



**User Name:** Erin Daugherty

**Date and Time:** Wednesday, October 3, 2018 12:32:00 PM CDT

**Job Number:** 74781883

## Document (1)

1. [18 USCS § 1595](#)

**Client/Matter:** -None-

**Search Terms:** 18 USC 1595

**Search Type:** Natural Language

## 18 USCS § 1595

Current through PL 115-244, approved 9/21/18, with a gap of 115-232

### **United States Code Service - Titles 1 through 54 > TITLE 18. CRIMES AND CRIMINAL PROCEDURE > PART I. CRIMES > CHAPTER 77. PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS**

## **§ 1595. Civil remedy**

---

(a) An individual who is a victim of a violation of this chapter [[18 USCS §§ 1581](#) et seq.] may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter [[18 USCS §§ 1581](#) et seq.]) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b)

(1) Any civil action filed under subsection (a) shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.

(c) No action may be maintained under subsection (a) unless it is commenced not later than the later of--

(1) 10 years after the cause of action arose; or

(2) 10 years after the victim reaches 18 years of age, if the victim was a minor at the time of the alleged offense.

(d) In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates section 1591 [[18 USCS § 1591](#)], the attorney general of the State, as *parens patriae*, may bring a civil action against such person on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

## **History**

---

(Added Dec. 19, 2003, *P.L. 108-193*, § 4(a)(4)(A), *117 Stat. 2878*.)

(As amended Dec. 23, 2008, *P.L. 110-457*, Title II, Subtitle C, § 221(2), *122 Stat. 5067*; May 29, 2015, *P.L. 114-22*, Title I, § 120, *129 Stat. 247*; April 11, 2018, *P.L. 115-164*, § 6, *132 Stat. 1255*.)

Annotations

## **Notes**

---

Amendments:

## 18 USCS § 1595

**2008** . Act Dec. 23, 2008, in subsec. (a), deleted "of section 1589, 1590, or 1591" following "violation", and inserted "(or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter)"; and added subsec. (c).

**2015** . Act May 29, 2015, in subsec. (c), substituted "not later than the later of--" and paras. (1) and (2) for "not later than 10 years after the cause of action arose."

**2018** . Act April 11, 2018, in subsec. (b)(1) and (c), in the introductory matter, substituted "subsection (a)" for "this section"; and added subsec. (d).

## Case Notes

---

Because Trafficking Victims Protection Act civil remedy provision, [18 USCS § 1595](#), created cause of action that sounded in tort, punitive damages were available to plaintiff minor who alleged she was victim of defendant felon's human trafficking crime, as punitive damages were warranted when defendant was found liable for conduct involving some element of outrage similar to that usually found in crime. [Ditullio v Boehm \(2011, CA9 Alaska\) 662 F3d 1091](#).

Where plaintiff minor alleged she had been victim of defendant felon's human trafficking crime, because statutes authorizing punitive and compensatory damages created new liabilities, and could not be imposed retroactively absent clear congressional intent, [18 USCS § 1595](#) did not apply to felon's conduct prior to its enactment, and, § 1595 created liability for conduct that was not encompassed by [Alaska Stat. § 09.55.650](#), so argument that state law already permitted full recovery available under § 1595, so that § 1505 could be applied to pre-enactment conduct, failed. [Ditullio v Boehm \(2011, CA9 Alaska\) 662 F3d 1091](#).

Former church ministers' claims against church and corporate entity under Trafficking Victims Protection Act failed because record contained little evidence that church obtained their labor by means of serious harm, threats, or other improper methods since, inter alia, they joined and voluntarily worked for church, they had innumerable opportunities to leave, and potential consequence of being declared "suppressive persons" and thus potentially losing contact with family, friends, or each other was not "serious harm" and warning of such consequence was not "threat." [Headley v Church of Scientology Int'l \(2012, CA9 Cal\) 687 F3d 1173](#).

Appellate court did not have jurisdiction to review order staying civil action; order was not final order and was not appealable under collateral order doctrine because order lifting stay did not present "an important issue." [Plaintiff v Schair \(2014, CA11 Ga\) 744 F3d 1247, 24 FLW Fed C 1075](#).

Appellate court did not have jurisdiction to review order staying civil action under [18 USCS § 1595\(b\)\(1\)](#), part of Victims of Trafficking and Violence Protection Act of 2000, as amended by Trafficking Victims Protection Reauthorization Act of 2003, *Pub. L. No. 108-193, 117 Stat. 2875*; order was not final order and was not appealable under collateral order doctrine because order lifting stay did not present "an important issue." [Plaintiff v Schair \(2014, CA11 Ga\) 744 F3d 1247, 24 FLW Fed C 1075](#).

Applying 2008 extension of limitations period to claims that were unexpired at time of its enactment does not give rise to impermissible retroactive effect. [Cruz v Maypa \(2014, CA4 Va\) 773 F3d 138, 23 BNA WH Cas 2d 1490, 165 CCH LC P 36288](#).

District court erred in dismissing domestic worker's claims as untimely because extended limitations period would apply if worker's claims were unexpired when 2008 extension went into effect, and worker sufficiently alleged that her claims were unexpired due to equitable tolling; she claimed that her employers confiscated her passport, isolated her, monitored her communications, and threatened that she would be imprisoned and deported if she tried to escape. [Cruz v Maypa \(2014, CA4 Va\) 773 F3d 138, 23 BNA WH Cas 2d 1490, 165 CCH LC P 36288](#).

## 18 USCS § 1595

Provider of online advertising was protected under [47 USCS § 230\(c\)](#) from liability to minor victims of sex trafficking for posting advertisements of victims as escorts, since provider performed traditional publisher functions in its website policies and practices and was not publisher or speaker of contents of advertisements. [Doe v Backpage.com, LLC \(2016, CA1 Mass\) 817 F3d 12, 44 Media L R 1549, 118 USPQ2d 1672.](#)

In case filed by workers from rubber plantation in Liberia against their employers and affiliated companies, workers' claims of forced labor in violation of [18 USCS § 1589](#) had to be dismissed because [18 USCS § 1595](#) does not provide remedy for alleged violations of [18 USCS § 1589](#)'s standards that occur outside [United States](#). [Roe v Bridgestone Corp. \(2007, SD Ind\) 492 F Supp 2d 988.](#)

Protective order was proper under *Fed. R. Civ. P. 26* prohibiting defendants, employer and its recruiters, from inquiring into plaintiff imported workers' current immigration and employment status and addresses due to apparently unparalleled claims of abuse in connection with workers' claims of violations of Fair Labor Standards Act, [29 USCS §§ 206](#) et seq., Trafficking Victims Protection Reauthorization Act of 2003, [18 USCS § 1595](#), Abuse of Process under [18 USCS § 1589\(3\)](#), Ku Klux Klan Act of 1871, [42 USCS § 1985](#), and Thirteenth Amendment, Racketeer Influenced and Corrupt Organizations Act, [18 USCS § 1962\(c\)](#), (d), violations of [42 USCS § 1981](#), and forced labor under [18 USCS § 1589](#); such discovery could have In Terrorem Effect resulting in many workers withdrawing from lawsuit. [David v Signal Int'l, LLC \(2009, ED La\) 257 FRD 114, 14 BNA WH Cas 2d 1781.](#)

In case in which three domestic workers sued Kuwaiti attache and his wife alleging, inter alia, violation of Trafficking Victims Protection Act of 2000, [18 USCS §§ 1581](#) et seq., that claim failed since attache and his wife were entitled to diplomatic immunity under [Vienna Convention on Diplomatic Relations](#); conduct by attache and his wife in bringing workers from Kuwait to United States and employing them as domestic servants, albeit for marginal wages, was not commercial activity outside of their official functions. [Mani Kumari Sabbithi v Waleed KH N.S. Al Saleh \(2009, DC Dist Col\) 605 F Supp 2d 122.](#)

Court had jurisdiction over extraterritorial claims of human trafficking of Nepali laborers against U.S. contractor under [18 USCS § 1595](#) because application of [18 USCS § 1596](#) retroactively did nothing to alter or expand criminality of actions themselves and allegations that contractor actively participated in and benefited from venture were sufficiently pleaded to withstand motion to dismiss. [Adhikari v Daoud & Partners \(2009, SD Tex\) 697 F Supp 2d 674.](#)

Nepali laborers and surviving family members of deceased laborers sufficiently pleaded RICO claims against U.S. government contractor and its affiliates under [18 USCS § 1962\(c\)](#) and (d) because they pleaded that contractor was part of unit that worked cooperatively and illegally to provide trafficked labor at low costs in violation of [18 USCS § 1595](#) and that contractor established agency relationship with another contractor to recruit and transport Nepali laborers to [Iraq](#). [Adhikari v Daoud & Partners \(2009, SD Tex\) 697 F Supp 2d 674.](#)

Claimant was not entitled to relief on claimant's allegation that claimant was trafficked from Ecuador and forced to work without pay in home of family members in New York because claim was not predicated on actual force, harm, or physical restraint. [Velez v Sanchez \(2010, ED NY\) 754 F Supp 2d 488](#) (criticized in [Magnifico v Villanueva \(2011, SD Fla\) 2011 US Dist LEXIS 45509](#)).

Court denied defendants' motion to dismiss plaintiffs' claims under Trafficking Victims Protection Reauthorization Act, [18 USCS §§ 1589\(a\)](#), [1595\(a\)](#), because plaintiffs alleged facts showing that defendants engaged in conduct that could be deemed to fall within abuse of legal process prong of § 1589(a)(3) as plaintiffs alleged that defendants threatened to have them sent back to Peru, apparently simply to instill fear and promote compliance; moreover, defendants bragged about involving local police in arresting co-workers who had left ranch, and retained important immigration paperwork belonging to both men. [Camayo v John Peroulis & Sons Sheep \(2012, DC Colo\) 19 BNA WH Cas 2d 1382](#), findings of fact/conclusions of law, motion gr (2012, DC Colo) [2012 US Dist LEXIS 168078](#).

## 18 USCS § 1595

Alien was able to bring claim alleging forced labor and involuntary servitude against individual owners of nursing employment agency because Trafficking Victims Protection Reauthorization Act provided for individual liability. [Aquirre v Best Care Agency, Inc. \(2013, ED NY\) 961 F Supp 2d 427.](#)

Internet provider was entitled to dismissal of complaint brought by minors who alleged that they were molested and repeatedly raped after being advertised as sexual wares on defendants' website because, while Communications Decency Act (CDA) contained exception to immunity for service providers for purposes of criminal actions, it did not extend such exception for civil actions, including such civil actions brought by victims under Trafficking Victims Protection Reauthorization Act of 2008. [Doe v Backpage.com, LLC \(2015, DC Mass\) 104 F Supp 3d 149](#), affd (2016, CA1 Mass) [817 F3d 12, 44 Media L R 1549, 118 USPQ2d 1672.](#)

### Unpublished Opinions

Unpublished: Tenth Circuit agrees with only other circuit to address matter and holds punitive damages to be available under [18 USCS § 1595](#). [Francisco v Susano \(2013, CA10 Colo\) 2013 US App LEXIS 10648.](#)

Unpublished: District court erred in determining that punitive damages were not available under Trafficking Victims Protection Act (TVPA) where [18 USCS § 1595](#)'s ambiguous reference to "damages" was not clear direction of congressional intent to exclude such damages, and TVPA plainly created action for tortious conduct that was ordinarily intentional and outrageous, which met common law standards for award of punitive damages. [Francisco v Susano \(2013, CA10 Colo\) 2013 US App LEXIS 10648.](#)

Unpublished: District court erred in holding that Trafficking Victims Protection Act victims could not recover compensatory damages over and above promised wages where limiting victims to Fair Labor Standards Act remedy inappropriately afforded criminals benefit of lowest-common-denominator minimum wage set for legitimate employers, and case law consistently reflected propriety of providing traditional tort remedy of damages for emotional distress caused by outrageous conduct. [Francisco v Susano \(2013, CA10 Colo\) 2013 US App LEXIS 10648.](#)

Unpublished: Plaintiff's claims for violations of [18 USCS §§ 1589](#) and [1595](#) were not subject to summary judgment because plaintiff had set forth sufficient evidence upon which jury could find violations and plaintiff's claims could not be held to be incredible as matter of law. [Shukla v Sharma \(2009, ED NY\) 2009 US Dist LEXIS 91051.](#)

## Research References & Practice Aids

---

### Am Jur:

45 Am Jur 2d, Involuntary Servitude and Peonage §§ 12, 20.

### Annotations:

Construction and Application of Alien Tort Statute ([28 U.S.C.A. § 1350](#) [[28 USCS § 1350](#)])--Parties. 61 ALR Fed 2d 171.

Construction and Application of Alien Tort Statute ([28 U.S.C.A. § 1350](#) [[28 USCS § 1350](#)])--Tort in Violation of Law of Nations or Treaty of United States. 64 ALR Fed 2d 417.

Validity, Construction, and Application of Section 112 of Trafficking Victims Protection Act of 2000 and Subsequent Reauthorizing Provisions amending Chapter 77 of Title [18, United States Code](#). 75 ALR Fed 2d 467.

---

End of Document