



# SOUTH CAROLINA

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. S.C. Code Ann. § 16-3-2020 (2018) – Trafficking in Persons

##### i. Summary

A person is guilty of the crime of trafficking in persons if the person:

- (1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection ...;
- (2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or
- (3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when [the person] knows that the other person is a victim of trafficking in persons.

S.C. Code Ann. § 16-3-2020(A).

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person in violation of one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person:

- (a) criminal sexual conduct pursuant to Section 16-3-651;
- (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
- (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
- (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
- (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
- (f) engaging a child for sexual performance pursuant to Section 16-3-810;
- (g) producing, directing or promoting sexual performance by a child pursuant to Section 16-3-820;

- (h) sexual battery pursuant to Section 16-3-651;
- (l) sexual conduct pursuant to Section 16-3-800; or
- (j) sexual performance pursuant to Section 16-3-800.

S.C. Code Ann. § 16-3-2010(7).

“A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.” S.C. Code Ann. § 16-3-2020(D).

Certain evidence is not a defense in a prosecution for trafficking in persons and does not preclude a finding of a violation:

- (1) the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;
- (2) the victim’s connection by blood or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;
- (3) the implied or express consent of a victim to acts which violate the provisions of this section ...;
- (4) age of consent to sex, legal age of marriage, or other discretionary age; and
- (5) mistake as to the victim’s age, even if the mistake is reasonable.

S.C. Code Ann. § 16-3-2020(l).

**ii. Sentencing**

A first offense for trafficking in persons is generally a felony punishable by up to 15 years of imprisonment, while subsequent convictions increase the maximum term of imprisonment. *See* S.C. Code Ann. § 16-3-2020(B). If the victim is under the age of 18, a first offense is a felony, and the defendant must be imprisoned not more than 30 years. Subsequent offenses increase the maximum term of imprisonment to 45 years. *See* S.C. Code Ann. § 16-3-2020(C).

A victim of trafficking or a surviving family member is also entitled to mandatory restitution from the offender. *See* S.C. Code Ann. § 16-3-2040.

**iii. Statute of Limitations**

There is no statute of limitations for a trafficking of persons prosecution.

**b. S.C. Code Ann. § 16-3-2020(F) (2018) – Affirmative Defense**

Trafficking victims have an affirmative defense that they were under duress or coerced into committing the offenses, if the offenses were committed as a direct result of, or incidental or related to, trafficking. S.C. Code Ann. § 16-3-2020(F).

**c. S.C. Code Ann. § 16-3-2020(G) – Immunity from Prosecution for Minor Victim**

If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted [for a trafficking] or a prostitution offense, if it is determined after investigation that the victim committed the offense as a direct result of, or incidental or related to, trafficking. S.C. Code Ann. § 16-3-2020(G).

**d. S.C. Code Ann. § 16-3-2020(F), (G) (2018) – Vacatur and Expungement**

A victim of trafficking in persons convicted of trafficking in persons or of prostitution may file a motion to vacate the conviction and expunge the record of the conviction. The court may grant the motion on a finding that the person's participation in the offense was a direct result of being a victim. See S.C. Code Ann. § 16-3-2020(F).

**e. S.C. Code Ann. § 16-3-2030 (2015) – Criminal Liability of Principal Owners of Business; Loss of Profits and Government Contracts**

The principal owners of a business, a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article [trafficking in persons] is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both. In addition, the court may consider disgorgement of profit from activity in violation of this article and disbarment from state and local government contracts.

S.C. Code Ann. § 16-3-2030(A).

If the principal owners of a business entity are convicted of violating a section of this article [trafficking in persons], the court or Secretary of State, when appropriate, may:

- (1) order [the entity's] dissolution or reorganization;
- (2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government agency; or
- (3) order the surrender of [the entity's] charter if it is organized under state law or the revocation of its certificate to conduct business in the state if it is not organized under state law.

S.C. Code Ann. § 16-3-2030(B).

**f. S.C. Code Ann. § 16-3-2090 (2012) – Forfeiture**

South Carolina has a specific forfeiture statute for trafficking in persons offenses. All monies used or intended for use in trafficking in persons, all property constituting the proceeds obtained directly or indirectly from trafficking in persons, and all property derived from the proceeds of trafficking in persons are subject to forfeiture. See S.C. Code Ann. § 16-3-2090. The victim and the South Carolina Victim Compensation Fund shall each receive one-fourth, and law enforcement shall receive one-half of the value of the forfeited property. See S.C. Code Ann. § 16-3-2090(B)(7)(b).

**g. S.C. Code Ann. § 16-3-2080 (2012) – Unlawful Disclosure of Trafficking Victim Location or Shelter**

A person who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the location of a trafficking victim, a trafficking shelter, a domestic violence shelter, or another place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter, or domestic violence shelter, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

S.C. Code Ann. § 16-3-2080(B).

It is unlawful for a person who has been charged with or convicted of a violation of Section 16-3-2020 [trafficking in persons] to enter or remain upon the grounds or structure of a domestic violence or trafficking shelter in which the victim resides or the domestic violence shelter’s administrative offices or the trafficking shelter’s administrative offices.

S.C. Code Ann. § 16-3-2080(C).

**h. S.C. Code Ann. §§ 16-8-210, et seq. (2007) – Criminal Gang Prevention Act**

South Carolina’s Criminal Gang Prevention Act, which criminalizes patterns of gang activity committed by five or more associates, includes trafficking in persons within its predicate acts. See S.C. Code Ann. § 16-8-230(4).

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

S.C. Code Ann. § 16-3-810 – Engaging Child for Sexual Performance; Penalty

S.C. Code Ann. § 16-3-820 – Producing, Directing or Promoting Sexual Performance by Child; Penalty

S.C. Code Ann. § 16-15-335 – Permitting Minor to Engage in Any Act Constituting Violation of This Article Prohibited; Penalties

S.C. Code Ann. § 16-15-342 – Criminal Solicitation of a Minor; Defenses; Penalties

S.C. Code Ann. § 16-15-387 – Employment of Person Under Eighteen to Appear in Public in State of Sexually Explicit Nudity; Mistake of Age, Penalties

S.C. Code Ann. § 16-15-395 – First Degree Sexual Exploitation of a Minor Defined; Presumptions; Defenses; Penalties

S.C. Code Ann. § 16-15-405 – Second Degree Sexual Exploitation of a Minor Defined; Presumptions; Defense; Penalties

S.C. Code Ann. § 16-15-410 – Third Degree Sexual Exploitation of a Minor Defined; Penalties; Exception

S.C. Code Ann. § 16-15-415 – Promoting Prostitution of a Minor Defined; Defenses; Penalties

S.C. Code Ann. § 16-15-425 – Participating in Prostitution of a Minor Defined; Defense; Penalties

**3. S.C. Code Ann. § 23-3-430 (2015) – Sex Offender Registry**

A person must register as a sex offender when convicted of trafficking in persons except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense. See S.C. Code Ann. § 23-3-430. Registration is required for, among other things, a violation of S.C. Code Ann. § 16-3-2020 (trafficking in persons) and any offense falling within title 16, chapter 15, article 3 (obscenity, material harmful to minors, child exploitation, and child prostitution) when a minor is involved, which includes S.C. Code Ann. § 16-15-425 (participating in prostitution of a minor) and § 16-15-342 (criminal solicitation of a minor). See S.C. Code Ann. § 23-3-430(A), (C)(13), (17).

In addition, it is unlawful for a sex offender convicted of crimes, including trafficking of a person under 18 years of age, except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense, to reside within 1,000 feet of a school, daycare center, children’s recreational facility, park, or public playground. See S.C. Code Ann. § 23-3-535(B).

## B. Civil Liability Statutes

### 1. S.C. Code Ann. § 16-3-2060 (2012) – Civil Lawsuits

#### a. Summary

A person who is a victim of trafficking in persons may bring a civil lawsuit in the court of common pleas. S.C. Code Ann. § 16-3-2060(A).

#### b. Damages and Other Relief

In a civil lawsuit, a plaintiff may be awarded actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A court also must award attorney's fees and costs to a prevailing plaintiff. If a defendant's acts were willful and malicious, the court must award three times the amount of actual damages. S.C. Code Ann. § 16-3-2060(A).

#### c. Statute of Limitations

The statute of limitations for a trafficking victim who has a claim:

against an incarcerated offender is tolled and does not expire until three years after the offender's sentence is completed, including probation and parole, or three years after release from commitment ..., whichever is later. [T]his provision does not shorten any other tolling period of the statute of limitations which may exist for the victim.

S.C. Code Ann. § 16-3-2060(B).

"The statute of limitations for the filing of a civil lawsuit does not begin to run until a minor victim has reached the age of majority." S.C. Code Ann. § 16-3-2060(C).

The statute of limitations is tolled during the time of a disability that makes it impossible or impractical for the victim to bring a lawsuit. "Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence." S.C. Code Ann. § 16-3-2060(D).

"The running of the statute of limitations may be suspended when a victim could not have reasonably discovered the [claim] due to circumstances resulting from the trafficking, such as psychological trauma, cultural and linguistic isolation, and the inability to access services." S.C. Code Ann. § 16-3-2060(E).

A defendant cannot assert a statute of limitations defense when the statute expired because the defendant induced the victim to delay the filing of the lawsuit or placed the victim under duress. S.C. Code Ann. § 16-3-2060(F).

## C. Additional Statutes Specific to Human Trafficking

### 1. S.C. Code §§ 41-10-10 *et seq.* (1994) – Payment of Wages

An aggrieved employee may bring a civil lawsuit to recover unpaid wages. A prevailing employee may recover an amount equal to three times the full amount of unpaid wages, plus reasonable attorney's fees and costs. A noncompliant employer may be subject to additional civil penalties. S.C. Code § 41-10-80.

More information is available at: <https://llr.sc.gov/wage/paymentofwages.aspx>.

**2. S.C. Code Ann. § 16-3-2050 (2015) – Interagency Task Force to Develop and Implement State Plan for Prevention of Trafficking in Persons**

The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force is also charged with collecting data, creating training and public awareness programs, and providing victims’ services.

**3. S.C. Code Ann. § 16-3-2070 (2012) – Compensation for Trafficking Victims; Identity of Victim and Victim’s Family Confidential**

Victims of trafficking in persons are considered victims for purposes of the Victims’ Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the South Carolina Victim Compensation Fund. South Carolina also requires the identity of the victim and the victim’s family to be kept confidential in criminal proceedings, including by the defendant.

**4. S.C. Code Ann. § 16-3-2100 (2015) – Posting of Information Regarding National Human Trafficking Resource Center Hotline**

A notice containing information about the National Human Trafficking Resource Center hotline and its phone number must be posted by: an establishment declared a nuisance for prostitution; an adult business, including a club, bar, or restaurant in which a person appears in a state of sexually explicit nudity or semi nudity; businesses and establishments that offer massage or bodywork by an unlicensed person; hospital emergency rooms; urgent care centers; a hotel, motel, or room for which fees are charged; all agricultural labor contractors and agricultural labor transporters; and all airports, train stations, bus stations, rest areas, and truck stops.

**D. Significant Cases**

No significant cases regarding South Carolina’s human trafficking statutes were found.

**E. Academic Research/Papers**

Caroline A. Ross, Note, *Land of the Free, Home of the Slave: Human Trafficking Legislation in South Carolina*, 68 S.C. L. REV. 1015 (2017).

**F. Resources**

Children’s Law Center, University of South Carolina School of Law, *An Overview of Sex Offenses Against Children and the South Carolina Criminal Justice System* (Sept. 2010):

[https://dc.statelibrary.sc.gov/bitstream/handle/10827/8483/CLC\\_An\\_Overview\\_of\\_Sex\\_Offenses\\_2010-9.pdf?sequence=1&isAllowed=y](https://dc.statelibrary.sc.gov/bitstream/handle/10827/8483/CLC_An_Overview_of_Sex_Offenses_2010-9.pdf?sequence=1&isAllowed=y)

National Human Trafficking Hotline (South Carolina):

<https://humantraffickinghotline.org/state/south-carolina>

Shared Hope International, South Carolina Report Card (2019):

[http://sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_SC.pdf](http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_SC.pdf)

Shared Hope International, South Carolina Analysis and Recommendations (2019):

[http://sharedhope.org/PICframe9/analysis/PIC\\_AR\\_2019\\_SC.pdf](http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_SC.pdf)

South Carolina Attorney General’s Office, Human Trafficking:

<http://www.scag.gov/human-trafficking>

U.S. Department of Health & Human Services, *South Carolina: Efforts to Combat Trafficking* (2017):  
[https://nhttac.acf.hhs.gov/sites/default/files/2019-06/south\\_carolina\\_profile\\_efforts\\_to\\_combat\\_human\\_trafficking.pdf](https://nhttac.acf.hhs.gov/sites/default/files/2019-06/south_carolina_profile_efforts_to_combat_human_trafficking.pdf)

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