



# **Human Trafficking:**

**What Every Lawyer  
Should Know**

# Goals for Today's Discussion

1. Learn what human trafficking is (and what it is not).
2. Identify ways trafficking impacts businesses and how to avoid liability.





# Myths vs. Realities of Human Trafficking

# Myth:

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Trafficking involves smuggling people across a border.





# Reality:

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- Trafficking is compelled labor or commercial sex; no movement is required.
- Trafficking victims can be citizens or non-citizens.
- Trafficking is a crime against victim's human rights.
- Smuggling is a separate crime of illegally transporting a willing person across the border.

# Myth:

Traffickers snatch up unsuspecting victims and lock them in cages.



# Reality:

- Traffickers obtain victims by making false promises of safety, income, or love. They maintain control over victims through emotional and physical abuse and manipulation.
- Victims can be trafficked by family members or people that they know.

# Myth:



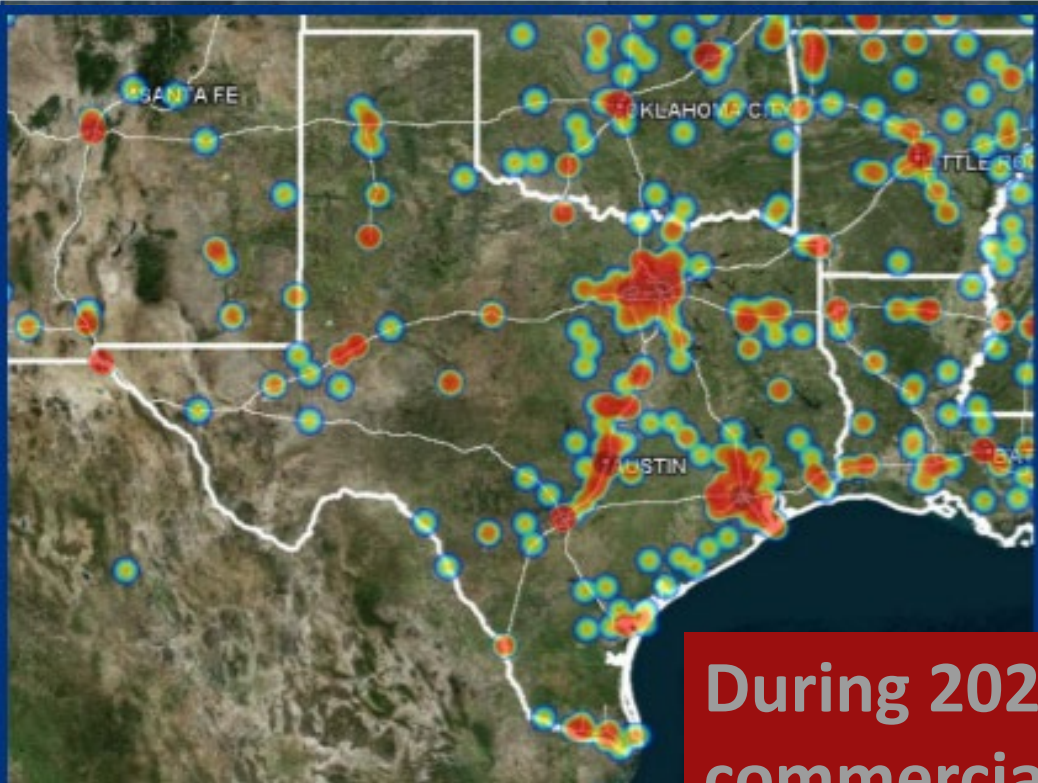
Photo by Adolfo Félix on Unsplash

Trafficking doesn't happen  
in my community.



# Reality: Trafficking Happens Throughout Texas

## LOCATIONS OF REPORTED HUMAN TRAFFICKING



In 2020, the National Human Trafficking Hotline identified:  
3,559 calls/contacts from Texas  
1,488 Texas victims  
987 trafficking cases

Texas has the 2<sup>nd</sup> highest number of calls to the hotline

During 2021, there were over 1.5 million online commercial sex advertisements in Texas, and over 195,000 of those are believed to have sold children.

# What is Sex Trafficking?

- Sex trafficking occurs when a commercial sex act is induced by **force, fraud or coercion**, or when the person induced to perform the commercial sex act is **less than 18 years old**.
- Victims can be adults or children, male or female.
- **KEY:** Children cannot consent to sexual exploitation, so no force, fraud, or coercion is required for child sex trafficking.



# Common Locations for Sex Trafficking

- Hotels
- Strip Clubs
- Bars/Cantinas
- Sexually-Oriented Businesses
- Massage Establishments
- Construction job sites

# What is Labor Trafficking?

Labor trafficking occurs when someone causes another to perform labor or services through force, fraud, or coercion.

Examples:

- Debt bondage
- Forced labor
- Involuntary child labor

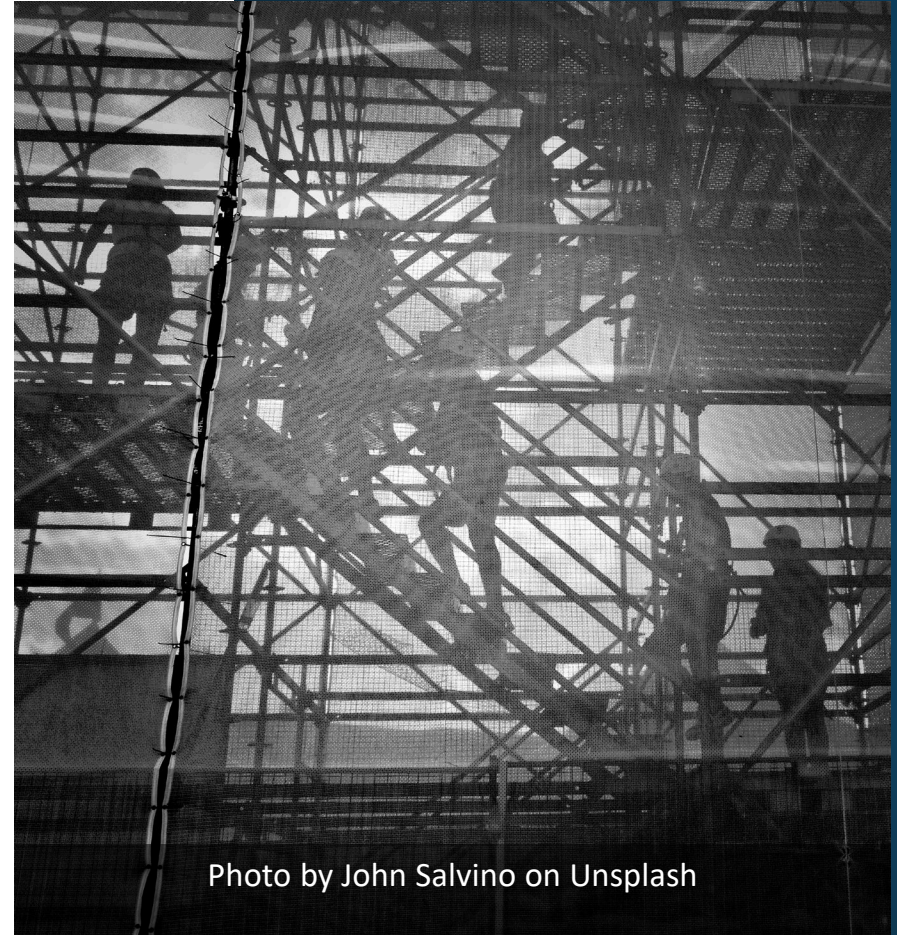


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# Coercive Tactics in Labor Trafficking

People are coerced to work through:

- Violence
- Intimidation
- Threat to harm family
- Manipulated debt (debt bondage)
- Retention of identity papers
- Threat of report to immigration authorities



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# Key Definitions

- **Forced Labor:** recruiting, harboring, transporting, providing, or obtaining—involved when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work.
- **Bonded Labor or Debt Bondage or Peonage:** smugglers become traffickers by unlawfully exploiting an initial debt assumed, wittingly or unwittingly, as a term of employment.
- **Domestic Servitude:** work in a private residence that creates unique vulnerabilities for victims where the domestic worker is not free to leave his/her employment and is often abused and underpaid, if paid at all.
- **Forced Child Labor:** when a child appears to be in the custody of a non-family member who requires the child to perform work that financially benefits someone outside the child's family and does not offer the child the option of leaving.

# Common Labor Trafficking Industries

Agriculture	Involuntary servitude/domestic servitude	Restaurant/Food
Assisted Living/ Healthcare	Trafficking Drugs	Selling goods (e.g., pencils, candy)
Child Care	Magazine	Sexualized labor (e.g., strip club, Massage Parlors)
Construction	Hotel	Traveling sales crew
Factory/ Manufacturing	Forced Criminality (e.g., Robbery, Theft, Burglary)	Forced begging



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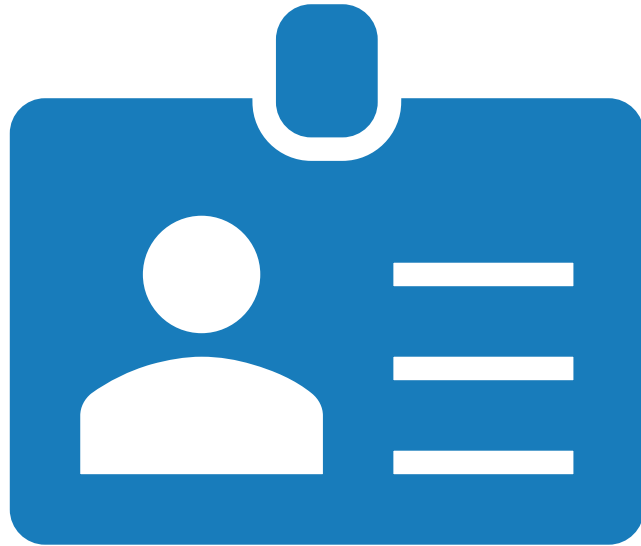
# Criminal Liability for Companies that Benefit from Human Trafficking

**Criminal Liability** – if a manager or employee is engaging in human trafficking, or benefits financially from human trafficking that person, and potentially the business itself, may be criminally liable for human trafficking or conspiracy.

- The mens rea standard is knew or reasonably should have known, so willful blindness of management will not prevent criminal liability.

**Up to Life In Prison** - Under both Texas and federal law, criminal penalties for human trafficking are significant – up to life imprisonment in some cases.





## Areas to Advise your Clients on to Prevent Human Trafficking Liability

### Immigration/Visa Issues

- Make sure your client is accurate in the type of work international employees will be doing here in their visa applications.

### Corporate housing/group transportation for employees

- Be mindful of long-term group housing and transportation of employees – ensure freedom of movement and safe living conditions.

### Lower than market wages

- Know your client's labor market, and if they are paying notably less, ask more questions.

### Your client's third-party contractors

- Ensure that your client has information about 3<sup>rd</sup> party contractor's hiring practices in areas such as janitorial and security services.



## Other Ways Corporate Traffickers May Be Impacted

- **Civil Lawsuits** – to seize trafficker's assets and to obtain restitution for victims
- **Administrative Actions** – to shut down illegal businesses as nuisances

# State and Federal Civil Causes of Action for Human Trafficking

## Texas

Under Texas Civil Practice and Remedies Code Sections 140A.002 and 140A.101, **the Texas Attorney General** is authorized to bring a civil action against a person or enterprise who commits racketeering if, for financial gain, they commit an offense under Chapter 20A, Penal Code (Trafficking of Persons).

Also, TCPRC 98.002 creates a private cause of action for victims of human trafficking.

## Federal

In federal court, trafficking victims can bring a direct civil case under 18 U.S.C. Section 1595(a) against anyone who knowingly benefits financially from a venture that the person knew, or should have known, involved sex or labor trafficking.



QUESTIONS?

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