



OREGON

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. Or. Rev. Stat. Ann. § 163.266 (2017) – Trafficking in Persons

i. Summary

A person is criminally liable if the person knowingly 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 and:

- (a) The person knows that the other person will be subjected to involuntary servitude as described in [Or. Rev. Stat. Ann. §§] 163.263 or 163.264;
- (b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act; or
- (c) The person knows or recklessly disregards the fact that the other person is under 18 years of age and will be used in a commercial sex act.

Or. Rev. Stat. Ann. § 163.266(1)(a)–(c).

This statute also provides criminal liability for the offense of trafficking in persons “if the person knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited by” Or. Rev. Stat. Ann. § 163.266(1) (trafficking in persons for involuntary servitude or commercial sex acts) or by Or. Rev. Stat. Ann. §§ 163.263 or 163.264 (subjecting another to involuntary servitude in the second and first degree). Or. Rev. Stat. Ann. § 163.266(2) (trafficking in persons for personal benefit).

“Commercial sex act” is defined as “sexual conduct or sexual contact, as those terms are defined in [Or. Rev. Stat. Ann. §] 167.002, performed in return for a fee or anything of value.” Or. Rev. Stat. Ann. § 163.266(3).

“‘Sexual conduct’ means sexual intercourse or oral or anal sexual intercourse.” Or. Rev. Stat. Ann. § 167.002(4).

“‘Sexual contact’ means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.” Or. Rev. Stat. Ann. § 167.002(5).

ii. Sentencing

A violation of Or. Rev. Stat. Ann. § 163.266(1)(a) or (2) (trafficking in persons for involuntary servitude or for personal benefit) is a Class B felony. For a Class B felony, the maximum term of imprisonment is 10 years and the maximum fine is USD 250,000. Or. Rev. Stat. Ann. §§ 161.605(2), 161.625(1)(c).

A violation of Or. Rev. Stat. Ann. § 163.266(1)(b) or (1)(c) (trafficking in persons for commercial sex acts) is a Class A felony. Or. Rev. Stat. Ann. § 163.266(5). For a Class A felony, the maximum term of imprisonment is 20 years or a fine of up to USD 375,000. Or. Rev. Stat. Ann. §§ 161.605(1), 161.625(1)(b).

iii. Statute of Limitations

A prosecution for trafficking in persons must be commenced within three years after the commission of the offense. Or. Rev. Stat. Ann. § 131.125(8)(a).

b. Or. Rev. Stat. Ann. § 163.263 (2007) – Subjecting Another Person to Involuntary Servitude in the Second Degree

i. Summary

A person commits the crime of subjecting another person to involuntary servitude in the second degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- (a) Abusing or threatening to abuse the law or legal process;
- (b) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification of a person;
- (c) Threatening to report a person to a government agency for the purpose of arrest or deportation;
- (d) Threatening to collect an unlawful debt; or
- (e) Instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing.

Or. Rev. Stat. Ann. § 163.263(1).

ii. Sentencing

“Subjecting another person to involuntary servitude in the second degree is a Class C felony.” Or. Rev. Stat. Ann. § 163.263(2). For a Class C felony, the maximum term of imprisonment is five years and the maximum fine is USD 125,000. Or. Rev. Stat. Ann. §§ 161.605(3), 161.625(1)(d).

iii. Statute of Limitations

A prosecution for subjecting another person to involuntary servitude in the second degree must be commenced within three years of the commission of the offense. Or. Rev. Stat. Ann. § 131.125(8).

c. Or. Rev. Stat. Ann. § 163.264 (2007) – Subjecting Another Person to Involuntary Servitude in the First Degree

i. Summary

A person commits the crime of subjecting another person to involuntary servitude in the first degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- (a) Causing or threatening to cause the death of or serious physical injury to a person; or

(b) Physically restraining or threatening to physically restrain a person.

Or. Rev. Stat. Ann. § 162.264(1).

ii. Sentencing

“Subjecting another person to involuntary servitude in the first degree is a Class B felony.” Or. Rev. Stat. Ann. § 163.264(2). For a Class B felony, the maximum term of imprisonment is 10 years and the maximum fine is USD 250,000. Or. Rev. Stat. Ann. §§ 161.605(2), 161.625(1)(c).

iii. Statute of Limitations

A prosecution for subjecting another person to involuntary servitude in the first degree must be commenced within three years of the commission of the offense. Or. Rev. Stat. Ann. § 131.125(8).

d. Or. Rev. Stat. Ann. §§ 131.550 (2010) – Forfeiture

Property subject to criminal forfeiture includes property used or intended to be used to commit or facilitate trafficking in persons or for subjecting another person to involuntary servitude in the first and second degree, including proceeds of such conduct. Or. Rev. Stat. Ann. §§ 131.558, 131.602(144–46).

e. Or. Rev. Stat. Ann. § 167.007 (2018) – Affirmative Defense

It is an affirmative defense to prosecution under the prostitution statutes that the defendant, at the time of the alleged offense, was a victim of the crime of trafficking in persons. Or. Rev. Stat. Ann. § 167.007(3).

f. Or. Rev. Stat. Ann. § 163.269 (2007) – Duress

A person who is the victim of a crime described in Or. Rev. Stat. Ann. §§ 163.263 (involuntary servitude in the second degree), 163.264 (involuntary servitude in the first degree), or 163.266 (trafficking in persons) may assert the defense of duress, as described in Or. Rev. Stat. Ann. § 161.270, if the person is prosecuted for conduct that constitutes services under Or. Rev. Stat. Ann. § 163.261 that the person was caused to provide. Or. Rev. Stat. Ann. § 163.269.

“Duress” is defined as the “commission of acts which would otherwise constitute an offense, other than murder, ... because the actor was coerced to do so by the use or threatened use of unlawful physical force upon the actor or a third person, which force or threatened force was of such nature or degree to overcome earnest resistance.” Or. Rev. Stat. Ann. § 161.270(1).

“Services” is defined as “activities performed by one person under the supervision or for the benefit of another person.” Or. Rev. Stat. Ann. § 163.261.

g. Or. Rev. Stat. Ann. § 137.221 (2018) – Vacation of Prostitution Conviction

A court may vacate a judgment of conviction for prostitution under Or. Rev. Stat. Ann. § 167.007 (or for violating a municipal prohibition against prostitution) if the court determines after a hearing that the person was a victim of sex trafficking at or around the time of the conduct that gave rise to the prostitution conviction. Or. Rev. Stat. Ann. § 137.221(1)–(3). A person may request to vacate a judgment of conviction for prostitution by filing a motion in the county of conviction, at least 21 days after the judgment of conviction is entered, with a copy served on the district attorney. Or. Rev. Stat. Ann. § 137.221(2). At a hearing on the motion, the person has the burden of proof, by clear and convincing evidence, and may present evidence that they were a victim of sex trafficking. Or. Rev. Stat. Ann. § 137.221(3), (4).

h. Or. Rev. Stat. Ann. § 40.210 (2020) –Victim’s Past Sexual Behavior or Manner of Dress Inadmissible

Notwithstanding any other provision of law, in a prosecution for trafficking in persons to engage in a commercial sex act, two types of evidence are not admissible:

- (a) Reputation or opinion evidence of the past sexual behavior of an alleged victim or corroborating witness; or
- (b) Reputation or opinion evidence presented for the purpose of showing that the manner of dress of an alleged victim incited the crime ... or indicated consent to the sexual acts that are alleged.

Or. Rev. Stat. Ann. § 40.210(1).

i. Or. Rev. Stat. Ann. § 166.715 (2019) – Racketeering

Trafficking in persons, involuntary servitude in the first degree, and involuntary servitude in the second degree are predicate offenses under Oregon’s racketeering statute. Or. Rev. Stat. Ann. § 166.715(6)(a)(DDD).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Or. Rev. Stat. Ann. § 163.432 – Online Sexual Corruption of a Child in the Second Degree

Or. Rev. Stat. Ann. § 163.433 – Online Sexual Corruption of a Child in the First Degree

Or. Rev. Stat. Ann. § 163.413 – Purchasing Sex with a Minor

Or. Rev. Stat. Ann. § 163.665 – Definitions for Child Abuse, Sexually Explicit Conduct, Visual Depiction, and Visual Recording

Or. Rev. Stat. Ann. § 163.670 – Using Child in Display of Sexually Explicit Conduct

Or. Rev. Stat. Ann. § 163.676 – Exemption to Prosecution Under Or. Rev. Stat. Ann. 163.684

Or. Rev. Stat. Ann. § 163.684 – Encouraging Child Sexual Abuse in the First Degree

Or. Rev. Stat. Ann. § 163.686 – Encouraging Child Sexual Abuse in the Second Degree

Or. Rev. Stat. Ann. § 163.687 – Encouraging Child Sexual Abuse in the Third Degree

Or. Rev. Stat. Ann. § 163.688 – Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree

Or. Rev. Stat. Ann. § 163.689 – Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree

Or. Rev. Stat. Ann. § 163.690 – Defense; Lack of Knowledge of Age of Child

Or. Rev. Stat. Ann. § 163.693 – Failure to Report Child Pornography

Or. Rev. Stat. Ann. § 167.057 – Luring a Minor

3. Or. Rev. Stat. Ann. §§ 163A *et seq.* – Sex Offender Registry

All persons convicted of a sex crime or found guilty (except for insanity) of a sex crime are required to register and report as a sex offender. Or. Rev. Stat. Ann. § 163A.010. A “sex offender” is defined as a person who:

- (a) Has been convicted of a sex crime;
- (b) Has been found guilty except for insanity of a sex crime;
- (c) Has been convicted in another United States court of a crime:
 - (A) That would constitute a sex crime if committed in this state; or
 - (B) For which the person would have to register as a sex offender in that court’s jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or
- (d) Is described in [Or. Rev. Stat. Ann. §] 163A.025 (Reporting by sex offender adjudicated in juvenile court) (1) [a juvenile that has been found to have committed an act that, if committed by an adult, would constitute a sex crime].

Or. Rev. Stat. Ann. § 163A.005(6). The sex crimes that require registration are defined in Or. Rev. Stat. Ann. § 163A.005(5). Among the sex crime convictions requiring sex offender registration is trafficking in persons to engage in a commercial sex act. Or. Rev. Stat. Ann. §§ 163A.005(5)(u), 163.266(1)(b)–(c).

Those required to register as sex offenders are classified as either Level I, Level II, or Level III offenders. The classification determines the range of people, schools, and businesses in the community that will be notified of an individual’s status as a sex offender. Or. Rev. Stat. Ann. § 163A.100. Level III offenders require the widest range of notification, while Level I offenders require only a limited range of notification. Or. Rev. Stat. Ann. § 163A.100. A sex offender’s classification also impacts the ability to seek relief from reporting as a sex offender. Or. Rev. Stat. Ann. § 163A.125.

B. Civil Liability Statutes

1. Or. Rev. Stat. Ann. § 30.867 (2007) – Civil Lawsuits

a. Summary

“Irrespective of any criminal prosecution or the result of a criminal prosecution, a person injured by a violation of [Or. Rev. Stat. Ann. §§] 163.263 [involuntary servitude in the second degree], 163.264 [involuntary servitude in the first degree], or 163.266 [trafficking in persons] may bring a civil [lawsuit] for damages” Or. Rev. Stat. Ann. § 30.867(1).

b. Damages and Other Relief

A prevailing plaintiff “may recover: (a) Both special and general damages, including damages for emotional distress; and (b) Punitive damages.” Or. Rev. Stat. Ann. § 30.867(2).

The court shall award reasonable attorney’s fees to the prevailing plaintiff. ... The court may award reasonable attorney’s fees and expert witness fees incurred by a [prevailing] defendant ... if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a circuit court.

Or. Rev. Stat. Ann. § 30.867(3).

In a lawsuit for remedies for violations of Or. Rev. Stat. Ann. § 166.720 (receipt of proceeds from racketeering activity) by a person other than the Attorney General, a district attorney, or a state agency, the court may award reasonable attorney’s fees to the prevailing party. Or. Rev. Stat. Ann. § 166.725(14).

c. Statute of Limitations

An action under Or. Rev. Stat. Ann. § 30.867 must be commenced within six years of the conduct giving rise to the claim. Or. Rev. Stat. Ann. § 30.867(4).

2. Or. Rev. Stat. Ann. § 12.118 (2019) – Statute of Limitations for Lawsuits Based on Sexual Assault

Notwithstanding the provisions of Or. Rev. Stat. Ann. § 12.110 (statute of limitations of two years for assault, battery, or false imprisonment lawsuits), Or. Rev. Stat. Ann. § 12.115 (statute of limitations of 10 years for negligent injury to person or property lawsuits), and Or. Rev. Stat. Ann. § 12.160 (tolling the statute of limitations for persons with disabling mental conditions), a civil lawsuit “based on conduct that constitutes sexual assault or conduct knowingly allowing, permitting or encouraging sexual assault that occurs when a person is 18 years of age or older must be commenced within five years from the date the person discovers, or in the exercise of reasonable care should have discovered, the causal connection between the sexual assault and the injury.” Or. Rev. Stat. Ann. § 12.118(1).

“‘Sexual assault’ includes, but is not limited to, any of the following: ... (c) Sexual exploitation, which includes but is not limited to trafficking in persons and subjecting another person to involuntary servitude, as those acts are defined in [Or. Rev. Stat.] chapter 163.” Or. Rev. Stat. Ann. § 12.118(2).

C. Additional Statutes Specific to Human Trafficking

1. Or. Rev. Stat. Ann. §§ 652.110 *et seq.* (2014) – Payment and Collection of Wages Generally

An employee may bring a civil lawsuit to recover unpaid wages within one year. Or. Rev. Stat. Ann. § 652.230(6). In addition to unpaid wages, an employee may also receive an amount equal to the amount of unpaid wages in liquidated damages, plus attorney’s fees. Or. Rev. Stat. Ann. § 652.230(1)–(2). A noncompliant employer may be subject to additional civil and criminal penalties. Or. Rev. Stat. Ann. §§ 652.900, 652.990.

More information is available at: https://www.oregon.gov/boli/WHD/Pages/W_Whhowinf.aspx.

2. Or. Rev. Stat. Ann. § 192.822 (2010) – Address Confidentiality Program

An Oregon Department of Justice program allows victims of human trafficking to apply for a substitute address for purposes of service related to all legal process in the state as a way to protect the confidentiality of the actual address of the victim. Or. Rev. Stat. Ann. § 192.822(1)–(2).

3. Or. Rev. Stat. Ann. § 181A.480 (2015) – Labor and Sex Trafficking Training for Police Officers and Certified Reserve Officers

The Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate, and report cases involving labor and sex trafficking of children and adults. Or. Rev. Stat. Ann. § 181A.480.

D. Significant Cases

1. *State v. Lewis*, 423 P.3d 129 (Or. Ct. App. 2018)

The defendant was arrested following a sting operation targeting individuals who would purchase sex with a minor. The defendant responded to an advertisement posted by an undercover police officer posing as “Sam” on a classified advertising website in the “adult section” entitled “Pure platonic fun-18.” The defendant responded to the advertisement and in a series of text messages discussed with Sam the amount of money he would bring, that he wanted “GFE” (referring to “girlfriend experience,” which the undercover officer understood to mean that “the girl is available to kiss and to provide oral sex without a condom”) and pictures, and agreed to bring Sam a condom and

a soft drink. In the course of the text messaging, Sam indicated that it was her fifteenth birthday. After asking Sam to confirm she was not a “cop,” the defendant proceeded to the agreed-upon location, where he was arrested. The jury convicted the defendant after trial. On appeal, the defendant argued that after he learned the child’s age, he merely passively acquiesced to engage in sexual contact with her rather than actively reached out to solicit sexual contact with her in violation of the statute prohibiting knowing use of online communications to solicit a child to engage in sexual contact.

The appellate court affirmed the conviction and held that, in context, the defendant’s text messages asking “Can I head over?” and “I’m good to come over now?” were requests to engage in sexual conduct that were solicitations within the meaning of the statute. The court further held that the fact that the initial plan to engage in sexual conduct had been made before the defendant knew Sam’s age did not prevent his subsequent requests to engage in sexual contact from constituting solicitation as defined by the statute.

2. *State v. Warren*, 422 P.3d 282 (Or. Ct. App. 2018)

The defendant was convicted of attempting to promote and compel prostitution based on online prostitution advertisements the trial court admitted into evidence. The defendant was in a relationship with a victim, who reported him to the police after he shot her in the leg for refusing to post online prostitution advertisements. When the police searched the defendant’s phone, they found phone numbers in his contacts that were connected to several online prostitution advertisements. The police also found a prostitution advertisement that was connected to the defendant’s phone number and found photographs that were similar to those in the advertisement. At trial, the defendant argued the advertisements contained inadmissible hearsay and that their admission as evidence violated his constitutional right to confront witnesses. However, the trial court admitted the advertisements into evidence based on the state’s argument that the advertisements were relevant, non-propensity (character) evidence, showing the defendant’s plan to promote prostitution.

On appeal, the court held the advertisements did not contain hearsay because they were considered verbal acts that were not offered for the truth of the matter asserted because the very act of posting an online advertisement offering sexual conduct for money, itself, carries legal significance, regardless of whether the statements in the advertisement are true. However, the appellate court found the trial court in fact erred in admitting the evidence as *non-propensity* (non-character) evidence of the defendant’s plan to promote and compel prostitution because they were offered to show that the advertisements were acts of prostitution and thus utilized as a way to connect the defendant to the offers of prostitution. The court held that the advertisements by themselves were not sufficient to show the defendant had a plan to promote prostitution to the particular victim in the case. At most, they merely showed that defendant associated with women who engaged in online acts of prostitution and thus amounted to propensity (character) evidence. Therefore, the trial court erred in admitting the advertisements for the non-propensity (non-character) purpose of showing the defendant’s plan to promote prostitution.

E. Academic Research/Papers

Jared R. Rayborn, *Regulated Prostitution as a Component in the Fight Against Human Trafficking in Oregon*, 50 WILLAMETTE L. REV. 115 (2013).

F. Resources

Human Trafficking in Oregon: A Report of the Oregon Advisory Committee to the U.S. Commission on Civil Rights (Feb. 2018):

<https://www.usccr.gov/pubs/2019/02-11-Human-Trafficking-Oregon.pdf>

Multnomah County Sex Trafficking Collaborative:

<https://sites.google.com/multco.us/trafficking/home>

National Human Trafficking Hotline (Oregon):

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

Oregon Department of Justice, Crime Victim and Survivor Services, Human Trafficking:

<https://www.doj.state.or.us/crime-victims/victims-resources/other-resources/exploitation-and-sex-trafficking/>

Oregon Department of Justice, Crime Victim and Survivor Services, Trafficking Response & Intervention Program:

<https://doj.state.or.us/crime-victims/victims-resources/victims-services/trafficking-intervention-program/>

Shared Hope International, Oregon Report Card (2019):

https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_OR.pdf

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

https://sharedhope.org/PICframe9/analysis/PIC_AR_2019_OR.pdf

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

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/oregon_profile_efforts_to_combat_human_trafficking.pdf

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