

Civil Remedies for Human Trafficking Victims

(Updated January 2012)

This compilation contains legislation, session laws, and codified statutes. All statutes, laws, and bills listed in this compilation have been signed by the pertinent governor and enacted into law. This report was compiled using State Net, and Westlaw Search Services. This compilation is up-to-date as of the month it was created. However, please note we recommend checking both case law and current legislation for any possible modifications to the statutes listed below.

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ALABAMA

ALA. CODE § 13A-6-155 (2011). MANDATORY RESTITUTION

(a) A person or entity convicted of any violation of this article shall be ordered to pay mandatory restitution to the victim, prosecutorial, or law enforcement entity, with the proceeds from property forfeited under Section 13A-6-156 applied first to payment of restitution. Restitution under this section shall include items covered under Article 4A, commencing with Section 15-18-65 of Chapter 18 of Title 15, and any of the following:

(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) Cost of the investigation and prosecution, attorney's fees, and other court-related costs such as victim advocate fees.

(4) The greater of a. the value of the human trafficking victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act; or b. the gross income or value to the defendant of the victim's labor servitude or sexual servitude 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) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her 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. Expenses incurred pursuant to this section 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.

(7) Any and all other losses suffered by the victim as a result of any violation of this article.

(b) For purposes of this section, the return of the victim to his or her home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving restitution.

ALA. CODE § 13A-6-156 (2011). FORFEITURE OF PROFITS OR PROCEEDS AND INTEREST IN PROPERTY

A person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree. Any assets seized shall first be used to pay restitution to trafficking victims and subsequently to pay any damages awarded to victims in a civil action. Any remaining assets shall go toward the cost of the investigation and prosecution and the remaining assets shall be remitted to funding the Alabama Crime Victims Compensation Fund.

ALA. CODE § 13A-6-157 (2011). CIVIL ACTION BY VICTIM; RELIEF AWARDED

An individual who is a victim of human trafficking may bring a civil action in the appropriate state court. The court may award actual damages, compensatory damages,

punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious

ALASKA

ARIZONA

ARIZ. REV. STAT. ANN. § 13-1309 (2011). RESTITUTION

The court shall order restitution for any violation of § 13-1306 (Unlawfully obtaining labor or services; classification), 13-1307 (Sex trafficking; classification; definitions) or 13-1308 (Trafficking of persons for forced labor or services; classification; definitions), including the greater of either the gross income or value to the defendant of the victim's labor or services or the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the fair labor standards act of 1938 (52 Stat. 1060; 29 United States Code §§ 201 through 219).

ARIZ. REV. STAT. ANN. § 13-807 (2011). CIVIL ACTIONS BY VICTIMS OR OTHER PERSONS

A defendant convicted in a criminal proceeding is precluded from subsequently denying in any civil proceeding brought by the victim or this state against the criminal defendant the essential allegations of the criminal offense of which he was adjudged guilty, including judgments of guilt resulting from no contest pleas. An order of restitution in favor of a person does not preclude that person from bringing a separate civil action and proving in that action damages in excess of the amount of the restitution order.

ARKANSAS

CALIFORNIA

CAL. CIV. CODE § 52.5 (2011). ACTION BY VICTIM OF HUMAN TRAFFICKING

(a) A victim of human trafficking, as defined in Section 236.1 of the Penal Code, may

bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs.

(b) In addition to the remedies specified herein, in any action under subdivision (a), the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars (\$10,000), whichever is greater. In addition, punitive damages may also be awarded upon proof of the defendant's malice, oppression, fraud, or duress in committing the act of human trafficking.

(c) An action brought pursuant to this section shall be commenced within five years of the date on which the trafficking victim was freed from the trafficking situation, or if the victim was a minor when the act of human trafficking against the victim occurred, within eight years after the date the plaintiff attains the age of majority.

(d) If a person entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability will toll the running of the statute of limitation for this action.

(1) Disability includes being a minor, insanity, imprisonment, or other incapacity or incompetence.

(2) The statute of limitations shall not run against an incompetent or minor plaintiff simply because a guardian ad litem has been appointed. A guardian ad litem's failure to bring a plaintiff's action within the applicable limitation period will not prejudice the plaintiff's right to do so after his or her disability ceases.

(3) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action, or due to threats made by the defendant causing duress upon the plaintiff.

(4) The suspension of the statute of limitations due to disability, lack of knowledge, or estoppel applies to all other related claims arising out of the trafficking situation.

(5) The running of the statute of limitations is postponed during the pendency of any criminal proceedings against the victim.

(e) The running of the statute of limitations may be suspended where a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(f) A prevailing plaintiff may also be awarded reasonable attorney's fees and litigation costs including, but not limited to, expert witness fees and expenses as part of the costs.

(g) Any restitution paid by the defendant to the victim shall be credited against any judgment, award, or settlement obtained pursuant to this section. Any judgment, award, or settlement obtained pursuant to an action under this section shall be subject to the provisions of Section 13963 of the Government Code.

(h) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim. As used in this section, a "criminal action" includes investigation and prosecution, and is pending until a final adjudication in the trial court, or dismissal.

**CAL. CIV. CODE § 1202.4 (2012). RESTITUTION FINES; EXCEPTION;
AMOUNTS; HEARING; DISCLOSURE; EXTENSION**

Effective January 1, 2012

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(q) Upon conviction for a violation of Section 236.1 (Human Trafficking), the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in any case in which a victim has suffered economic loss as a result of the defendant's conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, or the value of the victim's labor as guaranteed under California law, or the actual income derived by the defendant from the victim's labor or services or any other appropriate means to provide reparations to the victim.

COLORADO

CONNECTICUT

**CONN. GEN. STAT. § 52-571i (2011). ACTION FOR DAMAGES RESULTING
FROM TRAFFICKING IN PERSONS**

Any person aggrieved by a violation of section 53a-192a may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual

damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney's fee.

DELEWARE

DEL. CODE ANN. TIT. 11 § 787(C) (2011). TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE; CLASS F FELONY; CLASS E FELONY; CLASS C FELONY; CLASS B FELONY; CLASS A FELONY

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(c) *Restitution is mandatory under this section.* --In addition to any other amount of loss identified, the court shall order restitution, including the greater of:

- (1) The gross income or value to the defendant of the victim's labor or services; or
- (2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19, whichever is greater.

DISTRICT OF COLUMBIA

D.C. CODE § 22-1840 (2011). CIVIL ACTION

(a) An individual who is a victim of an offense prohibited by § 22-1832 (Forced labor), § 22-1833 (Trafficking in labor or commercial sex acts), § 22-1834 (Sex trafficking of children), § 22-1835 (Unlawful conduct with respect to documents in furtherance of human trafficking) or § 22-1836 (Benefitting financially from human trafficking) may bring a civil action in the Superior Court of the District of Columbia. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where a defendant's acts were willful and malicious.

(b) Any statute of limitation imposed for the filing of a civil suit under this section shall not begin to run until the plaintiff knew, or reasonably should have known, of any act constituting a violation of § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836, or until a minor plaintiff has reached the age of majority, whichever is later.

(c) If a person entitled to sue is imprisoned, insane, or similarly incapacitated at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the incapacity is not part of the time limited for the

commencement of the action.

(d) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action.

FLORIDA

FLA. STAT. ANN. § 772.104 (2011). CIVIL CAUSE OF ACTION

(1) Any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 shall have a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$ 200, and reasonable attorney's fees and court costs in the trial and appellate courts.

(2) As an alternative to recovery under subsection (1), any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 due to sex trafficking or human trafficking shall have a cause of action for threefold the amount gained from the sex trafficking or human trafficking and in any such action is entitled to minimum damages in the amount of \$ 200 and reasonable attorney's fees and court costs in the trial and appellate courts.

(3) In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorney's fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorney's fees or costs provided under other provisions of law.

FLA. STAT. ANN. § 796.09 (2011). COERCION; CIVIL CAUSE OF ACTION; EVIDENCE; DEFENSE; ATTORNEY'S FEES

(1) A person has a cause of action for compensatory and punitive damages against:

(a) A person who coerced that person into prostitution;

(b) A person who coerces that person to remain in prostitution; or

(c) A person who uses coercion to collect or receive any part of that person's earnings derived from prostitution.

(2) As used in this section, the term "prostitution" has the same meaning as in [s. 796.07](#).

(3) As used in this section, the term “coercion” means any practice of domination, restraint, or inducement for the purpose of or with the reasonably foreseeable effect of causing another person to engage in or remain in prostitution or to relinquish earnings derived from prostitution, and includes, but is not limited to:

- (a) Physical force or threats of physical force.
- (b) Physical or mental torture.
- (c) Kidnapping.
- (d) Blackmail.
- (e) Extortion or claims of indebtedness.
- (f) Threat of legal complaint or report of delinquency.
- (g) Threat to interfere with parental rights or responsibilities, whether by judicial or administrative action or otherwise.
- (h) Promise of legal benefit.
- (i) Promise of greater financial rewards.
- (j) Promise of marriage.
- (k) Restraint of speech or communication with others.
- (l) Exploitation of a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency.
- (m) Exploitation of victimization by sexual abuse.
- (n) Exploitation of pornographic performance.
- (o) Exploitation of human needs for food, shelter, safety, or affection.

(4) In the course of litigation under this section, any transaction about which a plaintiff testifies or produces evidence does not subject such plaintiff to criminal prosecution or any penalty or forfeiture. Further, any testimony or evidence, documentary or otherwise, or information directly or indirectly derived from such testimony or evidence which is given or produced by a plaintiff or a witness for a plaintiff shall not be used against these persons in any other investigation or proceeding. Such testimony or evidence, however, may be used against a plaintiff or a witness for a plaintiff upon any criminal investigation or proceeding for perjury committed while giving such testimony or producing such

evidence.

(5) It does not constitute a defense to a complaint under this section that:

(a) The plaintiff was paid or otherwise compensated for acts of prostitution;

(b) The plaintiff engaged in acts of prostitution prior to any involvement with the defendant; or

(c) The plaintiff made no attempt to escape, flee, or otherwise terminate contact with the defendant.

(6) Evidence of convictions for prostitution or prostitution-related offenses are inadmissible in a proceeding brought under this section for purposes of attacking the plaintiff's credibility.

(7) In any action brought under this section, the court, in its discretion, may award prevailing plaintiffs reasonable attorney's fees and costs.

GEORGIA

HAWAII

HAW. REV. STAT. ANN. § 663J-3 (2011). CAUSE OF ACTION FOR COERCION INTO PROSTITUTION.

An individual has a cause of action against a person who:

(1) Coerced the individual into prostitution;

(2) Coerced the individual to remain in prostitution;

(3) Used coercion to collect or receive any of the individual's earnings derived from prostitution; or

(4) Hired, or attempted to hire the individual to engage in prostitution, when a reasonable person would believe that the individual was coerced into prostitution by another person. Paragraph (3) shall not apply to minor children who are dependent on the individual and who may have benefited from or been supported by the individual's earnings derived from prostitution

HAW. REV. STAT. ANN. § 663J-5 (2011). DAMAGES

A person entitled to bring an action under section 663J-3 may recover all of the following damages:

- (1) Economic damages proximately caused by coercion into prostitution;
- (2) Noneconomic damages proximately caused by coercion into prostitution;
- (3) Exemplary damages;
- (4) Reasonable attorney's fees; and
- (5) Costs of suit, including reasonable expenses for expert testimony.

IDAHO

IDAHO CODE ANN. § 18-8604 (2011). RESTITUTION--REHABILITATION

(1) In addition to any other amount of loss resulting from a human trafficking violation, the court shall order restitution, as applicable, including the greater of:

- (a) The gross income or value to the defendant of the victim's labor or services; or
- (b) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act.

(2) In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims.

ILLINOIS

720 ILL. COMP. STAT. 5/10-9(G) (2011). TRAFFICKING IN PERSONS, INVOLUNTARY SERVITUDE, AND RELATED OFFENSES

....

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is

greater.

740 ILL. COMP. STAT. 128/15 (2011). CAUSE OF ACTION (PREDATOR ACCOUNTABILITY ACT)

(a) Violations of this Act are actionable in civil court.

(b) A victim of the sex trade has a cause of action against a person or entity who:

(1) recruits, profits from, or maintains the victim in any sex trade act;

(2) intentionally abuses, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or causes bodily harm, as defined in Section 11-0.1 of the Criminal Code of 1961, to the victim in any sex trade act; or

(3) knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.

(c) This Section shall not be construed to create liability to any person or entity who provides goods or services to the general public, who also provides those goods or services to persons who would be liable under subsection (b) of this Section, absent a showing that the person or entity either:

(1) knowingly markets or provides its goods or services primarily to persons or entities liable under subsection (b) of this Section;

(2) knowingly receives a higher level of compensation from persons or entities liable under subsection (b) of this Section than it generally receives from customers; or

(3) supervises or exercises control over persons or entities liable under subsection (b) of this Section.

740 ILL. COMP. STAT. 128/20 (2011). RELIEF (PREDATOR ACCOUNTABILITY ACT)

A prevailing victim of the sex trade shall be entitled to all relief that would make him or her whole. This includes, but is not limited to:

(1) declaratory relief;

(2) injunctive relief;

(3) recovery of costs and attorney fees including, but not limited to, costs for expert testimony and witness fees;

(4) compensatory damages including, but not limited to:

(A) economic loss, including damage, destruction, or loss of use of personal property, and loss of past or future earning capacity; and

(B) damages for death, personal injury, disease, and mental and emotional harm, including medical, rehabilitation, burial expenses, pain and suffering, and physical impairment;

(5) punitive damages; and

(6) damages in the amount of the gross revenues received by the defendant from, or related to, the sex trade activities of the plaintiff.

**725 ILL. COMP. STAT. 5/124B-300 (2011). PERSONS AND PROPERTY
SUBJECT TO FORFEITURE**

Sec. 124B-300. Persons and property subject to forfeiture. A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of the Criminal Code of 1961 [720 ILCS 5/10A-10] shall forfeit to the State of Illinois any profits or proceeds and any property he or she has acquired or maintained in violation of Section 10A-10 of the Criminal Code of 1961 [720 ILCS 5/10A-10] that the sentencing court determines, after a forfeiture hearing under this Article, to have been acquired or maintained as a result of maintaining a person in involuntary servitude or participating in trafficking of persons for forced labor or services.

INDIANA

IND. CODE ANN. § 35-42-3.5-2 (2011). RESTITUTION TO VICTIM

Sec. 2. In addition to any sentence or fine imposed for a conviction of an offense under section 1 of this chapter (Human and sexual trafficking), the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

**IND. CODE ANN. § 35-42-3.5-3 (2011). VICTIM HAS CIVIL CAUSE OF ACTION
AGAINST PERSON CONVICTED OF OFFENSE -- DAMAGES RECOVERABLE --
STATUTE OF LIMITATIONS.**

(a) If a person is convicted of an offense under section 1 [IC 35-42-3.5-1] of this chapter (Human and sexual trafficking), 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.
- (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.

IOWA

CHAPTER 710A. (HUMAN TRAFFICKING)

IOWA CODE § 710A.4 (2011). RESTITUTION

The gross income of the defendant or the value of labor or services performed by the victim to the defendant shall be considered when determining the amount of restitution.

KANSAS

KENTUCKY

KY. REV. STAT. ANN. § 413.249(1)(A) (2011). ACTION RELATING TO CHILDHOOD SEXUAL ABUSE OR CHILDHOOD SEXUAL ASSAULT

(1) As used in this section:

(a) “Childhood sexual assault” means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 [Human trafficking] where the offense involves commercial sexual activity, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;

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LOUSINANA

MAINE

ME. REV. STAT. ANN. TIT. 5, § 4701 (2011). REMEDIES FOR HUMAN TRAFFICKING

1. DEFINITIONS. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Trafficked person" means a victim of a human trafficking offense.

B. "Criminal proceeding" includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court.

C. "Human trafficking offense" means kidnapping or criminal restraint under Title 17-A, section 301 or 302 when the crime involves restraining a person by destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or using any scheme, plan or pattern intended to cause that person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint.

2. CIVIL ACTION FOR DAMAGES, RELIEF. 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. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

3. STATUTE OF LIMITATIONS. An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.

A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or

otherwise incapacitated or incompetent.

B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed.

C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:

1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or

2) Threats made by the defendant that caused duress to the plaintiff.

D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person.

4. CAUSE OF ACTION ON TRAFFICKED PERSON'S BEHALF. 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.

MARYLAND

MASSCHUSETTS

H.B.3808, 187th Gen. Ass. (mass. 2011). An act relative to the commercial sexual exploitation of people– Signed by Governor November 21, 2011

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Section 4D. (a) A victim of trafficking of persons for sexual servitude under section 50 of chapter 265 or of trafficking of persons for forced services under section 51 of said chapter 265 may bring a civil action for trafficking of persons for forced labor or services or sexual servitude. The court may award actual damages, compensatory damages, punitive damages, injunctive relief or any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's acts were willful and malicious.

(b) A civil action for trafficking of persons for forced labor or services or sexual servitude shall be commenced within 3 years of the date on which the human trafficking victim was freed from human trafficking or, if the victim was a child during the commission of the offense, within 3 years after the date the plaintiff attains the age of 18.

(c) If a person entitled to sue is under a disability at the time the cause of action accrues, such that it is impossible or impracticable for such person to bring an action, the time during which the plaintiff is under a disability shall toll the statute until the disability ceases.

(d) In the event that a child plaintiff is under a disability, the failure of the child's guardian ad litem to bring a plaintiff's action within the applicable limitation period shall not prejudice the plaintiff's right to do so after his disability ceases.

(e) A defendant shall be estopped from asserting a defense of the statute of limitations if the expiration of the statute is due to the defendant inducing the plaintiff to delay the filing of the action, preventing the plaintiff from filing the action or threats made by the defendant that caused duress upon the plaintiff.

(f) Any legal guardian, family member, representative of the human trafficking victim or court appointee may represent the human trafficking victim's rights, in the event the human trafficking victim is deceased or otherwise unable to represent his own interests in court.

MICHIGAN

MICH. COMP. LAWS § 780.766B (2011). ORDERING OF RESTITUTION TO VICTIM BE DEFENDANT; OFFENSES DESCRIBED IN § 750.462A TO 750.462I.

Sec. 16b. When sentencing a defendant convicted of an offense described in chapter LXVIIA (Human Trafficking) of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462i, the court shall order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under section 16, the court may order the defendant to pay all of the following:

(a) Lost income, calculated by whichever of the following methods results in the largest amount:

(i) The gross amount received by the defendant from or the value to the defendant of the victim's labor or services.

(ii) The value of the victim's labor or services as calculated under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, or the federal minimum wage,

whichever results in the largest value.

(iii) Income loss as determined under section 16(4)(c).

(b) The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense.

(c) Attorney fees and other costs and expenses incurred by the victim because of the offense, including, but not limited to, costs and expenses relating to assisting the investigation of the offense and for attendance at related court proceedings as follows:

(i) Wages lost.

(ii) Child care.

(iii) Transportation.

(iv) Parking.

(d) Any other loss suffered by the victim as a proximate result of the offense.

MINNESOTA

MINN. STAT. § 609.284 (2011). LABOR OF SEX TRAFFICKING CRIMES; DEFENSES; CIVIL LIABILITY; CORPORATE LIABILITY

Subdivision 1. Consent or age of victim not a defense.

In an action under this section the consent or age of the victim is not a defense.

Subd. 2. Civil liability.

A labor trafficking victim may bring a cause of action against a person who violates section 609.282 or 609.283. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.

Subd. 3. Corporate liability.

If a corporation or other business enterprise is convicted of violating section 609.282,

609.283, or 609.322, in addition to the criminal penalties described in those sections and other remedies provided elsewhere in law, the court may, when appropriate:

- (1) order its dissolution or reorganization;
- (2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or
- (3) order the surrender of its charter if it is organized under Minnesota law or the revocation of its certificate to conduct business in Minnesota if it is not organized under Minnesota law.

MINN. STAT. § 611A.81 (2011). CAUSE OF ACTION FOR COERCION FOR USE IN PROSTITUTION

Subdivision 1. Cause of action created. (a) An individual has a cause of action against a person who:

- (1) coerced the individual into prostitution;
- (2) coerced the individual to remain in prostitution;
- (3) used coercion to collect or receive any of the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution, knowing or having reason to believe that the individual was coerced into or coerced to remain in prostitution by another person.

For purposes of clauses (1) and (2), money payment by a patron, as defined in section 609.321, subdivision 4, is not coercion under section 611A.80, subdivision 2, clause (5) or (11), or exploiting needs for food or shelter under section 611A.80, subdivision 2, clause (23).

Clause (3) does not apply to minor children who are dependent on the individual and who may have benefited from or been supported by the individual's earnings derived from prostitution.

(b) An individual has a cause of action against a person who did the following while the individual was a minor:

- (1) solicited or induced the individual to practice prostitution;
- (2) promoted the prostitution of the individual;

- (3) collected or received the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution.

Mistake as to age is not a defense to an action under this paragraph.

Subd. 2. Damages. A person against whom a cause of action may be maintained under subdivision 1 is liable for the following damages that resulted from the plaintiff's being used in prostitution or to which the plaintiff's use in prostitution proximately contributed:

- (1) economic loss, including damage, destruction, or loss of use of personal property; loss of past or future income or earning capacity; and income, profits, or money owed to the plaintiff from contracts with the person; and
- (2) damages for death as may be allowed under section 573.02, personal injury, disease, and mental and emotional harm, including medical, rehabilitation, and burial expenses; and pain and suffering, including physical impairment.

MINN. STAT. § 617.245 (2011). CIVIL ACTION; USE OF MINOR IN SEXUAL PERFORMANCE

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Minor" means any person who, at the time of use in a sexual performance, is under the age of 16.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance, or other exhibition presented before an audience or for purposes of visual or mechanical reproduction which depicts sexual conduct as defined by paragraph (e).

(e) "Sexual conduct" means any of the following if the depiction involves a minor:

- (1) an act of sexual intercourse, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;
- (2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a minor who is nude, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so unclothed;
- (3) masturbation or lewd exhibitions of the genitals; and
- (4) physical contact or simulated physical contact with the unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or

between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Subd. 2. Cause of action. A cause of action exists for injury caused by the use of a minor in a sexual performance. The cause of action exists against a person who promotes, employs, uses, or permits a minor to engage or assist others to engage in posing or modeling alone or with others in a sexual performance, if the person knows or has reason to know that the conduct intended is a sexual performance.

A person found liable for injuries under this section is liable to the minor for damages.

Neither consent to sexual performance by the minor or by the minor's parent, guardian, or custodian, or mistake as to the minor's age is a defense to the action.

Subd. 3. Limitation period. An action for damages under this section must be commenced within six years of the time the plaintiff knew or had reason to know injury was caused by plaintiff's use as a minor in a sexual performance. The knowledge of a parent, guardian, or custodian may not be imputed to the minor. This section does not affect the suspension of the statute of limitations during a period of disability under section 541.15.

MISSISSIPPI

MISSOURI

MO. REV. STAT. § 566.218 (2011). RESTITUTION TO VICTIMS

Notwithstanding sections 557.011, 558.019, and 559.021, a court sentencing a defendant convicted of violating the provisions of section 566.203 (Forced Labor), 566.206 (Trafficking in slavery, involuntary servitude, peonage or forced labor), 566.209 (Trafficking for the purposes of sexual exploitation), 566.212 (Sexual trafficking of a child), or 566.213 (Sexual trafficking of a child—age of child —penalty) shall order the defendant to pay restitution to the victim of the offense regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim.

MO. REV. STAT. § 566.223 (2011). VICTIM RIGHTS AND PROTECTION – DEFENSE—IDENTIFICATION OF VICTIMS OF TRAFFICKING, PROCEDURES, SERVICES- VICTIM OF TRAFFICKING, CIVIL ACTION –ATTORNEY GENERAL, CIVIL ACTION

1. Any individual who is alleging that a violation of sections 566.200 to 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

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6. A victim of trafficking may bring a civil action against a person or persons who plead guilty to or are found guilty of a violation of section 566.203 (Forced labor) , 566.206 (Trafficking in slavery, involuntary servitude, peonage or forced labor), 566.209 (Trafficking for the purposes of sexual exploitation), 566.212 (Sexual trafficking of a child), or 566.213 (Sexual trafficking of a child—age of child—penalty) , to recover the actual damages sustained by the victim, court costs, including reasonable attorney's fees, and punitive damages, when determined to be appropriate by the court. Any action commenced under this section shall be filed within ten years after the later of:

- (1) The final order in the related criminal case;
- (2) The victim's emancipation from the defendant; or
- (3) The victim's eighteenth birthday.

7. The attorney general may bring a civil action, in the circuit court in which the victim of trafficking was found, to recover from any person or entity that benefits, financially or by receiving anything of value, from violations of section 566.203, 566.206, 566.209, 566.212, or 566.213, a civil penalty of not more than fifty thousand dollars for each violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and injunctive and other equitable relief as the court may, in its discretion, order. The first priority of any money or property collected under such an action shall be to pay restitution to the victims of trafficking on whose behalf the civil action was brought.

MONTANA

NEBRASKA

NEVADA

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 633:10 (2011). RESTITUTION AND COMPENSATION

I. A person convicted under this section shall be ordered by the court to pay restitution to the victim. Such restitution may include but not be limited to:

(a) Any economic loss compensable under RSA 651:62, in accordance with the provisions of RSA 651:61-a through RSA 651:67; and

(b) The value of the victim's labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act or the state minimum wage law, whichever is greater.

II. To the extent not included in economic loss that is compensable under paragraph I, the court may also order a person convicted under this section to pay compensation as follows:

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

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

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

(d) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her 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; and

(e) Any and all other losses suffered by the victim as a result of an offense under this section.

III. The return of the victim to her or his home country or other absence of the victim from the jurisdiction shall not relieve the defendant of his or her restitution obligation.

IV. Except as otherwise provided in this section, the provisions of RSA 651:61-a through RSA 651:67 shall govern all restitution and compensation orders.

NEW JERSEY

N.J. STAT. ANN. § 2C:13-8(E) (2011). HUMAN TRAFFICKING

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e. In addition to any other disposition authorized by law, any person who violates the provisions of this section shall be sentenced to make restitution to any victim. The court shall award to the victim restitution which is the greater of:

(1) the gross income or value to the defendant of the victim's labor or services; or

(2) the value of the victim's labor or services as determined by the “New Jersey Prevailing Wage Act,” P.L.1963, c. 150 (C.34:11-56.25 et seq.), the “New Jersey State Wage and Hour Law,” P.L.1966, c. 113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c. 71 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the “Fair Labor Standards Act of 1938,” 29 U.S.C. s.201 et seq. or any other applicable federal law.

NEW MEXICO

N.M. STAT. ANN. § 30-52-1(F) (2011). HUMAN TRAFFICKING

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F. A person convicted of human trafficking shall, in addition to any other punishment, be ordered to make restitution to the victim for the gross income or value of the victim's labor or services and any other actual damages in accordance with Section 31-17-1 NMSA 1978.

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NEW YORK

NORTH CAROLINA

NORTH DAKOTA

N.D. CENT. CODE § 12.1-40-01(4) (2011). HUMAN TRAFFICKING-- PENALTY

1. A person is guilty of human trafficking if the person:
 - a. Benefits financially or receives anything of value from knowing participation in human trafficking; or
 - b. Promotes, recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to promote, recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
2. An offense under this section is a class AA felony if the person subject to human trafficking is less than eighteen years of age. Otherwise, the offense is a class A felony.
3. If the person subject to human trafficking is under the age of eighteen years, it is no defense that the actor did not know the child's age or reasonably believed the child to be eighteen years of age or older.
4. In addition to any sentence or fine imposed for a conviction of an offense under this chapter, the court shall order the person convicted to make restitution to the victim of the crime.

OHIO

OHIO REV. CODE § 2929.18(B)(8)(A) (2011). FINANCIAL SANCTIONS

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(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01 (Kidnapping), 2905.02 (Abduction), 2907.21 (Compelling prostitution), 2907.22 (Promoting prostitution), or 2923.32 (Corrupt activity), division (A)(1) or (2) of section 2907.323 (Illegal use of a minor in nudity-oriented material or performance), or division (B)(1), (2), (3), (4), or (5) of section 2919.22 (Endangering Children) of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 (Mandatory prison term - furtherance of human trafficking) of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

- (i) The gross income or value to the offender of the victim's labor or services;

(ii) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.

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OKLAHOMA

OKLA. STAT. ANN. TIT. 21, § 748(C) (2011). HUMAN TRAFFICKING FOR FORCED LABOR OR FORCED SEXUAL EXPLOITATION

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C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than five (5) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than ten (10) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment. The court shall also order the defendant to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes.

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OKLA. STAT. ANN. TIT. 21, § 748.2 (2011). GUIDELINES FOR TREATMENT OF HUMAN TRAFFICKING VICTIMS--RIGHT TO CIVIL ACTION

A. Human trafficking victims shall:

1. Be housed in an appropriate shelter as soon as practicable;
2. Not be detained in facilities inappropriate to their status as crime victims;
3. Not be jailed, fined, or otherwise penalized due to having been trafficked;
4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;
5. Have access to legal assistance, information about their rights, and translation services, as necessary; and
6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:
 - a. taking measures to protect trafficked persons and their family

members from intimidation and threats of reprisals, and

b. ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

B. Any person who is a victim of human trafficking may file a civil action against the alleged perpetrator or perpetrators in state court. The court may award actual damages, punitive damages, reasonable attorney fees, and other costs reasonably incurred. Any civil action filed pursuant to this subsection shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

OREGON

OR. REV. STAT. § 30.867 (2011). ACTION FOR VIOLATION OF CRIMINAL LAWS RELATING TO INVOLUNTARY SERVITUDE OR TRAFFICKING IN PERSONS

Definitions for 30.866 are found in 163.730.

(1) Irrespective of any criminal prosecution or the result of a criminal prosecution, a person injured by a violation of ORS 163.263, 163.264 or 163.266 may bring a civil action for damages against a person whose actions are unlawful under ORS 163.263, 163.264 or 163.266.

(2) Upon prevailing in an action under this section, the plaintiff may recover:

(a) Both special and general damages, including damages for emotional distress; and

(b) Punitive damages.

(3) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a circuit court.

(4) An action under this section must be commenced within six years of the conduct giving rise to the claim.

PENNSYLVANIA

18 PA. CON. STAT. § 3003 (2011). RESTITUTION FOR OFFENSES

(a) General rule.--A person convicted of an offense under this chapter (Trafficking of persons) shall, in addition to any other remedy deemed appropriate by the court, be sentenced to pay the victim restitution, including the greater of:

- (1) the gross income or value to the person to whom the labor or services were performed by the victim; or
- (2) the value of the victim's labor based on the minimum wage of this Commonwealth.

(b) Private remedies.--Nothing in this section shall be construed to preclude any other remedy at law or in equity.

RHODE ISLAND

Chapter 67. Trafficking of Persons and Involuntary Servitude

R.I. GEN. LAWS. ANN. § 11-67-4 (2011). RESTITUTION

In addition to any other amount of loss identified, the court shall order restitution including the greater of:

- (a) the gross income or value to the defendant of the victim's labor or commercial sexual activity; or
- (b) the value of the victim's labor as guaranteed under the minimum wage law and overtime provisions of the fair labor standards act (FLSA) or the minimum wage law, whichever is greater.

SOUTH CAROLINA

SOUTH DAKOTA

TENNESSEE

TEXAS

TEX. CODE CRIM. PROC. ANN. ART 42.0372 (2011). MANDATORY RESTITUTION FOR CHILD VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION.

(a) The court shall order a defendant convicted of an offense under Section 20A.02 (Trafficking of persons) or 43.05(a)(2) (Compelling Prostitution), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.

(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) A restitution order issued under Subsection (a) may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

TEX. CIV. PRAC. & REM. CODE § 98.001 (2011). DEFINITION

In this chapter, "trafficking of persons" means conduct that constitutes an offense under Chapter 20A, Penal Code.

TEX. CIV. PRAC. & REM. CODE § 98.002 (2011). LIABILITY

(a) A defendant who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person is liable to the person trafficked, as provided by this chapter, for damages arising from the trafficking of that person by the defendant or venture.

(b) It is not a defense to liability under this chapter that a defendant has been acquitted or has not been prosecuted or convicted under Chapter 20A, Penal Code, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this chapter.

TEX. CIV. PRAC. & REM. CODE § 98.003 (2011). DAMAGES

(a) A claimant who prevails in a suit under this chapter shall be awarded:

(1) actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;

(2) court costs; and

(3) reasonable attorney's fees.

(b) In addition to an award under Subsection (a), a claimant who prevails in a suit under this chapter may recover exemplary damages.

**TEX. CIV. PRAC. & REM. CODE § 98.004 (2011). CAUSE OF ACTION
CUMULATIVE**

The cause of action created by this chapter is cumulative of any other remedy provided by common law or statute.

**TEX. CIV. PRAC. & REM. CODE § 98.005 (2011). JOINT AND SEVERAL
LIABILITY**

A person who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person and is found liable under this chapter or other law for any amount of damages arising from the trafficking is jointly liable with any other defendant for the entire amount of damages arising from the trafficking.

**TEX. CIV. PRAC. & REM. CODE § 98.006 (2011). LIBERAL CONSTRUCTION
AND APPLICATION**

This chapter shall be liberally construed and applied to promote its underlying purpose to protect persons from human trafficking and provide adequate remedies to victims of human trafficking.

UTAH

VERMONT

VT. STAT. ANN. TIT. 13, §7043 (2011). RESTITUTION.

(a)(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss.

(2) For purposes of this section, “material loss” means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.

(3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title, “material loss” shall also mean:

- (A) attorney's fees and costs; and
- (B) the greater of either:
 - (i) the gross income or value of the labor performed for the offender by the victim; or
 - (ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.
- (b)(1) When ordered, restitution may include:
 - (A) return of property wrongfully taken from the victim;
 - (B) cash, credit card, or installment payments paid to the restitution unit; or
 - (C) payments in kind, if acceptable to the victim.
- (2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.
- (c) In awarding restitution, the court shall make findings with respect to:
 - (1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.
 - (2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.
- (d)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding chapter 113 of Title 12 or any other provision of law, interest shall not accrue on a restitution judgment.
- (2)(A) Every order of restitution shall:
 - (i) include the offender's name, address, and Social Security number;
 - (ii) include the name, address, and telephone number of the offender's employer; and

(iii) require the offender, until his or her restitution obligation is satisfied, to notify the restitution unit within 30 days if the offender's address or employment changes, including providing the name, address, and telephone number of each new employer.

(B) Repealed by 2005, Adj. Sess., No. 162, § 3, eff. Jan. 1, 2007.

(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement which provides that the offender pay restitution for that offense.

(e)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

(2) The department of corrections shall work collaboratively with the restitution unit to assist with the collection of restitution. The department shall provide the restitution unit with information about the location and employment status of the offender.

(f)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

(2)(A) If restitution was not requested at the time of sentencing, or if expenses arose after the entry of a restitution order, the state may file a motion with the sentencing court to reopen the restitution case in order to consider a request for restitution payable from the restitution fund. Restitution ordered under this subdivision shall not be payable by the offender.

(B) A motion under this subdivision shall be filed within one year after the imposition of sentence or the entry of the restitution order.

(g) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

(h)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

(2) To the extent that the victims compensation board has made payment to or on behalf of the victim in accordance with chapter 167 of this title, restitution, if imposed, shall be paid to the restitution unit, which shall make payment to the victims compensation fund.

(i) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims procedure in the same manner as a civil judgment. Superior and small claims filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

(j) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

(k) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

(l) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

(1) amending the payment schedule of the restitution order;

(2) ordering, in compliance with the procedures required in Rule 4.1 of the Vermont Rules of Civil Procedure, the disclosure, attachment, and sale of assets and accounts owned by the offender;

(3) ordering the offender's wages withheld pursuant to subsection (n) of this section; or

(4) ordering the suspension of any recreational licenses owned by the offender.

(m)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

(2) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to subchapter 12 of chapter 151 of Title 32.

(3)(A) For all Vermont lottery games, the lottery commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the lottery commission shall withhold the entire amount of restitution owed and pay it to the restitution unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the restitution unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The restitution unit shall inform the lottery commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to section 792 of Title 15 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

(4) Unless otherwise provided, monies paid under this subsection shall be paid directly to the restitution unit.

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

(o) An obligation to pay restitution is part of a criminal sentence and is:

(1) nondischargeable in the United States Bankruptcy Court to the maximum extent provided under 11 U.S.C. §§ 523 and 1328; and

(2) not subject to any statute of limitations.

(p) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of chapter 57 of Title 9, and the restitution unit shall be entitled to the remedies of creditors provided under section 2291 of Title 9.

VT. STAT. ANN. TIT. 13, §2662 (2011). PRIVATE CAUSE OF ACTION.

(a) A victim of human trafficking may bring an action against the offender in the civil division of the superior court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may

include any loss for which restitution is available under section 2657 of this chapter.

(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court, provided that the legal guardian, family member, or other representative appointed by the court has not benefited in any way from the trafficking.

(c) In a civil action brought under this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

VIRGINIA

WASHINGTON

WASH. REV. CODE ANN. § 9A.82.100 (2012). REMEDIES AND PROCEDURES

(1)(a) A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity, or by an offense defined in RCW 9A.40.100 (Trafficking), or by a violation of RCW 9A.82.060 or 9A.82.080 may file an action in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(b) The attorney general or county prosecuting attorney may file an action: (i) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or (ii) to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100 (Trafficking), or a violation of RCW 9A.82.060 or 9A.82.080.

(c) An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(d) In an action filed to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100 (Trafficking), or a violation of RCW 9A.82.060 or 9A.82.080, the court, upon proof of the violation, may impose a civil penalty not exceeding two hundred fifty thousand dollars, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

(2) The superior court has jurisdiction to prevent, restrain, and remedy a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100 (Trafficking), or a violation of RCW 9A.82.060 or 9A.82.080 after making provision for the rights of all

innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

(3) Prior to a determination of liability, orders issued under subsection (2) of this section may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the court deems proper. The orders may also include attachment, receivership, or injunctive relief in regard to personal or real property pursuant to Title 7 RCW. In shaping the reach or scope of receivership, attachment, or injunctive relief, the superior court shall provide for the protection of bona fide interests in property, including community property, of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture under RCW 9A.82.100(4)(f).

(4) Following a determination of liability, orders may include, but are not limited to:

(a) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.

(b) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the Constitutions of the United States and this state permit.

(c) Ordering dissolution or reorganization of any enterprise.

(d) Ordering the payment of actual damages sustained to those persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an offense defined in RCW 9A.40.100 (Trafficking), or an act of criminal profiteering that is part of a pattern of criminal profiteering, and in the court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.

(e) Ordering the payment of all costs and expenses of the prosecution and investigation of a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100 (Trafficking), activity or a violation of RCW 9A.82.060 or 9A.82.080, civil and criminal, incurred by the state or county, including any costs of defense provided at public expense, as appropriate to the state general fund or the antiprofitteering revolving fund of the county.

(f) Ordering forfeiture first as restitution to any person damaged by an act of criminal profiteering that is part of a pattern of criminal profiteering, or by an offense defined in RCW 9A.40.100 (Trafficking), then to the state general fund or antiprofitteering revolving fund of the county, as appropriate, to the extent not already ordered to be paid in other damages, of the following:

(i) Any property or other interest acquired or maintained in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9A.82.060 or 9A.82.080.

(ii) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(iii) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100 (Trafficking), and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.

(g) Ordering payment to the state general fund or antiprofitteering revolving fund of the county, as appropriate, of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of criminal profiteering.

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the state general fund or antiprofitteering revolving fund of the county, as appropriate, to the extent not already ordered paid pursuant to this section, of the following:

(a) Any interest acquired or maintained by a person in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any appreciation or income attributable to the investment.

(b) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(c) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100 (Trafficking), and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate the commission of the offense.

(6) A defendant convicted in any criminal proceeding is precluded in any civil proceeding from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict, finding, or plea of guilty, notwithstanding the fact that appellate review of the conviction and sentence has been or may be sought. If a subsequent reversal of the conviction occurs, any judgment that was based upon that conviction may be reopened upon motion of the defendant.

(7) The initiation of civil proceedings under this section shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern

should reasonably have been discovered or, in the case of an offense that is defined in RCW 9A.40.100, within three years after the final disposition of any criminal charges relating to the offense, whichever is later.

(8) The attorney general or county prosecuting attorney may, in a civil action brought pursuant to this section, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the presiding chief judge of the superior court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.

(9) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

(10) A person other than the attorney general or county prosecuting attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.

(11) Except in cases filed by a county prosecuting attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought under this section if the attorney general certifies that in the attorney general's opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

(12) In addition to the attorney general's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting RCW 9A.82.010, 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

(13) A private civil action under this section does not limit any other civil or criminal action under this chapter or any other provision. Private civil remedies provided under this section are supplemental and not mutually exclusive.

(14) Upon motion by the defendant, the court may authorize the sale or transfer of assets subject to an order or lien authorized by this chapter for the purpose of paying actual attorney's fees and costs of defense. The motion shall specify the assets for which sale or transfer is sought and shall be accompanied by the defendant's sworn statement that the defendant has no other assets available for such purposes. No order authorizing such sale

or transfer may be entered unless the court finds that the assets involved are not subject to possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of the motion, the court shall notify the state of the assets sought to be sold or transferred and shall hear argument on the issue of whether the assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a motion may be made from time to time and shall be heard by the court on an expedited basis.

(15) In an action brought under subsection (1)(a) and (b)(i) of this section, either party has the right to a jury trial.

WEST VIRGINIA

WISCONSIN

WIS. STAT. § 973.20 (2011). RESTITUTION

(1g) In this section:

(a) “Crime considered at sentencing” means any crime for which the defendant was convicted and any read-in crime.

(b) “Read-in crime” means any crime that is uncharged or that is dismissed as part of a plea agreement, that the defendant agrees to be considered by the court at the time of sentencing and that the court considers at the time of sentencing the defendant for the crime for which the defendant was convicted.

(1r) When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. When imposing sentence or ordering probation for a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a) for which the defendant was convicted or that was considered at sentencing, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime or, if the victim is deceased, to his or her estate, unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim and describes the undue hardship on the record. Restitution ordered under this section is a condition of probation, extended

supervision or parole served by the defendant for a crime for which the defendant was convicted. After the termination of probation, extended supervision or parole, or if the defendant is not placed on probation, extended supervision or parole, restitution ordered under this section is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under ch. 785.

(2) If a crime considered at sentencing resulted in damage to or loss or destruction of property, the restitution order may require that the defendant:

(a) Return the property to the owner or owner's designee; or

(b) If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner's designee the reasonable repair or replacement cost or the greater of:

1. The value of the property on the date of its damage, loss or destruction; or

2. The value of the property on the date of sentencing, less the value of any part of the property returned, as of the date of its return. The value of retail merchandise shall be its retail value.

(3) If a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:

(a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment.

(b) Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation.

(c) Reimburse the injured person for income lost as a result of a crime considered at sentencing.

(d) If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to ensure that the duties are continued until the person is able to resume performance of the duties.

(4) If a crime considered at sentencing resulted in death, the restitution order may also require that the defendant pay an amount equal to the cost of necessary funeral and related services under s. 895.04(5).

(4m) If the defendant violated s. 940.225 (Sexual assault), 948.02 (Sexual assault of a child), 948.025 (Engaging in repeated acts of sexual assault of the same child), 948.05 (Sexual exploitation of a child), 948.051 (Trafficking of a child), 948.06, 948.07 (Child enticement), 948.08 (Soliciting a child for prostitution), or 948.085 (Sexual assault of a child placed in substitute care) or s. 940.302 (2) (Human trafficking), if the court finds

that the crime was sexually motivated, as defined in s. 980.01(5)(Definitions), and sub. (3) (a) does not apply, the restitution order may require that the defendant pay an amount, not to exceed \$10,000, equal to the cost of necessary professional services relating to psychiatric and psychological care and treatment. The \$10,000 limit under this subsection does not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.

(4o) If the defendant violated s. 940.302(2) (Human trafficking) or 948.051 (Trafficking of a child), and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:

(a) The costs of necessary transportation, housing, and child care for the victim.

(b) The greater of the following:

1. The gross income gained by the defendant due to the services of the victim.

2. The value of the victim's services as provided under the state minimum wage.

(c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.

(d) The costs of relocating the victim to his or her city, state, or country of origin.

(5) In any case, the restitution order may require that the defendant do one or more of the following:

(a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of a crime considered at sentencing.

(b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.

(c) Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the defendant for a crime for which the defendant was convicted or to the apprehension or prosecution of the defendant for a read-in crime.

(d) If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this section.

(6) Any order under sub. (5)(c) or (d) shall require that all restitution to victims under the order be paid before restitution to other persons.

(7) If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be transferred under sub. (11)(a). If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability. If the court specifies that 2 or more defendants are jointly and severally liable, the department or the clerk to whom payments are made under sub. (11)(a) shall distribute any overpayments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution.

(8) Restitution ordered under this section does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The facts that restitution was required or paid are not admissible as evidence in a civil action and have no legal effect on the merits of a civil action. Any restitution made by payment or community service shall be set off against any judgment in favor of the victim in a civil action arising out of the facts or events which were the basis for the restitution. The court trying the civil action shall hold a separate hearing to determine the validity and amount of any setoff asserted by the defendant.

(9)(a) If a crime victim is paid an award under subch. I of ch. 949 for any loss arising out of a criminal act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the offenses or any transaction which is part of the same continuous scheme of criminal activity.

(b) When restitution is ordered, the court shall inquire to see if an award has been made under subch. I of ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under subch. I of ch. 949, the restitution shall be credited to the appropriation account under s. 20.455(5)(hh). If the restitution ordered is greater than the award under subch. I of ch. 949, an amount equal to the award under subch. I of ch. 949 shall be credited to the appropriation account under s. 20.455(5)(hh) and the balance shall be paid to the victim.

(9m) When restitution is ordered, the court shall inquire to see if recompense has been made under s. 969.13(5)(a). If recompense has been made and the restitution ordered is less than or equal to the recompense, the restitution shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. If recompense has been made and the restitution ordered is greater than the recompense, the victim shall receive an amount equal to the amount of restitution less the amount of recompense and the balance shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. This subsection applies without regard to whether the person who paid the recompense is the

person who is convicted of the crime.

(10) The court may require that restitution be paid immediately, within a specified period or in specified installments. If the defendant is placed on probation or sentenced to imprisonment, the end of a specified period shall not be later than the end of any period of probation, extended supervision or parole. If the defendant is sentenced to the intensive sanctions program, the end of a specified period shall not be later than the end of the sentence under s. 973.032 (3) (a).

(11)(a) Except as otherwise provided in this paragraph, the restitution order shall require the defendant to deliver the amount of money or property due as restitution to the department for transfer to the victim or other person to be compensated by a restitution order under this section. If the defendant is not placed on probation or sentenced to prison, the court may order that restitution be paid to the clerk of court for transfer to the appropriate person. The court shall impose on the defendant a restitution surcharge under ch. 814 equal to 5% of the total amount of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered under s. 973.05(1) and imposed under ch. 814, which shall be paid to the department or the clerk of court for administrative expenses under this section.

(b) The department shall establish a separate account for each person in its custody or under its supervision ordered to make restitution for the collection and disbursement of funds. A portion of each payment constitutes the surcharge for administrative expenses under par. (a).

(12)(a) If the court orders restitution in addition to the payment of fines, costs, fees, and surcharges under ss. 973.05 and 973.06 and ch. 814, it shall set the amount of fines, costs, fees, and surcharges in conjunction with the amount of restitution and issue a single order, signed by the judge, covering all of the payments. If the costs for legal representation by a private attorney appointed under s. 977.08 are not established at the time of issuance of the order, the court may revise the order to include those costs at a later time.

(b) Except as provided in par. (c), payments shall be applied first to satisfy the ordered restitution in full, then to pay any fines or surcharges under s. 973.05, then to pay costs, fees, and surcharges under ch. 814 other than attorney fees and finally to reimburse county or state costs of legal representation.

(c) If a defendant is subject to more than one order under this section and the financial obligations under any order total \$50 or less, the department or the clerk of court, whichever is applicable under sub. (11)(a), may pay these obligations first.

(13)(a) The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:

1. The amount of loss suffered by any victim as a result of a crime considered at sentencing.
2. The financial resources of the defendant.
3. The present and future earning ability of the defendant.
4. The needs and earning ability of the defendant's dependents.
5. Any other factors which the court deems appropriate.

(b) The district attorney shall attempt to obtain from the victim prior to sentencing information pertaining to the factor specified in par. (a)1. Law enforcement agencies, the department of corrections and any agency providing services under ch. 950 shall extend full cooperation and assistance to the district attorney in discharging this responsibility. The department of justice shall provide technical assistance to district attorneys in this regard and develop model forms and procedures for collecting and documenting this information.

(c) The court, before imposing sentence or ordering probation, shall inquire of the district attorney regarding the amount of restitution, if any, that the victim claims. The court shall give the defendant the opportunity to stipulate to the restitution claimed by the victim and to present evidence and arguments on the factors specified in par. (a). If the defendant stipulates to the restitution claimed by the victim or if any restitution dispute can be fairly heard at the sentencing proceeding, the court shall determine the amount of restitution before imposing sentence or ordering probation. In other cases, the court may do any of the following:

1. Order restitution of amounts not in dispute as part of the sentence or probation order imposed and direct the appropriate agency to file a proposed restitution order with the court within 90 days thereafter, and mail or deliver copies of the proposed order to the victim, district attorney, defendant and defense counsel.
2. Adjourn the sentencing proceeding for up to 60 days pending resolution of the amount of restitution by the court, referee or arbitrator.
3. With the consent of the defendant, refer the disputed restitution issues to an arbitrator acceptable to all parties, whose determination of the amount of restitution shall be filed with the court within 60 days after the date of referral and incorporated into the court's sentence or probation order.
4. Refer the disputed restitution issues to a circuit court commissioner or other appropriate referee, who shall conduct a hearing on the matter and submit the record thereof, together with proposed findings of fact and conclusions of law, to the court within 60 days of the date of referral. Within 30 days after the referee's report is filed, the

court shall determine the amount of restitution on the basis of the record submitted by the referee and incorporate it into the sentence or probation order imposed. The judge may direct that hearings under this subdivision be recorded either by audio recorder or by a court reporter. A transcript is not required unless ordered by the judge.

(14) At any hearing under sub. (13), all of the following apply:

(a) The burden of demonstrating by the preponderance of the evidence the amount of loss sustained by a victim as a result of a crime considered at sentencing is on the victim. The district attorney is not required to represent any victim unless the hearing is held at or prior to the sentencing proceeding or the court so orders.

(b) The burden of demonstrating, by the preponderance of the evidence, the financial resources of the defendant, the present and future earning ability of the defendant and the needs and earning ability of the defendant's dependents is on the defendant. The defendant may assert any defense that he or she could raise in a civil action for the loss sought to be compensated. The office of the state public defender is not required to represent any indigent defendant unless the hearing is held at or prior to the sentencing proceeding, the defendant is incarcerated when the hearing is held or the court so orders.

(c) The burden of demonstrating, by the preponderance of the evidence, such other matters as the court deems appropriate is on the party designated by the court, as justice requires.

(d) All parties interested in the matter shall have an opportunity to be heard, personally or through counsel, to present evidence and to cross-examine witnesses called by other parties. The court, arbitrator or referee shall conduct the proceeding so as to do substantial justice between the parties according to the rules of substantive law and may waive the rules of practice, procedure, pleading or evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person or to admissibility under s. 901.05. Discovery is not available except for good cause shown. If the defendant is incarcerated, he or she may participate by telephone under s. 807.13 unless the court issues a writ or subpoena compelling the defendant to appear in person.

(15) If misappropriation, from a cemetery, of an object that indicates that a deceased was a veteran, as described in s. 45.001, is a crime considered at sentencing, the restitution order shall require that the defendant reimburse an individual, organization, or governmental entity for the cost of replacing the object.

WIS. STAT. § 948.051 (2011). TRAFFICKING OF A CHILD

(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), or sexually explicit performance is

guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1)

(3) Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.

WYOMING

FEDERAL LEGISLATION

18 USCS § 1595 (2011). CIVIL REMEDY

(a) An individual who is a victim of a violation of this chapter [18 USCS §§ 1581 et seq.] may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter [18 USCS §§ 1581 et seq.]) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b)

(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.

(c) No action may be maintained under this section unless it is commenced not later than 10 years after the cause of action arose.

AMERICAN SAMOA

GUAM

GUAM CODE ANN. TIT. 9, § 26.31 (2011). CIVIL ACTION

(a) An individual who is a victim of trafficking may bring a civil action in the appropriate court. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious.

(b) Any statute of limitation imposed for the filing of a civil suit will not start to run until any minor plaintiff has reached the age of majority, with the exception of persons determined to have or suffer from mental illness, retardation or other mental defects at the time of or before their victimization.

(c) If a person entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(d) The running of the statute of limitations may be suspended where a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(e) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action or placing the plaintiff under duress.

PUERTO RICO

U.S. VIRGIN ISLANDS