[https://sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_WA.pdf](https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_WA.pdf)

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

[https://sharedhope.org/PICframe9/analysis/PIC\\_AR\\_2019\\_WA.pdf](https://sharedhope.org/PICframe9/analysis/PIC_AR_2019_WA.pdf)

Washington Office of the Attorney General:

<https://www.atg.wa.gov/human-trafficking>

Washington Trafficking Help, Services and Resources for Victims of Human Trafficking in Washington:

[www.WaTraffickingHelp.org](http://www.WaTraffickingHelp.org)

Washington Trafficking Prevention:

[www.traffickingprevention.org](http://www.traffickingprevention.org)

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

[https://www.acf.hhs.gov/sites/default/files/documents/otip/washington\\_profile\\_efforts\\_to\\_combat\\_human\\_trafficking.pdf](https://www.acf.hhs.gov/sites/default/files/documents/otip/washington_profile_efforts_to_combat_human_trafficking.pdf)

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