



2025 South Dakota Legislature

Senate Bill 58

Introduced by: The Chair of the Committee on Judiciary at the request of the Attorney General

1 **An Act to revise provisions related to human trafficking, to prohibit the obstruction**
 2 **of human trafficking enforcement, and to provide a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 22-49-1 be AMENDED:**

5 **22-49-1.** No person may knowingly recruit, entice, harbor, transport, provide,
 6 receive, purchase, advertise, maintain, solicit, or obtain, by any means, another person
 7 knowing that force, fraud, or coercion will be used to cause the person to engage in
 8 ~~prostitution~~ a commercial sex act, forced labor, or involuntary servitude.

9 No person may benefit financially, or by receiving anything of value, from
 10 participation in a venture that has engaged in acts set forth in this section, or knowingly
 11 or in reckless disregard of the fact that the venture has engaged in acts set forth in this
 12 section.

13 Any violation of this section constitutes the crime of human trafficking.

14 If the victim is under eighteen years of age, the crime of human trafficking need
 15 not involve force, fraud, or coercion.

16 For purposes of this section and §§ 22-49-2 and 22-49-3, the term, "coercion,"
 17 may include:

- 18 (1) Threats of serious harm to or physical restraint against any person;
 19 (2) The use of a plan, statement, or pattern of behavior, with the intent of causing a
 20 person to believe that failure to perform an act will result in serious harm to, or
 21 the use of physical force or violence against, the person, or will result in the
 22 person's restraint, isolation, confinement, or abduction of any person;
 23 ~~(2)(3)~~ Inducing a person to provide engage in a commercial sexual activity sex act, forced
 24 labor, or involuntary servitude as payment toward, or in satisfaction of, a real or
 25 purported debt; and

- 1 ~~(3)~~(4) The use of a person's physical or mental impairment, if that impairment has a
- 2 substantial adverse effect on the person's cognitive or volitional function; or
- 3 (5) The abuse or threatened abuse of law or legal process, whether administrative,
- 4 civil, or criminal, in any manner or for any purpose for which the law is not
- 5 designed, to exert pressure on another person to cause that person to take some
- 6 action or refrain from taking some action.

7 **Section 2. That § 22-49-2 be AMENDED:**

8 **22-49-2.** ~~If a person is guilty of human trafficking under~~ A person is guilty of
 9 human trafficking in the first degree if the person commits human trafficking, as set forth
 10 in § 22-49-1, and the act:

- 11 (1) ~~Involves committing or attempting to commit kidnapping~~ any means of force,
- 12 threat of force, fraud, coercion, or any combination of means to cause the person
- 13 to engage in a commercial sex act;
- 14 (2) Involves a victim under the age of eighteen years; or
- 15 (3) ~~Involves prostitution or procurement for prostitution; or~~
- 16 ~~(4) Results in the death of a victim;~~

17 ~~the person has committed human~~ Human trafficking in the first degree. ~~A violation~~
 18 ~~of the provisions of this section~~ is a Class 2 felony.

19 A conviction under this section for a first offense must be punished by a mandatory
 20 sentence of at least fifteen years in a state correctional facility, which sentence may not
 21 be suspended. A conviction under this section for a second or subsequent offense must
 22 be punished by a mandatory sentence of at least twenty years in a state correctional
 23 facility, which sentence may not be suspended.

24 Consent to performing any act prescribed in § 22-49-1 by a minor or a minor's
 25 parent, guardian, or custodian, or any mistake as to the minor's age is not a defense to a
 26 charge of violating this section.

27 Notwithstanding the provisions of § 22-4-1, any attempt to commit a violation of
 28 this section against a victim who is a minor is punishable in the same manner as the
 29 completed violation.

30 **Section 3. That § 22-49-3 be AMENDED:**

31 **22-49-3.** A person is guilty of human trafficking in the second degree ~~if that the~~ the
 32 person:

1 ~~(1) Recruits, harbors, transports, provides, receives, purchases, or obtains, by any~~
2 ~~means, another person knowing that force, fraud, or coercion, as defined in § 22-49-1,~~
3 ~~will be used to cause the person to engage in prostitution, forced labor, or involuntary~~
4 ~~servitude; or~~

5 ~~(2) Benefits financially or by receiving anything of value from participation in a~~
6 ~~venture that has engaged in acts set forth in this section~~ commits human trafficking, as
7 set forth in § 22-49-1, and the act involves any means of force, threat of force, fraud,
8 coercion, or any combination of means to cause the person to engage in forced labor or
9 involuntary servitude.

10 Human trafficking in the second degree is a ~~Class 4~~ Class 3 felony.

11 A conviction under this section for a first offense must be punished by a mandatory
12 sentence of at least five years in a state correctional facility, which sentence may not be
13 suspended. A conviction under this section for a second or subsequent offense must be
14 punished by a mandatory sentence of at least ten years in a state correctional facility,
15 which sentence may not be suspended.

16 **Section 4. That a NEW SECTION be added to chapter 22-49:**

17 Any person who obstructs, attempts to obstruct, or in any way interferes with or
18 prevents the enforcement of §§ 22-49-1 to 22-49-3, inclusive, is guilty of a Class 4 felony.