

# **Uniform Act on Prevention of and Remedies for Human Trafficking (UAPR) (Note)**

*By the Uniform Law Commission*

Described as modern-day slavery that victimizes more than 27 million people worldwide, human trafficking is a global concern that affects the United States on federal, state and local levels. By 2012, human trafficking had become the second fastest growing criminal activity in the United States, following drug trafficking.

In recognition of the human trafficking crisis and of the need to “create uniform state anti-human trafficking legislation,” the Uniform Law Commission, in response to a July 2010 proposal from the American Bar Association Center for Human Rights, began its work directed against human trafficking. This new uniform state law—the Uniform Act on Prevention of and Remedies for Human Trafficking, or UAPRHT—received final approval at the Uniform Law Commission’s Annual Meeting in July 2013 and at the American Bar Association’s House of Delegates in August 2013.

The UAPRHT is a comprehensive law directed against human trafficking. It provides the three components necessary for ending human trafficking: comprehensive criminal penalties; protections for human-trafficking victims; and public awareness and prevention methods.

## **Working with states to combat human trafficking**

The UAPRHT enables states to update and strengthen their existing state laws with state-of-the-art provisions that reflect emerging best practices. Some states have comprehensive criminal laws on most facets of human trafficking. Others have only minimal criminal provisions. Some states cover all forms of labor and sex trafficking and protect all children under age 18. Others may cover only sex trafficking or fail to protect all children under 18. Some states cover all methods that traffickers use to keep their workers as virtual slaves. Others do not cover some methods that traffickers use to ensure their workers remain under their control and unable to escape, such as threatening to hurt or kill workers’ loved ones, confiscating workers’ immigration papers or “debt bondage” — ensnaring victims in ever-rising and often-fictitious debt to be repaid through physical labor that can never satisfy the debt.

## **The three-pronged fight against human trafficking**

The uniform act presents the three-pronged approach that law enforcement and victims’ advocates consider essential. Under the first prong, the uniform act seeks to prevent and to penalize the criminal conduct—trafficking, forced labor and sexual servitude—at the core of human trafficking. Clear offenses are created that reflect the ways in which human traffickers operate: the act provides states the latitude to align the classification of offenses with existing state law. The act recognizes the forms of coercion that human traffickers use, such as threats, force, debt bondage, abuse of the legal process and use of a victim’s disability/mental impairment.

**Section 1** (Short Title) and **Section 2** (Definitions) open the UAPRHT. In the Definitions section, key terms associated with human trafficking—including ‘coercion,’ ‘commercial sexual activity’ and ‘debt bondage’—are explained.

**Section 3** (Trafficking an Individual) offers a comprehensive definition tied to the act’s provisions on forced labor (**Section 4**) and sexual servitude (**Section 5**). Trafficking occurs when a person ‘knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains or entices an individual.’ The crime of forced labor occurs when a person knowingly uses coercion to compel an individual to provide labor or services, with enhanced penalties if the individual is a minor. Similarly, sexual servitude gives rise to an enhanced penalty when a minor is made available or maintained for the purposes of commercial sexual activity.

Two provisions (**Section 6**: Patronizing a Victim of Sexual Servitude and **Section 7**: Patronizing a Minor) augment existing criminal penalties in most states for patrons of commercial sexual activity. Section 6 imposes felony-level punishment when the defendant offers anything of value to engage in commercial sexual activity with an individual whom the defendant knows is a victim of sexual servitude. When the defendant intends to engage in commercial sexual activity with a minor and offers anything of value, felony-level penalties are imposed.

**Section 8** (Business Entity Liability) establishes liability when an entity knowingly engages in human trafficking or does not effectively stop an employee or agent from doing so when the entity knows of the human-trafficking activity. The Act creates an aggravating circumstance when the defendant (under Section 3, 4 or 5) recruited, enticed or obtained the victim from a shelter for human-trafficking victims or others (**Section 9**).

Courts shall order persons convicted under Section 3, 4 or 5 to pay restitution to the victim (**Section 10**). On motion, a court shall order forfeiture of real or personal property used in or derived from human trafficking activities under Section 3, 4 or 5 (**Section 11**). The statute of limitations under the UAPRHT is 20 years (Section 12).

**Under its second prong**, the uniform act provides essential protections for human trafficking victims. The identity and images of the victim and the victim’s family shall be kept confidential unless required for investigation or prosecution (**Section 13**). Consistent with states’ rape shield laws, the act prohibits evidence of the alleged victim’s past sexual behavior (**Section 14**).

**Section 15** provides immunity to minors who are human trafficking victims and commit prostitution or nonviolent offenses directly resulting from being a victim, and classifies such minors as children in need of services. Immunity for minors and the ability to seek vacation of convictions allow victims to rebuild their lives and restore their future. Connecticut, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, New Jersey, New York, Tennessee, Vermont and Washington have ‘safe harbor’ laws; the Texas Supreme Court recently ruled that minors are victims, not criminals, in prostitution cases.

An affirmative defense to a charge of prostitution or other non-violent offense is created in **Section 16**, and all victims may seek vacation of convictions for prostitution or other non-violent

offenses that directly resulted from being a human-trafficking victim under the provisions of **Section 17**. **Section 18** allows victims to bring a civil action against their traffickers.

**The act's third prong** promotes partnerships in the fight against human trafficking, elevates public awareness and fosters development of coordinated victim services. A human-trafficking council is created to develop a systematic plan to assist victims, collect human trafficking data and promote awareness in **Section 19**. Public awareness signs and the national human trafficking hotline number are to be posted in locations where victims of human-trafficking are often found (**Section 20**). The act ensures that human-trafficking victims have access to a state's crime victims' compensation fund (**Section 21**), and the act provides that law enforcement officers shall provide visa information to persons reasonably believed to be human-trafficking victims (**Section 22**). Finally, the act permits the state to grant funds—to the extent that funds are appropriated—to third-party providers of victim services (**Section 23**).

### **The advantages of uniformity**

State enactment of this new uniform law will aid efforts to combat human trafficking in the United States. Uniformity will improve coordination and “promote collaboration among law enforcement officers, prosecutors, NGOs, lawyers, and other stakeholders in the investigation and prosecution of human trafficking,” as stated in the 2010 ABA Proposal to the ULC. The act discourages ‘forum-shopping’ by traffickers who seek to operate in jurisdictions with fewer and/or lower criminal sanctions. National and regional victim-advocates organizations will be better able to advise victims across the country.

During the drafting process, the ULC Drafting Committee worked closely with representatives of a wide range of organizations, including the ABA Center for Human Rights, the ABA Task Force on Human Trafficking, the ABA Section on Business Law, the Polaris Project, the National Association of Attorneys General, the National Violence Against Women Project, the U.S. Department of State Office to Monitor & Combat Trafficking in Persons, Shared Hope International, the Global Freedom Center, LexisNexis, and representatives from a number of state and local prosecutors' offices.

**Status:** Because every state had enacted some human-trafficking laws, primarily focused upon establishing definitions and criminal sanctions, the UAPRHT has not been enacted in whole in any one state. Rather, states have used the UAPRHT to update their criminal laws and to add victim remedies and protections, public awareness and support provisions.