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## **Elements of Human Trafficking and Conclusion Summaries for Trafficking POEs**

### **Defining Elements of Human Trafficking**

As a reminder for staff, the following make up the defining and legal elements of Labor and Sex Trafficking:

#### **Sex Trafficking**

##### **Definition of Sex Trafficking**

According to the Victims of Trafficking and Violence Protection Act of 2000, sex trafficking is defined as:

- “The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”
- A commercial sex act refers to any sex act of which anything of value is given to or received by any person.
  - Examples of value to be exchanged or received can include, but is not limited to: clothing, money, land, livestock, food, basic needs, cell phones, etc.
- If the trafficked person is younger than age 18, the commercial sexual activity does not need to involve force, fraud, or coercion, as child sex trafficking is a severe form of trafficking.
- A victim of child sex trafficking is a victim of both abuse and neglect.

##### **Legal Elements of Child Sex Trafficking**

There are three elements of child sex trafficking derived from the legal definition:

- The alleged victim child was under the age of 18 at the time of the incident;
- The alleged perpetrator was responsible for care, custody, and control of the alleged victim child at the time of the incident; and,
- The alleged victim child was sex trafficked by the alleged perpetrator.

#### **Labor Trafficking**

##### **Definition of Labor Trafficking**

According to the Victims of Trafficking and Violence Protection Act of 2000, elements of labor trafficking are defined under “severe forms of trafficking in persons” and defined as:

- “The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”
- A person commits the crime of trafficking when he/she benefits financially or by receiving/exchanging anything of value from such act.
  - Examples of value to be exchanged or received can include, but is not limited to: clothing, money, land, livestock, food, basic needs, cell phones, etc.
- Some form of force, fraud, coercion, or deception must be present for children to be defined as victims of labor trafficking.

## **Elements of Child Labor Trafficking**

There are four elements of labor trafficking derived from the legal definition:

- The alleged victim child was under the age of 18 at the time of the incident;
- The alleged perpetrator was responsible for care, custody, and control of the alleged victim child at the time of the incident;
- The alleged victim child was labor trafficked by the alleged perpetrator; and,
- The alleged perpetrator used force, fraud, or coercion.

## **Conclusion Summaries for Sex and Labor Trafficking POEs**

### **Sex Trafficking Conclusions**

As a reminder to staff, when making a POE finding for sex trafficking, the following conclusion summary template should be used:

*“This Investigation has been completed under Sections 210.109-210.183 RSMo. and the Division has determined by a Preponderance of Evidence that (Alleged Victim Child) was the victim of sexual abuse and neglect perpetrated by (Alleged Perpetrator).*

*This determination of sexual abuse and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:*

- *(Alleged Victim Child) was under the age of 18 at the time of the incident in that...;*
- *(Alleged Perpetrator) was responsible for care, custody and control of the alleged victim child at the time of the incident in that...; and*
- *(Alleged Victim Child) was sex trafficked in that... (Include documentation of the defining elements of child sex trafficking including (1) how the child was recruited, harbored, transported, purchased, and/or obtained, (2) for the purpose of a sex act, and (3) the type of value given or received for the sex act, e.g. money, material items, basic needs, land, livestock, etc)”*

## Sex Trafficking Summary Example:

This Investigation has been completed under Sections 210.109-210.183 RSMo. and the Division has determined by a Preponderance of Evidence that Amanda Clayton was the victim of sexual abuse and neglect perpetrated by Robert Smith.

This determination of sexual abuse and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:

1. Amanda Clayton was under the age of 18 at the time of the reported incident. Supporting Information: Amanda Clayton was born on 06/23/2004 making her 16 years old at the time of the incident.
2. Robert Smith was found to be responsible for care, custody, and control of Amanda Clayton at the time of the incident. Supporting Information: Robert Smith took control of Amanda Clayton through the use of coercion by threatening to show her parents and her friends the nude picture she sent to him if she did not agree to meet him in a hotel. Therefore, care, custody and control is established.
3. Amanda Clayton was sex trafficked. Supporting Information: Amanda Clayton reported that she met Robert Smith online and sent him a nude picture upon request. Robert then threatened to show her parents and friends the nude picture if she did not meet him at a hotel. When at the hotel, Amanda reported that she and Robert had sexual intercourse and he took pictures of her throughout the sexual acts. Afterwards, Robert provided Amanda with a new cellphone before she left the hotel.

## Labor Trafficking Conclusions

When making a POE finding for labor trafficking, the following conclusion summary template should be used:

*“This Investigation has been completed under Sections 210.109-210.183 RSMo. and the Division has determined by a Preponderance of Evidence that (Alleged Victim Child) was the victim of abuse and neglect by (Alleged Perpetrator).*

*This determination of abuse and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:*

- *(Alleged Victim Child) was under the age of 18 at the time of the incident in that...;*
- *(Alleged Perpetrator) was responsible for care, custody and control of the alleged victim child at the time of the incident in that...;*
- *(Alleged Victim Child) was labor trafficked in that... (Include documentation of the defining elements of child labor trafficking including (1) how the child was recruited, harbored, transported, purchased, and/or obtained, (2) for the purpose of forced labor or services, and (3) the type of value given or received for the labor activities, e.g. money, material items, basic needs, land, livestock, etc)”*
- *(Alleged Perpetrator) used force, fraud, or coercion in that...”*

### **Labor Trafficking Summary Example:**

This Investigation has been completed under Sections 210.109-210.183 RSMo. and the Division has determined by a Preponderance of Evidence that Amanda Smith was the victim of abuse and neglect by Robert Smith.

This determination of abuse and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:

1. Amanda Smith was under the age of 18 at the time of the reported incident. Supporting Information: Amanda Smith was born on 06/23/2010 making her 10 years old at the time of the incident.
2. Robert Smith was responsible for care, custody, and control of Amanda Smith at the time of the incident. Supporting Information: Robert Smith is the natural father to Amanda Smith and had her in his physical custody at the time of the incident. Care, custody, and control are therefore established.
3. Amanda Smith was labor trafficked. Supporting Information: Robert Smith provided Amanda Smith to other individuals to work on their farms. Robert Smith received additional land in trade as a result of providing Amanda Smith to individuals for forced labor.
4. Robert Smith used force, fraud, or coercion. Supporting Information: Robert Smith coerced Amanda Smith to work on the farms of other individuals by threatening to kick her out of the house if she did not complete the work.