

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 1: CRIMES AGAINST THE PERSON

§ 1501. Definitions.

The definitions in this section apply throughout this Act, unless otherwise specified or a different meaning is plainly required:

(a) “Abuse the law” or “abuse the legal process” means to file, or threaten to file, a civil action the person knows is not legally justified; or to file, threaten to file, or cause to be filed, a criminal action the person knows is not legally justified, or to testify or provide information, or withhold testimony or information, with respect to a person’s legal claim or defense.

(b) “Aggravated sexual assault or abuse” means Sexual Assault in the First Degree, as described in 6 CMC § 1301(a)(1) or 6 CMC § 1301(a)(2); Sexual Assault in the Second Degree, as described in 6 CMC § 1302(a)(3) of that section; Sexual Abuse of a Minor in the First Degree as described in 6 CMC § 1306(a); Sexual Abuse of a Minor in the Second Degree, as described in 6 CMC § 1307(a)(1).

(c) “Coercion” or “criminal coercion” are to be given their ordinary meaning as defined by 6 CMC § 1431.

(d) “Commercial sex act” means any sex act or sexual conduct, including sexually explicit performances, on account of which anything of value is exchanged, given, promised to, or received by any person.

(e) “Commonwealth” means the Commonwealth of the Northern Mariana Islands, and its surrounding territorial waters, to the extent those waters are recognized as within the boundaries of the Commonwealth’s criminal jurisdiction, customs enforcement jurisdiction, fish and wildlife jurisdiction, or environmental protection jurisdiction, whichever is greater.

(f) “Debt bondage” means to use any debt, legally owed or otherwise, to force, compel, or pressure a person into doing any act from which the person has a legal right to abstain, as a means of discharging the debt, when a reasonable person in the situation would believe he or she had no reasonable alternative means of discharging the debt.

(g) “Financial harm” includes extortion as defined in 6 CMC § 1604, criminal violation of the usury law, as defined by 3 CMC § 5303, or employment contracts that violate the statute of frauds, as defined by 5 CMC § 2201.

(h) “Forced Labor or Services” means labor or services that are performed or provided by another person and are obtained or maintained through an actor’s:

- (1) Causing, attempting to cause, or threatening to cause injury to any person;
- (2) Physically restraining, attempting to physically restrain, or threatening to physically restrain, any person;
- (3) Abusing, attempting to abuse, or threatening to abuse the law or legal process;
- (4) Engaging in conduct described in the criminal coercion statute, 6 CMC § 1431(a);

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(5) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(6) Causing, attempting to cause, or threatening to cause financial harm to any person; or

(7) Subjecting another to debt bondage.

(i) "Homicide" means murder in any degree or manslaughter.

(j) "Injury" means physical or bodily injury, or severe psychological trauma.

(k) "Intentionally" means that the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective.

(l) "Knowingly" means that the person is aware that the conduct is of a certain nature or that a circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with the respect to that conduct or circumstance.

(m) "Labor or services" means:

(1) Work of economic or financial value, or of other benefit to the person for whom it is done; or

(2) A relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sex acts are forms of "labor or services" under this section. Nothing in this Act shall be construed to legitimize or legalize prostitution.

(n) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service.

(o) "Obtain" means, in relation to labor or services, to secure performance thereof.

(p) "Physical injury" means a physical pain or an impairment of physical condition.

(q) "Physically restrain" means to exercise physical control over, or to confine for a substantial period.

(r) "Prostitution," means to offer to engage in, agree to engage in, or to actually engage in, sexual conduct, in exchange for a fee, and also includes Promoting Prostitution, as described in 6 CMC § 1344, and Permitting Prostitution, as described in 6 CMC § 1345.

(s) "Recklessly" means the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

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(t) “Sexual act” or “sexual conduct” means sexual penetration or sexual contact, as defined in 6 CMC § 1317.

(u) “Sexually-explicit performance” means a live performance, film, audio, video, electronic or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine or other material that visually or aurally depicts the following actual or simulated conduct:

- (1) Any sexual act as defined by 6 CMC § 1317;
- (2) Masturbation;
- (3) Bestiality;
- (4) The lewd exhibition of a person’s genitals; or
- (5) Sexual masochism or sadism.

(v) “Transports” means to:

- (1) Take or carry a person into or away from the Commonwealth;
- (2) Conspire with another to take or carry a person into or away from the Commonwealth;
- (3) Attempt to take or carry a person into or away from the Commonwealth; or
- (4) Knowingly assist another in transporting a person into or away from the Commonwealth.

(w) “Victim of trafficking” means a person subjected to the practices set forth in Section 6 CMC § 1502 (Involuntary Servitude), or recruited, enticed, harbored, transported, provided or obtained in violation of Section 6 CMC § 1503 (Human Trafficking for Involuntary Servitude), or recruited, enticed, harbored, transported, provided, or procured in violation of Section 6 CMC § 1504 (Sexual Servitude of a Minor).

Source: PL 14-88, § 3 (1501), modified; (b) amended by PL 15-64, § 3(f).

Commission Comment: The following modifications were made by the Commission pursuant to the authority granted by 1 CMC § 3806(d) and (g): “Chapter” was changed to “Act” in the introduction sentence; an extra period symbol was deleted in subsection (f) to correct a manifest typographical error; an duplicate “that” was deleted in subsection (s) to correct a manifest typographical error; and the proper section was substituted for “Public Law 12-82” in subsections (t) and (u). The references to “that section” in subsection (b) above appear to be to the criminal code on sexual offenses codified at 6 CMC §1301 et seq.

PL 14-88 became law on September 23, 2005 and contained the following short title and findings, in addition to severability and savings clause provisions:

Section 1. Findings. The Legislature finds and declares that Involuntary Servitude and Human Trafficking for Involuntary Servitude-forced labor without due process of law; recruiting, transporting or receiving persons for forced labor; and recruiting, transporting or receiving minors, knowing they will be used in the commercial sex trade-are modern day

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forms of slavery and are therefore irreconcilable with the fundamental right to liberty possessed by each person.

According to estimates, approximately 800,000 to 900,000 people annually are trafficked across international borders. These estimates include men, women and children trafficked into forced labor and sexual exploitation. Persons from countries with chronic unemployment or widespread poverty are particularly vulnerable to traffickers, who exploit the victims' desire for a better life. In addition, those from areas experiencing armed conflict, post-conflict civil unrest, other forms of political instability or natural disaster, are highly vulnerable to exploitation and abuse by traffickers.

The toll that trafficking takes on the victims, their countries of origin and the countries they are trafficked into is devastating. Trafficking increases the breakdown of family; undermines government authority and social institutions; deprives the home countries of human capital; promotes crime; and undermines public health.

The Legislature finds that the Commonwealth has also been touched by trafficking activity. Some report the routine confiscation of their travel or identification documents by their employers, for the purpose of controlling their movements. There have also been cases where foreign nationals have been sued for huge sums in their home countries by persons acting on behalf of their employers, simply because the foreign national dared to file a legitimate grievance with the Department of Labor. Within the past few years, several incidents have been reported to law enforcement agencies concerning young women-some of them minors-who were recruited as waitresses or hostesses, but forced into prostitution by their employers once they arrived. Prosecutions have also been commenced by federal authorities against persons who have attempted to transport foreign nationals out of the Commonwealth and into Guam.

The Legislature finds that currently, there are no laws that specifically prohibit the type of conduct this Act would address. Even where existing Commonwealth law does apply, those laws do not provide penalties sufficient to deter traffickers from engaging in that reprehensible conduct.

The Legislature finds and declares that the conduct prohibited by this Act is vile, repugnant to any civilized member of society, and should never occur within the Commonwealth; consequently, this Act is a necessary and proper use of the Legislative power.

Section 2. Title. This act shall be known as the Anti-Trafficking Act of 2005.

PL 15-64 was enacted on May 30, 2007, and contained the following findings and purpose in addition to other enactments and repealers, expenditure authority, global amendment, clarifications, severability, and savings clause provisions:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that with the enactment of various bills into public law, certain minor errors and inconsistencies have prevented the efficient codification of a number of laws. It is the intent of this Act to repeal, amend, or add nec-

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essary language to the Commonwealth Code in order to more accurately reflect the intent and purpose of laws enacted by the Commonwealth Legislature.