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Sex Trafficking Laws in East Tennessee

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SEX TRAFFICKING LAWS IN EAST TENNESSEE

There was a time in U.S. history when opponents of the trans-Atlantic slave trade had to convince the watching world that slavery was horrid and against the laws of humanity. Today, modern-day abolitionists are attempting to make a sleeping world aware that slavery still exists. There are approximately 27 million people currently enslaved in the world today.¹ It is a problem that our own community cannot ignore, because slavery exists in East Tennessee and is thriving.²

Slavery in East Tennessee takes the form of sex trafficking, in which women and children are bought and sold as property for the sexual pleasure of the "buyers."³ Those most vulnerable to being caught up in this practice are run-away children.⁴ Many, once bought by a pimp, are moved around from location to location and sold daily to strangers.⁵ East Tennessee's heavily frequented interstate roadways and highly populated tourist spots make this area a hot bed for this type of criminal activity.⁶ Pimps are able to operate in this area and go relatively unnoticed. But their victims are caught in a daily web of systematic abuse, drugs and brutality.⁷ Johns are able to "purchase" women and children on Internet websites and remain relatively anonymous.⁸

The only safe house in the state of Tennessee is located in Knoxville and is operated through the non-profit organization "Cry for Justice."⁹ The home works as a means to get the victims acclimated and readjusted to society.

Fortunately, in the past few years, the Tennessee General Assembly has enacted numerous laws in an attempt to deal with sex trafficking and protect its victims. In the past, victims of sex trafficking, once apprehended, were at risk of being charged with a crime (usually prostitution), despite having been brought into the sex trade via "force, fraud or coercion." In 2011, the General Assembly passed Public Chapter No. 377,¹⁰ which protects minor victims of sex trafficking in two ways: (1) a person suspected to be under 18 years of age shall be immune from prosecution of prostitution as a juvenile or adult, and that person shall be provided with the National Human Trafficking Resource Center hotline,¹¹ and (2) patronizing prostitution from a person younger than 18 is a Class E felony.¹²

In 2012, the legislature passed Public Chapter No. 1075,¹³ which made several revisions to Title 39, Chapter 13 of the Tennessee Code Annotated. It strengthened the definition of the offense of "trafficking a person for a commercial sex act," which is committed when a person either "knowingly subjects, attempts to subject, benefits from or attempts to benefit from another person's provision of a commercial sex act" or knowingly recruits, entices, harbors, transports, provides or obtains by any means another person for sexual servitude.¹⁴ Under present law, the offense of trafficking a person for a commercial sex act is generally punished as a Class B felony, except where the victim of the offense is a child under 15 years of age, or where the offense occurs on the grounds or facilities or within 1,000 feet of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, in which case the offense is a Class A felony.¹⁵ Public Chapter No. 1075 also created the offense of "advertising commercial sexual abuse of a minor," a Class C felony, which is committed "if the person knowingly sells or offers to sell and advertisement that would appear to a reasonable person to be for the purpose of engaging in what would be a commercial sex act . . . with a minor."¹⁶

Certain other statutes have been added as of July 2013 that operate to bring better coverage of our state laws to those affected by sex trafficking. They include:

- Public Chapter No. 242,¹⁷ which amends Tennessee Code Annotated section 39-11-118 to require restitution to the victim to be paid by the defendant for the offenses of patronizing prostitution, trafficking for commercial sex acts, solicitation of a minor for sexual purposes, and enlisting or paying a minor to engage in child pornography.
- Public Chapter No. 436,¹⁸ which expands the offense of solicitation of a minor¹⁹ to include solicitations by adults, which, if completed, would constitute trafficking for commercial sex acts, patronizing prostitution, promoting prostitution or aggravated sexual exploitation of a minor.
- Public Chapter No. 465,²⁰ which creates the offense of "promoting travel for prostitution," a Class D felony, which is committed "if the person sells or offers to sell travel services that the person knows to include travel for the purpose of engaging in what would be prostitution if occurring in the state."²¹ The definition of "travel services" includes "transportation by air, sea, road or rail, related ground transportation, hotel accommodations, or package tours, whether offered on a wholesale or retail basis."²² Public Chapter No. 465 also adds the purchase of another person for the purpose of providing a commercial sex act to the definition of the offense of trafficking a person for a commercial sex act.²³ Finally, the act substitutes the present law definition of "commercial sex act" for the definition of "sexual servitude."²⁴
- Public Chapter No. 415,²⁵ which adds to the definition of criminal gang offenses trafficking for commercial sex acts and receipt, or intended receipt, of income, benefit, property, money or anything of value from the commission of trafficking for commercial sex acts.²⁶ This recognizes that gangs are now using sex trafficking as another form of income.
- Public Chapter No. 485,²⁷ which raises the classification of the offense of promoting prostitution of a minor from a Class E felony to a Class A or B felony by making it punishable as trafficking for a commercial sex act under § 39-13-309.²⁸
- Public Chapter No. 350,²⁹ which disallows as a defense to the offenses of solicitation of a minor to observe sexual conduct,³⁰ sexual exploitation of a minor,³¹ aggravated sexual exploitation of a minor,³² and especially aggravated sexual exploitation of a minor,³³ the allegation that the victim "consented" to the conduct constituting the offense.
- Public Chapter No. 416,³⁴ which extends the statutes of limitations for prosecuting a person for trafficking a person for a commercial sex act, soliciting sexual exploitation of a minor, exploitation of a minor by electronic means, prosecuting a person for patronizing prostitution, and promoting prostitution if the offenses were committed against a child on or after July 1, 2013.³⁵
- Public Chapter No. 251,³⁶ which, given the issues with many victims being intimidated by the court system, provides that victims of trafficking for commercial sex act and patronizing prostitution who are under 13 years of age may, under certain circumstances, testify outside the courtroom by closed circuit television.³⁷

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LEGALLY WEIRD

By: Latisha J. Stubblefield

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Mr. Brown Goes to Washington (ergh... Nashville... with a raccoon) Most run for public office because they want to enter the political fray and evoke a change for the better. However, for Gallatin resident Mark "Coonrippy" Brown, it's "all about the raccoon." Brown, a licensed firearms dealer, reached Internet fame over the last year when videos of Brown showering and dancing with his pet raccoon, Rebekah, went viral. However, in August, Rebekah was accused of attacking chickens at a local high school, so she was seized by the Tennessee Wildlife Resources Agency. Brown made attempts with the TWRA to have Rebekah returned and even submitted a petition with over 60,000 signatures to Governor Haslam asking for a permit to allow him to keep Rebekah. The TWRA didn't answer the request, and the petition to Governor Haslam was returned unopened. To continue his fight for Rebekah's return, Brown now intends to challenge Governor Haslam in the Republican primary this fall. Brown vowed, "We've got to take this country back one state at a time. We live in the United States of the Offended – not the United States of America." And, again, Rebekah is a raccoon. Just in case anyone missed that.

A Tale of Two Cats. Former Memphis resident Leon Sheppard passed away in December 2012. Though Sheppard had five (human) children, his will left his estate of \$250,000 and his 4,200 square foot home to his two feline companions, Frisco and Jake. As luck would have it, Tennessee is one of the few states where it is legally possible to leave your property and money for the benefit of animals using a "pet trust," the purpose of which is to care for certain pets until their death. Sheppard's will placed his home and other assets into a pet trust, which would be held and used for the benefit of Sheppard's cats until the elder cat, Frisco, dies. Upon the death of Frisco, the assets would be released from the trust to Sheppard's children who would be required to continue providing care for Jake. I'll assume that Sheppard's (human) children were less than enthusiastic about the nine lives of a feline.

What's in a Name? That which we call Captain Justice, Defender of the Realm. In a recent Davidson County burglary case, the state filed a motion requesting the court to ban defense counsel from referring to it as "the government" during trial, citing that the title was used in a derogatory way meant to make the prosecution seem oppressive. Defense counsel, aptly named Drew Justice, responded colorfully to the state's motion. Justice stated that if the court sided with the state, then he demanded that his client, the defendant, be referenced as the "Citizen Accused" or "that innocent man" throughout trial. Justice further requested that he be called "Defender of the Innocent" or "Guardian of the Realm." Since the state is often referred to formally as "General" in court, Justice offered his own military title of "Captain Justice," which he also deemed an acceptable alternative. The Court ultimately denied the state's motion finding that the term "government" wasn't derogatory. Captain Justice, Guardian of the Realm: 1; the Government: 0.

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- Public Chapter No. 337,³⁸ which removes as a defense ignorance or mistake of fact concerning the age of a minor to the offenses of patronizing prostitution and soliciting sexual exploitation of a minor.³⁹

Tennessee has made major strides in passing laws designed to focus on and eradicate sex trafficking. Knowledge of these laws can assist all attorneys in East Tennessee to become a part of the solution in ceasing slavery in our state and region in the twenty-first century.

¹ Richard Wolf, *Hillary Clinton: 27 Million People in Slavery*, USA TODAY (June 19, 2012), available at <http://content.usatoday.com/communities/theoval/post/2012/06/hillary-clinton-27-million-people-in-slavery/1#.UsSbligzN94>.

² Hillary Lake, *FBI Says Human Trafficking a Concern in East TN*, WBIR.COM (Feb. 20, 2011), available at <http://archive.wbir.com/news/article/157879/2/FBI-says-human-trafficking-a-concern-in-East-TN>.

³ Associated Press, *Sex Trafficking Common in East Tennessee*, KNOXNEWS.COM (May 19, 2011), available at <http://www.knoxnews.com/news/2011/may/19/sex-trafficking-common-in-tenn/> ("Knox News Article").

⁴ Tennessee Bureau of Investigation & Vanderbilt Center for Community Studies, *Tennessee Human Sex Trafficking and Its Impact on Children & Youth: 2011*, available at <http://www.tbi.tn.gov/documents/FINALTNHumanSexTraffickingStudyColorrev2.pdf> ("TBI Report").

⁵ TBI Report, *supra* note 4.

⁶ *Knox News Article*, *supra* note 3.

⁷ TBI Report, *supra* note 4.

⁸ Michigan Commission on Human Trafficking, *2013 Report on Human Trafficking*, available at http://www.michigan.gov/documents/ag/2013_Human_Trafficking_Annual_Report_439271_7.pdf.

⁹ For the protection of the victims, the location of this safe house cannot be disclosed.

¹⁰ <http://www.tn.gov/sos/acts/107/pub/pc0377.pdf>.

¹¹ Tenn. Code Ann. § 39-13-513.

¹² Tenn. Code Ann. § 39-13-514.

¹³ <http://state.tn.us/sos/acts/107/pub/pc1075.pdf>.

¹⁴ Tenn. Code Ann. § 39-13-309(a).

¹⁵ Tenn. Code Ann. § 39-13-309(c).

¹⁶ Tenn. Code Ann. § 39-13-315.

¹⁷ <http://state.tn.us/sos/acts/108/pub/pc0242.pdf>.

¹⁸ <http://state.tn.us/sos/acts/108/pub/pc0436.pdf>.

¹⁹ Tenn. Code Ann. § 39-13-528.

²⁰ <http://state.tn.us/sos/acts/108/pub/pc0465.pdf>.

²¹ Tenn. Code Ann. § 39-13-533(a).

²² Tenn. Code Ann. § 39-13-533(b).

²³ Tenn. Code Ann. § 39-13-309(a)(2).

²⁴ Tenn. Code Ann. § 39-13-301(4), (15).

²⁵ <http://state.tn.us/sos/acts/108/pub/pc0415.pdf>.

²⁶ Tenn. Code Ann. § 40-35-121(a)(3)(B); see also http://www.restorecorps.org/uploads/2013_Comprehensive_Bill_Package_-_Restore_Corps_FINAL225.pdf.

²⁷ <http://state.tn.us/sos/acts/108/pub/pc0485.pdf>.

²⁸ Tenn. Code Ann. § 39-13-515.

²⁹ <http://state.tn.us/sos/acts/108/pub/pc0350.pdf>.

³⁰ Tenn. Code Ann. § 39-13-529.

³¹ Tenn. Code Ann. § 39-17-1003.

³² Tenn. Code Ann. § 39-17-1004.

³³ Tenn. Code Ann. § 39-17-1005.

³⁴ <http://state.tn.us/sos/acts/108/pub/pc0416.pdf>.

³⁵ Tenn. Code Ann. § 40-2-101.

³⁶ <http://state.tn.us/sos/acts/108/pub/pc0251.pdf>.

³⁷ Tenn. Code Ann. § 24-7-120.

³⁸ <http://state.tn.us/sos/acts/108/pub/pc0337.pdf>.

³⁹ Tenn. Code Ann. § 39-11-502.