



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

FACT SHEET FOR H.B. 2116

human trafficking; civil action; liability

Purpose

Creates a civil cause of action for specified conduct related to human trafficking.

Background

A person *unlawfully obtains labor or services* by knowingly obtaining the labor or services of another person by: 1) causing or threatening to cause bodily injury to that person or another person; 2) restraining or threatening to restrain that person or another person without lawful authority and against that person's will; or 3) withholding that person's governmental records, identifying information or other personal property. Unlawfully obtaining labor or services is a class 4 felony ([A.R.S. § 13-1306](#)).

A person commits *sex trafficking* by knowingly trafficking another person who is 18 years old or older with: 1) the intent to cause the other person to engage in any prostitution or sexually explicit performance by deception, force or coercion; or 2) the knowledge that the other person will engage in any prostitution or sexually explicit performance by deception, coercion or force. Sex trafficking is a class 2 felony ([A.R.S. § 13-1307](#)).

A person commits *trafficking a person for forced labor or services* by: 1) knowingly trafficking another person with the intent to or knowledge that the other person will be subject to forced labor or services; or 2) knowingly benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in specified criminal acts. Trafficking a person for forced labor or services is a class 2 felony ([A.R.S. § 13-1308](#)).

Person is defined in the criminal code as a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property ([A.R.S. § 13-105](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Deems a person who engages in the trafficking of a person, or who intentionally or knowingly benefits from participation in a venture that traffics another person, as civilly liable to the person trafficked.

FACT SHEET

H.B. 2116

Page 2

2. Provides that it is not a defense to civil liability for trafficking if the person:
 - a) was acquitted or has not been prosecuted for or convicted of an offense in the Arizona Criminal Code; or
 - b) has been convicted of a different offense, or of a different type or class of offense.
3. Subjects corporations, associations and partnerships to liability.
4. Treats a shareholder, member or partner of an entity that is found responsible for trafficking as jointly and severally liable with the entity if the person demonstrates that the shareholder, member or partner caused the entity to be used to traffic that person for the shareholder's, member's or partner's direct personal benefit.
5. Requires a prevailing claimant to be awarded:
 - a) actual damages, including damages for mental anguish, regardless if any other injury is shown;
 - b) court costs; and
 - c) reasonable attorney fees.
6. Allows a prevailing claimant to be awarded exemplary damages.
7. Subjects a person who engages in trafficking another person, or who intentionally or knowingly benefits from participating in a venture that traffics another person, and is found liable for any amount of damages arising from the trafficking, to joint liability with any other person found to be liable for the entire amount of damages arising from the trafficking.
8. Defines *trafficking of a person* or *traffics another person* as conduct that constitutes the offense of:
 - a) unlawfully obtaining labor or services;
 - b) sex trafficking;
 - c) trafficking a person for forced labor or services;
 - d) taking a child for purpose of prostitution; or
 - e) child sex trafficking.
9. Defines *person* as a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.
10. Becomes effective on the general effective date.

House Action

CJR	1/20/21	DP	9-0-0-0
3 rd Read	1/28/21		59-0-1

Prepared by Senate Research
March 2, 2021
JA/kja