WEST VIRGINIA CODE: §61-14-1

§61-14-1. Definitions.

When used in this article, the following words and terms shall have the meaning specified unless the context clearly indicates a different meaning:

(1) "Adult" means an individual 18 years of age or older.

(2) "Coercion" means:

(A) The use or threat of force against, abduction of, serious harm to, or physical restraint of an individual;

(B) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, physical restraint of, or deportation of an individual;

(C) The abuse or threatened abuse of law or legal process;

(D) The destruction or taking of, or the threatened destruction or taking of, an individual’s identification document or other property; or

(E) The use of an individual’s physical or mental impairment when the impairment has a substantial adverse effect on the individual’s cognitive or volitional function.

As used in this article, "coercion" does not include statements or actions made by a duly authorized state or federal law-enforcement officer as part of a lawful law-enforcement investigation or undercover action, nor does it include the physical restraint of a minor, or the threat of physical restraint by the minor’s parent, legal guardian, or legal custodian, when lawfully conducted for any otherwise lawful purpose.

(3) "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) "Debt bondage" means inducing an individual to provide:

(A) Commercial sexual activity, in payment toward or satisfaction of a real or purported debt; or

(B) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

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(ii) The length of the labor or services is not limited, and the nature of the labor or services is not defined.

(5) "Forced labor" means labor or services that are performed or provided by another person and are obtained or maintained through the following:

(A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer serious bodily harm, physical restraint, or deportation;

(B) Physically restraining or threatening to physically restrain a person;

(C) Abuse or threatened abuse of the legal process; or

(D) 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 another person: *Provided*, That "forced labor" does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

As applied in this article, forced labor shall not include labor, work, or services provided by a minor to the minor's parent, legal custodian, or legal guardian, so long as the legal guardianship or custody of the minor was not obtained for the purpose of compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services; nor may it include physical restraint of a minor, or the threat of physical restraint to a minor, by his or her parents, legal custodian, or legal guardian if conducted for any otherwise lawful purpose.

“(6)(A) "Human Smuggling", "smuggling", or "smuggles" means knowingly and willfully transporting, transferring, receiving, isolating, enticing, or harboring an illegal alien for the purposes of avoiding enforcement of the laws of this state, another state, or the United States.

(B) The term “human smuggling” under this article does not apply to:

(i) The voluntary transportation of an illegal alien by an immediate family member;

(ii) Any person acting within the scope of employment, or hired or contracted, by the federal government or another state, who is acting in a manner consistent with the laws of this state and the United States, and who is transporting an illegal alien through this state; or

(iii) Any person acting within the scope of his or her lawful employment or fulfilling a lawful contractual duty who is providing advocacy and shelter services required by 28 C.F.R. 90.4(c), 28 C.F.R. § 94.103(a), 28 C.F.R. § 94.116, and 45 C.F.R. 1370.2: *Provided*, That the person is not knowingly and willfully attempting to evade enforcement of the laws of this

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state, another state, or the United States.

(C) Any illegal alien being transported through this state shall not be transported to this state for permanent placement.”

(7) "Human trafficking", "trafficking", or "traffics" means knowingly recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, or enticing an individual to engage in debt bondage, forced labor, or sexual servitude.

(8) "Identification document" means a passport, driver’s license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(9) “Illegal alien" means any individual who has entered the United States without authorization and is subject to removal if apprehended, an individual who was lawfully admitted into the United States but has since violated the terms of admission, or an individual who is otherwise unlawfully present in the United States as provided under federal immigration law.

(10) “Immediate family member” means a person’s spouse, parent or step-parent, child, stepchild, or adopted child, grandparent or step-grandparent, grandchild or step-grandchild, sibling, including step-siblings and adopted siblings. The terms “step” and “adopted” include persons related by marriage or legal adoption in the same manner as those related by blood.

(11) "Labor or services" means activity having economic value.

(12) "Minor" means a person younger than 18 years of age or a person representing himself or herself to be a minor. Any prosecution, pursuant to this article, relating to a person that is representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law-enforcement officers.

(13) "Patronize" means giving, agreeing to give, or offering to give anything of value to another person in exchange for commercial sexual activity.

(14) "Person" means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation or government or governmental subdivision, agency, or instrumentality.

(15) "Serious harm" means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(16) "Sexual activity" means sexual contact, sexual intercourse, or sexual intrusion as defined in §61-8b-1 of this code, or sexually explicit conduct as defined in §61-8-1 of this code.

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(17) "Sexual servitude" means:

(A) Maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity; or

(B) Using coercion to compel an adult to engage in commercial sexual activity.

(18) "Victim" means an individual who is subjected to human trafficking, regardless of whether a perpetrator is prosecuted or convicted.

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