

RCW 9A.40.100 Trafficking. (1) A person is guilty of trafficking in the first degree when such person recruits, entices, harbors, transports, isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person and:

(a)(i) Knows, or acts in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

(ii) Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) or (ii) of this subsection; provided, that it is not a defense that such person did not know, or recklessly disregarded the fact, that the other person was under 18 years of age or believed the other person was older, as the case may be; and

(b) The acts or venture set forth in (a)(i) or (ii) of this subsection:

(i) Involve such person committing or attempting to commit kidnapping;

(ii) Involve a finding of sexual motivation;

(iii) Involve the illegal harvesting or sale of human organs; or

(iv) Result in a death.

(2) Trafficking in the first degree is a class A felony.

(3) A person is guilty of trafficking in the second degree when such person recruits, entices, harbors, transports, isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person and:

(a) Knows, or acts in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

(b) Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a) or (b) of this subsection; provided, that it is not a defense that such person did not know, or recklessly disregarded the fact, that the other person was under 18 years of age or believed the other person was older, as the case may be.

(4) Trafficking in the second degree is a class A felony.

(5) If the victim of any offense identified in this section is a minor, then force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.

(6) For purposes of this section:

(a) "Coercion" includes, but is not limited to, the following circumstances:

(i) Using or threatening to use physical force against any person;

(ii) Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against their will;

(iii) Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, constituting debt bondage, if the value of the labor or services are pledged as a security for the debt, the value of the labor or

services as reasonably assessed is not applied toward the liquidation of the debt, or the length and nature of the labor or services are not respectively limited and defined;

(iv) Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

(v) Causing or threatening to cause financial harm to any person;

(vi) Enticing or luring any person by fraud or deceit;

(vii) Providing or withholding any drug, alcohol, controlled substance, property, or necessities of life including money, food, lodging, or anything else of value that belongs to or was promised to another person knowing that this other person will be caused to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act;

(viii) Accusing any person of a crime or causing criminal charges to be instituted against any person;

(ix) Exposing a secret or publicizing an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule;

(x) Testifying or providing information, or withholding testimony or information, with respect to another's legal claim or defense;

(xi) Taking wrongful action as an official against anyone or anything, or wrongfully withholding official action, or causing such action or withholding;

(xii) Committing any other act which is intended to harm substantially the person threatened or another with respect to his or her health, safety, business, financial condition, or personal relationships; or

(xiii) Holding or returning a person to a condition of involuntary servitude, debt bondage, or forced labor, with the intent of placing them in or returning them to a condition of involuntary servitude, debt bondage, or forced labor, where such condition is based on the alleged, implied, or actual inheritance of another's debt, constituting peonage.

(b) "Commercial sex act" means any act of sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, for which something of value is given or received by any person.

(c) "Kidnapping" means intentionally abducting another person.

(d) "Maintain" means, in relation to forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such labor, servitude, or act.

(e) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(f) "Sexually explicit act" means a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons for which something of value is given or received.

(7) A person who is convicted, enters into a plea agreement to a reduced or different charge, is given a deferred sentence or a deferred prosecution, or enters into a statutory or nonstatutory diversion agreement as a result of an arrest for a violation of a trafficking crime shall be assessed a \$10,000 fee. The court shall not reduce, waive, or suspend payment of all or part of the fee assessed

in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(8)(a) Fees assessed under this section shall be collected by the clerk of the court and remitted as follows:

(i) 45 percent to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town, and which must be spent on services for victims of trafficking crimes in that jurisdiction;

(ii) 45 percent to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town, and which must be spent on: (A) Local efforts to reduce the commercial sale of sex, including but not limited to increasing enforcement of commercial sex laws; (B) prevention, including education programs for offenders, such as programs to educate and divert persons from soliciting commercial sexual services; and (C) rehabilitative services, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling; and

(iii) 10 percent must be retained by the clerks of the courts for their official services.

(b) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220. [2024 c 298 s 1; 2017 c 126 s 1; 2014 c 188 s 1; 2013 c 302 s 6. Prior: 2012 c 144 s 2; 2012 c 134 s 1; 2011 c 111 s 1; 2003 c 267 s 1.]

Effective date—2024 c 298: "This act takes effect July 1, 2025."
[2024 c 298 s 23.]

Effective date—2013 c 302: See note following RCW 9.68A.090.