



HUMAN TRAFFICKING BENCH CARD

Human Trafficking At-A-Glance

Human trafficking is commonly referred to as modern-day slavery. Federal¹ and state laws have paved the path to spotlight the perverse nature of this crime.

Frequently identified sectors for trafficking in the U.S.

- Escort services
- Massage parlors
- Residential and underground brothels
- Nail salons
- Domestic servitude
- Restaurants
- Landscaping companies
- Agricultural industries
- Large-scale factory environments

Human trafficking and human smuggling are distinct criminal activities.

Human Trafficking centers on commercial sexual or force labor exploitation as a result of force, fraud, or coercion.

Human Smuggling centers on the illegal transportation of people across national borders.² The elements of force, fraud, or coercion are not typically found in human smuggling cases.

OHIO LAW

Trafficking in Persons. R.C. 2905.32, also known as human trafficking, prohibits a person from knowingly or knowingly attempting to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain another person who will be subjected to involuntary servitude or compelled to engage in sexual activity for hire, engage in a performance, model, or participate in the production of material that is obscene, sexually oriented, or nudity oriented.

Penalties for Traffickers. In Ohio, trafficking in persons is a first degree felony and carries a mandatory minimum of 10 years in prison.³

Expungement for Victims of Trafficking. Persons convicted of certain offenses per R.C. 2953.38, including solicitation, loitering to engage in solicitation, or prostitution, may apply to the sentencing court to expunge their record if the person's participation in the offense was a result of having been a victim of human trafficking.⁴ Persons

seeking to expunge their record must prove by the preponderance of evidence that their involvement in the crime was a result of their victimization.⁵

- **Discretionary Hearing.** A court may deny an application to expunge the record without a hearing if it finds the person has failed to assert grounds on which relief may be granted.⁶ If the court finds merit to the application, it must hold a hearing and notify the prosecutor, who may object with specificity to the expunging of the person's conviction. Additionally, the court may direct probation to inquire and report regarding specific concerns.⁷
- **Expungement Notification.** All public agencies and offices that have an official record of the case will receive an expungement notification from the court.⁸ The net effect of this expungement is to consider the matter as if it had never occurred, including asserting no records exist on the matter.⁹

NOTE: Refer to the **Juvenile Human Trafficking, Ohio Laws & Safe Harbor Response** bench card for juvenile court response.



RED FLAGS

Observable Attributes

- Lack of or missing proper identification
- Unusually fearful, emotionally numb with a “flat affect,” or belligerent and defiant
- Night existence — person does not seem to be available during the day
- Intellectually or developmentally disabled
- Untreated illness, substance abuse, or trauma
- Branding by tattoos
- Burns, injuries, or cuts
- Homelessness

Past Criminal Activity

- History of charges such as prostitution, drug possession, loitering, or theft either as an adult or a juvenile
- History of past victimization
- Abuse of legal proceedings — courts may suspect that legal procedures are being used or have been used to manipulate a victim

Behavior during Proceedings

- Uncertain about or does not understand the proceedings
- Unusually resigned to his/her circumstances, willing to enter a guilty plea without counsel, or seems unusually anxious to rush through the proceedings
- Not communicating with legal counsel properly
- Inconsistent recitation of identity
- Giving “scripted answers” to the court in response to questions
- Looking to another person in the courtroom for non-verbal cues or instruction before answering questions from the court or an attorney
- Another person attempts to speak for the person or refuses to allow the person to meet privately with anyone
- Under the control of another person who may or may not be in the courtroom, including excessive concerns about relationships with other people (e.g., a romantic partner, family member, or employer)
- The same person attends court with multiple people without a legitimate reason

PRACTICE TIPS FOR COURTS

Exercise Judicial Leadership

1. Encourage human trafficking training for court personnel and justice partners.
2. Collaborate with justice partners and use reliable human trafficking screening or assessment tools.
3. Adopt local court rules and procedures for managing human trafficking cases.
4. Consider starting a certified specialized human trafficking docket.
5. Timely advise public agencies about expunged records.

Utilize Case Management Tools

1. Promote procedural justice: treat litigants with dignity and respect; ensure litigants understand the proceedings; give litigants a voice; convey neutrality.¹⁰
2. Provide access to certified or qualified language services.¹¹
3. Give trafficked persons an opportunity to consult with an attorney about immigration consequences.¹²
4. Consider sealing and expunging records to protect trafficking victims identity.
5. Use trauma-informed court practices, e.g., minimize re-traumatizing victims and avoid assigning blame to a trafficked person for engaging in criminal activity.

ENDNOTES

¹ 22 U.S.C. 7102(9) (A)-(B)

² Human Trafficking and Smuggling Fact Sheet. U.S. Immigration and Customs Enforcement. <https://www.ice.gov/factsheets/human-trafficking#wcm-survey-target-id> retrieved October 25, 2017.

³ R.C. 2905.32(E)

⁴ R.C. 2953.38(B)

⁵ R.C. 2953.38(E)(2)

⁶ R.C. 2953.38(C)

⁷ R.C. 2953.38(D)

⁸ R.C. 2953.38(G)(1)

⁹ Per R.C. 2953.38(G)(2), the net effect of this operation is to consider the matter as if it had never occurred, including asserting no records exist on the matter.

¹⁰ Gold LaGratta, Emily. Procedural Justice: Practical Tips for Courts. Center for Court Innovation. 2015. http://www.courtinnovation.org/sites/default/files/documents/P_J_Practical_Tips.pdf retrieved on October 25, 2017.

¹¹ Sup.R. 80 through 89.

¹² The T nonimmigrant status (T-visa) offers protection to victims of severe forms of trafficking, who are willing to assist in the state or federal investigation or prosecution of criminal activity. Notwithstanding the trafficked person's cooperation, the victim may be denied the visa based on any one or more of the following grounds: health, criminal record, security concerns, likelihood of becoming a public charge, not meeting labor certification and qualifications, or illegally entering the country.