

Sex Trafficking

How the *Protecting Survivors of Human Trafficking Act* and other laws can help

Kim suffers from substance use disorder and does not have enough money to buy drugs. Kim's new friend says they will give Kim drugs if Kim has sex with the people they tell Kim to.

Jesse and their partner do not have enough money to pay rent. Jesse's partner sets up 'dates' with people for Jesse to go on. They keep saying it will be the last time but it keeps happening. Jesse's partner keeps all the money.

Terry has been posting their own ads on an escort site to help pay expenses. Someone contacts Terry and offers to post the ads so Terry can make more money. Terry agrees. Money from Terry's buyers starts disappearing. The person starts acting in a controlling and aggressive way towards Terry.

Kelly is visiting from outside Canada on a visitor's visa. Once Kelly arrives in Alberta, the person travelling with them starts posting ads for Kelly. This person took Kelly's passport, ID and money from them. This person keeps Kelly in a hotel room except for meeting with buyers.

If you have had an experience like Kim, Jesse, Terry or Kelly, you are not alone. You have options.

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This tip sheet describes legal responses to sexual violence. It does not cover all responses available to those who have experienced sexual violence. Read on for more info on organizations that can provide support. The other tip sheets in this series are available at: www.cplea.ca/sexual-violence/

What is sex trafficking?

Sex trafficking is a form of human trafficking.

Human trafficking is the exploitation of human beings for gain. The United Nations Protocol on Trafficking in Persons describes human trafficking as involving an action, means and purpose.

an ACTION	by MEANS of	for the PURPOSE of
recruiting, transporting, transferring, holding, concealing, harbouring or receiving a person	<ul style="list-style-type: none">• threat or use of force or other forms of coercion, abduction, fraud or deception• repeatedly providing drugs or alcohol• abusing power or a position of vulnerability• giving or receiving payments or benefits to get consent of a person having control over another person	taking advantage of or exploiting that person, including any form of sexual exploitation, forced labour or services, or removing human organs or tissue

“Am I being trafficked?”

Traffickers first identify their target and work to build a relationship of trust. Your trafficker might be your friend, romantic partner, family member or other trusted person. Then the trafficker builds a relationship of trust with their victim. They might buy you gifts, pay special attention to you or tell you they love you. Finally, the trafficker takes advantage of (exploits) their victim’s vulnerabilities and brings them under their power. You might need money, drugs or alcohol. You might be struggling with your mental health. You might have experienced trauma and not know how to manage it. Your trafficker will prey on your vulnerabilities and start to control you. They may threaten to harm you or your family if you do not obey them. Your trafficker may also manipulate you emotionally or psychologically.

You cannot consent to sexual activity if someone is coercing, threatening or intimidating you.

The Laws

Canada's **Criminal Code** makes it illegal to traffic humans in Canada. This includes:

- kidnapping (confining, transporting out of Canada or holding for ransom)
- recruiting, transporting, hiding, controlling, directing movements of someone for the purpose of exploiting them
- receiving a benefit, such as money, from trafficking someone
- withholding or destroying documents (such as ID) of someone for the purpose of trafficking

A judge can sentence to prison a person convicted of one or more of these offences. The length of the prison sentence depends on the offence but can be up to fourteen years.

Canada's **Immigration and Refugee Protection Act** also mentions human trafficking. A person who smuggles or traffics people into Canada can be fined, imprisoned, or both. The penalty depends on:

- how many people are being smuggled or trafficked
- the harm caused to the victims, and
- whether a criminal organization or terrorist group is involved.

The criminal court deals with a person charged with an offence under the *Criminal Code* or the *Immigration and Refugee Protection Act*. These offences deal with human trafficking generally, which includes sex trafficking.

Alberta's **Protecting Survivors of Human Trafficking Act** creates two more tools for survivors of human trafficking:

1. Human Trafficking Protection Order – a form of no contact order for victims of human trafficking
2. Tort of human trafficking

See the Reporting Sexual Violence to Police tip sheet for more information on reporting human trafficking.

Human Trafficking Protection Order (HTPO)

What is an HTPO?

If you have experienced sex trafficking, you can apply to the Provincial Court for protection. If you are under 18, then a person with lawful custody can apply, such as your parent or guardian. Children's Services and the police can also apply on your behalf.

If you are in a harmful situation, call 911 immediately or connect with a local support worker by calling the Canadian Human Trafficking Hotline at 1.833.900.1010.

A Human Trafficking Protection Order is a court order that can include any terms necessary to protect you, including:

- prohibiting the trafficker from following you, a family member or another person from place to place
- prohibiting the trafficker from communicating or contacting you or another person
- prohibiting the trafficker from going to a certain place or being within a certain distance of a place that you or another person regularly attends (including a school, shelter, youth facility, home, place of worship, workplace)
- requiring the trafficker to return your pet or other personal property belongings (including passport, driver's license, health card, identification, bank cards, vehicles, keys)
- requiring the trafficker to return to you any originals and copies of visual recordings of you (such as any photos or videos the trafficker took of you)
- prohibiting the trafficker from possessing, creating, transmitting, making available, selling, advertising or distributing any photos, films, videos, electronic images or other visual representations of you
- allowing the trafficker to attend court, even if you will be present
- requiring the trafficker to give up and not possess any weapons for a period of time, including licenses for those weapons

How does the court decide?

When deciding whether to grant an HTPO, the court looks at:

- your age and the trafficker's age
- your immigration status
- whether you have a physical or mental disability
- the relationship between you and the trafficker
- whether the trafficker is in a position of trust, power or authority over you
- if the trafficker has threatened or intimidated you, your pet or someone else you know
- if the trafficker has used force against you or your pet, against a person you know, or against another person or pet that you witness
- if the trafficker has deceived, coerced or defrauded you
- if the trafficker has given you drugs or alcohol to compel you to provide labour or services or engage in sexual conduct
- if the trafficker controls or threatens to control your access to drugs or alcohol (including withholding access)
- if the trafficker controls or threatens to control your finances (including withholding money)
- if the trafficker controls or threatens to control your personal property, such as a passport, driver's license, health card, identification, bank cards, vehicles or keys (including withholding, destroying, hiding or removing this property)
- if the trafficker possesses, creates, transmits, makes available, sells, advertises or distributes any visual recording of you where you are nude, exposing your genitals or breasts, or engaged or shown as engaged in an explicit sexual activity

When is an HTPO effective?

If a judge grants the HTPO, the order is not effective against the trafficker (respondent) until the trafficker receives a copy of the order. **Do not give a copy to the trafficker yourself.** A police officer or a person named by the judge will serve the order on the respondent.

How do I get an HTPO?

If you are in an emergency, call the police (911) immediately. You can also talk to a lawyer or support worker for help getting an HTPO. For information, see the tip sheet in this series called **Getting Legal Help**.

You can apply for the order without giving advance notice to the trafficker. This is a *without notice* or *ex parte* application. You must give evidence under oath. The hearing can be in person, on the phone or via videoconference.

How long does an HTPO last for?

The order is good for three years. Before it expires, you can apply to have it extended for another three years. If the judge extends the order, it is not effective against the trafficker until the trafficker receives a copy of the new order. A judge can extend the order more than once.

After the trafficker gets a copy of the order, they have 20 days to apply to the court to have the order cancelled or changed. You must show the judge why the order should continue without changes.

What happens if the trafficker does not follow the HTPO?

A person who contravenes (does not follow) an HTPO can face fines up to \$50,000 and prison for up to two years, or both.

What happens if the trafficker is hiding me somewhere?

A police officer can apply to the court for a warrant letting them enter a place where they believe you are. The applicant for the warrant must also prove to the judge that they have been refused access to you. The person named in the warrant can go where the warrant allows them to go. You must consent to the police removing you from the place, unless you are a child (under 18).

Taking Your Trafficker to Court

You can sue your trafficker for trafficking you. This is called an action for human trafficking. You must file your claim in the Court of King's Bench.

You can ask the court for one or more of the following:

- repayment of out-of-pocket expenses
- money for pain and suffering (called damages)
- payment of any profits the trafficker received from trafficking you
- an injunction (preventing the trafficker from doing certain things)
- any other court order that is appropriate in the situation

If you are asking the court to order the trafficker to pay you money, the court will look at other proceedings, such as a civil lawsuit, where you have asked for compensation.

To sue your abuser, see the tip sheet in this series called Civil Law Remedies.

Do you need help?

If you are in danger, call 911 immediately.

There are support services available to help you. These include counselling services, and support before, during and after the legal process.

Connect with supports for victims of sex trafficking by contacting:

- **ACT Alberta** (call 780.474.1104 or visit www.actalberta.org)
- **Centre to End All Sexual Exploitation (CEASE)** – Edmonton and area (call 780.471.6137 or visit www.ceasenow.org)
- **RESET Society of Calgary** – Calgary and area (call 403.918.7311 or visit resetcalgary.ca)

To connect with more supports in your area:

- Call or text Alberta's One Line for Sexual Violence (1.866.403.8000)
- Call the Canadian Human Trafficking Hotline (1.833.900.1010) or chat live at www.canadianhumantraffickinghotline.ca
- Call or text Alberta 211 (2-1-1) or chat live at www.ab.211.ca
- See a list of sexual assault centres across Alberta at aasas.ca/get-help

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You should NOT rely on this publication for legal advice.
It provides general information on Alberta law only.

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The other tip sheets in this series are available at:
www.cplea.ca/sexual-violence/

Sexual Assault Centre of Edmonton

SACE supports children, youth, and adults who have experienced sexual abuse or assault, and educates the public about sexual violence.

www.sace.ca

Elizabeth Fry Northern Alberta

EFry supports women and girls who are or may be at risk of becoming criminalized.

www.efrynorthernalberta.com

Centre for Public Legal Education Alberta

CPLEA makes the law understandable for Albertans by providing reliable and free legal information.

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