**8.134A SEX TRAFFICKING OF CHILDREN OR BY FORCE, FRAUD OR COERCION  
(18 U.S.C. § 1591(a)(1))**

The defendant is charged in [Count \_\_\_\_\_\_ of] the indictment with engaging in sex trafficking [of children] [by force, fraud, or coercion] in violation of Section 1591 of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly [recruited] [enticed] [harbored] [transported] [provided] [obtained] [advertised] [maintained] [patronized] [or] [solicited] a person to engage in a commercial sex act;

Second, the defendant [knew] [was in reckless disregard of the fact] that [means of force, threats of force, fraud, coercion or any combination of such means would be used to cause the person to engage in a commercial sex act] [or] [that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act]; and

Third, the defendant’s acts were [in or affecting interstate or foreign commerce] [within the special maritime and territorial jurisdiction of the United States].

**Comment**

“Coercion” is defined in 18 U.S.C. § 1591(e)(2).

The “force, fraud, or coercion” elements may be applied for victims who are not minors.

The “reckless disregard” standard applies only to advertising.

“[T]he listed alternatives—“means of force, threats of force, fraud coercion . . . or any

combination of such means”—are not elements but rather possible means to commit the crime of

human trafficking.” *United States v. Mickey*, 897 F.3d 1173, 1181 (9th Cir. 2018). A special verdict form that subdivides an element of a crime into its possible components is ill-advised because it has potential to create jury confusion, require further instruction, and cause the jury to “lose sight of what facts it is meant to find.” *Id*. at 1182.

In instructing the jury regarding the defendant’s knowledge that the victim had not attained the age of 18, this court has impliedly accepted a “reckless disregard” standard and a “reasonable opportunity to observe” standard. *See United States v. Davis*, 854 F.3d 601, 604 (9th Cir. 2017).

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