



Current Tennessee Trafficking Laws

EFFECTIVE 2018:

- **SB 1656/HB 1849:** Makes the records of human trafficking service providers confidential unless the person to whom the records pertain consents to release of the records or a court orders release of the records. Senate amendment 1 (012123) adds language to the original bill to include human trafficking service providers in confidentiality provisions currently provided to domestic violence shelters, family safety centers, and rape crisis centers.

EFFECTIVE 2017:

- **PC 432:** Instructs a court to calculate the gross income or value to the defendant of an involuntary labor victim's labor or services using the reasonable market value of the labor or services provided by the victim.
- **PC 292:** Changes the definitions of child sexual abuse and severe child abuse to include the commission of Trafficking for a Commercial Sex Act.

- **PC 169: Increases classification of offense of patronizing prostitution from a Class B misdemeanor to a Class A misdemeanor.**

EFFECTIVE 2016:

- **HB 1693/ SB 2000 - AN ACT to amend Tennessee Code Annotated, Section 39-13-309, relative to the offense of human trafficking for a commercial sex act.**

EFFECTIVE 2015:

- **HB 268/SB 43 - The Human Trafficking Wiretap Bill. It adds certain offenses to the list of crimes eligible for the interception of communication for evidence.**
- **HB 275/ SB 16 - Gives TBI original jurisdiction for the crime of human trafficking.**
- **HB 580/ SB 1182 - Changes the Task Force to an Advisory Council and places it under the Tennessee Bureau of Investigation. It requires that the Council meet before each session and make recommendations for legislation.**
- **HB 1239/ SB 981 - Provides that a victim of a sexually orientated crime is entitled to a forensic medical examination without charge to the victim; establishes requirements for collection of evidence, testing and handling of such evidence; requires the domestic violence state coordinating council to create a model policy for law enforcement agencies responding to reports of sexually orientated crimes to establish written policies and procedures on responding to reports of.**
- **HB 754/ SB 1160 - Allows sex offenders convicted of aggravated prostitution to petition the sentencing court for termination of the registration requirements based on the person's status as a victim of human trafficking.**

- **HB 865/ SB 795 - Authorizes law enforcement to transfer a minor victim of human trafficking to a shelter care facility.**
- **HB 269/SB 373 - Increases the statute of limitations for promoting prostitution of a minor from 10 years after the victims 18th birthday to 25 years after he/she turns 18**

EFFECTIVE 2014:

- **HB 1995/ SB 1654 - Requires TBI to update the missing children web page to reflect that a child has been recovered.**
- **HB 2304/SB 1660 - Adds the offense of promoting prostitution or the knowing failure to protect a child from the commission of prostitution to the list of offenses constituting severe child abuse.**
- **HB 2241/SB 1748 - For the offense of promotion of prostitution the defendant cannot claim that the subject of the offense is a law enforcement officer or the victim is a consenting minor as a defense.**
- **HB 2326/SB 1815 - Makes prostitution punishable as trafficking. Increases penalty for patronizing a prostitute who is under 18 from a Class E felony to a Class A felony. Increases penalty for patronizing a prostitute with an intellectual disability from a Class E felony to a Class B felony. Prohibits certain defenses to prostitution.**
- **HB 2415/SB 2564- Requires patronizing prostitution (when the victim is a minor) to register as a sexual offender.**

EFFECTIVE 2013:

- **HB 129/SB 0466 - Expands the offense of solicitation of a minor to include trafficking or commercial sex acts, patronizing prostitution, promoting prostitution, aggravated sexual exploitation of a minor.**
- **HB 742/ SB 1027 - Allows victims of trafficking for commercial acts and patronizing prostitution who are under 13 years of age to testify outside the courtroom by closed circuit television in certain circumstances.**

- **HB 709/SB 1028 - The statute of limitations for prosecuting a person for trafficking a person for a commercial sex act.**
- **HB 416/SB 1029 - Rewrites the bill to add to the definition of criminal gang offenses as amended by SB202/HB196 the commission or attempted commission, facilitation of, solicitation of, conspiracy to commit the offense of trafficking for commercial sex acts.**
- **HB 521/SB 1030 - Disallows the minor's consent to the offense as a defense in sexual exploitation of a minor by electronic means, sexual exploitation of a minor, aggravated sexual exploitation of a minor and especially aggravated sexual exploitation of a minor.**
- **HB 920/SB 1031 - Removes the defense that the person was ignorant or mistaken as to the age of the minor in prosecutions for prostitution involving a minor and sexual solicitation of a minor. Creates an exception to the application of the subsection that defines the offense of soliciting sexual exploitation of a minor and exploitation of a minor by electronic means by a person over the age of 18 when the victim is at least 15 but less than 18 and the defendant is no more than 4 years older than the victim. This exception doesn't apply if the defendant intentionally commanded, hired, induced or caused the victim to violate this subsection.**
- **HB 520/SB 1032 - Increases the offense of promoting prostitution of a minor from a Class E felony to a Class B felony or a Class A felony if the victim of the offense is less than 15 years of age.**
- **HB 520/SB 1033 - Revises the prohibition and penalty provisions of this bill to make is a Class D felony offense for any person to promote travel for prostitution by selling or offering to sell travel services that the prostitution if occurring in this state.**
- **HB 128/SB 1035 - Requires defendant to pay restitution to the victim for the offenses of patronizing prostitution, trafficking for commercial sex acts, solicitation of a minor for sexual purposes, and enlisting or paying a minor to engage in child pornography.**
- **HB 358/SB 1038 - Expands the definition of "racketeering activity" as organized crime to include trafficking for commercial sex acts, promoting or patronizing prostitution, soliciting sexual exploitation of a minor, and exploitation of a minor by electronic means. Expands the meaning of "unlawful debt" as organized crime to include debt incurred from trafficking for commercial sex acts, promoting or**

patronizing prostitution, solicitation of a minor, or exploitation of a minor by electronic means.

- **HB 919/SB 1036 - created TCA 4-3-3001-3005: Created the Human Trafficking Task Force**

EFFECTIVE 2012:

- **HB 2488/SB 2368 - Penalty enhanced for involuntary labor of minors.**
- **HB 2489/SB 2369 - Civil right of action for victims of human trafficking.**
- **HB 2492/SB 2370 - Development of plan to assist victims of human trafficking.**
- **HB 2493 /SB 2371 - Trafficking in commercial sex acts—offense created.**
- **HB 2823/SB 2590 - Gives victims of human trafficking a defense in prostitution cases.**
- **HB 2853/SB 2997 - Promoting prostitution added to the Sex Offender Registry.**

EFFECTIVE 2011:

- **HB 35/SB 64 - Individuals arrested for prostitution are immune from prosecution if they are under 18. A person who patronizes prostitution from someone who is under 18 or has an intellectual disability commits a Class E felony.**
- **HB 488/SB 575 - Allows seizure of real and personal property in human trafficking offenses. Sets out disposition of proceeds.**
- **HB 172/SB 605 - Creates the TN Human Trafficking Hotline to be administered by TBI.**

Current Federal Trafficking Laws

Trafficking Victims Protection Act of 2000

The **Trafficking Victims Protection Act (TVPA)** of 2000 is the cornerstone of Federal human trafficking legislation, and established several methods of prosecuting traffickers, preventing human trafficking, and protecting victims and survivors of trafficking. The act establishes human trafficking and related offenses as federal crimes, and attaches severe penalties to them. It also mandates restitution be paid to victims of human trafficking. It further works to prevent trafficking by establishing the Office to Monitor and Combat Trafficking in Persons, which is required to publish a the Trafficking In Persons (TIP) report each year. The TIP report describes and ranks the efforts of countries to combat human trafficking. The act also established the Interagency Task Force to Monitor and Combat Trafficking, which assists in the implementation of the TVPA. The TVPA protects victims and survivors of human trafficking by establishing the T visa, which allows victims of human trafficking, and their families to become temporary U.S. residents and eligible to become permanent residents after three years.

Trafficking Victims Protection Reauthorization Act of 2003

The **Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA of 2003)** established a federal, civil right of action for trafficking victims to sue their traffickers. It also added human trafficking to the list of crimes that can be charged under the Racketeering Influenced Corrupt Organizations (RICO) statute. It also included additional provisions for protection of victims and their families from deportation, and a requirement that the Attorney General report to Congress annually on the activities of the U.S. government in the fight against trafficking.

Trafficking Victims Protection Reauthorization Act of 2005

The **Trafficking Victims Protection Reauthorization Act of 2005** (TVPRA of 2005) included a pilot program for sheltering minors who are survivors of human trafficking, and grant programs to assist state and local law enforcement combat trafficking. It also expanded measures to combat trafficking internationally, including provisions to fight sex tourism, a \$5 million pilot program for treatment of trafficking victims abroad, and a strengthening of the regulation over government contracts to ensure they are not made with individuals or organizations that promote or engage in human trafficking.

Trafficking Victims Protection Reauthorization Act of 2008

The **Trafficking Victims Protection Reauthorization Act of 2008** (TVPRA of 2008) included several new prevention strategies, including requirements that the government provide information about workers' rights to all people applying for work and education-based visas. It also put in place new systems to gather and report human trafficking data. In addition to the prevention strategies, the 2008 reauthorization expanded the protections available with the T visa, and required that all unaccompanied alien children be screened as potential victims of human trafficking. This reauthorization also enhanced criminal sanctions against traffickers, and expanded definitions of various types of trafficking to make prosecution easier.

Trafficking Victims Protection Reauthorization Act of 2013

The **Trafficking Victims Protection Reauthorization Act of 2013** (TVPRA 2013), which was passed as an amendment to the Violence Against Women Act, establishes and strengthens programs to ensure that U.S. citizens do not purchase products made by victims of human trafficking, and to prevent child marriage. It also puts into place emergency response provisions within the State Department to respond quickly to disaster areas and crises where people are particularly susceptible to being

trafficked. The reauthorization also strengthens collaboration with state and local law enforcement to ease charging and prosecuting traffickers.

The Tariff Act of 1930

The **Tariff Act of 1930** prohibits importing goods made with forced or indentured labor.

The Customs and Facilitations and Trade Enforcement Act (2009)

The **Customs and Facilitations and Trade Enforcement Act** amended the prohibition on importing goods made with slave or indentured labor to include goods that made through the use of coercion or goods made by victims of human trafficking.

The Racketeering Influenced Corrupt Organizations Act (RICO)

RICO was created to be a tool for the federal government to more effectively prosecute members of organized crime for racketeering offenses. Federal human trafficking offenses are included as racketeering offenses, thus giving law enforcement a powerful tool when prosecuting traffickers.

The Mann Act

The **Mann Act of 1910**, (18 U.S.C. § 2421-2424) as amended in 1978 and again in 1986, criminalizes the transportation of minors, and the coercion of adults to travel across state lines or to foreign countries, for the purposes of engaging commercial sex. Both crimes are punishable with up to twenty years in prison, with enhanced punishment options for the transportation of a minor.

The PROTECT Act

The **Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today**(PROTECT) Act of 2003, established enhanced penalties for individuals engaging in sex tourism with children, both within the United States and in other countries; The Amber Alert System and other methods of alerting the public to missing, exploited, and abducted children; and grants for transitional housing for child victims of sexual assault.

National Defense Authorization Act of 2013

Sections 1701-1708 of the **National Defense Authorization Act** seeks limit human trafficking associated with government contractors. These sections give governmental agencies the ability to terminate, without penalty, any contract or grant with any organization or individual that engages in human trafficking. It also requires that all grants and contracts worth more than \$500,000, have a written certification that no party in the transaction will engage in or support human trafficking practices. It also establishes methods of reporting and investigating possible instances of human trafficking associated with government contracts and grants.

Polaris Project, 2014

(**<http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/current-federal-laws>**)

NEWEST LEGISLATION, effective 2014

HR4980 - Became Public Law No. 113-183 on 9/29/14

**Preventing Sex Trafficking and Strengthening Families Act - Title I:
Protecting Children and Youth At Risk of Sex Trafficking - Subtitle A:**

Identifying and Protecting Children and Youth at Risk of Sex Trafficking - (Sec. 101) Amends part E (Foster Care and Adoption Assistance) of title IV (Temporary Assistance for Needy Families) (TANF) of the Social Security Act (SSA) to require the state plan for foster care and adoption assistance to demonstrate that the state agency has developed policies and procedures for identifying, documenting in agency records, and determining appropriate services with respect to, any child or youth over whom the state agency has responsibility for placement, care, or supervision who the state has reasonable cause to believe is, or is at risk of being, a victim of sex trafficking or a severe form of trafficking in persons.

Authorizes a state, at its option, to identify and document any individual under age 26 without regard to whether the individual is or was in foster care under state responsibility.

(Sec. 102) Adds as a state plan requirement the reporting to law enforcement authorities of instances of sex trafficking.

(Sec. 103) Includes sex trafficking data in the adoption and foster care analysis and reporting system (AFCARS).

(Sec. 104) Adds also as a state plan requirement the locating of and responding to children who have run away from foster care.

Directs the state agency to report immediately information on missing or abducted children or youth to law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI) and to the National Center for Missing and Exploited Children.

(Sec. 105) Directs the Secretary of Health and Human Services (HHS) to report to Congress on information about: (1) children who run away from foster care and their risk of becoming sex trafficking victims, (2) state efforts to provide specialized services, foster family homes, child care

institutions, or other forms of placement for children who are sex trafficking victims; and (3) state efforts to ensure children in foster care form and maintain long-lasting connections to caring adults, even when a child in foster care must move to another foster family home or when the child is placed under the supervision of a new caseworker.

Subtitle B: Improving Opportunities for Children in Foster Care and Supporting Permanency - (Sec. 111) Requires the designated state authority or authorities to: (1) develop a reasonable and prudent parent standard for the child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities; and (2) apply this standard to any foster family home or child care institution receiving funds under title IV part E.

Directs the Secretary to provide assistance to states on best practices for devising strategies to assist foster parents in applying a reasonable and prudent parent standard in a manner that protects child safety, while also allowing children to experience normal and beneficial activities.

Requires that standards for child care institutions require, as a condition of any contract between an institution and the state agency, the presence on-site of at least one official designated as caregiver for a particular child who is authorized and trained to apply the reasonable and prudent parent standard to decisions involving the child's participation in age- or developmentally-appropriate activities.

Requires that such standards also include policies related to the liability of foster parents and private entities under state contract involving application of the reasonable and prudent parent standard to a child's participation in these activities.

Makes it a purpose of the John H. Chafee Foster Care Independence Program to ensure that children who are likely to remain in foster care until age 18 have regular, ongoing opportunities to engage in age or

developmentally-appropriate activities. Authorizes increased appropriations for the program beginning in FY2020.

(Sec. 112) Limits to children age 16 or older the option, in an initial permanency hearing, of being placed in a planned permanent living arrangement other than a return to home, referral for termination of parental rights, or placement for adoption, with a fit and willing relative (including an adult sibling), or with a legal guardian. Prescribes documentation and determination requirements for such an option.

Prescribes requirements for approval of the case plan and the case system review procedure for any child for whom another planned permanent living arrangement is the permanency plan determined for the child. Specifies as requirements at each permanency hearing: (1) documentation of intensive, ongoing, unsuccessful efforts for family placement; (2) redetermination of the appropriateness of the child's permanent placement or, if more appropriate, another planned permanent living arrangement; and (3) demonstration of state agency support for the child's engaging in age or developmentally-appropriate activities and social events.

(Sec. 113) Gives children age 14 and older authority to participate in: (1) the development of their own case plans, in consultation with up to two members of the case planning team; as well as (2) transitional planning for a successful adulthood. Specifies additional requirements for a case plan, including specification of a child's rights with respect to education, health, visitation, and court participation, the right to be provided with certain documents (indicated in Sec. 114), and the right to stay safe and avoid exploitation.

(Sec. 114) Requires the case review system to assure that foster children leaving foster care because of having attained age 18 (or a greater age the state has elected), unless in foster care less than six months, are not discharged without being provided with a copy of their birth certificate, Social Security card, health insurance information, copy of medical

records, and a driver's license or equivalent state-issued identification card.

(Sec. 115) Requires the Secretary to include in the annual report to Congress on state performance on child protection and child welfare program outcome measures any state-by-state data on children in foster care who have been placed in a child care institution or another setting that is not a foster family home, as well as state-by-state data on children in foster care who are pregnant or parenting.

Subtitle C: National Advisory Committee - (Sec. 121) Amends SSA title XI to establish the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States to advise the Secretary and the Attorney General on practical and general policies concerning improvements to the nation's response to the sex trafficking of children and youth in the United States.

Title II: Improving Adoption Incentives and Extending Family Connection Grants - Subtitle A: Improving Adoption Incentive Payments - (Sec. 201) Amends SSA title IV part E to extend through FY2016 the adoption incentive program.

Revises state eligibility requirements to repeal the requirement based on the number of foster child adoptions during the fiscal year.

Revises the formula for determining the amount of an incentive award to a state, increasing the basic dollar amounts.

Repeals the formula for an increased incentive payment to a state for exceeding its highest ever foster child adoption rate. Replaces it with requirements for an increased incentive payment during FY2013-FY2015 for each timely adoption state determined by the average number of 24

months or fewer between removal of children from their foster care homes to their placement in finalized adoptions.

Prescribes base rates for:

- **foster child adoptions,**
- **pre-adolescent child adoptions and pre-adolescent foster child guardianships,**
- **older child adoptions and older foster child guardianships, and**
- **foster child guardianships.**

(Sec. 203) Renames the adoption incentive program as the adoption and legal guardianship incentive payments program.

(Sec. 204) Requires a state to use its incentive payment to supplement, but not supplant, any federal or non-federal funds used to provide specified child and family services (including post-adoption services) or foster care and adoption assistance.

(Sec. 205) Increases from 24 to 36 months the period for which incentive payments are available for expenditure.

(Sec. 206) Requires states to report annually to the Secretary on the calculation and use of savings resulting from the phase-out of eligibility requirements for adoption assistance. Requires a state to spend at least 30% of specified savings on post-adoption services, post guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the state, with at least 66% of the spending to comply with such 30% requirement.

(Sec. 207) Preserves the eligibility of a child for kinship guardianship assistance payments when a guardian is replaced with a successor guardian.

(Sec. 208) Directs the Secretary to promulgate regulations providing for the collection and analysis of information regarding children who enter into foster care under the supervision of a state after prior finalization of an adoption or legal guardianship.

(Sec. 209) Requires notification of parents of a sibling, where the parent has legal custody of the sibling, when a child is removed from parental custody.

**Subtitle B: Extending the Family Connection Grant Program - (Sec. 221)
Extends the family connection grant program through FY2014.**

Makes universities eligible for matching grants under the program.

Requires a kinship navigator to promote partnerships between public and private agencies to increase their knowledge of the needs of other individuals willing and able to be foster parents for children in foster care under state responsibility who are themselves parents in order to promote better services for those families.

Repeals the mandatory reservation of \$5 million per fiscal year for grants to implement kinship navigator programs.

Title III: Improving International Child Support Recovery - (Sec. 301) Amends SSA title IV part D (Child Support and Establishment of Paternity) to direct the Secretary to use the authorities otherwise provided by law to ensure U.S. compliance with any multilateral child support convention to which the United States is a party.

Grants the entity designated as a Central Authority for child support enforcement in a foreign reciprocating country or a foreign treaty country access to the Federal Parent Locator Service (FPLS).

Grants states the option to require individuals in a foreign country to apply through their country's appropriate Central Authority for child support enforcement services in a foreign reciprocating or foreign treaty country.

Allows the collection of past due support from federal tax refunds for state services for establishment of paternity and child support enforcement requested by a foreign reciprocating country or a foreign country with which the state has an arrangement.

Revises state law requirements involving the use of the Uniform Interstate Family Support Act.

(Sec. 302) Grants Indian tribes access to FPLS.

Treats an Indian tribe or tribal organization operating a child support enforcement program to be a state with authority to conduct specified kinds of experimental, pilot, or demonstration projects to assist in promoting child support objectives. Allows waiver of certain requirements in order to carry out such projects.

(Sec. 303) Expresses the sense of the Congress that: (1) establishing parenting time arrangements when obtaining child support orders is an important goal which should be accompanied by strong family violence safeguards, and (2) states should use existing funding sources to support the establishment of parenting time arrangements.

(Sec. 304) Prescribes requirements for data exchange standards for improved interoperability.

(Sec. 305) Directs the Secretary, in conjunction with the strategic plan, to review and provide recommendations for cost-effective improvements to the child support enforcement program, and ensure that the plan addresses the effectiveness and performance of the program, analyzes program practices, identifies possible new collection tools and approaches, and identifies strategies for holding parents accountable.

Directs the Secretary to report to Congress on policy options for improvements in child support enforcement.

(Sec. 306) Amends part D (Child Support and Establishment of Paternity) of SSA title IV to give the employer the option of using electronic transmission methods prescribed by the Secretary for income withholding in the collection and disbursement of child support payments.

Title IV: Budgetary Effects - (Sec. 401) Requires that the budgetary effects of this Act, for purposes of complying with the Statutory Pay-As-You-Go Act of 2010, be determined by appropriate reference to "Budgetary Effects of PAYGO Legislation."

- **Congress.gov, 2014**
(<https://www.congress.gov/bill/113th-congress/house-bill/4980>)