

§ 16-5-46.

(a) As used in this Code section, the term:

(1) "Developmental disability" shall have the same meaning as set forth in Code Section 37-1

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(2) "Coercion" means:

(A) Causing or threatening to cause bodily harm to any individual, physically restraining or confining any individual, or threatening to physically restrain or confine any individual;

(B) Exposing or threatening to expose any fact or information or disseminating or threatening to disseminate any fact or information that would tend to subject an individual to criminal or immigration proceedings, hatred, contempt, or ridicule;

(C) 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 any individual;

(D) Providing a controlled substance to such individual for the purpose of compelling such individual to engage in labor or sexual servitude against his or her will; or

(E) Causing or threatening to cause financial harm to any individual or using financial control over any individual.

(3) "Controlled substance" shall have the same meaning as set forth in Code Section 16-13-21.

(4) "Deception" means:

(A) Creating or confirming another's impression of an existing fact or past event which is false and which the accused knows or believes to be false;

(B) Maintaining the status or condition of an individual arising from a pledge by such individual of his or her personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing an individual from acquiring information pertinent to the disposition of such debt; or

(C) Promising benefits or the performance of services which the accused does not intend to deliver or perform or knows will not be delivered or performed. Evidence of failure to deliver

(5) "Labor servitude" means work or service of economic or financial value which is performed or provided by another individual and is induced or obtained by coercion or deception.

(6) "Performance" shall have the same meaning as set forth in Code Section 16-12-100.

(7) "Sexually explicit conduct" shall have the same meaning as set forth in Code Section 1612-100.

(8) "Sexual servitude" means any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any individual, which conduct is induced or obtained:

(A) By coercion or deception;

(B) From an individual who is under the age of 18 years;

(C) From an individual whom the accused believes to be under the age of 18 years;

(D) From an individual who has a developmental disability; or

(E) From an individual whom the accused believes to have a developmental disability.

(b) A person commits the offense of trafficking a person for labor servitude when that person knowingly subjects another person to or maintains another person in labor servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of labor servitude.

(c) A person commits the offense of trafficking a person for sexual servitude when that person knowingly subjects another person to or maintains another person in sexual servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of sexual servitude.

(d) The age of consent for sexual activity or the accused's lack of knowledge of the age or developmental disability of the individual being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.

(e) The sexual history or history of commercial sexual activity of a person alleged to have been trafficked or such person's connection by blood or marriage to an accused in the case or to anyone involved in such person's trafficking shall be excluded from evidence if the court finds at a hearing outside the presence of the jury that the probative value of the evidence is

(f) (1) Except as provided in paragraph (2) of this subsection, any person who commits the offense of trafficking an individual for labor or sexual servitude shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years and a fine not to exceed \$100,000.00.

(2) Any person who commits the offense of trafficking an individual for labor or sexual servitude against an individual who is under the age of 18 years shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that if the offense is committed against an individual under 18 years of age and such individual under the age of 18 years was coerced or deceived into being trafficked for labor or sexual servitude or if the offense is committed against an individual who has a developmental disability, the person shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed \$100,000.00.

(g) (1) As used in this subsection, the terms "civil forfeiture proceedings," "proceeds," and "property" shall have the same meanings as set forth in Code Section 9-16-2.

(2) Any property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this Code section and any proceeds are declared to be contraband and no person shall have a property right in them.

(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

(4) The Attorney General shall be specifically authorized to commence civil forfeiture proceedings under this Code section.

(h) Prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute

any criminal cases arising under the provisions of this Code section and to perform any duty that necessarily appertains thereto.

(i) Each violation of this Code section shall constitute a separate offense and shall not merge with any other offense.

(j) A corporation may be prosecuted under this Code section for an act or omission constituting a crime under this Code section only if an agent of the corporation performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of his or her employment

(k) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section; provided, however, that Code Section 16-325 may still provide an absolute defense.

HISTORY: Code 1981, § 16-5-46, enacted by Ga. L. 2006, p. 105, § 3/SB 529; Ga. L. 2011, p. 217, § 1/HB 200; Ga. L. 2015, p. 693, § 2-2/HB 233; Ga. L. 2016, p. 377, § 1/HB 770.