**IC 35-42-3.5**

**Chapter 3.5. Human and Sexual Trafficking**

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**IC 35-42-3.5-0.5Definitions**

     Sec. 0.5. (a) The following definitions apply throughout this chapter:

(1) "Human trafficking" means an offense described in sections 1 through 1.4 of this chapter.

(2) "Human trafficking victim" means a person who is the victim of human trafficking.

(3) "Sexual conduct" has the meaning set forth in [IC 35-42-4-4](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-42-4-4).

     (b) As used in this chapter, "force", "threat of force", "coercion", or "fraud" means but is not limited to a person:

(1) causing or threatening to cause physical harm to a human trafficking victim;

(2) physically restraining or threatening to physically restrain a human trafficking victim;

(3) abusing or threatening to abuse the law or legal process to further the act of human trafficking;

(4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of the human trafficking victim;

(5) using blackmail or threatening to cause financial harm for the purpose of exercising financial control over the human trafficking victim; or

(6) facilitating or controlling a human trafficking victim's access to a controlled substance.

*As added by P.L.144-2018, SEC.19.*

**IC 35-42-3.5-1Promotion of human labor trafficking**

     Sec. 1. A person who, by force, threat of force, coercion, or fraud, knowingly or intentionally recruits, harbors, provides, obtains, or transports an individual to engage the individual in labor or services commits promotion of human labor trafficking, a Level 4 felony.

*As added by P.L.173-2006, SEC.52. Amended by P.L.1-2012, SEC.4; P.L.72-2012, SEC.3; P.L.55-2013, SEC.1; P.L.158-2013, SEC.436; P.L.168-2014, SEC.66; P.L.13-2016, SEC.14; P.L.86-2017, SEC.13; P.L.144-2018, SEC.20.*

**IC 35-42-3.5-1.1Promotion of human sexual trafficking**

     Sec. 1.1. A person who knowingly or intentionally uses force, threat of force, coercion, or fraud to recruit, entice, harbor, or transport an individual with the intent of causing the individual to:

(1) marry another person;

(2) engage in prostitution; or

(3) participate in sexual conduct;

commits promotion of human sexual trafficking, a Level 4 felony.

*As added by P.L.144-2018, SEC.21.*

**IC 35-42-3.5-1.2Promotion of child sexual trafficking; promotion of sexual trafficking of a younger child**

     Sec. 1.2. (a) A person who knowingly or intentionally recruits, entices, harbors, or transports a child less than eighteen (18) years of age with the intent of causing the child to engage in:

(1) prostitution or juvenile prostitution; or

(2) a performance or incident that includes sexual conduct in violation of [IC 35-42-4-4](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-42-4-4)(b) or [IC 35-42-4-4](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-42-4-4)(c) (child exploitation);

commits promotion of child sexual trafficking, a Level 3 felony.

     (b) It is not a defense to a prosecution under this section that the:

(1) child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct; or

(2) intended victim of the offense is a law enforcement officer.

     (c) A person who knowingly or intentionally recruits, entices, harbors, or transports a child less than sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct commits promotion of sexual trafficking of a younger child, a Level 3 felony. It is a defense to a prosecution under this subsection if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or

(2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in [IC 16-42-19-2](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#16-42-19-2)(1)) or a controlled substance (as defined in [IC 35-48-1-9](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-48-1-9)) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in [IC 11-8-8-5.2](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#11-8-8-5.2)), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

(E) The person is not promoting prostitution (as defined in [IC 35-45-4-4](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-45-4-4)) with respect to the victim even though the person has not been charged with or convicted of the offense.

*As added by P.L.144-2018, SEC.22.*

**IC 35-42-3.5-1.3Child sexual trafficking**

     Sec. 1.3. A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct commits child sexual trafficking, a Level 2 felony.

*As added by P.L.144-2018, SEC.23.*

**IC 35-42-3.5-1.4Human trafficking**

     Sec. 1.4. A person who knowingly or intentionally pays to, offers to pay to, agrees to pay money or other property to, or benefits in some other manner another person for a human trafficking victim or an act performed by a human trafficking victim commits human trafficking, a Level 5 felony.

*As added by P.L.144-2018, SEC.24.*

**IC 35-42-3.5-2Restitution orders**

     Sec. 2. In addition to any sentence or fine imposed for a conviction of an offense under sections 1 through 1.4 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under [IC 35-50-5-3](http://iga.in.gov/legislative/laws/2019/ic/titles/035/#35-50-5-3).

*As added by P.L.173-2006, SEC.52. Amended by P.L.144-2018, SEC.25.*

**IC 35-42-3.5-3Civil cause of action**

     Sec. 3. (a) If a person is convicted of an offense under sections 1 through 1.4 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs (including fees).

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

     (b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under sections 1 through 1.4 of this chapter.

*As added by P.L.173-2006, SEC.52. Amended by P.L.106-2010, SEC.15; P.L.144-2018, SEC.26.*

**IC 35-42-3.5-4Rights of alleged victims**

     Sec. 4. (a) An alleged victim of an offense under sections 1 through 1.4 of this chapter:

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

     (b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under sections 1 through 1.4 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

     (c) If a law enforcement agency detains an alleged victim of an offense under sections 1 through 1.4 of this chapter who is less than eighteen (18) years of age, the law enforcement agency shall immediately notify the department of child services that the alleged victim:

(1) has been detained; and

(2) may be a victim of child abuse or neglect.

*As added by P.L.173-2006, SEC.52. Amended by P.L.130-2009, SEC.27; P.L.23-2015, SEC.3; P.L.144-2018, SEC.27.*