



NEW JERSEY

| 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. N.J. Stat. Ann. § 2C:13-8 (2013) – Human Trafficking

i. Summary

A person commits the crime of human trafficking in New Jersey if the person:

- (1) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in sexual activity as defined in [N.J. Stat. Ann. §2C:34-1(a)(2)] or to provide labor or services:
 - (a) by causing or threatening to cause serious bodily harm or physical restraint against the person or any other person;
 - (b) by means of any scheme, plan, or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint;
 - (c) by committing a violation of N.J. [Stat. Ann. §]2C:13-5 [criminal coercion] against the person;
 - (d) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document ..., or other document issued by a governmental agency to any person which could be used as a means of verifying the person’s identity or age or any other personal identifying information;
 - (e) by means of the abuse or threatened abuse of the law or legal process;
 - (f) by means of fraud, deceit, or misrepresentation against the person; or
 - (g) by facilitating access to a controlled dangerous substance or controlled substance analog ...; or
- (2) receives anything of value from participation as an organizer, supervisor, financier or manager in a scheme or course of conduct which violates paragraph (1) of this subsection; or
- (3) knowingly hold, recruit, lure, entice, harbor, transport, provide or obtain, by any means, a child under 18 years of age, to engage in sexual activity ..., whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.

N.J. Stat. Ann. § 2C:13-8(1)(a).

“It is an affirmative defense to prosecution for human trafficking that, during the time of the alleged commission of the offense of human trafficking ..., the defendant was a victim of human trafficking.” N.J. Stat. Ann. § 2C:13-8(c).

ii. Sentencing

A human trafficking offense is a crime of the first degree. N.J. Stat. Ann. § 2C:13-8(b). A conviction for human trafficking is generally punishable by imprisonment for 10 to 20 years. N.J. Stat. Ann. §§ 2C:43-6(a)(1). A person convicted under N.J. Stat. Ann. § 2C:13-8(2) (receiving value from participation as organizer, supervisor, etc. of a human trafficking scheme) or under N.J. Stat. Ann. § 2C:13-8(a)(3) (holding, recruiting, etc. a child under 18 to engage in sexual activity) faces imprisonment for 20 years to life and is ineligible for parole for the first 20 years. N.J. Stat. Ann. § 2C:13-8(d).

The court shall also impose a separate fine after a human trafficking conviction of at least USD 25,000 for deposit in the Human Trafficking Survivor’s Assistance Fund. N.J. Stat. Ann. § 2C:13-8(d).

A convicted defendant shall also be ordered to pay restitution to the victim in 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 or services as determined by certain statutes. N.J. Stat. Ann. § 2C:13-8(e).

iii. Statute of Limitations

In New Jersey, a prosecution for a crime generally must be commenced within five years after it is committed. N.J. Stat. Ann. § 2C:1-6(b)(1).

b. N.J. Stat. Ann. § 2C:13-9 (2013) – Human Trafficking in the Second Degree

i. Summary

A person commits a crime of human trafficking in the second degree if the person:

- (1) provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking ... [or]
- (2) procures or attempts to procure a person to engage in sexual activity ... or to provide labor or services, whether for himself or another person, knowing that the person provided or to be provided was a victim of human trafficking, or under circumstances in which a reasonable person would conclude that there was a substantial likelihood that the person was a victim of human trafficking.

N.J. Stat. Ann. § 2C:13-9(a).

The requisite knowledge may be inferred under N.J. Stat. Ann. § 2C:13-9(a)(1) if the defendant was aware that a person to whom the defendant was providing services, resources, or assistance: (i) “was subject to or subjected another to restrictions on the person’s freedom of movement, so that the person could not leave without accompaniment of another person or was otherwise subjected to obvious restrictions on mobility;” or (ii) “did not possess or have access to any means of communication, including but not limited to a cellular or other wireless telephone or other electronic communication device, and was not permitted or was otherwise unable to communicate with another person without supervision or permission.” N.J. Stat. Ann. § 2C:13-9(a)(1)(b).

With respect to N.J. Stat. Ann. § 2C:13-9(a)(2), there shall be a rebuttable presumption that the defendant knew, and that a reasonable person would conclude there was a substantial likelihood, that a person was a victim of human trafficking if the person: (i) “could not leave the premises where the person provided labor or services without accompaniment of another person or was otherwise subjected to significant restrictions on the person’s freedom of movement;” or (ii) “did not possess or have access to any means of communication, including but not limited to a

cellular or other wireless telephone or other electronic communication device, and was not permitted or was otherwise unable to communicate with another person without supervision or permission.” N.J. Stat. Ann. § 2C:13-9(a)(2)(a).

There is also a rebuttable presumption that: (i) “a person knew that a child under the age of 18 years of age procured to engage in sexual activity or for whom attempts were made to procure for that activity was a victim of human trafficking;” and (ii) “a reasonable person would conclude that there was a substantial likelihood that a child under the age of 18 years of age procured to engage in sexual activity or for whom attempts were made to procure for that activity was a victim of human trafficking.” N.J. Stat. Ann. § 2C:13-9(a)(2)(b).

It is an affirmative defense to a prosecution for human trafficking in the second degree “that, during the time of the alleged commission of the crime, the defendant was a victim of human trafficking.” N.J. Stat. Ann. § 2C:13-9(b)(1). There is “a rebuttable presumption that a child under the age of 18 years of age charged with a violation of this section was a victim of human trafficking.” N.J. Stat. Ann. § 2C:13-9(b)(2).

ii. Sentencing

A conviction for human trafficking in the second degree is punishable by imprisonment for five to 10 years and a possible fine not to exceed USD 150,000. N.J. Stat. Ann. §§ 2C:13-9(c)(1), 2C:43-6(a)(2), 2C:43-3(a)(2). In addition, the court shall impose a separate fee of at least USD 15,000 for deposit in the Human Trafficking Survivor’s Assistance Fund. N.J. Stat. Ann. § 2C:13-9(c)(1).

A convicted defendant shall also be ordered to pay restitution to the victim if the victim suffered a loss and the defendant is able to pay. N.J. Stat. Ann. § 2C:44-2(b).

Upon a conviction for human trafficking in the second degree, “the court shall direct any issuing State, county, or municipal governmental agency to revoke any license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization required by law concerning the operation of that person’s business or profession, if that business or profession was used in the course of the crime.” N.J. Stat. Ann. § 2C:13-9(c)(2).

iii. Statute of Limitations

In New Jersey, a prosecution for a crime generally must be commenced within five years after it is committed. N.J. Stat. Ann. § 2C:1-6(b)(1).

c. N.J. Stat. Ann. § 2C:13-10 (2013) – Advertising Commercial Sexual Abuse of a Minor

i. Summary

A person commits the offense of advertising commercial sexual abuse of a minor if:

- (1) the person knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or
- (2) the person knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor.

N.J. Stat. Ann. § 2C:13-10(b).

The U.S. District Court for the District of New Jersey permanently enjoined the enforcement of N.J. Stat. Ann. § 2C:13-10(b)(1) in 2014. *Backpage.com, LLC v. Hoffman, et al.*, No. 13-cv-03952, ECF No. 53 (D.N.J. Nov. 21, 2014). It did not enjoin the enforcement of subsection (b)(2).

ii. Sentencing

A person who commits the offense of advertising commercial sexual abuse of a minor is guilty of crime in the first degree, which is punishable by a prison term of between 10 and 20 years and a possible fine not to exceed USD 200,000. N.J. Stat. Ann. §§ 2C:43-6(a)(1), 2C:43-3(a)(1). The court shall also impose a separate fine of at least USD 25,000 for deposit in the Human Trafficking Survivor’s Assistance Fund. N.J. Stat. Ann. § 2C:13-10(c).

iii. Statute of Limitations

In New Jersey, a prosecution for a crime generally must be commenced within five years after it is committed. N.J. Stat. Ann. § 2C:1-6(b)(1).

d. N.J. Stat. Ann. § 2C:13-2 (1979) – Criminal Restraint

A person commits the crime of criminal restraint, a third-degree felony, if the person knowingly: (a) “[r]estrains another unlawfully in circumstances exposing the other to risk of serious bodily injury”; or (b) “[h]olds another in a condition of involuntary servitude.” N.J. Stat. Ann. § 2C:13-2.

The creation by the actor of circumstances resulting in a belief by other persons that they must remain in a particular location is deemed to be a holding in a condition of involuntary servitude. N.J. Stat. Ann. § 2C:13-2.

e. N.J. Stat. Ann. § 2C:14-7 (2013) – Evidence of Victim’s Previous Sexual Conduct

In prosecutions for offenses including human trafficking involving sexual activity, evidence of the victim’s previous sexual conduct shall not be admitted, with limited exceptions. N.J. Stat. Ann. § 2C: 14-7(a).

f. N.J. Stat. Ann. § 2C:34-1 (2013) – Prostitution and Related Offenses; Affirmative Defense; Penalties

It is an affirmative defense to prosecution for prostitution and related offenses “that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking ... or compelled by another to engage in sexual activity.” This affirmative defense is available regardless of the defendant’s age. N.J. Stat. Ann. § 2C:34-1(e).

In addition to any fine, a person convicted of certain prostitution crimes shall be assessed a penalty of at least USD 10,000 (and at least USD 25,000 if the victim was a child) and not more than USD 50,000 for deposit in the Human Trafficking Survivor’s Assistance Fund. N.J. Stat. Ann. § 2C:34-1(f)(2).

g. N.J. Stat. Ann. § 2C:41-1 (2015) – Racketeering

New Jersey’s racketeering statute includes human trafficking under § 2C:13-8 in its definition of “racketeering activity.” N.J. Stat. Ann. § 2C:41-1(a)(1)(z).

h. N.J. Stat. Ann. § 2A:4A-22 (2012) – Code of Juvenile Justice

A “juvenile-family crisis” includes a minor engaging in “an act which if committed by an adult would constitute [prostitution], or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.” N.J. Stat. Ann. § 2A:4A-22(g)(5). If referred to as a juvenile-family crisis, the child may receive additional safeguards. See N.J. Stat. Ann. § 2A:4A-46.

2. Online Child Sexual Exploitation and Child Pornography Offenses

N.J. Stat. Ann. § 2C:13-10(b) – Advertising Commercial Sexual Abuse of a Minor

N.J. Stat. Ann. § 2C:24-4 – Endangering Welfare of Children

N.J. Stat. Ann. § 2C:34-3 – Obscenity for Persons Under 18

3. N.J. Stat. Ann. § 2C:7-2 (2018) – Registration of Sex Offenders

Persons convicted of crimes including leading a child pornography network and certain endangering welfare of children violations must register as sex offenders. N.J. Stat. Ann. § 2C:7-2(a). The statute does not list human trafficking as one of the convictions that requires registration as a sex offender. N.J. Stat. Ann. § 2C:7-2(b).

B. Civil Liability Statutes

1. N.J. Stat. Ann. § 2C:13-8.1 (2013) – Human Trafficking; Civil Lawsuits

a. Summary

Any person injured by human trafficking, “including injury due to the loss of moneys or property, real or personal, by an actor and all those acting in concert with that actor who committed a human trafficking offense,” may bring a civil lawsuit against the actor and all those acting with that actor. N.J. Stat. Ann. § 2C:13-8.1(a).

“[T]he fact that a prosecution against the offending actor is not instituted or, whenever instituted, terminates without a conviction, does not preclude a civil [lawsuit].” N.J. Stat. Ann. § 2C:13-8.1(b)(1).

“A final [criminal] judgment in favor of the State ... shall estop the defendant from denying the same conduct in any civil [lawsuit] brought pursuant to this section. N.J. Stat. Ann. § 2C:13-8.1(b)(2).

A civil lawsuit brought under this section does not preclude any other civil, administrative, or criminal remedy under any other provision of law. N.J. Stat. Ann. § 2C:13-8.1(a).

b. Damages

Under New Jersey law,

the court shall, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, award damages in an amount that is the greater of:

- (1) the gross income or value to the defendant of the injured party’s labor or services; or
- (2) the value of the injured party’s labor or services as determined by the “New Jersey Prevailing Wage Act,” P.L.1963, c. 150 (C.34:11-56.25 *et seq.*), the “New Jersey State Wage and Hour Law,” P.L.1966, c. 113 (C.34:11-56a *et seq.*), the Seasonal Farm Labor Act, P.L.1945, c. 71 (C.34:9A-1 *et seq.*), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the “Fair Labor Standards Act of 1938,” 29 U.S.C. s. 201 *et seq.*, or any other applicable federal law. N.J. Stat. Ann. § 2C:13-8.1(c)(1-2).

N.J. Stat. Ann. § 2C:13-8.1(c).

The court may also award reasonable attorney’s fees and costs to a prevailing plaintiff. N.J. Stat. Ann. § 2C:13-8.1(d).

c. Statute of Limitations

Any lawsuit for an injury based on N.J. Stat. Ann. § 2C:13-8.1 (human trafficking) must be commenced within two years. N.J. Stat. Ann. § 2A:14-2a.

2. N.J. Stat. Ann. § 2A:30B-3 (1992) – Civil Remedy for Victims of Child Pornography

a. Summary

Children may bring civil lawsuits for certain conduct involving child pornography.

A child, through a parent or guardian or child advocacy organization or personally upon reaching the age of majority, may bring a civil [lawsuit] ... for monetary damages, injunctive relief, or both, against a person who:

- (1) Permits, entices or coerces the child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner or may be part of an exhibition or performance;
- (2) Photographs or films the child in a prohibited sexual act or in the simulation of such an act or who uses any device to reproduce or reconstruct the image of the child in a prohibited sexual act or in the simulation of such an act;
- (3) Knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer any photograph, film, videotape or any other reproduction or reconstruction which depicts the child engaging in a prohibited sexual act or in the simulation of such an act.

N.J. Stat. Ann. § 2A:30B-3(a).

b. Damages and Other Relief

If the plaintiff prevails, the court must award recovery of “three times the amount of damages consisting of financial gains to the defendant resulting from the [proscribed] conduct ... together with full costs and reasonable attorney’s fees.” N.J. Stat. Ann. § 2A:30B-3(b).

c. Statute of Limitations

Any lawsuit for an injury based on N.J. Stat. Ann. § 2A:30B-1 *et seq.* (child exploitation offenses) must be commenced within two years after the child reaches the age of majority. N.J. Stat. Ann. § 2A:30B-6; *see also* N.J. Stat. Ann. § 2A:14-2a.

C. Additional Statutes Specific to Human Trafficking

1. N.J. Stat. Ann. § 2A:18-61.1(r) (2013) – Removal of Residential Tenants for Human Trafficking Violations

Committing a violation of N.J. Stat. Ann. § 2C:13-8(1) (human trafficking), knowingly harboring on the property a person who violated that statute, or otherwise permitting an offender to occupy those premises for residential purposes, constitutes good cause for the Superior Court to remove a tenant for two years after the violation.

2. N.J. Stat. Ann. § 2C:13-11 (2013) – Human Trafficking; Coordination with Federal Hotline Telephone Service

The Attorney General shall, in consultation with the Commission on Human Trafficking, coordinate the state’s involvement with the national, 24-hour toll-free hotline telephone service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program.

3. **N.J. Stat. Ann. § 2C:13-12 (2013) – Human Trafficking; Development and Implementation of Police Training Courses; Training Certain Public Accommodations and Health Care Facility Staff or Management on Human Trafficking Issues; N.J. Stat. Ann. §52:4B-47 (2013) – Training Courses for Law Enforcement Personnel**

The Police Training Commission, Department of Community Affairs, Department of Health, and Administrative Office of the Courts shall, in consultation with the Commission on Human Trafficking, develop and approve human trafficking courses, which are required for certain employees.

4. **N.J. Stat. Ann. § 2C:44-1.1 (2013) – Vacated Sentence Permitted for Certain Prostitution and Related Offenses; Expungement of Records**

A person convicted of prostitution and related offenses or loitering for the purpose of engaging in prostitution, at any time following entry of judgment, may apply to vacate a conviction if the person’s participation in the offenses was a result of having been a victim of human trafficking. The application may also request expungement of all references to the person’s arrest, conviction, and related proceedings. *See also* N.J. Stat. Ann. § 3:21-11 (2015) (motion to vacate certain convictions).

5. **N.J. Stat. Ann. § 34:11-56a1 et seq. (2019) – New Jersey State Wage and Hour Law**

An employee may bring a civil lawsuit to recover unpaid wages. In addition to unpaid wages, an employee may also receive no more than twice the amount of unpaid wages in liquidated damages plus attorney’s fees and costs. N.J. Stat. Ann. § 34:11-56a25. A noncompliant employer may be subject to additional administrative and criminal penalties. N.J. Stat. Ann. §§ 34:11-58, 34:11-56a22.

More information is available at: https://www.nj.gov/labor/wagehour/wagehour_index.html.

6. **N.J. Stat. Ann. §§ 36:2-202, 2-204 (2013) – Human Trafficking Awareness Day, Month**

New Jersey designates January 11 as Human Trafficking Awareness Day and January as Human Trafficking Prevention Month.

7. **N.J. Stat. Ann. § 52:4B-11 (2008) – Criminal Injuries Compensation Act of 1971**

A victim of N.J. Stat. Ann. § 2C:13-8 (human trafficking) may receive compensation for personal injury or death if certain requirements are met.

8. **N.J. Stat. Ann. § 52:4B-44 (2005) – Standards to Ensure Rights of Crime Victims**

In a case involving a victim of human trafficking, the Office of Victim-Witness Advocacy or the county prosecutor’s office involved in the case shall ensure that the victim obtains assistance in receiving any available benefits or services, including assistance in receiving any certifications or endorsements needed to have federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the Trafficking Victims Protection Reauthorization Act of 2003.

9. **N.J. Stat. Ann. § 52:4B-44.1 (2012) – Standard Protocols Relative to Information and Services to Victims of Human Trafficking and to Minors Charged with Prostitution**

The Attorney General shall, in consultation other agencies, coordinate the establishment of standard protocols for providing information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution.

10. **N.J. Stat. Ann. § 52:17B-237 (2013) – Commission on Human Trafficking**

New Jersey created a state Commission on Human Trafficking.

11. N.J. Stat. Ann. § 52:17B-238 (2013) – Human Trafficking Survivor’s Assistance Fund

New Jersey has a fund dedicated for providing services to victims of human trafficking; promoting awareness of human trafficking; developing and distributing training and other educational materials; and operating educational or training programs.

D. Significant Cases

1. *Backpage.com, LLC v. Hoffman et al.*, No. 13-cv-03952, 2013 WL 4502097 (D.N.J. Aug. 20, 2013), *appeal dismissed*, No. 13-3850 (3d Cir. May 1, 2014)

Plaintiff Backpage.com sought a restraining order and a preliminary injunction to enjoin the enactment of N.J. Stat. Ann. § 2C:13-10(b)(1), which provides that the crime of advertising commercial sexual abuse of a minor occurs when a “person knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor.”

The district court concluded that section 230 of the federal Communications Decency Act likely preempted the New Jersey statute. The district court also concluded that the New Jersey statute likely violated the First Amendment pointing to similar Washington and Tennessee statutes that courts ruled were unconstitutional violations of free speech. It further ruled that the statute was likely unconstitutionally overbroad and vague and likely violated the dormant federal commerce clause of the U.S. Constitution. As a result, the district court granted the plaintiff’s motion for a preliminary injunction enjoining the enactment of N.J. Stat. Ann. § 2C:13-10(b)(1). The district court later permanently enjoined the enforcement of N.J. Stat. Ann. § 2C:13-10(b)(1). *Backpage.com, LLC v. Hoffman, et al.*, No. 13-cv-03952, ECF No. 53 (D.N.J. Nov. 21, 2014).

E. Academic Research/Papers

No academic research or papers were found regarding New Jersey’s human trafficking statutes.

F. Resources

National Human Trafficking Hotline (New Jersey):

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

New Jersey Coalition Against Human Trafficking:

<https://www.njhumantrafficking.org/about>

New Jersey Department of Education – Human Trafficking Resources:

<https://nj.gov/education/students/safety/health/ht/>

New Jersey Office of the Attorney General, New Jersey Human Trafficking Task Force:

<https://www.njoag.gov/programs/human-trafficking/>

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

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_NJ.pdf

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

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_NJ.pdf

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

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

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