

2012

## Our Backyard Slave Trade: The Result of Ohio's Failure to Enact Comprehensive State-Level Human-Sex-Trafficking Legislation

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### Recommended Citation

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# OUR BACKYARD SLAVE TRADE: THE RESULT OF OHIO’S FAILURE TO ENACT COMPREHENSIVE STATE-LEVEL HUMAN-SEX-TRAFFICKING LEGISLATION

PRISCILA A. ROCHA\*

I.	INTRODUCTION .....	382
II.	AN OVERVIEW OF HUMAN SEX TRAFFICKING .....	385
III.	FEDERAL ANTI-TRAFFICKING INITIATIVES .....	391
IV.	THE NEED FOR STATE INVOLVEMENT.....	394
V.	FACTORS CONTRIBUTING TO HUMAN SEX TRAFFICKING IN OHIO .....	396
	A. <i>Geography</i> .....	398
	B. <i>Demographics</i> .....	399
	C. <i>Ohio’s Law Enforcement Dilemma</i> .....	402
VI.	OHIO’S ANTI-TRAFFICKING INITIATIVES .....	404
VII.	OHIO’S FAILURE TO ENACT COMPREHENSIVE ANTI-TRAFFICKING LEGISLATION .....	406
	A. <i>Proposed Recommendations</i> .....	406
	1. Preventing Human Trafficking .....	406
	2. Training for Law Enforcement.....	408
	3. Consistent Data Collection.....	409
	4. Implementation of a Public Awareness Campaign .....	411
	B. <i>Protecting Victims</i> .....	411
	1. Social Service Benefits During Pre-Certification Period .....	411
	2. Private Right of Action .....	415
VII.	CONCLUSION.....	417

*“An ounce of cocaine, wholesale, \$1200, but you can only sell it once.  
A woman or a child, \$50 to \$100, but you can sell them each day,  
every day, over and over and over again. The markup is immeasurable.”<sup>1</sup>*

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\* J.D. Candidate, Cleveland-Marshall College of Law, 2012; B.A., Cleveland State University, 2006. I would like to thank U.S. Attorney Steven M. Dettelbach for first informing me about the scope of the human-trafficking dilemma in Ohio, thus inspiring the topic of this Note. Special thanks to the hard work, dedication, and moral support of Kelly Albin, Professor Susan J. Becker, and the entire Editorial Board and Staff of the *Journal of Law and Health*. I would like to thank my family, who dealt with my missing several holidays to work on this project and who have always provided me with a truly incredible amount of love and support. This Note is dedicated to the countless victims of human trafficking: may they no longer suffer in silence.

<sup>1</sup> Alessandra Stanley, *Selling Sex, that Renewable Resource*, N.Y. TIMES, Oct. 24, 2005, at E10, available at <http://tv.nytimes.com/2005/10/24/arts/television/24traf.html>.

## I. INTRODUCTION

In December 2010, the Ohio Senate listened to the tragic story of a sex slave survivor; in response, the Ohio General Assembly<sup>2</sup> swiftly passed Senate Bill 235, the state's first anti-trafficking law making human trafficking a second-degree felony.<sup>3</sup> Theresa Flores, a former sex slave, was a fifteen-year-old high school student from an affluent Catholic family when she was brutally raped by her boyfriend, blackmailed, and forced into sexual slavery.<sup>4</sup> Often, she was forced to perform four to six sexual acts each night.<sup>5</sup> Flores's rapist, a fellow high school student she refers to as "Daniel,"<sup>6</sup> told her that his cousins hid in the room to photograph her as she was raped.<sup>7</sup> Her traffickers then used psychological manipulation—such as threatening to reveal the photographs of her rape to her family and friends—to compel Flores to submit to their demands.<sup>8</sup> For two years, the traffickers forced Flores to take drugs, raped her, beat her, and sold her for sex.<sup>9</sup> Throughout the two year ordeal, her parents knew nothing.<sup>10</sup> By the time the Flores family relocated to a new city, an event that finally gave Flores the courage to share her story, it was too late to prosecute Daniel.<sup>11</sup> Her compelling story served as a

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<sup>2</sup> See Ohio H.R. Journal, 128th Gen. Assemb., Reg. Sess. (Ohio 2009), <http://www.legislature.state.oh.us/JournalText128/HJ-12-08-10.pdf>. The Ohio House of Representatives passed Bill 235 on December 8, 2010, with a vote of ninety-six in favor of passing the bill and zero opposed. Ohio S. Journal, 128th Gen. Assemb., Reg. Sess. (Ohio 2009), <http://www.legislature.state.oh.us/JournalText128/SJ-12-01-10.pdf>. The Ohio Senate passed the bill on December 1, 2010, with thirty-two votes in favor of passing the bill and zero opposed. 2009 Legis. Bill Hist. Ohio S.B. 235 (2011). Ohio Governor Ted Strickland signed Ohio S.B. 235 into law on December 23, 2010, noting that criminalizing human trafficking is an "important step in taking on this horrific human rights violation." *Id.*

<sup>3</sup> See *Sex Slaves in the Suburbs*, IVANHOE.COM, [http://www.ivanhoe.com/channels/p\\_channelstory.cfm?storyid=25460](http://www.ivanhoe.com/channels/p_channelstory.cfm?storyid=25460) (last visited Feb. 12, 2011) [hereinafter *Sex Slaves in the Suburbs*]; see also U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT 2010*, at 9 (2010), available at <http://www.state.gov/documents/organization/142979.pdf> (last visited Feb. 13, 2011) [hereinafter *TIP REPORT 2010*]. "It is critical to understand that a person's initial consent to participate in prostitution is not legally determinative: if they are thereafter held in service through psychological manipulation or physical force, they are trafficking victims." *Id.*; see generally 22 U.S.C. § 7102(9) (2000) ("Sex trafficking is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.").

<sup>4</sup> *Sex Slaves in the Suburbs*, *supra* note 3.

<sup>5</sup> *Id.*

<sup>6</sup> Mike Celizic, *Former Teen Sex Slave Says Trafficking Common*, TODAYSHOW.COM (Feb 13, 2009, 11:53 AM), [http://today.msnbc.msn.com/id/29181173/ns/today-today\\_people/](http://today.msnbc.msn.com/id/29181173/ns/today-today_people/).

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> See Celizic, *supra* note 6.

catalyst, motivating Ohio lawmakers to join forty-two other states in enacting bipartisan, state level anti-trafficking legislation during a lame-duck session.<sup>12</sup>

Another catalyst motivating the Ohio General Assembly to criminalize human trafficking came from voters.<sup>13</sup> Ohio's new law stemmed from a report conducted by the Ohio Trafficking in Persons Study Commission, which identified Ohio as a "hub" for human trafficking.<sup>14</sup> The report highlights several factors that contribute to Ohio's human trafficking problem, including a lack of state felony laws that would punish human traffickers.<sup>15</sup> The report generated local media coverage and prompted numerous advocacy groups, non-governmental organizations, and local universities to launch campaigns that urged voters to contact state legislators and request that they enact state level anti-trafficking legislation.<sup>16</sup> Subsequently, Ohio held its first Human Trafficking Awareness Day at the Ohio Statehouse.<sup>17</sup>

<sup>12</sup> See Jim Provance, *Victim Helps Push Trafficking Bill to Speedy Action in Ohio House*, TOLEDO BLADE.COM (Dec. 8, 2010), <http://www.toledoblade.com/State/2010/12/08/Victim-helps-push-trafficking-bill-to-speedy-action-in-Ohio-House.html>.

<sup>13</sup> See *Advocacy Day to Urge General Assembly to Pass*, HISPANICOHIO.COM, <http://hispanicohio.northcoastnow.com/2010/11/10/advocacy-day-to-urge-general-assembly-to-pass> (last visited Feb. 24, 2012).

<sup>14</sup> Celia Williamson et al., *Report on the Prevalence of Human Trafficking in Ohio*, OHIO ATT'Y GEN.GOV., <http://www.ohioattorneygeneral.gov/HumanTrafficking> (last visited Feb. 12, 2011). Ohio is a hub for human trafficking due to various "pull factors" that draw traffickers and victims to the state. *Id.* The "pull factors" include: (1) existing markets for human trafficking; (2) demand for sexual and labor services in Ohio and nearby states; and (3) presence of sizable populations of foreign born persons in Ohio. *Id.*; see also *The Necessity of Passing Human Trafficking Criminalization Legislation in Ohio: Remedies Taken by Other States and the Implications of Not Passing Crim. Just. Comm. Hearing on S.B. 235 Before the Ohio Senate Judiciary*, 2010 Leg., 128th Sess. (Ohio 2010) (statement of Vanessa Bouche, PhD Candidate and Researcher in Political Science at The Ohio State University), available at <http://ochla.ohio.gov/ASSETS/640D5F7BFFEB4DF1B634E60885B43CBE/Venessa%20Bouche-%20OSU-%20128SB235.TPRO.pdf> (last visited Mar. 15, 2011) (noting that Ohio's lack of human-trafficking legislation effectively makes Ohio a "safe haven" for traffickers, attracting them to the state).

<sup>15</sup> See Williamson, *supra* note 14.

<sup>16</sup> See *supra* note 13; *Working to Stamp Out Human Trafficking*, UNIV. OF DAYTON, [http://www.udayton.edu/news/articles/2010/04/alex\\_kreidenweis\\_ohio\\_trafficking\\_bill.php](http://www.udayton.edu/news/articles/2010/04/alex_kreidenweis_ohio_trafficking_bill.php) (last visited Mar. 15, 2011); *Information About Ohio Senate Bill 235 Making Human Trafficking a Second Degree Felony*, NOT FOR SALE OHIO, <http://notforsaleohio.wordpress.com/2010/03/05/information-about-ohio-senate-bill-235-making-human-trafficking-a-second-degree-felony/> (last visited Mar. 15, 2011); *Support SB 235 and End Trafficking in Ohio*, CHANGE.ORG, [http://www.change.org/petitions/support-sb-235-and-end-trafficking-in-ohio#?opt\\_new=t](http://www.change.org/petitions/support-sb-235-and-end-trafficking-in-ohio#?opt_new=t) (last visited Mar. 15, 2011); *Sign the Petition: Support SB 235 and End Trafficking in Ohio*, PROGRESSOHIO.ORG, <http://www.progressohio.org/blog/2010/11/support-sb-235-and-end-trafficking-in-ohio.html> (last visited Mar. 15, 2011); see generally *Make Human Trafficking a Crime in Ohio—Push for Passage of SB 235*, NAT'L ASSOC. OF SOCIAL WORKERS, <http://www.naswoh.org/displaycommon.cfm?an=1&subarticlenbr=362> (last visited Mar. 15, 2011).

<sup>17</sup> See Ohio Senate Democratic Caucus, *Human Trafficking Awareness Day*, <http://ohio.senatedems.blogspot.com/2009/12/state-senator-teresa-fedora-presents.html> (last visited Apr. 15, 2012).

Prior to the enactment of Senate Bill 235, Ohio's only anti-trafficking penal-code provision consisted of a sentencing enhancement provision that covered crimes implicating human sex trafficking.<sup>18</sup> The sentencing enhancement did little to reduce human sex trafficking in Ohio, and, as a result of its complexity, the law was never used.<sup>19</sup> Ohio's new anti-trafficking law, however, is much clearer. Senate Bill 235: defines involuntary servitude; amends the conspiracy and corruption statutes to include human trafficking; strengthens punishment for human trafficking by making labor and sex trafficking a second degree felony punishable by up to eight years in prison; and increases penalties for compelling prostitution of minors.<sup>20</sup> But this new law is merely the first step in successfully addressing Ohio's sex-trafficking dilemma. Ohio's next challenge is to effectively implement this law and expand it to include additional state laws that focus on trafficking victims.

Ohio's newest anti-trafficking efforts serve as a constructive step, but more must be done to prevent human sex trafficking and to protect victims once they are brought to safety. Ohio's new law fails to address the needs of victims and to adequately protect them. This Note examines the shortcomings of Ohio's current anti-trafficking legislation and argues that additional victim-focused legislation must be enacted at the state level to prevent human trafficking and to protect victims.

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<sup>18</sup> OHIO REV. CODE ANN. § 2941.1422 (2009). Section 2941.1422 states in part:

(A) Imposition of a mandatory prison term under division (D)(7) of section 2929.14 of the Revised Code is precluded unless the offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and unless the indictment, count in the indictment, or information charging the offense specifies that the offender knowingly committed the offense in furtherance of human trafficking.

*Id.*

<sup>19</sup> Senator Teresa Fedor, Keynote Address at the AAUW Ohio Leadership Workshop (Aug. 14, 2010), *available at* <http://aauwoh.org/aauwoh/wp-content/uploads/2010/08/Fedor-speech.ppt> (noting that Ohio's human-trafficking sentencing enhancement has never been used).

<sup>20</sup> OHIO REV. CODE ANN. § 2901.01 (2010) (effective Mar. 24, 2011) (offense of violence includes abduction); OHIO REV. CODE ANN. § 2905.01 (2010) (effective Mar. 24, 2011) (adding "involuntary servitude" to the offense of kidnapping a minor); OHIO REV. CODE ANN. § 2905.02 (2010) (effective Mar. 24, 2011) (adding involuntary servitude to the offense of abduction); OHIO REV. CODE ANN. § 2907.21 (2010) (effective Mar. 24, 2011) (expanding the offense of compelling prostitution to include "force, fear, duress, or intimidation" and increasing penalty for compelling prostitution with a minor to a first-degree felony); OHIO REV. CODE ANN. § 2923.01 (2010) (effective Mar. 24, 2011) (adding trafficking in persons and abduction to the offense of conspiracy); OHIO REV. CODE ANN. § 2923.31 (2010) (effective Mar. 24, 2011) (adding human trafficking to the offense of corrupt activity); OHIO REV. CODE ANN. § 2929.01 (2010) (effective Mar. 24, 2011) (adding involuntary servitude to the definition of human trafficking); OHIO REV. CODE ANN. § 2933.51 (2010) (effective Mar. 24, 2011) (adding human trafficking to the definition of designated offense); OHIO REV. CODE ANN. § 2905.31 (2010) (effective Mar. 24, 2011) (defining involuntary servitude, obscene material, sexually orientated, and nudity oriented performance); OHIO REV. CODE ANN. § 2905.32 (2010) (effective Mar. 24, 2011) (establishing the offense of trafficking in persons); OHIO REV. CODE ANN. § 2905.33 (2010) (effective Mar. 24, 2011) (establishing the offense of trafficking in persons with respect to the unlawful conduct to documents).

Specifically, this Note advocates for legislation similar to the bill proposed by the Ohio House of Representatives in 2009 that was never enacted.<sup>21</sup>

Part II provides a broad overview of the human-sex-trafficking epidemic, its magnitude at an international level, and the United Nations' response. Part III discusses the scope of human trafficking within the United States. It also examines federal level anti-trafficking initiatives, including the Trafficking and Violence Protection Act of 2000 (TVPA), its reauthorizations, and its effectiveness in preventing domestic human trafficking and in protecting victims. Part IV addresses the urgent need for state involvement to combat human sex trafficking in Ohio. Part V addresses the prevalence of human sex trafficking in Ohio and examines the factors that contribute to its pervasiveness. Part VI examines the need for state level anti-trafficking legislation in Ohio. Finally, Part VII analyzes Ohio's current anti-trafficking legislation, examines anti-trafficking measures in other states, and argues that in the absence of additional victim-focused state level anti-trafficking legislation, Ohio's current human-trafficking measures are minimally effective. To strengthen Ohio's current anti-trafficking law, Ohio state legislatures must formulate a comprehensive plan to effectively punishing traffickers, while providing much needed victim services to those plagued by the brutal effects of this modern day slavery.<sup>22</sup>

## II. AN OVERVIEW OF HUMAN SEX TRAFFICKING

In its most basic form, human trafficking violates the fundamental freedom of choice.<sup>23</sup> Trafficking occurs in both developing and industrialized nations, including in the United States.<sup>24</sup> Human trafficking is defined as the:

[r]ecruitment, transportation, transfer, harbouring, or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>25</sup>

Sex trafficking occurs in various forms: prostitution, sexual entertainment, sexual servitude, exotic dancing, pornography, and servile marriage.<sup>26</sup> A "commercial sex

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<sup>21</sup> H.B. 493, 2009 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>22</sup> While all forms of human trafficking are morally deplorable, this Note focuses primarily on domestic sex trafficking in Ohio.

<sup>23</sup> See Human Trafficking and Migrant Smuggling, INTERNATIONAL.GC.CA, <http://www.international.gc.ca/crime/human-traf-personne.aspx?view=d> (last visited Feb. 24, 2012).

<sup>24</sup> TIP REPORT 2010, *supra* note 3.

<sup>25</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 2 [hereinafter Protocol] (establishing the first international comprehensive anti-trafficking guidelines).

<sup>26</sup> T.K. Logan et al., *Understanding Human Trafficking in the United States*, 10 TRAUMA, VIOLENCE AND ABUSE 9 (2009).

act” is defined as “any sexual act in which something of value is given or received.”<sup>27</sup> Sex traffickers compel victims to provide sexual acts through a variety of coercive measures, including the use of brutal violence, threats of deportation, and threats of violence against family members.<sup>28</sup> Human trafficking is not a crime of movement.<sup>29</sup> Trafficking does not require that the victim be transported from one location to another; rather, trafficking refers to the elements of “fraud, force, or coercion” that result in the victim’s inability to escape the traffickers’ control.<sup>30</sup>

Recognizing human trafficking as a global crisis, the international community promulgated a set of international human-trafficking standards titled *The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, also known as the Palermo Protocol.<sup>31</sup> The Protocol strives to persuade other countries to enact similar anti-trafficking legislation.<sup>32</sup> It was a momentous achievement for the international community because it identified human trafficking as an international problem that transcends borders, and, more importantly, it prompted international consensus on the need for domestic legislation worldwide. As of May 2012, 117 countries and 147 parties have signed the Protocol pledging to help prevent further instances of human trafficking.<sup>33</sup> The United States signed the Protocol on December 13, 2000, and later enacted federal legislation largely based on the Protocol’s recommendations.<sup>34</sup>

Human trafficking victims are often referred to as the “hidden population.”<sup>35</sup> Statistics on trafficked victims are difficult to obtain due to the inherently underground nature of trafficking, the inability to get information from traffickers, and the vulnerability of trafficked victims.<sup>36</sup> But the Trafficking in Persons Report

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<sup>27</sup> 18 U.S.C. § 1591(c)(1) (2000).

<sup>28</sup> Erin Kelley Michel, *Law Enforcement Response to Human Trafficking in Ohio*, 32-33 (2010) (unpublished M.S. thesis, The Ohio State University) (on file with The Ohio State University), available at <http://etd.ohiolink.edu/view.cgi/Michel%20Erin.pdf?osu1281107195>.

<sup>29</sup> See *Myths & Misconceptions*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview/myths-and-misconceptions> (last visited May 8, 2012).

<sup>30</sup> Kathleen YS Davis, *Human Trafficking and Modern Day Slavery in Ohio*, POLARIS PROJECT, 10 (Feb. 2006), <http://www.ccv.org/wp-content/uploads/2010/04/Ohio-Report-on-Trafficking.pdf>.

<sup>31</sup> See Protocol, *supra* note 25.

<sup>32</sup> *Id.*

<sup>33</sup> *Signatories to the CTOC Trafficking Protocol*, UNODC.COM, <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html> (last visited May 7, 2012).

<sup>34</sup> See *id.*; see generally Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (codified as amended in various titles of the U.S.C.) [hereinafter TVPA 2000].

<sup>35</sup> Manav Tanneeru, *The Challenges of Counting a Hidden Population*, CNN.COM (Mar. 9, 2011, 7:41 PM), <http://thecnnfreedomproject.blogs.cnn.com/2011/03/09/slavery-numbers/>.

<sup>36</sup> See Guri Tyldum & Anette Brunovskis, *Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking*, 43 DATA AND RESEARCH ON HUMAN TRAFFICKING: A GLOBAL SURVEY 17 (Frank Laczko & Elzbieta Gozdziaik eds., 2005), available at <http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/publish>

2010 revealed that approximately 12.3 million adults and children are forced into labor or prostitution worldwide.<sup>37</sup> Traffickers compel victims into sexual slavery through a myriad of control mechanisms.<sup>38</sup> Human trafficking can be either sex trafficking or labor trafficking. Labor trafficking may consist of forced labor,<sup>39</sup> debt bondage,<sup>40</sup> involuntary domestic servitude,<sup>41</sup> and forced child labor.<sup>42</sup> Human sex

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ed\_docs/books/data\_res\_human.pdf. The International Organization for Migration (IOM) is an “intergovernmental organization” established in 1951 for the purpose of assisting persons displaced by World War II. *Mission*, INT’L ORG. FOR MIGRATION, [www.ion.int/jahia/Jahia/about-iom/mission/lang/en](http://www.ion.int/jahia/Jahia/about-iom/mission/lang/en). The IOM website further states that: “[IOM] acts with its partners in the international community to: assist in meeting the growing operational challenges of migration management; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.” *Id.*

<sup>37</sup> TIP REPORT 2010, *supra* note 3, at 7. Per the TVPA, the Department of State issues an annual report to Congress assessing U.S. and international efforts to combat human trafficking, “[to] raise global awareness of the human trafficking phenomenon . . . and [to] encourage federal governments to take action.” TIP REPORT 2010, *supra* note 3, at 7.

<sup>38</sup> See U.N. Office on Drugs and Crime, *Anti-Trafficking Manual for Criminal Justice Practitioners – Control Methods in Trafficking in Persons*, UNODC.ORG (2009), [http://www.unodc.org/documents/human-trafficking/TIP\\_module4\\_Ebook.pdf](http://www.unodc.org/documents/human-trafficking/TIP_module4_Ebook.pdf). The United Nations Manual lists several methods used by traffickers to control their victims, including: (1) violence and threats of violence; (2) deception; (3) imprisonment; (4) collusion; (5) debt bondage; (6) isolation; and (7) religion, culture, and belief. *Id.* at 1.

<sup>39</sup> Under federal law, a trafficker will be prosecuted for the offense of forced labor if the trafficker:

(a) knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (2) by means of serious harm or threats of serious harm to that person or another person (3) by means of the abuse or threatened abuse of law or legal process; or (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d). (b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means . . .

18 U.S.C. § 1589(a)-(b) (2006).

<sup>40</sup> TIP REPORT 2010, *supra* note 3, at 9. Debt bondage occurs when victims are forced to perform services, including sexual acts, as a method of paying for illegal debt supposedly incurred as a result of their recruitment or transportation. *Id.* Victims are not permitted to leave the traffickers’ control until their debt is satisfied, and the duration of time necessary to pay off this debt is either completely arbitrary or never defined. See generally 22 U.S.C. § 7102(4) (2002).

<sup>41</sup> TIP REPORT 2010, *supra* note 3, at 9. Involuntary servitude is a condition in which the victim is forced to perform work through the use of deception and coercion and is led to believe that non-performance will result in serious bodily harm. See generally 22 U.S.C. § 7102 (2002).

trafficking differs from prostitution because sex trafficking refers to forced sexual acts while prostitution refers to sexual acts between consensual adults.<sup>43</sup> As such, prostitution by willing adults is not human trafficking.<sup>44</sup> Of the total number of trafficked victims, approximately 1.4 million are trafficked for the purpose of commercial sex exploitation.<sup>45</sup> The U.S. Department of State estimates that between 14,500 to 17,500 victims are annually trafficked in the United States.<sup>46</sup>

The disproportionate ratio between identified human-trafficking victims and successful prosecutions illustrates the scope of this worldwide dilemma. In 2009, of the 49,105 victims identified in the United States, only 4166 cases ended in successful prosecutions.<sup>47</sup> The International Labour Office estimates that forty-three percent of trafficked victims are sexually exploited and that ninety-eight percent of sexually exploited victims are women and girls.<sup>48</sup> Among U.S. citizens, sex trafficking is more prevalent than labor trafficking.<sup>49</sup>

<sup>42</sup> See generally 18 U.S.C. § 1589(a)-(b) (2006). Forced child labor is similar to forced adult labor in that the child is forced to perform services, including sexual acts, under the control of another without the option to leave the traffickers control. See *id.*

<sup>43</sup> TIP REPORT 2010, *supra* note 3, at 8-9.

<sup>44</sup> *Id.* at 9.

<sup>45</sup> PATRICK BESLER, FORCED LABOR AND HUMAN TRAFFICKING: ESTIMATING THE PROFITS 4 (Int'l Labour Off., Working Paper 2005). Statistics were compiled using the International Labour Office Global Report on Forced Labour:

[t]he methodology has two steps. First, a statistical methodology is used to estimate the number of cases of forced labour – and the total number of victims – which have been reported during 1995- 2004 by international organizations, governments, unions, tribunals, the police, academia, non-governmental organization, the press and other sources. Information on the number of victims, their location, their personal characteristics, and their activities was collected in many different languages and stored in a database. Secondly, the estimate of reported cases is used to derive an estimate of the actual number of people in forced labour at the present time.

*Id.*

<sup>46</sup> *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, U.S. DEP'T OF STATE 23 (June 2005), <http://www.state.gov/j/tip/rls/tiprpt/2005/>.

<sup>47</sup> TIP REPORT 2010, *supra* note 3, at 7.

<sup>48</sup> See *Human Trafficking: The Facts*, U.N. GLOBAL INITIATIVE TO FIGHT HUMAN TRAFFICKING, [http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/HUMAN\\_TRAFFICKING\\_-\\_THE\\_FACTS\\_-\\_final.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/HUMAN_TRAFFICKING_-_THE_FACTS_-_final.pdf). (last visited Mar. 8, 2011).

<sup>49</sup> See TOM OBOKATA, TRAFFICKING OF HUMAN BEINGS FROM A HUMAN RIGHTS PERSPECTIVE: TOWARDS A HOLISTIC APPROACH 27-28 (Martinus Nijhoff, 2006). Human trafficking includes both sex and labor trafficking. Labor trafficking occurs when individuals are forced to perform long hours of labor for little or no pay. *Id.* Labor trafficking occurs in factories, restaurants, farms, and other locations where there is a demand for cheap labor. *Id.*; see TIP REPORT 2010, *supra* note 3, at 338 (explaining that while “[m]ore U.S. citizens, both adult and children, are found in sex trafficking than labor trafficking . . . [m]ore foreign born victims are found in labor trafficking than sex trafficking.”).

Many sex traffickers lure their victims with promises of employment and then subject them to sexual slavery.<sup>50</sup> Victims are often coerced to perform sexual acts to pay off debts, which can range from \$3000 to \$60,000.<sup>51</sup> Some traffickers physically confine their victims, while others coerce victims into sexual slavery using brute force and psychological abuse, including threats of physical violence, rape, beatings, or withholding documents.<sup>52</sup> On average, victims are forced to provide sexual services to between five to ten customers per day, thus increasing the victims' risk of HIV/AIDS, STD's, and unwanted pregnancy.<sup>53</sup>

The Internet aids traffickers in manipulating victims into captivity and in selling victims' services. The Internet's anonymity and its global reach allow traffickers to communicate with vulnerable women, men, and children with whom they may not otherwise contact.<sup>54</sup> To illustrate, Internet pornography profits reached 2.84 billion U.S. dollars in 2006.<sup>55</sup> Internet pornography is linked to human trafficking.<sup>56</sup> As one scholar opined:

Prior to the Internet, human traffickers had to travel within the United States or abroad to secure purchasing of females for sex slavery. However, with the growth of the Internet, human trafficking is now being conducted via telephone and satellite transmissions. Human trafficking is now possible by viewing images of potential girls, bidding on the Internet and paying for via the Internet. With the decrease in travel and being

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<sup>50</sup> Besler, *supra* note 45, at 12.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> See Erin I. Kunze, *Sex Trafficking Via the Internet: How International Agreements Address the Problem and Fail to Go Far Enough*, 10 J. HIGH TECH. L. 241 (2010) (explaining that Internet websites are used to entice, recruit, and lure victims into sexual slavery); see also *Domestic Minor Sex Trafficking: Hearing on H.R. 5575 Before Judiciary S.Comm. on Crime, Terrorism, and Homeland Security*, 111th Cong. 2 (2010) (statement of Deborah Richardson, Chief Program Officer, Women's Funding Network), available at <http://judiciary.house.gov/hearings/pdf/Richardson100915.pdf> (demonstrating the ease with which victims can be exploited via the Internet by including audio recordings of men attempting to purchase sex with young girls through Craigslist); OFFICE OF THE SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATING TRAFFICKING IN HUMAN BEINGS, COMBATING TRAFFICKING AS MODERN-DAY SLAVERY: A MATTER OF RIGHTS FREEDOMS AND SECURITY (2010), available at [http://www.ungift.org/doc/knowledgehub/resource-centre/OSCE\\_Annual\\_Report\\_2010.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/OSCE_Annual_Report_2010.pdf) (noting that Internet websites and chat rooms are used by traffickers to exploit victims outside of the public eye, making it difficult for law enforcement to identify victims and punish traffickers).

<sup>55</sup> See Jerry Ropelato, *Internet Pornography Statistics*, TOP TEN REVIEWS, <http://internet-filter-review.toptenreviews.com/internet-pornography-statistics-pg2.html> (last visited Mar. 8, 2010).

<sup>56</sup> Davis, *supra* note 30, at 17 (noting that "pimps do not limit their women to prostitution, but often force the women to strip and perform in pornographic films").

anonymous on the Internet, it is now possible for more human trafficking transaction to occur for purchasing Internet sex slaves.<sup>57</sup>

Recent crackdowns on websites such as Craigslist's "adult services" section indicate that the Internet makes it easy for traffickers to reach victims and facilitates the continuance of sex trafficking.<sup>58</sup> Tina Frundt, an anti-trafficking advocate who works with victims, notes that "every single victim she's worked with has been sold on Craigslist at some point, and every pimp she's met has a MySpace page where they recruit."<sup>59</sup> While Craigslist's "adult services" section was recently disabled,<sup>60</sup> it is highly probable that, unless regulated, other websites may offer the same haven for traffickers looking to enslave victims.<sup>61</sup>

Human trafficking is a lucrative business in which traffickers reap substantial profits from the dehumanization of victims.<sup>62</sup> It ranks as the second largest illegal enterprise in the world, following the illegal sale of drugs.<sup>63</sup> The figures help explain why traffickers are compelled to continue treating human beings as commodities. The International Labour Organization (ILO) estimates that global profits from

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<sup>57</sup> Joyce Priddy, *United States Internet Sex Slaves: U.S. Has Highest Demand for Internet Pornography*, ASSOC. CONTENT (Mar. 18, 2007, 8:01 PM), <http://web.archive.org/web/20090106235937/> (accessed by searching "United States Internet Sex Slaves" in the Internet Archive index). Hughes, Professor of Women's Studies at the University of Rhode Island, explains that women are lured under false pretenses to believe that they are entering the modeling or entertainment business, only to "later find themselves trapped in a world of prostitution, live [I]nternet sex shows, and pornography." *Id.*

<sup>58</sup> See Kunze, *supra* note 54; see also Kevin Poulsen, *Pimps Go Online to Lure Kids into Prostitution*, WIRED.COM (Feb. 25, 2009), <http://www.wired.com/threatlevel/2009/02/pimping/> (noting that Craigslist is used to lure minor victims into sex trafficking, and Craigslist was implicated in at least eight federal sex trafficking investigations).

<sup>59</sup> Amanda Kloer, *Craigslist Testifies to Congress: U.S. Adult Ads Are Gone Forever*, CHANGE.ORG (Sept. 15, 2010, 8:10 PM), [http://humantrafficking.change.org/blog/view/craigslist\\_testifies\\_to\\_congress\\_us\\_adult\\_ads\\_are\\_gone\\_forever](http://humantrafficking.change.org/blog/view/craigslist_testifies_to_congress_us_adult_ads_are_gone_forever).

<sup>60</sup> See Clair Cain Miller, *Craigslist Says It Has Shut Its Section for Sex Ads*, N.Y. TIMES, Sept. 15, 2010, at B1, available at <http://www.nytimes.com/2010/09/16/business/16craigslist.html>.

<sup>61</sup> See Adrian Chen, *Your Post-Craigslist Guide to Buying Sex Online*, GAWKER (Sept. 5, 2010), <http://gawker.com/#!5630687/your-post+craigslist-guide-to-buying-sex-online>. Chen's Article lists various alternatives to Craigslist's adult services section, explaining that Craigslist is not the only website where sex can be easily sold and purchased on the Internet. *Id.* The Article highlights and evaluates several websites, and it notes that some offer on-site sexual services while others allow a purchaser to filter preferences, including physical characteristics, such as ethnicity, geography, desired sexual service, and sexual orientation. *Id.*; see also BACKPAGE.COM (Feb. 13, 2011, 9:16 PM), <http://cleveland.backpage.com> (offering extensive selection of escort services with sexually explicit photographs and links to an "adult jobs" section promising jobs for webcam models, escorts, and massage girls).

<sup>62</sup> Heather J. Clawson et al., *Needs Assessment for Service Providers and Trafficking Victims*, NCJRS, 2-3 (Oct. 2003), <http://www.ncjrs.gov/pdffiles1/nij/grants/202469.pdf> (explaining that traffickers reap high profit margins for the sale of human sex trafficking victims because humans can be sold repeatedly and for long periods of time).

<sup>63</sup> Williamson et al., *supra* note 14, at 10.

forced commercial sex exploitation generate \$33.9 billion U.S. dollars per year.<sup>64</sup> Profits from global commercial sex exploitation, in which victims are trafficked, generate approximately \$27.8 billion U.S. dollars per year.<sup>65</sup> Industrialized nations account for forty-nine percent of annual global profits derived from human trafficking.<sup>66</sup> Traffickers in industrialized nations receive approximately \$67,200 of profits per victim (or \$5600 per month).<sup>67</sup> The figures indicate that human trafficking is currently a business opportunity that is simply too profitable to for traffickers to ignore. Until the law imposes penalties for human trafficking substantial enough to hurt traffickers' bottom line profits, they will continue to enslave victims, viewing penalties as a mere business cost.

### III. FEDERAL ANTI-TRAFFICKING INITIATIVES

Human trafficking legislation is rooted in the Thirteenth Amendment to the United States Constitution, which expressly states that “[n]either slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”<sup>68</sup> In 1948, Congress enacted Section 1582 of the United States Code to consolidate previous anti-slavery statutes and to criminalize involuntary servitude.<sup>69</sup> But Congress failed to specify whether involuntary servitude was limited to restraints on physical freedom or whether it included psychological coercion.<sup>70</sup> Thus, courts were left to interpret Congress' intent.<sup>71</sup>

In the United States Supreme Court's 1988 decision in *United States v. Kozminski*, it considered whether Congress intended to include psychological coercion within the definition of involuntary servitude.<sup>72</sup> The case involved two mentally challenged farm laborers who were hired by the defendant to work on his farm.<sup>73</sup> The evidence indicated that the defendant subjected farm laborers to substandard living conditions, to threats of physical abuse, and to work long hours without payment.<sup>74</sup> The Court found that Congress' original intent was to forbid conditions prevalent during the African Slave trade, namely compulsory labor, and, as a result, only physical and legal coercion were prohibited.<sup>75</sup> The Court expressed its apprehension to broaden involuntary servitude's scope to include psychological

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<sup>64</sup> Besler, *supra* note 45, at 14.

<sup>65</sup> *Id.* at 15.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 14.

<sup>68</sup> U.S. CONST. amend. XIII § 1.

<sup>69</sup> See 18 U.S.C. § 1584 (2011).

<sup>70</sup> See *id.*

<sup>71</sup> See *id.*

<sup>72</sup> See *United States v. Kozminski*, 487 U.S. 931, 941 (1988).

<sup>73</sup> *Id.* at 934.

<sup>74</sup> *Id.* at 936.

<sup>75</sup> *Id.* at 942-43.

coercion because the Justices determined that it was an inherently subjective standard that relied on the victim's state of mind.<sup>76</sup> Ultimately, the Court narrowly defined involuntary servitude, holding that the Thirteenth Amendment prohibits legal and physical coercion, but not psychological coercion.<sup>77</sup> Thus, *Kozminski* limited the applicability of involuntary servitude to human trafficking cases in which overt physical or legal coercion was used rather than psychological coercion.<sup>78</sup> This standard is problematic because traffickers need not resort to physical or legal coercion to enslave victims.<sup>79</sup>

In 2000, Congress filled the gaps highlighted in *United States v. Kozminski* by enacting the Trafficking Victims Protection Act (TVPA), which expanded the definition of coercion to include psychological coercion.<sup>80</sup> The TVPA of 2000, signed into law by President William Clinton, criminalizes the trafficking of persons and provides protections for victims who were trafficked into the sex industry by "force, fraud, or coercion."<sup>81</sup> It provides immigration relief to non-citizen victims and requires the U.S. Department of State to issue annual reports on the status of U.S. and international anti-trafficking efforts.<sup>82</sup> The Act also mandates that victim-recipients must have suffered "severe forms of trafficking" to receive federal aid.<sup>83</sup> "Severe forms of trafficking" are defined as either:

- A. sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such acts has not attained 18 years of age; or
- B. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or

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<sup>76</sup> *Id.* at 949.

<sup>77</sup> *See id.* at 950.

<sup>78</sup> *See id.* at 952.

<sup>79</sup> *See Successfully Prosecuting Sex Traffickers: Hearing Before the H. Comm. On the Judiciary*, 110th Cong. (2007) (statement of Dorchen Leidholt, Director, Sanctuary for Families' Center for Battered Women's Legal Services), available at <http://action.web.ca/home/catw/readingroom.shtml?x=113289> [hereinafter Leidholt].

<sup>80</sup> *See* TVPA 2000, *supra* note 34.

<sup>81</sup> TVPA § 102(a), (b)(2), 22 U.S.C. § 7101(a), (b)(2) (2000); *see also* Davis, *supra* note 30, at 12. Davis provides the following explanation of the means used by traffickers use to manipulate their victims: "(1) Force: Physical assault (beating, burning, slapping, hitting, assault with a weapon etc.), sexual assault, rape, gang rape, and physical confinement and isolation; (2) Fraud: False employment offers, lying about work conditions (example: not telling someone that commercial sex will be required), false promises, withholding wages; (3) Coercion: Any threats to life, safety, to family members or other similar parties. This also includes threats involving immigration status or arrest. A system of debt bondage is used to control the victims. Traffickers also withhold legal documents (e.g., passports and visas) and instill a climate of fear by using both psychical and psychological abuse." *Id.*

<sup>82</sup> *See* TVPA § 102(a), (b)(2), 22 U.S.C. § 7101(a), (b)(2) (2000).

<sup>83</sup> *Id.*

coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.<sup>84</sup>

The TVPA authorizes the Department of State to compile annual reports regarding the scope of human trafficking worldwide and permits the President to issue U.S. sanctions against countries that fail to comport with minimum standards for the elimination of trafficking.<sup>85</sup> The TPVA also permits non-citizen human-trafficking victims to apply for a T-Visa.<sup>86</sup> The T-Visa provides qualifying non-citizen victims temporary non-immigrant status and allows them to remain in the U.S. for a specified time frame in exchange for cooperating with law enforcement to prosecute their traffickers.<sup>87</sup> The TVPA included the T-Visa provision as an incentive to encourage non-citizen victims, who fear removal from the U.S., to cooperate with prosecutors.<sup>88</sup>

Congress subsequently enacted several reauthorizations that expanded the initial TVPA. The 2003 reauthorization allows victims to pursue a civil cause of action against their traffickers, provides relaxed eligibility requirements for obtaining a T-Visa, and expands the definition of human trafficking to include “recruited, enticed, harbored, transported, provided, or obtained.”<sup>89</sup> The 2005 reauthorization established a program to provide rehabilitative facilities for trafficked victims, including group residential facilities, shelter care, and independent living assistance.<sup>90</sup> In addition, the 2005 reauthorization recognizes human trafficking as a domestic crisis and authorizes the Attorney General to conduct research to determine the extent of U.S. domestic trafficking.<sup>91</sup> The 2008 reauthorization eliminates the standard of proof of “force, fraud, or coercion” for minors, indicating that minor victims do not have to prove that they were coerced to perform sexual acts to receive federal aid.<sup>92</sup> The 2008 reauthorization, however, did not lower the standard of proof for adult victims.<sup>93</sup>

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<sup>84</sup> Sex trafficking of a minor does not require proof of force, fraud, or coercion because the lack of consent is implicit. *Id.*

<sup>85</sup> TVPA § 110(a), 22 U.S.C. § 7101(a) (2000). The U.S. can withhold “non-humanitarian, non-trade related foreign assistance” to countries that do not attempt to prevent trafficking in persons until such country complies or the President decides doing so would adversely affect vulnerable populations like women and children. *Id.*

<sup>86</sup> *See* TVPA § 107(e)(4), 8 U.S.C. 1101 (2006).

<sup>87</sup> *See* TVPA § 107(c)(3), 22 U.S.C. § 7105(c)(3) (2000).

<sup>88</sup> Kelly E. Hyland, *Protecting Human Victims of Trafficking: An American Framework*, 16 BERKELEY WOMEN’S L.J. 29, 65-66 (2001).

<sup>89</sup> Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193 § 4(a)(4)(A), § 4(b)(1)(A), and § 5(a)(3) (2003) [hereinafter TVPRA 2003].

<sup>90</sup> *See* Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 § 102(b) (2006) [hereinafter TVRPA 2005].

<sup>91</sup> *See id.* at § 201.

<sup>92</sup> *See* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 1589(d)(5)(A) (2006) [hereinafter TVPRA 2008].

<sup>93</sup> *See id.* at § 1589(d)(4).

## IV. THE NEED FOR STATE INVOLVEMENT

Federal legislation plays an integral role in addressing the human trafficking problem, but state level legislative initiatives are imperative to fully protect victims. Federal and state law enforcement officers must work collaboratively to identify and punish traffickers. A comprehensive victim-focused state anti-trafficking law is needed that can be adapted to suit a particular state's needs and to fill gaps in the TVPA. The 2008 TVPA reauthorization expressly recognizes that human trafficking is a serious domestic problem and urges states to criminalize human trafficking.<sup>94</sup> The Department of Justice laid the groundwork for states by creating a Model State Human Trafficking Criminal Statute.<sup>95</sup> Several non-governmental organizations also proposed model anti-trafficking statutes.<sup>96</sup> Nearly all fifty states heeded the call to criminalize human trafficking at the state level.<sup>97</sup> As of December 2010, Ohio was finally added to the list of states that criminalize human trafficking.<sup>98</sup>

The need for state anti-trafficking legislation is evident because the federal statutory provisions are not effective on the local level for three reasons.<sup>99</sup> First, federal investigations are lengthy and exhaustive and often do not result in the prosecution of traffickers.<sup>100</sup> The federal government estimates that 14,500 to 17,500 victims are trafficked in the U.S. annually, yet federal prosecutors prosecute less than one percent of known human trafficking cases.<sup>101</sup> In 2009, the U.S. Attorney General's office charged 114 individuals with felony human trafficking and obtained 47 convictions in 43 human trafficking prosecutions (21 labor trafficking and 22 sex

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<sup>94</sup> See *id.* at § 225(b)(1).

<sup>95</sup> See MODEL STATE ANTI-TRAFFICKING CRIMINAL STATUTE, DEP'T OF JUSTICE, (Proposed Official Draft 2007), available at <http://www.csg.org/knowledgecenter/docs/pubsafety/ModelStateAnti-TraffickingCriminalStatute.pdf> (last visited Mar. 8, 2011) [hereinafter DOJ Model].

<sup>96</sup> See *Resource Guide for State Legislators: Model Provisions for State Anti-Trafficking Law*, THE NAT'L INSTITUTE ON STATE POL'Y ON TRAFFICKING OF WOMEN AND GIRLS OF THE CENTER FOR WOMEN POL'Y STUDIES (2005), <http://www.centerwomenpolicy.org/pdfs/TraffickingResourceGuide.pdf>; see also *Model Provisions of Comprehensive State Legislation to Combat Human Trafficking*, POLARIS PROJECT (Aug. 2010), [http://www.polarisproject.org/storage/documents/policy\\_documents/state\\_policy/Final\\_Comprehensive\\_ModelLaw\\_\\_8\\_2010.pdf](http://www.polarisproject.org/storage/documents/policy_documents/state_policy/Final_Comprehensive_ModelLaw__8_2010.pdf) [hereinafter Polaris Project Model Statute]; Freedom Network, *State Model Law on Protection for Victims of Human Trafficking*, LEGISLATIONONLINE.ORG (June 2005), [www.legislationonline.org/.../action/.../5b6fb5af473eb70407d29b957330.pdf](http://www.legislationonline.org/.../action/.../5b6fb5af473eb70407d29b957330.pdf).

<sup>97</sup> TIP REPORT 2010, *supra* note 3, at 339.

<sup>98</sup> See S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>99</sup> Stephanie L. Mariconda, *Breaking the Chains: Combating Trafficking at the State Level*, 29 B.C. THIRD WORLD L.J. 151, 174 (2009).

<sup>100</sup> Jeremy M. Wilson & Erin Dalton, *Human Trafficking in Ohio: Markets, Responses, and Considerations*, RAND CORP., 41 (2007), available at [www.rand.org/content/dam/rand/pubs/.../2007/RAND\\_MG689.sum.pdf](http://www.rand.org/content/dam/rand/pubs/.../2007/RAND_MG689.sum.pdf). Criminal justice and social service provider respondents posit that "federal prosecutions take so long that, by the time they are complete, another generation of victims has suffered." *Id.*

<sup>101</sup> TIP REPORT 2010, *supra* note 3, at 339.

trafficking).<sup>102</sup> When compared to the high number of estimated victims, the low number of sex trafficking convictions confirms that federal legislation alone does not adequately address the problem.

Second, criminal law is historically a state police power.<sup>103</sup> Crimes that occur solely within a state's borders should be punished by the state. And our system of federalism allows individual states to act as "laboratories" to find creative solutions to problems that fall within the areas of traditional state concern, including criminal law.<sup>104</sup> States should not completely lend its power to police crime, particularly the crime of human trafficking, to the federal government. Rather, individual states can, and should, design innovative laws that address the specific needs of victims within its borders. Moreover, Congress encourages states to adopt its own anti-trafficking legislation by expressly indicating that the TVPA does not preempt state criminal laws.<sup>105</sup> Nationwide state criminalization of human trafficking should occur to prevent traffickers from simply moving operations to states with less restrictive laws.<sup>106</sup> If only some states criminalize human trafficking, the remaining states will become a safe haven for traffickers.<sup>107</sup>

Lastly, states can reinforce federal efforts to eradicate human trafficking by implementing training programs for local law enforcement officers. Local law enforcement officers must be trained to identify victims and appropriately respond to human-trafficking situations.<sup>108</sup> Local law enforcement training programs are imperative because local officers are much more likely to encounter trafficked victims than federal authorities.<sup>109</sup> Local officers are also better equipped to respond to small-scale intrastate trafficking operations.<sup>110</sup> Recent studies indicate that "individual entrepreneurs and small, organized groups are the perpetrators of most of

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<sup>102</sup> *Id.*

<sup>103</sup> *See* *United States v. Lopez*, 514 U.S. 549, 564, 567 (1995) (explaining the importance of upholding the states' general police power in the area of criminal law).

<sup>104</sup> *See* *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (explaining that "a single courageous [s]tate may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country"); *see also* *Gonzales v. Raich*, 125 S. Ct. 2195, 2220 (2005) (O'Connor, J., dissenting) (noting that one of the important aspects of federalism is that it encourages innovation).

<sup>105</sup> *See* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 222(b)(5) (2006) (codified as amended at TVPA § 225, 22 U.S.C. §7101 (2008)).

<sup>106</sup> *See* Shashi Irani Kara, *Decentralizing the Fight Against Human Trafficking in the United States: The Need for Greater Involvement in Fighting Human Trafficking by State Agencies and Local Non-Governmental Organizations*, 13 *CARDOZO J. L. & GENDER* 657, 671 (2007) (explaining that without the collective effort of all states, traffickers will relocate to jurisdictions with less restrictive or non-existent human trafficking laws).

<sup>107</sup> *Id.* at 671.

<sup>108</sup> Terry S. Coonan, *Human Rights in the Sunshine State: A Proposed Florida Law on Human Trafficking*, 31 *FLA. ST. U. L. REV.* 289, 294 (2004).

<sup>109</sup> Wilson & Dalton, *supra* note 100, at 65.

<sup>110</sup> *Id.* at 79.

the [sex] trafficking in the United States.”<sup>111</sup> Moreover, increasing the visibility of local law enforcement and the media coverage regarding human trafficking investigations at the state level will dissuade traffickers from committing the crime of human trafficking.<sup>112</sup>

#### V. FACTORS CONTRIBUTING TO HUMAN SEX TRAFFICKING IN OHIO

Human sex trafficking occurs internationally, across interstate borders, within state boundaries, and within Ohio. Domestic sex trafficking frequently occurs within Ohio’s borders, and many of the victims are U.S. citizens.<sup>113</sup> In fact, prior to the enactment of Ohio’s 2010 anti-trafficking legislation, Ohio was ranked ninth on the Polaris Project’s “dirty dozen,” which lists states that failed to take sufficient action to combat human trafficking.<sup>114</sup>

Local news reports recounted shockingly violent examples of human sex trafficking in Ohio.<sup>115</sup> In Toledo, a thirteen-year-old girl planned to attend a movie with her nineteen-year-old boyfriend when one of the boyfriend’s relatives beat her,

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<sup>111</sup> *Id.* at 25; see also Edward J. Schauer & Elizabeth M. Wheaton, *Sex Trafficking into the United States: A Literature Review*, 31 CRIM. JUSTICE REV. 146, 158 (2006) (explaining that in the United States, organized crime groups are used less frequently to traffic victims).

<sup>112</sup> Ellen L. Buckwalter et al., *Modern Day Slavery in Our Own Backyard*, 12 WM & MARY J. WOMEN & L. 403, 426 (2006); see also Kara, *supra* note 106, at 671.

<sup>113</sup> Michel, *supra* note 28, at 96 (noting that between 2005-2009, law enforcement officers reported encountering 220 adult victims of either labor or sex human trafficking, and 85.7% of respondents reported U.S.-born victims).

<sup>114</sup> Jenny Inglee, *The USA’s Human Trafficking “Dirty Dozen”: How Does Your State Rank*, (Sept. 2010, 9:33 PM), <http://www.takepart.com/news/2010/08/19/the-usas-human-trafficking-dirty-dozen-how-does-your-state-rank>.

<sup>115</sup> See *Undercover Officers, Deputies Bust Alleged Prostitution House – Police Search for Alleged Madam*, CITY X GUIDE, <http://forum.cityxguide.com/topic/massage-parlor-reports-261>; Robin Erb, *Crackdown Exposes Toledo as a Hub of Teen Prostitution*, TOLEDO BLADE.COM (Jan. 8, 2006), <http://www.toledoblade.com/frontpage/2006/01/08/Crackdown-exposes-Toledo-as-a-hub-of-teen-prostitution.html>; *Baptist Pastor Accused of Raping Thai Immigrant*, WOIO.COM (Dec. 13, 2006), <http://www.woio.com/Global/story.asp?S=4238702>; David Shepardson, *U.S. Indicts 4 in Prostitution Operation*, [http://www.childtrafficking.org/cgi-bin/ct/main-sql?File=view\\_document.sql&Title=-1&Author;](http://www.childtrafficking.org/cgi-bin/ct/main-sql?File=view_document.sql&Title=-1&Author;) Mark Scoloro, *Man Charged with Acting as Pimp to Juvenile Prostitutes*, PHILLY.COM (Dec. 10, 2005), <http://www.accessnorthga.com/detail.php?n=134034>; *Police Bust Suspected Brothels, Human Trafficking and Modern Day Slavery in Ohio*, POLARIS PROJECT, 60-62 (2010), <http://www.cc.v.org/wp-content/uploads/2010/04/ohio-report-on-trafficking.pdf>; Patrick Bell, *New Details on Alleged Prostitution Ring*, WBNS10TV.COM (June 24, 2005), available in POLARIS PROJECT, *supra* note 115, at 60-62; *Woman Who Allegedly Ran Brothel Turns Herself In – Flory Indicted on 143 Counts*, NBC4.COM (Mar. 10, 2005), available in POLARIS PROJECT, *supra* note 115, at 60-62; Robert L. Smith, *Sheriff Fears Brothel Operation Involves Human Trafficking*, CLEVELAND.COM (Aug. 28, 2008), [http://blog.cleveland.com/metro/2008/08/sheriff\\_fears\\_brother\\_operatio.html](http://blog.cleveland.com/metro/2008/08/sheriff_fears_brother_operatio.html); Dave Nethers, *FBI Cracks Down on Prostitution, Human Trafficking in Cleveland*, FOX8 (Nov. 8, 2010), <http://www.fox8.com/news/wjw-news-prostitution-human-trafficking-cleveland,0,7584379.story>; *Grandmother Sentenced in Human Trafficking Ring*, WBNS10TV.COM (Dec. 17, 2010), <http://www.10tv.com/content/stories/2010/12/17/story-columbus-grandmother-sentenced-human-trafficking.html>.

raped her, and forced her into prostitution.<sup>116</sup> For six grueling days, the teen was forced to provide sexual acts in exchange for money and barely escaped a deadly assault.<sup>117</sup> Her agonizing experience finally ended when she was rescued by a truck driver.<sup>118</sup> Another horrendous example involves yet another thirteen-year-old girl, lured by the promise of candy into prostitution with five men.<sup>119</sup> Further, in 2007, a woman forced a thirteen-year-old girl to engage in multiple sexual acts in the homes of individuals to divert their attention while she robbed them.<sup>120</sup> More recently, a man was indicted on federal sex-trafficking charges when he attempted to sell a sixteen-year-old girl for \$300 to a madam at a Cleveland coffee shop.<sup>121</sup> The victim stated that when she saw her captor take the money, she knew she was sold.<sup>122</sup> News reports shed light on certain instances of sex trafficking, but likely represent a small fraction of the total number of sex trafficking incidents in Ohio.<sup>123</sup>

An underground community currently exists in which victims are given false identities, held against their will, and forced to trade sex for money.<sup>124</sup> In Toledo, fourteen- and fifteen-year old girls are kidnapped off the streets, beaten, held hostage, and forced to provide sexual acts at numerous truck stops.<sup>125</sup> Toledo teenagers sold for sex, some as young as twelve, “rotated among hotels, truck stops, and highway welcome centers.”<sup>126</sup> Toledo police officers investigate cases in which

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<sup>116</sup> Wilson & Dalton, *supra* note 100, at 70.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> Mark Zinni, *FBI: Man Sold Girl for Sex at Downtown Starbucks*, FOX8NEWS.COM (Jan. 6, 2011, 11:32 PM), <http://www.fox8.com/news/wjw-news-sex-trafficking-eric-tutstone-arrest,0,7449812.story>.

<sup>122</sup> *Id.*

<sup>123</sup> See Wilson & Dalton, *supra* note 100, at 9; see generally *supra* note 115.

<sup>124</sup> Erb, *supra* note 115.

<sup>125</sup> Jeremy M. Wilson & Erin Dalton, *Human Trafficking in Ohio: Markets, Responses, and Considerations*, RAND CORP., 70 (2007), [www.rand.org/content/dam/rand/pubs/.../2007/RAND\\_MG689.sum.pdf](http://www.rand.org/content/dam/rand/pubs/.../2007/RAND_MG689.sum.pdf). The RAND Corporation is a nonprofit organization “dedicated to furthering and promoting scientific, educational, and charitable purposes for the public welfare and security of the United States.” *Id.* The RAND Corporation employs researchers and scholars in numerous countries whose work spans nearly every academic field and profession and boasts affiliation with multiple Nobel Peace prize winners. *Id.* Wilson and Dalton’s report highlighted the case of two teens held hostage in a home and indoctrinated by two adults into the methods of soliciting sex; the teens were provided with false identification, were sold for sex at least a dozen times, and were beaten for noncompliance. *Id.* at 71.

<sup>126</sup> Davis, *supra* note 30, at 50. The Polaris Project is a nonprofit advocacy organization whose mission is a “world without slavery.” *Id.* The website states: “[the] Polaris Project is a leading organization in the United States combating all forms of human trafficking and serving both U.S. citizens and foreign national victims, including men, women, and children.” *Id.* Davis’s report explains the inner workings of human trafficking in great detail and provides examples of news reports from the Ohio media detailing confirmed trafficking cases,

traffickers disclose the types of violence used to control victims.<sup>127</sup> For example, Toledo authorities discovered that traffickers subject victims to inhumane treatment by: locking a victim behind an iron door and raping her; beating a victim in the face for three hours with a chain; kidnapping a victim and forcing her to perform oral sex; and assaulting a victim by smashing glass bottles against her head.<sup>128</sup>

Fueled by horrific stories and the reports issued by the RAND non-profit research organization and the Polaris Project, Ohio took its first major step in responding to the human-trafficking crisis in 2009.<sup>129</sup> Then-Attorney General Richard Cordray established the Trafficking in Persons Study Committee.<sup>130</sup> The Committee assessed the scope of human trafficking in Ohio and offered recommendations for combating the problem.<sup>131</sup> The 2009 report concluded that 3437 foreign born persons in Ohio are at risk for human trafficking, 783 of which are estimated trafficking victims in Ohio's labor or sex trade.<sup>132</sup> Further, among American-born youth in Ohio, 2879 were at-risk for sex trafficking and 1078 minors were trafficked into the sex trade over the course of a year.<sup>133</sup>

#### A. Geography

The Ohio Trafficking in Persons Study, the Polaris Project Study, and the RAND Report all conclude that geography, demographics, military bases, lenient laws, and a lack of law enforcement officers trained to recognize human trafficking make Ohio fertile ground for traffickers.<sup>134</sup> And because of Ohio's close proximity to Canada and to the Toronto International Airport, it is a destination susceptible to international trafficking.<sup>135</sup> Areas near international airports are an ideal location for traffickers because victims can easily be transported to different cities or countries to

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victims' testimonials, as well as interviews with traffickers indicating the control mechanisms used to compel victims into slavery. *Id.*

<sup>127</sup> See Wilson and Dalton, *supra* note 125, at 21.

<sup>128</sup> See Davis, *supra* note 30, at 53.

<sup>129</sup> Wilson & Dalton, *supra* note 100; Davis, *supra* note 30; see generally S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>130</sup> See Ohio H.B. 280, 128th Gen. Assemb., Reg. Sess. (Ohio 2009). Senator Fedor suggested an amendment to the bill, including a definition of human trafficking. In addition, the amendment strongly urged the Ohio Attorney General's Office to establish a commission to examine the scope of human trafficking in Ohio and suggest recommendations based on their findings. *Id.*

<sup>131</sup> See Williamson, *supra* note 14 (recommending that Ohio legislators create a criminal offense of human trafficking, strengthen existing laws, define involuntary servitude, and include provisions criminalizing the falsification of documents used to control victims).

<sup>132</sup> *Id.* at 4.

<sup>133</sup> *Id.* at 4.

<sup>134</sup> See Davis, *supra* note 30; Michel, *supra*, note 28; Wilson & Dalton, *supra* note 100.

<sup>135</sup> See Williamson, *supra* note 14, at 12; see also Davis, *supra* note 30 (noting that Lake Erie provides a means by which internationally trafficked victims can be transported into the state from Canada without law enforcement detection).

meet customer demand.<sup>136</sup> Toronto is considered to be a hub for international trafficking, and both Toronto and Cleveland are linked to organized crime groups known to contribute to human trafficking.<sup>137</sup> Several interstate highways in Ohio, such as the I-71, I-75, and I-70 corridors, also facilitate the means by which traffickers can transport victims while evading law enforcement detection.<sup>138</sup> Easy access to interstate highways is a contributing factor to Toledo's status as a human-trafficking hub.<sup>139</sup> Toledo is labeled an "origin city" for sex trafficking and ranks fourth in the nation among U.S. cities for its number of arrests, investigations, and rescue of domestic minor sex-trafficking victims.<sup>140</sup>

### B. Demographics

Ohio's sizeable, diverse, and impoverished<sup>141</sup> population contributes to the likelihood that human sex trafficking occurs within the state.<sup>142</sup> As of 2009, Ohio had 11,413,200 residents.<sup>143</sup> Ohio's immigrant population growth makes it easier for traffickers to hide victims in the community.<sup>144</sup> According to Ohio's 2000 Census Report, Ohio experienced a 54% increase in the Hispanic population and a 48% increase in the Asian population from 1999 to 2000.<sup>145</sup> The 2010 Census Report

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<sup>136</sup> See Richard L. Hoffman, *The Present Situation of the United States Relating to Trafficking in Human Beings and Smuggling of Migrants*, UNAFEI.ORG, [www.unafei.or.jp/english/pdf/RS\\_No62/No62\\_11VE\\_Hoffman1.pdf](http://www.unafei.or.jp/english/pdf/RS_No62/No62_11VE_Hoffman1.pdf) (last visited Mar. 15, 2011).

<sup>137</sup> Davis, *supra* note 30, at 5 (noting that Russian organized crime groups in Ohio have been linked to human trafficking).

<sup>138</sup> *Id.* (noting that the interstate highway system makes it easy for traffickers to transport victims to different cities and states, and truck stops along the interstate highway system are used by traffickers to prostitute victims).

<sup>139</sup> See Claudia Boyd-Barrett, *UT Hosts Conference on Child Trafficking*, TOLEDOBLADE.COM, <http://www.toledoblade.com/local/2010/10/08/UT-hosts-conference-on-child-trafficking.html> (last visited Feb. 13, 2011).

<sup>140</sup> *Id.*; see Williamson, *supra* note 14, at 13; Davis, *supra* note 30, at 8 (noting that the "FBI has identified Toledo as one of the top, if not number one, recruiting centers for underage prostitution in the nation").

<sup>141</sup> See The Henry J. Kaiser Family Foundation, *State Health Facts*, STATEHEALTHFACTS.ORG, <http://www.statehealthfacts.org/comparetable.jsp?ind=9&cat=1&sort=1803&rgnhl=37> (last visited Feb. 14, 2011). Impoverished means proportion of the population living below the federal poverty line. *Id.* The Henry J. Kaiser Family Foundation is nonprofit organization whose focus is to "serve as a non-partisan source of facts, information, and analysis for policymakers, the media, the health care community, and the public." *Id.*

<sup>142</sup> See generally Davis, *supra* note 30.

<sup>143</sup> See *id.*

<sup>144</sup> See TIP REPORT 2010, *supra* note 3, at 12; see also Davis, *supra* note 30, at 6 (noting that "[i]mmigrant communities create optimal conditions to smuggle and traffic others because of the ability to blend in with the community").

<sup>145</sup> Davis, *supra* note 30, at 6; see also *Census 2000 Data for the State of Ohio*, U.S. CENSUS BUREAU (Jan. 2, 2006), <http://www.census.gov/census2000/states/oh.html> (last visited May 7, 2012).

similarly indicates that Ohio's Asian population increased by 49% percent<sup>146</sup> and its Hispanic population increased by 63.4% from 2000 to 2010.<sup>147</sup> The continued increase in Ohio's Asian population in large urban cities, such as Cleveland and Columbus, may be linked to the presence of Asian massage parlors that are commonly fronts for brothels and often used in sex trafficking rings.<sup>148</sup> A Google search of "Asian massage parlors in Ohio" reveals message boards and testimonials describing sexual services received by patrons at these establishments.<sup>149</sup> Advertisements for Asian massage parlors are also available in local newspapers.<sup>150</sup>

Ohio's high poverty rate among women, minorities, and children also make it at-risk for recruitment by traffickers.<sup>151</sup> In Ohio, approximately 647,000 women, 716,000 minorities, and 703,300 children are impoverished.<sup>152</sup> Power fuels the sex industry, and traffickers use the economic vulnerabilities of many victims to entice them with promises of a better life.<sup>153</sup>

When the family is poor, or is part of a devalued minority group, and where: opportunities for education and good jobs are limited, some members of those

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<sup>146</sup> Department of Development, *Ohio Asian Americans*, OHIO.GOV, 1, <http://www.development.ohio.gov/research/files/p0009.pdf> (last visited May 7, 2012).

<sup>147</sup> Department of Development, *Ohio Hispanic Americans*, OHIO.GOV, 1, <http://www.development.ohio.gov/research/files/p0007.pdf> (last visited May 7, 2012).

<sup>148</sup> Williamson, *supra* note 14, at 32. The existence of sexual markets can contribute to the demand for sex trafficking. *Id.* Presently, Ohio ranks fifth among the states with the largest number of strip clubs. *Id.*; see also Davis, *supra* note 30, at 18. Asian massage parlors operate as legitimate businesses and often run ads in local newspapers, Internet message boards, and the yellow pages. *Id.* at 32. Services at massage parlors range from nude massages to full intercourse, and the pricing structures vary accordingly. *Id.* The customer pays upfront and chooses a woman from a lineup of available women. *Id.* Generally, sixty dollars buys a nude massage and additional services, typically oral sex, and one hundred dollars buys full intercourse. *Id.* The women are compelled to perform sexual acts through psychological abuse, physical abuse, a climate of fear, a scheme or pattern of threats, confiscation of documents, and isolation. *Id.* Brothel owners use additional control mechanisms such as forcing "[m]ost of the women to sleep in the same beds they are forced to have sex on." *Id.*

<sup>149</sup> Google search terms "Asian massage parlors in Ohio" produced 124,000 hits, many of which detail sexual services. See *WorldSexGuide*, WORLDSEXGUIDE.COM, [http://www.worldsexguide.com/guide/North\\_America/United\\_States/Ohio/index.htm](http://www.worldsexguide.com/guide/North_America/United_States/Ohio/index.htm) (last visited Feb. 14, 2011, 1:24 AM). The website contains three pages of testimonials from customers about sexual services received at Asian massage parlors, primarily located in Warren, Ohio. See *id.* The customers reveal explicit sexual acts, prices paid, and the level of satisfaction with the sexual services and physical characteristics of the women. See *id.* One of the customers laments his disapproval with other customers who offer more money to the women than the customary one hundred dollar range; he states that they are "inflating the [Asian massage parlor] economy. Girls in turn think they are worth more so they expect to charge more." *Id.* These posts suggest that the commodification of women is occurring in these Asian massage parlors in Ohio.

<sup>150</sup> See e.g., *Tokyo Spa: \$10 Off*, SCENE MAGAZINE, 41 (Feb. 2011).

<sup>151</sup> Davis, *supra* note 30, at 7.

<sup>152</sup> *Ohio: People in Poverty*, THE HENRY J. KAISER FAMILY FOUND., <http://www.statehealthfactors.org/profileind.jsp?cat=1&ind=17&rgn=37> (retrieved Jan. 6, 2010).

<sup>153</sup> See generally Davis, *supra* note 30.

families may be willing to take risks. If the young people are being terrorized, beaten, or sexually abused by the very people who should be protecting them, many are going to take their chances on the street. For some, nude dancing or even prostitution may look better than their previous life. If they are underage, have no address, or cannot afford to have their parents involved, most social service agencies will not help them. In some jurisdictions children are still treated as some adult's property.<sup>154</sup>

Traffickers often use “bait and switch” methods to lure victims, offering victims lifestyles of fame and fortune.<sup>155</sup> The fantasies never materialize, and once the victim trusts the trafficker, the situation changes to one of pure economic gain for the trafficker.<sup>156</sup> Regrettably, trafficked victims find that the promise of legitimate jobs and money quickly develops into substandard wages—or no wages at all—and repeated instances of physical and psychological harm.<sup>157</sup>

Ohio's military bases also play a role in contributing to human sex trafficking.<sup>158</sup> Male military personnel are frequently identified as stimulating demand in the commercial sex industry.<sup>159</sup> Historically, prostitution is considered a part of military culture and sex with prostitutes a form of rest and relaxation from the rigors of military life.<sup>160</sup> As a result, military bases create a market for sex clubs, brothels, and

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<sup>154</sup> CHRISTINE STARK & REBECCA WHISNANT, NOT FOR SALE: FEMINISTS RESISTING PROSTITUTION AND PORNOGRAPHY 11 (Kerry Biram, 2004).

<sup>155</sup> *Id.*

<sup>156</sup> Williamson, *supra* note 14, at 16. Traffickers also use “guerilla pimping” in which they recruit victims by force, using threats of physical violence. *Id.*; see also Davis, *supra* note 30, at 9 (noting that “American overemphasis on consumerism and materialism has also played a role in children resorting to commercial sex as a means to obtain expensive consumer goods and services”).

<sup>157</sup> *Id.* at 16-17 (explaining that some examples of physical harm include: beatings, broken bones, concussions, burns, stabbings, malnutrition, rotting teeth, alcohol and drug abuse, torture, and both acute and chronic health conditions).

<sup>158</sup> See Davis, *supra* note 30, at 7; see also Wilson & Dalton, *supra* note 100, at 6, 19.

<sup>159</sup> See *Trafficking in Persons and International Military Organizations*, U.S. DEP'T OF STATE, <http://www.usfk.mil/usfk/Uploads/120/pht.pdf?AspxAutoDetectCookieSupport=1> (last visited Feb. 14, 2011, 2:34 PM); see also *Florida Responds to Human Trafficking*, FLA. ST. UNIV. CENTER FOR THE ADVANCEMENT OF HUMAN RIGHTS, [http://www.childtrafficking.com/Docs/university\\_2003\\_florida\\_responds\\_to\\_human\\_trafficking\\_4.pdf](http://www.childtrafficking.com/Docs/university_2003_florida_responds_to_human_trafficking_4.pdf) (last visited Feb. 14, 2011, 2:23 PM); J. G. Raymond, D. M. Hughes, & C. J. Gomez, *Sex Trafficking of Women in the United States: International and Domestic Trends (2001)*, [http://www.uri.edu/artsci/wms/hughes/sex\\_traff\\_us.pdf](http://www.uri.edu/artsci/wms/hughes/sex_traff_us.pdf) (retrieved June 19, 2002); see generally KATHERINE J. S. MOON, *SEX AMONG ALLIES: MILITARY PROSTITUTION IN US – KOREAN RELATIONS (1997)*; see generally SAUNDRA POLLOCK STURDEVANT & BRENDA STOLTZFUS, *LET THE GOOD TIMES ROLL: PROSTITUTION AND THE US MILITARY IN ASIA (1992)*; *Sex Trafficking High Around U.S. Military Bases Abroad*, CHANGE.ORG, <http://news.change.org/stories/sex-trafficking-high-around-us-military-bases-abroad> (last visited Mar. 10, 2011); *U.S. Army Private and Three Other Men Indicted on Sex Trafficking and Drug Charges*, JUSTICE.GOV, [http://www.justice.gov/usao/md/Public-Affairs/press\\_releases](http://www.justice.gov/usao/md/Public-Affairs/press_releases) (last visited Mar. 10, 2011).

<sup>160</sup> Janice G. Raymond et. al., *Sex Trafficking of Women in the United States: Links*

massage parlors.<sup>161</sup> Accordingly, Wright Patterson Air Force Base in Dayton, Ohio is recognized as a likely destination for trafficking victims.<sup>162</sup>

### C. Ohio's Law Enforcement Dilemma

Effective law enforcement plays a key role in decreasing human trafficking because an increased risk of detection may deter trafficking behavior.<sup>163</sup> Research indicates that law enforcement officers who received training on how to identify suspected human trafficking cases are more likely to treat prostitutes as victims rather than offenders.<sup>164</sup> In addition, when human trafficking victims are identified, law enforcement officers must be familiar with the social service agencies available to assist victims to ensure victims have access to the necessary resources, including shelter, food, and mental health counseling.<sup>165</sup> A collaborative effort between local law enforcement agencies, social service agencies, and healthcare professionals is necessary to adequately meet the needs of human trafficking victims.<sup>166</sup>

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*Between International and Domestic Sex Industries* (Mar. 2001), [http://www.uri.edu/artsci/wms/hughes/sex\\_traff\\_us.pdf](http://www.uri.edu/artsci/wms/hughes/sex_traff_us.pdf).

<sup>161</sup> Davis, *supra* note 30, at 8; *see also Florida Responds*, *supra* note 159, at 28.

<sup>162</sup> Davis, *supra* note 30, at 7.

<sup>163</sup> *See* U.N. Economic and Social Comm'n for Asia and the Pacific, *Combating Human Trafficking in Asia*, UNESCAP.ORG, <http://www.unescap.org/esid/Gad/Publication/Trafficking-File1.pdf> (noting that effective deterrence requires consistent responses from law enforcement). Punishment must be quick and severe enough to deter potential traffickers. *Id.* Law enforcement should seek to arrest traffickers on every level, not just lower level actors. *Id.*; *see also* Michel, *supra* note 28 (explaining that the likelihood of being identified, arrested, and prosecuted for human trafficking is extremely low because: (1) trafficking is not considered a high priority by law enforcement due to perceptions of the crime and lack of awareness and training; and (2) human trafficking's definition is relatively new compared to other crimes and requires officers to handle cases differently).

<sup>164</sup> Wilson & Dalton, *supra* note 100, at 32.

<sup>165</sup> Michel, *supra* note 28, at 103 (explaining that Ohio law enforcement officers identified lack of training as a barrier in identifying human-trafficking victims). A survey of Ohio law enforcement officers indicates that lack of training is the top barrier (93.3%) in identifying human-trafficking victims, followed by lack of awareness (86.7%), lack of protocols (66.7%), and lack of clarity about the federal, state, and local law enforcement roles to monitor this crime (53.3%). *Id.*

<sup>166</sup> *See id.*; *see also* Wilson & Dalton, *supra* note 100, at 33 (illustrating Ohio law enforcement's failure to collaborate with other law enforcement agencies to fully investigate and prosecute potential trafficking rings). Wilson and Dalton explain:

Central Pennsylvania local authorities, who at one time did not focus many resources on highway prostitution, became concerned about it when two bodies, both prostitutes, were found in the vicinity and a third, a 16-year-old prostitute, was thrown from a truck but survived . . . [A]t the Gables, a truck stop not far from the Miracle Mile and one of the focal points for the investigation, law enforcement dealt with one prostitute at a time rather than investigating the overall prostitution ring . . . One Pennsylvania state trooper used a binder with photos to sort out the names and faces associated with the investigation. As early as 2002, he began sharing the photos with Ohio law enforcement, hoping to identify the prostitutes . . . Pennsylvania state police reportedly called the federal authorities for help when they could not thwart the

Sadly, due to lenient laws and lack of enforcement, the large majority of sex trafficking that occurs in Ohio communities remains unpunished. Despite often being the first to encounter trafficked victims, local law enforcement authorities continuously fail to identify victims or to take appropriate actions to ensure victims' safety.<sup>167</sup> A recent study indicates that victims find freedom not through the assistance of law enforcement, but rather by escaping captors, or by the acts of good Samaritans.<sup>168</sup> Victims in captivity are also likely to interact with healthcare professionals who, without proper training, are ill-equipped to rescue them from their plight.<sup>169</sup>

Ohio law enforcement officers are not currently adequately trained and frequently fail to identify or fully investigate human sex trafficking cases.<sup>170</sup> In a 2010 survey distributed to Ohio law enforcement agencies and their staff, 75% of police respondents stated they were unfamiliar with human-trafficking laws.<sup>171</sup> Further, 55% of police respondents disagreed with the statement "that they had knowledge, understanding, and availability of social services for victims,"<sup>172</sup> and 71% of police respondents replied that they did not believe "human trafficking [was] a problem in [their] community."<sup>173</sup> Lastly, local law enforcement agencies lack

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problem. This brought the FBI, the Internal Revenue Service, U.S. postal inspectors, and federal prosecutors together for a coordinated response.

*Id.*

<sup>167</sup> *See id.* at 31. Wilson and Dalton explain that the existence of a human-trafficking task force in Toledo has proven to be somewhat successful in recent years and victims were identified "through vice officers, street officers, and juvenile court officials, such as judges, probation officers, and placement directors, as well as through social service providers." *Id.* The Toledo task force is "federally funded . . . and provides support for personnel, overtime, equipment, and computer forensic support." *Id.* Law enforcement officers in Columbus, Ohio, however, were not as successful in identifying victims; in Columbus, "[juveniles] are arrested for prostitution or related crimes and processed by the juvenile justice system without examination of the possible deeper issues, including human trafficking." *Id.* The difference in identification of victims suggests that a dedicated human trafficking task force in other Ohio cities would assist local agencies in detecting victims. *See id.*

<sup>168</sup> *See id.*

<sup>169</sup> *See* Tiffany Dovydaitis, *Human Trafficking: The Role of the Health Care Provider*, 55 J. MIDWIFERY & WOMEN'S HEALTH 5, 462 (2010) (explaining that with proper training healthcare providers can assist in identifying victims). There are several indicators healthcare professionals should watch for to identify victims: "(1) evidence of being controlled; (2) evidence of an inability to move or leave a job; (3) bruises or other signs of battering; (4) fear of deportation; (5) non-English speaking; (6) recently brought to this country; and (7) lack of passport, immigration, or identification documents." *Id.*

<sup>170</sup> *See generally* Michel, *supra* note 28.

<sup>171</sup> *See generally id.* at 100 (explaining that survey results indicate that 73.3% of responding Ohio law enforcement officers replied that their agencies did not have a formal protocol for identifying human trafficking cases, and of the 26.7% of respondents whose agencies did have a formal protocol, respondents stated the protocol was very useful or useful).

<sup>172</sup> *Id.* at 84.

<sup>173</sup> *Id.* at 86.

consistency when documenting potential trafficking cases because such crimes are often recorded as other crimes, making it difficult, if not impossible, to determine the extent of human trafficking in Ohio.<sup>174</sup>

The survey results suggest that most Ohio law enforcement officers do not aggressively pursue human-trafficking cases and fail to successfully collaborate with other law enforcement agencies or social services when investigating cases.<sup>175</sup> For example, two Toledo teens were abducted and forced into sex trafficking.<sup>176</sup> Michigan police rescued one of the teens while the other teen, still in captivity, was transported back to Toledo.<sup>177</sup> Michigan police notified the Toledo Police Department that the teen in captivity was not a runaway and that her father was willing to take matters into his own hands if police failed to respond.<sup>178</sup> After Toledo police failed to respond to 911 calls, the victim's father stormed the trafficker's house, pretending he was carrying a gun, and a fight ensued.<sup>179</sup> The victim was shoved out of a second-story window when Toledo police finally arrived, and the traffickers were arrested.<sup>180</sup> This example demonstrates how Ohio law enforcement's failure to collaborate with other agencies may place victims and their families in greater danger.

#### VI. OHIO'S ANTI-TRAFFICKING INITIATIVES

Ohio enacted its first stand-alone anti-trafficking law on December 23, 2010.<sup>181</sup> Prior to the enactment of the new law, Ohio's criminal code included a mere sentencing enhancement for crimes that involved sex trafficking.<sup>182</sup> The sentencing enhancement was specific to sex trafficking, and thus, did not apply to labor trafficking.<sup>183</sup> It provided that persons charged with two felonies related to sex, such as compelling prostitution, abduction, kidnapping, or promoting prostitution in furtherance of human trafficking, may be subject to at least twelve months of additional prison time.<sup>184</sup> The enhancement was rarely used because the additional

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<sup>174</sup> *See id.* at 86.

<sup>175</sup> *See id.* at 90-93 (noting that officers are most likely to encounter human-trafficking victims when investigating other cases). The survey indicates that only a small percentage (14.3%) of law enforcement officers engaged in proactive investigation. *Id.* Toledo, Ohio, has a human-trafficking task force, but breakdowns in its investigations can still cause problems. Wilson & Dalton, *supra* note 100, at 30. Columbus, Ohio, does not have a dedicated human-trafficking task force.

<sup>176</sup> *Id.* at 37-38.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.* The Michigan and Toledo law enforcement officers spoke four times a day, but the trafficker's name was an alias, and Toledo officers did not have an address. *Id.*

<sup>180</sup> *Id.* The victim survived the second-story fall. *Id.*

<sup>181</sup> *See* S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>182</sup> *See* OHIO REV. CODE § 2941.1422 (2010).

<sup>183</sup> *See id.*

<sup>184</sup> *See id.*

penalty was precluded unless both felonies were included at the time of indictment.<sup>185</sup>

Ohio's new anti-trafficking law makes the offense of human trafficking a second-degree felony punishable by up to eight years in prison.<sup>186</sup> The Ohio legislature defined "involuntary servitude" as "being compelled to perform labor or services for another against ones will."<sup>187</sup> The law broadly defines "compelled" and amends several sections of the existing criminal code, such as kidnapping and compelling prostitution, to include trafficking in persons.<sup>188</sup> It increases penalties for crimes that include involuntary servitude as an element,<sup>189</sup> and it criminalizes knowingly destroying, concealing, removing, confiscating, or possessing documents traffickers use to coerce victims into submission, such as passports or driver's licenses.<sup>190</sup> Ohio's existing law also contains a provision that awards restitution to trafficking victims.<sup>191</sup>

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<sup>185</sup> *See id.*

<sup>186</sup> *See* S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *See* S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009). The bill amends §§ 2905.01, 2905.02, 2907.21, 2923.01, 2923.31, 2929.01, and 2933.51 and enacts 2905.32 and 2905.33 of the Ohio Revised Code to create the offenses of trafficking in persons and unlawful conduct with respect to documents. The bill: (1) revises the involuntary servitude elements and penalties for the offense of kidnapping; (2) increases the penalty for the offense of abduction based on involuntary servitude; (3) clarifies an element of the offense of compelling prostitution that relates to the compelling of another to engage in specified conduct; (4) includes abduction and trafficking in persons within the offense of conspiracy; (5) includes trafficking in persons in the definitions of "offense of violence" and "corrupt activity" and the list of offenses that are subject to the Communications Interception Law; and (6) includes involuntary servitude and trafficking in persons within the definition of "human trafficking." *Id.*; *see also* OHIO REV. CODE § 2905.32 (2010). For a prosecution under this section, the element "compelled" does not require that the compulsion be openly displayed or physically exerted. *Id.* The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation. *Id.*

<sup>190</sup> S.B. 235, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>191</sup> OHIO REV. CODE § 2929.18(B)(8) (2010). Section 2929.18(B)(8) states:

If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

- i. The gross income or value to the offender of the victim's labor or services;
- ii. The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat.

## VII. OHIO'S FAILURE TO ENACT COMPREHENSIVE ANTI-TRAFFICKING LEGISLATION

Effective human-trafficking legislation requires affirmative measures beyond mere criminalization. New legislation, alone without appropriate victim protection, is an inadequate response to Ohio's trafficking crisis.<sup>192</sup> Former Ohio House Representative Kathleen Chandler recognized the need for additional protections for human-trafficking victims and introduced House Bill 493, a companion bill to Senate Bill 235, during the 128th Ohio Legislative Session.<sup>193</sup> House Bill 493 contained the same criminal provisions as Senate Bill 235, but included victim-focused provisions, such as allowing victims to file civil suits against traffickers, requiring human trafficking training for law enforcement, creating a public awareness campaign, mandating the display of the national human-trafficking hotline number in establishments where trafficking occurs (e.g., highway truck stops, adult entertainment establishments, hotels, massage parlors, etc.), mandating human trafficking data collection, and providing funding for collaborative victim-focused support services.<sup>194</sup> House Bill 493 protected victims of human trafficking more than Senate Bill 235. House Bill 493, however, died in committee and both the Ohio House and Senate passed Senate Bill 235.<sup>195</sup>

During the 129th Ohio Legislative Session, Representative Teresa Fedor introduced House Bill 262.<sup>196</sup> If passed, House Bill 262 requires that a minor victim of human trafficking receive support services, including housing.<sup>197</sup> The Bill also reintroduces House Bill 493's requirement that certain establishments display the national human-trafficking hotline number.<sup>198</sup> But House Bill 262 is still inadequate because it does not mandate human-trafficking data collection or funding for victim-focused support services.<sup>199</sup>

*A. Proposed Recommendations*

## 1. Preventing Human Trafficking

State criminalization of human trafficking is crucial to punishing traffickers, but criminalization alone will not protect victims or stifle the human-trafficking industry. The federal government encourages states to criminalize human trafficking and,

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1060, 20 U.S.C. 207, and state labor laws.

*Id.*

<sup>192</sup> See TIP REPORT 2010, *supra* note 3, at 13.

<sup>193</sup> See H.B. 493, 128th Gen. Assemb., Reg. Sess. (Ohio 2009).

<sup>194</sup> See *id.* The bill, if enacted, would have provided for collaborative anti-trafficking efforts between non-governmental organizations, the Ohio Department of Health, and the Ohio Department of Job and Family Services.

<sup>195</sup> See *Recent Legislative Actions*, OHIO CAPITOL CONNECTION (Mar. 13, 2011), <http://www.hannah.com/DesktopDefault.aspx?tabindex=1&tabid=2>.

<sup>196</sup> See H.B. 262, 129th Gen. Assemb., Reg. Sess. (Ohio 2011).

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

more importantly, to take a holistic, victim-focused approach to combatting human trafficking.<sup>200</sup> State legislators should seek to promulgate legislation that incorporates the prevention of human trafficking, criminal prosecution of traffickers, and protection for victims.<sup>201</sup> As currently written, Ohio's law only addresses the criminal side of human sex trafficking and fails to provide any mechanisms for preventing human sex trafficking or for providing victim protection.

As a result of the federal government's recommendations, many states enacted more detailed trafficking legislation.<sup>202</sup> Some state laws are more effective than others. When states enact human trafficking legislation, it is important that states avoid enacting "expressive legislation."<sup>203</sup> "Expressive legislation" occurs when legislators rush to enact human-trafficking legislation through a bipartisan commitment to condemn a human-rights abuse.<sup>204</sup> The laws enacted through swift bipartisan support, however, often do little to thwart the problem.<sup>205</sup> Generally, expressive legislation results in criminalization of the targeted human-rights abuse without a comprehensive plan for funding or implementation.<sup>206</sup> Ohio must revisit its human-trafficking legislation and enact laws that provide meaningful protection to victims.

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<sup>200</sup> See TIP REPORT 2010, *supra* note 3, at 338; see also DOJ Model, *supra* note 95.

<sup>201</sup> See Protocol, *supra* note 25.

<sup>202</sup> ALASKA STAT. §§ 11.41.360–365 (2006); ARIZ. REV. STAT. ANN. §§ 13-1306–1309 (2007); ARK. CODE ANN. § 5-11-108 (2005); CAL. PENAL CODE §§ 236.1–237 (2006); COLO. REV. STAT. § 18-13-127 (2006); CONN. GEN. STAT. § 53a-192a (2006); DEL. CODE ANN. tit. 11, § 787 (2007); FLA. STAT. ANN. § 787.06 (2007); GA. CODE ANN. § 16-5-46 (2006); IDAHO CODE ANN. §§ 18-8601–8605 (2006); 720 ILL. COMP. STAT. 5/10A-10 (2007) (repealed on Jan. 1, 2010, replaced by 2009 Ill. Laws 710 § 10-9); IND. CODE § 35-42-3.5-1 (2006); IOWA CODE §§ 710A.1–5 (2007); KAN. STAT. ANN. §§ 21-3446–3447 (2005); KY. REV. STAT. ANN. §§ 529.100–110 (2008); LA. REV. STAT. ANN. § 14:46.2 (2005); ME. REV. STAT. ANN. tit. 5 § 4701 (2007); MD. CODE ANN., CRIM. LAW § 11-303 (2007); MICH. COMP. LAWS §§ 750.462a–.462i (2007); MINN. STAT. §§ 609.281–284 (2007); MISS. CODE ANN. § 97-3-54.1–4 (2006); MO. REV. STAT. §§ 566.200–223 (2004); MONT. CODE ANN. § 45-5-306 (2008); N.C. GEN. STAT. ANN. §§ 14-43.10-13 (2006); N.D. CENT. CODE § 12.1-40-01–02 (2009); NEB. REV. STAT. §§ 23-830–832 (2006); NEV. REV. STAT. § 200.467–468 (2007); N.H. REV. STAT. ANN. § 633:6–7 (2010); N.J. STAT. ANN. § 2C:13-8 (2005); N.M. STAT. §§ 30-52-1–3 (2008); N.Y. PENAL LAW § 135.35 (2007) (labor trafficking); *id.* § 230.34 (sex trafficking); OHIO REV. CODE ANN. §§ 2929.01(AAA)(1)–(2), 2941.1422 (2009); OKLA. STAT. tit. 21, §§ 748–748.2 (2007); OR. REV. STAT. § 163.266 (2008); 18 PA. CONS. STAT. ANN. §§ 3001–3004 (2006); R.I. GEN. LAWS §§ 11-67-(1)–(5) (2007); S.C. CODE ANN. § 16-3-930 (2006); TENN. CODE ANN. § 39-13-308 (2008); TEX. PENAL CODE ANN. §§ 20A.01–02 (2007); UTAH CODE ANN. §§ 76-5-308–310 (2008); WASH. REV. CODE § 9A.40.100 (2003); WIS. STAT. § 940.302 (2007).

<sup>203</sup> Mark Sidel, *Richard B. Lillich Memorial Lecture: New Directions in the Struggle Against Human Trafficking*, 17 J. TRANSNAT'L L. & POL'Y 187, 202 (2008).

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

## 2. Training for Law Enforcement

Ohio should enact legislation that mandates human-trafficking training for law enforcement officers to facilitate the identification of victims and to increase the number of prosecutions. To identify traffickers and victims, local law enforcement must be familiar with Ohio's new human-trafficking law, as well as federal law, and receive training on how to identify and protect trafficking victims. Currently, law enforcement officers lack the training and protocols necessary to detect trafficked victims and deter traffickers.<sup>207</sup> In response to a recent survey of Ohio law enforcement officers, 93% of respondents "identified a lack of training as the top barrier to identifying human trafficking cases."<sup>208</sup> The lack of training does not appear to be specific to detectives and line officers because "almost three-quarters of detectives/line officers (73.3%) and just over one-half of administrators (55.6%) had not received training to recognize and address human trafficking."<sup>209</sup> To rectify this problem, Ohio legislators should enact legislation that mandates law-enforcement training at all levels. This will ensure that law enforcement agencies called upon to respond to human-trafficking incidents know how to identify victims, understand the state and federal laws, and know how to direct victims to social service agencies that provide rehabilitation services. This should lead to an increase in convictions, which in turn will serve as a deterrent to human trafficking because traffickers will perceive the risk of prosecution to be substantially high.<sup>210</sup>

Inconsistency among law enforcement agencies functions as a barrier to identifying human-trafficking victims. Agencies should sponsor training sessions tailored to understanding and identifying human trafficking victims, and its curriculum should be consistent across state law enforcement agencies. The training curriculum should teach officers how to recognize potential human trafficking victims, how to manage the special circumstances and needs of victims, and behavioral techniques designed to gain a victim's trust to facilitate prosecution of traffickers.<sup>211</sup>

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<sup>207</sup> See generally Michel, *supra* note 28.

<sup>208</sup> Michel, *supra* note 28, at 103.

<sup>209</sup> *Id.* at 87.

<sup>210</sup> BLACK'S LAW DICTIONARY 481 (8th ed. 2004) (defining general deterrence as a "goal of criminal law generally, or of a specific conviction and sentence, to discourage people from committing crimes").

<sup>211</sup> See Robert Moosy, *Sex Trafficking: Identifying Cases and Victims*, 262 NAT'L INST. OF JUST. J. 2 (2009), available at <http://www.ncjrs.gov/pdffiles1/nij/225759.pdf>; see also Michelle Rickert, *Through the Looking Glass: Finding and Freeing Modern-Day Slaves at the State Level*, 4 LIBERTY U. L. REV. 211 (2010). Federal Prosecutor, Robert Moosy, explains several techniques local law enforcement officers can use to identify victims including: "(1) developing and implementing a training and referral program on human trafficking for law enforcement officers and the community; (2) developing a multi-jurisdictional law enforcement training program and reporting system; (3) developing a training program with local non-governmental agencies and regularly maintaining contact with NGO agencies; and (4) working with confidential informants who may encounter human trafficking victims such as taxi drivers, restaurant and bar workers etc." *Id.* Once victims are identified, Moosy explains that law enforcement officers should take various measures to bring them to safety such as: "(1) believing the victim until the investigation proves otherwise; (2) housing and interviewing victims separate from each other; (3) continuing the investigation even if the

To achieve uniformity across state law enforcement agencies, the Ohio legislature should enact legislation requiring law enforcement officers to proactively work to identify and investigate human sex trafficking cases. The California law is an excellent example. In California, law enforcement agencies must determine whether victims of domestic violence, rape, or persons suspected of solicitation and prostitution are also being trafficked.<sup>212</sup> The law specifies several indicators that officers should use to recognize a human-trafficking occurrence.<sup>213</sup> In addition, California law enforcement agencies must inform potential victims that they have the right to request that their name and identifying information be withheld from the public.<sup>214</sup> Beyond the importance of uniformity, California's law also requires officers to look beyond investigation of the primary case to potentially uncover the elements of force, fraud, and coercion.<sup>215</sup>

### 3. Consistent Data Collection

Problems also exist with the differing methods used by law enforcement agencies to record human-trafficking investigations, which impedes officers' ability to obtain accurate human-trafficking data.<sup>216</sup> As noted in the Department of State Trafficking in Person's Report, "[t]he lack of uniform data collection remains an impediment to a comprehensive understanding of the enforcement and victim service response to trafficking in the United States."<sup>217</sup> One of the major obstacles Ohio faces in assessing the prevalence of human trafficking within its borders is the lack of

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victims lie; (4) developing patience; (5) looking for additional victims; and (6) using covert investigative techniques prior to conducting raids." *Id.*

<sup>212</sup> See CAL. WELF. & INST. CODE § 14005.2 (Deering 2010); CAL. WELF. & INST. CODE § 13283 (Deering 2010); CAL. WELF. & INST. CODE § 18945 (Deering 2010).

<sup>213</sup> See CAL PENAL CODE § 236.2 (Deering 2010). In California, law enforcement officers must use "due diligence" to identify victims and consider whether the following signs of human trafficking are present:

- a) Signs of trauma, fatigue, injury, or other evidence of poor care.
- b) The person is withdrawn, afraid to talk, or his or her communication is censored by another person.
- c) The person does not have freedom of movement.
- d) The person lives and works in one place.
- e) The person owes a debt to his or her employer.
- f) Security measures are used to control who has contact with the person.
- g) The person does not have control over his or her own government-issued identification or over his or her worker immigration documents.

*Id.*

<sup>214</sup> See CAL. GOV'T CODE § 6254 (Deering 2010); CAL PENAL CODE § 293 (Deering 2010); CAL PENAL CODE § 236.2 (Deering 2010).

<sup>215</sup> See CAL PENAL CODE § 236.2 (Deering 2010).

<sup>216</sup> See generally Michel, *supra* note 28.

<sup>217</sup> TIP REPORT 2010, *supra* note 3, at 340.

reliable data regarding identified human-trafficking cases.<sup>218</sup> This lack of data leads to the compounded problem of not knowing how to effectively designate law enforcement resources to identify human trafficking victims and prosecute traffickers.<sup>219</sup>

Currently, Ohio law enforcement agencies investigate potential instances of human trafficking on a case-by-case basis, which can cause law enforcement officers to incorrectly record human-trafficking cases as other crimes and potentially miss opportunities to detect additional traffickers and victims.<sup>220</sup> The common misconception that a human-trafficking case is an isolated incident, rather than a product of a larger organized crime ring, may cause an officer to designate and to record the crime as something other than human trafficking.<sup>221</sup> This failure to fully investigate can lead to the prosecution of one trafficker and the rescue of one victim when there may be several other traffickers involved and multiple victims left suffering.<sup>222</sup> Accordingly, the federal government urges uniform data collection.<sup>223</sup> Some states follow the federal recommendation and implement a uniform database to standardize data collection in its own jurisdictions.<sup>224</sup> Ohio must join other states and enact legislation that mandates the creation of a statewide central database to enter investigation data for human-trafficking cases and to be accessed by all Ohio law enforcement agencies. Some Ohio law enforcement agencies staff officers that are dedicated to handling human trafficking cases,<sup>225</sup> while other Ohio agencies fail to dedicate any staff or resources to suspected human-trafficking cases.<sup>226</sup> When data

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<sup>218</sup> See Michel, *supra* note 28, at 17.

<sup>219</sup> See *id.*

<sup>220</sup> See *id.*

<sup>221</sup> See *id.*

<sup>222</sup> See *id.* at 29; see also Lieutenant Timothy Pelella, *Human Trafficking: Traditional Law Enforcement Methods Do Not Work*, STATE.FL.US., <http://www.fdle.state.fl.us/Content/getdoc/30241086-ed6e-436b-ad69-81f33f702e54/Pelella-research-paper-pdf.aspx> (last visited Mar. 17, 2011). Oklahoma law enforcement officers failed to identify a larger-scale forced labor human trafficking operation when they questioned a worker who had escaped the forced labor operation and attempted to obtain new employment without identification or a passport. Jessica E. Ozlap, *Halting Modern Slavery in the Midwest: The Potential of Wisconsin Act 116 to Improve the State and Federal Response to Human Trafficking*, 2009 WIS. L. REV. 1391, 1431 (2009). The worker told the officers that the company had confiscated his documents, but instead of asking additional questions that would have revealed the larger problem of human trafficking, the officers simply returned the worker to the company that had trafficked him. *Id.*

<sup>223</sup> See TIP REPORT 2010, *supra* note 3, at 340 (explaining that despite federal mandates of 2005 and 2008, uniform data collection among federal, state, and local law enforcement agencies regarding trafficking crimes, including the number of victims, did not occur).

<sup>224</sup> See *id.* Six states—Florida, Minnesota, New Mexico, New York, Rhode Island, and Texas—have mandated data collection and reporting programs to track the scope of human trafficking in their respective states, but the programs have yet to be fully implemented. *Id.*

<sup>225</sup> See Wilson & Dalton, *supra* note 100, at 30. Toledo, Ohio has a federally-funded human-trafficking task force. See *id.*

<sup>226</sup> See *id.* Columbus, Ohio does not have dedicated human-trafficking resources. See *id.*

collection on human trafficking improves, law enforcement agencies can more accurately assess the scope of the problem and can allocate law enforcement resources appropriately.

#### 4. Implementation of a Public Awareness Campaign

Ohio should also implement a public-awareness campaign to educate the public about the prevalence of human trafficking within the state. Because of the inherently underground nature of human trafficking, many Ohio citizens may believe it is only an international problem. Ohio citizens should know that human trafficking occurs in their own communities.<sup>227</sup> The campaigns should educate Ohioans about the dangers of human trafficking, how to become involved with local anti-trafficking organizations, and how to report suspected trafficking. Ohio should also disseminate information throughout the state aimed at directing victims to non-profit organizations that can assist them. Informational brochures and leaflets featuring the human trafficking national hotline number should be available at locations where human-trafficking victims are likely to visit while in captivity, such as truck stops, motels, healthcare providers, and free clinics. In addition, Ohio should consider launching an informational media campaign using television, print, and radio advertisements to educate the general public about human trafficking. Lastly, Ohio is home to numerous national sports teams, and major sporting events are identified as sex-trafficking hubs.<sup>228</sup> Ohio should consider launching advertising campaigns and disseminating information at major sporting events.

#### *B. Protecting Victims*

##### 1. Social Service Benefits During Pre-Certification Period

Ohio's future anti-trafficking laws should have a victim-centered approach. One major barrier in protecting victims is that gaps in federal law deny or delay much-needed social service benefits to trafficking victims, such as housing, healthcare, and employment.<sup>229</sup> The TVPA aids victims of "severe forms of trafficking in persons."<sup>230</sup> To qualify for government-funded social-service benefits, a victim must be "certified."<sup>231</sup> The certification process requires a victim who engaged in

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<sup>227</sup> See generally *id.*

<sup>228</sup> See *Super Bowl a Magnet for Underage Sex Trade*, MSNBC.COM, [http://www.msnbc.msn.com/id/41360579/ns/us\\_news-crime\\_and\\_courts/](http://www.msnbc.msn.com/id/41360579/ns/us_news-crime_and_courts/) (last visited Feb. 14, 2011, 4:17 PM); see generally Victoria Hayes, *Human Trafficking for Sexual Exploitation at World Sporting Events*, 85 CHI.-KENT L. REV. 1105 (2010).

<sup>229</sup> 22 U.S.C. § 7105(b)(1)(A) (2006); Clawson, *supra* note 62, at 26; *infra* note 246 and accompanying text; see generally Clawson, *supra* note 62, at 25.

<sup>230</sup> TVPA § 107(b)(1)(A), 22 U.S.C. § 7105(b)(1)(A) (2006). Under the TVPA's "severe trafficking in persons" definition, a victim who committed sexual acts as a result of force, fraud, or coercion, or a victim under the age of eighteen years old is eligible for federal assistance. *Id.*

<sup>231</sup> See generally 22 U.S.C. §7105(b)(1). Certification is the process by which human-trafficking victims are deemed eligible for federal and state benefits and are permitted to remain in the United States for a period of time; once victims are certified, they are eligible for benefits including housing, employment, mental health services, medical care, and Supplemental Security Income. *Id.*

commercial sex acts to prove that the acts resulted from force, fraud, or coercion prior to receiving aid.<sup>232</sup> After meeting the burden of proof, the victim must agree to assist law enforcement agencies in their pursuit of the trafficker.<sup>233</sup>

If victims are unable to prove force, fraud, or coercion, or are unwilling to cooperate with law enforcement, they will be denied eligibility for federal benefits.<sup>234</sup> At first glance, it may be difficult to understand why a victim may be unable to satisfy the burden-of-proof requirement or why a victim would be unwilling to cooperate with law enforcement. But from the victim's perspective, the reasons are much clearer: often, victims are already vulnerable to trafficking due to exigent circumstances, including drug addiction, poverty, or sexual abuse, that causes them to fall prey to sex traffickers without the use of force, fraud, or coercion.<sup>235</sup> These circumstances present few, if any, other options for victims. Victims also may have formed a relationship with the traffickers, making it difficult for prosecutors to prove force, fraud, or coercion.<sup>236</sup> Lastly, a victim may hesitate to cooperate with law enforcement out of fear that traffickers might retaliate against the victim's family members.<sup>237</sup>

In addition to the TVPA's standard-of-proof obstacles, critics argue that the TVPA's procedural certification requirements function as a barrier to providing victims with services they so desperately need.<sup>238</sup> The procedural mechanisms for obtaining certification under federal law are inadequate.<sup>239</sup> A recent study of service providers found that victim certification can take days or even weeks.<sup>240</sup> This period is referred to as the "pre-certification period."<sup>241</sup> During this time, victims are ineligible for federal government benefits, and service providers are likely unable to provide victims with the desperately-needed services.<sup>242</sup> Congress recognized this gap in the federal law and passed the 2003 Trafficking Victims Protection Reauthorization Act (TVPRA 2003), which allows local law enforcement officers to

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<sup>232</sup> 22 U.S.C. § 7105(b)(1)(A) (2006).

<sup>233</sup> See TIP REPORT 2010, *supra* note 3, at 341 (noting that actual testimony, conviction, or formal denunciation against the trafficker by the victim is not required to meet the requirements of assisting law enforcement during the investigation process); see also TVPRA 2008, *supra* note 93. The TVPRA does not require proof of force, fraud, coercion, or cooperation with law enforcement for minors and some foreign victims. TVPRA 2008, *supra* note 93.

<sup>234</sup> *Id.*

<sup>235</sup> See Lindsay Strauss, *Adult Domestic Trafficking and the William Wilberforce Trafficking Victims Protection Reauthorization Act*, 19 CORNELL J.L. & PUB. POL'Y 495, 261.

<sup>236</sup> *See id.*

<sup>237</sup> *See id.*

<sup>238</sup> *See* Clawson, *supra* note 62, at 26.

<sup>239</sup> *See id.*

<sup>240</sup> *Id.* at 27.

<sup>241</sup> *Id.*

<sup>242</sup> *Id.* (noting that during the pre-certification period, victims may have inadequate or no housing at all, little to no money, and nowhere to go).

provide statements to the federal government to be used in certifying victims sooner.<sup>243</sup> However, this requires that local law enforcement receive training on how to certify victims. The gap provides an excellent opportunity for states to mandate certification by enacting state legislation.<sup>244</sup> Trafficking victims need social services immediately and should not be forced to wait until the legal system deems them “certified” before providing basic human needs.

The TVPA’s legal requirements pose additional problems that result in its failure to provide victims with adequate protection.<sup>245</sup> Trafficking victims likely endured extreme mental and physical harm and often suffer from profound psychological issues, such as severe depression and post-traumatic stress disorder.<sup>246</sup> A policy requiring victims to prove force, fraud, and coercion fails to consider the victims’ mental condition or the reality that victims may be unwilling or hesitant to cooperate with law enforcement out of fear of retribution from traffickers or out of fear of arrest.<sup>247</sup> In addition, adult sex-trafficking victims face a particularly sensitive uphill

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<sup>243</sup> See TVPRA 2003, *supra* note 89, at § 4(a)(3)(iv) (“Secretary of Health and Human Services shall consider statements from State and local law enforcement . . . that the person . . . has been willing in every reasonable way with respect to the investigation and prosecution of State and local crimes where severe forms of trafficking appear to have been involved.”).

<sup>244</sup> See Kara, *supra* note 106, at 669.

<sup>245</sup> See generally Clawson, *supra* note 62, at 25 (identifying several key barriers to providing victims services including: “(1) lack of adequate shelter, staff and transportation; (2) lack of funding; (3) lack of adequate training; (4) ineffective coordination with federal and local agencies; (5) language barriers; (6) safety concerns; (7) lack of knowledge of victims’ rights; (8) lack of formal rules and regulations, including lack of victim assistance laws and strict eligibility requirements; (9) victims’ legal status, including pre-certification concerns; (10) feelings of no support, such as a lack of understanding about the issue of human trafficking and who works with victims; (11) lack of in-house protocols, including inadequate or non-existent data management programs.”)

<sup>246</sup> See generally Angela A. Jones, *Human Trafficking: Global and Local Perspectives; Graduate Program in Intercultural Human Rights Symposium; Feb. 12, 2009: Post-Traumatic Stress Disorder and Victims of Human Sex Trafficking: A Perpetuation of Chronic Indignity*, 4 INTERCULTURAL HUM. RTS. L. REV 317, 333 (2009) (explaining that human-trafficking victims suffer from post-traumatic stress disorder due to the violent trauma they experienced and that seeing their traffickers can trigger chemical responses in the brain similar to re-victimization). Dorchen Leidholt, Director of the Sanctuary for Families’ Center for Battered Women’s Legal Services, stated before the Hearing Committee on the Judiciary:

Almost all sex trafficking victims are victims of serial sexual assault. For many, sexual assault precedes their entry into sex trafficking; the trauma they have sustained renders them vulnerable to their traffickers, facilitates their traffickers’ control, and is exacerbated by the trafficking. For all sex trafficking victims, the sexual exploitation they are subjected to as an integral part of the trafficking leaves profound psychic injuries. Sex trafficking victims typically suffer from rape trauma, post traumatic stress disorder, severe depression, acute feelings of worthlessness and shame, memory loss, and/or suicidal ideations and acts. Victims of sex trafficking experience all of the trauma battered women and rape victims sustain, often at significantly higher levels.

*Id.*

<sup>247</sup> See Kathleen Kim & Kusia Hreshchyshyn, *Human Trafficking Private Right of Action: Civil Rights for Trafficked Persons in the United States*, 16 HASTINGS WOMEN’S L.J. 1 (Winter 2004); see also Janice G. Raymond et al., *Sex Trafficking of Women in the United States:*

battle because they are perceived to be criminals complicit in the sexual acts they perform, rather than as victims of trafficking.<sup>248</sup> Trafficking prosecutions often fail because prosecutors are unable to establish the requisite burden of proof, and thus, victims are denied the rehabilitative social services.<sup>249</sup>

Ohio can remedy the problems caused by gaps in the TVPA by enacting legislation that provides social services to victims while victims await federal certification. Ohio should adopt a human trafficking pre-certification law. New York provides a good example for consideration.<sup>250</sup> In New York, the Office of Temporary and Disability Assistance is statutorily permitted to enter into contracts with non-governmental social-service organizations to provide immediate care for pre-certified victims of human trafficking.<sup>251</sup> The law cares for vulnerable victims without forcing social service providers to find creative ways to house and feed victims.

The Ohio legislature could also use California as a model for providing expansive benefits and services to trafficked victims. Under California's welfare program, non-citizen trafficking victims are eligible for state-funded social services and healthcare for up to one year, and victims may continue to receive care if the victim filed either an application with the federal government for continued presence or applied for a T-Visa.<sup>252</sup> California's program is administered through the state's refugee-services program and grants human-trafficking victims the same benefits given to refugees, including cash assistance, employment assistance, and medical care.<sup>253</sup> California's program does not, however, mandate social service benefits to pre-certified human-trafficking victims.<sup>254</sup>

Ohio needs a pre-certification law that provides expansive social services and assistance to human-trafficking victims when they are unable to obtain federal assistance. Ohio should enact legislation that combines the expansive benefits

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*International and Domestic Trends*, NCJRS.GOV (Oct. 2001), <http://www.ncjrs.gov/pdffiles1/nij/grants/187774.pdf>.

<sup>248</sup> See Clawson, *supra* note 62, at 24.

<sup>249</sup> See Strauss, *supra* note 235, at 530 (noting that trafficking victims may have formed a relationship with their traffickers, making it difficult for prosecutors to prove the elements of force, fraud, or coercion); see also Leidholdt, *supra* note 246 (explaining that it is difficult to successfully prosecute traffickers because traffickers often do not need to control victims through force, fraud, or coercion because victims are "so vulnerable, terrified, or traumatized that such conduct isn't necessary to obtain their victims' submission").

<sup>250</sup> See N.Y. SOC. SER. LAW § 483-bb(b) (2011).

<sup>251</sup> See *id.* The law allows the Office of Temporary and Disability Assistance to provide the following services to pre-certified trafficking victims: case management, emergency temporary housing, health care, mental health counseling, drug-addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, post-employment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in New York state or the United States. *Id.*

<sup>252</sup> CAL. WELF. & INST. CODE § 18945 (Deering 2010).

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

program that California offers to victims with the pre-certification program provided in New York. To avoid only caring for victims that qualify for the federal program, Ohio must enact legislation that provides the same immediate benefits and assistance to trafficked victims whose victimization occurred within Ohio's borders.

## 2. Private Right of Action

Ohio's existing law provides a means by which victims may receive restitution from traffickers.<sup>255</sup> This restitution provision requires a trafficker to pay mandatory restitution to the victim, the proceeds of which can be used to defray the costs of services such as physical and occupational rehabilitation, housing costs, and attorney's fees.<sup>256</sup> The restitution provision, although helpful in providing some form of compensation to trafficking victims, does not fully compensate victims for the egregious forms of exploitation they endured.<sup>257</sup> A civil remedy provides victims with the potential for a greater damage award.<sup>258</sup> In addition, restitution is insufficient because, in criminal cases, prosecutors and criminal defendants are focused on procuring jail time; restitution can be a mere afterthought, much to the detriment of the victim.<sup>259</sup> Furthermore, a civil proceeding has the advantage of being filed and controlled by the victim and "is often the only mechanism that allows a victim of human trafficking to confront the trafficker."<sup>260</sup> Such confrontation can assist in the victim's emotional rehabilitation.<sup>261</sup>

Ohio should consider adding a civil cause of action that enables victims to sue their traffickers in state court for actual damages, punitive damages, or compensatory

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<sup>255</sup> OHIO REV. CODE § 2929.18(B)(8) (2010).

<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> See Daniel Werner, *Civil Litigation on Behalf of Victims of Human Trafficking*, LIBRARY.LLS.EDU (Oct. 13, 2008), [http://library.lls.edu/atlast/HumanTraffickingManual\\_web.pdf](http://library.lls.edu/atlast/HumanTraffickingManual_web.pdf).

<sup>260</sup> Richelle C. Mitchell, *The Private Right of Action Established Under the Trafficking Victims Protection Reauthorization Act of 2003*, AMERICANBAR.ORG (Spring 2006), [www.americanbar.org/content/dam/aba/migrated/.../HTPrivateRemedy.doc](http://www.americanbar.org/content/dam/aba/migrated/.../HTPrivateRemedy.doc) (last visited Mar. 15, 2011).

<sup>261</sup> See Mitchell, *supra* note 260, at 8. Civil litigation is a valuable resource for trafficking victims because they are empowered to face their traffickers face-to-face in court and hold them accountable for the violent acts suffered by the victims under traffickers' control. See Werner, *supra* note 259. In a criminal case, the prosecutor works for and represents the interest of the state and the victim is a witness, not a party. *Id.* While in civil litigation, the victim's interests are represented directly. *Id.* Also, civil proceedings allow a victim to control his or her own case, while the prosecutor controls criminal proceedings. *Id.* For example, civil proceedings allow the victim control the decisions that form the case, including deciding whether to sue, pursue settlement, or proceed to trial. See *id.* "Also, a victim in a civil case cannot be excluded from testifying by a prosecutor. She can tell her whole story in her own words." Mitchell, *supra* note 260, at 8.

damages.<sup>262</sup> Trafficking victims can use civil litigation to sue for torts, including assault, battery, false imprisonment, or intentional infliction of emotional distress; it is worth noting, however, that these causes of action have a short statute of limitations.<sup>263</sup> Under the 2003 Reauthorization of the TVPA, human trafficking victims have a private cause of action and may sue their perpetrators in federal court to recover damages and attorney's fees.<sup>264</sup> Even though victims have a private right of action under the TVPA, they should also have the option to file a civil suit in state court. Beyond the benefits of forum selection, an additional state civil cause of action is necessary because the federal civil remedy provision is underutilized.<sup>265</sup> In fact, as of 2009, approximately thirty civil suits were filed under the TVPA's private right of action provision—none of the cases involved human sex trafficking.<sup>266</sup> To date, only one sex-trafficking case was filed under TVPA's civil provision, and the case has yet to be decided.<sup>267</sup> Furthermore, the Polaris Project's Model State Anti-Trafficking statute also recommends that states include a civil-liability provision when drafting state anti-trafficking legislation.<sup>268</sup> Several states established a civil cause of action that allows victims to recover damages.<sup>269</sup>

Another way that a private cause of action benefits sex-trafficking victims is that civil evidentiary rules are more permissive than criminal rules and may help victims

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<sup>262</sup> See TIP REPORT 2010, *supra* note 3, at 342. Eighteen states currently permit trafficked victims to bring civil lawsuits against their traffickers in state court. TIP REPORT 2010, *supra* note 3, at 342.

<sup>263</sup> See The National Center for Victims of Crime, *Civil Justice for Crime Victims*, NCV.C.ORG (2000), <http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32318> (noting that victims should use the civil justice system to hold traffickers accountable and pursue monetary relief for the injuries they sustained); see also Mark Sidel, *Richard B. Lillich Memorial Lecture: New Directions in the Struggle Against Human Trafficking*, 17 J. TRANSNAT'L L. & POL'Y 187, 203 (2008) (noting that civil remedies should be available to hold traffickers accountable for their actions, but civil proceedings should not be used as a substitute for criminal proceedings).

<sup>264</sup> See TVPRA 2003, *supra* note 89.

<sup>265</sup> See, e.g., Jennifer S. Nam, Note, *The Case of the Missing Case: Examining the Civil Right of Action for Human Trafficking Victims*, 107 COLUM. L. REV. 1655, 1696-700 (2007).

<sup>266</sup> See Kathleen Kim, *The Trafficked Worker as Private Attorney General: A Model for Enforcing the Civil Rights of Undocumented Workers*, 2009 U. CHI. LEGAL F. 247, 310 n.337.

<sup>267</sup> See Complaint, Plaintiff A v. Schair, No. 2:11-CV-145 (N.D. Ga. Filed June 14, 2011) (noting that the case is stayed until criminal case arising out of the same occurrence is adjudicated).

<sup>268</sup> See Polaris Project Model Statute, *supra* note 96.

<sup>269</sup> See *Fact Sheet on State Anti-Trafficking Laws from Policy Advocacy to Combat Trafficking a Program of the Center for Women Policy Studies*, CENTER FOR WOMEN POLICY STUDIES (Feb. 2011), <http://www.centerwomenpolicy.org/documents/FactSheetonStateAntiTraffickingLawsFebruary2011.pdf> (last visited Mar. 14, 2011). According to the Center for Women Policy Studies, in addition to the District of Columbia, the following states provide human-trafficking victims with a private right of action: Alabama, California, Connecticut, Florida, Illinois, Kentucky [only available to minor victims], Maine, Nevada, Oklahoma, Oregon, Texas, and Washington. *Id.*

recover more substantial damages.<sup>270</sup> Civil proceedings have a higher likelihood of success because they require a lower burden of proof.<sup>271</sup> These advantages, taken together, increase the likelihood that trafficking victims would obtain relief in a more efficient manner. Moreover, victims suffered heinous acts at the hands of traffickers; they should be fully compensated for the harms endured, and should benefit from reduced evidentiary standards and the ability to seek redress in state court.

One of the most effective ways to deter traffickers is to make human trafficking an unprofitable business. Providing trafficking victims with a private right of action effectively acts as a substantial financial deterrent by reducing the profitability of human sex trafficking. Human sex trafficking is fueled by market demand; as long as traffickers have a financial incentive, they will enslave victims.<sup>272</sup> Human sex trafficking is attractive to traffickers because “unlike drugs or weapons, which are one-time transactions, humans as products can be sold and resold repeatedly by forcing victims to prostitute themselves to multiple customers.”<sup>273</sup> Accordingly, the human sex-trafficking industry rewards traffickers for treating humans like commodities and for repeatedly victimizing them. Awards of high punitive damages are appropriate to punish and deter such egregious conduct.<sup>274</sup> Subjecting victims to repeated acts of physical, psychological, and sexual abuse warrants punishment commensurate with the crime. Ohio should provide human-sex-trafficking victims with a civil remedy that adequately reflects the horrific slavery they were forced to endure.

## VII. CONCLUSION

“There are more people being bought and sold at this moment, than in the entire 300-year history of the Atlantic Slave Trade.”<sup>275</sup> As a hub for human trafficking, Ohio must do more to prevent human sexual slavery. Because Ohio lacks the resources to fully identify victims, it is very likely that the number of victims forced to endure these tragic abuses is higher than the statistics represent. Law enforcement must be trained to properly identify victims, to properly record trafficking crimes, and to bring victims to safety. Consistency is the key. Additionally, anti-trafficking legislation cannot be limited to criminalization. A private right of action is necessary for victims to confront their traffickers in state court and to hold traffickers fiscally responsible for the injuries inflicted on victims. If human trafficking continues to be a profitable business venture, traffickers will continue the business of human slavery. Victims must be protected where the federal law fails to protect them, or where federal law does not apply. Lastly, citizens cannot play a role in combating human trafficking unless they are aware that the problem exists. A public awareness campaign is an integral part of bringing the atrocities of this criminal industry into the public discourse and, ultimately, to an end.

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<sup>270</sup> See The National Center for Victims of Crime, *supra* note 263.

<sup>271</sup> See Mitchell, *supra* note 260, at 8 (noting that criminal cases require proof beyond a reasonable doubt, while civil cases require a much lower standard of preponderance of the evidence).

<sup>272</sup> See *supra* Part I.

<sup>273</sup> Mitchell, *supra* note 260, at 4.

<sup>274</sup> See Werner, *supra* note 259, at 77.

<sup>275</sup> TIP Report 2010, *supra* note 3, at 365.