



Indiana State Report State Ratings 2013

The Polaris Project annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris Project believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier One (green)

Total Points: 8

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 7 No Requirement of Force, Fraud, or Coercion for minor victims of sex trafficking; 8 Victim assistance; and 9 Civil Remedy.

Categories Still Needed: 4(b) Human Trafficking Task Force; 5 Posting of the National Hotline; 6 Safe Harbor for Minors; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking

- (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:
- (1) to engage the other person in:
 - (A) forced labor; or
 - (B) involuntary servitude; or
 - (2) to force the other person into:
 - (A) marriage;
 - (B) prostitution; or
 - (C) participating in sexual conduct (as defined by IC 35-42-4-4);
- commits promotion of human trafficking, a Class B felony.
- (b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:
- (1) ~~sixteen (16)~~ eighteen (18) years of age with the intent of:
 - ~~(A)~~ (A) engaging the child in:
 - ~~(i)~~ (i) forced labor; or
 - ~~(ii)~~ (ii) involuntary servitude; or

- ~~(2)~~ (B) inducing or causing the child to:
 - ~~(A)~~ (i) engage in prostitution; or
 - (ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation); or
- (2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4); commits promotion of human trafficking of a minor, a Class B felony

Category 2: Labor Trafficking Statute

Yes. See IC 35-42-3.5-1.

Category 3(a): Asset Forfeiture

34-24-1-1 Seizure of vehicles or other property

- (a) The following may be seized:
- (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

Category 3(b): Investigative Tools

Chapter 6: Racketeer Influenced Corrupt Organizations Act

35-45-6-1 Definitions

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) “Documentary material” means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) “Enterprise” means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) “Pattern of racketeering activity” means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents.

However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- (9) Child exploitation (IC 35-42-4-4).
- (10) Robbery (IC 35-42-5-1).

- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Burglary (IC 35-43-2-1).
- (14) Theft (IC 35-43-4-2).
- (15) Receiving stolen property (IC 35-43-4-2).
- (16) Forgery (IC 35-43-5-2).
- (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- (18) Bribery (IC 35-44-1-1).
- (19) Official misconduct (IC 35-44-1-2).
- (20) Conflict of interest (IC 35-44-1-3).
- (21) Perjury (IC 35-44-2-1).
- (22) Obstruction of justice (IC 35-44-3-4).
- (23) Intimidation (IC 35-45-2-1).
- (24) Promoting prostitution (IC 35-45-4-4).
- (25) Professional gambling (IC 35-45-5-3).
- (26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
- (27) Promoting professional gambling (IC 35-45-5-4).
- (28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (29) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).
- (30) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (31) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (33) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid (IC 35-48-4-10).
- (34) Money laundering (IC 35-45-15-5).
- (35) A violation of IC 35-47.5-5.
- (36) A violation of any of the following:
 - (A) IC 23-14-48-9.
 - (B) IC 30-2-9-7(b).
 - (C) IC 30-2-10-9(b).
 - (D) IC 30-2-13-38(f).

ARTICLE 33.5. INTERCEPTION OF TELEPHONIC OR TELEGRAPHIC COMMUNICATIONS

IC 35-33.5-1-3

"Designated offense" defined

Sec. 3. "Designated offense" means the following:

- (7) Child solicitation (IC 35-42-4-6).
- (8) Human and sexual trafficking crimes under IC 35-42-3.5.
- (12) An offense under the law of the United States or in another state or country that is substantially similar to an offense described in subdivisions (1) through (11).

Category 4(a): Training for Law Enforcement

IC 5-2-1-9. Rules -- Implementation of chapter -- Town marshal basic training program -- Police chief executive training program.

(a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for in service training programs for law enforcement officers. The course must cover the following topics:

- (A)** Examination of the human and sexual trafficking laws (IC 35-42-3.5).
- (B)** Identification of human and sexual trafficking.
- (C)** Communicating with traumatized persons.
- (D)** Therapeutically appropriate investigative techniques.
- (E)** Collaboration with federal law enforcement officials.
- (F)** Rights of and protections afforded to victims.
- (G)** Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.
- (H)** The availability of community resources to assist human and sexual trafficking victims.

Category 4(b): Human Trafficking Task Force

None.

Category 5: Posting of a Human Trafficking Hotline

None.

Category 6: Safe Harbor

None.

Category 7: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See amended IC §35-42-3.5-1.

Category 8: Victim Assistance

IC 5-2-6-3 Purposes of institute; sex and violent offender directory

Sec. 3. The institute is established to do the following:

- (19) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

IC 35-42-3.5-4. Treatment of alleged victim of offense; LEA Declaration; denial and reconsideration of LEA Declaration

Sec. 4.

- (a) An alleged victim of an offense under section 1 of this chapter:
 - (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;
 - (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

- (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:
- (A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and
 - (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

- (b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

Category 9: Civil Remedy

IC 35-42-3.5-3 Civil cause of action for victim; limitation

- (a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:
- (1) has a civil cause of action against the person convicted of the offense; and
 - (2) may recover the following from the person in the civil action:
 - (A) Actual damages.
 - (B) Court costs (including fees).
 - (C) Punitive damages, when determined to be appropriate by the court.
 - (D) Reasonable attorney's fees.
- (b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

Category 10: Vacating Convictions for Sex Trafficking Victims

None.

For guidelines and examples of bill language, please consult [Polaris Project's Model Provisions of Comprehensive State Legislation to Combat Human Trafficking and Commentary](#) available on our website (www.polarisproject.org). If you need technical assistance in enacting laws to fill in the gaps, please contact the Polaris Project Policy Program at policy@polarisproject.org.