

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1203

5 By: Representative D. Meeks
6

For An Act To Be Entitled

8 AN ACT ESTABLISHING THE HUMAN TRAFFICKING ACT OF
9 2013; CONCERNING THE OFFENSE OF HUMAN TRAFFICKING;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 ESTABLISHING THE HUMAN TRAFFICKING ACT OF
14 2013; CONCERNING THE OFFENSE OF HUMAN
15 TRAFFICKING.
16

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. DO NOT CODIFY. Title.

22 This act shall be cited as the "Arkansas Human Trafficking Act of
23 2013".
24

25 SECTION 2. Arkansas Code § 5-4-205(a) and (b), concerning restitution
26 payments to victims of crimes, are amended to read as follows:

27 (a)(1) A defendant who is found guilty or who enters a plea of guilty
28 or nolo contendere to an offense may be ordered to pay restitution.

29 (2) If the court decides not to order restitution or orders
30 restitution of only a portion of the loss suffered by the victim, the court
31 shall state on the record in detail the reasons for not ordering restitution
32 or for ordering restitution of only a portion of the loss.

33 (3) A person who is found guilty or who enters a plea of guilty
34 or nolo contendere to trafficking of persons, § 5-18-103, shall be ordered to
35 pay restitution in an amount that includes all economic loss, including
36 without limitation:



- 1 (A) Lost wages;
- 2 (B) Medical and psychological treatment; and
- 3 (C) Nonmedical costs incurred as a direct result of the
- 4 offense.

5 (b)(1) Whether a trial court or a jury, the sentencing authority shall
6 ~~make a determination of~~ determine actual economic loss caused to a victim by
7 the offense.

8 (2) When an offense has resulted in bodily injury to a victim, a
9 restitution order entered under this section may require that the defendant:

10 (A) Pay the cost of a necessary medical or related
11 professional service or device relating to physical, psychiatric, and
12 psychological care, including nonmedical care and treatment rendered in
13 accordance with a recognized method of healing;

14 (B) Pay the cost of necessary physical and occupational
15 therapy and rehabilitation;

16 (C)(i) Reimburse the victim for income lost by the victim
17 as a result of the offense.

18 (ii) The maximum that a victim may recover for lost
19 income is fifty thousand dollars (\$50,000), except in cases involving
20 trafficking of persons, § 5-18-103, for which the victim is entitled to
21 recover the total amount of income he or she is owed by the defendant; and

22 (D) Pay an amount equal to the cost of a necessary funeral
23 and related services in the case of an offense that resulted in bodily injury
24 that also resulted in the death of a victim.

25 (3) When an offense has not resulted in bodily injury to a
26 victim, a restitution order entered under this section may require that the
27 defendant reimburse the victim for income lost by the victim as a result of
28 the offense.

29 (4)(A) The determination of the amount of actual economic loss
30 is a factual question to be decided by the preponderance of the evidence
31 presented to the sentencing authority during the sentencing phase of a trial.

32 (B) The amount of actual economic loss may be decided by
33 agreement between a defendant and the victim represented by the prosecuting
34 attorney.

35 (5) If any item listed in subdivision (b)(2) of this section has
36 been paid by the Crime Victims Reparations Board and the court orders

1 restitution, the restitution order shall provide that the board is to be
 2 reimbursed by the defendant.

3
 4 SECTION 3. Arkansas Code § 5-11-108 is repealed.

5 ~~5-11-108. Trafficking of persons.~~

6 ~~(a) As used in this section:~~

7 ~~(1) "Debt bondage" means the status or condition of a debtor~~
 8 ~~arising from a pledge by the debtor of his or her personal services or of the~~
 9 ~~personal services of a person under his or her control as a security for~~
 10 ~~debt, if:~~

11 ~~(A) The value of the debtor's personal services or of the~~
 12 ~~personal services of a person under his or her control as reasonably assessed~~
 13 ~~is not applied toward the liquidation of the debt; or~~

14 ~~(B) The length and nature of the debtor's personal~~
 15 ~~services or of the personal services of a person under his or her control are~~
 16 ~~not respectively limited and defined;~~

17 ~~(2) "Involuntary servitude" means a condition of servitude~~
 18 ~~induced by means of:~~

19 ~~(A) Any scheme, plan, or pattern of behavior intended to~~
 20 ~~cause a person to believe that if he or she does not enter into or continue~~
 21 ~~the servitude, he or she or another person will suffer serious physical~~
 22 ~~injury or physical restraint; or~~

23 ~~(B) The abuse or threatened abuse of the legal process;~~

24 ~~(3) "Peonage" means holding a person against his or her will to~~
 25 ~~pay off a debt; and~~

26 ~~(4) "Sexual conduct" means the same as defined in § 5-27-401.~~

27 ~~(b) A person commits the offense of trafficking of persons if he or~~
 28 ~~she:~~

29 ~~(1) Recruits, harbors, transports, or obtains a person for labor~~
 30 ~~or services through the use of force, fraud, or coercion for the purpose of~~
 31 ~~subjecting the person to:~~

32 ~~(A) Involuntary servitude;~~

33 ~~(B) Peonage;~~

34 ~~(C) Debt bondage;~~

35 ~~(D) Slavery;~~

36 ~~(E) Marriage;~~

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~~(F) Adoption; or~~
~~(G) Sexual conduct; or~~
~~(2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (b)(1) of this section.~~
~~(c) Trafficking of persons is a Class A felony.~~

SECTION 4. Arkansas Code Title 5 is amended to add a new chapter to read as follows:

Chapter 18
The Human Trafficking Act of 2013

5-18-101. Title.

This chapter shall be known as and may be cited as the "Human Trafficking Act of 2013".

5-18-102. Definitions.

As used in this chapter:

(1) "Commercial sexual activity" means a sexual act or sexually explicit performance for which anything of value is given, promised, or received, directly or indirectly, by a person;

(2) "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of the personal services of a person under his or her control as a security for debt, if:

(A) The value of the debtor's personal services or of the personal services of a person under his or her control as reasonably assessed is not applied toward the liquidation of the debt;

(B) The length and nature of the debtor's personal services or of the personal services of a person under his or her control are not respectively limited and defined; or

(C) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred;

(3) "Extortion" means the obtaining of property, labor, a service, credit, a commercial sexually activity, or a sexually explicit

1 performance from another person or of an official act of a public officer
 2 through a wrongful use of force or fear or under color of official right;

3 (4) "Financial harm" means extortion of credit, criminal
 4 violation of the usury laws, or employment contracts that violate the
 5 statutes of frauds, § 4-59-101;

6 (5) "Involuntary servitude" means the inducement or compulsion
 7 of a person to engage in labor, services, or commercial sexual activity by
 8 means of:

9 (A) A scheme, plan, or pattern of behavior with a purpose
 10 to cause a person to believe that if he or she does not engage in labor,
 11 services, or commercial sexual activity, he or she or another person will
 12 suffer serious physical injury or physical restraint;

13 (B) Abuse or threatened abuse of the legal process;

14 (C) The causing of or the threat to cause serious harm to
 15 a person;

16 (D) Physically restraining or threatening to physically
 17 restrain another person;

18 (E) The kidnapping of or threat to kidnap a person;

19 (F) The taking of another person's personal property or
 20 real property;

21 (G) The knowing destruction, concealment, removal,
 22 confiscation, or possession of an actual or purported passport, other
 23 immigration document, or other actual or purported government identification
 24 document of another person;

25 (H) Extortion or blackmail;

26 (I) Deception or fraud;

27 (J) Coercion, duress, or menace;

28 (K) Debt bondage;

29 (L) Peonage; or

30 (M) The facilitation or control of a victim's access to an
 31 addictive controlled substance;

32 (6) "Labor" means work of economic or financial value;

33 (7) "Menace" means a possible danger or threat;

34 (8) "Minor" means a person less than eighteen (18) years of age;

35 (9) "Organization" means the same as defined in § 5-2-501;

36 (10) "Peonage" means holding a person against his or her will to

1 pay off a debt;

2 (11) "Serious harm" means any harm, whether physical or
 3 nonphysical, including without limitation psychological, financial, or
 4 reputational harm, that is sufficiently serious, under all the surrounding
 5 circumstances, to compel a reasonable person of the same background and in
 6 the same circumstances as the victim to perform or to continue performing
 7 labor or service, a commercial sex act, or a sexually explicit performance in
 8 order to avoid incurring that harm;

9 (12) "Service" means an act committed at the behest of, under
 10 the supervision of, or for the benefit of another person;

11 (13)(A) "Sex act" means any touching of the sexual or other
 12 intimate parts of another person for the purpose of gratifying the sexual
 13 desire of a person.

14 (B) "Sex act" includes without limitation the touching of
 15 the person as well as touching by the person, whether directly or through
 16 clothing;

17 (14)(A) "Sexually explicit performance" means an act or show,
 18 whether public or private, live, photographed, recorded, or videotaped with a
 19 purpose to:

20 (i) Either:

21 (a) Appeal to the prurient interest; or

22 (b) Depict, in a patently offensive way, a sex
 23 act; and

24 (ii) Do so in a way that lacks literary, artistic,
 25 political, or scientific value.

26 (B) "Sexually explicit performance" includes without
 27 limitation any performance that depicts a sex act by a minor or that would
 28 create criminal liability under § 5-27-303 or § 5-27-304; and

29 (15) "Victim of human trafficking" means a person who has been
 30 subjected to trafficking of persons, § 5-18-103.

31
 32 5-18-103. Trafficking of persons.

33 (a) A person commits the offense of trafficking of persons if he or
 34 she knowingly:

35 (1) Recruits, harbors, transports, obtains, entices, solicits,
 36 isolates, provides, or maintains a person knowing that the person will be

1 subjected to involuntary servitude;

2 (2) Benefits financially or benefits by receiving anything of
 3 value from participation in a venture under subdivision (a)(1) of this
 4 section;

5 (3) Subjects a person to involuntary servitude; or

6 (4) Recruits, entices, solicits, isolates, harbors, transports,
 7 provides, maintains, or obtains a minor for commercial sexual activity.

8 (b)(1) Trafficking of persons is a Class A felony.

9 (2) Trafficking of persons is a Class Y felony if a victim was a
 10 minor at the time of the offense.

11
 12 5-18-104. Patronizing a victim of human trafficking.

13 (a) A person commits the offense of patronizing a victim of human
 14 trafficking if he or she knowingly engages in commercial sexual activity with
 15 another person knowing that the other person is a victim of human
 16 trafficking.

17 (b)(1) Patronizing a victim of human trafficking is a Class B felony.

18 (2) Patronizing a victim of human trafficking is a Class A
 19 felony if the victim was a minor at the time of the offense.

20
 21 5-18-105. Enhanced liability of an organization.

22 In addition to any other statutorily authorized sentence or fine, an
 23 organization convicted of an offense under this chapter is subject to any
 24 combination of the following:

25 (1) A suspension or revocation of a license, permit, or prior
 26 approval granted to the organization by a state or local government agency;

27 (2) A court order to dissolve or reorganize; and

28 (3) Other relief as is equitable, including without limitation:

29 (A) Ordering the forfeiture of assets under § 5-18-106; or

30 (B) Restitution.

31
 32 5-18-106. Property subject to forfeiture.

33 (a) The following property is subject to forfeiture under this
 34 chapter:

35 (1) Contraband property used or intended to be used in the
 36 commission of trafficking of persons, § 5-18-103;

1 (2) The proceeds gained from the commission of trafficking of
2 persons, § 5-18-103;

3 (3) Personal property acquired with proceeds gained from the
4 commission of trafficking of persons, § 5-18-103;

5 (4)(A) Any conveyance, including an aircraft, vessel, or vehicle
6 that is used or intended for use to transport or in any manner to facilitate
7 the transportation for the purpose of the commission of trafficking of
8 persons, § 5-18-103.

9 (B) A conveyance used by a person as a common carrier in
10 commercial transportation as a common carrier is not subject to forfeiture
11 under this section unless it appears that the owner or other person in charge
12 of the conveyance is a consenting party or privy to a violation of this
13 chapter.

14 (C) A conveyance is not subject to forfeiture under this
15 section by reason of an act or omission established by the owner of the
16 conveyance to have been committed or omitted without the owner's knowledge or
17 consent.

18 (D) A forfeiture of a conveyance encumbered by a bona fide
19 security interest is subject to the bona fide security interest of the
20 secured party;

21 (5) Real property may be forfeited under this chapter if it
22 substantially assisted in, facilitated in any manner, or was used or intended
23 for use in the commission of trafficking of persons, § 5-18-103. However:

24 (A) Real property is not subject to forfeiture under this
25 chapter by reason of an act or omission established by the owner of the real
26 property by a preponderance of the evidence to have been committed or omitted
27 without his or her knowledge or consent;

28 (B) A forfeiture of real property encumbered by a mortgage
29 or other lien is subject to the interest of the secured party if the secured
30 party neither had knowledge of nor consented to the unlawful act or omission;

31 (C) When a court orders a forfeiture of real property
32 under this chapter, the order shall be filed of record on the day issued and
33 shall have prospective effect only;

34 (D) A forfeiture of real property ordered under this
35 chapter does not affect the title of a bona fide purchaser who purchased the
36 real property before the issuance of the order, and the order has no effect

1 on the title of the bona fide purchaser; and

2 (E) A lis pendens filed in connection with an action
3 pending under this chapter that might result in the forfeiture of real
4 property is operative only from the time filed and has no retroactive effect;

5 (6) A book, record, or research product or material including
6 microfilm, tape, or data that is used or intended for use in the trafficking
7 of persons, § 5-18-103; and

8 (7)(A)(i) Anything of value furnished or intended to be
9 furnished or traded or used as payment or invested for anything of value in
10 return for the commission of trafficking in persons, § 5-18-103.

11 (ii) However, subdivision (a)(7)(A)(i) of this
12 section does not include real property.

13 (B) It is presumed that property described in subdivision
14 (a)(7)(A)(i) of this section was acquired with proceeds gained from the
15 commission of trafficking of persons, § 5-18-103, and is subject to
16 forfeiture.

17 (b) Property that is used in the commission of trafficking of persons,
18 § 5-18-103, that has title of ownership with two (2) or more parties on the
19 title or a cosigner is subject to forfeiture if one (1) party on the title
20 uses the property in the commission of trafficking of persons, § 5-18-103, or
21 receives titled property as the proceeds of the commission of trafficking of
22 persons, § 5-18-103, even if the other party or parties or cosigner claims
23 that he or she did not have knowledge or involvement in the commission of
24 trafficking of persons, § 5-18-103.

25 (c)(1) Any money, coin, or currency found in possession of a person
26 arrested for trafficking in persons, § 5-18-103, or found in, on, or in close
27 proximity to any forfeited property used or intended for the use in the
28 trafficking of persons, § 5-18-103, is presumed to be forfeitable under this
29 section.

30 (2) The burden of proof is upon a claimant of property described
31 in subdivision (c)(1) of this section to rebut the presumption under
32 subdivision (c)(1) of this section.

33 (d) The procedures for seizure and forfeiture under § 5-64-505 shall
34 be used for the seizure and forfeiture of assets under this chapter.

35 (e)(1) All property forfeited under this section shall first be used
36 to pay restitution to a victim of human trafficking, § 5-18-103, and

1 subsequently to pay any damages awarded to the victim of human trafficking in
 2 a civil cause of action.

3 (2) Any remaining property after payment under subdivision
 4 (e)(1) of this section shall go to the Crime Victims Reparations Revolving
 5 Fund and toward the reimbursement of any local police department that has
 6 used its own funds in the detection, investigation, apprehension, and
 7 prosecution of persons for the commission of an offense under this chapter.

8
 9 SECTION 5. Arkansas Code § 5-70-102 is amended to read as follows:
 10 5-70-102. Prostitution.

11 (a) A person commits prostitution if in return for or in expectation
 12 of a fee he or she engages in or agrees or offers to engage in sexual
 13 activity with any other person.

14 (b) Prostitution is a:

15 (1) Class B misdemeanor for the first offense; and

16 (2) Class A misdemeanor for ~~second and subsequent offenses a~~
 17 second or subsequent offense under this section.

18 (c) It is an affirmative defense to prosecution that the person
 19 engaged in an act of prostitution as a result of being a victim of
 20 trafficking of persons, § 5-18-103.

21
 22 SECTION 6. Arkansas Code § 5-70-103 is amended to read as follows:
 23 5-70-103. Sexual solicitation.

24 (a) A person commits the offense of sexual solicitation if he or she:

25 (1) Offers to pay a fee to a person to engage in sexual activity
 26 with him or her or another person; or

27 (2) Solicits or requests a person to engage in sexual activity
 28 with him or her in return for a fee.

29 (b) Sexual solicitation is a:

30 (1) Class B misdemeanor for the first offense; and

31 (2) Class A misdemeanor for ~~the second and subsequent offenses a~~
 32 second or subsequent offense.

33 (c) It is an affirmative defense to prosecution under this section
 34 that the person engaged in an act of sexual solicitation as a result of being
 35 a victim of trafficking of persons, § 5-18-103.

36

1 SECTION 7. Arkansas Code Title 12 is amended to add a new chapter to
2 read as follows:

3
4 Chapter 19

5 Human Trafficking – Prevention and Law Enforcement

6
7 12-19-101. State Task Force for the Prevention of Human Trafficking.

8 (a)(1) The Attorney General may establish a State Task Force for the
9 Prevention of Human Trafficking.

10 (2) The task force shall address all aspects of human
11 trafficking, including sex trafficking and labor trafficking of both United
12 States citizens and foreign nationals.

13 (b) If established, representatives on the task force shall be
14 appointed by the Attorney General and may include representatives from:

15 (1) The office of the Attorney General;

16 (2) The office of the Governor;

17 (3) The Department of Labor;

18 (4) The Department of Health;

19 (5) The Department of Human Services;

20 (6) The Arkansas Association of Chiefs of Police;

21 (7) The Arkansas Sheriffs' Association;

22 (8) The Department of Arkansas State Police;

23 (9) Prosecuting attorneys from the various counties;

24 (10) Local law enforcement; and

25 (11) Nongovernmental organizations such as:

26 (A) Those specializing in the problems of human
27 trafficking;

28 (B) Those representing diverse communities
29 disproportionally affected by human trafficking;

30 (C) Agencies devoted to child services and runaway
31 services; and

32 (D) Academic researchers dedicated to the subject of human
33 trafficking.

34 (c) If the task force is created by the Attorney General, he or she
35 may invite federal agencies that operate in the state to be members of the
36 task force, including without limitation:

1 (1) The Federal Bureau of Investigation;

2 (2) United States Immigration and Customs Enforcement; and

3 (3) The United States Department of Labor.

4 (d) If the task force is created by the Attorney General, the task
5 force shall:

6 (1) Develop a state plan;

7 (2) Coordinate the implementation of the state plan;

8 (3) Coordinate the collection and sharing of human trafficking
9 data among government agencies in a manner that ensures that the privacy of
10 victims of human trafficking is protected and that the data collection shall
11 respect the privacy of victims of human trafficking;

12 (4) Coordinate the sharing of information between agencies to
13 detect individuals and groups engaged in human trafficking;

14 (5) Explore the establishment of state policies for time limits
15 for the issuance of law enforcement agency endorsements as described in 8
16 C.F.R. § 214.11(f)(1), as it existed on January 1, 2013;

17 (6) Establish policies to enable state government to work with
18 nongovernmental organizations and other elements of the private sector to
19 prevent human trafficking and provide assistance to victims of human
20 trafficking who are United States citizens or foreign nationals;

21 (7) Evaluate various approaches used by state and local
22 governments to increase public awareness of human trafficking, including
23 trafficking of United States citizens and foreign national victims;

24 (8) Develop curriculum and train law enforcement agencies,
25 prosecutors, public defenders, judges, and others involved in the criminal
26 and juvenile justice systems on:

27 (A) Offenses under the Arkansas Human Trafficking Act of
28 2013, § 5-18-11 et seq.;

29 (B) Methods used in identifying victims of human
30 trafficking who are United States citizens or foreign nationals, including
31 preliminary interview techniques and appropriate questioning methods;

32 (C) Methods for prosecuting human traffickers;

33 (D) Methods of increasing effective collaboration with
34 nongovernmental organizations and other relevant social service organizations
35 in the course of investigating and prosecuting a human trafficking case;

36 (E) Methods for protecting the rights of victims of human

1 trafficking, taking into account the need to consider human rights and
 2 special needs of women and minors;

3 (F) The necessity of treating victims of human trafficking
 4 as crime victims rather than criminals; and

5 (G) Methods for promoting the safety of victims of human
 6 trafficking; and

7 (9) Submit a report of its findings and recommendations to the
 8 Governor, the Speaker of the House of Representatives, and the President Pro
 9 Tempore of the Senate.

10
 11 SECTION 8. Arkansas Code § 16-93-618(a)(1), concerning sentencing for
 12 certain Class Y felonies, is amended to read as follows:

13 (a)(1) Notwithstanding any law allowing the award of meritorious good
 14 time or any other law to the contrary, ~~any~~ a person who is found guilty of or
 15 pleads guilty or nolo contendere to subdivisions (a)(1)(A)-~~(H)~~(I) of this
 16 section shall not be eligible for parole or community ~~punishment~~ correction
 17 transfer, except as provided in subdivision (a)(3) or subsection (c) of this
 18 section, until the person serves seventy percent (70%) of the term of
 19 imprisonment to which the person is sentenced, including a sentence
 20 prescribed under § 5-4-501:

21 (A) Murder in the first degree, § 5-10-102;

22 (B) Kidnapping, Class Y felony, § 5-11-102;

23 (C) Aggravated robbery, § 5-12-103;

24 (D) Rape, § 5-14-103;

25 (E) Trafficking of persons, Class Y felony, § 5-18-103;

26 ~~(E)~~(F) Causing a catastrophe, § 5-38-202(a);

27 ~~(F)~~(G) Manufacturing methamphetamine, § 5-64-423(a) or the
 28 former § 5-64-401;

29 ~~(G)~~(H) Trafficking methamphetamine, § 5-64-440(b)(1); or

30 ~~(H)~~(I) Possession of drug paraphernalia with the purpose
 31 to manufacture methamphetamine, the former § 5-64-403(c)(5).

32
 33 SECTION 9. Arkansas Code Title 16, Chapter 90, Subchapter 7, is
 34 amended to add a new section to read as follows:

35 16-90-720. Victims of human trafficking.

36 Victims of human trafficking are entitled to forms of compensation

1 under this subchapter.

2
3 SECTION 10. Arkansas Code Title 16, Chapter 90, Subchapter 11, is
4 amended to add a new section to read as follows:

5 16-90-1116. Development of a state plan to provide assistance to
6 victims of human trafficking.

7 The Department of Human Services shall develop a state protocol for
8 assisting victims of human trafficking with applying for federal and state
9 benefits and services to which the victims of human trafficking may be
10 entitled.

11
12 SECTION 11. Arkansas Code Title 16, Chapter 118, is amended to add a
13 section to read as follows:

14 16-118-109. Civil cause of action for victims of human trafficking.

15 (a) As used in this section, "victim of human trafficking" means the
16 same as defined in § 5-18-102.

17 (b) An individual who is a victim of human trafficking may bring a
18 civil action in any appropriate state court.

19 (c) The court may award actual damages, compensatory damages, punitive
20 damages, injunctive relief, or any other appropriate relief.

21 (d) A prevailing plaintiff shall also be awarded attorney's fees and
22 costs.

23 (e) Three (3) times actual damages shall be awarded on proof of actual
24 damages when a defendant's acts were willful and malicious.

25 (f)(1) A statute of limitation period imposed for the filing of a
26 civil action under this section will not begin to run until the plaintiff
27 discovers that the human trafficking incident occurred and that the defendant
28 caused, was responsible for, or profited from the human trafficking incident.

29 (2) If the plaintiff is a minor, the limitation period will not
30 begin until he or she is eighteen (18) years of age.

31 (3) If the plaintiff is under a disability at the time the cause
32 of action accrues so that it is impossible or impracticable for him or her to
33 bring an action, the time of the disability will not be part of the time
34 limited for the commencement of the action.

35 (4) If the plaintiff is subject to threats, intimidation,
36 manipulation, or fraud perpetrated by the defendant or by any person acting

1 in the interest of the defendant, the time period during which the threats,
2 intimidation, manipulation, or fraud occurred will not be part of the statute
3 of limitations for the commencement of this action.

4 (5) A defendant is estopped to assert a defense of the statute
5 of limitations when the expiration of the statute of limitations is due to
6 conduct by the defendant that induced the plaintiff to delay the filing of
7 the action or placed the plaintiff under duress.

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