

HOUSE BILL 2489

By Coley

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 13, Part 3, relative to providing civil relief  
for victims of human trafficking.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 3, is amended by  
adding the following as a new section:

(a) As used in this part, unless the context otherwise indicates:

(1) "Human trafficking offense" means the commission of any act that  
constitutes the criminal offense of:

(A) Involuntary labor servitude, under § 39-13-307;

(B) Trafficking persons for forced labor or services, under §39-13-  
308;

(C) Trafficking a person for sexual servitude, under § 39-13-309;

or

(D) Promoting the prostitution of a minor, under § 39-13-512; and

(2) "Trafficked person" means a victim of a human trafficking offense.

(b)

(1) A trafficked person may bring a civil action for actual damages,  
compensatory damages, punitive damages, injunctive relief, any combination of  
those or any other appropriate relief.

(2) A prevailing plaintiff is entitled to an award of attorney's fees and  
costs.

(c) Restitution under this section shall include items covered by the criminal injuries compensation fund under § 40-24-107 and any of the following, if not already covered by the court's restitution order:

(1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion;

(2) Costs of necessary transportation, temporary housing, and child care, at the court's discretion;

(3) Attorney's fees and other court-related costs such as victim advocate fees;

(4) The greater of:

(A) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or state equivalent; or

(B) The gross income or value to the defendant of the victim's labor or services or of any commercial sex acts engaged in by the victim while in the human trafficking situation;

(5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;

(6) Compensation for emotional distress, pain, and suffering;

(7)

(A) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or the defendant's associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items;

(B) Expenses incurred pursuant to subdivision (c)(7)(A) shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim;

(8) Repatriation of the victim to their home country, if applicable; and

(9) Any and all other losses suffered by the victim as a result of human trafficking offenses.

(d)

(1) A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

(2) If the trafficked person dies as a result of a human trafficking offense, a surviving spouse of the trafficked person is eligible for restitution. If no surviving spouse exists, restitution shall be paid to the trafficked person's issue or their descendants per stirpes. If no surviving spouse, issue, or descendants exist, restitution shall be paid to the trafficked person's estate.

(e) A person named in this section may not receive any funds from restitution if such person engaged in violations of a human trafficking offense.

SECTION s. This act shall take effect July 1, 2012, the public welfare requiring it.