



GEORGIA

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. Ga. Code Ann. § 16-5-46 (2020) – Trafficking a Person for Labor or Sexual Servitude

i. Summary

“A person commits the offense of trafficking a person for labor servitude when that person knowingly subjects another person or maintains another in labor servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of labor servitude.” Ga. Code Ann. § 16-5-46(b).

“‘Labor servitude’ means work or service of economic or financial value which is performed or provided by another individual and is induced or obtained by coercion or deception.” Ga. Code Ann. § 16-5-46(a)(5).

“A person commits the offense of trafficking an individual for sexual servitude when that person knowingly:

- (1) Subjects an individual to or maintains an individual in sexual servitude;
- (2) Recruits, entices, harbors, transports, provides, solicits, patronizes, or obtains by any means an individual for the purpose of sexual servitude; or
- (3) Benefits financially or by receiving anything of value from the sexual servitude of another.”

Ga. Code Ann. § 16-5-46(c).

“‘Sexual servitude’ means any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any individual, which conduct is induced or obtained:

- (A) By coercion or deception;
- (B) From an individual who is under the age of 18 years;
- (C) From an individual whom the accused believes to be under the age of 18 years;
- (D) From an individual who has a developmental disability; or
- (E) From an individual whom the accused believes to have a developmental disability.”

Ga. Code Ann. § 16-5-46(a)(8).

“The age of consent for sexual activity or the accused’s lack of knowledge of the age or developmental disability of the individual being trafficked shall not constitute a defense in a prosecution for a violation of [Ga. Code Ann. § 16-5-46].” Ga. Code Ann. § 16-5-46(d).

Evidence of a complaining witness’s past sexual behavior is not admissible except in certain limited circumstances. Ga. Code Ann. § 24-4-412.

ii. Sentencing

Ga. Code Ann. § 16-5-46(f) provides for the following penalties for labor or sexual servitude:

- (1) Except as provided in paragraph (2) of this subsection [see below], any person who commits the offense of trafficking an individual for labor servitude or sexual servitude shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years and a fine not to exceed [USD] 100,000.
- (2) Any person who commits the offense of trafficking an individual for labor servitude or sexual servitude against an individual who is under 18 years of age or if the offense is committed against an individual who has a developmental disability, the person shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed [USD] 100,000.

Ga. Code Ann. § 16-5-46(f).

In addition to any other penalty, a person convicted of trafficking an individual for sexual servitude who was at least 18 years old at the time of the offense shall be ordered to pay USD 2,500, which will be deposited into the Safe Harbor for Sexually Exploited Children Fund. Ga. Code Ann. § 15-21-208.

Restitution is available to a victim of trafficking in addition to other penalties. The court must consider whether restitution is appropriate, and the nature and amount of restitution paid will depend on, among other things, the ability of the defendant to actually pay. Ga. Code Ann. § 17-14-3.

iii. Statute of Limitations

With limited exceptions, if the offense is trafficking a person for sexual servitude, the victim was under 16 years old at the time of violation, and the crime was committed on or after July 1, 2012, a prosecution may be commenced at any time. Ga. Code Ann. § 17-3-2.1(b)(1).

If a trafficking offense is punishable by life imprisonment, then the statute of limitations is seven years after the commission of the crime. Ga. Code Ann. § 17-3-1(b). The trafficking offenses that are punishable by life imprisonment are labor and sexual servitude of a minor or of a person with a developmental disability. Ga. Code Ann. § 16-5-46(f).

For all other felony trafficking offenses, the statute of limitations is seven years if committed against a victim who at the time of the commission of the offense was under the age of 18 years. It is four years for other offenses. Ga. Code Ann. § 17-3-1(c).

b. Ga. Code Ann. § 16-5-46(g) (2020) – Civil Forfeiture

“Any property which is, directly or indirectly, used or intended for use in any manner to facilitate” a trafficking offense is subject to civil forfeiture and can be confiscated by the state of Georgia. Ga. Code Ann. § 16-5-46(g).

c. Ga. Code Ann. § 16-5-46(j) (2020) – Corporate Liability for Trafficking

A corporation may be prosecuted for an act or omission constituting a trafficking crime “only if an agent of the corporation performs the conduct which is an element of the crime while acting within the scope of his or her 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 his or her 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.” Ga. Code Ann. § 16-5-46(j).

d. Ga. Code Ann. § 16-5-102.1 (2018) – Trafficking a Disabled Adult, Elder Person, or Resident**i. Summary**

A person commits the offense of trafficking a disabled adult, elder person, or resident when “such person, through deception, coercion, exploitation, or isolation, knowingly recruits, harbors, transports, provides, or obtains by any means a disabled adult, elder person, or resident for the purpose of appropriating the resources of such disabled adult, elder person, or resident for one’s own or another person’s benefit.” Ga. Code Ann. § 16-5-102.1(b).

Evidence of failure to deliver benefits or perform services is not alone sufficient for conviction. Ga. Code Ann. § 16-5-102.1(e).

ii. Sentencing

A person who commits this offense is guilty of a felony and shall be punished by imprisonment for not less than one year nor more than 20 years, a fine not to exceed USD 100,000, or both. Ga. Code Ann. § 16-5-102.1(c).

iii. Statute of Limitations

The statute of limitations for felonies in Georgia is generally four years after the commission of the crime. Ga. Code Ann. § 17-3-1(c).

e. Ga. Code Ann. § 16-3-6(b)(1) (2015) – Affirmative Defenses to Certain Sexual Crimes

“A person shall not be guilty of a sexual crime if the conduct upon which the alleged criminal liability was committed by an accused who was: (1) [l]ess than 18 years old at the time of the conduct [while] being trafficked for sexual servitude in violation of [Ga. Code Ann. § 16-5-46(c)]; or (2) [a]cting under coercion or deception while being trafficked for sexual servitude in violation of [Ga. Code Ann. § 16-5-46(c)].” Ga. Code Ann. § 16-3-6(b). These defenses are affirmative defenses. Ga. Code Ann. § 16-3-6(c).

Ga. Code Ann. § 16-3-6(a)(3) defines “sexual crime” as “prostitution, sodomy, solicitation of sodomy, or masturbation for hire as such offenses are proscribed in Chapter 6 of Title 16.”

f. Ga. Code Ann. § 16-14-1 (2020) – Georgia Racketeer Influenced and Corrupt Organizations Act

Georgia defines “racketeering activity” to include trafficking of persons for labor or sexual servitude. Ga. Code Ann. § 16-14-3(5)(A)(vi), (vii).

g. Ga. Code Ann. § 15-11-32 (2014) – Setting Aside or Modifying an Order; Probation Revocation; Ga. Code Ann. § 15-11-701 (2014) – Sealing of the Files and Records in the Case

An order of adjudication of delinquency by a court may be modified or vacated for reasons including that the child was adjudicated for a delinquent act for a “sexual crime” as defined in Ga. Code Ann. § 16-3-6, and the crime resulted from the child being: (1) trafficked for sexual servitude in violation of Ga. Code Ann. § 16-5-46, or (2) a victim of sexual exploitation as defined in Ga. Code Ann. § 49-5-40. Ga. Code Ann. § 15-11-32(d).

A separate statute governs the sealing of such a person’s files and records. Ga. Code Ann. § 15-11-701. Upon application of a person adjudicated delinquent as a minor or on the court’s own motion, after a hearing, the court shall order the sealing of the files and records in the proceeding if the court finds that the child was adjudicated for a delinquent act for a sexual crime and the crime resulted from the child being: (1) trafficked for sexual servitude in violation of section 16-5-46, or (2) a victim of sexual exploitation as defined in section 49-5-40. Ga. Code Ann. § 15-11-701(c); *see also* Ga. Code Ann. § 15-11-701(b) (addressing sealing of juvenile records for non-sexual crimes).

h. Ga. Code Ann. § 42-1-12 (2021) – Registration of Sex Offenders

With limited exceptions, a person who is found guilty of a “dangerous sexual offense” must register as a sex offender. Ga. Code Ann. § 42-1-12(e). A “dangerous sexual offense” means any criminal offense, or the attempt to commit any criminal offense, which consists of the same or similar elements to offenses including trafficking a person for sexual servitude, child molestation, enticing a child for indecent purposes, and sexual exploitation of children. Ga. Code Ann. § 42-1-12(10)(B.4)(for convictions occurring after June 30, 2021).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Ga. Code Ann. § 16-6-4 – Child Molestation; Aggravated Child Molestation

Ga. Code Ann. § 16-6-5 – Enticing a Child for Indecent Purposes

Ga. Code Ann. § 16-12-100 – Sexual Exploitation of Children

Ga. Code Ann. § 16-12-100.2 – Computer or Electronic Pornography and Child Exploitation Prevention Act of 2007

B. Civil Liability Statutes

1. Ga. Code Ann. § 9-3-33.1 (2019) – Childhood Sexual Abuse

a. Summary

A victim of conduct constituting “childhood sexual abuse,” including trafficking for sexual servitude, who was a minor when the conduct occurred may bring a civil lawsuit for damages. Ga. Code Ann. § 9-3-33.1(b)(1)(A).

b. Damages and Other Relief

A victim may recover damages. Ga. Code Ann. § 9-3-33.1(b)(1)(A). If the person who committed the conduct was a volunteer or employee of an entity that owed a duty of care to the victim, or the person and the victim were engaged in an activity over which the entity had control, damages may only be awarded against the entity if there was a finding of negligence or gross negligence on the part of the entity, depending on the type of civil claim brought. Ga. Code Ann. § 9-3-33.1(c)(2), (3).

c. Statute of Limitations

Any civil lawsuit for damages as a result of actions committed after July 1, 2015 shall be brought: (1) on or before a plaintiff turns 23 years old, or (2) within two years from the date that the plaintiff knew or should have known of the abuse and that the abuse resulted in injury to the plaintiff as established by competent medical or psychological evidence. Ga. Code Ann. § 9-3-33.1(2)(A).

When a plaintiff’s civil lawsuit is filed after the plaintiff attains the age of 23 years but within two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff, the court shall determine from admissible evidence in a pretrial finding when the discovery of the alleged childhood sexual abuse occurred. Ga. Code Ann. § 9-3-33.1(2)(B).

C. Additional Statutes Specific to Human Trafficking

1. Ga. Code Ann. § 15-11-130.1 (2019) – Referral of Child to Victim Assistance Organization

A law enforcement officer, agency, or the Division of Family & Children Services must refer a child suspected of being a victim of trafficking to a victim assistance organization.

2. Ga. Code Ann. § 16-5-47 (2017) – Posting Model Notice to Enable Persons Who Are Subject of Human Trafficking to Obtain Help and Services

The Georgia Bureau of Investigation shall develop a model notice providing information and a method to contact the National Human Trafficking Hotline and the Statewide Georgia Hotline for Domestic Minor Trafficking. A notice in English, Spanish, and any other language deemed appropriate by the director of the Georgia Bureau of Investigation shall be posted by adult entertainment establishments, bars, primary airports, passenger rail or light rail stations, bus stations, truck stops, emergency rooms within acute care hospitals, urgent care centers, farm labor contractors and day haulers, privately operated job recruitment centers, safety rest areas located along interstate highways in Georgia, hotels, businesses and establishments that offer massage or bodywork services by a person who is not a massage therapist, and government buildings.

3. Ga. Code Ann. § 17-15-7 (2015) – Eligibility for Awards from Georgia Crime Victims Compensation Board

Persons eligible to make claims for awards from the Georgia Crime Victims Compensation Board include those who suffer a serious mental or emotional trauma as a result of being trafficked for labor servitude or sexual servitude.

4. Ga. Code Ann. § 34-4-6 (1970) – Lawsuit for Recovery Where Employee Paid Less Than Minimum Wage

An employee who receives less than the full amount of wages owed may bring a civil lawsuit to recover unpaid wages and an amount equal to the claim in liquidated damages. An employee is also entitled to recover costs and attorney’s fees. The Act also gives the Commissioner of Labor enforcement power to ensure employer compliance. Ga. Code § 34-4-6.

More information is available at: <https://dol.georgia.gov/laws-and-rules/obtain-information-about-employment-issue>.

5. Ga. Code Ann. § 35-1-16 (2011) – Training Materials on Combating Sexual Servitude Trafficking

Georgia police officers and similar personnel are required to: (1) be trained in providing proper detention facilities or alternative detention facilities for persons who have been trafficked, including information on therapeutic facilities for victims of trafficking; and (2) provide information on social service organizations available to assist victims of trafficking.

Georgia police officers and similar personnel must also be trained on the availability of federal resources for victims of trafficking, including those available through the Department of Health and Human Services – Office on Trafficking in Persons.

6. Ga. Code Ann. § 49-5-8 (2020) – Duties and Functions of the Department of Human Services

The state’s Department of Human Services, in consultation with the Office of the Child Advocate for the Protection of Children, the Criminal Justice Coordinating Council, and law enforcement officials, shall develop a plan for the delivery of services to sexually exploited children, victims of trafficking of persons for labor servitude, and such children and persons who are at risk of becoming victims of such offenses.

7. Ga. Code Ann. § 17-10-21 (2020) – Relief for Trafficking Victim Defendants; The Survivors First Act

A defendant convicted of an offense and sentenced as a direct result of being a victim of trafficking under Ga. Code Ann. §16-5-46 may petition the court imposing the sentence to vacate the conviction. That court shall maintain the jurisdiction, power, and authority to vacate a conviction and sentence on that basis. Ga. Code Ann. § 17-10-21(a)(1).

8. Ga. Code Ann. § 35-3-37 (2021) – Criminal History Record Information

A defendant convicted of an offense and sentenced while a victim of an offense of trafficking under Ga. Code Ann. §16-5-46 may petition the court imposing the sentence to restrict the conviction. That court shall maintain the jurisdiction, power, and authority to restrict a conviction and sentence on that basis. Ga. Code Ann. § 35-3-37(j)(6)(A).

D. Significant Cases

1. *Grace v. State*, 819 S.E.2d 674 (Ga. Ct. App. 2018)

The appellate court affirmed a conviction for trafficking a person for sexual servitude. Although the defendant initially left a minor female in the car when they arrived at a hotel, he phoned the car's driver to provide the minor with his room number, and she went to the room. The defendant bought her food and gave her money, but she continued to beg for more and more money. The defendant did not refuse her pleas, instead telling her to "wait." She then offered to perform oral sex for payment. The appellate court ruled that, "[g]iven these circumstances, the jury was authorized to find that, through an endeavor, planned action, or method, [the defendant] gained or exerted influence or control over 15-year-old A.W. by giving her food and money, then leaving the prospect of more money open until she performed a sexual act for cash." As a result, the appellate court found that sufficient evidence supported the jury's determination that the defendant knowingly obtained the minor for the purpose of sexual servitude.

2. *Moore v. State*, 354 Ga. App. 145, 840 S.E.2d 519 (2020)

The appellate court affirmed a conviction for trafficking for sexual servitude where the defendant coerced 17-year-old B.E. to perform sexual acts. B.E. left her mother's house and lived on the streets, where she exchanged sex acts for money, until she met the defendant. The defendant took B.E. into her home and sometimes treated her like a daughter. The defendant then told B.E. that if she was going to live in her house, B.E. had to make money. B.E. said she did not want to perform sex acts for money. The defendant used a dating app to find men to pay for sex with B.E. The defendant also set the prices for the sex acts, told B.E. what to do with and say to the men, and kept the payments. The men came to the defendant's house to have sex with B.E. When B.E. failed to make money, defendant hit her (usually in the face), yelled at her, and called her names. The appellate court found sufficient evidence of defendant's coercion of B.E. for the trafficking conviction.

E. Academic Research/Papers

Deborah Grubb & Katherine Bennett, *The Readiness of Local Law Enforcement to Engage in U.S. Anti-Trafficking Efforts: An Assessment of Human Trafficking Training and Awareness of Local, County, and State Law Enforcement Agencies in the State of Georgia*, 13:6 POLICE PRAC. & RES., 487, 487–500 (2012).

F. Resources

Georgia Office of the Attorney General – Human Trafficking:
<https://law.georgia.gov/key-issues/human-trafficking>

National Human Trafficking Hotline (Georgia):
<https://humantraffickinghotline.org/es/state/georgia>

Shared Hope International, Georgia Report Card (2019):
http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_GA.pdf

Shared Hope International, Georgia Analysis and Recommendations (2019):
http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_GA.pdf

U.S. Department of Health & Human Services, *Georgia: Efforts to Combat Trafficking* (2017):
https://nhttac.acf.hhs.gov/sites/default/files/2019-06/georgia_profile_efforts_to_combat_human_trafficking.pdf

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