

29.24 HUMAN TRAFFICKING

§ 787.06(3), Fla. Stat.

To prove the crime of Human Trafficking, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) **knowingly, or in reckless disregard of the facts, [engaged in] [attempted to engage in] [benefited financially by receiving something of value from participation in a venture that subjected a person to] human trafficking.**

Give as applicable.

2. § 787.06(3)(a)1, Fla. Stat.

The human trafficking was for the labor or services of [a child] [or] [an adult believed by (defendant) to be a child].

§ 787.06(3)(a)2, Fla. Stat.

The human trafficking involved (defendant's) use of coercion for the labor or services of an adult.

§ 787.06(3)(b), Fla. Stat.

The human trafficking involved (defendant's) use of coercion for commercial sexual activity of an adult.

§ 787.06(3)(c)1, Fla. Stat.

The human trafficking was for the labor or services of [a child] [or] [an adult believed by (defendant) to be a child], who was an unauthorized alien.

§ 787.06(3)(c)2, Fla. Stat.

The human trafficking involved (defendant's) use of coercion for the labor or services of an adult who was an unauthorized alien.

§ 787.06(3)(d), Fla. Stat.

The human trafficking involved (defendant's) use of coercion for commercial sexual activity of an adult who was an unauthorized alien.

§ 787.06(3)(e)1, Fla. Stat.

The human trafficking was for the labor or services of [a child] [or] [an adult believed by (defendant) to be a child], by the transfer or transport of the [child] [or] [person believed to be a child], from outside Florida to within this state.

§ 787.06(3)(e)2, Fla. Stat.

The human trafficking involved (defendant's) use of coercion for the labor or services of an adult by the transfer or transport of the adult from outside Florida to within this state.

§ 787.06(3)(f)1, Fla. Stat.

The human trafficking was for commercial sexual activity of [a child] [or] [an adult believed by (defendant) to be a child], by the transfer or transport of the [child] [or] [person believed to be a child], from outside Florida to within this state.

§ 787.06(3)(f)2, Fla. Stat.

The human trafficking involved (defendant's) use of coercion for commercial sexual activity of an adult by the transfer or transport of the adult from outside Florida to within this state.

§ 787.06(3)(g), Fla. Stat.

The human trafficking was for commercial sexual activity in which [a child] [or] [an adult believed by (defendant) to be a child] [a person who is mentally defective or mentally incapacitated] was involved.

Reclassification. § 787.06(8), Fla. Stat. Give if applicable.

If you found (defendant) guilty of Human Trafficking, you must further determine whether the State proved beyond a reasonable doubt that during the commission of the Human Trafficking, [he] [she] caused [great bodily harm] [or] [permanent disability] [or] [permanent disfigurement to [another person] [(victim)].

Definitions.

Give in all cases.

§ 787.06(2)(d), Fla. Stat.

“Human trafficking” means [transporting] [soliciting] [recruiting] [harboring] [providing] [enticing] [maintaining] [purchasing] [patronizing] [procuring] [or] [obtaining] another person for the purpose of exploitation of that person.

“Child” means a person ~~under the age of~~ younger than 18 years of age.

“Adult” means a person 18 years of age or older.

Give if applicable.

Wheeler v. State, 203 So. 3d 1007 (Fla. 4th DCA 2016).

“Great bodily harm” means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

§ 787.06(2)(a), Fla. Stat.

“Coercion” means:

1. **Using or threatening to use physical force against any person;**

2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule [I] [II] of Florida Statute 893.03 to any person for the purpose of exploitation of that person.

(Name of controlled substance) is a Schedule [I] [II] drug within Florida Statute 893.03.

Give as applicable.

§ 787.06(2)(b), Fla. Stat.

“Commercial sexual activity” means:

- a. (name of chapter 796 crime). (Name of chapter 796 crime) **is defined as** *(insert definition of Chapter 796 crime)*.
- b. **an attempt to commit** (name of chapter 796 crime). **An attempt to commit** (name of chapter 796 crime) **is defined as** *(insert definition of attempt in Instruction 5.1 and then define the Chapter 796 crime)*.
- c. **sexually explicit performances. “Sexually explicit performance” means an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.**
- d. **the production of pornography.**

§ 787.06(2)(c), Fla. Stat. *Insert definition of loan sharking from §687.071 Fla. Stat. Insert explanation of the statute of frauds from §725.01 Fla. Stat.*

“Financial harm” includes [extortionate extension of credit] [loan sharking] [employment contracts that violate the statute of frauds].

§ 787.06(2)(e), Fla. Stat.

“Labor” means work of economic or financial value.

§ 787.06(2)(f), Fla. Stat.

“Maintain” means in relation to labor or services, to secure or make possible continued

performance thereof, regardless of any initial agreement on the part of a victim to perform such type service.

§ 787.06(2)(g), Fla. Stat.

“Obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or to secure performance thereof.

§ 787.06(2)(h), Fla. Stat.

“Services” means any act committed at the behest of, under the supervision of, or for the benefit of another. [The term includes, but is not limited to [forced marriage] [servitude] [the removal of organs].]

§ 787.06(2)(j), Fla. Stat. See 8 U.S.C. s. 1324a(h)(3).

“Unauthorized alien” means an alien who is not authorized under federal law to be employed in the United States.

§ 787.06(2)(k), Fla. Stat.

“Venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

§ 787.06(3)(g), 794.011(1), Fla. Stat.

“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

“Mentally defective” means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

Give if requested. § 787.06(9), Fla. Stat.

The defendant’s ignorance of (victim’s) age, (victim’s) misrepresentation of [his] [her] age, or the defendant’s bona fide belief of (victim’s) age is not a defense to the crime charged. “Bona fide” means genuine.

Give if requested. § 787.06(11), Fla. Stat.

(Victim’s) lack of chastity or the willingness or consent of (victim) is not a defense if [he] [she] was under 18 years of age at the time of the offense.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comments

A conviction under § 787.06(3)(f)1, Florida Statutes, (human trafficking via commercial sexual activity of a child by transport or transfer into Florida) is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life. However, a conviction under § 787.06(3)(g), Florida Statutes, (human trafficking via commercial sexual activity where a child was involved but without a finding that the child was transported from outside the state) is a life felony.

This instruction was adopted in 2013 [131 So. 3d 692] and amended in 2015 [176 So. 3d 938], 2016 [200 So. 3d 754], 2019 [267 So. 3d 980], and on January 7, 2022.