

SB

110

<TARGET><BILL>SB 110</BILL><SUBJECT>SB
110</SUBJECT><COMM>SJUD27</COMM></TARGET>

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/21/11

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/22/12

Judiciary Committee considered SENATE BILL NO. 110

SB 110-HUMAN TRAFFICKING/SEX OFFENSES

"An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses."

and recommends:

- be replaced with CS SB110 (JUD) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LAW		✓		1
DPS			✓	2
COR		✓		3
Adm/OPA		✓		4
Adm/PD		✓		5

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Coghill	✓			
	W. Lechowski	✓			
	PASTALAN	X			
CHAIR:	French	✓			

ALASKA STATE LEGISLATURE

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State Affairs Committee

Co-chair
Joint Armed Services Committee

Vice Chair
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Member
Admin Reg Review

Senator_Bill_Wielechowski@legis.state.ak.us

SENATOR BILL WIELECHOWSKI

Sponsor Statement

Senate Bill 110 – Strengthening Human Trafficking and Sex Offense Statutes

"An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses"

Senate Bill 110 is a bill designed to strengthen existing human trafficking laws in Alaska and give judges more discretion in setting the conditions of probation in criminal cases involving sex offenses.

Sexual exploitation is a serious problem in the state of Alaska. Traffickers prey on vulnerable Alaskans, a large number of whom are underage females. Statistics show Native Alaskans also are disproportionately targeted.

Current state law, however, only recognizes the crime of "trafficking" when victims are transported across state lines. SB 110 would close that loophole, allowing law enforcement to prosecute traffickers who prey on victims within state borders.

SB 110 would also allow judicial discretion in imposing conditions of probation on criminal cases involving sex offenses. Judges could include, as part of probation, the requirement that certain defendants refrain from residing within 500 feet of school grounds.

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version SB110 1A
 () Publish Date _____

Identifier (file name): SB110-LAW-CRIM-03-25-11
 Title An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses.
 Sponsor SENATOR(S) WIELECHOWSKI
 Requester (S) JUD
 Dept. Affected Law
 Appropriation Criminal
 Allocation Criminal Justice Litigation
 OMB Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES							
---------------------------	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please identify)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2011) cost ***

POSITIONS

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Full-time						
Part-time						
Temporary						

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Eileen Donahue, Division Operations Manager
 Division Administrative Services
 Approved by John J. Burns, Attorney General
Department of Law

Phone 465-5427
 Date/Time 3/25/11 10:00 AM
 Date 3/25/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. SB110 1A

Analysis

SB 110 adds a new, more serious level of human trafficking. It would adopt an unclassified felony if a person induces, compels, or entices a person under 18 years old to move from one place to another and engage in sexual conduct, adult entertainment, or prohibited acts.

The bill also amends current law prohibiting human trafficking by making it a class A felony to compel, entice, or induce another person to move from one place to another in the state to engage in sexual conduct, adult entertainment, or forced labor.

This bill would have an indeterminate fiscal impact to the Department of Law.

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SENATOR BILL WIELECHOWSKI

Fact Sheet: Human Trafficking In Alaska

What Is Trafficking?

International and federal laws reflect the idea that human trafficking involves **recruiting, harboring or transporting** a person in order to **exploit them in some way**, usually through forced labor or the commercial sex trade.

Trafficking **does not necessarily involve smuggling**. Victims **do not have to be foreign born**.

Fixing Alaska State Law

The loophole: Federal law reflects this. Current Alaska law, however, stipulates that trafficking only occurs when a perpetrator compels or induces another person **to cross state lines** before exploiting them.

SB 110 would amend the state human trafficking statute **to include preying upon people within the state of Alaska**.

The Grim Reality: Trafficking In Alaska

Sex traffickers prey upon minors and adults, urban dwellers and rural and people of all races. It is **extremely difficult to quantify the number** of prostitution or trafficking activity in the state. Victims do not trust law enforcement. Most estimates come from prostitution arrests in a given area.

What we do know:

Traffickers are targeting Native girls.

- “A disproportionate number of women working in the Anchorage sex trade are Alaska Native and pimps and sex traffickers are pursuing Native girls...” [[ADN, 12/02/10](#)]
- “Native girls are targeted in part because they’re considered ‘versatile,’ meaning they can be advertised on the Internet as Hawaiian or Asian. ‘It’s all comes down to money,’ (FBI Special Agent Jolene Goeden) said, with the pimps hauling in thousands of dollars a week.” [[News Miner, 10/16/10](#)]
- A man recently charged with sex trafficking in Anchorage was caught on tape talking to an associate about going to the Alaska Federation of Natives convention to “catch a Native” for his prostitution stable. The men “got at least some of their “stable” of prostitutes from Alaska Native villages, prowling the AFN convention and streets surrounding the Covenant House shelter.” [[ADN, 12/02/10](#)]

Trafficking doesn’t mean using force.

- Many vulnerable young girls are lured into service with enticements like a place to stay, a hot meal, having their hair done.
- “They’re lured into the lifestyle with such things as gifts, shopping trips and alcohol and drugs, the agents said. At some point, their boyfriend, or pimp, wants payback.” [[News Miner, 10/16/10](#)]
- “Sex traffickers use a combination of mind games and beatings, promises and drugs to control girls, authorities said.” [[ADN, 12/02/10](#)]

Traffickers hunt victims in places vulnerable girls can be found: bus stations, shelters and in their villages.

- “The Native women and girls are being hunted at places where teens gather: malls, Anchorage’s central bus stop downtown, the McLaughlin Youth Center, Covenant House.” [[News Miner, 10/16/10](#)]
- “Alaska Native girls are commonly lured from their hometowns by friends or relatives who are already working as prostitutes. They invite the girl to come hang out and go shopping rent-free.” [[ADN, 12/02/10](#)]

A majority of sexual trafficking victims have a history of sexual abuse.

- “We’ve been told, ‘I’d rather be getting paid for it than giving it away for free,’” (APD’s Sgt. Kathy) Lacey said.” [[News Miner, 10/16/10](#)]

A majority of sexual trafficking victims are runaways.

- “Many are runaways. Under-age kids can’t rent cars or rent hotel rooms, after all, and they have to get money somehow.” [[ADN, 12/02/10](#)]

National Statistics

- “The majority of American victims of commercial sexual **exploitation tend to be runaway or thrown away youth** who live on the streets who become victims of prostitution.” [\[US Department Of Justice\]](#)
- **450,000**: Number of children in the United States who run away from home each year. [\[National Runaway Switchboard\]](#)
- **1 out of 3**: Number of teens on U.S. streets who will be lured into prostitution **within 48 hours** of leaving home. [\[National Runaway Switchboard\]](#)
- **It happens everywhere.** “Pimp-controlled commercial sexual exploitation of children is linked to **escort and massage services, private dancing, drinking and photographic clubs, major sporting and recreational events, major cultural events, conventions, and tourist destinations.**” [\[US Department Of Justice\]](#)
- **12-14**: The average age a girl enters prostitution in the United States. [\[US Department Of Justice\]](#)
- **11-14**: The average age a boy enters prostitution in the United States. [\[US Department Of Justice\]](#)

More Alaska Native girls ensnared in sex trafficking

by Alex DeMarban / The Tundra Drums

10.16.10 - 08:37 am

http://www.newsminer.com/printer_friendly/9919153

ANCHORAGE, Alaska - Sex-crimes investigators say they're seeing more rural Alaska Native girls and women who leave their families and village for Anchorage, only to be lured into prostitution by pimps and the promise of security.

The sex-traffickers see young Native runaways as especially easy prey, said investigators. They're adrift in the big city, separated from a support network, and seeking money and attention.

Kathy Lacey, an investigator with the Anchorage Police Department, and Jolene Goeden, a Federal Bureau of Investigation agent, shared the information with scores of delegates at the Association of Village Council Presidents annual convention on Oct. 6.

They didn't give specific numbers but said they've seen a rising trend in roughly the past year or so.

The two came to Bethel to begin the process of educating rural residents about what's happening, so parents can warn children. They want potential victims to be wary.

"When someone pulls up in a really nice Cadillac Escalade and they're promising them the world, we hope they're going to think twice before getting into that car," Goeden said.

The information prompted an immediate discussion from delegates, who called it "frightening." Some elders spoke in Yup'ik and talked of lost values. They urged parents and grandparents to monitor their kids.

The Native women and girls are being hunted at places where teens gather: malls, Anchorage's central bus stop downtown, the McLaughlin Youth Center, Covenant House. They're lured into the lifestyle with such things as gifts, shopping trips and alcohol and drugs, the agents said.

At some point, their boyfriend, or pimp, wants payback.

The "sex-trafficking world is incredibly, incredibly violent. Once that grooming process is over it turns into, 'You owe me. I need you to do this for me one time. And then it happens over and over again,'" Goeden said.

Native girls are targeted in part because they're considered "versatile," meaning they can be advertised on the Internet as Hawaiian or Asian.

"It's all comes down to money," she said, with the pimps hauling in thousands of dollars a week.

It's hard to rescue some girls, especially from villages. They may not see themselves as victims,

particularly those who have experienced sexual or domestic violence.

"We've been told, 'I'd rather be getting paid for it than giving it away for free,'" Lacey said.

Others may be afraid to seek help, out of fear for their lives.

"They don't feel like they have a choice in leaving this life," Lacey said.

The sex ring grows as girls recruit friends from the villages, promising them a free place to stay, shopping trips and free meals at their 'boyfriend's' house, the investigators said.

National statistics hold true in Anchorage: One in three street girls are drawn into prostitution in 48 hours, Lacey said.

Economic difficulties in villages seem to be one factor in the increasing trend.

"We don't want to scare you and give you the impression that every young girl or every woman that comes to Anchorage, that this happens to them, but it is happening and it is happening to a number of young Alaska Native girls," said Goeden.

The investigators see girls 18 or younger as victims, Lacey said. They arrest them, but only to separate them from their pimp and get them social services, such as counseling and housing.

They don't follow through with prosecuting them, Lacey said.

After the presentation, Andrew George of Nightmute stood before the crowd and spoke forcefully in Yup'ik.

Parents and family need to teach their children and protect them. Native children are in dire need, he said, according to a convention interpreter.

Ray Watson, chair of AVCP, a tribal consortium providing social services in the Bethel region, said delegates must go home and warn villagers about what's happening.

Myron Naneng, president of the group, said rural schools need to invite the Anchorage investigators into their classrooms.

'I can't get my sister back:' Investigators warn of sex traffickers targeting Natives

Posted: December 2, 2010 - 7:21 pm

By KYLE HOPKINS
khopkins@adn.com

<http://community.adn.com/adn/node/154636#ixzz1HTj2d5uW>

A disproportionate number of women working in the Anchorage sex trade are Alaska Native and pimps and sex traffickers are pursuing Native girls at events like AFN, police warned tribes and villagers today.

"There have been traffickers and pimps who specifically target Native girls because they feel that they're versatile and they can post them (online) as Hawaiian, as Native, as Asian, as you name it," said Jolene Goeden, a special agent for the FBI in Anchorage.

Far from home and surrounded by strangers, girls from remote villages are particularly vulnerable to sex-trade recruiters said Goeden and Sgt. Kathy Lacey, supervisor for the Anchorage police vice unit. The investigators delivered a kind of "Prostitution 101" to people from villages across the state at an annual Bureau of Indian Affairs conference, telling community leaders and health workers to be on the lookout for pimps preying on Alaska Native women and girls.

The pair gave a **a similar, shorter talk in October in Bethel**. For some, the stories were personal.

"We don't think that this is happening in our in small villages. It happens. It happened to my baby sister," said a woman from a rural hub city, who said her sister was 14 years old when she disappeared while visiting the Alaska Federation of Natives convention in Anchorage about four years ago.

Her family tracked the girl down at a downtown shelter for homeless teens, her body surging with drugs, said the woman, who I'm not identifying because it would also identify her sister.

"That really ruined her life," the woman said sharply. "I can't get my sister back the way she ..."

Her voiced trailed off before a shell-shocked crowd of about 200 at the Egan Civic and Convention Center.

Sex traffickers use a combination of mind games and beatings, promises and drugs to control girls, authorities said.

Alaska Native girls are commonly lured from their hometowns by friends or relatives who are already working as prostitutes. They invite the girl to come hang out and go shopping rent-free. Others are recruited while visiting the city.

About one-third of the women arrested this year for prostitution in Anchorage are Alaska Native, according to Lacey's figures. It's unclear how many under-age Native girls are the victims of pimps or sex traffickers.

Four Anchorage residents **charged last year with running a sex-trafficking ring** got at least some of their "stable" of prostitutes from Alaska Native villages, prowling the AFN convention and streets surrounding the Covenant House shelter.

(Read an account of phone calls overheard on a jail phone, including one of the men talking about trying to "catch a Native" during AFN.)

It was an Alaska Native girl who moved to Anchorage to stay with family at the age of 12 who helped point investigators toward another prostitution kingpin: **Don Webster, also known as Jerry Starr**, Goeden said.

Webster, who was sentenced to 30 years in prison in 2008, had tried to recruit the girl, Goeden said.

The FBI agent got to know the teen during visits to a youth jail. The pair talked about how the girl ended up selling her body at age 14 in Anchorage.

"Her response to me was, 'I could be back home in the village where I could be having sex with my grandpa for free, or I could be here getting paid for me,'" Goeden said.

"I didn't know what to say. I had no idea how to respond to this little girl."

Regardless of where they're from, many prostitutes are former sexual abuse victims, Lacey told the crowd. Many are addicted to drugs, Lacey said.

"It used to be every prostitute we patted down had a crack pipe on them. Not any more, the drug of choice is heroin," she said after today's meeting.

Many are runaways. Under-age kids can't rent cars or rent hotel rooms, after all, and they have to get money somehow.

"(That) especially holds true when you get young girls from the villages that come in here and they come in to visit an auntie or whoever they're going to visit and they decide that they're going to run away," Lacey said. Very quickly they're propositioned by someone trying to lead them on a path toward prostitution, she said.

Authorities in Alaska prefer to prosecute pimps under federal sex trafficking laws. Under those rules, anyone who uses force, coercion or fraud to sell commercial sex acts can be prosecuted for trafficking. The law also applies to anyone who pimps girls under the age of 18.

In comparison, the state law only allows for prosecution of trafficking if the victim is transferred across state lines, Lacey said. She is working with Goeden and the Children's Justice Act task force to strengthen state laws and mirror federal penalties.

People always ask why the girls don't leave pimps or sex traffickers on their own, the investigators told the crowd.

Some feel so bad about themselves they don't believe they deserve anything better, they said. Others don't know who to ask for help or are afraid of violent reprisals.

Some, particularly those from small communities, don't want their friends or family to know what's happening to them.

"These girls typically, almost always, do not see themselves as a victim," Goeden said

Have tips or questions for the investigators? You can reach Goeden at Jolene.goeden@ic.fbi.gov or by calling 276-4441 and Lacey at 786-8500 or klacey@ci.anchorage.ak.us.



Sex Trafficking In Alaska

SA Jolene Goeden
Sgt Kathy Lacey

The beginning....

Salvation Army obtained a grant –
working group formed (foreign born
victims)

APD obtained a grant – foreign born and
domestic victims

Webster case

Innocence Lost Task Force – formed
December 2008

Agenda

What is sex trafficking?
Stages of exploitation through sex
trafficking
The victim
Sex Trafficking of Alaska Natives
Medical/social issues of victims
Why don't the girls just leave?
Warning signs?
What is needed?

What is human trafficking?

Recruitment, Harboring, Transportation,
Provision or Obtaining of a Person

- For Labor or Services
- Through the use of FORCE, FRAUD, or
COERCION

Trafficking may NOT involve
smuggling. Victims do not have
to be foreign born.



Definitions

FORCE: beatings, sexual assault, confinement

FRAUD: false/deceptive employment, false marriage, false promises, lies

COERCION: threat to family, threat of criminal process/deportation, drugs

- Threat can be direct or implied

Two Types Of Trafficking

Labor Trafficking

domestic servitude

industry

migrant work

Sex Trafficking

SEX TRAFFICKING



The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Induced by force, fraud, or coercion OR
Under the age of 18 (significant difference between Federal Statute and State Statute)

What is a commercial sex act?

Prostitution: The giving or receiving of sex or a sex act in exchange for compensation

Compensation can be anything of value – it does not have to be money

\$\$\$\$\$\$

Sex trafficking

vs.

Prostitution

Transition Continuum

I-----I-----I
couch survival forced
surfing sex comm.
sex

Homeless or runaway kids/young adults
are very vulnerable.

Types of Prostitution

Street Walkers

In Call Escort and Massage Parlors

Out Call

Street Walkers

The Tracks

-Spenard

-Fairview

-Mt. View

Addictions

Survival Sex



In Call/Out Call

All internet based

Postings on a variety of websites including - Craigslist, CityVibe, NaughtyNightLife, Backpage

Graphic ads

Slang and language specific to “pimp and ho” culture

Profile of a Sex Trafficking Victim

Majority have been victims of some type of abuse.

Majority have been runaways

Have unique status of being BOTH victim/offender

- Law enforcement (typically) treats them as offenders
- Social agencies treat them as victims

Profile continued...

Have been recruited into life by pimp or madam

Have been “broken” by pimp and “turned out”

Refer to pimp as “boyfriend” or “daddy”

“Easy in, hard out”

Typically very loyal

Chemical dependency issues

Sex Trafficking and Children

- One in seven children will be a runaway before the age of 18.
- One in three teens on the street will be lured into prostitution within 48 hours of leaving home.
- -NCMEC



Runaway and Sexual Exploitation

30% of shelter youth and 70% of street youth are victims of commercial sexual exploitation. They may engage or be coerced into prostitution for “survival sex” to meet daily needs for food, shelter, drugs.
75% of child victims engaged in prostitution are under the control of a pimp.

(American Journal of Public Health – Commercial Sexual Exploitation of Children in the U.S.)

Age of Entry

12-14 is the average age of entry into prostitution for girls in the U.S., boys enter at younger ages. (Estes & Weiner, 2005)

The average age of entry into prostitution for girls is between age 13 to 14. (NCMEC)

Alaska Native Children

Typical ages seen by LE – 15 to 17 yo

Alaska Native girls viewed by traffickers as “versatile” and vulnerable

Recruited by other AK Native girls

Very hard to quantify and come up with numbers

Alaska Native Women

Disproportionate number of Alaska Native women involved in prostitution by population

Vice numbers for arrests

Often starts as survival sex

Research & Trends

The Minnesota Indian Women's Resource Center

"Shattered Hearts – The Commercial Sexual Exploitation of American Indian Women and Girls in Minnesota"

www.miwrc.org

Anchorage Example

Alaska Native girl. Moved to Anchorage at age 12.

Started running away from home soon after got to Anchorage. Using alcohol heavily by age 13. In & out of MYC. Recruited by first pimp at age 14. Traded and sold among pimps for next two years.

Assault charge – MYC until 18.

Returned to street. Pregnant.

STAGES

These stages apply to children and adults.

Recruitment

Grooming

Breaking In

RECRUITMENT

Schools

Malls

Bus Accommodation Center

McLaughlin

Covenant House

Home (generational)

Strip clubs/bars

Streets

Friends/family

Rural Recruitment

Usually through family/friends

Promises or lures of better life

Distance from family and other support structures

Grooming

“F with the mind and the body will follow.”

Love and Attention

Isolate from family

Shower with gifts

Nails, hair, nice clothes

Photograph – make girl feel beautiful (model)

Alcohol and drugs

“He made me feel special. He found me when I was broken. He built me up. Broke me back down. And built me back up again to where I thought he was my everything.”

Breaking In

Physical assaults

Sexual assaults

Sex with pimps male friends

DV type cycle – rollercoaster

Remove identity

“You owe me” or “Just this one time”

OBSTACLES IN IDENTIFICATION

- Victims do not see themselves as victims
- They DO NOT self report
- General mistrust of law enforcement
- Focused mistrust of law enforcement
- Threats – fear of retaliation/violence
- Believe no worse off than previous situation
- Not familiar with area/location and the “system”
- Don’t know where to turn for help
- Fear of being labeled a prostitute
- Shame and guilt – blame self

Trauma Bond

Survival response

Dysfunctional attachment developed during risk

Results in trouble identifying – do not see themselves as a victim

Requires intensive therapy

Why don't they just leave?

- Believe they aren't any worse off than previous situation.
- Fear of being physically harmed
- Fear of having another victim endure physical harm.
- Threat to family
- Shame
- Inability to navigate the “system”

Don Webster
a.k.a Jerry Starr



DON WEBSTER

AKA Jerry Starr

Several girls in "stable" at any given time

Recruited juveniles from other girls, the streets, adults at strip clubs

Promised better life

Crack – got girls addicted or increased addiction - Issues



Jerry Starr continued...

Took property and identification/isolated

Created a dependence – food, shelter, drugs

Created new "family"

Physical force/violence

The Box

Culture of fear. (Roller coaster)

Ages 13 to 30 y.o.

Life with Jerry....

"Life without the possibility of parole."

"He was our doctor. He would clean me up after a beating. He'd put me in the shower, tell me he loved me and tell me that I made him do it. Give me crack for my injuries and send me back out."

Victim's Journal Entry – Perception of Addiction

"Tastes like addiction. Smells like addiction. This is addiction feeding the addiction. You haven't eaten in days and your gums are bleeding. Swearing to God the pipes all you're needing. It's robbing or stealing or turning a trick. You do whatever it takes to suck on the devils dick. The more you feed it the harder it is to tame. Taking in the beast. Playing it like a game. Lying to yourself saying the same old shit. I don't need it. I just don't want to quit. The hunger of addiction calls. There's nothing romantic about it. Going through withdrawals you're craving a sample. Well here's a taste. Picking and scratching the scabs on your face. Your life support system is a syringe. Killing a piece of your soul every time you binge. Pray."

Victim read this at trial and it helped to establish her state of mind during the trafficking.

Jerry Starr continued...

Indicted Federally. Trial was in January 2008.

3 ½ week trial. 12 victims testified.

Convicted on 28 counts of sex trafficking and drug trafficking related charges.

Sentenced to 30 years, register as a SO, lifetime restraining order, \$3.6 million restitution

How are the victims today??? Critical services needed for their recovery.

Medical Issues Associated with Prostitution

Traumatic Brain Injury – beatings, head injuries, black eyes with no recollection of being hit in eye.

Choking

STD's

Pregnancies – chemical use and without medical attention. Multiple miscarriages.

Broken bones (often untreated) – ribs common

Mental Health Issues Associated with Prostitution

PTSD

Bipolar Disorder

Anxiety Disorders

Depression

Eating disorders

Borderline

Chemical Dependence

Warning Signs

Signs of current physical abuse

Sexually transmitted diseases

Runaway status or history of running away

Expensive gifts – clothing, jewelry, etc.

Presence of an older boyfriend

Drug addiction

Withdrawal or lack of interest in previous activities

What is needed?

Education/prevention

More emergency and supportive housing

Medical and mental health services – providers need to have knowledge of sex trafficking

Help navigating the system – medical, mental health, legal, public assist, etc.

They need someone to believe in them and believe they are worth saving.

Contact Information

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APD

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SA Jolene Goeden

FBI

(907) 265-8119

Shattered Hearts

The Commercial
Sexual Exploitation
Of American Indian
Women And Girls

Summary Report
November 2009



The Minnesota Indian Women's Resource Center



Shattered Hearts

The Commercial Sexual Exploitation
Of American Indian Women And Girls

Summary Report
November 2009

Minnesota Indian Women's Resource Center



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Dedication

The full report and this executive summary are dedicated to Bill 'Big Wolf' Blake, who devoted his life to ensuring that Native children would have an environment where they could thrive in safety. Bill, a member of the Red Lake Nation and a Sergeant with the Minneapolis Police Department, was a passionate supporter of this project and an active participant in a meeting with American Indian elders, community leaders, and service providers to discuss this report and next steps just days before his unexpected death. Though we grieve his passing, we are immensely grateful for the time that we had him, and for his tireless work to prevent violence against our children. Thank you, Bill, and we wish you a good journey.

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- | | | |
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- | | | |
|--------------------------|---------------------|-----------------|
| Joy Persall, Board Chair | Janice Bad Moccasin | Marlene Helgemo |
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Background

The topic of this report is the commercial sexual exploitation of American Indian women and girls in Minnesota, including but not limited to sex trafficking. In 2006, the Legislature passed Minnesota Statute Section 299A.79 requiring the Commissioner of Public Safety to develop a plan to address current human trafficking and prevent future human trafficking in Minnesota. In 2008, Minneapolis was identified as one of thirteen U.S. cities having a high concentration of criminal activity involving the commercial sexual exploitation of juveniles.¹ The same year, The Advocates for Human Rights released its sex trafficking needs assessment, commissioned by the Minnesota Human Trafficking Task Force pursuant to a mandate from the Commissioner of Public Safety. Citing advocates' and law enforcement personnel's estimate that at least 345 American Indian women and girls had been sexually trafficked in Minnesota since 2005, the report noted the significant lack of information about American Indian victims and the relative absence of services to not only help them find safety, but to also heal from the trauma of life-in-prostitution.²

Police reports from Duluth showed that Native girls were being lured off reservations, taken onto ships in port, beaten, and gang-raped. Tribal advocates in South Dakota and Minnesota had also begun raising red flags, reporting that Native girls were being trafficked into prostitution, pornography, and strip shows over state lines and internationally to Mexico. In Canada, where the history and current circumstances of Native (Aboriginal) people closely parallel those of American Indians in the U.S., research studies were consistently finding Aboriginal women and girls to be hugely over-represented in the sex trade. An international report on the commercial sexual exploitation of children described Canadian Aboriginal and American Indian youth as being at greater risk than any other youth in Canada and the U.S. for sexual exploitation and trafficking.³

Closer to home, increasing numbers of Native women and girls entering MIWRC programs were disclosing that they had been trafficked into prostitution. MIWRC contacted other Native-specific agencies in the Twin Cities to ask what their case-workers were seeing in terms of sexual exploitation of Native women and girls. Several reported a surprising number of younger Native women coming in for domestic violence and sexual assault services, later acknowledging that their assailant had trafficked them for prostitution.

Despite Minnesota's significant efforts to identify and meet the needs of sex trafficking victims, to our knowledge there has never been any report describing the commercial sexual exploitation of indigenous girls and women in Minnesota or even nationally. To address that gap in knowledge, MIWRC approached the W.K. Kellogg Foundation about support to develop a report which would aggregate what was known to date about the commercial sexual exploitation of American Indian women and girls in Minnesota, and to develop a set of recommendations for addressing the needs of Native victims. The W.K. Kellogg Foundation agreed to support the project, which began in November 2008 and resulted in the comprehensive report that is the basis for this summary. The full report can be accessed and downloaded from MIWRC's website at <http://www.miwrc.org>

In 2007, a long time resident of the Supportive Housing Program at the Minnesota Indian Women's Resource Center (MIWRC) came into a staff member's office, saying she was looking for a job but no one would give her a break. The resident was having trouble completing her GED due to cystitis, and had very little useful work experience. She told the staff member that the only way she knew how to make money was to prostitute herself, and she did not want to go back to that. Her story, which she was disclosing for the first time, was alarming. She had been pimped out by her mother at the age of 12 to support the mother's crack habit. By the time she was 14 she had begun to pimp out other young girls to feed her own drug addiction. At the point in time when she walked into the staff member's office, she had done hard time in prison, given birth to six children, and lost custody of them all. The MIWRC staff member realized that under current Minnesota law, this resident was a victim of a federal crime: the prostitution of a juvenile under the Trafficking Victims Protection Act (TVPA). Rather than being recognized or protected as a trafficking victim, she was criminalized. Today, even though she has been repeatedly beaten and sexually assaulted by pimps and johns, she is ineligible for most federally-funded services and supports for victims of physical and sexual violence because of her prostitution arrests. And all she wants to know is, who will ever give her a chance?

Definitions and Terms

We recognize that men and boys are also victims of sexual exploitation, and our focus on women and girls is not intended to deny the experiences of male victims. Our intent is to examine the impacts that are gender-specific to females, so these definitions all refer to women and girls.

American Indian, Aboriginal, Native

We use the terms American Indian or Native when referring to indigenous people in the U.S., and Aboriginal or Native when referring to indigenous people in Canada.

Adolescents, girls, young adults, and youth

The terms "girls" and "adolescents" are used to describe females ages 12 to 18. The term "youth" includes young women and young men ages 12 to 24.

Commercial sexual exploitation

Commercial sexual exploitation is defined as the exploitation of a woman's or girl's sexuality for financial or other non-monetary gains, in manner that involves significant benefits to the exploiter and violates the exploited person's human right to dignity, equality, autonomy, and physical and mental well-being.⁴

Sex trade

The sex trade is the "business" of commercial sexual exploitation—transactions in which sexually-oriented activity is exchanged for food, shelter, drugs, transportation, approval, money, or safety. Similar to the slave trade, the vast majority of women and girls in the sex trade are exploited in exchange for survival needs and/or the benefit of a more powerful person.⁵ The sex trade includes:

- Street prostitution
- Escort agencies
- Massage parlors
- Brothels, "trick pads" and "sex party houses"
- Bars and clubs that sell "lap dances" and "private dances"
- Businesses that organize and sell "private parties" with strippers and nude dancers
- Strip clubs
- Pornography and live "sex shows"
- Phone and internet sex

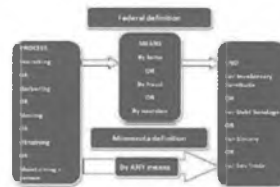
Prostitution

Prostitution is defined as the act of engaging in sexual intercourse or performing other sexual acts in exchange for money or other considerations, including food, shelter, transportation and other basic needs. We use the terms "in prostitution" or "involved in prostitution," and "prostituted" rather than "prostitute" because we find it unreasonable to assign a label to an exploited person that does not acknowledge the fact that she is being exploited. We choose not to use the term "sex worker" because it implies that prostitution is a career choice rather than a form of sexual violence.

We do not refer to battered women as 'battering workers'. And just as we would not turn a woman into the harm done to her (we don't) refer to a woman who has been battered as a 'batteree' we should not call a woman who has been prostituted a "prostitute." — Melissa Farley⁶

Sex trafficking

International, federal, and Minnesota laws all reflect the idea that trafficking involves the recruiting, harboring, receipt or transportation of persons in order to exploit them. The federal trafficking law requires that three elements be present for a crime to be considered trafficking (process, means, and end). In Minnesota, the victim is not required to establish "means" to prove that she did not consent. Rather, courts determine responsibility based on the conduct of the trafficker.⁷



⁷ Adapted from the Precision Network Institute on Human Trafficking.

The Trafficking Victims Protection Act of 2000 (federal law) defines sex trafficking as:

*The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under 18 years of age.*⁸

Minnesota law characterizes sex trafficking as a type of promotion of prostitution. In their 2008 sex trafficking needs assessment report to the State of Minnesota, The Advocates for Human Rights described the differences in sex trafficking definitions in Minnesota state law and federal law:

"... federal law requires that traffickers use the means of force, fraud or coercion to recruit or maintain an adult in sex trafficking while Minnesota does not. Minnesota law recognizes that a person can never consent to being sexually exploited and considers individuals who have been prostituted by others as trafficking victims. Federal law requires an assessment of the level of 'consent' of the prostituted person in determining whether the crime of trafficking has occurred."⁹

In the research literature described later in this summary, the average age of sex trade entry for women and girls in prostitution is age 12-14, which suggests that the majority of adult prostituted women were initially victims of juvenile sex trafficking under both federal and Minnesota law. We consider sex trafficking and pimping to be overlapping issues, since women's experiences in prostitution and sex trafficking are quite similar in regard to violence, control, exploitation, and the level of victimization.¹⁰ Therefore, in this summary and the report that is its basis, we use the State of Minnesota's definition for sex trafficking, with the understanding that women and girls involved in "survival sex" experience deliberate exploitation of their vulnerability, with a clear sexual benefit to the exploiter:

*...recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of an individual."*¹¹

Some states do not allow juveniles to be considered the victims of statutory sex crimes after the age of 15.¹² In Minnesota, the age of consent is 16, though criminal charges may not result in a conviction if the perpetrator is only a few years older than the victim. For instance, if the victim is 13, 14, or 15, coercion must be proven to convict the perpetrator of first-degree criminal sexual conduct if he is less than 48 months older than the victim.¹³ The Office of Juvenile Justice and Delinquency Prevention described the dilemma confronting police officers at the point of contact with juveniles involved in prostitution:

On the one hand, they are offenders involved in illegal and delinquent behavior. On the other, they are children who are being victimized by unscrupulous adults.¹⁴

The Advocates for Human Rights report that on May 21, 2009, the Minnesota Legislature unanimously passed and the governor signed a bill amending Minnesota's sex trafficking law, which will enable law enforcement and prosecutors to better hold the perpetrators accountable. Specifically, the amendments

Provide law enforcement and prosecutors with the ability to arrest and charge sex traffickers with higher penalties where an offender repeatedly traffics individuals into prostitution, where bodily harm is inflicted, where an individual is held more than 180 days, or where more than one victim is involved.

- increase the fines for those who sell human beings for sex;
- Criminalize the actions of those individuals who receive profit from sex trafficking;
- Categorize sex trafficking with other "crimes of violence" to ensure that those who sell others for sex are prohibited from possessing firearms; and
- Add sex trafficking victims to those victims of "violent crimes" who are protected from employer retaliation if they participate in criminal proceedings against their traffickers.¹⁵

Victim of commercial sexual exploitation

The definition for "victim" is perhaps the most contested and least resolved issue related to sex trafficking and other forms of commercial sexual exploitation. If the federal definition for sex trafficking is used, a victim must prove she did not consent. This requirement has led to controversy over whether a woman or child can ever give informed consent to be purchased and used for another person's benefit or gratification without regard for her own safety or well-being. Minnesota law defines a sex trafficking victim as anyone subjected to the practices defined as sex trafficking.¹⁶ Though the conduct of the trafficker is supposed to be the basis used by Minnesota courts to determine whether a person has been trafficked for sexual purposes, to date no one has ever been prosecuted for sex trafficking under the Minnesota law, so there is no "test case" for establishing victimization.

With the understanding that women and girls involved in "survival sex" experience deliberate sexual exploitation of their vulnerability with a clear benefit to the exploiter, the definition we use in this report for a victim of commercial sexual exploitation (which includes trafficking victims) is:

Any woman or girl who has been sexually exploited for the benefit of her exploiter, whether the exploiter receives some financial benefit or gains other things of value, including goods, power, or status. If the victim is under 18, she is automatically considered a sex trafficking victim.

Survival sex

We use the term "survival sex" to describe the exchange of sex for money and other considerations such as food, shelter, transportation, or safety by women and girls who often do not think of themselves as involved in prostitution and view this exchange as "what I have to do to survive."

Runaway and thrown-away

A runaway is defined as a girl who leaves home or a place of legal residence without the permission of parent(s) or legal guardian(s) for at least 24 hours. If a girl has been told to leave or was locked out of her home and told not to return, if she is a runaway who was not actively sought by her parent after leaving, or if her parent(s) or guardian(s) failed to provide food or basic needs and she left home to meet those needs, we consider her to be thrown-away.

Pimp or trafficker

We use both terms to describe a person who 1) promotes and/or profits from the sale and/or abuse of another person's body or sexuality for sexual purposes, or 2) who promotes and/or profits from the production and/or sale of sexual images made of that person.

John

Because it is the most recognized term for a purchaser for sexual services, we use the term john to describe an adult male who provides some type of compensation to engage in a sexual encounter with a woman or girl. It is important to remember that if the girl is under the age of 18, this person is a sex offender.

The Context

Understanding the context of Native women's experience in the history of this nation is critical for understanding Native women's and girls' unique vulnerability to commercial sexual exploitation. Four fundamental beliefs have been found to be essential for a coherent and resilient sense of self, which protects a person against sexual exploitation and/or helps a victim of such exploitation to heal:

- The world is a good and rewarding place
- The world is predictable, meaningful, and fair
- I am a worthy person
- People are trustworthy.¹⁷

The traumatic experiences of American Indian people during the colonial era and their constant exposure to new losses and new trauma each generation have had a devastating effect on Native people, families, and communities, and on their ability to sustain those four beliefs.

In the process of developing trade and military relationships with American Indian villages, early British colonists viewed the sexual and marital norms of Native communities through their own ethnocentric lens. As a result, they interpreted Native women's sexual and reproductive freedom to be proof of their promiscuity and depravity, and Native men's respectful acceptance of those freedoms as proof that they were too weak to assert their rightful authority over their women or their land. These attitudes justified colonists' assaults on Native women and Native land.

Following the establishment of the United States, the U.S. Supreme Court and Congress redefined the status of American Indian people, declaring that they were wards of the U.S. government and citizens of "dependent nations," stripping them of their rights to their land, to self-governance, and to negotiating as independent nations. As the new nation expanded westward, the U.S. government adopted formal extermination policies to clear Native-occupied land for settlement.¹⁸ Native women were primary targets of these policies due to their reproductive ability to assure the continuance of their people.¹⁹

A series of additional U.S. government policies further eliminated American Indians' ability to be self-sufficient, to transmit their language and culture to new generations, and to retain sovereignty over economic and political decisions that affected them. These included:

- The relocation of Indian people to remote rural reservations by the U.S. Army, where they were forced to depend on the U.S. government for all of their basic needs.
- The 1887 Dawes Allotment Act that split reservations into 160-acre parcels, each allotted to an individual head of a family. This legislation allowed the U.S. government to sell all unallotted land. In 1891 alone, the government sold over 17 million acres of Indian land.²⁰

*[Indian women are] of that tender Composition, as if they were design'd rather for the Bed than Bondage. [the] multiplicity of Gallants [was] never a Stain to a Female's Reputation. [the] more Whorish the more Honorable. [John Lawson, Surveyor for the Carolina Colony]*²¹

*[The men] are courteous and polite to the women, gentle, tender, and fondling even to an appearance of effeminacy. [King's Botanist John Bartram, describing Indians in the colonial Southeast]*²²

*I heard one man say that he had cut out a [Native] woman's private parts and had them for exhibition on a stick...I also heard of numerous instances in which men had cut out the private parts of females and stretched them over the saddle-bows and wore them over their hats while riding in the ranks. [U.S. Army Lieutenant James Cameron, describing Colonel Chivington's attack on Black Kettle's Cheyenne camp at Sand Creek, November 28, 1864]*²³

*The camp had been fired and the dead bodies of some twenty-two women and children were lying scattered over the ground; those who had been wounded in the first instance, had their brains beaten out with stones. Two of the best-looking of the squaws were lying in such a position, and from the appearance of the genital organs and of their wounds, there can be no doubt that they were first ravished and then shot dead. Nearly all the dead were mutilated. [U.S. Cavalry Lieutenant Royal E. Whitman, commanding officer at Camp Grant, describing Tucson citizens' massacre of peaceful Indians at the camp, September 1871]*²⁴

*[In the mission schools] these children were being indoctrinated into the rituals and beliefs of the Catholic Church. It was not out of the question for the abusers to warn the children that if they spoke about what happened to them that they would be committing a mortal sin and they would burn in hell, the children were required to go to confession at least once per week. Can you imagine their fear when they looked through the confessional screen and saw the face of the priest that had been abusing them? What were they to think? Don't you know that they were already suffering from the guilt pushed upon them by their abusers? When they saw the priest behind the confessional screen they knew that they had no one and nowhere they could turn for help. They buried what happened to them deep inside. [Tim Giago]*²⁵

*The haunting memories of forced relocation and broken promises on the part of the federal government have affected the overall well-being of the American Indian community. This has resulted in high rates of severe mental and physical health disparities. [National Council of Urban Indian Health]*²⁶

*The sterilization of Indian women affected their families and friends; many marriages ended in divorce, and numerous friendships became estranged or dissolved completely. The women had to deal with higher rates of marital problems, alcoholism, drug abuse, psychological difficulties, shame, and guilt. Sterilization abuse affected the entire Indian community. [Lawrence, 2000]*²⁷

- The removal of Native children from their homes, often forcibly, to attend government-funded residential boarding schools where they were severely punished for speaking their Native language, pressured to adopt the "superior" values and behaviors of the dominant Christian society, and subjected to physical and sexual abuse by school teachers and administrators.²⁸
- The Indian Relocation Program initiated in 1952, which promised financial support and good jobs to reservation Indians if they moved to major cities. By 1980, 75,000 had relocated, and when the promised assistance did not materialize, the result was high rates of severe mental and physical health disparities, unemployment, poverty, and alcohol abuse.²⁹
- Public Law 280, which authorized some states to unilaterally assume jurisdiction over criminal and civil matters on reservations. In Minnesota, only two tribes retained federal jurisdiction for criminal matters.³⁰
- A 1953 Congressional resolution to end federal relations with tribes as quickly as possible, resulting in the termination of 109 tribes by the early 1960s.³¹
- Partnerships with mainstream organizations to systematically remove Native children from their homes for adoption into white families, including the Indian Adoption Project and the Adoption Resource Exchange of North America (ARENA). By 1969, 25-35% of all Native children had been separated from their families, and between 1941 and 1978, 68% of all Native children had been removed from their homes and placed in orphanages or white foster homes, or adopted into white families.³²
- The sterilization of American Indian women and girls as young as 15 in an effort to control Native populations. By 1975, an estimated 25,000 American Indian women and girls had been given hysterectomies by Indian Health Services physicians without their consent, and sometimes without their knowledge during appendectomies and other surgeries.³³

The traumatic experiences of American Indian people during the colonial era and their constant exposure to new losses and government-sponsored new trauma each generation significantly reduced the ability of Native people, families, and communities to develop and sustain the four beliefs found to be essential for a coherent and resilient sense of self. The absence of time and safety to grieve losses and heal from trauma resulted in generational trauma, the passing of trauma responses to the next generation.³⁴ Research has found that when a dominant society refuses to recognize a people's grief and losses as legitimate, the result of this disenfranchised grief is sadness, anger, and shame, feeling helpless and powerless, struggles with feelings of inferiority, and difficulty with self-identity.³⁵ Together, generational trauma and disenfranchised grief have had a profound impact on Native communities' ability to protect their women and girls or respond in positive ways to those that are victims of sexual exploitation.

Today, Native women continue to have the highest rates of physical and sexual victimization in the nation. Over one-third of Native women will be raped during their lifetimes, compared to less than one in five women in the general population.³⁶ Native women in the U.S. are more than 2.5 times more likely to be raped or sexually assaulted than women in the general population.³⁷ Native women are also more frequently injured during a sexual assault. Half of the Native women who reported

having been raped in the National Crime Victim Survey also reported sustaining physical injuries during the rape, compared to 30 percent of U.S. women in the general population.³⁸

Lifetime rates of women's physical and sexual victimization, by race

Year	Authors	n	Sample	Type of victimization	Asian	White	Black	Hisp
1999	Walters & Simon ³⁹	68	New York City	Neopartner sexual violence	22%			
1999	Walters & Simon ³⁹	68	New York City	Interpartner violence	25%			
2000	Tajdal & Thornberry ⁴⁰	88	National	Intimate partner rape	16%	8%	7%	8%
1998	Tajdal & Thornberry ⁴⁰	88	National	Rape	34%	18%	15%	15%
2004	Milone, Duran & Montgomery ⁴¹	312	Oklahoma	Severe physical intimate partner violence	39%			
2004	Milone & Duran ⁴¹	422	Oklahoma	Intimate partner sexual violence	49%			
2003	Bohn, 2003 ⁴²	30	Minnesota	Intimate partner physical or sexual violence	87%			

*Note: Comparisons with other racial/ethnic groups are given when multiple groups were included in the study. Otherwise, the entire sample for the study was American Indian.

Though not specific to American Indian women or girls, research with prostituted women and girls in the U.S. has found even higher rates of physical and sexual violence:

- At least 84% had been victims of aggravated assault
- 49% had been kidnapped
- 53% had been victims of sexual torture, including being burned, gagged, hung, and being bound while body parts were mutilated by pinching, clamping, and stapling.⁴⁴

Canadian studies of prostituted girls and women, many of whom were Native, reported that most had experienced extreme violent victimization:

- 75% had sustained severe physical injuries from pimps and johns that included stabbings, beatings, broken bones (jaws, ribs, collar bones, fingers), and spinal injuries.⁴⁷
- Half had suffered concussions and fractured skulls when pimps and/or johns assaulted them with baseball bats and crowbars, or slammed their heads against walls or car dashboards.⁴⁸
- 68% were recently raped and 72% had been kidnapped.⁴⁹
- 90% had been physically assaulted in prostitution, 82% of whom described johns as their assailants.⁵⁰
- 83-88% describe verbal assaults as an intrinsic and extremely damaging part of prostitution. Johns called them names during sex intended to humiliate, eroticize, or justify the john's treatment of the women, often using racial slurs.
- In addition to violence at the hands of johns, the vast majority reported extreme physical and sexual violence by pimps, boyfriends, and husbands.^{51, 54, 55, 56, 57}
- The 1985 death rate for prostituted women was 40 times higher than that of the general population. Over 500 Native women have been reported missing over the past 30 years.^{58, 59}

For Native women, "colonial trauma response" resulting from violent victimization adds another layer of psychological impact to generational trauma and disenfranchised grief. Research has found that whenever a Native woman experiences racism, abuse, and/or injustice, it connects her to a collective, historical sense of injustice and trauma. Just as people with post-traumatic stress disorder are "triggered" to relive traumatic events they have experienced, Native women are "triggered" to connect their own traumatic experiences to those experienced by their female ancestors, in a very immediate and emotional way.⁶⁰ In particular, sexual assault, prostitution, and sex trafficking are experienced as a continuation of the colonization process, in which

All you have to do is drive down First Street and ask somebody. It is so frickin' visible. I can't even believe it... Where we're located right on the corner of First Ave East and First Street down here. [Second speaker] In Duluth, [First speaker] It's prime area for street prostitution and there's [three strip bars] there. So now, right around the corner from North Shore is another strip place, and so there's a lot that happens right there. The liquor store is right there too. So, especially in the summer... it's not invisible by any means, way, shape or form. If you even sit on a corner for a day you'll know who they are. Because people are coming, they're just getting into cars... I've overheard people negotiating prices, so it's really visible. [Advocate]

I work in the housing program portion of a women's shelter. I see the [Native] women and we accept the women escaping from prostitution. I did my data collection for a report and I couldn't believe how many people that we had... it was pretty close to 30 women, escaped from prostitution in a few short months. [Advocate]

The [Native] women are inside the bars and prostitution is happening in the bars, which makes it harder for the police to catch because it's not an outside thing. I see more of that coming down here... it's not just the pimps, it's the establishments that are making money off that girl being in the bar, bringing those patrons in because they know she's there on Wednesdays. And the young girls that want to drink, they get a fake ID. That's the prime way to get them in and recruit them. [Advocate]

Native women's sacred selves are exploited for the gratification of a person who claims the right to do so while ignoring or invalidating the impact on the woman herself.

Prevalence

Involvement in Prostitution

Advocates attending the two regional round tables reported that Native women's and girls' involvement in the sex trade is widespread. Advocates in the Duluth area reported that Native women and girls are highly visible in street prostitution and strip bars, especially when ships are in port and during times of the year when tourism is highest, such as hunting season and summer months. In Minneapolis, advocates reported that the most visible involvement of Native women in prostitution occurs in bars, especially strip bars. Their comments also suggest a large number of prostituted Native women seeking to enter women's shelters to escape prostitution.

The data collected from 95 Native women and girls entering MIWRC programs also suggest that the trafficking of Native girls and women into prostitution is a significant problem in Minnesota. Overall, 40 percent of new clients (37 Native women and girls over a 6-month period) reported involvement in some type of commercial sexual exploitation and 27 percent reported experiences consistent with the definition of a sex trafficking victim under current Minnesota law.

Very few research reports or publications have addressed the number of Native women and girls involved in prostitution in Minnesota. Prostitution arrests are often used to estimate the amount of prostitution-related activity in a given area. In a study based on analysis of Hennepin County Corrections data, researchers reported 70 women on probation for prostitution-related offenses in Hennepin County, 24 percent of which were American Indian.⁴¹

Over the six months that MIWRC screened incoming clients for sex trafficking, whenever one reported trading sex for shelter, food, drugs, money, or something else of value, MIWRC staff asked whether she had ever been arrested for a prostitution-related offense. Overall, 46 percent of those reporting survival sex or prostitution also reported at least one prostitution arrest, and 16 percent had three or more arrests. Of the 25 Native women and girls who met the state definition of a trafficking victim at the time they entered prostitution, 72 percent had been arrested for prostitution one or more times.

Data provided to MIWRC by Hennepin County Corrections show a total of 313 arrests for prostitution-related offenses in 2008. Twelve (4%) were American Indian women arrested for prostitution or loitering with intent to commit prostitution, almost twice their representation (2.2%) in the county's adult female population. Minneapolis Police Department data show a significant decline in the number of Native women arrested for prostitution-related offenses from 2004 to 2008, but a Minneapolis police officer reported that this reflects the low priority given to addressing prostitution when there has been no public outcry, rather than an actual decline in Native women's involvement in prostitution.⁴²

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We were unable to access any recent data showing the number of Native girls apprehended for prostitution-related offenses. A Minneapolis police officer and a Hennepin County Corrections staff member reported that by County policy, juveniles are no longer arrested for prostitution, but may instead be arrested for a status offense such as truancy or runaway.^{43,44} However, we were also unable to access any city, county, or state law enforcement data showing the number of Inuit or runaway American Indian juvenile females.

In 2007, the Minnesota Office of Justice Programs conducted an online human trafficking survey with service providers, nurses, and law enforcement statewide. Twelve respondents reported working with a total of 345 American Indian female victims of sex trafficking over the previous three years.⁴⁵ In response to OJP's 2008 human trafficking survey, twelve service providers reported working with a total of 79 American Indian sex trafficking victims in the three-year period prior to the interview.⁴⁶ The significant difference in the 2007 and 2008 numbers, which overlap by two years, suggests that one or more of the 2007 providers did not participate in the 2008 survey. These numbers were also estimates, since most respondents did not use a systematic method to track the number of Native victims.^{47,48}

In the absence of data to establish prevalence, estimates by advocacy groups working with women and girls in prostitution are often considered the most reliable. At Breaking Free, a non-profit organization serving women and girls in prostitution, Executive Director Vednita Carter has estimated that between 8,000 to 12,000 Minnesota women and children of all races are involved in prostitution on any given night, statewide.^{49,51} PRIDE (from Prostitution to Independence, Dignity and Equality), a program of the Family and Children Service of Minneapolis, estimates that there are at least 1,000 juveniles currently in prostitution in Minnesota.⁵² Neither of these advocacy organizations provided estimates for different racial groups.

In contrast to the absence of published reports on Native women's and girls' involvement in the sex trade in the U.S., there have been a fair number of Canadian studies on Aboriginal women's and girls' involvement in prostitution and other forms of commercial sexual exploitation. In all of the studies identified for inclusion in this report, the number of prostituted Native women and girls identified through the research was hugely disproportionate to their representation in the population. A national study involving 22 communities across Canada found that Aboriginal children represented up to 90 percent of children in the sex trade in some communities.⁵³ More recently, Canadian youth crime expert Michael Chettleburg estimated that 90 percent of all urban Canadian teenagers in prostitution are Aboriginal.⁵⁴ In five surveys of street-involved youth across British Columbia between 2000 and 2006, the McCrery

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Minneapolis arrests for prostitution-related offenses, American Indian females 2004 - 2008*

Year	2004	2005	2006	2007	2008
Prostitution	83	57	70	53	9
Loitering with intent	21	11	24	28	3
Promoting prostitution	1	3	2	3	-
Total prostitution-related arrests	112	71	98	84	12

*Data taken to MIWRC by the Minneapolis Police Department on December 19, 2008.

Percent of incoming MIWRC clients reporting involvement in prostitution and pornography at intake* (n=95)

Exchanged sex for:	Number	Percent
Shelter	24	25%
Food	14	15%
Money	32	34%
Drugs or alcohol	33	32%
Transportation	10	11%
Some other form of assistance (e.g. communication)	5	5%
Asked to recruit or pimp other girls	21	22%
Pressured/forced to pose for nude photos or videos	11	12%

*Some reported multiple types of sexual exploitation, so percentages may total more than 100%.

Percent of incoming MIWRC clients trafficked into prostitution by another person* (n=95)

Exchanged sex for:	Number	Percent
Shelter	10	11%
Food	7	7%
Money	17	18%
Drugs or alcohol	17	18%
Transportation	4	4%
Some other benefit	5	5%

*Some reported being trafficked for multiple benefits, so percentages may total more than 100%.

Native representation in Canadian studies of women and girls in prostitution

Year	Region	% Reported to be Native	Native % of population
2002	Vancouver BC ⁵⁵	52%	1.7-7.0%
2001	Victoria BC ⁵⁶	15%	2.0%
2001	Canada ⁵⁷	14.6%	2 to 3%
2001	Vancouver BC ⁵⁸	63%	1.7-7.0%

A lot of the [youth] drop-in centers now have computers. In St. Paul, they actually cleaned out their computers not too long ago, and they found quite a few of their youth that were uploading pictures off their phones onto the computers to post them onto Craigslist. [Advocate]

MySpace too. That's what I see with a lot of young girls, and starting to get victimized by men getting them to show their body or their body parts. [Second speaker] Seeing that sex texting stuff too, sending nude photos to people through their phones. [Advocate]

Centre Society, a non-profit community-based youth health research and youth engagement organization, found:

- The proportion of female Aboriginal street youth increased from 38% in the 2000 survey to 56% in the 2006 survey.
- Across all five surveys, 34-57% of the street youth reporting involvement in prostitution were Aboriginal.
- Of the street youth that were Native females, the various surveys found that 24-56% had been prostituted.⁵⁹

Involvement in the Internet Sex Trade

Several of the advocates attending the regional round tables described younger Native girls' use of technology and experiences with being caught up in the internet-based sex trade. The advocates identified Craigslist as a site commonly used to prostitute Native girls and women, and noted pimps' use of the internet to recruit Native teen girls from the Twin Cities for the stripping and prostitution circuit in the northern part of the state during hunting and tourist seasons. A Minneapolis police officer with extensive experience working with prostitution crime confirmed that in the Twin Cities, Craigslist is a primary venue for the commercial sexual exploitation of Native women and underage girls.⁶⁰ Canadian research has also found Native women and girls involved in online pornography. In Vancouver, British Columbia, almost two-thirds (64%) of the prostituted women interviewed for a study (over half of whom were Aboriginal) reported having had pornography made of them.⁶¹

In 1999, the Hofstede Committee Report on juvenile prostitution in Minnesota called attention to the ease with which Johns could use the Internet to download naked images of underage girls, converse with their pimps, make appointments, and still retain anonymity. The Committee noted that law enforcement was challenged in two ways: determining the girls' ages, and distinguishing between legal escorts and prostituting women.⁶² A recent study of prostituted women and girls in Chicago found that almost ten percent were in contact with Johns through the Internet, specifically Craigslist. In addition to the online sex trade options described 10 years earlier by the Hofstede Committee, Johns were also able to access live, interactive strip shows and sex shows via web-cam, still relatively invisible to law enforcement.⁶³

Patterns in Entering the Sex Trade

Age of Entry

Ten years ago, the Hofstede Report on juvenile sex trafficking reported that 14 was the average age at which girls entered prostitution in Minnesota.⁶⁴ In the past few years, Vednita Carter, Executive Director of Breaking Free, has described the average age of

entry into prostitution as 13, but she recently announced that her organization is seeing a larger number of younger girls.⁶⁵ At the round tables hosted by MIWRC in Duluth and Minneapolis, advocates reported that the Native women and girls they work with have entered prostitution and other types of commercial sexual exploitation at various ages related to specific life circumstances. Most agreed that Native girls in prostitution enter the sex trade around the age of 13, but some noted that women in their late 20s and early 30s enter the sex trade to support their children when their 5-year eligibility for public assistance has ended and they are unable to find jobs.

Of the 37 Native women and girls reporting commercial sexual exploitation during intake at the Minnesota Indian Women's Resource Center, almost half (42%) were 15 or younger when they first entered the sex trade, and over 20 percent were 12 or younger. One 14-year-old had been trafficked into pornography at the age of 11, reporting that she had been photographed or filmed for pornography 10 times in the previous six months. Almost one-fourth (24%) of the incoming clients reporting involvement in prostitution had entered at age 27 or older, which supports the advocates' emphasis on Native mothers' vulnerability when their public assistance eligibility has ended.

In Seattle, an area similar to Minneapolis in its population of low-income American Indians, findings from studies of women and girls in prostitution found similar early ages of entry.

- In one study with women and girls in street prostitution, escort services, strip clubs, phone sex, and massage parlors, 100% had entered the sex trade between the ages of 12 and 14.⁶⁶
- A study published in June 2008 found that girls entered prostitution around the age of 12 or 13.⁶⁷

No research was identified that estimated the age of entry for prostituted American Indian girls or women in the U.S. However, several Canadian studies reported the average age of Aboriginal girls entering the sex trade as 14, noting that some start as early as the age of nine.^{68,69,70} The most recent Canadian research we identified suggests that Aboriginal girls are entering prostitution at younger ages than in years past. Citizen groups conducting safety patrols in Winnipeg have reported children as young as eight years old being approached on the street or in back lanes by men in vehicles, presumably for the purpose of sexual exploitation.⁷¹ A 2002 study by the Urban Native Youth Association in Vancouver also found commercial sexual exploitation of children as young as nine, with 11-13 being the average age of entering prostitution.⁷²

Modes of Entry

Stripping, Exotic Dancing, and Escort

The advocates attending the two regional round tables described bars and strip clubs as prime recruiting grounds for pimps, asserting that bar and club owners are often complicit. In both Duluth and Minneapolis, advocates mentioned a "circuit" moving Native girls recruited as "dancers" to various strip clubs throughout



Age when MIWRC clients entered prostitution/pornography (n=33)*

Age at entry	Number	Percent
8-12	7	21%
13-15	7	21%
16-17	7	21%
18-21	5	15%
27-38	6	18%
39-55	1	3%

*Age was not documented for four clients that reported involvement in prostitution

Everybody I've come across has been young [at the time they entered prostitution]. Like, 12, 13, 14 sometimes 15. I met one woman who was maybe 19, she was really the exception. There's definitely that 12-15 range. They seem like babies! [Second speaker] I think the older age group are those [ages] 20 to 30 with young kids and their 5-year MFIP has run out. [Advocate]

Several of [our prostituted clients] have talked about when they started, and the youngest so far was 12. [Advocate]

They're letting underage girls into stripping. They [pimps] helping them get their fake IDs and stuff. There are 16, 15-year-olds stripping in town here. [Advocate]

Some pimp, male or female, has put this all together and provided everything and just told her "All you have to do is dance. When you talk about entering prostitution, dancing doesn't seem as hard to the individual as actually street-walking. You don't look at it as if you're doing anything wrong, because you go to clubs and nowadays the dancers in clubs are more seductive than some of the stuff the girls do on the stage." [Advocate]

You can walk into any strip club and you know the people who work there are recruiters, so it seems so much less dangerous. I don't think other people think of it as sexual exploitation. [Second speaker]
There's a couple of pimps up at [a local club] right now who've got a couple of girls. I know a few people who started off cocktail waitressing at a strip club and then it becomes normalized and then they're stripping. I had a friend who was cocktail waitressing and then she got a \$4,000 tip from a football player, and then after that she was stripping. [Advocates]

[One of the girls in my family, she asked her father "What do you think about stripping?" because her friends are doing it and it's just becoming more and more common. [Advocate]

One woman [dancing in a rural Midwest strip club] had her pimp along, and she had to meet the quota. So she had to do whatever it takes to get that money. The men shoved bullets up her, beer bottles, shoved dollar bills up her. [Heidi Somers, a survivor of prostitution and stripping, when giving a talk in Moorhead, Minnesota]



With runaways, it's a place to sleep. [Second speaker] Yeah, so they're already doing survival sex kind of stuff. But it's like, "Don't worry, you won't need to go out on the street anymore. You won't need to do this. You can just stay here. And then pretty soon it's like, 'You know you have to start contributing, I'm not going to financially cover you. So, here, I can get you set up doing this. You're so hot, you're so good looking, you should go strip.' [Advocate]

Guerrilla pimping:

- Using threat, physical violence, and intimidation against a girl or woman to coerce her into prostitution and to prevent her from trying to escape

- Using threat of harm to someone a girl cares about (usually her mother or siblings) to coerce her into prostitution and to prevent any efforts to escape¹⁶⁵

A couple of girls had talked her into it. Kind of bribed her... like the description of "Look at this, look at what I have, you should come up here it could be yours too." And then... when she got up here, she realized she didn't want to do this and she thought she could walk away, but she couldn't. These girls actually beat the crap out of her, so she ended up in the hospital. Somebody, not her, called the cops, but she was a mess and they beat the hell out of her. And the guy [pimp] had never had anything to do with it. [Second speaker] He didn't have to. They're handing it. [Advocates]



the state and sometimes to other states. A study involving interviews with dancers in rural Midwest strip clubs found that in addition to working as strippers, many reported being required to accept degrading treatment by customers, provide the club manager with sex during the "job interview," and allow the manager to prostitute them to customers.¹⁶

At the round tables, advocates in Minneapolis and Duluth reported that once Native girls begin dancing in strip clubs, they are quickly taken over by a pimp who moves them from place to place, prostituting them out of the bars and clubs in the circuit. Findings from the 2007 and 2008 surveys of advocates and law enforcement personnel conducted by the Minnesota Office of Justice Programs support the round table advocates' reports. In both OJP surveys, respondents reported that traffickers were moving Native female victims from reservations to the Twin City metro and other cities, from one city to another, and from Minnesota to another state.¹⁷

Regardless of what part of the sex trade girls enter, research has found that they are frequently involved in more than one type of commercial sexual exploitation, and pimps are usually involved in recruiting or "managing" them. A study in Chicago found that 28 percent of prostituted girls started as escorts when first recruited, and at the time of the interview 41 percent were working for an escort service. Almost 93 percent of those that entered the sex trade via an escort service had a pimp at recruitment. In addition to involvement in prostitution via escort businesses, 43 percent were also trading sex at private parties and 68 percent were also trading sex at a hotel.¹⁸

Canadian research has found similar patterns. Aboriginal girls are often recruited as dancers in their early teens and then moved across Canadian provinces for "dance shows," where they quickly enter prostitution. Eventually losing ties with their communities, they become even more vulnerable as they age, and are often moved by pimps into more dangerous areas of the sex trade.¹⁹ Similar to the U.S. studies, most are involved in multiple areas of the sex trade. A study in Victoria, BC found Aboriginal and other women in prostitution involved in one or more other types of commercial sexual exploitation, including street prostitution, strip bars, and escort agencies. Though they represented only two percent of the region's population, 15 percent of the women and girls in escort services were Aboriginal.²⁰

Recruitment by Pimps and Gangs

At the round tables, advocates reported that a significant number of the prostituted Native girls and women they see were recruited into the sex trade by pimps (male and female), gang members (male and female), or Native girls or women managed by pimps. Advocates in both Duluth and Minneapolis described the ways that pimps and their recruiters target the most vulnerable American Indian girls and women:

- Recruiting young Native girls at parties in houses that are deliberately set up for recruitment purposes—on reservations, in Duluth, and in the Twin Cities
- Inviting young Native girls on reservations or in Duluth to go on a road trip or to a party, taking them further and further from home until they have lost all contact with people that might help them escape
- Posing as "boyfriends" interested in a long-term commitment, then convincing the girls to begin stripping or prostituting to "help out"

as her boyfriend. The advocates described the types of pimps and recruiters they have most frequently encountered in their work with prostituted Native girls and women:

- African-American men from Chicago (usually affiliated with Gangster Disciples) who appear in Duluth at various times of the year to take over and organize prostitution in the area
- Latino and American Indian members of Latino gangs in Minneapolis, often girls' boyfriends
- Native Mob members who move back and forth between Duluth and Minneapolis
- Native girls and women in a "ring" managed by a gang-affiliated pimp
- Native girls and women who are gang members themselves and are trying to raise their status in the gang by forcing other girls and women into prostitution as a source of revenue for the gang
- Landlords targeting Native women with children, forcing them or their children into prostitution by threatening the family with rent increases and/or eviction

The data collected from incoming MIWRC clients over a 6-month period also reflect guerrilla recruitment (recruitment by force) by prostitution rings and gang members. Whenever incoming MIWRC clients met the state definition of a trafficking victim, MIWRC staff asked them to describe any factors that might put them at risk of re-involvement in commercial sexual exploitation. Eighty percent of the younger women and adolescent girls reported that they were at risk of further commercial sexual exploitation due to fear of violence against themselves or others; one specifically said she had been trafficked into prostitution by a gang.

Findings from the 2007 Minnesota Student Survey strongly suggest that American Indian girls in Minnesota are more affected by gangs than girls in the general population. Girls identifying as "Indian only" in the Minnesota Student Survey also reported concern about gang activity at their schools: 32 percent of 6th grade and 26 percent of 9th grade Native girls reported that illegal gang activity was a problem at their school, compared to 16 percent of girls in the general population. Minnesota Student Survey participant responses also showed that 28 to 33 percent of Native girls in the 6th grade had been threatened at school in the previous 12 months, compared to 20 percent of girls in the general population. It cannot be determined how frequently these threats are part of guerrilla recruitment, but they clearly indicate Native girls' lack of safety at school.

Gang research in the U.S. and Canada supports the advocates' stories of Native girls trafficked into prostitution by gangs. In 2001, an international study of the commercial sexual exploitation of minors in the U.S., Canada, and Mexico found significant gang involvement. The research team reported that girls affiliated with Native gangs were expected to provide male gang members with sex on demand.¹⁶⁸ A Minnesota study of gang members conducted from 1995 to 1998 involved interviews with 100 current and former gang members, 14 of whom were Native members of Latin Kings, Vice Lords, Gangster Disciples, and Native Mob. Most of the Native girls participating in the study reported that they provided male gang members with sex on demand and/or were trafficked for drugs and money. Several Native male gang members interviewed for the study reported their gangs' use of guerrilla pimping methods.¹⁶⁹

- Promising girls "quick money" and a glamorous career as a dancer, then using force or persuasion to convince them to begin prostituting
- Approaching girls ages 12-14 on the street in poor neighborhoods to offer money for nude photos, work as "exotic dancers," or other sex-related activities
- Coercing Native women and girls under their control to enter shelters and drop-in centers for homeless youth, to recruit Native women and girls in desperate need of shelter and safety

Similar to what advocates reported at the round tables, a study with adolescent girls in corrections placement for prostitution in the Midwest found that they had been approached by pimps and recruiters in many locations: while walking, hanging out with friends on the street or at corner stores, at friends' homes, and even outside the juvenile justice center while waiting to meet with a probation officer.¹⁶³

A 2005 study of prostituted adolescent girls in Atlanta identified a two-stage strategy used by pimps to prepare a girl for prostitution, much like the process described by the advocates attending the round tables. Initially, the pimp makes the girl feel attractive and valued, develops a sexual relationship with her, spends money on her, introduces her to drugs, and constantly assures her that she is "special." By the end of this first phase, the girl has formed a deep attachment to her "protector." In the second phase, the pimp moves her around to eliminate her relationships with family and others, then breaks her will and self-esteem through physical and verbal abuse. At this point, the girl has no option to refuse when the pimp pressures her to begin prostituting. The study found that women played multiple roles in this process: pimps, recruiters, groomers, watchers (who make sure girls get to and from their assigned locations), and wife-in-laws (other women trafficked by the same pimp living together and managed by either the pimp or the woman closest to him)¹⁶⁴

Similar to the advocates' descriptions at the round tables and studies in the U.S., Canadian research has found that pimps coerce Native women and girls under their control to approach friends and peers with tales of a better, more glamorous lifestyle in the sex trade. Also similar to the accounts of the Minnesota advocates, Canadian studies have found that pimps recruit Aboriginal girls by inviting them to parties at "trick pads," providing them with drugs, and then trafficking them for prostitution.¹¹¹ A 2004 Canadian report indicated that drug dealers and gang members have taken over most pimp-controlled prostitution, so many using the same grooming process that is seen in finesse pimping, and in 2005, Canadian school administrators reported that pimps and their recruiters have begun targeting adolescent Native girls on school grounds.^{114, 115}

Advocates attending the round tables in Duluth and Minneapolis reported that in most cases, a Native girl or woman controlled by a pimp described that person

Finesse pimping: Grooming a vulnerable girl for prostitution to the point that her emotional dependency on the pimp and her drug habit make it impossible for her to refuse a pimp's request that she enter the sex trade. Typical steps in the "grooming" process are:

- Encouraging the girl to move in with the pimp/recruiter (male or female)
- Taking care of her basic needs
- Purchasing small gifts
- Providing free drugs
- Generally treating her with great kindness
- Once she feels obligated to repay the pimp, pressuring her with "opportunities" for a local the "troubling" career working for an escort service
- When she agrees moving her quickly into prostitution as a source of income for the pimp.¹⁶²

They're just these really beautiful girls and these men will sit there and stroke that. Like, "You're so beautiful," and then just start to turn them into objects. Talking about their body like, "Oh, this is so nice about your body, or your body is so much better," and the pimp starts to separate them from the other girls. It is so intentional. [Advocate]

The older guys will look for the younger girls at parties. And then what happens is they'll start, like, dating or seeing the pimp... so they engage that way and then [the pimp will] take 'em, like 'Let's go down to the cities for a trip, and then they'll be brought down to the cities. And then it'll be 'Let's go down to Morton,' and they'll get further and further away, until they end up in Illinois or Iowa and then they're stuck. [Advocate]

They [pimps] are working them right out of the shelter... there are women that will pose [as battered women] to get in the shelter and bring women out... And that homeless youth drop-in center, that is a target place and it has been a target place ever since it's been open, and it continues. And advocates are always trying to figure out, you know, you want kids coming in for services, how you keep them safe. [Advocate]

Recent U.S. studies suggest that Native gangs are growing rapidly, and expanding into drug trafficking activities. In 2006, *Minnesota Public Radio* reported that authorities estimated there were hundreds of young Native men on White Earth, Red Lake, and Leech Lake reservations that consider themselves part of a gang.¹⁶⁶ In January 2009, the National Gang Intelligence Center announced that several American Indian gangs, particularly Native Mob, had expanded beyond Indian Country, on and off reservations. Native Mob was described as one of the largest and most violent Native American gangs operating in the United States, with most of its activity centered in Minnesota, Michigan, Wisconsin, North Dakota, and South Dakota. The report noted that Native Mob and other urban and suburban gangs in Minnesota are expanding their drug distribution activities, sometimes working in conjunction with Mexican drug trafficking and criminal organizations.¹¹¹

In 2007, the Native Women's Association of Canada (NWAC) reported that Native girls were currently being "banged-in" by four different Native gangs, required to have sex with multiple members of the gang in order to become a member.¹⁶⁷ A study in Winnipeg also found significant involvement of Native women and girls with gangs. Most "gang girls" were between the ages of 14 and 24, though the fastest-growing segment was under the age of 16. Female Native gang members frequently used guerrilla pimping methods to recruit girls for prostitution to increase their own status in the gang, much like the stories told by the advocates at round tables.¹¹⁷

As this report was being completed, a flurry of news articles described rapid expansion of Native gangs in Canada. Speakers at a May 2009 conference hosted by the National Aboriginal Gang Commission described Native gangsters' growing involvement in drug trafficking and prostitution, branching out to own strip clubs and produce pornography. De Lano Gilleys, a gang expert from the U.S., warned conference attendees that addressing younger Native youth's admiration of the gangster lifestyle is of critical importance, saying, "These wanna-bes are the gonna-bes."¹¹⁸

Recruitment by family and friends

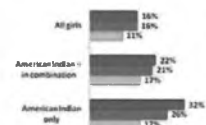
The advocates at the round tables described a recent trend. Native girls in their early teens recruiting their friends for stripping and/or prostitution by promoting the idea that the sex trade is a glamorous way to make "quick money." The intake data collected by MIWRC over a 6-month period also showed that in over half the cases of Native women and girls reporting that they had been involved in prostitution, a friend was the primary recruiter, sometimes managed by a pimp.

One of the most disturbing findings of the round table discussions was the frequency of reports that Native adults were involved in trafficking their young female relatives. One of the Duluth advo-

The latest one that I had contact with, she's twelve years old. She's a gang member now... She fought it, trying to stay away from [the gang]. She kept coming to me for about a month. Because of her friends, her family, the sort of lifestyle, where she lived, it was all around her. And her friends kept saying, "Oh, come on, come on, Joan, you've got to be part of it." And then she came one Sunday, and she pulled out her rag [gang bandana] and said, "I'm a member. I was initiated over the weekend. She was 'jumped in,' beat up, and she had to do something I'm afraid she's going to have to do a lot more. [Canadian advocate working with Aboriginal girls, cited in Nimmo, 2007]

When you get a girlfriend, she gotta be gang raped. She's gotta go around and get boned by all of us guys. All of us Kings. We meet girls and stuff at pow-wows and they hang around with us and then they get the idea that we wanna go out with them, but we really don't. And then they just bring it up. "Is it all right if we roll with you? Make us a Queen or something?" Then we're like, "Yeah, we'll make you a Queen." Then we'll take them back to our house... Everybody on the rez has got their cellular phones or their pagers. Then we'll each get a pager and we'll go call somebody and say, "Hey, there's a gonna be an initiation... You take them in your bedroom or on the couch. In the back or down in the basement. Wherever. Then whenever they're done, they'll come out. Then whoever is next, they'll take. She stays in the bedroom. She can't come out and then whoever got done with her will come back out and say "Hey, whoever's next, go ahead." [Native male Latin King gang member, Minnesota study, quoted in Harrington and Cavett, 2000]

Girls reporting "illegal gang activity is a problem at my school"



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It's a family affair when they're younger and then at some point there's a shift where they can start getting some of their own money in their own hands. So they're looking at it look like. [My mom moves me around my mom gets my money. If I work with someone who gives me a cut. I get my money.] [Advocate]

We just talked to a young girl that walked into my office that was 14 years old, that was recruited when she was 12 by another 14 year old girl. Which is not as intimidating when your girlfriend comes over and says, 'hey, come see what I'm doing to make some money.' [Advocate]

I see [viewing the sex trade as glamorous] as a new trend for the ones that I am working with. [Second speaker] They're all into that glamorized type of talk amongst one another. [First speaker] And I see more of the stuff that comes through Duluth as being more glamorized. And the girls recruiting other girls because then they won't have to do so much work and that's what they're expected to do. Then the girls fight amongst each other over this guy! [Advocate]

cases reported that of the three Native pimps she had encountered in her work with prostituted Native women and girls, two were mothers trafficking their children. In both Duluth and Minneapolis, advocates indicated that being trafficked by a family member generally led to a girl seeking out a pimp so she could have access to her own money.

The information collected from incoming MIWRC clients supports the advocates' accounts. MIWRC staff report that new clients are frequently reluctant to admit family involvement in prostitution at intake, but many disclose this information after getting to know and trust program staff. Despite this reluctance, five (18%) of the 28 new clients that disclosed involvement in prostitution and also identified their recruiter said that adult family members had prostituted them when they were children or young adolescents.

Though we were unable to identify any research that focused specifically on Native girls, some U.S. studies have found family involvement in prostituting their children while others have not. In a large study of commercially sexually exploited youth in the U.S., Canada, and Mexico, researchers found that molestation by family members was a common type of child sexual exploitation, but there was no mention of trafficking by family members.¹¹⁹ In contrast, research in Atlanta and Chicago identified significant involvement of families and friends in the sex trafficking of underage girls. One Atlanta study found that while pimps' use of female recruiters was becoming increasingly common, these recruiters were frequently a girl's peers or family members, male and female. In some cases, they were siblings only slightly older than the girls being recruited.¹²⁰ A Chicago study found that 19 percent of the prostituted women and girls in the sample had been recruited by a friend, and 10 percent had been recruited by a family member, most often a sister or a cousin.¹²¹ Recent research in Ohio also found that underage girls were usually recruited for prostitution by a friend or a friend of a friend who worked for a pimp, often someone they knew from their neighborhoods.¹²² Some researchers have reported that youth in conflict with their families frequently have friends and siblings already in prostitution, and that many of these youth become involved in prostitution as a way to assert their autonomy and make money.^{123,124}

Canadian research with prostituted Native women and youth has reported findings very similar to the advocates' stories at round tables and the data collected from incoming MIWRC clients. One Canadian study of 150 commercially sexually exploited Aboriginal youth found that they often had friends who had told them about the "easy money" and the potential to have some control over their lives by entering the sex trade. Other Canadian studies have found family-based sex trafficking to be quite common in some Aboriginal communities.¹²⁵ In one study with 45 Native women in prostitution, almost one-fourth were from families involved in prostitution; five had sisters in prostitution, four had mothers in prostitution (one of whom also had a prostituting grandmother), two had fathers that were pimps, and one had a father that pimped both his wife and his daughter.¹²⁶

Factors that Facilitate Entry

Generational Trauma

At both round tables, advocates kept returning to the impact of historical trauma and the cultural loss resulting from it as they talked about the unique vulnerability of American Indian girls to commercial sexual exploitation and the absence of safety in Native girls' lives. Though a significant body of research in the U.S. links generational trauma to substance abuse, child abuse, and violence in American Indian communities, we were not able to identify any that describes the role of historical trauma in the commercial sexual exploitation of American Indian women and girls.

Several Canadian studies with prostituted Aboriginal women and girls in Canada have also found historical trauma and generational trauma to play important roles in Native girls' entry into the sex trade. In her findings from research with sexually trafficked Aboriginal girls, Anupriya Sethi described the legacy of colonization and residential schools as a root cause of their vulnerability to recruitment for prostitution.¹²⁷ In a study of prostituted Aboriginal youth in 22 Canadian communities, the Native researchers that conducted the research reported that every youth participant in their focus groups spoke of the physical, sexual, and/or emotional abuse they had experienced in their home lives. The researchers found that the parents, relatives, other caregivers, and neighbors in these youth's lives all suffered from the legacy of cultural fragmentation, unable to break the cycle of pain and despair and turning to alcohol, drugs, and violence to deal with feelings of hopelessness.¹²⁸

The advocates attending the MIWRC round tables emphasized that though each of the facilitating factors described below is an influence that increases the likelihood of a Native girl entering the sex trade, every one of them is a result of historical/generational trauma and cultural loss.

Runaway, Thrown Away, and/or Homeless

The vast majority of advocates attending the round tables described homelessness as the major factor in Native girls and women's entry into the sex trade, whether it be a result of running away from home to seek glamour in the big city, leaving home to escape violence and abuse, or losing housing because of poverty. Native girls' responses to the 2007 statewide Minnesota Student Survey support the advocates' accounts of Native girls' risk related to running away and homelessness: 25 percent of 9th-grade Native girls reported having run away at least once in the previous 12 months, compared to 11 percent of girls in the general population.

Some advocates talked about their own and other Native women's experiences in prostitution, reflecting that trading sex can seem like a reasonable choice when there was no other way to support and sustain yourself or your children. At both round tables, the advocates also identified the need for safe shelter as the strongest force keeping Native girls and women in prostitution when they want to leave it.



Who recruited MIWRC clients into prostitution (those that named their recruiter) (n=28)*

Recruiter	Number	Percent
Friend/friend	14	50%
Family member (mother, aunt, step-uncle, uncle)	5	18%
Boyfriend	5	18%
Pimp/gang landlord	3	11%
Neighborhood self	3	11%

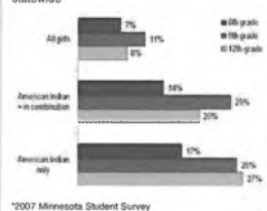
* Nine clients that reported involvement in prostitution did not identify the person that recruited them, and several clients were recruited by two people acting together, so percentages add to more than 100%.

A lot of the women who are being prostituted it's just the bottom line that was there. The majority of the time it means that we need to recognize where this came from in our communities. I mean, American Indian people say over and over again 'This is not how we treat our children. This is not how we are as far as respecting youth.' And I think traditionally that was true, but something dramatic like genocide happened. It was like a nuclear bomb, so the war site is exactly the best example of what happened to our communities. [Advocate]

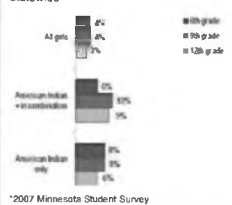
Kids running away. Running away from home. I work with the girls on reservations, there is nothing going on, they don't know what to do... [They say] 'I'm outside here. I have family in Duluth, I have a sister in Duluth or someone in Duluth.' It seems like Duluth is the place to be. Easier to get to, it's friendly... That's a lot of the wording. 'I gotta get out of here, there's absolutely nothing, I got nothing, I got to live wherever I can live.' [Advocate]

There's the survival aspect. And that's what they're doing, the ones that I see out on the reservation. They would never identify themselves as prostituting or using sex to get what they want. But that's what they're doing. [Advocate]

Girls that ran away in the past 12 months, statewide*



Girls' reports of sexual abuse at home, statewide*



Studies with prostituted women and girls in the U.S. have consistently found that 50 to 75 percent ran away from home as adolescents.^{129,130} In the Hennepin County study with women on probation for prostitution described earlier, 61 percent of the participants reported that they had run away when they were minors, most frequently because of "family problems."¹³¹ Children of the Night, a national organization that works to rescue children from prostitution, says that of the one and one-half million children that run away each year in the U.S., it is safe to estimate that about one-third will have some type of involvement with prostitution and/or pornography.¹³²

Research has consistently found that when youth run away from home with no place to go, it is usually because of parental neglect, physical or sexual abuse, family substance abuse, and/or family violence.^{133,134,135,136} In one study, 43 percent of runaway adolescents said they had left home because of physical abuse, and 24 percent reported leaving because of sexual abuse.¹³⁷ A 1999 study with runaways in medium-sized Midwest cities found that:

- 81% had been pushed or grabbed in anger by an adult in their home
- 64% had been threatened with a gun or knife
- 59% felt neglected
- 28% were abandoned by their parents for at least 24 hours
- 21% had been forced by a caregiver to engage in a sexual activity.¹³⁸

The National Center for Missing and Exploited Children reported that up to 77 percent of prostituted teens ran away from home at least once before turning to prostitution to meet survival needs.¹³⁹

Runaway and thrown-away youth have very few legitimate ways to pay for their basic needs. Getting a job is very difficult without an address, phone number, high school diploma, work experience, or references, and even if they succeed, they usually do not have the identification needed to open a checking account or cash a check. Some fear being sent back home if they use their real name or home address.^{140,141}

Research with Aboriginal youth in Canada has also identified running away from home and homelessness as major risk factors for entering prostitution. One study that analyzed 400 youths' social services case files in two large Canadian cities found that while 44 percent of the Aboriginal youth that ran away at least once had begun prostituting, only 13 percent of Aboriginal youth that never ran away entered the sex trade.¹⁴²

Homelessness, whether it occurs as a result of running away, being thrown away, or because of family poverty, has also been identified as a primary risk factor for the commercial sexual exploitation of youth in the U.S.¹⁴³ One study found that being homeless for more than 30 days is the single most determining factor in young children and teens entering prostitution, and youth advocacy groups report that homeless youth can expect to be approached by a pimp, john, or drug dealer within 36 hours when they are first on the street.^{144,145,146}

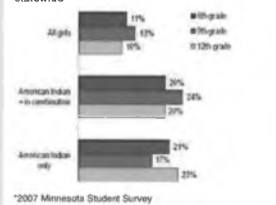
In the 2006 Wilder Research statewide study of homelessness, non-reservation American Indians represented 28 percent of the unaccompanied youth ages 17 or younger in outstate Minnesota and 12 percent in the Twin Cities area, though they represent only two percent of Minnesota's total youth population.¹⁴⁷ Over the years that the Wilder Research has conducted this study (every three years since 1994), there has been a 100 percent increase in the proportion of American Indians in the category "unaccompanied homeless youth," from 10 percent in 1994 to 20 percent in 2006.¹⁴⁸ Sixty percent of the participating Native girls ages 17 and younger reported having left home to be on their own by the age of 13.¹⁴⁹

In research with commercially sexually exploited youth in Canada, interviewees found very high rates of homelessness prior to entering prostitution, and also while in prostitution. In Winnipeg, where a significant proportion of prostituted youth are Aboriginal, researchers found that 86 percent of prostituted youth had been homeless for 40 days or more.¹⁵¹ The McCreary Centre Society reported similar findings from five surveys of British Columbia street-involved youth that it conducted between 2000 and 2006. An average of 61 percent of youth across all five surveys reported a great need for safe housing.¹⁵² Other McCreary Centre Society findings that were consistent across several surveys include:

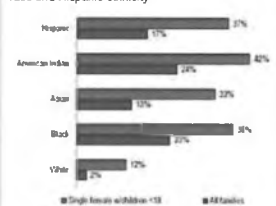
- 34-57% of prostituted youth on the street were Aboriginal
- 34-44% of younger prostituted youth were living or had recently lived in precarious housing situations (on the street, couch-surfing, and staying in shelters, transition houses, hotels, squats, abandoned buildings, tents, and cars).
- 50% of older prostituted youth had lived in precarious housing during the past year
- 95% of older prostituted youth had lived in precarious housing at some point in time.¹⁵³

Studies in the U.S. and Canada have found that 84 to 90 percent of adult women in prostitution are currently homeless or have been homeless in the past.^{154,155} In Vancouver, one study in which over half of the participants were Aboriginal women

Girls' reports of physical abuse at home, statewide*



Percent of Hennepin County families in poverty by race and Hispanic ethnicity¹⁴⁶



Poverty-related reasons homeless Native girls and women left stable housing*

Reason	Age group		
	<18 (n=20)	18-21 (n=31)	22+ (n=68)
Could not afford rent/mortgage payments	25%	39%	42%
Eviction, foreclosure, or lease was not renewed	25%	33%	39%
Family lost its housing (stayed of youth & young adults only)	33%	27%	NA

*Based on analysis of the non-reservation American Indian female subset of the 2008 Homelessness in Minnesota data, provided by Wilder Research.

The landlord piece is not uncommon, not uncommon at all. Landlords put the women in a situation where they actually end up owing rent or they know they're getting rates half off of rent, or some landlords even up the rent. It was in the woman's range at first and now she fell on hard times, she lost a job, she still owes rent and the landlord will go ahead and proposition them in that manner, swap or trade. And if not for the mother, then for the daughters. And the fact that the mom says we need a place to live. You know, you just gotta go in there, it's not going to do anything to you, just go, you don't wanna be out on the streets. And the kid feels, you know, I owe this to our family, the loyalty piece, so you do it. And once it's done, once that's all it takes. [Advocate]

I was talking to some of the young girls there [at a school] about incest, and they really don't think that incest is as bad as a pedophile having sex with a two-year-old. So they thought, Well, it's a family member, it's at home and it's safe. They really didn't correlate that it's the same thing. It is as bad as damaging, and they don't get it. [Advocate]

I know women I've worked with that have been sexually assaulted by family members and it was ongoing, and that's why they left. And then they found out they could get paid for it, so they think "What's the difference?" [Advocate]

Some of the parents aren't even caring if the kids are in school or anything else. So, basically, she's running her own life at 12 and 14. [Advocate]

found that 86 percent of prostituted women had been or were currently homeless, and all of the women that were interviewed cited safe housing as a current, urgent need.¹⁵⁶

At the round tables hosted by MIWRC, advocates reported that American Indian women with children living in poverty are at especially high risk of being trafficked into prostitution, especially by landlords who threaten them with rent increases or refuse to provide the documentation they need to receive government subsidies. The information collected from incoming MIWRC clients supports the advocates' reports, with one-fourth disclosing that they had traded sex for shelter.

Nationally, communities of color are significantly over-represented in poverty statistics. From 2001-2004, the poverty rate for American Indians, calculated as a 3-year average, was 25.3 percent, higher than any other group in the nation.¹⁵⁷ By the end of 2008, the non-Hispanic White poverty rate had dropped to 8.6 percent, while the American Indian rate had risen to 27.1 percent, the Hispanic and Asian rates had risen to a lesser degree (1.5% and 0.7%, respectively), and the Black rate had dropped slightly (down 0.2%).¹⁵⁸

County-level 2008 Census figures are not available, but even prior to the current economic downturn, the 2000 U.S. Census found that 47 percent of Native families in Hennepin County were headed by a single mother, and over 40 percent of those households, home to one-third of all Native children in the county, lived in poverty.¹⁵⁹ In the 2007 Wilder Research homelessness survey, two-thirds of the non-reservation homeless Native women and 20 percent of the homeless Native girls under the age of 17 were mothers, close to one-third reported leaving their most recent regular housing for reasons related to poverty.¹⁶⁰

Repeated Exposure to Abuse, Exploitation, and Violence

At the round tables hosted by MIWRC, the advocates in both Duluth and Minneapolis reported that Native girls and women with extensive histories of abuse, exploitation, and violence are extremely vulnerable to being recruited into the sex trade. Advocates described four types of experiences that they saw most frequently in Native girls trafficked into prostitution:

- Physical and sexual abuse in childhood
- Severe parental neglect as a child or teen
- Physical and sexual violence in early dating relationships
- Constant exposure to sexual exploitation and violence in their neighborhoods

Advocates at both round tables reported that most if not all of the prostituted Native women and girls they encountered had been sexually abused as children, and often, these victims had run away from home and entered the sex trade because of that abuse. The advocates also emphasized the negative impact of childhood sexual abuse on Native girls' ability to recognize or prevent their own exploitation by others.

Other studies in the U.S. support the advocates' accounts, finding that 60 to 73 percent of youth in prostitution and 55 to 90 percent of prostituted adult women were sexually abused in their homes as children.^{161,162,163,164,165} Physical abuse at home has also been identified as a major risk factor for youth entry into the sex trade in Canada, the U.S., and Mexico.¹⁶⁶ Studies with runaway adolescents have found that the more abuse the adolescent has experienced at home, the more time she will spend on her own, the more likely she will have friends who sell sex, and the more likely she will be to abuse drugs and alcohol.^{167,168,169} Canadian research has found similarly high rates of physical and sexual abuse among prostituted Aboriginal youth and women:

- 80% of prostituted youth were physically, sexually, emotionally, and verbally abused by parents, family friends, neighbors, and peers in their home communities, which caused them to run away with no safe place to go.¹⁷⁰
- Almost three-fourths of women in street prostitution, 52% of whom were Aboriginal, reported physical abuse in childhood; 82% reported sexual abuse as a child.¹⁷¹
- 41% of youth on probation for prostitution in two large Canadian cities reported parental neglect, compared to five percent of non-Aboriginal youth.¹⁷²

Findings from the 2007 Minnesota Student Survey suggest that Native girls in Minnesota experience much higher levels of childhood abuse than their peers in the general population. Overall, American Indian 9th-grade girls' rates of reported physical abuse at home were close to double the rate of their peers in the general population. In all age groups (6th, 9th, and 12th grades), Native girls' rates for reporting sexual abuse at home were double those of girls in the general population.

American Indians have the highest rates of reported child maltreatment in the nation and the state, and the highest rates of foster placement in both as well. These are some findings from government reports:

- Nationally, American Indian children have the highest rates of victimization in the nation—21.7 children per 1,000, compared to the white rate of 10.7 children per 1,000.¹⁷³
- Of the children for whom maltreatment reports were made, American Indians and Alaska Natives were 20 times more likely than white children to be determined to be maltreated.¹⁷⁴
- In both 2007 and 2008, statewide rates of American Indian child maltreatment reports were more than six times Native children's representation in the population.^{175,176}
- American Indians also had the highest 2007 and 2008 statewide rates of recurring maltreatment at twelve-month follow-up.^{178,179}
- Though 62% of the 2008 American Indian child maltreatment reports in Minnesota were for neglect, Native rates of reported physical abuse, sexual abuse, and medical neglect were also higher than those of any other group.¹⁷⁸
- As of April 2009, American Indian children accounted for 10% of child maltreatment victims statewide, more than six times their representation in the child population.¹⁸⁰
- In 2007, American Indians represented 12 percent of all children in foster care but only one percent of the state's child population.¹⁸¹

In Hennepin County, which has the largest concentration of American Indian children in the state, Native children represented 8% of the confirmed child maltreatment cases, more than 6 times their representation in the county's child population.¹⁸² An even higher proportion (9%) of the children in Hennepin County foster care were American Indian, more than four times their representation in the county's child population.¹⁸³

Child maltreatment by race, statewide 2008¹⁸⁴

	American Indian	Black	Asian	White	Two or more races	Hispanic ¹⁸⁵
Total maltreatment reports per 1,000 in the MN child population	78.5	51.0	8.5	11.9	42.0	29.7
Neglect (non-medical)	62.4	37.2	5.5	7.6	32.4	19.4
Physical abuse	17.4	13.9	2.8	3.7	10.5	7.6
Sexual abuse	6.7	3.9	0.7	1.3	3.5	2.5
Medical neglect	1.4	0.9	0.2	0.1	0.6	0.3
Percent recurring within 6 months	5.8%	8.1%	3.9%	3.7%	6.6%	3.8%
Percent recurring within 12 months	14.5%	13.1%	3.9%	5.8%	11.7%	5.7%

¹⁸⁴Children in the Hispanic category can be any race(s).

American Indian youth also have the highest rates of out-of-home placement in Minnesota. In 2008, Native children represented 12 percent of all children in foster care but only one percent of the state's child population. In Hennepin County, the most racially and ethnically diverse county in Minnesota, nine percent of children in foster care in 2007 were American Indian, more than four times their representation in the total child population.^{186,187}

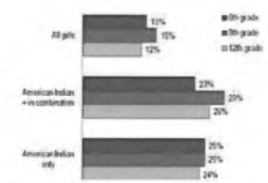
Though the number of Native children separated from their families is itself alarming, foster placement is also a risk factor for entering the sex trade. In their book *Being Heard: The Experiences of Young Women in Prostitution*, Gorkoff and Runner reported that 63 percent of prostituted girls and young women in their study had been involved with the child protection system as children. Over three-fourths had been in foster and group homes, often for many years.¹⁸⁷

Homeless Native females' experiences with abuse, neglect, and violence

	Age group	11-17	18-20	21	22+
Percent of homeless non-reservation Native females that reported...					
Physical mistreatment as a child		45%	41%	40%	54%
Sexual mistreatment as a child		30%	41%	20%	51%
Parental neglect (no food, shelter, or medical care; extended absence)		32%	33%	60%	41%
Homelessness is due to feeling unsafe from violence in the house		28%	31%	Not asked	
Homelessness is due to physical or sexual abuse in the home		17%	31%	Not asked	
Percent of homeless non-reservation females that reported...		11-17	18-21	22 and older	
Being in a physically abusive relationship during the past 12 months		20%	48%	25%	
Staying in an abusive situation because she had no other housing options		5%	48%	50%	
Physically/sexually attacked or beaten while without a regular place to stay		10%	16%	31%	

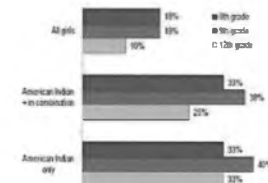
¹⁸⁸Based on analysis of the non-reservation American Indian female subset of the 2006 Homelessness in Minnesota data, provided by Wilder Research.

Girls reporting that a family member physically assaulted another family member*



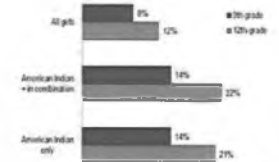
*2007 Minnesota Student Survey

Girls reporting that they hit or beat up another person in the past 12 months*



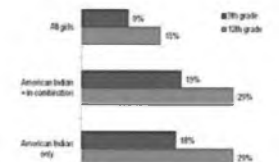
*2007 Minnesota Student Survey

Girls reporting sexual assault by a date, statewide*



*2007 Minnesota Student Survey. Sixth grade girls were not asked these questions, so no findings are reported for that grade level.

Girls reporting physical assault by a date, statewide*



*2007 Minnesota Student Survey. Sixth grade girls were not asked these questions, so no findings are reported for that grade level.

The 2006 Wilder Research study of homelessness also found high rates of childhood abuse and out-of-home placement among non-reservation homeless American Indian girls and women. Over one-fourth of the Native girls ages 12-17 (28%) and 24 percent of Native females 18-20 reported having left foster care or a group home without a permanent place to go. Overall, almost 30 percent had lived in a group home at some point in time.¹⁸⁸

Several of the advocates at the MIWRC round tables reported that Native girls' constant exposure to violence and sexual exploitation in their peer groups and neighborhoods causes them to view these threats to their safety as "no big deal." Advocates in both Duluth and in Minneapolis reported a growing number of Native girls and young adult women who consider "free-lancing," prostitution without a pimp, to be a glamorous and exciting way to empower themselves and make quick money at the same time.

Native girls' responses to the 2007 Minnesota Student Survey reflect significant violence in their lives. In 6th, 9th, and 12th grades, Native girls' rates of physical and sexual abuse were double those

We have young ladies that come in that have difficulties defining what they've been through... We had a young lady who was being held in Mexico for three years, and she didn't think that she was traumatized. [Advocate]

Sexual exploitation for the young women and the girls we work with is such a secondary issue. It's like, 'Help me find shelter, help me find food, help me find clinics.' And then if you work with them long enough, it's 'Oh yeah, I was sexually exploited.' [Advocate]

A majority of them have been exposed to sexual abuse. And so, it's kind of like, they're making the decision now, they're in control of their bodies and they're going to do what they need to do to get what it is that they want. [Advocate]

The idea of liberation, My body, my choice. I can do it myself. All woman-run. You're seeing more women that know how to do these things and are very skilled at how to prevent more harm from coming to themselves. And so they're banding together, creating all female call services. [Advocate]

Two years ago I was working with three sisters who had been prostituted by their mother since they were two, and the girls were about 15, 16, 17. They were just stifying and turning on their mother and taking their profits... it was kind of a struggle... mom still wanted money for her drug addiction, and they were starting to want to take their money (Advocate)

I think they come into prostitution with addictions I think they start, you know, they're experimenting around with drugs and then they find a ready source, because pimps latch onto that as a method to get them into it. (Advocate)

I also know a girl here, she got turned out with drugs, and she had to feed her addiction. So, she was really young and they gave her whatever, and then she had to keep that up. And it doesn't matter what your family status is, period. Because this girl I know, her family status is pretty good. (Advocate)



One of the clients I work with, she comes and goes, she knows she's been diagnosed with FAS and her children have been diagnosed as well. So her mother drank and she drank while she was pregnant with her kids. So she's working to keep herself in a home and she's exchanging sex for her home and so she has no problem with her kids doing the same thing, her daughters. (Second speaker) I think the other thing with FASD what we know about that brain damage, is you have a 15 year old girl's body but you have an 8 year old girl's mental capacity, because your brain is not formed correctly because you're brain damaged. (Advocate)

I have trouble making decisions, if they're bad or they're right, and that's what they've been hardest throughout my life. I realize that it's right or wrong after I've done it, and then that's what makes it really bad, because you can get in a lot of trouble and I've gotten into lots of trouble... it's hard to say no to things. I used to do anything and everything, just you know, for the hell of it, or just to have fun, but there's been so much trouble... you think of having fun, you think you're going to have fun, and what's wrong with that and then you realize fun turns into trouble and trouble turns into danger. [FASD-affected woman interviewed in a British Columbia study]²³



MIWRC clients that know someone in the sex trade (n=95)

Know someone in prostitution	Number		Percent		Know someone who traffics others	Number		Percent	
	Number	Percent	Number	Percent		Number	Percent	Number	Percent
Know at least one person	45	48%	Know at least one pimp	27	28%				
Personal friend	44	46%	Boyfriend/partner	13	14%				
Family members	25	26%	Landlord	4	4%				
Classmate	10	11%	Friends	3	3%				
Aunt	8	8%	Drug dealers	3	3%				
Sister	4	4%	Unspecified family	2	2%				
Mother	2	2%	Pimp(s)	2	2%				
Trip or more family	7	7%	Uncle and brother	1	1%				
Mother's friend	1	1%	Mother's friend	1	1%				
			Boyfriend's friend	1	1%				
			Unspecified person(s)	9	10%				
			Friends	3	3%				

of their peers in the general population, they were more likely than girls in the general population to report a family member physically assaulting another family member at home, and also more likely to report that they themselves had used physical violence against another person in the previous 12 months.

Canadian research has found similar patterns. In a study in five areas of British Columbia, prostituted Aboriginal youth told interviewers that a cycle of violence has been normalized in their communities, and that it is impossible for many caught in that cycle to break the pattern.¹⁹ In other Canadian studies, Aboriginal street youth described violence as part of their daily life.¹⁹ In the U.S., national research with over 1,200 runaway and thrown-away youth in shelters and living on the street found that about one-half of those staying in shelters and two-thirds of those living on the street carried a weapon, and one-fourth of the street youth said they had committed a violent act using a weapon.¹⁹

Similar to the trend reported by the advocates, Canadian research has found that Native youth sexually exploited by family members at an early age often view the sex trade as a way to have some control over their lives.^{19,20} One study found that sexually exploited youth often saw no harm in being paid for sex, since it was taken for free when they were still at home.¹⁹ A second study reported that for many Aboriginal youth, the sex trade presents an illusion of escape and independence.¹⁹

An international study in the U.S., Canada, and Mexico found that exposure to an existing prostitution zone and social groups that condone or tolerate child-adult sexual relationships are both key contributing factors in youth entering prostitution.¹⁶ Canadian studies with prostituted Native women and youth reported similar findings. Many grew up in environments where prostitution was common, and some reported that their own sex trade involvement was a result of learned behavior and day-to-day survival in their families for generations.¹⁹ One Canadian researcher commented that an invitation from a man cruising by in his car to watch an indecent act in exchange for cash can seem quite reasonable to an Aboriginal adolescent living in a poor neighborhood where street prostitution is concentrated and there are no legitimate jobs.¹⁹

male street youth, none of whom were in prostitution at baseline, found at follow-up that substance abuse was a significant predictor for girls entering prostitution.²⁰

In the Hennepin County study of women on probation for prostitution described earlier, 64 percent of American Indian women that provided drug use information at the time of arrest admitted currently using drugs and/or alcohol. One in five used both drugs and alcohol at the time of arrest, and half had received prior treatment for chemical dependency.²⁰

Even without pimp involvement, American Indian women are at particularly high risk for substance abuse. A study in seven tribal communities found that parental alcoholism, sexual abuse, combined physical and sexual abuse, emotional abuse, and emotional neglect as a child each contributed to double the risk of alcohol dependence. Native women who had experienced four or more categories of these adverse experiences in childhood had seven times the risk of alcohol dependence.²⁰

Alcohol poses a different type of prostitution recruitment risk for Native girls whose mothers used it while pregnant. The Centers for Disease Control (CDC) currently use the term Fetal Alcohol Spectrum Disorders to describe three alcohol-related disorders: fetal alcohol syndrome (FAS), fetal alcohol effects (FAE), and alcohol-related neurodevelopmental disorder (ARND). FAE encompasses behavioral and cognitive problems in children who were prenatally exposed to alcohol, but who do not have all of the typical diagnostic features of FAS. Children with ARND might have functional or mental problems linked to prenatal alcohol exposure, including behavioral or cognitive abnormalities or a combination of the two.²⁰ Advocates at both MIWRC round tables reported working with FASD-affected Native girls and women in prostitution. The advocates described FASD as a critical risk factor because it results in impaired judgment and impulsiveness, which puts them at very high risk of commercial sexual exploitation. Advocates also identified FASD as a factor affecting some Native parents that prostitute their children, and noted the prevalence of FASD among Native youth living in foster care.

The CDC has reported that the fetal alcohol syndrome rate for American Indians is 30 times the rate for whites.²¹ The incidence of FASD in Canadian Native communities is similarly high.^{21,22} Some studies have found that youth affected by FAS or FAE are particularly vulnerable to sexual exploitation by pimps offering them free drugs at house parties. Once they are addicted and have significant drug debt, they are threatened and told they must work off their debt through prostitution. They are also extremely vulnerable to guerrilla recruitment strategies.^{11,24}

Girls reporting problematic substance abuse, statewide*

Percent of girls reporting they:	7 th grade		12 th grade	
	Indian only	Indian + in combination	Indian only	Indian + in combination
Could not remember what said or did after using alcohol/drugs 2 or more times	16%	15%	8%	22%
Used more alcohol/drugs than intended 2 or more times	16%	14%	8%	21%
Continued to use alcohol even though it was hurting relationships with friends or family	20%	18%	8%	20%
Have needed to use more alcohol/drugs to get the same effect as the past 12 months	18%	18%	8%	21%
Had 2 or more drinks in a row at least once in the past 2 weeks	28%	23%	13%	35%

*2007 Minnesota Student Survey

Information collected from Native women and girls entering MIWRC programs supports the advocates' reports that young Native girls are often exposed to the idea that prostitution is a "career option." Almost half (46%) of the 95 women and girls screened for commercial sexual exploitation said they have a personal friend in prostitution, and over one-fourth (26%) said they have a family member in prostitution. Over one-fourth (28%) of the 95 women and girls entering MIWRC programs said they know someone who makes others sell or trade sex, almost half of these clients described the trafficker as their boyfriend.

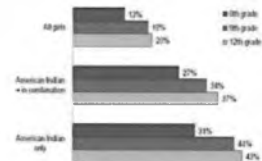
Addiction

Advocates attending the two MIWRC round tables described parental addiction as an important contributor to Native girls entering prostitution, but noted that pimps and gang members often provide Native girls and women with free drugs to get them addicted and then prostitute them. Advocates at both round tables agreed that personal addictions often keep Native women and girls in the sex trade long past the point when they want to leave it.

In the Wilder Research study of homelessness in Minnesota, over half (56%) of the non-reservation Native girls age 21 and younger described their parents' drug and alcohol use as the partial or main reason they were currently homeless.¹⁸ A national study of runaway and thrown-away youth found that 31 percent of youth staying in shelters and 45 percent of those living on the street reported problematic substance use by a family member (most often a step-parent) during the 30 days prior to their leaving home. These youth reported that adult family members' substance abuse made them more likely to get into arguments with the youth, to neglect or ignore them, or to hit them.²⁶ The Michigan Network of Runaway, Homeless, and Youth Services described similar findings, reporting that 41 percent of the youth they had served reported leaving home because of an adult's substance abuse.²⁶

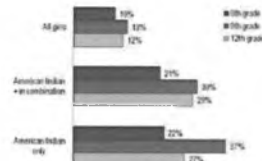
Research has found that substance abuse is both a predictor for and a consequence of entering prostitution. In the U.S., national research with 200 prostituted juveniles and adults found that 55 percent had become addicted to drugs prior to entering the sex trade. 30 percent had become addicted following entry, and 15 percent became addicted at the same time they entered.²⁷ Studies with prostituted Aboriginal women in Vancouver have also found that while drug use often facilitated entry into prostitution, participants' use had escalated as a result of being in prostitution, and 60 percent were currently in prostitution to maintain a drug addiction.^{28,29} A Montreal study with 165 fe-

Girls reporting that a family member's alcohol use repeatedly caused family, health, job, or legal problems, statewide*



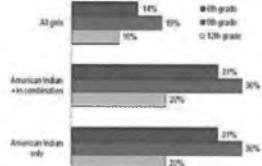
*2007 Minnesota Student Survey

Girls reporting that a family member's drug use repeatedly caused family, health, job, legal problems, statewide*



*2007 Minnesota Student Survey

Girls reporting first use of alcohol at age 12 or younger, statewide*



*2007 Minnesota Student Survey

Research with FASD-affected youth and adults has identified a number of impacts that significantly increase their vulnerability to commercial sexual exploitation:

- Teenagers and adults with FAS or FAE seem to 'plateau' academically and in daily functioning but their problems grow more serious as attention deficits, poor judgment, and impulsivity create obstacles to employment and stable living.²¹
- Adolescents and adults with FAS/FAE have been described as 'innocent,' 'immature,' and have been found to be easily victimized.²¹
- FASD-affected adults often suffer from substantial mental illness as well, including major depression, psychotic disorders, and anxiety disorders.²¹
- 62 percent of people with FASD have had a disrupted school experience between the ages of 12 and 20.²¹
- 90 percent have had mental health problems diagnosed.²¹
- 40 percent of FASD-affected youth ages 6-11, 48 percent of those ages 12-20, and 52 percent of those over age 21 have exhibited inappropriate sexual behavior, and the same proportion of the three age groups have been sexually victimized.²⁰
- 79% of FASD-affected girls ages 12 and up have exhibited sexually inappropriate behavior.²¹

Failure to Finish High School

Research has found that a minors that have been expelled from school or are no longer interested in finishing school are at a high risk of becoming involved in prostitution.²⁴ The Hennepin County study of 70 women on probation for prostitution reported similar findings. Only one of the 17 American Indian women in the study sample had completed high school.²⁵

Not completing high school is a major barrier to Native girls finding legal employment. Less than half of Minnesota's American Indian students (41.4%) graduated on time in the 2006-2007 school year, with 19 percent dropping out that year.²² In the 2007 Minnesota Student Survey, American Indian girls were less likely than girls in the general population to report that they like school (74.9% gave positive responses), and the most likely to report truancy in the past 30 days (44.5% reported being truant).²³ Native youth detachment from school is also a problem in Canada. In Canada's 2001 Census, 62 percent of Aboriginal people living on reserves and 48 percent of those living off-reserve had less than a high school education.²⁷ Canadian studies have also found that Native girls affiliated with gangs were typically two to three years behind their age cohort if they were still in school, but few finished 10th grade.²³ One Canadian study found that while street-involved girls were more frequently in



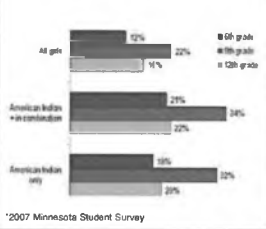
High school graduation rates, Minnesota public schools 2006 and 2007 (National Governor's Association rates)²²

Racial group	Graduated on time	Dropped out	Continuing
American Indian	41.4%	18.6%	27.3%
Asian/Pacific Islander	65.7%	6.0%	19.2%
Black	41.3%	13.3%	32.8%
White	80.4%	4.2%	10.7%
Hispanic (any race)	41.3%	19.5%	23.6%

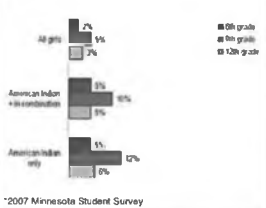
Percent of Native street-involved youth currently attending school²²

Year	Finished in school	Finished in youth	Unfinished in youth
2000 Street-Involved Youth	5%	5%	63%
2006 Street-Involved Youth	5%	5%	96%
2006 survey, girls only	6%	6%	76%

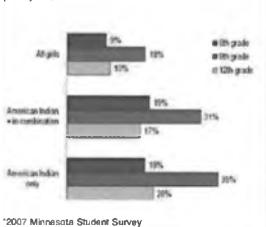
Girls that thought about killing themselves during the past year, Statewide*



Girls that tried to kill themselves during past year, Statewide*



Girls that hurt themselves on purpose during the past year, Statewide*



school than street-involved boys, those that were in prostitution were much less likely to be attending school than girls not in the sex trade.²²⁸

Mental and Emotional Vulnerability

Advocates at both MIWRC round tables described mental health issues as a significant factor in Native girls' and women's vulnerability to recruitment into the sex trade. Several advocates emphasized the mental health impacts of generational trauma on Native families, and by extension, the effect on Native girls' emotional vulnerability.

Among Native women, research has found that depression and post-traumatic stress disorder are frequently linked to a history of child abuse, adult re-victimization (especially forced sex), and lifetime abuse.^{203,213,217} Exposure to racial discrimination has also been found to play a role in Native girls' mental health, often resulting in withdrawn behavior, anxiety, depression, and physical complaints related to stress.²¹³

We're talking mental health, we're talking about borderline personality disorders, post-traumatic stress, anxiety. Bipolar. And I think in the beginning, it's dissociation. [Second speaker] Right, because that's the only way to deal with it, is you dissociate, it's like an out of body experience. They go somewhere else or they become someone else to be able to detach what they just had to go through. [Advocates]

That void. Culture and identity, all those things that lead to that searching and that hopeless feeling of there's no place for me, all that conflict between two worlds and just being vulnerable to being taken somewhere down a path that might lead somewhere. [Advocate]

In the 2007 Minnesota Student Survey, Native girls were more likely than girls in the general population to report that they had thought about suicide and that they had attempted suicide in the past 12 months. SAVE (Suicide Awareness Voices of Education) reports that the suicide rate for American Indian youth ages 10 to 15 in Minnesota is two to three times the rate of other groups in the state.²¹⁴ In Canada, the 2003 completed suicide rate for Aboriginal female youth ages 15 to 24 was almost 9 times that of female youth in the general population.²¹⁵ A recent study reported that 29 percent of American Indian teens in their sample believed they had only a 50-50 chance of living to age 35, compared to 10 percent of white teens. Those that predicted a high likelihood of early death were also much more likely to engage in subsequent risky behavior.²¹⁶

Self-injury (cutting/scraping, slashing, or burning) also appears to be a common behavior among American Indian girls in Minnesota. In the 2007 Minnesota Student Survey, 6th and 9th grade American Indian girls reported having deliberately hurt themselves during the past year at twice the rates of girls in the general population. Studies with homeless youth in the U.S. have reported similar findings. In a study of 428 street youth in Washington State, 14 percent of whom were American Indian, self-injurious acts were found to be extremely common. Over two-thirds (69%) of the youth reported that they had engaged in self-injury, which was related to a history of sexual abuse, physical abuse and/or neglect, and in the researchers' words, "deviant survival strategies."²¹⁷

In Canada, research with prostituted Aboriginal adolescents found that almost one-third had engaged in self-harm (self-cutting or slashing).²¹⁸ A Canadian study of incarcerated Canadian women who regularly engaged in self-harm found that 64 percent were Aboriginal.²¹⁹ These are some of the reasons the research participants gave when asked what motivated them to cut or slash themselves:

- A cry for attention or nurturing
- Self-punishment or self-blame
- Coping with isolation or loneliness
- Distracting themselves from or cleansing themselves of emotional pain
- A way to feel again, or to re-connect with reality
- Expression of painful life experiences
- Feeling in control, having power over self

Barriers to Exiting the Sex Trade

Limited Access to Emergency and Supportive Housing

Studies of women and girls in prostitution cite a lack of safe shelter as a primary barrier to assisting those who want to leave the sex trade.^{160,214} In both Minneapolis and Duluth, advocates reported that government funding agencies and other grantmakers impose inflexible eligibility requirements and policies that effectively lock prostituted Native women and girls out of emergency shelter and transitional housing facilities. These policies and rules frequently sabotage advocates' efforts to help Native girls and women exit the sex trade. For instance, several advocates described federal regulations that exclude anyone with a felony conviction from eligibility for public housing programs.

Several advocates reported that local transitional housing programs and some domestic violence shelters refuse access to Native women and girls who disclose involvement in prostitution, even if they are attempting to escape a pimp's violence. Minnesota state law also allows landlords and managers of subsidized housing to refuse to rent to a person with a history of prostitution.²⁴²

for an adolescent girl who was being prostituted or at extremely high risk of being prostituted. The scope and time frame for this report limited our ability to access the perspectives of county child protection workers, but these should also be included in further discussions of this issue.

Limited Resources for Support and Healing

Lack of services designed for Native women and girls in prostitution

Advocates repeatedly emphasized the fact that very few of the programs and services available to prostituted Native women and girls are designed to meet their needs, especially if they have not yet reached the point where they have made a firm commitment to leaving prostitution forever. Advocates also reported that program funders' requirements can restrict prostituted Native women's and girls' access to the types of support they need.

The research literature suggests a significant lack of federal funding or state funding for assisting domestically trafficked adult women. Though the Trafficking Victims Protection Act provides for a grant program that local and state authorities can use to provide services to mostly U.S. citizen victims, those funds were never requested by the Department of Justice, and subsequently no programs were ever funded.²¹³ Violence Against Women Act (VAWA) monies can be used for services to women in prostitution, but cannot be used for services to domestic victims of sex trafficking.^{213,214} Victims of domestic violence and sexual assault are eligible for reparations through Victims of Crime Act (VOCA) funding, but not if they were "committing a crime or any misconduct that is connected with the incident"—which automatically excludes prostituted women beaten or sexually assaulted by a pimp or a john.²¹⁵

Inadequate Support from the Mental Health System

Earlier in this report, we described the overall emotional and mental vulnerability of Native girls and women. Experiencing prostitution adds significant mental health consequences to pre-existing emotional problems. The advocates described many prostituted Native women and girls as living in a constant state of fear that is based on very real threat, with no access to appropriate mental health services. They reported that most mental health professionals have no experience providing services to prostituted women, who live in an environment where rape and injury are routine occurrences and there is no protection against either.

Advocates also described misdiagnosis and over-diagnosis as significant problems for Native women and girls in prostitution or attempting to exit prostitution. Some questioned whether the criteria for certain mental health disorders were even appropriate for prostituted American Indian women and girls.

Though recognizing a need for psychiatric and psychological services for Native women who are severely traumatized, several of the advocates at the Minneapolis round table reported significant discomfort with having to se-



Advocate's story:

I worked with someone for three years who was stripping. She was actually abused as a child, got married at eighteen to someone who was abusive to her and when they got divorced, she did all the things she was supposed to. Got her child got out.

There's a strip club down the road that she made a little money at and she was good looking and was able to do that, and pretty soon that's the only work experience she has, that's her whole entire life. She's traveling the circuit, she can't make any money, she's getting stuck places, sleeping in her car, staying at guys houses who are holding guns to her head. She doesn't use, completely sober. And I spent three years with appointments over the phone... she just could never be safe. There was no place to go.

I said if she could get up here we would get her into a shelter up here. And they kicked her out almost immediately and told her to go to the homeless shelter. She was used to being up all night, and that was an issue at the shelter. That was her job hours... she was up until six in the morning and then slept all day, and that was what she got in trouble for and got kicked out for.

So what ended up happening was we found a place for her where she could go for a period of time in a whole different city and we got four tires donated for her car and filled it full of gas and off she went. And that was the best we could do. And she was here and she knew us, we could provide counseling and we could provide stuff. It was just so, I don't know, a very sad situation.



What are you going to do to get her out? Because recognizing them, identifying them, that's great—but once she's ready to get out, are you going to have a place for her? This is not an overnight fix. This is not just 'Get her housing and her whole life is going to be better.' We're talking about mental health issues, trauma that is life-long. [Second speaker] In housing funding streams, the programming has become more and more [difficult]. The reporting and the documentation and the things that they're supposed to track, that advocates can't keep up with just 'Let us get you into housing.' Housing is really complicated, it takes a lot of time and energy to get all that stuff in place. [Advocates]

[The programs I work with] are battered women's programming, and the attitude is 'It doesn't happen here' because there's no money for it [working with prostituted women], for them to have that kind of programming. When I used to run the shelter here, we never touched on that, that wasn't something we ever, ever talked about. [Advocate]

That diagnosis of bipolar. I think it's archaic. We're talking about trauma, multiple generations of trauma. That diagnosis doesn't accurately describe our experiences. And so the mental health field is kind of off the hook in addressing the social problems that go with that. And it's like 'Here, we've done our share, this is what she has, give her the pills and refer her onto someone else. [Advocate]

A counselor or a therapist can recognize some of the symptoms of PTSD as bipolar or as schizophrenic. And unless you are well served, or I don't want to discredit any therapist, but I think doing more research and more involvement of what happens with mental health is needed, and I don't think a lot of therapists do that. Then you're stuck into a category. Because research is showing that PTSD has a lot of symptoms and if you're saying 'Oh, well she has dissociated therefore she's schizophrenic.' [Advocate]

Investigative resources are spread so thin that federal agents are forced to focus only on the highest-priority felonies while letting the investigation of some serious crime languish for years. Long delays in investigations without arrest leave child sexual assault victims vulnerable or suspects free to commit other crimes, including in two cases the Post found homicide. With overwhelmed federal agents unable to complete thousands of investigations or supplement those done by poorly trained tribal police, many low-priority felonies never make it to federal prosecutors in the first place... Federal investigators usually take the lead when the victim is 9 or younger, authorities say, tribal investigators like the lead with older victims. But federal prosecutors often decline those cases precisely because the victim has been interviewed too many times or by investigators who aren't specially trained to handle child sexual assault. [Source: Lawless lands: Promises, justice broken. Series in the Denver Post, November 11, 2007].

We dealt with a case where the girl was screaming for help and even did a self-report and they wouldn't open the case until the mother abandoned the kids. One of the things is, it's very dependent upon the youth's age. If they are 16, 17, they all just become disposable, forgotten. And if you don't get all of the information from the youth, if you don't have enough substantiated evidence about who, what, when, where, why, they can't open cases, they have nothing to work with. And the girls are not gonna talk. [Second speaker] Exactly. Even though we're mandated reporters and we're supposed to tell those things, if we don't have enough information, they can't open the case. You have to have enough information to warrant the opening of the case, or to even get them to investigate. [Advocate]

We ask our women, 'What do you need?' but our services aren't set up to help them, and I feel like it's an injustice to them, to pry into their life and say 'What the hell is going on, and how can I help you?' We don't even know, and our services aren't set up for that, so what can we do as organizations to make sure that we're all on the same page, that we treat the survivor the same no matter why? [Advocate]

Absence of Other Options for Self-sufficiency

As noted earlier in this report, most American Indian women and girls in the sex trade have not completed high school, so they rarely have marketable job skills or a formal employment history. Though 90 to 95 percent want to escape prostitution, most do not feel they have any other realistic options for consistently earning enough money to survive.^{244,245}

Distrust of Law Enforcement

Advocates at both round tables described Native women's and girls' distrust of police, fear that they will be arrested if they ask police for help, and fear that their trafficker would suffer no real consequences even if they did file a complaint, provide evidence, and agree to testify. Some Minneapolis advocates reported interactions with city police in which they or their clients felt they were not treated well. Advocates working with prostituted Native girls in Duluth expressed frustration that the FBI chose not to prosecute a recent case involving four trafficked underage girls even though the girls were willing to testify and Duluth police had gathered extensive evidence. Echoing the Duluth advocates' accounts, Kathy Black Bear at Rosebud Tribal Services in South Dakota reported that last year, an underage Rosebud girl living in Sioux Falls was trafficked to Mexico and kept there from January to March 2008. Ms. Black Bear reported that the FBI declined to investigate the case, so the tribe hired a private investigator to travel to Mexico, who successfully found the girl and brought her home.²⁴⁵

Conversations with Minneapolis police officers suggest that limited staff time and budget constraints are often the reason that more pimps are not investigated.^{246,247} One reported that cost tends to limit law enforcement efforts to the investigation of large prostitution rings that traffic minors, especially those that also traffic drugs, because prosecution is more likely to result in a conviction.²⁴⁸ Minneapolis Police Department²⁴⁹ Precinct Inspector Lucy Gerold noted that most purchasers of sexual services apprehended by the police have been allowed to plea bargain their sentences down to restorative justice.²⁴⁹ In September 2008, Susan Segal, the Minneapolis City Attorney, reported that the her office was currently reviewing its plea bargain standards in "john cases," and that prevention and treatment for prostituted minor girls is the current focus of the department's work and the direction taken in the prostitution review calendar with the court.²⁴⁶

Similar to the Duluth advocates' accounts, the *Denver Post* reported that from 1997 to 2006, federal prosecutors rejected almost two-thirds of reservation cases brought to them by FBI and Bureau of Indian Affairs investigators.²⁵¹ It was outside the scope of this report to get extensive input from law enforcement personnel on this barrier, but a larger discussion of their perspectives should be included in future reports on this topic.

Child Protection Policies

Some of advocates working with adolescent girls reported encountering challenges when child protection policies and priorities prevented opening a case

When the victim cannot fight or flee, she may try to form a protective relationship with her captor. She hopes that if she can prove her love and loyalty to the pimp, she can "love" him into being good. This can become such a desperate attachment that she actually believes she loves him, and passes up chances to escape. Stockholm Syndrome is often the real reason for what others see as the "choice" to stay in the sex industry. [Joe Parker, co-founder of a foundation that provides services to prostituted women and men]¹⁹⁴

Right now mental health is what is being funded the most, so a lot of times our women cannot receive resources until we get her the diagnosis. People are handing out the diagnosis, and that can be because they know housing comes first, and the most open model to people in prostitution is "We'll take you where you're at and we'll move you forward rather than making you do those steps. You can't even get them into a lot of housing programs that focus on where you are now until you get a diagnosis. We have one woman we're working with, she got a diagnosis from the five doctors. [Advocate]

Finally, it got to the point where she wanted to leave, but this was absolutely not abuse to her. She was in control of her body, and those guys were idiots that wanted to give her any money for it. And, the fact of the matter was that she was never safe. [Advocate]

Their mentality is this guy is taking care of me. He has provided for me. My family has let me down and this man cares about me. So, no matter what you guys are trying to tell me, I'm not trying to hear that because when you're gone at 5 o'clock, he's still gonna be here. So everything you're telling me is a lie because he takes me home, he takes care of me, and me turning tricks is okay because I need to help out somehow, I can't work, I don't have a job and I can't find a job, so I'm doing what I can to help out. [Advocate]

cure a mental health diagnosis as a condition to obtain rapid client access to emergency or supportive housing. Some were also concerned that the mental health field could potentially become the favored approach for addressing prostitution.

Research has found that prostituted women and girls often dissociate to survive psychologically, allowing their minds to distance themselves from experiences that are too much for them to process at the time.^{254,255} Some survivors of abuse describe this as "leaving your body."²⁵⁶ However research has found that frequent dissociation can lead to a lack of connection in a person's thoughts, memory and sense of identity, which would significantly hamper a prostituted woman's or girl's ability to take steps to remove herself from a painful or dangerous situation.²⁵⁸

In a recent study with prostituted women in Vancouver, over half of whom were Aboriginal, 89 percent had at least one PTSD symptom, 81 percent reported at least three numbing and avoidance PTSD symptoms, and 85 percent reported at least two physiological hyper-arousal symptoms.²⁶⁰ These included:

- Having a difficult time falling or staying asleep
- Feeling more irritable or having outbursts of anger
- Having difficulty concentrating
- Feeling constantly "on guard" or like danger is lurking around every corner
- Being "jumpy" or easily startled

Dependency, Denial, and Distrust of Advocates

Joe Parker, co-founder of a foundation that provides services to prostituted women and men, asserts that prostituted people's loyalty to a pimp must be viewed as a manifestation of Stockholm Syndrome, which has been described as a psychological condition common to hostage situations, in which the hostage becomes emotionally bonded to her captor.²⁶¹ Advocates at both round tables described the tendency of prostituted Native women and girls to insist that they are in prostitution by choice, and to minimize or deny any harm they have experienced. The advocates emphasized the extensive period of time it takes to build enough trust with prostituted Native women and girls that they are even willing to consider that they are being exploited, and the longer period of time it takes until they become willing to leave the sex trade. Some advocates cautioned that prostituted Native women and girls have been manipulated and exploited most of their lives. They asserted that prostituted Native women and girls need to be offered ongoing options without any pressure, because any program that requires them to immediately adopt a new belief system and/or way of thinking and behaving could trigger even higher levels of mistrust.

Fear, Shame, and the "Don't Talk" Rule

During the round table discussions, several advocates commented that Native communities are often aware that certain families in the community are sexually exploiting and trafficking their girls into prostitution, but ignore the signs

that this is occurring because they are reluctant to "interfere." Long-time advocates described this as "the don't talk rule," and reflected that at one time, this same silence existed around domestic violence in Native communities.

Research with Native child victims of physical and sexual abuse, physical and sexual assault, and commercial exploitation supports the advocates' reports at round tables. In one study, American Indian Native survivors of childhood sexual abuse told researchers that when girls in their communities are sexually assaulted by a family member (or even a member of another Native family in the same community), reporting the assault often results in significant social repercussions, so most victims are too afraid to report.²⁶² In recent interviews with sexual violence survivors, activists, and support workers in three regions of Indian Country (Standing Rock Sioux Reservation in North and South Dakota, the State of Oklahoma, and the State of Alaska), Amnesty International found that a number of the Native women would only agree to be interviewed if their anonymity was guaranteed. These women described the barriers to reporting sexual assault as fear of breaches in confidentiality, fear of retaliation, and a lack of confidence that reports will be taken seriously or result in perpetrators being brought to justice.²⁶³

In the Canadian study with 150 commercially sexually exploited Aboriginal youth in 22 communities described earlier, prostituted youth reported that prior to running away from home, they had no one they could talk to about the physical and sexual violence they had experienced at the hands of family members and other adults in the community. Similar to the advocates' accounts, these youth reported that people are often reluctant to "interfere." The youth felt that either they would not be believed, or that telling someone would simply trigger new violence.²⁶⁶

Absence of a Common, Evidence-based Approach

In addition to those listed above, advocates described two additional barriers they have encountered in trying to determine what services and approaches would result in the best outcomes for prostituted Native women and girls. Both are related to a lack of a uniform, evidence-based approach to working with prostituted Native girls and women.

The first is the absence of appropriate training for anyone working with prostituted Native women and girls, and trainers having cultural knowledge and extensive experience in working with this population. Because addressing this issue is relatively new to Native communities, advocates felt that no common language or body of knowledge has yet been established. Though they reported that participating in the round tables and sharing information and perspectives had significantly increased their own knowledge and awareness, they felt that training is extremely important for new advocates who have never been exposed to hearing stories of severe sexual and psychological violence. The advocates emphasized the importance of appropriate training to ensure that new advocates practice self-care and learn to balance compassion with good boundaries, as a way to prevent advocate burn-out and support good client outcomes.

Another barrier noted by the advocates related to the lack of an evidence-based approach to assisting Native women and girls in prostitution is a lack of systematic data collection that could help estimate the number involved in the various forms of commercial sexual exploitation, the number that meet the state's legal definition for traf-



We've got families that have been in prostitution for generations and you get one that starts talking she's out of the family. You know, even sisters who were sexually abused by their father also, they're mad at her, you know. You better not move back to our rez. [Sixth speaker] And then that causes a lot of drinking and drugs because they're outed. [Advocate]

One of the things we need to work on is that denial. We first have to recognize that this is happening. In our community, what is slowly killing us is that denial, that there is sexual abuse, there is incest happening, and as a result we're setting our future off to be utilized by someone else sexually. [Advocate]

You do not call the police. I don't care what is going on, you call the police and your hours will get stoned. Even neighbors who were not involved in what was happening. You just do not do it. That is a big piece that these women and girls are getting, when they're little. [Advocate]

ficking, their current paths of entry, the prevalence of violence they are experiencing, and their needs while in prostitution and when trying to exit. Most of the advocates voiced a high level of interest in a collaborative data collection effort: if MIWRC or a group of collaborators would provide a questionnaire and technical assistance, and enter and analyze those data. There was strong agreement that these data are essential for effective planning and services.

Conclusions

On July 22, 2009, MIWRC held a listening session with 33 Native community leaders and elders to discuss the draft of this report and to gather input on recommended action steps. Their comments are included in the following discussion.

The Social Ecology of Native Girl's Vulnerability to Sex Trade Recruitment

Social ecology is the study of people in their environment and the influence of that environment on human development and behavior.²⁶⁷ This theoretical model allows for examination of layered social and economic influences on Native children's ability to develop the four beliefs described at the beginning of this summary as essential for a coherent and resilient sense of self:

- The world is predictable, meaningful, and fair
- I am a worthy person
- People are trustworthy.²⁶⁸

Overall, the information we gathered for this report demonstrates that the sex trafficking of Native women and girls is neither a new problem nor a rare occurrence. It is, however, a very complex problem in its origins, activities, and solutions. In reviewing our findings, we recognized that a social ecology framework is a useful approach for summarizing the influences that contribute to Native girls' and women's involvement in the sex trade. Using a social ecology lens, we identified four major layers of influences that in combination make American Indian women and girls extremely vulnerable to sex trafficking:

- The impact of the majority society
- Neighborhood and community environments
- The influence of family and friends
- The cumulative impact on the individual

The social ecology of Native girls' vulnerability



Influence of the Majority Society

Government actions

The first and most pervasive layer of influence is that of the majority society. The historical review provided as context describes a series of U.S. government actions that contributed to the poverty and social problems that plague American Indian communities today. These include:

- The removal of Native people from their traditional land base to remote rural reservations, which forced them to become dependent on the U.S. government for food and other basic needs
- The large-scale removal of Native children from their families and communities to boarding schools and adoptive homes, which prevented intergenerational transmission of language and cultural norms for community and family roles and responsibilities
- The widespread physical and sexual abuse of Native children in boarding schools, which significantly impacted their ability to parent their own children in healthy ways
- Prohibitions against practicing traditional spirituality and participating in ceremonies, which impeded grieving of losses and healing from trauma
- Urban relocation initiatives that failed to provide the promised resources, leaving Native families in dire poverty and isolated from the community support that had been present on the reservation
- Government-sponsored assaults on Native women's bodies, including rape in military action and involuntary sterilization by Indian Health Service physicians

I remember going to some kind of historical presentation where they were talking about the Voyageurs, and how they would keep an Indian woman in a trundle bed under their bed for their purposes. And I was so appalled that anybody in the Historical Society would still be dramatizing that, like this was some great and wonderful historical event. And I was really, hurt because I'm an Indian woman, and I went there with a group of school kids. If I'm appalled and offended, think of what it's doing to these poor little minds. They're being taught that, 'Oh, Indian women. All they're good for is sex.' [Native community leader discussing report findings]

I'm currently the chief baby-sitter for my granddaughters, who are both 13, the critical age, and one of them is wearing the Britney Spears look. And, I'm like, 'Don't you want to put something over that?' And, you know, monitoring their Internet activity... it's the clothing and the cosmetics and the ads that all say women are less valued than men, it is a sort of hammering, constant message. [Native community elder and leader discussing report findings]



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We all knew which houses were doing what in our community. And historically, because of who they were or who they were related to, or they're on the board, they were able to get away with it. Right? Everybody looks the other way on it. [Advocate]

Some of us in this room have addressed this on several occasions, but it was always hard to get the community to jump on board. I mean, it was—you know, you always had the choir. You always had the people that worked in the field that were interested in helping the victims that were in front of them at their desk, but there was not any cry from the community to deal with it on a community basis, at a community level, and so there are those pockets of safety for people that are committing these heinous crimes on a regular basis. [Community elder and leader discussing the report findings]



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Racism and the targeting of Native women for sexual violence

In the historical review, advocates' round table discussions, Canadian studies of prostituted Native women and youth, and the listening session with community leaders and elders, racism was consistently identified as a key factor in sexual violence against Native women and girls and in extreme physical and sexual violence against prostituted Native women and youth. The research cited in this report also shows Native women and girls to be more frequent sexual assault victims than any other group of women in the country, and more likely to sustain injuries in those assaults.

Media glamorization of sexual exploitation and sex as a marketing tool

Advocates participating in the two round tables reported Native girls' perception of the sex trade, particularly dancing in strip clubs, as a glamorous career option in which they could make a lot of money very quickly. A number of community leaders and elders at the listening session to discuss the report findings described the massive influence of the media (especially the sexualized nature of music videos) and the constant use of sex as a marketing tool as significant majority-society influences encouraging Native girls and boys to view sexual exploitation as glamorous and profitable.

Socioeconomic inequality and the emphasis on money as proof of success

The advocates' stories, the Canadian literature on the relationship between poverty, homelessness, and Aboriginal women and youth entering the sex trade, and the overrepresentation of Native women and girls in the Wilder Research study of homelessness in Minnesota all show socioeconomic inequality to be a major factor facilitating Native women's and girls' entry into the sex trade. As we reported earlier, American Indian poverty is the highest in the nation, increasing over the past three years while Black, Hispanic, and White poverty rates declined.²⁶⁸

The advocates' discussions at the two round tables and the Canadian literature on studies of prostituted Aboriginal youth all described young Native girls' belief that the money they could earn in the sex trade would empower them, allowing them the freedom to run their own lives and make their own choices. Advocates also repeatedly described pimps' emphasis on money as a way to solve problems and realize dreams as a major incentive for Native girls to begin dancing in strip clubs and then move into prostitution.

Government priorities based on group size and influence

American Indians are a small demographic group in Minnesota, representing only 1.6 percent of the state's population.²⁶⁹ Research has shown that whenever decisions must be made about the allocation of government resources, small low-income groups have limited influence over those decisions in comparison to more affluent, higher-status groups.²⁷⁰

Underfunded "safety net" systems

Our discussions with local police and advocates' stories about trying to find help from law enforcement and child protection units of local government highlight inadequate funding of these agencies as a significant barrier to identifying and protecting Native girls who have been trafficked into prostitution, and to active pursuit of pimps that traffic Native girls and women. In combination, the prevalence of homelessness among Native women and girls, Native girls' high rates of running away, and the severe short-

Influence of neighborhood and community environments Gang activity and community normalization of violence

The discussions of advocates at the two round tables and the research literature from Canada and the U.S. all noted the considerable influence of gangs in Native communities, gangs' use of violence to coerce Native girls into prostitution, and Native girls' efforts to be as safe as they can in an unsafe environment through sexual relationships with gang members. Native girls' responses to the 2007 Minnesota Student Survey indicated significant levels of gang presence at their schools, and similar to the Canadian research we cited, showed violence to be a common feature of Native girls' school and neighborhood life in Minnesota.

A visible and active sex trade

Advocates repeatedly described young Native girls being approached on the street and offered money for sex, and in Canadian studies, Aboriginal youth reported the same experience. In the data collected by MIWRC, a significant number of Native women and girls reported knowing someone in prostitution, and many reported knowing a trafficker. The discussions at the advocates' round tables and the Canadian literature on Aboriginal youth in prostitution described frequent exposure of Native youth to a visible and active neighborhood sex trade as a key influence in normalizing survival sex and prostitution.

Social isolation and the "don't talk" rule

Research in poor neighborhoods has found that high levels of neighborhood violence and crime contribute to social isolation, where safety concerns limit the degree to which people become involved with or interact with their neighbors. The long-term success of children in these neighborhoods has been found to be strongly related to community members' willingness to support parents' efforts to keep their children safe.²⁷¹ Minneapolis and Duluth both have large urban concentrations of American Indians in low-income, high-crime neighborhoods where short-term residence in rental housing is the norm. The advocates' accounts and participants in Canadian research on prostituted youth both emphasized community norms for minding one's own business and the potentially dangerous consequences of calling the police.

The advocates' reports and the literature on abuse at boarding schools describe current Native community members' reluctance to get involved and the pervasiveness of "don't talk" rule. Both views these unhelpful social norms as responses of Native children that experienced or witnessed abuse at boarding schools. Teachers and administrators perpetrating sexual and physical abuse forced these children to accept responsibility for their own abuse. The children learned to be ashamed of their own sexuality, and also learned that telling anyone about the abuse they or others had experienced only led to increased violence and additional shame. Passed down to consecutive generations, the end result of these efforts to avoid harm to self or others is a lack of safety for sexually exploited children and an absence of accountability for perpetrators in Native communities.

A crime-based underground economy

Though community participation in an underground economy was not included in our description of factors contributing to Native girls' and women's vulnerability to entering the sex trade, some advocates did comment on Native girls' reliance on "boosters" selling stolen clothing, shoes, and accessories at very low prices. The community leaders and elders at the listening session pointed out that Native girls' and women's routine

use of housing options for Native women and girls trying to avoid or escape the sex trade reflect a woefully inadequate system for meeting the emergency shelter needs of low-income, sexually exploited Native girls and women. Not only does the absence of an effective safety net make Native girls more vulnerable to sexual exploitation, it also makes it extremely difficult for trafficked girls to successfully exit the sex trade.

Unequal gendered consequences for roles in prostitution

The attribution of responsibility for women's involvement in the sex trade is deeply rooted in the notion that prostitution is a business transaction between equals and prostituted women have chosen the sex trade as a form of employment. Popular use of the term "the oldest profession" perpetuates this idea, despite a body of research indicating that most prostituted women and girls want out of the sex trade but have no other way to shelter or support themselves.

There is significant gender bias in social and legal sanctions for women and girls engaged in selling sex, compared to those experienced by the men who buy it. Catharine McKinnon has described a gap between the promise of civil rights and the real lives of prostituted women. She notes the ways that the prostitution law fails to protect the civil rights of women involved in prostitution while favoring the civil rights of pimps and Johns, citing court decisions to make these points:

- The law does not protect prostituted women's freedom from arbitrary arrest, because it makes women into criminals for being victimized as women, and enforcement of prostitution law has traditionally involved police officers impersonating Johns in order to arrest prostituted women.
- The law does not protect a prostituted woman's rights to property, since she cannot declare any parts of herself off-limits, while pimps and Johns retain the right to use her body as they choose.
- The law does not protect prostituted women's right to liberty, since liberty is the ability to set limits on one's condition or to leave it.²⁷²

Our conversations with law enforcement personnel and advocates' stories at the round tables show that purchasers of sexual services typically receive light sentences and are frequently permitted to do community service or restorative justice rather than jail time. This unequal treatment disproportionately softens penalties for men's purchase of sexual services while it criminalizes and stigmatizes women engaged in the same transaction.

Federal definitions of "deserving" victims

The advocates' stories of Native adult women who had been trafficked into prostitution as children illustrated the impact of federal guidelines for "deserving" victims. As adults trying to exit the sex trade, many had been refused access to emergency shelters, victim services, and federally-funded housing due to their prostitution convictions. Donna Hughes, professor and Carlson Endowed Chair at the University of Rhode Island, has pointed out the overlap in definitions of sex trafficking and pimping, emphasizing that women's experiences in prostitution and sex trafficking are quite similar in regard to violence, control, exploitation, and level of victimization. Hughes notes that in multiple studies of women in prostitution, the average reported age of entry suggests that 70 percent were, by definition, victims of sex trafficking at the time they entered the sex trade.²⁷³ Child victims of sex trafficking do not cease to be victims simply because they turned 18. Their victimization in childhood continues to impact their lives as adults.

use of "boosters" increases their risk of involvement in other types of illegal activity, and viewing the sex trade as an acceptable way to get the things they want.

Limited jobs, few options for education and career planning

In the neighborhoods where American Indians are concentrated in Minneapolis and Duluth, unemployment rates are high and opportunities for legal, living-wage employment are extremely limited, as are options for a quality education. Research has found that inner-city schools consistently receive lower ratings for quality of education and student achievement than suburban schools, reflecting the broader patterns of inequality elsewhere in American society.²⁷⁴ Students in these schools have been described as a "captured market," because their socioeconomic status makes them completely dependent upon the public school system.²⁷⁵ The high American Indian school dropout rates suggest that unrewarding school experiences contribute to a belief that educational attainment and career planning are neither useful nor realistic life goals.

Influence of families and friends

Poverty

The advocates' discussions at the round tables, the research literature from Canadian studies of prostituted Aboriginal women and youth, and the comments from community leaders and elders all emphasized the importance of family poverty in two types of vulnerability among Native women and girls:

- Vulnerability to homelessness
- Vulnerability to landlord pimps that threaten rent increases and/or eviction.

Physical and sexual victimization

Canadian studies' findings that childhood physical and sexual abuse are common among prostituted Native women and girls and runaway Native youth, Minnesota Student Survey findings on Native girls' reports of physical and sexual abuse at home and having run away from home, and state and local data on American Indian child maltreatment show that many Native girls are at very high risk of being trafficked into the sex trade because of prior victimization. The Wilder Research study of homelessness also found that Native women and girls frequently reported physical or sexual violence at home as the reason for their current homelessness. Other studies' findings of high rates of partner violence among low-income Native women suggest that many Native women and girls are forced to leave home to avoid violent victimization, resulting in homelessness that further increases their vulnerability to sex trafficking.

Prostitution and survival sex

At both round tables, advocates described Native girls whose families were involved in generational prostitution and girls' friends already involved in stripping and/or prostitution. The Canadian studies of Aboriginal youth involvement in prostitution reported similar findings. The data collected from clients entering MIWRC programs confirmed that many have friends in prostitution, and also showed that clients reporting involvement in prostitution were most often recruited by a friend.

Substance abuse

At round tables, advocates reported Native mothers trafficking their daughters into prostitution to feed an addiction, and the Canadian studies of prostituted youth that we cited also identified parental substance abuse as a facilitating factor for Native youth running away from home and entering the sex trade. In the 2007 Minnesota Student Survey, the propor-



I have a 10-year-old now and... when we set up camp [at a pow-wow] he wants to be gone and run around and all the boys are running around... and then when they go to the vendor booths, the first place they always go is the one where they have all the hats and the pimp gear and all the bling and all that. He always wants to buy that stuff. He always wants that hat with the bunny sign on it. [Native community leader discussing the report findings]

It wasn't too long ago, I was at a venue of Native people and I was within ear's length of a group of young girls. One of the young girls said that her baby needed diapers and so she did a booty call so she could get money to get diapers for her kid... so that was prostitution in the definition of the word. But she didn't see that. That was the normalcy of it, you know, 'I need this for my child and I'm going to use what I have. If you have money, you can go to the store. If you don't have money, you have to use what you have at your disposal... And that was shared with a bunch of young girls, and none of them were appalled by it. There was more of a 'Yeah, I understand that,' than 'Oh, my god, how could you do something like that?' [Native community leader discussing report findings]



We need to also remember that this sub rosa economy is working all the time. The sale of illegal goods, all of that happens in our community, and the inability of young women to understand what they're doing in exchanging a sexual favor for money to buy diapers is part of that. [Community elder and leader discussing report findings]

What I'm saying is it is so commonplace because boosters are so prevalent. I mean, in other advocacy and other outreach, I was in people's homes and we were talking about healthy housing and education and their booster shows up and is trying to sell me clothes that they just got from the plus size clothing store, and he had an entire trunk of all this beautiful stuff. [Advocate]

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tion of American Indian girls reporting problematic drug and alcohol use by a family member was much higher than that of girls in the general population, and the responses of homeless American Indian women and girls in the Wilder Research study of homelessness indicate that family substance abuse often forces Native women and girls to leave home without any other place to stay. The advocates and studies with prostituted Aboriginal youth in Canada both identified Fetal Alcohol Syndrome Disorder (FASD) as an indirect affect of mothers' substance abuse on Native girls' vulnerability to sexual exploitation.

Parents affected by generational trauma, FASD, and/or mental illness

At the advocates' round tables and in findings from Canadian studies with prostituted Native women and youth, unresolved generational trauma was identified as a root cause of the community violence, domestic violence, child abuse, and substance abuse that pervades Native communities in the U.S. and Canada. Advocates also reported knowing FASD-affected Native mothers trafficking their children, and the research we cited confirms that a FASD-affected, mentally ill or cognitively-impaired parent can increase their children's vulnerability to sexual exploitation.

The cumulative effect on Native girls

Lack of workforce preparation, sex trade viewed as a glamorous career option

Native girls' responses to the 2007 Minnesota Student Survey show high levels of disengagement from school and truancy, and data on American Indian school dropout shows that many leave school without the education level necessary to succeed at most living-wage jobs. The absence of employment opportunities in their neighborhoods and the lack of social networks for securing first jobs leave many Native girls with no employment history or job skills. The glamorization of sexual exploitation in the popular media, a highly visible sex trade, and girls' awareness that sex can be a resource for meeting basic needs combine to normalize the sex trade, encouraging Native girls to view it as a reasonable way to obtain money.

Absence of safety and emotional vulnerability

Native girls' reports of physical and sexual violence at home, gang presence and threat of violence in their schools, and physical and sexual violence by dates in the 2007 Minnesota Student Survey shows an alarming lack of safety in their lives. Advocates' stories at the round tables and Canadian research with runaway and prostituted Native youth also described the tremendous emotional vulnerability of Native girls in this type of home and community environment, especially to pimps and recruiters that promise to take care of and protect them. The reluctance of community members to intervene and community antagonism to anyone who calls the police makes Native girls even more vulnerable to guerrilla recruitment into prostitution. The very limited options for emergency shelter and crisis services leave the vast majority without alternatives that could offer protection or support.

Native girls' own trauma responses

Native girls' responses to the 2007 Minnesota Student Survey show that many use alcohol before the age of 12, show signs of alcohol dependency before leaving high school, and participate in violence against others. Research showing the prevalence of sexual assault and the link between sexual assault trauma and substance abuse among American Indian women confirms that these traumas make a significant number of Native girls and women vulnerable to prostitution recruitment by a pimp promising them safety. Advocates' reports of prostituted Native women's reluctance to trust and their dependency on pimps indicate that these trauma responses frequently expose them to new violence and new trauma.

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- To ensure community engagement and an emphasis on healing and empowerment, the next stage of strategic planning must be led by a committed and knowledgeable group of Native people.
- This is not solely a women's issue—it is a community issue that also involves Native boys and Two-Spirit youth and adults.

Recommendations for Action

The recommendations we provide here came from:

- Advocates attending the two regional round tables
- American Indian community leaders and elders that attended the listening session
- Prostituted Aboriginal women and youth and Aboriginal community members participating in Canadian studies of commercial sexual exploitation
- Patterns of risk identified in data and literature gathered for this report

Increase Awareness of the Problem

Provide education to a cross section of leadership on:

- The impact of poverty and other risk factors on Native youth's disproportionate involvement in the sex trade
- The extreme violence and trauma experienced by Native women and youth in prostitution
- Traffickers' recruitment strategies and the significance of strip clubs, pornography, online and phone sex, and escort services as gateways to prostitution for Native youth

Reframe the conversation and change the language

- Increase awareness that prostitution is not a life style choice, is not a victimless crime, and that the vast majority of prostituted people were trafficked into the sex trade as children—clearly identify prostitution as a form of sexual violence
- Highlight the proven relationship between men's belief that sex is a commodity that they have the right to purchase and the likelihood that they will commit violence against a woman
- Eliminate terms that place the onus of responsibility on the exploited person; rather than "prostitute," promote use of "person in prostitution" or "prostituted person"

Hold Sexual Exploiters Accountable

- Prosecute all cases of juvenile sex trafficking to the fullest extent of the law
- Reduce demand by increasing penalties for the purchase of sexual services (particularly sex with minors), and prohibit plea bargain agreements that allow purchasers to reduce their penalties through community service and/or restorative justice
- Support efforts by American Indian communities to hold families involved in multi-generational trafficking of their children accountable
- Identify, arrest, and prosecute anyone attempting to recruit vulnerable Native adults and youth for prostitution at homeless shelters, battered women's shelters, and other places providing emergency services
- Address gangs' use of violence to force Native youth into prostitution

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Last Words

At the July 22, 2009 listening session to discuss the report findings, all of the Native community leaders and elders in attendance confirmed the seriousness of the problem and inspired us with their commitment to working together on a community response to end the commercial sexual exploitation of Native women and children.

Feedback from Native community leaders

I'm really happy that this report came out. I'm really happy that finally we can sit in a group like this and talk about it, because we can't hide it any more. We can't tell our girls it's okay, because it's not okay. I really want to continue to be a part of this dialogue because I think it's long overdue.

The report shines a light on this—it's a stake in the ground. It says "Look at this." This is something that needs attention, and we're not going to solve this now or in the next little while, but if we don't start, we'll never solve it.

One of our spiritual leaders said to us some years ago, those of us who are older, who have been victimized by racism in this country and also those of us who are women who have been victimized in whatever ways simply because we are women—what he said to us was, "That pain is yours. That is your pain, and you need to deal with it, but don't pass it on to your children. They will experience their own difficulties and they will have to deal with that, but do not talk to them about what you have dealt with. I think [that] until we do deal with our own pain, it's impossible not to pass it on."

Based on the information presented in this report, we conclude that commercial sexual exploitation of Native girls and women is neither harmless nor victimless. The widespread notion that prostitution is a voluntary career choice made by a fully informed adult has no basis in reality for the vast majority of prostituted Native women and girls. We find it unreasonable and cruel to assume that any Native person in prostitution has made an informed choice to endure extreme violence and subjugation at the hands of pimps and purchasers of sexual services, or to voluntarily decided to accept this maltreatment as an acceptable occupational hazard.

We found that most prostituted Native women and girls are trafficked into the sex trade as children but were never identified or protected as trafficking victims. Unable to find the support to leave prostitution, at the point that these victims reach the age of 18, they are immediately considered criminals and are often refused access to shelters and other services for trafficking, sexual assault, domestic violence, and stalking victims.

While stripping and pornography are often framed as relatively harmless aspects of the sex trade, we have identified these as gateways to prostitution for a significant number of Native women and girls. While some enter the sex trade to pursue the illusion of a glamorous and lucrative career, continued involvement in prostitution is almost always due to an absence of other options.

Because our focus for this report was the commercial sexual exploitation of Native women and girls, we did not address the prostitution of Native boys or Two-Spirit (gay, lesbian, and bisexual) youth. However, a number of Canadian studies reported that though girls made up 75-80 percent of Aboriginal youth in the sex trade, the remaining 20-25 percent were boys, Two-Spirit, and transsexual individuals.^{27,28,29,30} In a 2008 Canadian study of street youth, 23 percent of Aboriginal boys and 54 percent of Aboriginal girls described themselves as not entirely heterosexual, bisexual, or gay/lesbian. These youth were much more likely than heterosexual-identifying youth to report having been kicked out of their homes or having run away, which makes them even more vulnerable to commercial sexual exploitation.²⁹

Next Steps

The community leaders and elders that attended the listening session agreed on three main points regarding next steps toward addressing the commercial sexual exploitation of Native people:

- Any approach to addressing the problem must prioritize the healing and empowerment of Native communities, and ensure that they are not re-victimized as a result of the information brought forth in this report.

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Begin Outreach

- Recruit Native survivors of prostitution for employment as outreach workers and community educators
- Use harm reduction strategies, including providing condoms/promoting consistent condom use and partnering street nurses with outreach workers to provide Hepatitis B vaccinations
- Distribute information about domestic sex trafficking, sexual assault programs and related programs and services through community agencies, hospital emergency rooms, health clinics, and food shelves so that sexually exploited Native women and youth are more aware of places they can find help
- Establish protocols to identify and interrupt recruitment at outreach and drop-in programs, and ensure that programs are safe

Improve access to emergency shelter and transitional housing

All of the information we gathered on the types of housing prostituted Native women and girls need to successfully exit the sex trade emphasized three key points that should inform any plan to improve emergency shelter and housing options:

- The sex trade reinforces dependency on a pimp, so victims of commercial sexual exploitation often take a very long time to make the final decision to complete separate themselves
- These victims have known nothing but exploitation most of their lives, so are very reluctant to trust any program or organization that applies limits or makes demands
- The most useful and effective services have the fewest requirements, and focus on "meeting victims where they are"

For these reasons, these are the aspects of emergency shelter and transitional housing needed to provide effective support to prostituted Native women and youth to avoid or leave the sex trade:

- 24-hour, 7 days a week "safe houses" statewide, where sexually exploited Native women and youth can access emergency shelter, showers, clothing, food, referrals for health care, and other basic needs
- Transitional and supportive housing facilities with culturally competent staff statewide, specifically designed for prostituted Native women and youth
- Shelters, transitional housing and outreach services should link prostituted and at-risk Native girls and women to an array of holistic services to meet basic needs, receive health care, and work toward access to permanent safe housing
- Funding for transitional housing that is long-term and covers operating expenses—length of stay must be adequate to ensure that prostituted Native girls and women have enough time to build the skills and stability they need to secure gainful employment

To provide the greatest access, existing emergency and transitional housing facilities should:

- To the extent possible, revise public housing policies blocking access to anyone with a felony conviction, or allow services for victims of sex trafficking whose convictions were due to having been trafficked
- Work with child protection systems in the best interest of the families
- Give prostituted people attempting to exit the sex trade the same priority as people with a mental health diagnosis, rather than requiring them to get a mental health diagnosis for priority access.

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Increase Options for Self-sufficiency to Reduce Vulnerability

Poverty is one of the major factors in vulnerability to commercial sexual exploitation. The following are recommendations for services and programs that can help Native women and youth stay in school and/or gain the skills and resources they need to become self-sufficient:

- Provide opportunities to finish high school that include mentoring, flexible hours, and access to high quality childcare so that those with children can participate
- Tailor employment services, academic, and career counseling to match prostituted Native women's and youth skills and interests, and accommodate learning styles
- Build relationships with employers willing to provide internship and apprenticeship programs where prostituted Native women and youth can develop skills and build confidence in their abilities

Promote Healing

- Hold community forums and workshops in American Indian communities to raise awareness of sex trafficking, the vulnerability of Native women, youth, and Two-Spirit people, and available resources for trafficking victims and their families
- Build community support for believing Native people that report sexual abuse and sexual exploitation, valuing and protecting them rather than stereotyping and isolating them
- Engage Native communities in recognizing and addressing the role of silence and denial in generational abuse and sexual exploitation, and in working as a community to hold all traffickers of Native people accountable
- Engage Native communities in holding producers and sellers of media and products that sexualize Native women and children accountable
- Encourage culturally based agencies to incorporate programming to meet the unique needs of sexually exploited women and youth, and provide opportunities for collaboration and networking to streamline services
- Create healing centers where victims and families can re-engage in traditional healing and build stronger cultural identities
- Provide culturally based healing that holistically addresses chemical dependency, mental illness and sexual trauma

Improve Systems and Increase Collaboration Between Systems

Engage child protection, law enforcement, schools, and Native community-based housing and social service agencies in collaborative efforts.

- Standardize intake procedures that can accurately identify victims of sex trafficking and provide them with immediate access to appropriate resources
- Develop training protocols in partnership with other stakeholders to raise awareness and install effective response mechanisms
- Support coordinated efforts by local law enforcement, Tribal law enforcement, the FBI, and the Coast Guard and other agencies to identify, investigate, and prosecute sex traffickers
- Investigate possible sex trafficking when youth report sexual abuse in the home, and ensure that a trained child protection worker works closely with police and Native programs to meet the unique needs of prostituted Native children
- Target gangs in schools, housing complexes, and neighborhoods by developing zero tolerance strategies to prevent and interrupt criminal activities with youth
- Develop coordinated responses to truant and runaway Native youth that divert them from the juvenile justice system to Native programs that serve sexually exploited Native youth

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For mental health professionals:

- The guilt and shame experienced by prostituted and trafficked Native adults and youth, and the need to respond immediately and skillfully
- The importance of a nonjudgmental approach that does not include a timeline for progress.
- The importance of a careful diagnosis that takes potential FASD and PTSD into account as possible aggravating factors
- Prostituted Native women's frequent experiences with unnecessary or inappropriate medications

Project Limitations and Future Research

Methodologically, our decision to convene round table discussions with advocates working with American Indian women and girls in crisis situations and use the information gathered there as a framework turned out to be a very useful approach. Our assumption that these advocates were likely to come into contact with trafficked and prostituted Native women and girls was correct. In the absence of any prior source of systematically collected data on Native women and girls in prostitution or other areas of the sex trade in either Minnesota or the U.S., triangulating advocates' experiences and observations with findings from published research, local data, and MIWRC client screening data allowed us to develop a basic understanding of a little-understood and complex problem within relatively short period of time.

Though it was useful as a starting point, the data collected by MIWRC via client screening and the two advocates' round table discussions represented a very small number of participants in very limited geographic areas. MIWRC is currently revising and expanding its screening tool and process to improve our ability to identify trafficking victims and provide them with appropriate services and supports. We expect to implement the new tool and process in October 2009.

There is an urgent need for a regional study involving a systematic and coordinated data collection process, to develop findings that can be generalized to the larger population. At both round tables and at the listening session with Native community leaders and elders in Minneapolis, Native participants emphasized the great need for more in-depth information to build upon what was found in producing this report, but they also voiced a serious concern that research could not take priority over adequate funding for direct services to prostituted Native people. With that qualifier in place, regarding future research, we recommend that:

- Funding for coordinated and appropriate support services to victims of commercial sexual exploitation is the community's highest priority—additional research will require a separate funding pool
- Any future research should involve identification, experiences, and needs of all American Indian victims, regardless of gender or sexual orientation
- Data collection should involve multiple agencies and programs providing culturally-specific crisis services to Native people for emergency shelter and housing, domestic violence, sexual assault, substance abuse, crisis intervention, and the needs of at-risk youth
- Because this exploratory study found indications of trafficking between cities in Minnesota, Wisconsin, North Dakota, and South Dakota, we recommend a regional study that includes two large urban Indian communities in each of the four states: Minneapolis, Duluth, Grand Forks, Fargo, Sioux Falls, Rapid City, Milwaukee, and Green Bay

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When the court case has begun against a Native sex trafficking victim's trafficker:

- Provide victims with a specific advocate who has the skills and knowledge to deal with her/him respectfully and for the length of time necessary
- Provide Pro Bono legal services to the victim and a safe space where she/he and the attorney can meet
- Do not require victims to be in the same room as the accused trafficker
- Develop alternatives to corrections placement in foster care and group homes for prostituted Native youth so they are not isolated from their culture and community
- Improve protections for victims who have outstanding warrants for their arrest, if those arrests are related to being trafficked, and consider that probation violations may be related to being trafficked

Provide Extensive Training to all Professionals that Come into Contact with Prostituted Native Women and Youth

In addition to basic training on the dynamics and impacts of the sex trade, various professionals should receive more in-depth training. These are some of the main topics we suggest:

For police officers, prosecutors, courts, and guardians ad litem:

- The importance of screening runaway and truant Native youth for involvement in the sex trade, and making social services arrangements on site rather than releasing them back to the community
- Establishing guidelines for recognizing when a prostituted Native person may be affected by FASD and or PTSD
- Networking with referral agencies for culturally-appropriate intervention and support services

For medical and emergency room personnel:

- The importance of treating prostituted victims of sexual or physical assault as assault victims, even when their injuries were perpetrated by a purchaser of sexual services or a pimp
- Information about trafficking laws, how to contact law enforcement, and how to keep a trafficking victim safe until the police arrive

For teachers and school administrators, 5th through 12th grade:

- Sex trade culture and terminology, common recruitment strategies, trafficker profiles, and indicators that a student is being trafficked
- Information about trafficking laws, how to contact law enforcement, and how to keep a trafficking victim safe until the police arrive
- Referral agencies for culturally-appropriate intervention and support services.

For workers in child protection, child welfare, and family social services:

- Sex trade culture and terminology, and the importance of early intervention
- Culturally-specific screening tools for sex trafficking and other forms of commercial sexual exploitation
- Follow-up strategies for protecting and monitoring sexually exploited Native adolescents and teens to provide a safety net for those that continue living with their families, including providing information on suitable referral services

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SENATOR BILL WIELECHOWSKI

March 23, 2011

Senator Hollis French
Senate Judiciary Committee
State Capitol
Juneau, Alaska 99801

Dear Senator French:

I am writing to request that you schedule a hearing on Senate Bill 110, "An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses" at your earliest convenience.

This legislation will strengthen current state human trafficking laws. Sexual exploitation is a serious problem in the state. Traffickers prey on vulnerable Alaskans, a large number of whom are underage females. Native Alaskans are also disproportionately targeted. Current state law only recognizes the crime of "trafficking" when victims are transported across state lines. SB 110 would close that loophole, allowing law enforcement to prosecute traffickers who prey on victims within state borders.

SB 110 would also allow judicial discretion in imposing conditions of probation to include requiring defendants to refrain from residing within 500 feet of school grounds in specific cases.

Thank you for your consideration of this request. Any questions you or your staff may have should be directed to me or my staff Christy Harvey at 465-6259.

Sincerely,

Senator Bill Wielechowski

LEGAL SERVICES

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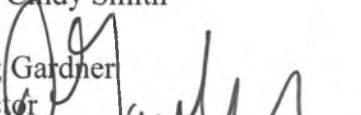
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MEMORANDUM

March 19, 2012

SUBJECT: Prostitution Offenses in CSSB 218 (JUD)
(Work Order No. 27-GS2627M)

TO: Senator Hollis French
Chair of the Senate Judiciary Committee
Attn: Cindy Smith

FROM: Doug Gardner
Director 

There are two issues I want to call to your attention regarding the draft of CSSB 218(JUD).

1. Section 18. Section 18 of the bill expands AS 11.66.140, which provides that corroboration of certain testimony is not required, to the offense of promoting prostitution in the fourth degree under AS 11.66.135. It is unclear how eliminating the need for corroboration "of the person whose prostitution is alleged to have been compelled or promoted" in the context of AS 11.66.135 would actually work. AS 11.66.135(a) provides that a person commits the crime of promoting prostitution in the fourth degree if:

(a) A person commits the crime of promoting prostitution in the fourth degree if the person engages in conduct that institutes, aids, or facilitates prostitution under circumstances not proscribed under AS 11.66.130(a)(4)¹.

In a prosecution under AS 11.66.135, the evidence and witnesses would likely be those with personal knowledge, or investigating officers and records, relating to facilitating a prostitution enterprise. Since AS 11.66.135 does not relate to a person whose prostitution has been compelled or promoted, it is hard to envision how AS 11.66.140 would apply to testimony regarding a prostitution enterprise. Does the committee want to extend the application of AS 11.66.140 to AS 11.66.135, where it does not appear it would be necessary or applicable?

¹ AS 11.66.130(a)(4) provides: (4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

Senator Hollis French

March 19, 2012

Page 2

2. Section 19. Section 19 of this bill expands the prostitution offenses that would allow the prosecution to file for forfeiture of property used to institute, aid, or facilitate the offenses. Does the committee want to allow forfeiture of property in a misdemeanor prostitution case brought under AS 11.66.100? I note that CSSB 218(JUD), version M, eliminates section 5 of the prior SB 218, version A, where prostitution was increased to a C felony under certain circumstances. Should this section stay in the bill in light of the fact that the felony prostitution provision in SB 218, version A, is not present in the bill?

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MEMORANDUM

March 15, 2012

SUBJECT: SB 110 and SB 218, Human Trafficking and Sex Trafficking
(CSSB 110(JUD); Work Order No. 27-LS0646\E)

TO: Senator Hollis French
Chair of the Senate Judiciary Committee
Attn: Cindy Smith

FROM: Doug Gardner
Director

There are three issues that I wanted to call to your attention regarding SB 110 and SB 218.

1. As we briefly discussed on the telephone, while I was incorporating most of SB 218 into SB 110, as you requested, I noticed several instances where sex trafficking was treated differently than human trafficking, and so I took the step we discussed of treating both offenses, in the first degrees, similarly throughout the bill. Here are the places, by statute citation, where I added human trafficking to include it with sex trafficking so that both offenses are treated similarly:

- AS 04.06.110, Peace Officer Powers;
- AS 04.11.370(a)(7), Revocation of License for Licensed Premises;
- AS 12.55.035(b)(1), Fines;
- AS 15.80.010(9), Crimes of Moral Turpitude (all human trafficking convictions regardless of degree);
- AS 28.15.046(c)(10), Restriction on DMV Issuing Licenses;
- AS 47.12.110(d)(1)(B)(viii), Juvenile Delinquency Hearings Open to Public; and
- AS 47.12.315(a)(1)(H), Public Release of Certain Information.

Please review these changes to make sure that they conform to the intent of the committee.

In addition, should the new C felony prostitution offense in AS 11.66.100(c) be added to the definition of sex offense in AS 12.63.100(6)? I note that SB 110 added the new offense of human trafficking in the first degree to the definition of sex offense in AS 12.63.100(6).

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②

2. With regard to online enticement in the first degree in section 19 of the bill, the way the bill is currently drafted, online enticement that is B felony conduct and online enticement that is A felony conduct would both be serious felonies. It would appear that the intention of the committee is for the A felony offense of online enticement provided for in AS 11.41.452(e) to be a serious felony, but not online enticement that is a B felony (online enticement is an A felony when the offender is a registered sex offender). Given that in other situations, such as sexual assault in the second degree, which is a B felony, the legislature has not included a class B felony as a serious felony, I would assume that citation to AS 11.41.452(e) should be included to clarify this situation. (3) ✓

3. The final matter I wanted to call to your attention is the issue of not providing a defense of mistake of age for the crime of prostitution for the defendant, in cases where the victim is under 18 years of age, and the defendant is 18 years of age or older and at least 3 years older¹ than the victim.² I note that in the offense of promoting prostitution, provided for in AS 11.66.110, the legislature eliminated the mistake of age defense set forth in AS 11.41.445. Eliminating the defense of mistake of age in the offense of promoting prostitution in the first degree was found constitutional by the Alaska Court of Appeals in *Bell v. State of Alaska*, 668 P.2d 829 (Alaska App. 1983), where the court distinguished the offense of promoting prostitution in the first degree from the holding by the court in *State v. Guest*, 583 P.2d 836 (Alaska 1978), that offenses involving "statutory

¹ I also note that the sexual abuse of a minor statutes all contain a four year age separation between the offender and the other person, with the exception of sexual abuse of a minor in the fourth degree, which contains a three year age separation. Was it a conscious choice to use a three year age difference, or should it have been four years as provided in AS 11.41.434(SAM I) - AS 11.41.438(SAM III)?

² In a similar situation a defense of mistake of age is provided for the crimes of sexual abuse of a minor under AS 11.41.434 - 11.41.440. *State v. Guest*, 583 P.2d 836 (Alaska 1978), regarding the necessity of this defense in the statutory rape context. AS 11.41.445 provides:

(a) In a prosecution under AS 11.41.434 - 11.41.440 it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless the offense was committed without the consent of the victim.

(b) In a prosecution under AS 11.41.410 - 11.41.440, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant

(1) reasonably believed the victim to be that age or older;

and

(2) undertook reasonable measures to verify that the victim was that age or older.

rape" or sexual abuse of a minor must allow the defendant to present the defense of mistake of age in order to pass constitutional muster. I am including much of the court's discussion from *Bell* relevant to this issue for your convenience:

We also note that AS 11.66.110(b) is in accord with the common law view that there should be no exculpation for mistake where, if the facts had been as the actor believed them to be, his conduct would still be illegal or immoral. As Bell recognizes on appeal, his conduct would still have been illegal even if D.W. had been sixteen or over. AS 11.66.130(a)(2). Moreover, although it might be arguable that the offense of prostitution should be considered a *malum prohibitum* crime, we think it manifest that *promoting* prostitution is an offense "which reasoning members of society regard as condemnable," and thus, is *malum in se*. *Hentzner v. State*, 613 P.2d at 826. Accordingly, there can be little doubt that Hentzner's basic requirement of an awareness or consciousness of wrongdoing is satisfied, despite the fact that AS 11.66.110(b) precludes mistake of age as a defense to the offense of promoting prostitution in the first degree.

In continuing to press his claim that AS 11.66.110(b) imposes an unconstitutional standard, Bell relies upon *State v. Guest*, 583 P.2d 836 (Alaska 1978), in which the supreme court upheld a trial court's decision to instruct the jury on a defense of reasonable mistake of age in a statutory rape case. Following the reasoning of *Speidel* and *Alex*, the court stated that an intent requirement must be read into former AS 11.15.120 to save it from unconstitutionality. To refuse a defense of mistake of age in a statutory rape case, according to the *Guest* court, would be to impose significant criminal liability without any criminal mental element. *Id.* at 839.

Bell relies most heavily upon the following language in *Guest*:

It has been urged in other jurisdictions that where an offender is aware he is committing an act of fornication he therefore has sufficient criminal intent to justify a conviction for statutory rape because what was done would have been unlawful under the facts as he thought them to be. We reject this view. While it is true that under such circumstances a mistake of fact does not serve as a complete defense, we believe that it should serve to reduce the offense to that which the offender would have been guilty of had he not been mistaken. Thus, if an accused had a reasonable belief that the person with whom he had sexual intercourse was sixteen years of age or older, he may not be convicted of statutory rape. If, however, he did not have a reasonable belief that the victim was eighteen years of

age or older, he may still be criminally liable for contribution to the delinquency of a minor. [Emphasis added.]

Id. (citations and footnotes omitted). The court cited in support of its position section 2.04(2) of the Model Penal Code (Proposed Official Draft 1962), which provides:

Although ignorance or mistake would otherwise afford a defense to the offense charged, the defense is not available if the defendant would be guilty of another offense had the situation been as he supposed. In such case, however, the ignorance or mistake of the defendant shall reduce the grade and degree of the offense of which he may be convicted to those of the offense of which he would be guilty had the situation been as he supposed.

We believe the problem addressed in *Guest* is distinguishable from the issue at hand. As we have stated, Bell did not lack criminal intent; he intended to promote prostitution. See *Hentzner v. State*, 613 P.2d at 826; *Wheeler v. State*, 659 P.2d at 1251. The court in *Guest* was careful to point out that fornication was not itself a crime, so that it could not have been considered as a lesser-included offense of statutory rape. Also, although the court went on to observe that *Guest* *might* still have been guilty of contributing to the delinquency of a minor under former AS 11.40.130 if he did not have a reasonable belief that his partner was under eighteen, it is clear that Bell was *necessarily* guilty of promoting prostitution in the third degree if the facts were as he supposed them to be.

This distinction is supported by analysis of other authorities. The revised criminal code contains no provision paralleling the second sentence of MPC § 2.04(2), quoted by the *Guest* court. Instead, AS 11.81.600(b)(2) provides:

(b) A person is not guilty of an offense unless he acts with a culpable mental state with respect to each element of the offense, except that no culpable mental state must be proved

(2) *if an intent to dispense with the culpable mental state requirement for that element clearly appears.*

(Emphasis added.) AS 11.66.110(b), by proscribing any defense to AS 11.66.110(a)(2) based upon mistake of age, clearly demonstrates a legislative intent to dispense with knowledge of age.

More importantly, despite the language of MPC § 204(2), the Model Penal Code takes essentially the same approach as the Revised Code to in its treatment of criminal intent for the offense of promoting prostitution. MPC § 251.2(2) (1980) makes the conduct proscribed by AS 11.66.130(a)(2) -- promoting prostitution in the third degree -- a misdemeanor, while § 251.2(3)(c) provides that the same conduct shall be a felony if "the actor promotes prostitution of a child under 16, *whether or not he is aware of the child's age.*" Similarly, New York Penal Law § 230.30 (1978), from which AS 11.66.110 appears to be derived, provides that it shall be a felony to "knowingly" advance or profit from the prostitution of a person less than sixteen years old, while New York Penal Law § 15.20(3) (1967) provides that

Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the age of a child is an element thereof, knowledge by the defendant of the age of such child is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be the same as or greater than that specified in the statute.

We find it highly persuasive that these statutory schemes are, when applied to the precise conduct engaged in by Bell, in consonance with the approach taken in the Revised Code.

Under the Revised Alaska Criminal Code, it is Bell's intentional procurement of a person under the age of sixteen years for prostitution that renders him liable for first-degree promoting, regardless of his actual awareness of that person's age. **The act of procuring another for purposes of prostitution is *malum in se*, without regard to the age of the person procured, and thus, as we have indicated, in a prosecution for procuring a person under the age of sixteen years, the intent to procure satisfies the minimal constitutional requirement of criminal intent. *Hentzner v. State*, 613 P.2d at 826. We hold that AS 11.66.110(b), which expressly dispenses with mistake of age as a defense to promoting prostitution in the first degree, does not violate due process of law.** We therefore conclude that the trial court did not err in rejecting Bell's challenge to the instruction on mistake of age. [Emphasis added.]

Bell, supra, at 833 - 835. The caution that should be observed in removing the defense of mistake of age for moving the offense of prostitution from a B misdemeanor to a

C felony where the defendant is 18 years of age or older and at least three years older than the victim is as follows:

- In *Bell*, as quoted and emphasized above, the court relied on the fact that the defendant was being prosecuted for a *malum in se* offense, where the underlying offense of promoting prostitution was completed whether the offender was aware of the other person's age or not. Under these circumstances, the *Bell* court found that eliminating a mistake of age defense passed constitutional muster. The concern is that the decision in *Bell* may not apply to prostitution as provided in AS 11.66.100, given the *malum prohibitum* status of prostitution. Put differently, since the court in *Bell* placed significant emphasis on the *malum in se* nature of the offense of promoting prostitution, in contrast to the *malum prohibitum* offense of prostitution, a court may be less willing to approve of a statute imposing significant increased criminal liability -- from a B misdemeanor to a C felony -- where the offender is unable to present a mistake of age defense.
- A reviewing court might consider the amendment in AS 11.66.100 so similar to the offenses of sexual abuse of a minor, in other words adding a SAM component to prostitution that from the standpoint of substantive due process, if a SAM defendant may present a mistake of age defense, then a defendant charged with prostitution with an age component should be allowed to as well.
- I would observe that a proponent of the amendments to AS 11.66.100 in section 10 of the bill might argue that, like the facts in *Bell*, a defendant charged with prostitution as a C felony would necessarily be guilty of what is likely the lesser included offense of prostitution as a B misdemeanor without regard to the age of the other person, and therefore, as the court reasoned in *Bell*, the defendant was necessarily guilty of the lesser offense if the facts were as the defendant supposed them to be. However, the ruling in *Bell* was shaped in large part by the idea that even the lesser included offense of promoting prostitution in the third degree, which was a misdemeanor in 1980, was still a *malum in se* offense, where the offense of prostitution is not. A court would likely give significant weight to the different offenses involved, and might distinguish the facts of *Bell*, and conclude that, like the situation in *Guest*, a defendant guilty of a lesser included offense, but one that is *malum prohibitum*, should be allowed to present a defense of mistake of age.

DDG:ljw
12-198.ljw

Enclosure

Cindy Smith

From: Kendra Kloster
Sent: Thursday, February 09, 2012 11:06 AM
To: Cindy Smith
Subject: RE: sb110

Sounds good. That gives me some time over the weekend to come up with some new ideas.

From: Cindy Smith
Sent: Thursday, February 09, 2012 10:34 AM
To: Kendra Kloster
Subject: RE: sb110

Yeah, a blank CS is fine – and maybe we can talk Monday? Our bosses will both be busy that day with oil taxes and so I have no meeting to worry about.

Cindy Smith
Office of Senator Hollis French
(907) 465-3892
www.senate.org

From: Kendra Kloster
Sent: Thursday, February 09, 2012 10:19 AM
To: Cindy Smith
Cc: Thomas Presley
Subject: RE: sb110

Thanks. I will touch base with you tomorrow or early next week when you have time to discuss a CS. I can order a blank CS after working on changes and removing the part of the bill that had already passed if that works for you.

From: Cindy Smith
Sent: Thursday, February 09, 2012 9:24 AM
To: Kendra Kloster
Cc: Thomas Presley
Subject: RE: sb110

Friday the 17th it is! And also for SJR 13 – it'll be Bill day in SJUD ☺

Cindy Smith
Office of Senator Hollis French
(907) 465-3892
www.senate.org

From: Kendra Kloster
Sent: Wednesday, February 08, 2012 5:15 PM
To: Cindy Smith
Subject: sb110

Hi Cindy,

Just wanted to follow up with you that I will be working on the sex trafficking bill the remaining part of this week and next to get ready for a hearing when you are ready for us. Sen. W is interested in a Friday hearing next week if you are still working on a schedule. If you have a full schedule then we will go with the next available opening for a hearing in JUD. Thanks much!

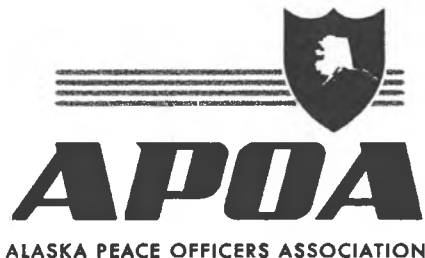
Kendra Kloster

Office of Senator Bill Wielechowski

907.465.6259

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February 10, 2012

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Senator Bill Wielechowski
Alaska State Senate
State Capitol
Juneau AK 99801-1182

Dear Senator Wielechowski:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing Senate Bill 110, an act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses.

The APOA State Board of Directors recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

John Lucking, Jr.
State President

Making A Difference In The Last Frontier



STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF ADMINISTRATION

VIOLENT CRIMES COMPENSATION BOARD

P.O. BOX 110230
JUNEAU, ALASKA 99811-0230
PHONE: (907) 465-3040
TOLL FREE: 1-800-764-3040
FAX: (907) 465-2379

February 13, 2012

The Honorable Senator Wielechowski
State Capitol, Room 101
Juneau, Alaska 99801

Re: Senate Bill, 110 Human Trafficking/Sex Offenses

I write on behalf of the Violent Crimes Compensation Board in support of Senate Bill 110.

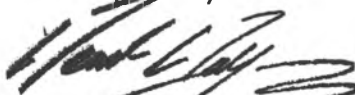
The proposed legislation strengthens existing state legislation by extending the definition of trafficking to include the movement or enticement of young women within the state of Alaska, not just across state lines.

As Board members, we have seen the terrible results of human trafficking on the lives of young women and their families. Very often these victims are young vulnerable native women who have left their villages and come to Anchorage, only to find themselves homeless and alone. These women are specifically targeted by these predators, given enticements in the form of clothing, housing and jewellery, and are then abused, beaten, sexually assaulted, deliberately addicted to controlled substances and alcohol and then prostituted out to make money for their abusers.

Over the course of the last few years, the Board has seen 23 claims stemming from federal human trafficking investigations, and has paid out over \$150,000 in compensation or assistance to trafficking victims. This compensation has been in the form of payment for mental health counseling, and for drug and alcohol treatment programs, as well as for medical expenses, and assistance in relocation to a safer environment. None of these 23 claims were for victims trafficked to Alaska. All were already Alaskan residents.

This proposed legislation closes the gap, and the Board strongly supports its passage

Respectfully submitted



Gerard Godfrey
Chair, Violent Crimes Compensation Board

Cindy Smith

From: Kendra Kloster
Sent: Friday, March 16, 2012 3:57 PM
To: Cindy Smith
Subject: SB110

Follow Up Flag: Follow up
Flag Status: Flagged

Cindy,

The section I was asking about earlier is section 15 in SB218 – when looking through the CS for SB110 Version E I wasn't see this section included unless it got incorporated in another location?

Thanks,

Kendra Kloster
Office of Senator Bill Wielechowski



State Capital Bldg. Rm 101
907.465.6259

Added



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FOR A WORLD WITHOUT SLAVERY

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Executive Director and CEO

Bradley Myles

March 13, 2012

**Senator Hollis French, Chairman
Senate Judiciary Committee**

State Capitol Room 417
Juneau AK, 99801

Re: Bill No.: SB 110

Dear Chairman French:

The purpose of this letter is to follow up on the February 17, 2012 Senate Judiciary Committee hearing at which the Human Trafficking/Sex Offenses, SB 110, was discussed and tabled, and to offer recommendations based on both the hearing and my recent discussion with Katherine Tepas of the Governor's office following Governor Parnell's transmittal of HB 359 and its companion bill, SB 218.

I was able to listen to the testimony provided at the hearing on SB 110 by way of conference call, but unfortunately, was disconnected before I was able to provide testimony of my own. Based on the testimony, it seems that there is some concern over whether the bill is necessary given the state's code sections prohibiting the promotion of prostitution.

While the promotion of prostitution provisions do require fewer elements, human trafficking encompasses more than just sex trafficking. As such, amendments to the human trafficking statute would bring Alaska's laws more in line with the federal definition of human trafficking, and would provide greater protection against labor trafficking.

Under U.S. federal law, "severe forms of trafficking in persons" includes both sex trafficking and labor trafficking, which are defined as follows:

- Sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, OR in which the person induced to perform such an act has not attained 18 years of age, (22 USC § 7102; 8 CFR § 214.11(a)).
- Labor trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery, (22 USC § 7102).



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Acknowledging that Alaska's promotion of prostitution laws are beneficial in that they contain no requirement that the victim be induced to move in or about the state; but that amendments to the state's human trafficking laws are necessary in order to protect native Alaskans from labor trafficking, I have attached proposed language amending SB 110 which I hope will provide the best of both worlds.

As you can see, the proposed amendments preserve most of the language of the existing human trafficking statute, but redefine the existing provisions as 'sex trafficking' while adding a new provision entitled 'labor trafficking.' The labor trafficking provision does not require that the victim be induced to coming to the state of Alaska or even being moved within the state, thereby giving native Alaskans the same protection against labor trafficking as the promotion of prostitution statutes provide against sex trafficking. Mirroring the sex trafficking provisions, the labor trafficking offenses are catagorized as first, second, or third degree offenses.

In light of the Governor's recent transmission of HB359/SB218, I took the liberty of reaching out to his office to discuss ways to strengthen the pending anti-human trafficking legislation, including SB110. Per my conversation with Ms. Tepas, I will likewise be providing the Governor with a copy of the proposed amendments attached here, in the hopes that he will support amending the language of SB110 to providing increased protection against labor trafficking to native Alaskans, regardless of whether the element of transportation was involved.

I would welcome the opportunity to discuss any thoughts or concerns you have regarding SB 110 or the proposed amendments attached hereto. Please do not hesitate to contact me at (202) 745-1001, ext. 132, if I can be of further assistance in this regard.

Sincerely,



James Dold,
Policy Counsel



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

Proposed Amendments

KEY: Deletions appear in [brackets] and additions are underlined.

Sect. __. AS 11.41.360 is amended to read:

Sec. 11.41.360. **Labor Trafficking [HUMAN TRAFFICKING] in the first degree.** (a) A person commits the crime of labor trafficking [human trafficking] in the first degree if the person compels or induces another person [to come to this state] to engage in [sexual conduct, adult entertainment or] labor [in the state] or provide services through the use of [by] force, threat of force against any person, coercion or by deception.

(b) In this section,

(1) "deception" has the meaning given in AS 11.46.180 ["adult entertainment" means the conduct described in AS 23.10.350(f)(1) - (3); "sexual conduct" has the meaning given in AS 11.66.150.]

(c) Labor trafficking [Human trafficking] in the first degree is a class A felony.

Sec. __. AS 11.41.365 is amended to read:

Sec. 11.41.365. **Labor trafficking [HUMAN TRAFFICKING] in the second degree.** (a) A person commits the crime of labor trafficking [human trafficking] in the second degree if the person obtains a benefit from the commission of labor trafficking [human trafficking] under AS 11.41.360, with reckless disregard that the benefit is a result of the trafficking.

(b) Labor trafficking [Human trafficking] in the second degree is a class B felony.

Sec. 3. AS 11.31.120(h)(2) is amended to read:

E that is labor trafficking [human trafficking] in the first degree under AS 11.41.360

Sec. 13. AS 11.66.145 is amended to read:

Sec. 11.66.145. Forfeiture. Property used to institute aid, or facilitate, or received or derived from, a violation of **AS.11.66.100-11.66.135** [AS 11.66.110-11.66.135] **and AS.11.41.360- 11.41.365** shall be forfeited.

Sec. 21. AS 15.80.010(9) is amended to read:

(9) "felony involving moral turpitude" includes those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping,

incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, **sex trafficking** [PROMOTING PROSTITUTION], **labor trafficking**, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography;



March 16, 2012

The Honorable Hollis French, Chair
The Honorable Bill Wielechowski, Vice-Chair
Senate Judiciary Committee
Alaska State Senate
State Capitol
Juneau, AK 99801

via email: [Senator Hollis French@legis.state.ak.us](mailto:Senator_Hollis_French@legis.state.ak.us)
[Senator Bill Wielechowski@legis.state.ak.us](mailto:Senator_Bill_Wielechowski@legis.state.ak.us)

Re: CS for SB 110 (M version)
ACLU Review of Legal Issues

Dear Chair French and Vice-Chair Wielechowski:

Thank you for the opportunity to submit written testimony with respect to CS for Senate Bill 110 (M version).

As you know, the American Civil Liberties Union of Alaska represents thousands of members and activists throughout the state who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. In that regard, we would like to advise the Committee of some concerns with respect to the proposed version of the bill.

The CS for SB 110 (M version) is an Improvement on the Original

The original version of SB 110 contained several concerning provisions which were vague and would have inadvertently criminalized much innocent teenage sexual conduct, by prohibiting “entic[ing]” or “induc[ing]” sexual conduct with someone under the age of 18 by any kind of deception. This original version would, for instance, make a 17-year-old boy guilty of an unclassified felony for having sex with a 16-year-old girl after telling her falsely that he wasn’t romantically involved with anyone else. The M version imposes a requirement that any “human trafficking” would only occur if the victim were under the age of 18 and if the offender were at least four years older.

AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA FOUNDATION
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**The CS Retains Some Arbitrary Consequences, and
Imposes an Outsized Penalty for Some Potentially Innocent Conduct**

Generally, the Legislature has determined the age of consent to be 16. However, the M version of the bill would make consensual sexual activity between a 22-year-old and a 17-year-old an unclassified felony – the same grade as rape – as long as the 22-year-old “deceived” the 17-year-old in some way, and as long as the 17-year-old traveled 100 miles to reach the site where they have sex, which would include, say, driving from Seward to Anchorage. It appears, conversely, that the 22-year-old could drive from Anchorage to Seward to have sex with the 17-year-old and go unpunished.

The term “by deception” has been very broadly construed by the Alaska courts. Virtually any misrepresentation qualifies as deception. *State v. McDonald*, 872 P.2d 627, 653 (Alaska App. 1994) (holding evidence that kidnapping defendant lured adult woman into van using “deception” with false promise of information regarding ongoing child custody dispute). Within the ordinary realm of consensual romantic and sexual relations, people lie about all sorts of facts: whether one is married or not, whether one is in a committed relationship or not, how much money one makes, etc. While deception in the context of romantic and sexual relationships is not laudatory, not all such misrepresentations should not be the subject of criminal penalties.

In addition to the broad meaning of the term “by deception,” the terms “entice” and “induce” are also so broad that the bill could criminalize more than the exploitative activity the drafters intended. While the trafficking of young people from rural Alaska to urban areas is serious, the current version – as a result of problems with the underlying statute – still sweeps too broadly beyond the targeted behavior.

Thank you again for letting us share our concerns. Please feel free to contact the undersigned should you have any questions or seek additional information.

Sincerely,



Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Senator Joe Paskvan, [Senator Joe Paskvan@legis.state.ak.us](mailto:Senator_Joe_Paskvan@legis.state.ak.us)
Senator Lesil McGuire, [Senator Lesil McGuire@legis.state.ak.us](mailto:Senator_Lesil_McGuire@legis.state.ak.us)
Senator John Coghill, [Senator John Coghill@legis.state.ak.us](mailto:Senator_John_Coghill@legis.state.ak.us)

Cindy Smith

From: Steiner, Quinlan G (DOA) <quinlan.steiner@alaska.gov>
Sent: Wednesday, March 21, 2012 10:34 AM
To: Cindy Smith
Subject: RE: SB110

The only other thing I would suggest is to take sexual conduct out of the human trafficking statute and deal with that issue in the sex trafficking statute.

From: Steiner, Quinlan G (DOA)
Sent: Wednesday, March 21, 2012 10:25 AM
To: 'Cindy Smith'
Subject: SB110

This would narrow it, but still be broader than promoting prostitution, and eliminate the possibility of a prosecution for deception in the in-state dating context.

- (a) A person commits the crime of human trafficking in the second degree if
 - (1) the person compels or induces another person to come to this state to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception; or
 - (2) the person compels or induces another person in this state to engage in sexual conduct with a third person, adult entertainment, or labor by force or threat of force against any person, or by deception.

CS FOR SENATE BILL NO. 110(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to human trafficking and sex trafficking, to punishment and fines for
2 those offenses, and to peace officer powers to enforce human trafficking and sex
3 trafficking laws in licensed premises; including human trafficking in the first degree and
4 sex trafficking in the first degree in the definition of 'serious felony offense' for the
5 offense of conspiracy and including sex trafficking and online enticement of a minor in
6 the definition of 'most serious felony' for sentencing; relating to prostitution and
7 promoting prostitution; relating to sex offenses; including human trafficking and sex
8 trafficking in the list of offenses that make hearings for certain delinquent minors public
9 and require disclosure of the names of certain delinquent minors; and providing for an
10 effective date."

11 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12 * **Section 1.** AS 04.06.110 is amended to read:

1 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
 2 for the administration and enforcement of this title may, with the concurrence of the
 3 commissioner of public safety, exercise the powers of peace officers when those
 4 powers are specifically granted by the board. Powers granted by the board under this
 5 section may be exercised only when necessary for the enforcement of the criminally
 6 punishable provisions of this title, regulations of the board, and other criminally
 7 punishable laws and regulations, including investigation of violations of laws against
 8 prostitution and sex trafficking [PROMOTING PROSTITUTION] described in AS
 9 11.66.100 - 11.66.135, human trafficking described in AS 11.41.355 - 11.41.365,
 10 [AS 11.66.100 - 11.66.130] and laws against gambling, promoting gambling, and
 11 related offenses described in AS 11.66.200 - 11.66.280.

12 * **Sec. 2.** AS 04.11.370(a) is amended to read:

13 (a) A license or permit shall be suspended or revoked if the board finds

14 (1) misrepresentation of a material fact on an application made under
 15 this title or a regulation adopted under this title;

16 (2) continuation of the manufacture, sale, or service of alcoholic
 17 beverages by the licensee or permittee would be contrary to the best interests of the
 18 public;

19 (3) failure on the part of the licensee to correct a defect that constitutes
 20 a violation of this title, a condition or restriction imposed by the board, a regulation
 21 adopted under this title, or other laws after receipt of notice issued by the board or its
 22 agent;

23 (4) conviction of a licensee of a violation of this title, a regulation
 24 adopted under this title, or an ordinance adopted under AS 04.21.010;

25 (5) conviction of an agent or employee of a licensee of a violation of
 26 this title, a regulation adopted under this title, or an ordinance adopted under AS
 27 04.21.010, if the licensee is found by the board to have either knowingly allowed the
 28 violation or to have recklessly or with criminal negligence failed to act in accordance
 29 with the duty prescribed under AS 04.21.030 with the result that the agent or
 30 employee violates a law, regulation, or ordinance;

31 (6) failure of the licensee to comply with the public health, fire, or

1 safety laws and regulations in the state;

2 (7) use of the licensed premises as a resort for illegal possessors or
 3 users of narcotics, prostitutes, human traffickers, or sex traffickers [PROMOTERS
 4 OF PROSTITUTION]; in addition to any other legally competent evidence, the
 5 character of the premises may be proved by the general reputation of the premises in
 6 the community as a resort for illegal possessors or users of narcotics, prostitutes,
 7 human traffickers, or sex traffickers [PROMOTERS OF PROSTITUTION];

8 (8) occurrence of illegal gambling within the limits of the licensed
 9 premises;

10 (9) the licensee permitted a public offense involving moral turpitude to
 11 occur on the licensed premises;

12 (10) violation by a licensee of this title, a condition or restriction
 13 imposed by the board, a regulation adopted under this title, or an ordinance adopted
 14 under AS 04.21.010; or

15 (11) violation by an agent or employee of a licensee of a provision of
 16 this title, a condition or restriction imposed by the board, a regulation adopted under
 17 this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the
 18 board to have either knowingly allowed the violation or to have recklessly or with
 19 criminal negligence failed to act in accordance with the duty prescribed under AS
 20 04.21.030 with the result that the agent or employee violates the law, condition or
 21 restriction, regulation, or ordinance.

22 * **Sec. 3.** AS 11.31.120(h)(2) is amended to read:

23 (2) "serious felony offense" means an offense

24 (A) against the person under AS 11.41, punishable as an
 25 unclassified or class A felony;

26 (B) involving controlled substances under AS 11.71,
 27 punishable as an unclassified, class A, or class B felony;

28 (C) that is criminal mischief in the first degree under AS
 29 11.46.475; [OR]

30 (D) that is terroristic threatening in the first degree under AS
 31 11.56.807;

1 (E) that is human trafficking in the first degree under AS

2 11.41.355; or

3 (F) that is sex trafficking in the first degree under AS

4 11.66.110.

5 * **Sec. 4.** AS 11.41 is amended by adding a new section to read:

6 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits
7 the crime of human trafficking in the first degree if

8 (1) the person violates AS 11.41.360 by compelling or inducing
9 another person to engage in

10 (A) sexual conduct;

11 (B) adult entertainment; or

12 (C) an act described in AS 11.41.455(a)(1) - (7); and

13 (2) the other person compelled or induced is under 18 years of age.

14 (b) Human trafficking in the first degree is an unclassified felony.

15 * **Sec. 5.** AS 11.41.360(a) is amended to read:

16 (a) A person commits the crime of human trafficking in the **second** [FIRST]
17 degree if the person compels or induces another person to [COME TO THIS STATE
18 TO] engage in sexual conduct, adult entertainment, or labor in the state by force or
19 threat of force against any person, or by deception.

20 * **Sec. 6.** AS 11.41.360(c) is amended to read:

21 (c) Human trafficking in the **second** [FIRST] degree is a class A felony.

22 * **Sec. 7.** AS 11.41.365 is amended to read:

23 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A
24 person commits the crime of human trafficking in the **third** [SECOND] degree if the
25 person obtains a benefit from the commission of human trafficking under **AS**
26 **11.41.355 or 11.41.360** [AS 11.41.360,] with reckless disregard that the benefit is a
27 result of the trafficking.

28 (b) Human trafficking in the **third** [SECOND] degree is a class B felony.

29 * **Sec. 8.** AS 11.41.370 is amended by adding new paragraphs to read:

30 (4) "adult entertainment" means the conduct described in AS
31 23.10.350(f)(1) - (3);

1 (5) "sexual conduct" has the meaning given in AS 11.66.150.

2 * **Sec. 9.** AS 11.66.100(b) is amended to read:

3 (b) Except as provided in (c) of this section, prostitution

4 [PROSTITUTION] is a class B misdemeanor.

5 * **Sec. 10.** AS 11.66.100 is amended by adding new subsections to read:

6 (c) Prostitution is a class C felony if

7 (1) the defendant violates (a) of this section as a patron of a prostitute;

8 (2) the prostitute is under 18 years of age; and

9 (3) the defendant is over 18 years of age and at least three years older
10 than the prostitute.

11 (d) In a prosecution under (c) of this section, it is an affirmative defense that,
12 at the time of the alleged offense, the defendant

13 (1) reasonably believed the prostitute to be 18 years of age or older;

14 and

15 (2) undertook reasonable measures to verify that the prostitute was 18
16 years of age or older.

17 * **Sec. 11.** AS 11.66.110(a) is amended to read:

18 (a) A person commits the crime of sex trafficking [PROMOTING
19 PROSTITUTION] in the first degree if the person

20 (1) induces or causes a person to engage in prostitution through the use
21 of force;

22 (2) as other than a patron of a prostitute, induces or causes a person
23 under 18 years of age to engage in prostitution; or

24 (3) induces or causes a person in that person's legal custody to engage
25 in prostitution.

26 * **Sec. 12.** AS 11.66.110(c) is amended to read:

27 (c) Except as provided in (d) of this section, sex trafficking [PROMOTING
28 PROSTITUTION] in the first degree is a class A felony.

29 * **Sec. 13.** AS 11.66.120 is amended to read:

30 **Sec. 11.66.120. Sex trafficking [PROMOTING PROSTITUTION] in the**
31 **second degree.** (a) A person commits the crime of sex trafficking [PROMOTING

1 PROSTITUTION] in the second degree if the person

2 (1) manages, supervises, controls, or owns, either alone or in
3 association with others, a prostitution enterprise other than a place of prostitution;

4 (2) procures or solicits a patron for a prostitute; or

5 (3) offers, sells, advertises, promotes, or facilitates travel that includes
6 commercial sexual conduct as enticement for the travel; in this paragraph,
7 "commercial sexual conduct" means sexual conduct for which anything of value is
8 given or received by any person.

9 (b) **Sex trafficking** [PROMOTING PROSTITUTION] in the second degree is
10 a class B felony.

11 * **Sec. 14.** AS 11.66.130 is amended to read:

12 **Sec. 11.66.130. Sex trafficking [PROMOTING PROSTITUTION] in the**
13 **third degree.** (a) A person commits the crime of **sex trafficking** [PROMOTING
14 PROSTITUTION] in the third degree if, with intent to promote prostitution, the
15 person

16 (1) manages, supervises, controls, or owns, either alone or in
17 association with others, a place of prostitution;

18 (2) as other than a patron of a prostitute, induces or causes a person 18
19 years of age or older to engage in prostitution;

20 (3) as other than a prostitute receiving compensation for personally
21 rendered prostitution services, receives or agrees to receive money or other property
22 **under** [PURSUANT TO] an agreement or understanding that the money or other
23 property is derived from prostitution; or

24 (4) engages in conduct that institutes, aids, or facilitates a prostitution
25 enterprise.

26 (b) **Sex trafficking** [PROMOTING PROSTITUTION] in the third degree is a
27 class C felony.

28 * **Sec. 15.** AS 11.66.135 is amended to read:

29 **Sec. 11.66.135. Sex trafficking [PROMOTING PROSTITUTION] in the**
30 **fourth degree.** (a) A person commits the crime of **sex trafficking** [PROMOTING
31 PROSTITUTION] in the fourth degree if the person engages in conduct that institutes,

1 aids, or facilitates prostitution under circumstances not proscribed under AS
2 11.66.130(a)(4).

3 (b) **Sex trafficking** [PROMOTING PROSTITUTION] in the fourth degree is
4 a class A misdemeanor.

5 * **Sec. 16.** AS 11.66.140 is amended to read:

6 **Sec. 11.66.140. Corroboration of certain testimony not required.** In a
7 prosecution under **AS 11.66.110 - 11.66.135** [AS 11.66.110 - 11.66.130], it is not
8 necessary that the testimony of the person whose prostitution is alleged to have been
9 compelled or promoted be corroborated by the testimony of any other witness or by
10 documentary or other types of evidence.

11 * **Sec. 17.** AS 11.81.250(a) is amended to read:

12 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
13 title, except murder in the first and second degree, attempted murder in the first
14 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
15 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual
16 abuse of a minor in the first degree, misconduct involving a controlled substance in the
17 first degree, **sex trafficking** [PROMOTING PROSTITUTION] in the first degree
18 under AS 11.66.110(a)(2), **human trafficking in the first degree**, and kidnapping,
19 are classified on the basis of their seriousness, according to the type of injury
20 characteristically caused or risked by commission of the offense and the culpability of
21 the offender. Except for murder in the first and second degree, attempted murder in the
22 first degree, solicitation to commit murder in the first degree, conspiracy to commit
23 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
24 sexual abuse of a minor in the first degree, misconduct involving a controlled
25 substance in the first degree, **sex trafficking** [PROMOTING PROSTITUTION] in the
26 first degree under AS 11.66.110(a)(2), **human trafficking in the first degree**, and
27 kidnapping, the offenses in this title are classified into the following categories:

28 (1) class A felonies, which characteristically involve conduct resulting
29 in serious physical injury or a substantial risk of serious physical injury to a person;

30 (2) class B felonies, which characteristically involve conduct resulting
31 in less severe violence against a person than class A felonies, aggravated offenses

1 against property interests, or aggravated offenses against public administration or
2 order;

3 (3) class C felonies, which characteristically involve conduct serious
4 enough to deserve felony classification but not serious enough to be classified as A or
5 B felonies;

6 (4) class A misdemeanors, which characteristically involve less severe
7 violence against a person, less serious offenses against property interests, less serious
8 offenses against public administration or order, or less serious offenses against public
9 health and decency than felonies;

10 (5) class B misdemeanors, which characteristically involve a minor
11 risk of physical injury to a person, minor offenses against property interests, minor
12 offenses against public administration or order, or minor offenses against public health
13 and decency;

14 (6) violations, which characteristically involve conduct inappropriate
15 to an orderly society but which do not denote criminality in their commission.

16 * **Sec. 18.** AS 11.81.250(b) is amended to read:

17 (b) The classification of each felony defined in this title, except murder in the
18 first and second degree, attempted murder in the first degree, solicitation to commit
19 murder in the first degree, conspiracy to commit murder in the first degree, murder of
20 an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first
21 degree, **human trafficking in the first degree**, misconduct involving a controlled
22 substance in the first degree, **sex trafficking in the first degree under AS**
23 **11.66.110(a)(2)**, and kidnapping, is designated in the section defining it. A felony
24 under **the** [ALASKA] law **of this state** defined outside this title for which no penalty
25 is specifically provided is a class C felony.

26 * **Sec. 19.** AS 12.55.035(b) is amended to read:

27 (b) Upon conviction of an offense, a defendant who is not an organization may
28 be sentenced to pay, unless otherwise specified in the provision of law defining the
29 offense, a fine of **not** [NO] more than

30 (1) \$500,000 for murder in the first or second degree, attempted
31 murder in the first degree, murder of an unborn child, sexual assault in the first degree,

1 sexual abuse of a minor in the first degree, kidnapping, sex trafficking
 2 [PROMOTING PROSTITUTION] in the first degree under AS 11.66.110(a)(2),
 3 human trafficking in the first degree or misconduct involving a controlled substance
 4 in the first degree;

5 (2) \$250,000 for a class A felony;

6 (3) \$100,000 for a class B felony;

7 (4) \$50,000 for a class C felony;

8 (5) \$10,000 for a class A misdemeanor;

9 (6) \$2,000 for a class B misdemeanor;

10 (7) \$500 for a violation.

11 * **Sec. 20.** AS 12.55.085(f) is amended to read:

12 (f) The court may not suspend the imposition of sentence of a person who

13 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
 14 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530, AS
 15 11.46.400, or AS 11.61.125 - 11.61.128;

16 (2) uses a firearm in the commission of the offense for which the
 17 person is convicted; or

18 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
 19 and the person has one or more prior convictions for a misdemeanor violation of AS
 20 11.41 or for a felony or for a violation of a law in this or another jurisdiction having
 21 similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in
 22 this state; for the purposes of this paragraph, a person shall be considered to have a
 23 prior conviction even if that conviction has been set aside under (e) of this section or
 24 under the equivalent provision of the laws of another jurisdiction.

25 * **Sec. 21.** AS 12.55.125 is amended to read:

26 (i) A defendant convicted of

27 (1) sexual assault in the first degree, sexual abuse of a minor in the
 28 first degree, sex trafficking [OR PROMOTING PROSTITUTION] in the first degree
 29 under AS 11.66.110(a)(2), or human trafficking in the first degree may be
 30 sentenced to a definite term of imprisonment of not more than 99 years and shall be
 31 sentenced to a definite term within the following presumptive ranges, subject to

1 adjustment as provided in AS 12.55.155 - 12.55.175:

2 (A) if the offense is a first felony conviction, the offense does
3 not involve circumstances described in (B) of this paragraph, and the victim
4 was

5 (i) less than 13 years of age, 25 to 35 years;

6 (ii) 13 years of age or older, 20 to 30 years;

7 (B) if the offense is a first felony conviction and the defendant
8 possessed a firearm, used a dangerous instrument, or caused serious physical
9 injury during the commission of the offense, 25 to 35 years;

10 (C) if the offense is a second felony conviction and does not
11 involve circumstances described in (D) of this paragraph, 30 to 40 years;

12 (D) if the offense is a second felony conviction and the
13 defendant has a prior conviction for a sexual felony, 35 to 45 years;

14 (E) if the offense is a third felony conviction and the defendant
15 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
16 to 60 years;

17 (F) if the offense is a third felony conviction, the defendant is
18 not subject to sentencing under (I) of this section, and the defendant has two
19 prior convictions for sexual felonies, 99 years;

20 (2) **human trafficking in the second degree under AS 11.41.360**
21 **involving sexual conduct or adult entertainment**, unlawful exploitation of a minor
22 under AS 11.41.455(c)(2), online enticement of a minor under AS 11.41.452(e), or
23 attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual
24 abuse of a minor in the first degree, **sex trafficking** [OR PROMOTING
25 PROSTITUTION] in the first degree under AS 11.66.110(a)(2), **or human**
26 **trafficking in the first degree** may be sentenced to a definite term of imprisonment of
27 not more than 99 years and shall be sentenced to a definite term within the following
28 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

29 (A) if the offense is a first felony conviction, the offense does
30 not involve circumstances described in (B) of this paragraph, and the victim
31 was

1 (i) under 13 years of age, 20 to 30 years;

2 (ii) 13 years of age or older, 15 to 30 years;

3 (B) if the offense is a first felony conviction and the defendant
4 possessed a firearm, used a dangerous instrument, or caused serious physical
5 injury during the commission of the offense, 25 to 35 years;

6 (C) if the offense is a second felony conviction and does not
7 involve circumstances described in (D) of this paragraph, 25 to 35 years;

8 (D) if the offense is a second felony conviction and the
9 defendant has a prior conviction for a sexual felony, 30 to 40 years;

10 (E) if the offense is a third felony conviction, the offense does
11 not involve circumstances described in (F) of this paragraph, and the defendant
12 is not subject to sentencing under (I) of this section, 35 to 50 years;

13 (F) if the offense is a third felony conviction, the defendant is
14 not subject to sentencing under (I) of this section, and the defendant has two
15 prior convictions for sexual felonies, 99 years;

16 (3) sexual assault in the second degree, sexual abuse of a minor in the
17 second degree, online enticement of a minor under AS 11.41.452(d), unlawful
18 exploitation of a minor under AS 11.41.455(c)(1), [OR] distribution of child
19 pornography under AS 11.61.125(e)(2), or attempt, conspiracy, or solicitation to
20 commit human trafficking in the second degree under AS 11.41.360 involving
21 sexual conduct or adult entertainment, may be sentenced to a definite term of
22 imprisonment of not more than 99 years and shall be sentenced to a definite term
23 within the following presumptive ranges, subject to adjustment as provided in AS
24 12.55.155 - 12.55.175:

25 (A) if the offense is a first felony conviction, five to 15 years;

26 (B) if the offense is a second felony conviction and does not
27 involve circumstances described in (C) of this paragraph, 10 to 25 years;

28 (C) if the offense is a second felony conviction and the
29 defendant has a prior conviction for a sexual felony, 15 to 30 years;

30 (D) if the offense is a third felony conviction and does not
31 involve circumstances described in (E) of this paragraph, 20 to 35 years;

1 (E) if the offense is a third felony conviction and the defendant
2 has two prior convictions for sexual felonies, 99 years;

3 (4) sexual assault in the third degree, incest, indecent exposure in the
4 first degree, possession of child pornography, distribution of child pornography under
5 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in
6 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation
7 of a minor, or distribution of child pornography, may be sentenced to a definite term
8 of imprisonment of not more than 99 years and shall be sentenced to a definite term
9 within the following presumptive ranges, subject to adjustment as provided in AS
10 12.55.155 - 12.55.175:

11 (A) if the offense is a first felony conviction, two to 12 years;

12 (B) if the offense is a second felony conviction and does not
13 involve circumstances described in (C) of this paragraph, eight to 15 years;

14 (C) if the offense is a second felony conviction and the
15 defendant has a prior conviction for a sexual felony, 12 to 20 years;

16 (D) if the offense is a third felony conviction and does not
17 involve circumstances described in (E) of this paragraph, 15 to 25 years;

18 (E) if the offense is a third felony conviction and the defendant
19 has two prior convictions for sexual felonies, 99 years.

20 * **Sec. 22.** AS 12.55.185(10) is amended to read:

21 (10) "most serious felony" means

22 (A) arson in the first degree, sex trafficking [PROMOTING
23 PROSTITUTION] in the first degree under AS 11.66.110(a)(2), online
24 enticement of a minor under AS 11.41.452(e), or any unclassified or class A
25 felony prescribed under AS 11.41; or

26 (B) an attempt, or conspiracy to commit, or criminal
27 solicitation under AS 11.31.110 of, an unclassified felony prescribed under AS
28 11.41;

29 * **Sec. 23.** AS 12.55.185(16) is amended to read:

30 (16) "sexual felony" means sexual assault in the first degree, sexual
31 abuse of a minor in the first degree, human trafficking in the first degree, sex

1 **trafficking in the first degree under AS 11.66.110(a)(2)**, sexual assault in the second
 2 degree, sexual abuse of a minor in the second degree, **online enticement of a minor**,
 3 unlawful exploitation of a minor, distribution of child pornography, **human**
 4 **trafficking in the second degree involving sexual conduct or adult entertainment**,
 5 sexual assault in the third degree, incest, indecent exposure in the first degree,
 6 possession of child pornography, and felony attempt, conspiracy, or solicitation to
 7 commit those crimes;

8 * **Sec. 24.** AS 12.63.100(6) is amended to read:

9 (6) "sex offense" means

10 (A) a crime under AS 11.41.100(a)(3), or a similar law of
 11 another jurisdiction, in which the person committed or attempted to commit a
 12 sexual offense, or a similar offense under the laws of the other jurisdiction; in
 13 this subparagraph, "sexual offense" has the meaning given in AS
 14 11.41.100(a)(3);

15 (B) a crime under AS 11.41.110(a)(3), or a similar law of
 16 another jurisdiction, in which the person committed or attempted to commit
 17 one of the following crimes, or a similar law of another jurisdiction:

18 (i) sexual assault in the first degree;

19 (ii) sexual assault in the second degree;

20 (iii) sexual abuse of a minor in the first degree; or

21 (iv) sexual abuse of a minor in the second degree; or

22 (C) a crime, or an attempt, solicitation, or conspiracy to commit
 23 a crime, under the following statutes or a similar law of another jurisdiction:

24 (i) AS 11.41.410 - 11.41.438;

25 (ii) AS 11.41.440(a)(2);

26 (iii) AS 11.41.450 - 11.41.458;

27 (iv) AS 11.41.460 if the indecent exposure is before a
 28 person under 16 years of age and the offender has a previous conviction
 29 for that offense;

30 (v) AS 11.61.125 - 11.61.128;

31 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who

1 was induced or caused to engage in prostitution was 16 or 17 years of
2 age at the time of the offense;

3 (vii) former AS 11.15.120, former 11.15.134, or assault
4 with the intent to commit rape under former AS 11.15.160, former AS
5 11.40.110, or former 11.40.200; [OR]

6 (viii) AS 11.61.118(a)(2) if the offender has a previous
7 conviction for that offense;

8 **(ix) human trafficking in the first degree under AS**
9 **11.41.355;**

10 **(x) sex trafficking in the first degree under AS**
11 **11.66.110(a)(2);**

12 * **Sec. 25.** AS 15.80.010(9) is amended to read:

13 (9) "felony involving moral turpitude" includes those crimes that are
14 immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault,
15 sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion,
16 coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a
17 forgery device, offering a false instrument for recording, scheme to defraud, falsifying
18 business records, commercial bribe receiving, commercial bribery, bribery, receiving a
19 bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor,
20 escape, promoting contraband, interference with official proceedings, receiving a bribe
21 by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical
22 evidence, hindering prosecution, terroristic threatening, riot, criminal possession of
23 explosives, unlawful furnishing of explosives, **sex trafficking, human trafficking**
24 **[PROMOTING PROSTITUTION]**, criminal mischief, misconduct involving a
25 controlled substance or an imitation controlled substance, permitting an escape,
26 promoting gambling, possession of gambling records, distribution of child
27 pornography, and possession of child pornography;

28 * **Sec. 26.** AS 28.15.046(c) is amended to read:

29 (c) The department may not issue a license under this section to an applicant
30 who has been convicted of any of the following offenses within 20 years of the time of
31 application:

- 1 (1) sexual abuse of a minor in any degree under AS 11.41.434 -
 2 11.41.440;
- 3 (2) sexual assault in any degree under AS 11.41.410 - 11.41.425;
- 4 (3) incest under AS 11.41.450;
- 5 (4) unlawful exploitation of a minor under AS 11.41.455;
- 6 (5) contributing to the delinquency of a minor under AS 11.51.130;
- 7 (6) a felony involving possession of a controlled or imitation
 8 controlled substance under AS 11.71 or AS 11.73;
- 9 (7) a felony or misdemeanor involving distribution of a controlled or
 10 imitation controlled substance under AS 11.71 or AS 11.73;
- 11 (8) **sex trafficking** [PROMOTING PROSTITUTION] in the first or
 12 second degree under AS 11.66.110 or 11.66.120;
- 13 (9) indecent exposure in the first or second degree under AS 11.41.458
 14 or 11.41.460;
- 15 **(10) human trafficking in the first degree under AS 11.41.355 and**
 16 **human trafficking in the second degree involving sexual conduct or adult**
 17 **entertainment.**

18 * Sec. 27. AS 47.12.110(d) is amended to read:

19 (d) Notwithstanding (a) of this section, a court hearing on a petition seeking
 20 the adjudication of a minor as a delinquent shall be open to the public, except as
 21 prohibited or limited by order of the court, if

22 (1) the department files with the court a motion asking the court to
 23 open the hearing to the public, and the petition seeking adjudication of the minor as a
 24 delinquent is based on

25 (A) the minor's alleged commission of an offense, and the
 26 minor has knowingly failed to comply with all the terms and conditions
 27 required of the minor by the department or imposed on the minor in a court
 28 order entered under AS 47.12.040(a)(2) or 47.12.120;

29 (B) the minor's alleged commission of

30 (i) a crime against a person that is punishable as a
 31 felony;

1 (ii) a crime in which the minor employed a deadly
2 weapon, as that term is defined in AS 11.81.900(b), in committing the
3 crime;

4 (iii) arson under AS 11.46.400 - 11.46.410;

5 (iv) burglary under AS 11.46.300;

6 (v) distribution of child pornography under AS
7 11.61.125;

8 (vi) sex trafficking [PROMOTING PROSTITUTION]
9 in the first degree under AS 11.66.110; [OR]

10 (vii) misconduct involving a controlled substance under
11 AS 11.71 involving the delivery of a controlled substance or the
12 possession of a controlled substance with intent to deliver, other than
13 an offense under AS 11.71.040 or 11.71.050; or

14 (viii) human trafficking in the first degree under AS

15 11.41.355; or

16 (C) the minor's alleged commission of a felony and the minor
17 was 16 years of age or older at the time of commission of the offense when the
18 minor has previously been convicted or adjudicated a delinquent minor based
19 on the minor's commission of an offense that is a felony; or

20 (2) the minor agrees to a public hearing on the petition seeking
21 adjudication of the minor as a delinquent.

22 * **Sec. 28.** AS 47.12.315(a) is amended to read:

23 (a) Notwithstanding AS 47.12.310, when an agency takes action under AS
24 47.12.040(a)(1) to adjust a matter, or when, under AS 47.12.040(a)(2), the court
25 directs the agency to adjust the matter, the agency

26 (1) shall, for a minor who is at least 13 years of age at the time of
27 commission of the offense, disclose to the public the name of the minor, the name or
28 names of the parent, parents, or guardian of the minor, the action required by the
29 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
30 information about the offense exclusive of information that identifies the victim of the
31 offense, if the minor was, under AS 47.12.020, previously alleged to be a delinquent

1 minor on the basis of the minor's commission of at least one offense and, on the basis
 2 of that allegation, a state agency has, under AS 47.12.040(a), been asked to make a
 3 preliminary inquiry to determine if any action on that matter is appropriate, and, if the
 4 minor is alleged to be a delinquent minor on the basis of the minor's commission of
 5 another offense, exercise of agency jurisdiction is based on the minor's alleged
 6 commission of that other offense, and that other offense is one of the following:

7 (A) a crime against a person that is punishable as a felony;

8 (B) a crime in which the minor employed a deadly weapon, as
 9 that term is defined in AS 11.81.900(b), in committing the crime;

10 (C) arson under AS 11.46.400 - 11.46.410;

11 (D) burglary under AS 11.46.300;

12 (E) distribution of child pornography under AS 11.61.125;

13 (F) sex trafficking [PROMOTING PROSTITUTION] in the
 14 first degree under AS 11.66.110; [OR]

15 (G) misconduct involving a controlled substance under AS
 16 11.71 involving the delivery of a controlled substance or the possession of a
 17 controlled substance with intent to deliver, other than an offense under AS
 18 11.71.040 or 11.71.050; or

19 (H) human trafficking in the first degree under AS
 20 11.41.355; and

21 (2) may, for a minor who is at least 13 years of age at the time of
 22 commission of the offense, disclose to the public the name of the minor, the name or
 23 names of the parent, parents, or guardian of the minor, the action required by the
 24 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
 25 information about the offense exclusive of information that identifies the victim of the
 26 offense if the minor has knowingly failed to comply with all terms and conditions
 27 required of the minor by the agency to adjust the matter under AS 47.12.060(b).

28 * **Sec. 29.** AS 11.41.360(b)(1) and 11.41.360(b)(3) are repealed.

29 * **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 APPLICABILITY. (a) Sections 1, 2, 11 - 15, 18, and 25 - 28 of this Act apply to

1 offenses committed before, on, or after the effective date of the Act.

2 (b) Sections 3 - 10, 16, 17, 19 - 24, and 29 of this Act apply to offenses committed on
3 or after the effective date of this Act.

4 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the catch
7 line of AS 11.66.110 from "Promoting prostitution in the first degree" to "Sex trafficking in
8 the first degree."

9 * **Sec. 32.** This Act takes effect July 1, 2012.

27-LS0646\X

Gardner

3/21/12

CS FOR SENATE BILL NO. 110(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to human trafficking and sex trafficking, to punishment and fines for
2 those offenses, and to peace officer powers to enforce human trafficking and sex
3 trafficking laws in licensed premises; including human trafficking in the first degree and
4 sex trafficking in the first degree in the definition of 'serious felony offense' for the
5 offense of conspiracy and including sex trafficking and online enticement of a minor in
6 the definition of 'most serious felony' for sentencing; relating to prostitution and
7 promoting prostitution; relating to sex offenses; including human trafficking and sex
8 trafficking in the list of offenses that make hearings for certain delinquent minors public
9 and require disclosure of the names of certain delinquent minors; and providing for an
10 effective date."

11 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12 * **Section 1.** AS 04.06.110 is amended to read:

1 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
2 for the administration and enforcement of this title may, with the concurrence of the
3 commissioner of public safety, exercise the powers of peace officers when those
4 powers are specifically granted by the board. Powers granted by the board under this
5 section may be exercised only when necessary for the enforcement of the criminally
6 punishable provisions of this title, regulations of the board, and other criminally
7 punishable laws and regulations, including investigation of violations of laws against
8 prostitution and sex trafficking [PROMOTING PROSTITUTION] described in
9 AS 11.66.100 - 11.66.135, human trafficking described in AS 11.41.355 -
10 11.41.365, [AS 11.66.100 - 11.66.130] and laws against gambling, promoting
11 gambling, and related offenses described in AS 11.66.200 - 11.66.280.

12 * **Sec. 2.** AS 04.11.370(a) is amended to read:

13 (a) A license or permit shall be suspended or revoked if the board finds

14 (1) misrepresentation of a material fact on an application made under
15 this title or a regulation adopted under this title;

16 (2) continuation of the manufacture, sale, or service of alcoholic
17 beverages by the licensee or permittee would be contrary to the best interests of the
18 public;

19 (3) failure on the part of the licensee to correct a defect that constitutes
20 a violation of this title, a condition or restriction imposed by the board, a regulation
21 adopted under this title, or other laws after receipt of notice issued by the board or its
22 agent;

23 (4) conviction of a licensee of a violation of this title, a regulation
24 adopted under this title, or an ordinance adopted under AS 04.21.010;

25 (5) conviction of an agent or employee of a licensee of a violation of
26 this title, a regulation adopted under this title, or an ordinance adopted under
27 AS 04.21.010, if the licensee is found by the board to have either knowingly allowed
28 the violation or to have recklessly or with criminal negligence failed to act in
29 accordance with the duty prescribed under AS 04.21.030 with the result that the agent
30 or employee violates a law, regulation, or ordinance;

31 (6) failure of the licensee to comply with the public health, fire, or

1 safety laws and regulations in the state;

2 (7) use of the licensed premises as a resort for illegal possessors or
3 users of narcotics, prostitutes, human traffickers, or sex traffickers [PROMOTERS
4 OF PROSTITUTION]; in addition to any other legally competent evidence, the
5 character of the premises may be proved by the general reputation of the premises in
6 the community as a resort for illegal possessors or users of narcotics, prostitutes,
7 human traffickers, or sex traffickers [PROMOTERS OF PROSTITUTION];

8 (8) occurrence of illegal gambling within the limits of the licensed
9 premises;

10 (9) the licensee permitted a public offense involving moral turpitude to
11 occur on the licensed premises;

12 (10) violation by a licensee of this title, a condition or restriction
13 imposed by the board, a regulation adopted under this title, or an ordinance adopted
14 under AS 04.21.010; or

15 (11) violation by an agent or employee of a licensee of a provision of
16 this title, a condition or restriction imposed by the board, a regulation adopted under
17 this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the
18 board to have either knowingly allowed the violation or to have recklessly or with
19 criminal negligence failed to act in accordance with the duty prescribed under
20 AS 04.21.030 with the result that the agent or employee violates the law, condition or
21 restriction, regulation, or ordinance.

22 * **Sec. 3.** AS 11.31.120(h)(2) is amended to read:

23 (2) "serious felony offense" means an offense

24 (A) against the person under AS 11.41, punishable as an
25 unclassified or class A felony;

26 (B) involving controlled substances under AS 11.71,
27 punishable as an unclassified, class A, or class B felony;

28 (C) that is criminal mischief in the first degree under
29 AS 11.46.475; [OR]

30 (D) that is terroristic threatening in the first degree under
31 AS 11.56.807;

1 (E) that is human trafficking in the first degree under

2 AS 11.41.355; or

3 (F) that is sex trafficking in the first degree under

4 AS 11.66.110.

5 * **Sec. 4.** AS 11.41 is amended by adding a new section to read:

6 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits
7 the crime of human trafficking in the first degree if

8 (1) the person violates AS 11.41.360 by compelling or inducing
9 another person to engage in

10 (A) sexual conduct;

11 (B) adult entertainment; or

12 (C) an act described in AS 11.41.455(a)(1) - (7); and

13 (2) the other person compelled or induced is under 18 years of age.

14 (b) Human trafficking in the first degree is an unclassified felony.

15 * **Sec. 5.** AS 11.41.360(a) is amended to read:

16 (a) A person commits the crime of human trafficking in the second [FIRST]
17 degree if the person compels or induces another person to [COME TO THIS STATE
18 TO] engage in sexual conduct, adult entertainment, or labor in the state by force or
19 threat of force against any person, or by deception.

20 * **Sec. 6.** AS 11.41.360(c) is amended to read:

21 (c) Human trafficking in the second [FIRST] degree is a class A felony.

22 * **Sec. 7.** AS 11.41.365 is amended to read:

23 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A
24 person commits the crime of human trafficking in the third [SECOND] degree if the
25 person obtains a benefit from the commission of human trafficking under
26 AS 11.41.355 or 11.41.360 [AS 11.41.360,] with reckless disregard that the benefit is
27 a result of the trafficking.

28 (b) Human trafficking in the third [SECOND] degree is a class B felony.

29 * **Sec. 8.** AS 11.41.370 is amended by adding new paragraphs to read:

30 (4) "adult entertainment" means the conduct described in
31 AS 23.10.350(f)(1) - (3);

1 (5) "sexual conduct" has the meaning given in AS 11.66.150.

2 * **Sec. 9.** AS 11.66.100(b) is amended to read:

3 (b) Except as provided in (c) of this section, prostitution

4 [PROSTITUTION] is a class B misdemeanor.

5 * **Sec. 10.** AS 11.66.100 is amended by adding new subsections to read:

6 (c) Prostitution is a class C felony if

7 (1) the defendant violates (a) of this section as a patron of a prostitute;

8 (2) the prostitute is under 18 years of age; and

9 (3) the defendant is over 18 years of age and at least three years older
10 than the prostitute.

11 (d) In a prosecution under (c) of this section, it is an affirmative defense that,
12 at the time of the alleged offense, the defendant

13 (1) reasonably believed the prostitute to be 18 years of age or older;

14 and

15 (2) undertook reasonable measures to verify that the prostitute was 18
16 years of age or older.

17 * **Sec. 11.** AS 11.66.110(a) is amended to read:

18 (a) A person commits the crime of sex trafficking [PROMOTING
19 PROSTITUTION] in the first degree if the person

20 (1) induces or causes a person to engage in prostitution through the use
21 of force;

22 (2) as other than a patron of a prostitute, induces or causes a person
23 under 18 years of age to engage in prostitution; or

24 (3) induces or causes a person in that person's legal custody to engage
25 in prostitution.

26 * **Sec. 12.** AS 11.66.110(c) is amended to read:

27 (c) Except as provided in (d) of this section, sex trafficking [PROMOTING
28 PROSTITUTION] in the first degree is a class A felony.

29 * **Sec. 13.** AS 11.66.120 is amended to read:

30 **Sec. 11.66.120. Sex trafficking [PROMOTING PROSTITUTION] in the**
31 **second degree.** (a) A person commits the crime of sex trafficking [PROMOTING

1 PROSTITUTION] in the second degree if the person

2 (1) manages, supervises, controls, or owns, either alone or in
3 association with others, a prostitution enterprise other than a place of prostitution;

4 (2) procures or solicits a patron for a prostitute; or

5 (3) offers, sells, advertises, promotes, or facilitates travel that includes
6 commercial sexual conduct as enticement for the travel; in this paragraph,
7 "commercial sexual conduct" means sexual conduct for which anything of value is
8 given or received by any person.

9 (b) Sex trafficking [PROMOTING PROSTITUTION] in the second degree is
10 a class B felony.

11 * **Sec. 14.** AS 11.66.130 is amended to read:

12 **Sec. 11.66.130. Sex trafficking [PROMOTING PROSTITUTION] in the**
13 **third degree.**

14 (a) A person commits the crime of sex trafficking [PROMOTING
15 PROSTITUTION] in the third degree if, with intent to promote prostitution, the
16 person

17 (1) manages, supervises, controls, or owns, either alone or in
18 association with others, a place of prostitution;

19 (2) as other than a patron of a prostitute, induces or causes a person 18
20 years of age or older to engage in prostitution;

21 (3) as other than a prostitute receiving compensation for personally
22 rendered prostitution services, receives or agrees to receive money or other property
23 under [PURSUANT TO] an agreement or understanding that the money or other
24 property is derived from prostitution; or

25 (4) engages in conduct that institutes, aids, or facilitates a prostitution
26 enterprise.

27 (b) Sex trafficking [PROMOTING PROSTITUTION] in the third degree is a
28 class C felony.

29 * **Sec. 15.** AS 11.66.135 is amended to read:

30 **Sec. 11.66.135. Sex trafficking [PROMOTING PROSTITUTION] in the**
31 **fourth degree.** (a) A person commits the crime of sex trafficking [PROMOTING

1 PROSTITUTION] in the fourth degree if the person engages in conduct that institutes,
2 aids, or facilitates prostitution under circumstances not proscribed under
3 AS 11.66.130(a)(4).

4 (b) **Sex trafficking** [PROMOTING PROSTITUTION] in the fourth degree is
5 a class A misdemeanor.

6 * **Sec. 16.** AS 11.66.140 is amended to read:

7 **Sec. 11.66.140. Corroboration of certain testimony not required.** In a
8 prosecution under **AS 11.66.110 - 11.66.135** [AS 11.66.110 - 11.66.130], it is not
9 necessary that the testimony of the person whose prostitution is alleged to have been
10 compelled or promoted be corroborated by the testimony of any other witness or by
11 documentary or other types of evidence.

12 * **Sec. 17.** AS 11.81.250(a) is amended to read:

13 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
14 title, except murder in the first and second degree, attempted murder in the first
15 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
16 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual
17 abuse of a minor in the first degree, misconduct involving a controlled substance in the
18 first degree, **sex trafficking** [PROMOTING PROSTITUTION] in the first degree
19 under AS 11.66.110(a)(2), **human trafficking in the first degree under**
20 **AS 11.41.355**, and kidnapping, are classified on the basis of their seriousness,
21 according to the type of injury characteristically caused or risked by commission of
22 the offense and the culpability of the offender. Except for murder in the first and
23 second degree, attempted murder in the first degree, solicitation to commit murder in
24 the first degree, conspiracy to commit murder in the first degree, murder of an unborn
25 child, sexual assault in the first degree, sexual abuse of a minor in the first degree,
26 misconduct involving a controlled substance in the first degree, **sex trafficking**
27 [PROMOTING PROSTITUTION] in the first degree under AS 11.66.110(a)(2),
28 **human trafficking in the first degree under AS 11.41.355**, and kidnapping, the
29 offenses in this title are classified into the following categories:

30 (1) class A felonies, which characteristically involve conduct resulting
31 in serious physical injury or a substantial risk of serious physical injury to a person;

1 (2) class B felonies, which characteristically involve conduct resulting
 2 in less severe violence against a person than class A felonies, aggravated offenses
 3 against property interests, or aggravated offenses against public administration or
 4 order;

5 (3) class C felonies, which characteristically involve conduct serious
 6 enough to deserve felony classification but not serious enough to be classified as A or
 7 B felonies;

8 (4) class A misdemeanors, which characteristically involve less severe
 9 violence against a person, less serious offenses against property interests, less serious
 10 offenses against public administration or order, or less serious offenses against public
 11 health and decency than felonies;

12 (5) class B misdemeanors, which characteristically involve a minor
 13 risk of physical injury to a person, minor offenses against property interests, minor
 14 offenses against public administration or order, or minor offenses against public health
 15 and decency;

16 (6) violations, which characteristically involve conduct inappropriate
 17 to an orderly society but which do not denote criminality in their commission.

18 * **Sec. 18.** AS 11.81.250(b) is amended to read:

19 (b) The classification of each felony defined in this title, except murder in the
 20 first and second degree, attempted murder in the first degree, solicitation to commit
 21 murder in the first degree, conspiracy to commit murder in the first degree, murder of
 22 an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first
 23 degree, misconduct involving a controlled substance in the first degree, **sex**
 24 **trafficking in the first degree under AS 11.66.110(a)(2)**, and kidnapping, is
 25 designated in the section defining it. A felony under **the** [ALASKA] law **of this state**
 26 defined outside this title for which no penalty is specifically provided is a class C
 27 felony.

Handwritten note:
 Human Trafficking
 1st degree

28 * **Sec. 19.** AS 12.55.035(b) is amended to read:

29 (b) Upon conviction of an offense, a defendant who is not an organization may
 30 be sentenced to pay, unless otherwise specified in the provision of law defining the
 31 offense, a fine of **not** [NO] more than

1 (1) \$500,000 for murder in the first or second degree, attempted
2 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
3 sexual abuse of a minor in the first degree, kidnapping, sex trafficking
4 [PROMOTING PROSTITUTION] in the first degree under AS 11.66.110(a)(2),
5 human trafficking in the first degree under AS 11.41.355 or misconduct involving
6 a controlled substance in the first degree;

7 (2) \$250,000 for a class A felony;

8 (3) \$100,000 for a class B felony;

9 (4) \$50,000 for a class C felony;

10 (5) \$10,000 for a class A misdemeanor;

11 (6) \$2,000 for a class B misdemeanor;

12 (7) \$500 for a violation.

13 * **Sec. 20.** AS 12.55.085(f) is amended to read:

14 (f) The court may not suspend the imposition of sentence of a person who

15 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
16 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530,
17 AS 11.46.400, or AS 11.61.125 - 11.61.128;

18 (2) uses a firearm in the commission of the offense for which the
19 person is convicted; or

20 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
21 and the person has one or more prior convictions for a misdemeanor violation of
22 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
23 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
24 felony in this state; for the purposes of this paragraph, a person shall be considered to
25 have a prior conviction even if that conviction has been set aside under (e) of this
26 section or under the equivalent provision of the laws of another jurisdiction.

27 * **Sec. 21.** AS 12.55.125 is amended to read:

28 (i) A defendant convicted of

29 (1) sexual assault in the first degree, sexual abuse of a minor in the
30 first degree, sex trafficking [OR PROMOTING PROSTITUTION] in the first degree
31 under AS 11.66.110(a)(2), or human trafficking in the first degree under

1 **AS 11.41.355** may be sentenced to a definite term of imprisonment of not more than
2 99 years and shall be sentenced to a definite term within the following presumptive
3 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

4 (A) if the offense is a first felony conviction, the offense does
5 not involve circumstances described in (B) of this paragraph, and the victim
6 was

7 (i) less than 13 years of age, 25 to 35 years;

8 (ii) 13 years of age or older, 20 to 30 years;

9 (B) if the offense is a first felony conviction and the defendant
10 possessed a firearm, used a dangerous instrument, or caused serious physical
11 injury during the commission of the offense, 25 to 35 years;

12 (C) if the offense is a second felony conviction and does not
13 involve circumstances described in (D) of this paragraph, 30 to 40 years;

14 (D) if the offense is a second felony conviction and the
15 defendant has a prior conviction for a sexual felony, 35 to 45 years;

16 (E) if the offense is a third felony conviction and the defendant
17 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
18 to 60 years;

19 (F) if the offense is a third felony conviction, the defendant is
20 not subject to sentencing under (I) of this section, and the defendant has two
21 prior convictions for sexual felonies, 99 years;

22 (2) **human trafficking in the second degree under AS 11.41.360**
23 **involving sexual conduct or adult entertainment**, unlawful exploitation of a minor
24 under AS 11.41.455(c)(2), online enticement of a minor under AS 11.41.452(e), or
25 attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual
26 abuse of a minor in the first degree, **sex trafficking** [OR PROMOTING
27 PROSTITUTION] in the first degree under AS 11.66.110(a)(2), **or human**
28 **trafficking in the first degree under AS 11.41.355** may be sentenced to a definite
29 term of imprisonment of not more than 99 years and shall be sentenced to a definite
30 term within the following presumptive ranges, subject to adjustment as provided in
31 AS 12.55.155 - 12.55.175:

1 (A) if the offense is a first felony conviction, the offense does
 2 not involve circumstances described in (B) of this paragraph, and the victim
 3 was

- 4 (i) under 13 years of age, 20 to 30 years;
- 5 (ii) 13 years of age or older, 15 to 30 years;

6 (B) if the offense is a first felony conviction and the defendant
 7 possessed a firearm, used a dangerous instrument, or caused serious physical
 8 injury during the commission of the offense, 25 to 35 years;

9 (C) if the offense is a second felony conviction and does not
 10 involve circumstances described in (D) of this paragraph, 25 to 35 years;

11 (D) if the offense is a second felony conviction and the
 12 defendant has a prior conviction for a sexual felony, 30 to 40 years;

13 (E) if the offense is a third felony conviction, the offense does
 14 not involve circumstances described in (F) of this paragraph, and the defendant
 15 is not subject to sentencing under (I) of this section, 35 to 50 years;

16 (F) if the offense is a third felony conviction, the defendant is
 17 not subject to sentencing under (I) of this section, and the defendant has two
 18 prior convictions for sexual felonies, 99 years;

19 (3) sexual assault in the second degree, sexual abuse of a minor in the
 20 second degree, online enticement of a minor under AS 11.41.452(d), unlawful
 21 exploitation of a minor under AS 11.41.455(c)(1), [OR] distribution of child
 22 pornography under AS 11.61.125(e)(2), or attempt, conspiracy, or solicitation to
 23 commit human trafficking in the second degree under AS 11.41.360 involving
 24 sexual conduct or adult entertainment, may be sentenced to a definite term of
 25 imprisonment of not more than 99 years and shall be sentenced to a definite term
 26 within the following presumptive ranges, subject to adjustment as provided in
 27 AS 12.55.155 - 12.55.175:

28 (A) if the offense is a first felony conviction, five to 15 years;

29 (B) if the offense is a second felony conviction and does not
 30 involve circumstances described in (C) of this paragraph, 10 to 25 years;

31 (C) if the offense is a second felony conviction and the

1 defendant has a prior conviction for a sexual felony, 15 to 30 years;

2 (D) if the offense is a third felony conviction and does not
3 involve circumstances described in (E) of this paragraph, 20 to 35 years;

4 (E) if the offense is a third felony conviction and the defendant
5 has two prior convictions for sexual felonies, 99 years;

6 (4) sexual assault in the third degree, incest, indecent exposure in the
7 first degree, possession of child pornography, distribution of child pornography under
8 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in
9 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation
10 of a minor, or distribution of child pornography, may be sentenced to a definite term
11 of imprisonment of not more than 99 years and shall be sentenced to a definite term
12 within the following presumptive ranges, subject to adjustment as provided in
13 AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, two to 12 years;

15 (B) if the offense is a second felony conviction and does not
16 involve circumstances described in (C) of this paragraph, eight to 15 years;

17 (C) if the offense is a second felony conviction and the
18 defendant has a prior conviction for a sexual felony, 12 to 20 years;

19 (D) if the offense is a third felony conviction and does not
20 involve circumstances described in (E) of this paragraph, 15 to 25 years;

21 (E) if the offense is a third felony conviction and the defendant
22 has two prior convictions for sexual felonies, 99 years.

23 * **Sec. 22.** AS 12.55.185(10) is amended to read:

24 (10) "most serious felony" means

25 (A) arson in the first degree, sex trafficking [PROMOTING
26 PROSTITUTION] in the first degree under AS 11.66.110(a)(2), online
27 enticement of a minor under AS 11.41.452(e), or any unclassified or class A
28 felony prescribed under AS 11.41; or

29 (B) an attempt, or conspiracy to commit, or criminal
30 solicitation under AS 11.31.110 of, an unclassified felony prescribed under
31 AS 11.41;

1 * **Sec. 23.** AS 12.55.185(16) is amended to read:

2 (16) "sexual felony" means sexual assault in the first degree, sexual
3 abuse of a minor in the first degree, **human trafficking in the first degree, sex**
4 **trafficking in the first degree under AS 11.66.110(a)(2)**, sexual assault in the second
5 degree, sexual abuse of a minor in the second degree, **online enticement of a minor,**
6 unlawful exploitation of a minor, distribution of child pornography, **human**
7 **trafficking in the second degree involving sexual conduct or adult entertainment,**
8 sexual assault in the third degree, incest, indecent exposure in the first degree,
9 possession of child pornography, and felony attempt, conspiracy, or solicitation to
10 commit those crimes;

11 * **Sec. 24.** AS 12.63.100(6) is amended to read:

12 (6) "sex offense" means

13 (A) a crime under AS 11.41.100(a)(3), or a similar law of
14 another jurisdiction, in which the person committed or attempted to commit a
15 sexual offense, or a similar offense under the laws of the other jurisdiction; in
16 this subparagraph, "sexual offense" has the meaning given in
17 AS 11.41.100(a)(3);

18 (B) a crime under AS 11.41.110(a)(3), or a similar law of
19 another jurisdiction, in which the person committed or attempted to commit
20 one of the following crimes, or a similar law of another jurisdiction:

- 21 (i) sexual assault in the first degree;
22 (ii) sexual assault in the second degree;
23 (iii) sexual abuse of a minor in the first degree; or
24 (iv) sexual abuse of a minor in the second degree; or

25 (C) a crime, or an attempt, solicitation, or conspiracy to commit
26 a crime, under the following statutes or a similar law of another jurisdiction:

- 27 (i) AS 11.41.410 - 11.41.438;
28 (ii) AS 11.41.440(a)(2);
29 (iii) AS 11.41.450 - 11.41.458;
30 (iv) AS 11.41.460 if the indecent exposure is before a
31 person under 16 years of age and the offender has a previous conviction

1 for that offense;

2 (v) AS 11.61.125 - 11.61.128;

3 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
4 was induced or caused to engage in prostitution was 16 or 17 years of
5 age at the time of the offense;

6 (vii) former AS 11.15.120, former 11.15.134, or assault
7 with the intent to commit rape under former AS 11.15.160, former
8 AS 11.40.110, or former 11.40.200; [OR]

9 (viii) AS 11.61.118(a)(2) if the offender has a previous
10 conviction for that offense;

11 (ix) human trafficking in the first degree under
12 AS 11.41.355;

13 (x) sex trafficking in the first degree under
14 AS 11.66.110(a)(2);

15 * **Sec. 25.** AS 15.80.010(9) is amended to read:

16 (9) "felony involving moral turpitude" includes those crimes that are
17 immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault,
18 sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion,
19 coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a
20 forgery device, offering a false instrument for recording, scheme to defraud, falsifying
21 business records, commercial bribe receiving, commercial bribery, bribery, receiving a
22 bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor,
23 escape, promoting contraband, interference with official proceedings, receiving a bribe
24 by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical
25 evidence, hindering prosecution, terroristic threatening, riot, criminal possession of
26 explosives, unlawful furnishing of explosives, sex trafficking, human trafficking
27 [PROMOTING PROSTITUTION], criminal mischief, misconduct involving a
28 controlled substance or an imitation controlled substance, permitting an escape,
29 promoting gambling, possession of gambling records, distribution of child
30 pornography, and possession of child pornography;

31 * **Sec. 26.** AS 28.15.046(c) is amended to read:

1 (c) The department may not issue a license under this section to an applicant
2 who has been convicted of any of the following offenses within 20 years of the time of
3 application:

4 (1) sexual abuse of a minor in any degree under AS 11.41.434 -
5 11.41.440;

6 (2) sexual assault in any degree under AS 11.41.410 - 11.41.425;

7 (3) incest under AS 11.41.450;

8 (4) unlawful exploitation of a minor under AS 11.41.455;

9 (5) contributing to the delinquency of a minor under AS 11.51.130;

10 (6) a felony involving possession of a controlled or imitation
11 controlled substance under AS 11.71 or AS 11.73;

12 (7) a felony or misdemeanor involving distribution of a controlled or
13 imitation controlled substance under AS 11.71 or AS 11.73;

14 (8) sex trafficking [PROMOTING PROSTITUTION] in the first or
15 second degree under AS 11.66.110 or 11.66.120;

16 (9) indecent exposure in the first or second degree under AS 11.41.458
17 or 11.41.460;

18 (10) human trafficking in the first degree under AS 11.41.355 and
19 human trafficking in the second degree involving sexual conduct or adult
20 entertainment.

21 * **Sec. 27.** AS 47.12.110(d) is amended to read:

22 (d) Notwithstanding (a) of this section, a court hearing on a petition seeking
23 the adjudication of a minor as a delinquent shall be open to the public, except as
24 prohibited or limited by order of the court, if

25 (1) the department files with the court a motion asking the court to
26 open the hearing to the public, and the petition seeking adjudication of the minor as a
27 delinquent is based on

28 (A) the minor's alleged commission of an offense, and the
29 minor has knowingly failed to comply with all the terms and conditions
30 required of the minor by the department or imposed on the minor in a court
31 order entered under AS 47.12.040(a)(2) or 47.12.120;

1 (B) the minor's alleged commission of

2 (i) a crime against a person that is punishable as a
3 felony;

4 (ii) a crime in which the minor employed a deadly
5 weapon, as that term is defined in AS 11.81.900(b), in committing the
6 crime;

7 (iii) arson under AS 11.46.400 - 11.46.410;

8 (iv) burglary under AS 11.46.300;

9 (v) distribution of child pornography under
10 AS 11.61.125;

11 (vi) sex trafficking [PROMOTING PROSTITUTION]
12 in the first degree under AS 11.66.110; [OR]

13 (vii) misconduct involving a controlled substance under
14 AS 11.71 involving the delivery of a controlled substance or the
15 possession of a controlled substance with intent to deliver, other than
16 an offense under AS 11.71.040 or 11.71.050; or

17 (viii) human trafficking in the first degree under
18 AS 11.41.355; or

19 (C) the minor's alleged commission of a felony and the minor
20 was 16 years of age or older at the time of commission of the offense when the
21 minor has previously been convicted or adjudicated a delinquent minor based
22 on the minor's commission of an offense that is a felony; or

23 (2) the minor agrees to a public hearing on the petition seeking
24 adjudication of the minor as a delinquent.

25 * **Sec. 28.** AS 47.12.315(a) is amended to read:

26 (a) Notwithstanding AS 47.12.310, when an agency takes action under
27 AS 47.12.040(a)(1) to adjust a matter, or when, under AS 47.12.040(a)(2), the court
28 directs the agency to adjust the matter, the agency

29 (1) shall, for a minor who is at least 13 years of age at the time of
30 commission of the offense, disclose to the public the name of the minor, the name or
31 names of the parent, parents, or guardian of the minor, the action required by the

1 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
2 information about the offense exclusive of information that identifies the victim of the
3 offense, if the minor was, under AS 47.12.020, previously alleged to be a delinquent
4 minor on the basis of the minor's commission of at least one offense and, on the basis
5 of that allegation, a state agency has, under AS 47.12.040(a), been asked to make a
6 preliminary inquiry to determine if any action on that matter is appropriate, and, if the
7 minor is alleged to be a delinquent minor on the basis of the minor's commission of
8 another offense, exercise of agency jurisdiction is based on the minor's alleged
9 commission of that other offense, and that other offense is one of the following:

10 (A) a crime against a person that is punishable as a felony;

11 (B) a crime in which the minor employed a deadly weapon, as
12 that term is defined in AS 11.81.900(b), in committing the crime;

13 (C) arson under AS 11.46.400 - 11.46.410;

14 (D) burglary under AS 11.46.300;

15 (E) distribution of child pornography under AS 11.61.125;

16 (F) sex trafficking [PROMOTING PROSTITUTION] in the
17 first degree under AS 11.66.110; [OR]

18 (G) misconduct involving a controlled substance under
19 AS 11.71 involving the delivery of a controlled substance or the possession of
20 a controlled substance with intent to deliver, other than an offense under
21 AS 11.71.040 or 11.71.050; or

22 (H) human trafficking in the first degree under
23 AS 11.41.355; and

24 (2) may, for a minor who is at least 13 years of age at the time of
25 commission of the offense, disclose to the public the name of the minor, the name or
26 names of the parent, parents, or guardian of the minor, the action required by the
27 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
28 information about the offense exclusive of information that identifies the victim of the
29 offense if the minor has knowingly failed to comply with all terms and conditions
30 required of the minor by the agency to adjust the matter under AS 47.12.060(b).

31 * **Sec. 29.** AS 11.41.360(b)(1) and 11.41.360(b)(3) are repealed.

1 * **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. (a) Sections 1, 2, 11 - 15, 18, and 25 - 28 of this Act apply to
4 offenses committed before, on, or after the effective date of the Act.

5 (b) Sections 3 - 10, 16, 17, 19 - 24, and 29 of this Act apply to offenses committed on
6 or after the effective date of this Act.

7 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the catch
10 line of AS 11.66.110 from "Promoting prostitution in the first degree" to "Sex trafficking in
11 the first degree."

12 * **Sec. 32.** This Act takes effect July 1, 2012.

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Joe Paskvan
Senator John Coghill

Senate Judiciary Committee

MEMORANDUM

March 20, 2012

TO: Leg Legal

FROM: Cindy Smith

RE: CS for SB 110 LS0646\E

We need a new CS with the following changes to CSSB 100 \E.

1. Add language of Sections 12 and 15 from SB 218 (GS2627\A).
2. We need a provision in 12.55.185 (16) for sex trafficking and human trafficking and on line enticement of a minor (A felony level).
3. Please move the definition (an Act described in AS 11.41.455(a)1-7) from line 10 to line 30, so that it is included as part of the sexual conduct definition.
4. Add Human Trafficking in the 2nd degree at page 14 line 9.
5. Add language in amendment 27G-2-C, attached.

AMENDMENT

OFFERED IN THE HOUSE JUDICIARY
COMMITTEE
TO: HB 359

BY _____

1 Page 4, line 29 through page 5, line 3:

2 Delete all material and insert:

3 "(c) Prostitution is a class C felony if

4 (1) the defendant is a patron of a prostitute;

5 (2) the prostitute is under 18 years of age;

6 (3) the defendant is over 18 years of age and at least three years older than
7 the prostitute.

8 (d) In a prosecution for a felony ~~under this section that provides that the~~
9 prostitute be under 18 years of age, it is an affirmative defense that, at the time of the
10 alleged offense, the defendant

11 (1) reasonably believed the prostitute to be 18 years of age or older; and

12 (2) undertook reasonable measures to verify that the prostitute was that
13 age or older."

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Joe Paskvan
Senator John Coghill

Senate Judiciary Committee

MEMORANDUM

March 12, 2012

TO: Leg. Legal

FROM: Cindy Smith

RE: Judiciary CS for SB 110 LS0646\A

Using version \A of SB 110 Human Trafficking as the starting point:

1. Delete references to enticing on lines 7 and line 13 of page 1.
2. One lines 13-14 of page 1, delete the language "to come to this state or move from one place to another in the state"
3. From Senate Bill 218 (GS2627\A), ADD: sections 1 through 3, Sections 5–11, Section 14, Sections 17-19 and sections 21-24, plus appropriate applicability provisions, and effective date.

This is a Judiciary CS and we need it for the meeting on Friday, March 16.

STATE OF ALASKA

DEPARTMENT OF LAW
CRIMINAL DIVISION CENTRAL OFFICE

SEAN PARNELL,
GOVERNOR

Mailing: PO Box 110300
Juneau, AK 99811-0300
Delivery: 123 4th Street, Ste 450
Juneau, AK 99801
Phone: (907) 465-3600
Fax: (907) 465-4043

SENATE BILL 218 SEX TRAFFICKING AND HUMAN TRAFFICKING SECTIONAL ANALYSIS

The increased scrutiny of crimes related to promoting prostitution of children in Alaska has prompted the proposed change in terminology from promoting prostitution to sex trafficking. There are good reasons for this change. First, a child who is put into prostitution by an adult should be considered and described as a victim, not a prostitute. The change in terminology will encourage this change. Second, a majority of law enforcement officers now refer to the crime of promoting prostitution of children as sex trafficking. Changing Alaska law will facilitate better communication and understanding.

yes *A*
Sections 1, 2, 7 -- 11, 14, 17 -- 19, and 21 -- 24 change the statutes prohibiting promoting prostitution to prohibiting sex trafficking. The elements of the offenses remain the same. These sections also make conforming amendments to other laws that currently refer to the crime of promoting prostitution so that they cross-reference sex trafficking.

yes ***
Section 3 adds the crimes of human trafficking in the first degree and sex trafficking in the first degree to the felonies described as "serious felony offenses" in the state's conspiracy law, AS 11.21.120. This change would enable the state to investigate and potentially prosecute offenders who work with other people to plan and engage in human trafficking or sex trafficking.

No ***
Section 4 amends the crime of distribution of indecent materials to minors, AS 11.61.128. This proposed amendment is in response to the recent decision by a federal district court judge holding the current version of the statute to be unconstitutional in violation of the first amendment, because it applies to conduct that is constitutionally protected. In response to the decision that the current law is overbroad, the bill would require that the state prove the defendant intentionally distributed, or possessed with intent to distribute, harmful material to another person that the offender knows is under 16 years of age or believes is under 16 years of age.

yes ***
Sections 5 and 6 raise the penalty for being a patron of a prostitute, if the prostitute is a minor under 18 years of age, from a class B misdemeanor to a class C felony. It also specifies the legislative intent that the age of the prostitute is a circumstance that does not require proof of a culpable mental state. *-16? - class A misdemeanor?*

Maybe
yes
Section 12: Under current law, no corroboration is required of the testimony of an alleged victim in a prosecution for promoting prostitution (sex trafficking) in the first, second, and third

degrees. The bill adds the crime of promoting prostitution (sex trafficking) in the fourth degree to those crimes that do not require corroboration of the testimony of an alleged victim.

Maybe

Section 13: Under current law property used to facilitate or derived from a crime of promoting prostitution (sex trafficking) is subject to forfeiture. The bill adds the crime of prostitution to these crimes. Under the bill property used to facilitate or derived from the crime of prostitution would be subject to forfeiture.

amuse

(9) subject to

Section 15 corrects an error in AS 11.81.250(b). Under current law the crime of promoting prostitution (sex trafficking) in the first degree under AS 11.66.110(a)(2) – where the person promoted is a child – is an unclassified felony. The bill adds this offense to the other offenses described as unclassified felonies in Alaska law.

yes *

joint ownership

ok

Section 16 allows the testimony of a witness in a hearing addressing the competency of a defendant for being tried for a crime by way of contemporaneous two-way video conference. It allows this testimony if the witness would be required to travel more than 50 miles to attend the hearing in person or if the witness lives in a place where people customarily travel by air to the court site.

No

Section 19, in addition to conforming the definition of most serious felony to the changes in the sex trafficking provisions, also corrects an omission in the definition of most serious felony by including online enticement of a minor in the definition.

Maybe

ok

Section 20 adds a new provision to sex offender registration law that requires a person present in Alaska, who is convicted of an offense out of state that requires registration in that jurisdiction, to register in Alaska. This requirement would apply even if Alaska does not have a criminal provision similar to the crime in the other state that requires registration there. A person would be required to register for 15 years if convicted of one offense, and for life if convicted for two or more offenses.

No

Section 25 adopts Rule 38.3, Alaska Rules of Criminal Procedure, addressing the use of testimony by contemporaneous two-way video conference. It would allow this testimony if the parties agree to its use. If the parties do not agree, it would allow contemporaneous two-way video conference testimony if the court finds that its use is necessary to further an important public policy, the witness is unavailable, and the testimony is given under oath and is subject to cross-examination.

No

Section 26 addresses the applicability of the changes described above.

Section 27 is an instruction to the revisor of statutes regarding the heading of AS 11.66.110.

Section 28 provides for an effective date of July 1, 2012.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
Fiscal Note Number 1
(S) Publish Date 2/22/12

Identifier (file name) 0627-LAW-CRIM-02-17-12 Dept. Affected Law
Title An Act relating to sex trafficking and distribution of indecent materials. Appropriation Criminal
Allocation Criminal Justice Litigation
Sponsor Rules
Requester Request of the Governor OMB Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required;
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Eileen Donahue, Division Operations Manager
Division Administrative Services
Approved by Michael C. Geraghty, Attorney General
Department of Law

Phone 465-5427
Date/Time 2/17/12 3:40PM
Date 2/17/2012

Analysis

The bill changes the description of the crime of promoting prostitution under AS 11.66.110 – 11.66.135 from promoting prostitution in the first, second, third, and fourth degrees to sex trafficking in the first, second, third, and fourth degrees.

It adds the crimes of human trafficking in the first degree and sex trafficking in the first degree to the definition of “serious felony offense” under the conspiracy law.

The bill amends the crime of distribution of indecent materials to minors under AS 11.61.128 in response to the judicial decision that the current law is unconstitutional due to over breadth by requiring the prosecution to prove that the offender intentionally distributed, or possessed with the intent to distribute, harmful material to another person that the offender knows is under 16 years of age or believes is under 16 years of age.

It adopts a procedure for contemporaneous two-way videoconference in criminal trials where the court finds that it is necessary to further an important public policy, that the witness is unavailable, and the testimony is given under oath and subject to cross-examination. The bill would also allow contemporaneous two-way videoconference testimony in hearings addressing the competency of a defendant to be tried for criminal charges if the witness resides 50 or more miles away from the place of the hearing or the customary travel to the site of the hearing is by air.

The bill would require a person present in Alaska to register as a sex offender if the person is required to register as a sex offender in another jurisdiction.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
 Fiscal Note Number 2
 (S) Publish Date 2/22/12

Identifier (file name) 0627-DPS-R&I-02-21-12 Dept. Affected Public Safety
 Title SEX TRAFFICKING AND DISTRIBUTION OF Appropriation Statewide Support
INDECENT MATERIAL TO MINORS Allocation Records & Identification
 Sponsor Rules by Request of the Governor
 Requester Governor Parnell OMB Component Number 1190

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services	109.5		109.5	109.5	109.5	109.5	109.5
Travel	5.0		5.0	5.0	5.0	5.0	5.0
Services	5.8		5.8	5.8	5.8	5.8	5.8
Commodities	1.0		1.0	1.0	1.0	1.0	1.0
Capital Outlay	2.9		2.9	2.9	2.9	2.9	2.9
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	124.2	0.0	124.2	124.2	124.2	124.2	124.2

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	124.2		124.2	124.2	124.2	124.2	124.2
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		124.2	0.0	124.2	124.2	124.2	124.2	124.2

POSITIONS							
Full-time		1		1	1	1	1
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by David Schade, Director
 Division Division of Statewide Services

Approved by Joe Masters, Commissioner
Department of Public Safety

Phone (907) 269-0202
 Date/Time 2/21/12 11:07 AM

Date 2/21/2012

Analysis

This proposed legislation would require a person who is required to register as a sex offender or child kidnapper in another jurisdiction to register in Alaska even if there is no substantive law in Alaska that is similar to the offense the person was convicted of.

For the department's Records & Identification bureau to continue to accomplish a core service of providing public access to current information regarding sex offenders in Alaska, the determination that a person must register as a sex offender or child kidnapper in Alaska because of their requirement to register in another jurisdiction must be made timely and must be based on information that has been validated.

Considerable research and analysis of the criminal history background of persons with sex offense convictions outside of Alaska would be required to determine whether the offense of conviction is a registerable offense under the current laws of that jurisdiction and whether or not the person is subject to that jurisdiction's registration requirements. Coordination with the jurisdiction's sex offender central registry office would need to occur to obtain source documents and other relevant information on the person.

Additionally, it is anticipated that the department would need to continually monitor the status of registration laws and legal cases affecting sex offender registration in all jurisdictions to ensure a person required to register in Alaska under proposed AS 12.63.100(6)(D) continued to be subject to the registration requirements of the jurisdiction that their offense was committed in.

The department anticipates that these additional efforts will require one new full-time Criminal Justice Planner position. This position would be responsible to review and evaluate offender records with out-of-state sex offense convictions to determine the requirement to register under proposed AS 12.63.100(6)(D), to coordinate with other jurisdictions' sex offender central registry offices, and to monitor sex offender registration laws in other jurisdictions and any changes for possible impact to currently registered offenders.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
Fiscal Note Number 3
(S) Publish Date 2/22/12

Identifier (file name) 0627-DPS-DET-02-17-12 Dept. Affected Public Safety
Title SEX TRAFFICKING AND DISTRIBUTION OF INDECENT MATERIAL TO MINORS Appropriation Alaska State Troopers
Allocation AST Detachments
Sponsor Rules by Request of the Governor
Requester Governor Parnell OMB Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Lt. Rodney Dial
Division Alaska State Troopers
Approved by Joseph A. Masters, Commissioner
Department of Public Safety

Phone (907) 247-4480
Date/Time 2/17/12 5:25 PM
Date 2/17/2012

Analysis

This bill changes the name of the crime of "promoting prostitution" to "sex trafficking" in numerous sections in Alaska Statutes; makes changes to Alaska Statute to address recent court decisions regarding the distribution of indecent material to minors; adds AS 11.61.100 (Prostitution) to AS 11.66.145 (Forfeiture) relating to the forfeiture of property used in prostitution offenses; would define human trafficking and sex trafficking in the first degrees as serious felony offenses for purposes of the state conspiracy law; and requires a person who is required to register as a sex offender or child kidnapper in another jurisdiction to register in Alaska.

This bill will have no fiscal impact on the Division of Alaska State Troopers.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
 Fiscal Note Number 4
 (S) Publish Date 2/22/12

Identifier (file name) 0627-DOA-PDA-2-17-12 Dept. Affected Administration
 Title Sex trafficking and distribution of indecent materials Appropriation Legal and Advocacy Services
 Allocation Public Defender Agency
 Sponsor Rules by Request of the Governor
 Requester Governor OMB Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	****	****	****	****	****	****	****

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		****	****	****	****	****	****

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Quinlan Steiner
 Division Public Defender Agency
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 465-4414
 Date/Time 2/17/12 3:00 PM
 Date 2/17/2012

Analysis

This bill changes the language used to describe conduct "promoting prostitution" to the phrase "sex trafficking," prohibits the intentional distribution of indecent material to persons known or believed to be less than 16 years of age, and prohibits possession with the intention to distribute indecent material to persons known or believed to be less than 16 years of age. This bill elevates the charge of prostitution from a B misdemeanor to an A misdemeanor if the subject person is under the age of 18. This bill includes "online enticement of a minor in the definition of "most serious felony." The bill also creates the crimes of: conspiracy to commit human trafficking, a class B felony which carries a sentence of up to 10 years imprisonment, and conspiracy to commit sex trafficking, a class A felony which carries a sentence of up to 20 years imprisonment. This bill amends the definition of "sex offense" for the purpose of sex offender registration requirements by including any conviction in another state that would require registration as a sex offender in that state.

Additionally, this bill amends Rule 38 of the Alaska Rules of Criminal Procedure by adding a new section that allows for testimony using two-way video conferencing. The bill also specifies that video conference testimony is allowed for witnesses whose testimony is used to determine competency of the defendant under this section, where the witness would be required to travel more than 50 miles to court, or where air travel to court is customary.

This bill will result in increases in felony cases and more complex sentencing for certain felonies. The Public Defender Agency does not have a reliable method for determining how many more persons may be charged for failing to register as a sex offender under the new definition or whether those charged would qualify for representation by the Public Defender. The Agency, therefore, submits an indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
Fiscal Note Number 5
(S) Publish Date 2/22/12

Identifier (file name) LL0627-DOA-OPA-2-17-12 Dept. Affected Administration
Title Sex trafficking and distribution of indecent material Appropriation Legal & Advocay Services
Allocation Office of Public Advocacy
Sponsor Rules by Request of the Governor
Requester Governor OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	***	***	***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Richard Allen, Director
Division Office of Public Advocacy
Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907-269-3504
Date/Time 2/17/12 3:00 PM
Date 2/17/2012

Analysis

This bill changes the language used to describe conduct "promoting prostitution" to the phrase, "sex trafficking," prohibits the intentional distribution of indecent material to persons known or believed to be less than 16 years of age, and prohibits possession with the intention to distribute indecent material to persons known or believed to be less than 16 years of age. This bill elevates the charge of prostitution from a B misdemeanor to an A misdemeanor if the subject person is under the age of 18. This bill includes "online enticement of a minor in the definition of "most serious felony." The bill also creates the crimes of: conspiracy to commit human trafficking, a class B felony which carries a sentence of up to 10 years imprisonment, and conspiracy to commit sex trafficking, a class A felony which carries a sentence of up to 20 years imprisonment. This bill amends the definition of "sex offense" for the purpose of sex offender registration requirements by including any conviction in another state that would require registration as a sex offender in that state.

Additionally, this bill amends Rule 38 of the Alaska Rules of Criminal Procedure by adding a new section that allows for testimony using two-way video conferencing. The bill also specifies that video conference testimony is allowed for witnesses whose testimony is used to determine competency of the defendant under this section, where the witness would be required to travel more than 50 miles to court, or where air travel to court is customary.

This bill will result in increases in felony cases and more complex sentencing for certain felonies. The Office of Public Advocacy does not have a reliable method for determining how many more persons may be charged for failing to register as a sex offender under the new definition or whether those charged would qualify for representation by the Office of Public Advocacy. Therefore, the Office of Public Advocacy submits an indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 218
 Fiscal Note Number 6
 (S) Publish Date 2/22/12

Identifier (file name) JU2011200627 Dept. Affected DOC
 Title "An Act relating to conspiracy to commit human trafficking in the first degree or sex trafficking in the first degr Appropriation Admin & Support
 Allocation Commissioner's Office
 Sponsor Rules Committee
 Requester Governor OMB Component Number 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY13	FY14	FY15	FY16	FY17
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	**	**	**	**	**	**	**	**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**	**	**	**	**	**	**

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

This is the original version of the bill.

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 2/17/12 8:30 PM
 Date 2/17/2012

Analysis

This bill adds human trafficking in the first degree and sex trafficking in the first degree to the conspiracy statutes (AS 11.31.120). A person convicted of this new crime would be subject to punishment for a Class B felony. The average sentence for a Class B felony is five years. The average daily cost of care in a DOC facility is \$134.90. Therefore, one individual convicted of conspiring to commit sex trafficking in the first degree could cost the Department of Corrections \$246,192.50 based on a five year *average* sentence.

In the past five years, DOC has seen an average of 2.4 convictions for promoting prostitution (sex trafficking). However, DOC does not have any historical data on conspiracy to commit sex or human trafficking, as this would be a new crime if this legislation were to pass. Therefore, DOC is currently unable to quantify the fiscal impacts of the passage of this legislation.

The Department will closely monitor the potential future fiscal impacts should this legislation pass.

SENATE BILL NO. 218

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/22/12

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to conspiracy to commit human trafficking in the first degree or sex**
2 **trafficking in the first degree; relating to the crime of furnishing indecent material to**
3 **minors, the crime of online enticement of a minor, the crime of prostitution, and the**
4 **crime of sex trafficking; relating to forfeiture of property used in prostitution offenses;**
5 **relating to sex offender registration; relating to testimony by video conference; adding**
6 **Rule 38.3, Alaska Rules of Criminal Procedure; and providing for an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 04.06.110 is amended to read:

9 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
10 for the administration and enforcement of this title may, with the concurrence of the
11 commissioner of public safety, exercise the powers of peace officers when those
12 powers are specifically granted by the board. Powers granted by the board under this
13 section may be exercised only when necessary for the enforcement of the criminally

1 punishable provisions of this title, regulations of the board, and other criminally
2 punishable laws and regulations, including investigation of violations of laws against
3 prostitution and sex trafficking [PROMOTING PROSTITUTION] described in
4 AS 11.66.100 - 11.66.135 [AS 11.66.100 - 11.66.130] and laws against gambling,
5 promoting gambling, and related offenses described in AS 11.66.200 - 11.66.280.

6 * **Sec. 2.** AS 04.11.370(a) is amended to read:

7 (a) A license or permit shall be suspended or revoked if the board finds

8 (1) misrepresentation of a material fact on an application made under
9 this title or a regulation adopted under this title;

10 (2) continuation of the manufacture, sale, or service of alcoholic
11 beverages by the licensee or permittee would be contrary to the best interests of the
12 public;

13 (3) failure on the part of the licensee to correct a defect that constitutes
14 a violation of this title, a condition or restriction imposed by the board, a regulation
15 adopted under this title, or other laws after receipt of notice issued by the board or its
16 agent;

17 (4) conviction of a licensee of a violation of this title, a regulation
18 adopted under this title, or an ordinance adopted under AS 04.21.010;

19 (5) conviction of an agent or employee of a licensee of a violation of
20 this title, a regulation adopted under this title, or an ordinance adopted under
21 AS 04.21.010, if the licensee is found by the board to have either knowingly allowed
22 the violation or to have recklessly or with criminal negligence failed to act in
23 accordance with the duty prescribed under AS 04.21.030 with the result that the agent
24 or employee violates a law, regulation, or ordinance;

25 (6) failure of the licensee to comply with the public health, fire, or
26 safety laws and regulations in the state;

27 (7) use of the licensed premises as a resort for illegal possessors or
28 users of narcotics, prostitutes, or sex traffickers [PROMOTERS OF
29 PROSTITUTION]; in addition to any other legally competent evidence, the character
30 of the premises may be proved by the general reputation of the premises in the
31 community as a resort for illegal possessors or users of narcotics, prostitutes, or sex

1 **traffickers** [PROMOTERS OF PROSTITUTION];

2 (8) occurrence of illegal gambling within the limits of the licensed
3 premises;

4 (9) the licensee permitted a public offense involving moral turpitude to
5 occur on the licensed premises;

6 (10) violation by a licensee of this title, a condition or restriction
7 imposed by the board, a regulation adopted under this title, or an ordinance adopted
8 under AS 04.21.010; or

9 (11) violation by an agent or employee of a licensee of a provision of
10 this title, a condition or restriction imposed by the board, a regulation adopted under
11 this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the
12 board to have either knowingly allowed the violation or to have recklessly or with
13 criminal negligence failed to act in accordance with the duty prescribed under
14 AS 04.21.030 with the result that the agent or employee violates the law, condition or
15 restriction, regulation, or ordinance.

16 * **Sec. 3.** AS 11.31.120(h)(2) is amended to read:

17 (2) "serious felony offense" means an offense

18 (A) against the person under AS 11.41, punishable as an
19 unclassified or class A felony;

20 (B) involving controlled substances under AS 11.71,
21 punishable as an unclassified, class A, or class B felony;

22 (C) that is criminal mischief in the first degree under
23 AS 11.46.475; [OR]

24 (D) that is terroristic threatening in the first degree under
25 AS 11.56.807;

26 **(E) that is human trafficking in the first degree under**
27 **AS 11.41.360; or**

28 **(F) that is sex trafficking in the first degree under**
29 **AS 11.66.110.**

30 * **Sec. 4.** AS 11.61.128(a) is amended to read:

31 (a) A person commits the crime of distribution of indecent material to minors

1 if

2 (1) the person, being 18 years of age or older, intentionally
 3 [KNOWINGLY] distributes or possesses with intent to distribute any material
 4 described in (2) and (3) of this subsection to either

5 (A) a child that the person knows is under 16 years of age;

6 or

7 (B) another person that the person believes is a child under
 8 16 years of age;

9 (2) the material is [ANOTHER PERSON ANY] material that the
 10 person knows depicts the following actual or simulated conduct:

11 (A) sexual penetration;

12 (B) the lewd touching of a person's genitals, anus, or female
 13 breast;

14 (C) masturbation;

15 (D) bestiality;

16 (E) the lewd exhibition of a person's genitals, anus, or female
 17 breast; or

18 (F) sexual masochism or sadism; and

19 (3) [(2)] the material is harmful to minors [; AND

20 (3) EITHER

21 (A) THE OTHER PERSON IS A CHILD UNDER 16 YEARS
 22 OF AGE; OR

23 (B) THE PERSON BELIEVES THAT THE OTHER PERSON
 24 IS A CHILD UNDER 16 YEARS OF AGE].

25 * **Sec. 5.** AS 11.66.100(b) is amended to read:

26 (b) Except as provided in (c) of this section, prostitution
 27 [PROSTITUTION] is a class B misdemeanor.

28 * **Sec. 6.** AS 11.66.100 is amended by adding a new subsection to read:

29 (c) Prostitution is a class C felony if

30 (1) the person described in (a)(1) of this section is under 18 years of
 31 age; the age of the person is a circumstance that does not require proof of a culpable

1 mental state; and

2 (2) the person described in (a)(2) of this section is 18 years of age or
3 older and at least three years older than the person described in (a)(1) of this section.

4 * **Sec. 7.** AS 11.66.110(a) is amended to read:

5 (a) A person commits the crime of sex trafficking [PROMOTING
6 PROSTITUTION] in the first degree if the person

7 (1) induces or causes a person to engage in prostitution through the use
8 of force;

9 (2) as other than a patron of a prostitute, induces or causes a person
10 under 18 years of age to engage in prostitution; or

11 (3) induces or causes a person in that person's legal custody to engage
12 in prostitution.

13 * **Sec. 8.** AS 11.66.110(c) is amended to read:

14 (c) Except as provided in (d) of this section, sex trafficking [PROMOTING
15 PROSTITUTION] in the first degree is a class A felony.

16 * **Sec. 9.** AS 11.66.120 is amended to read:

17 **Sec. 11.66.120. Sex trafficking [PROMOTING PROSTITUTION] in the**
18 **second degree.** (a) A person commits the crime of sex trafficking [PROMOTING
19 PROSTITUTION] in the second degree if the person

20 (1) manages, supervises, controls, or owns, either alone or in
21 association with others, a prostitution enterprise other than a place of prostitution;

22 (2) procures or solicits a patron for a prostitute; or

23 (3) offers, sells, advertises, promotes or facilitates travel that includes
24 commercial sexual conduct as enticement for the travel; in this paragraph,
25 "commercial sexual conduct" means sexual conduct for which anything of value is
26 given or received by any person.

27 (b) Sex trafficking [PROMOTING PROSTITUTION] in the second degree is
28 a class B felony.

29 * **Sec. 10.** AS 11.66.130 is amended to read:

30 **Sec. 11.66.130. Sex trafficking [PROMOTING PROSTITUTION] in the**
31 **third degree.** (a) A person commits the crime of sex trafficking [PROMOTING

1 PROSTITUTION] in the third degree if, with intent to promote prostitution, the
2 person

3 (1) manages, supervises, controls, or owns, either alone or in
4 association with others, a place of prostitution;

5 (2) as other than a patron of a prostitute, induces or causes a person 18
6 years of age or older to engage in prostitution;

7 (3) as other than a prostitute receiving compensation for personally
8 rendered prostitution services, receives or agrees to receive money or other property
9 pursuant to an agreement or understanding that the money or other property is derived
10 from prostitution; or

11 (4) engages in conduct that institutes, aids, or facilitates a prostitution
12 enterprise.

13 (b) Sex trafficking [PROMOTING PROSTITUTION] in the third degree is a
14 class C felony.

15 * **Sec. 11.** AS 11.66.135 is amended to read:

16 **Sec. 11.66.135. Sex trafficking [PROMOTING PROSTITUTION] in the**
17 **fourth degree.** (a) A person commits the crime of sex trafficking [PROMOTING
18 PROSTITUTION] in the fourth degree if the person engages in conduct that institutes,
19 aids, or facilitates prostitution under circumstances not proscribed under
20 AS 11.66.130(a)(4).

21 (b) Sex trafficking [PROMOTING PROSTITUTION] in the fourth degree is
22 a class A misdemeanor.

23 * **Sec. 12.** AS 11.66.140 is amended to read:

24 **Sec. 11.66.140. Corroboration of certain testimony not required.** In a
25 prosecution under AS 11.66.110 - 11.66.135 [AS 11.66.110 - 11.66.130], it is not
26 necessary that the testimony of the person whose prostitution is alleged to have been
27 compelled or promoted be corroborated by the testimony of any other witness or by
28 documentary or other types of evidence.

29 * **Sec. 13.** AS 11.66.145 is amended to read:

30 **Sec. 11.66.145. Forfeiture.** Property used to institute, aid, or facilitate, or
31 received or derived from, a violation of AS 11.66.100 - 11.66.135 [AS 11.66.110 -

1 11.66.135] shall be forfeited.

2 * **Sec. 14.** AS 11.81.250(a) is amended to read:

3 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
4 title, except murder in the first and second degree, attempted murder in the first
5 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
6 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual
7 abuse of a minor in the first degree, misconduct involving a controlled substance in the
8 first degree, sex trafficking [PROMOTING PROSTITUTION] in the first degree
9 under AS 11.66.110(a)(2), and kidnapping, are classified on the basis of their
10 seriousness, according to the type of injury characteristically caused or risked by
11 commission of the offense and the culpability of the offender. Except for murder in the
12 first and second degree, attempted murder in the first degree, solicitation to commit
13 murder in the first degree, conspiracy to commit murder in the first degree, murder of
14 an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first
15 degree, misconduct involving a controlled substance in the first degree, sex
16 trafficking [PROMOTING PROSTITUTION] in the first degree under
17 AS 11.66.110(a)(2), and kidnapping, the offenses in this title are classified into the
18 following categories:

19 (1) class A felonies, which characteristically involve conduct resulting
20 in serious physical injury or a substantial risk of serious physical injury to a person;

21 (2) class B felonies, which characteristically involve conduct resulting
22 in less severe violence against a person than class A felonies, aggravated offenses
23 against property interests, or aggravated offenses against public administration or
24 order;

25 (3) class C felonies, which characteristically involve conduct serious
26 enough to deserve felony classification but not serious enough to be classified as A or
27 B felonies;

28 (4) class A misdemeanors, which characteristically involve less severe
29 violence against a person, less serious offenses against property interests, less serious
30 offenses against public administration or order, or less serious offenses against public
31 health and decency than felonies;

1 (5) class B misdemeanors, which characteristically involve a minor
 2 risk of physical injury to a person, minor offenses against property interests, minor
 3 offenses against public administration or order, or minor offenses against public health
 4 and decency;

5 (6) violations, which characteristically involve conduct inappropriate
 6 to an orderly society but which do not denote criminality in their commission.

7 * **Sec. 15.** AS 11.81.250(b) is amended to read:

8 (b) The classification of each felony defined in this title, except murder in the
 9 first and second degree, attempted murder in the first degree, solicitation to commit
 10 murder in the first degree, conspiracy to commit murder in the first degree, murder of
 11 an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first
 12 degree, misconduct involving a controlled substance in the first degree, sex
 13 trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, is
 14 designated in the section defining it. A felony under the [ALASKA] law of this state
 15 defined outside this title for which no penalty is specifically provided is a class C
 16 felony.

17 * **Sec. 16.** AS 12.47.100 is amended by adding a new subsection to read:

18 (h) In a hearing to determine competency under this section, the court may
 19 allow the testimony of a witness, including the psychiatrist or psychologist who
 20 examined the defendant, to testify concerning the competency of the defendant by
 21 contemporaneous two-way video conference if the witness would be required to travel
 22 more than 50 miles to the court or lives in a place from which people customarily
 23 travel by air to the court. In this subsection, "contemporaneous two-way video
 24 conference"

25 (1) means a conference among people at different places by means of
 26 transmitted audio and video signals;

27 (2) includes all communication technologies that allow two or more
 28 places to interact by two-way video and audio transmissions simultaneously.

29 * **Sec. 17.** AS 12.55.035(b) is amended to read:

30 (b) Upon conviction of an offense, a defendant who is not an organization may
 31 be sentenced to pay, unless otherwise specified in the provision of law defining the

1 offense, a fine of no more than

2 (1) \$500,000 for murder in the first or second degree, attempted
3 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
4 sexual abuse of a minor in the first degree, kidnapping, sex trafficking
5 [PROMOTING PROSTITUTION] in the first degree under AS 11.66.110(a)(2), or
6 misconduct involving a controlled substance in the first degree;

7 (2) \$250,000 for a class A felony;

8 (3) \$100,000 for a class B felony;

9 (4) \$50,000 for a class C felony;

10 (5) \$10,000 for a class A misdemeanor;

11 (6) \$2,000 for a class B misdemeanor;

12 (7) \$500 for a violation.

13 * **Sec. 18.** AS 12.55.125(i) is amended to read:

14 (i) A defendant convicted of

15 (1) sexual assault in the first degree, sexual abuse of a minor in the
16 first degree, or sex trafficking [PROMOTING PROSTITUTION] in the first degree
17 under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not
18 more than 99 years and shall be sentenced to a definite term within the following
19 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (A) if the offense is a first felony conviction, the offense does
21 not involve circumstances described in (B) of this paragraph, and the victim
22 was

23 (i) less than 13 years of age, 25 to 35 years;

24 (ii) 13 years of age or older, 20 to 30 years;

25 (B) if the offense is a first felony conviction and the defendant
26 possessed a firearm, used a dangerous instrument, or caused serious physical
27 injury during the commission of the offense, 25 to 35 years;

28 (C) if the offense is a second felony conviction and does not
29 involve circumstances described in (D) of this paragraph, 30 to 40 years;

30 (D) if the offense is a second felony conviction and the
31 defendant has a prior conviction for a sexual felony, 35 to 45 years;

1 (E) if the offense is a third felony conviction and the defendant
2 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
3 to 60 years;

4 (F) if the offense is a third felony conviction, the defendant is
5 not subject to sentencing under (I) of this section, and the defendant has two
6 prior convictions for sexual felonies, 99 years;

7 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online
8 enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to
9 commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or
10 sex trafficking [PROMOTING PROSTITUTION] in the first degree under
11 AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more
12 than 99 years and shall be sentenced to a definite term within the following
13 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, the offense does
15 not involve circumstances described in (B) of this paragraph, and the victim
16 was

17 (i) under 13 years of age, 20 to 30 years;

18 (ii) 13 years of age or older, 15 to 30 years;

19 (B) if the offense is a first felony conviction and the defendant
20 possessed a firearm, used a dangerous instrument, or caused serious physical
21 injury during the commission of the offense, 25 to 35 years;

22 (C) if the offense is a second felony conviction and does not
23 involve circumstances described in (D) of this paragraph, 25 to 35 years;

24 (D) if the offense is a second felony conviction and the
25 defendant has a prior conviction for a sexual felony, 30 to 40 years;

26 (E) if the offense is a third felony conviction, the offense does
27 not involve circumstances described in (F) of this paragraph, and the defendant
28 is not subject to sentencing under (I) of this section, 35 to 50 years;

29 (F) if the offense is a third felony conviction, the defendant is
30 not subject to sentencing under (I) of this section, and the defendant has two
31 prior convictions for sexual felonies, 99 years;

1 (3) sexual assault in the second degree, sexual abuse of a minor in the
2 second degree, online enticement of a minor under AS 11.41.452(d), unlawful
3 exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography
4 under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not
5 more than 99 years and shall be sentenced to a definite term within the following
6 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

7 (A) if the offense is a first felony conviction, five to 15 years;

8 (B) if the offense is a second felony conviction and does not
9 involve circumstances described in (C) of this paragraph, 10 to 25 years;

10 (C) if the offense is a second felony conviction and the
11 defendant has a prior conviction for a sexual felony, 15 to 30 years;

12 (D) if the offense is a third felony conviction and does not
13 involve circumstances described in (E) of this paragraph, 20 to 35 years;

14 (E) if the offense is a third felony conviction and the defendant
15 has two prior convictions for sexual felonies, 99 years;

16 (4) sexual assault in the third degree, incest, indecent exposure in the
17 first degree, possession of child pornography, distribution of child pornography under
18 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in
19 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation
20 of a minor, or distribution of child pornography, may be sentenced to a definite term
21 of imprisonment of not more than 99 years and shall be sentenced to a definite term
22 within the following presumptive ranges, subject to adjustment as provided in
23 AS 12.55.155 - 12.55.175:

24 (A) if the offense is a first felony conviction, two to 12 years;

25 (B) if the offense is a second felony conviction and does not
26 involve circumstances described in (C) of this paragraph, eight to 15 years;

27 (C) if the offense is a second felony conviction and the
28 defendant has a prior conviction for a sexual felony, 12 to 20 years;

29 (D) if the offense is a third felony conviction and does not
30 involve circumstances described in (E) of this paragraph, 15 to 25 years;

31 (E) if the offense is a third felony conviction and the defendant

1 has two prior convictions for sexual felonies, 99 years.

2 * **Sec. 19.** AS 12.55.185(10) is amended to read:

3 (10) "most serious felony" means

4 (A) arson in the first degree, sex trafficking [PROMOTING
5 PROSTITUTION] in the first degree under AS 11.66.110(a)(2), online
6 enticement of a minor, or any unclassified or class A felony prescribed under
7 AS 11.41; or

8 (B) an attempt, or conspiracy to commit, or criminal
9 solicitation under AS 11.31.110 of, an unclassified felony prescribed under
10 AS 11.41;

11 * **Sec. 20.** AS 12.63.100(6) is amended to read:

12 (6) "sex offense" means

13 (A) a crime under AS 11.41.100(a)(3), or a similar law of
14 another jurisdiction, in which the person committed or attempted to commit a
15 sexual offense, or a similar offense under the laws of the other jurisdiction; in
16 this subparagraph, "sexual offense" has the meaning given in
17 AS 11.41.100(a)(3);

18 (B) a crime under AS 11.41.110(a)(3), or a similar law of
19 another jurisdiction, in which the person committed or attempted to commit
20 one of the following crimes, or a similar law of another jurisdiction:

21 (i) sexual assault in the first degree;

22 (ii) sexual assault in the second degree;

23 (iii) sexual abuse of a minor in the first degree; or

24 (iv) sexual abuse of a minor in the second degree; [OR]

25 (C) a crime, or an attempt, solicitation, or conspiracy to commit
26 a crime, under the following statutes or a similar law of another jurisdiction:

27 (i) AS 11.41.410 - 11.41.438;

28 (ii) AS 11.41.440(a)(2);

29 (iii) AS 11.41.450 - 11.41.458;

30 (iv) AS 11.41.460 if the indecent exposure is before a
31 person under 16 years of age and the offender has a previous conviction

1 for that offense;

2 (v) AS 11.61.125 - 11.61.128;

3 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
4 was induced or caused to engage in prostitution was 16 or 17 years of
5 age at the time of the offense;

6 (vii) former AS 11.15.120, former 11.15.134, or assault
7 with the intent to commit rape under former AS 11.15.160, former
8 AS 11.40.110, or former 11.40.200; [OR]

9 (viii) AS 11.61.118(a)(2) if the offender has a previous
10 conviction for that offense; or

11 **(D) a crime in another jurisdiction that requires the person**
12 **to register as a sex offender or child kidnapper in that jurisdiction;**

13 * **Sec. 21.** AS 15.80.010(9) is amended to read:

14 (9) "felony involving moral turpitude" includes those crimes that are
15 immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault,
16 sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion,
17 coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a
18 forgery device, offering a false instrument for recording, scheme to defraud, falsifying
19 business records, commercial bribe receiving, commercial bribery, bribery, receiving a
20 bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor,
21 escape, promoting contraband, interference with official proceedings, receiving a bribe
22 by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical
23 evidence, hindering prosecution, terroristic threatening, riot, criminal possession of
24 explosives, unlawful furnishing of explosives, **sex trafficking** [PROMOTING
25 PROSTITUTION], criminal mischief, misconduct involving a controlled substance or
26 an imitation controlled substance, permitting an escape, promoting gambling,
27 possession of gambling records, distribution of child pornography, and possession of
28 child pornography;

29 * **Sec. 22.** AS 28.15.046(c) is amended to read:

30 (c) The department may not issue a license under this section to an applicant
31 who has been convicted of any of the following offenses within 20 years of the time of

1 application:

- 2 (1) sexual abuse of a minor in any degree under AS 11.41.434 -
 3 11.41.440;
- 4 (2) sexual assault in any degree under AS 11.41.410 - 11.41.425;
- 5 (3) incest under AS 11.41.450;
- 6 (4) unlawful exploitation of a minor under AS 11.41.455;
- 7 (5) contributing to the delinquency of a minor under AS 11.51.130;
- 8 (6) a felony involving possession of a controlled or imitation
 9 controlled substance under AS 11.71 or AS 11.73;
- 10 (7) a felony or misdemeanor involving distribution of a controlled or
 11 imitation controlled substance under AS 11.71 or AS 11.73;
- 12 (8) sex trafficking [PROMOTING PROSTITUTION] in the first or
 13 second degree under AS 11.66.110 or 11.66.120;
- 14 (9) indecent exposure in the first or second degree under AS 11.41.458
 15 or 11.41.460.

16 * **Sec. 23.** AS 47.12.110(d) is amended to read:

17 (d) Notwithstanding (a) of this section, a court hearing on a petition seeking
 18 the adjudication of a minor as a delinquent shall be open to the public, except as
 19 prohibited or limited by order of the court, if

20 (1) the department files with the court a motion asking the court to
 21 open the hearing to the public, and the petition seeking adjudication of the minor as a
 22 delinquent is based on

23 (A) the minor's alleged commission of an offense, and the
 24 minor has knowingly failed to comply with all the terms and conditions
 25 required of the minor by the department or imposed on the minor in a court
 26 order entered under AS 47.12.040(a)(2) or 47.12.120;

27 (B) the minor's alleged commission of

28 (i) a crime against a person that is punishable as a
 29 felony;

30 (ii) a crime in which the minor employed a deadly
 31 weapon, as that term is defined in AS 11.81.900(b), in committing the

1 crime;

2 (iii) arson under AS 11.46.400 - 11.46.410;

3 (iv) burglary under AS 11.46.300;

4 (v) distribution of child pornography under
5 AS 11.61.125;

6 (vi) sex trafficking [PROMOTING PROSTITUTION]
7 in the first degree under AS 11.66.110; or

8 (vii) misconduct involving a controlled substance under
9 AS 11.71 involving the delivery of a controlled substance or the
10 possession of a controlled substance with intent to deliver, other than
11 an offense under AS 11.71.040 or AS 11.71.050; or

12 (C) the minor's alleged commission of a felony and the minor
13 was 16 years of age or older at the time of commission of the offense when the
14 minor has previously been convicted or adjudicated a delinquent minor based
15 on the minor's commission of an offense that is a felony; or

16 (2) the minor agrees to a public hearing on the petition seeking
17 adjudication of the minor as a delinquent.

18 * **Sec. 24.** AS 47.12.315(a) is amended to read:

19 (a) Notwithstanding AS 47.12.310, when an agency takes action under
20 AS 47.12.040(a)(1) to adjust a matter, or when under AS 47.12.040(a)(2) the court
21 directs the agency to adjust the matter, the agency

22 (1) shall, for a minor who is at least 13 years of age at the time of
23 commission of the offense, disclose to the public the name of the minor, the name or
24 names of the parent, parents, or guardian of the minor, the action required by the
25 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
26 information about the offense exclusive of information that identifies the victim of the
27 offense, if the minor was, under AS 47.12.020, previously alleged to be a delinquent
28 minor on the basis of the minor's commission of at least one offense and, on the basis
29 of that allegation, a state agency has, under AS 47.12.040(a), been asked to make a
30 preliminary inquiry to determine if any action on that matter is appropriate, and, if the
31 minor is alleged to be a delinquent minor on the basis of the minor's commission of

1 another offense, exercise of agency jurisdiction is based on the minor's alleged
2 commission of that other offense, and that other offense is one of the following:

3 (A) a crime against a person that is punishable as a felony;

4 (B) a crime in which the minor employed a deadly weapon, as
5 that term is defined in AS 11.81.900(b), in committing the crime;

6 (C) arson under AS 11.46.400 - 11.46.410;

7 (D) burglary under AS 11.46.300;

8 (E) distribution of child pornography under AS 11.61.125;

9 (F) sex trafficking [PROMOTING PROSTITUTION] in the
10 first degree under AS 11.66.110; or

11 (G) misconduct involving a controlled substance under
12 AS 11.71 involving the delivery of a controlled substance or the possession of
13 a controlled substance with intent to deliver, other than an offense under
14 AS 11.71.040 or 11.71.050; and

15 (2) may, for a minor who is at least 13 years of age at the time of
16 commission of the offense, disclose to the public the name of the minor, the name or
17 names of the parent, parents, or guardian of the minor, the action required by the
18 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
19 information about the offense exclusive of information that identifies the victim of the
20 offense if the minor has knowingly failed to comply with all terms and conditions
21 required of the minor by the agency to adjust the matter under AS 47.12.060(b).

22 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **DIRECT COURT RULE AMENDMENT.** The Alaska Rules of Criminal
25 Procedure are amended by adding a new section to read:

26 **Rule 38.3. Video Conference Testimony.**

27 (a) **In General.** In every trial the testimony of witnesses shall be taken in open
28 court, unless otherwise provided by statute or rule.

29 (b) **Testimony by Video Conference.** The parties may agree to take
30 testimony from a witness by contemporaneous two-way video conference presented in
31 open court. Absent the parties' agreement, the court may authorize the

1 contemporaneous two-way video conference testimony of a witness if

2 (1) the requesting party establishes that testimony by two-way video
3 conference is necessary to further an important public policy;

4 (2) the requesting party establishes that the witness is unavailable; and

5 (3) the testimony is given under oath and subject to cross-examination.

6 (c) **Procedures for Taking Video Conference Testimony.** If the trial court
7 authorizes video conference testimony under (b) of this rule, it shall determine the
8 procedures for taking the contemporaneous two-way video conference testimony. The
9 parties, the court, the trier of fact, and the public must be able to see and hear the
10 witness; and the witness must see and hear the courtroom proceedings, including the
11 defendant, as if the witness were sitting in the courtroom's witness stand. The persons
12 who are present with the witness must be identified. The parties may move to exclude
13 any person other than the video conference technician from the witness's presence; the
14 court, in its discretion, may exclude a person other than the video conference
15 technician from the presence of the witness.

16 (d) **Definitions.**

17 (1) **Contemporaneous Two-Way Video Conference.** Contemporaneous
18 two-way video conference means a conference among people at different places by
19 means of transmitted audio and video signals. It includes all communication
20 technologies that allow two or more places to interact by two-way video and audio
21 transmissions simultaneously.

22 (2) **Unavailable.** In this rule, a witness is unavailable if

23 (A) by clear and convincing evidence the court finds under
24 Rule 804(a)(4) or (5), Alaska Rules of Evidence, or Rule 15(e)(4), Alaska
25 Rules of Criminal Procedure, that the witness is unavailable;

26 (B) by clear and convincing evidence the court finds that under
27 the circumstances the witness is unavailable; or

28 (C) the parties agree that the witness is unavailable.

29 * **Sec 26.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** (a) Sections 1, 2, 7 - 11, 14, 17 - 19, 21 - 24, and 27 of this Act

1 apply to offenses committed before, on, or after the effective date of the Act.

2 (b) Sections 3 - 6, 12, 13, 16, 20, and 25 of this Act apply to offenses committed on or
3 after the effective date of this Act.

4 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
7 heading of AS 11.66.110 from "Promoting prostitution in the first degree" to "Sex trafficking
8 in the first degree".

9 * **Sec. 28.** This Act takes effect July 1, 2012.

27-LS0646VD
Gardner
3/1/12

CS FOR SENATE BILL NO. 110()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to human trafficking; and relating to sentencing in criminal cases**
2 **involving sex offenses."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 11.41 is amended by adding a new section to read:

5 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits
6 the crime of human trafficking in the first degree if being 18 years of age or older the
7 person compels, entices, or induces another person under 18 years of age to come to
8 this state or move 100 miles or more within this state to engage in sexual conduct,
9 adult entertainment, or an act described in AS 11.41.455(a)(1) - (7) in the state by

10 (1) force or threat of force against any person; or

11 (2) deception.

12 (b) It is an affirmative defense to a prosecution under (a)(2) of this section
13 that, at the time of the offense, the person compelled, enticed, or induced was 16 years
14 of age or older, and the defendant and the person compelled, enticed, or induced were
15 in a consensual dating or sexual relationship.

1 (c) Human trafficking in the first degree is an unclassified felony.

2 * **Sec. 2.** AS 11.41.360(a) is amended to read:

3 (a) A person commits the crime of human trafficking in the second [FIRST]
4 degree if being 18 years of age or older the person compels, entices, or induces
5 another person 18 years of age or older to come to this state or move 100 miles or
6 more within this state to engage in sexual conduct or [,] adult entertainment [, OR
7 LABOR] in the state by

8 (1) force or threat of force against any person; [,] or

9 (2) [BY] deception.

10 * **Sec. 3.** AS 11.41.360(c) is amended to read:

11 (c) Human trafficking in the second [FIRST] degree is a class A felony.

12 * **Sec. 4.** AS 11.41.360 is amended by adding a new subsection to read:

13 (d) It is an affirmative defense to a prosecution under (a)(2) of this section
14 that, at the time of the offense, the person compelled, enticed, or induced was 16 years
15 of age or older, and the defendant and the person compelled or induced were in a
16 consensual dating or sexual relationship.

17 * **Sec. 5.** AS 11.41.365 is amended to read:

18 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A
19 person commits the crime of human trafficking in the third [SECOND] degree if the
20 person

21 (1) being 18 years of age or older compels, entices, or induces
22 another person to come to this state or move 100 miles or more within this state
23 to engage in labor in this state by force or threat of force against any person, or
24 by deception; or

25 (2) obtains a benefit from the commission of human trafficking under
26 AS 11.41.355, 11.41.360, or (1) of this subsection [AS 11.41.360,] with reckless
27 disregard that the benefit is a result of the trafficking.

28 (b) Human trafficking in the third [SECOND] degree is a class B felony.

29 * **Sec. 6.** AS 11.41.370 is amended by adding new paragraphs to read:

30 (4) "adult entertainment" means the conduct described in
31 AS 23.10.350(f)(1) - (3);

?

Labor trafficking separate?

1 (5) "deception" has the meaning given in AS 11.46.180;

2 (6) "sexual conduct" has the meaning given in AS 11.66.150.

3 * **Sec. 7.** AS 11.81.250(a) is amended to read:

4 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
5 title, except murder in the first and second degree, attempted murder in the first
6 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
7 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual
8 abuse of a minor in the first degree, misconduct involving a controlled substance in the
9 first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2),
10 **human trafficking in the first degree under AS 11.41.355**, and kidnapping, are
11 classified on the basis of their seriousness, according to the type of injury
12 characteristically caused or risked by commission of the offense and the culpability of
13 the offender. Except for murder in the first and second degree, attempted murder in the
14 first degree, solicitation to commit murder in the first degree, conspiracy to commit
15 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
16 sexual abuse of a minor in the first degree, misconduct involving a controlled
17 substance in the first degree, promoting prostitution in the first degree under
18 AS 11.66.110(a)(2), **human trafficking in the first degree under AS 11.41.355**, and
19 kidnapping, the offenses in this title are classified into the following categories:

20 (1) class A felonies, which characteristically involve conduct resulting
21 in serious physical injury or a substantial risk of serious physical injury to a person;

22 (2) class B felonies, which characteristically involve conduct resulting
23 in less severe violence against a person than class A felonies, aggravated offenses
24 against property interests, or aggravated offenses against public administration or
25 order;

26 (3) class C felonies, which characteristically involve conduct serious
27 enough to deserve felony classification but not serious enough to be classified as A or
28 B felonies;

29 (4) class A misdemeanors, which characteristically involve less severe
30 violence against a person, less serious offenses against property interests, less serious
31 offenses against public administration or order, or less serious offenses against public

1 health and decency than felonies;

2 (5) class B misdemeanors, which characteristically involve a minor
3 risk of physical injury to a person, minor offenses against property interests, minor
4 offenses against public administration or order, or minor offenses against public health
5 and decency;

6 (6) violations, which characteristically involve conduct inappropriate
7 to an orderly society but which do not denote criminality in their commission.

8 * **Sec. 8.** AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
11 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530,
12 AS 11.46.400, or AS 11.61.125 - 11.61.128;

13 (2) uses a firearm in the commission of the offense for which the
14 person is convicted; or

15 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
16 and the person has one or more prior convictions for a misdemeanor violation of
17 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
18 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
19 felony in this state; for the purposes of this paragraph, a person shall be considered to
20 have a prior conviction even if that conviction has been set aside under (e) of this
21 section or under the equivalent provision of the laws of another jurisdiction.

22 * **Sec. 9.** AS 12.55.125(i) is amended to read:

23 (i) A defendant convicted of

24 (1) sexual assault in the first degree, sexual abuse of a minor in the
25 first degree, [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2),
26 or human trafficking in the first degree under AS 11.41.355 may be sentenced to a
27 definite term of imprisonment of not more than 99 years and shall be sentenced to a
28 definite term within the following presumptive ranges, subject to adjustment as
29 provided in AS 12.55.155 - 12.55.175:

30 (A) if the offense is a first felony conviction, the offense does
31 not involve circumstances described in (B) of this paragraph, and the victim

1 was

2 (i) less than 13 years of age, 25 to 35 years;

3 (ii) 13 years of age or older, 20 to 30 years;

4 (B) if the offense is a first felony conviction and the defendant
5 possessed a firearm, used a dangerous instrument, or caused serious physical
6 injury during the commission of the offense, 25 to 35 years;

7 (C) if the offense is a second felony conviction and does not
8 involve circumstances described in (D) of this paragraph, 30 to 40 years;

9 (D) if the offense is a second felony conviction and the
10 defendant has a prior conviction for a sexual felony, 35 to 45 years;

11 (E) if the offense is a third felony conviction and the defendant
12 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
13 to 60 years;

14 (F) if the offense is a third felony conviction, the defendant is
15 not subject to sentencing under (I) of this section, and the defendant has two
16 prior convictions for sexual felonies, 99 years;

17 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online
18 enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to
19 commit sexual assault in the first degree, sexual abuse of a minor in the first degree,
20 [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2), **or human**
21 **trafficking in the first degree under AS 11.41.355** may be sentenced to a definite
22 term of imprisonment of not more than 99 years and shall be sentenced to a definite
23 term within the following presumptive ranges, subject to adjustment as provided in
24 AS 12.55.155 - 12.55.175:

25 (A) if the offense is a first felony conviction, the offense does
26 not involve circumstances described in (B) of this paragraph, and the victim
27 was

28 (i) under 13 years of age, 20 to 30 years;

29 (ii) 13 years of age or older, 15 to 30 years;

30 (B) if the offense is a first felony conviction and the defendant
31 possessed a firearm, used a dangerous instrument, or caused serious physical

1 injury during the commission of the offense, 25 to 35 years;

2 (C) if the offense is a second felony conviction and does not
3 involve circumstances described in (D) of this paragraph, 25 to 35 years;

4 (D) if the offense is a second felony conviction and the
5 defendant has a prior conviction for a sexual felony, 30 to 40 years;

6 (E) if the offense is a third felony conviction, the offense does
7 not involve circumstances described in (F) of this paragraph, and the defendant
8 is not subject to sentencing under (I) of this section, 35 to 50 years;

9 (F) if the offense is a third felony conviction, the defendant is
10 not subject to sentencing under (I) of this section, and the defendant has two
11 prior convictions for sexual felonies, 99 years;

12 (3) sexual assault in the second degree, sexual abuse of a minor in the
13 second degree, online enticement of a minor under AS 11.41.452(d), unlawful
14 exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography
15 under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not
16 more than 99 years and shall be sentenced to a definite term within the following
17 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

18 (A) if the offense is a first felony conviction, five to 15 years;

19 (B) if the offense is a second felony conviction and does not
20 involve circumstances described in (C) of this paragraph, 10 to 25 years;

21 (C) if the offense is a second felony conviction and the
22 defendant has a prior conviction for a sexual felony, 15 to 30 years;

23 (D) if the offense is a third felony conviction and does not
24 involve circumstances described in (E) of this paragraph, 20 to 35 years;

25 (E) if the offense is a third felony conviction and the defendant
26 has two prior convictions for sexual felonies, 99 years;

27 (4) sexual assault in the third degree, incest, indecent exposure in the
28 first degree, possession of child pornography, distribution of child pornography under
29 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in
30 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation
31 of a minor, or distribution of child pornography, may be sentenced to a definite term

1 of imprisonment of not more than 99 years and shall be sentenced to a definite term
2 within the following presumptive ranges, subject to adjustment as provided in
3 AS 12.55.155 - 12.55.175:

4 (A) if the offense is a first felony conviction, two to 12 years;

5 (B) if the offense is a second felony conviction and does not
6 involve circumstances described in (C) of this paragraph, eight to 15 years;

7 (C) if the offense is a second felony conviction and the
8 defendant has a prior conviction for a sexual felony, 12 to 20 years;

9 (D) if the offense is a third felony conviction and does not
10 involve circumstances described in (E) of this paragraph, 15 to 25 years;

11 (E) if the offense is a third felony conviction and the defendant
12 has two prior convictions for sexual felonies, 99 years.

13 * **Sec. 10.** AS 12.63.100(6) is amended to read:

14 (6) "sex offense" means

15 (A) a crime under AS 11.41.100(a)(3), or a similar law of
16 another jurisdiction, in which the person committed or attempted to commit a
17 sexual offense, or a similar offense under the laws of the other jurisdiction; in
18 this subparagraph, "sexual offense" has the meaning given in
19 AS 11.41.100(a)(3);

20 (B) a crime under AS 11.41.110(a)(3), or a similar law of
21 another jurisdiction, in which the person committed or attempted to commit
22 one of the following crimes, or a similar law of another jurisdiction:

23 (i) sexual assault in the first degree;

24 (ii) sexual assault in the second degree;

25 (iii) sexual abuse of a minor in the first degree; or

26 (iv) sexual abuse of a minor in the second degree; or

27 (C) a crime, or an attempt, solicitation, or conspiracy to commit
28 a crime, under the following statutes or a similar law of another jurisdiction:

29 (i) AS 11.41.410 - 11.41.438;

30 (ii) AS 11.41.440(a)(2);

31 (iii) AS 11.41.450 - 11.41.458;

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(iv) AS 11.41.460 if the indecent exposure is before a person under 16 years of age and the offender has a previous conviction for that offense;

(v) AS 11.61.125 - 11.61.128;

(vi) AS 11.66.110 or 11.66.130(a)(2) if the person who was induced or caused to engage in prostitution was 16 or 17 years of age at the time of the offense;

(vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200; or

(viii) AS 11.61.118(a)(2) if the offender has a previous conviction for that offense; or

(ix) AS 11.41.355:

* **Sec. 11.** AS 11.41.360(b) is repealed.

27-LS0646M
Gardner
2/15/12

CS FOR SENATE BILL NO. 110()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS WIELECHOWSKI, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to human trafficking; and relating to sentencing in criminal cases**
2 **involving sex offenses."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 11.41 is amended by adding a new section to read:

5 **Sec. 11.41.355. Human trafficking in the first degree.** (a) A person commits
6 the crime of human trafficking in the first degree if the person violates AS 11.41.360
7 by compelling, enticing, or inducing another person to engage in sexual conduct, adult
8 entertainment, or an act described in AS 11.41.455(a)(1) - (7), and the other person
9 compelled or induced is under 18 years of age.

10 (b) Human trafficking in the first degree is an unclassified felony.

11 *** Sec. 2.** AS 11.41.360(a) is amended to read:

12 (a) A person commits the crime of human trafficking in the second [FIRST]
13 degree if being 18 years of age or older the person compels, entices, or induces
14 another person under 18 years of age and at least four years younger than the

1 offender to come to this state or move from one place to another over a distance
2 greater than 100 miles inside the state to engage in sexual conduct, adult
3 entertainment, or labor in the state by force or threat of force against any person, or by
4 deception.

5 * Sec. 3. AS 11.41.360(c) is amended to read:

6 (c) Human trafficking in the second [FIRST] degree is a class A felony.

7 * Sec. 4. AS 11.41.365 is amended to read:

8 **Sec. 11.41.365. Human trafficking in the third [SECOND] degree.** (a) A
9 person commits the crime of human trafficking in the third [SECOND] degree if the
10 person obtains a benefit from the commission of human trafficking under
11 AS 11.41.355 or 11.41.360 [AS 11.41.360,] with reckless disregard that the benefit is
12 a result of the trafficking.

13 (b) Human trafficking in the third [SECOND] degree is a class B felony.

14 * Sec. 5. AS 11.41.370 is amended by adding new paragraphs to read:

15 (4) "adult entertainment" means the conduct described in
16 AS 23.10.350(f)(1) - (3);

17 (5) "sexual conduct" has the meaning given in AS 11.66.150.

18 * Sec. 6. AS 11.81.250(a) is amended to read:

19 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
20 title, except murder in the first and second degree, attempted murder in the first
21 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
22 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual
23 abuse of a minor in the first degree, misconduct involving a controlled substance in the
24 first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2),
25 human trafficking in the first degree under AS 11.41.355, and kidnapping, are
26 classified on the basis of their seriousness, according to the type of injury
27 characteristically caused or risked by commission of the offense and the culpability of
28 the offender. Except for murder in the first and second degree, attempted murder in the
29 first degree, solicitation to commit murder in the first degree, conspiracy to commit
30 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
31 sexual abuse of a minor in the first degree, misconduct involving a controlled

1 substance in the first degree, promoting prostitution in the first degree under
2 AS 11.66.110(a)(2), human trafficking in the first degree under AS 11.41.355, and
3 kidnapping, the offenses in this title are classified into the following categories:

4 (1) class A felonies, which characteristically involve conduct resulting
5 in serious physical injury or a substantial risk of serious physical injury to a person;

6 (2) class B felonies, which characteristically involve conduct resulting
7 in less severe violence against a person than class A felonies, aggravated offenses
8 against property interests, or aggravated offenses against public administration or
9 order;

10 (3) class C felonies, which characteristically involve conduct serious
11 enough to deserve felony classification but not serious enough to be classified as A or
12 B felonies;

13 (4) class A misdemeanors, which characteristically involve less severe
14 violence against a person, less serious offenses against property interests, less serious
15 offenses against public administration or order, or less serious offenses against public
16 health and decency than felonies;

17 (5) class B misdemeanors, which characteristically involve a minor
18 risk of physical injury to a person, minor offenses against property interests, minor
19 offenses against public administration or order, or minor offenses against public health
20 and decency;

21 (6) violations, which characteristically involve conduct inappropriate
22 to an orderly society but which do not denote criminality in their commission.

23 * Sec. 7. AS 12.55.085(f) is amended to read:

24 (f) The court may not suspend the imposition of sentence of a person who

25 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
26 - 11.41.320, 11.41.355 - 11.41.365 [11.41.360 - 11.41.370], 11.41.410 - 11.41.530,
27 AS 11.46.400, or AS 11.61.125 - 11.61.128;

28 (2) uses a firearm in the commission of the offense for which the
29 person is convicted; or

30 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
31 and the person has one or more prior convictions for a misdemeanor violation of

1 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
 2 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
 3 felony in this state; for the purposes of this paragraph, a person shall be considered to
 4 have a prior conviction even if that conviction has been set aside under (e) of this
 5 section or under the equivalent provision of the laws of another jurisdiction.

6 * Sec. 8. AS 12.55.125(i) is amended to read:

7 (i) A defendant convicted of

8 (1) sexual assault in the first degree, sexual abuse of a minor in the
 9 first degree, [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2),
 10 or human trafficking in the first degree under AS 11.41.355 may be sentenced to a
 11 definite term of imprisonment of not more than 99 years and shall be sentenced to a
 12 definite term within the following presumptive ranges, subject to adjustment as
 13 provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, the offense does
 15 not involve circumstances described in (B) of this paragraph, and the victim
 16 was

17 (i) less than 13 years of age, 25 to 35 years;

18 (ii) 13 years of age or older, 20 to 30 years;

19 (B) if the offense is a first felony conviction and the defendant
 20 possessed a firearm, used a dangerous instrument, or caused serious physical
 21 injury during the commission of the offense, 25 to 35 years;

22 (C) if the offense is a second felony conviction and does not
 23 involve circumstances described in (D) of this paragraph, 30 to 40 years;

24 (D) if the offense is a second felony conviction and the
 25 defendant has a prior conviction for a sexual felony, 35 to 45 years;

26 (E) if the offense is a third felony conviction and the defendant
 27 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
 28 to 60 years;

29 (F) if the offense is a third felony conviction, the defendant is
 30 not subject to sentencing under (I) of this section, and the defendant has two
 31 prior convictions for sexual felonies, 99 years;

1 (2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online
2 enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to
3 commit sexual assault in the first degree, sexual abuse of a minor in the first degree,
4 [OR] promoting prostitution in the first degree under AS 11.66.110(a)(2), or human
5 trafficking in the first degree under AS 11.41.355 may be sentenced to a definite
6 term of imprisonment of not more than 99 years and shall be sentenced to a definite
7 term within the following presumptive ranges, subject to adjustment as provided in
8 AS 12.55.155 - 12.55.175:

9 (A) if the offense is a first felony conviction, the offense does
10 not involve circumstances described in (B) of this paragraph, and the victim
11 was

12 (i) under 13 years of age, 20 to 30 years;

13 (ii) 13 years of age or older, 15 to 30 years;

14 (B) if the offense is a first felony conviction and the defendant
15 possessed a firearm, used a dangerous instrument, or caused serious physical
16 injury during the commission of the offense, 25 to 35 years;

17 (C) if the offense is a second felony conviction and does not
18 involve circumstances described in (D) of this paragraph, 25 to 35 years;

19 (D) if the offense is a second felony conviction and the
20 defendant has a prior conviction for a sexual felony, 30 to 40 years;

21 (E) if the offense is a third felony conviction, the offense does
22 not involve circumstances described in (F) of this paragraph, and the defendant
23 is not subject to sentencing under (I) of this section, 35 to 50 years;

24 (F) if the offense is a third felony conviction, the defendant is
25 not subject to sentencing under (I) of this section, and the defendant has two
26 prior convictions for sexual felonies, 99 years;

27 (3) sexual assault in the second degree, sexual abuse of a minor in the
28 second degree, online enticement of a minor under AS 11.41.452(d), unlawful
29 exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography
30 under AS 11.61.125(e)(2) may be sentenced to a definite term of imprisonment of not
31 more than 99 years and shall be sentenced to a definite term within the following

1 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

2 (A) if the offense is a first felony conviction, five to 15 years;

3 (B) if the offense is a second felony conviction and does not
4 involve circumstances described in (C) of this paragraph, 10 to 25 years;

5 (C) if the offense is a second felony conviction and the
6 defendant has a prior conviction for a sexual felony, 15 to 30 years;

7 (D) if the offense is a third felony conviction and does not
8 involve circumstances described in (E) of this paragraph, 20 to 35 years;

9 (E) if the offense is a third felony conviction and the defendant
10 has two prior convictions for sexual felonies, 99 years;

11 (4) sexual assault in the third degree, incest, indecent exposure in the
12 first degree, possession of child pornography, distribution of child pornography under
13 AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in
14 the second degree, sexual abuse of a minor in the second degree, unlawful exploitation
15 of a minor, or distribution of child pornography, may be sentenced to a definite term
16 of imprisonment of not more than 99 years and shall be sentenced to a definite term
17 within the following presumptive ranges, subject to adjustment as provided in
18 AS 12.55.155 - 12.55.175:

19 (A) if the offense is a first felony conviction, two to 12 years;

20 (B) if the offense is a second felony conviction and does not
21 involve circumstances described in (C) of this paragraph, eight to 15 years;

22 (C) if the offense is a second felony conviction and the
23 defendant has a prior conviction for a sexual felony, 12 to 20 years;

24 (D) if the offense is a third felony conviction and does not
25 involve circumstances described in (E) of this paragraph, 15 to 25 years;

26 (E) if the offense is a third felony conviction and the defendant
27 has two prior convictions for sexual felonies, 99 years.

28 * **Sec. 9.** AS 12.63.100(6) is amended to read:

29 (6) "sex offense" means

30 (A) a crime under AS 11.41.100(a)(3), or a similar law of
31 another jurisdiction, in which the person committed or attempted to commit a

1 sexual offense, or a similar offense under the laws of the other jurisdiction; in
2 this subparagraph, "sexual offense" has the meaning given in
3 AS 11.41.100(a)(3);

4 (B) a crime under AS 11.41.110(a)(3), or a similar law of
5 another jurisdiction, in which the person committed or attempted to commit
6 one of the following crimes, or a similar law of another jurisdiction:

7 (i) sexual assault in the first degree;

8 (ii) sexual assault in the second degree;

9 (iii) sexual abuse of a minor in the first degree; or

10 (iv) sexual abuse of a minor in the second degree; or

11 (C) a crime, or an attempt, solicitation, or conspiracy to commit
12 a crime, under the following statutes or a similar law of another jurisdiction:

13 (i) AS 11.41.410 - 11.41.438;

14 (ii) AS 11.41.440(a)(2);

15 (iii) AS 11.41.450 - 11.41.458;

16 (iv) AS 11.41.460 if the indecent exposure is before a
17 person under 16 years of age and the offender has a previous conviction
18 for that offense;

19 (v) AS 11.61.125 - 11.61.128;

20 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
21 was induced or caused to engage in prostitution was 16 or 17 years of
22 age at the time of the offense;

23 (vii) former AS 11.15.120, former 11.15.134, or assault
24 with the intent to commit rape under former AS 11.15.160, former
25 AS 11.40.110, or former 11.40.200; or

26 (viii) AS 11.61.118(a)(2) if the offender has a previous
27 conviction for that offense; or

28 (ix) AS 11.41.355:

29 * Sec. 10. AS 11.41.360(b)(1) and 11.41.360(b)(3) are repealed.



February 10, 2012

Business Manager

Joseph Young
Anchorage

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Soldotna

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Wrangell

PO Box 240106
Anchorage AK 99524

t 907 277 0515
f 907 272 5355

Senator Bill Wielechowski
Alaska State Senate
State Capitol
Juneau AK 99801-1182

Dear Senator Wielechowski:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing Senate Bill 110, an act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses.

The APOA State Board of Directors recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

John Lucking, Jr.
State President

Making A Difference In The Last Frontier



STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF ADMINISTRATION

VIOLENT CRIMES COMPENSATION BOARD

P.O. BOX 110230
JUNEAU, ALASKA 99811-0230
PHONE: (907) 465-3040
TOLL FREE: 1-800-764-3040
FAX: (907) 465-2379

February 13, 2012

The Honorable Senator Wielechowski
State Capitol, Room 101
Juneau, Alaska 99801

Re: Senate Bill, 110 Human Trafficking/Sex Offenses

I write on behalf of the Violent Crimes Compensation Board in support of Senate Bill 110.

The proposed legislation strengthens existing state legislation by extending the definition of trafficking to include the movement or enticement of young women within the state of Alaska, not just across state lines.

As Board members, we have seen the terrible results of human trafficking on the lives of young women and their families. Very often these victims are young vulnerable native women who have left their villages and come to Anchorage, only to find themselves homeless and alone. These women are specifically targeted by these predators, given enticements in the form of clothing, housing and jewellery, and are then abused, beaten, sexually assaulted, deliberately addicted to controlled substances and alcohol and then prostituted out to make money for their abusers.

Over the course of the last few years, the Board has seen 23 claims stemming from federal human trafficking investigations, and has paid out over \$150,000 in compensation or assistance to trafficking victims. This compensation has been in the form of payment for mental health counseling, and for drug and alcohol treatment programs, as well as for medical expenses, and assistance in relocation to a safer environment. None of these 23 claims were for victims trafficked to Alaska. All were already Alaskan residents.

This proposed legislation closes the gap, and the Board strongly supports its passage

Respectfully submitted



Gerard Godfrey
Chair, Violent Crimes Compensation Board

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version SB110
 Fiscal Note Number _____
 Publish Date 5

Identifier (file name) SB110-DOA-PDA-12-12-11 Dept. Affected Administration
 Title Human Trafficking/Sex Offenses Appropriation Legal and Advocacy Services
 Allocation Public Defender Agency
 Sponsor Senators Wielechowski, McGuire
 Requester Senate Judiciary OMB Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	****	****	****	****	****	****	****

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		****	****	****	****	****	****

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Update for session

Prepared by Quinlan Steiner
 Division Public Defender Agency
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907 334-4414
 Date/Time 11/17/11 3:00 PM
 Date 12/12/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB110

Analysis

This bill expands the range of conduct that may be prosecuted as human trafficking to include enticing someone to move within the state of Alaska to engage in sexual conduct or adult entertainment by force, threat or deception. It would also make human trafficking an unclassified felony if the victim is a minor.

The agency cannot reliably predict the number of additional cases that may be prosecuted as a result of this bill. Accordingly, the Public Defender Agency has submitted an indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB110
 Fiscal Note Number 2
 () Publish Date _____

Identifier (file name) SB110-DPS-DET-02-16-12 Dept. Affected Public Safety
 Title HUMAN TRAFFICKING/SEX OFFENSES Appropriation Alaska State Troopers
 Allocation AST Detachments
 Sponsor Senator(s) Wielechowski, McGuire
 Requester (S) JUD OMB Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated on new fiscal note form.

Prepared by Lt. Rodney Dial
 Division Alaska State Troopers
 Approved by Joseph A. Masters, Commissioner
Department of Public Safety

Phone (907) 247-4480
 Date/Time 2/16/12 8:28 PM
 Date 2/16/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB110

Analysis

This bill amends AS 11.41 by adding a new section, AS 11.41.355 human trafficking in the first degree; amends AS 11.41.360 to human trafficking in the second degree; amends AS 11.41.365 to human trafficking in the third degree; amends AS 12.63.100(6) to include the crime of human trafficking in the first degree to the definition of "sex offense"; and amends statutes regarding the sentencing and conditions of probation in criminal cases involving sex offenses.

It is not anticipated that this bill will increase the number of investigations conducted by the department. There is no fiscal impact to the AST as a result of this legislation.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version SB 110
 Fiscal Note Number 3
 Publish Date _____

Identifier (file name) SB110-DOC-OC-12-22-11 Dept. Affected DOC
 Title "An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases..." Appropriation Admin & Support
 Allocation Commissioner's Office
 Sponsor Senator Wielechowski
 Requester Senate Judiciary OMB Component Number 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	**	**	**	**	**	**	**	**

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**	**	**	**	**	**	**

POSITIONS

Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES

--	--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated to reflect current fiscal year.

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 12/22/11 3:45 PM
 Date 12/22/2011

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. SB 110 _____

Analysis

SB 110 amends existing human trafficking laws and levels of crimes for human trafficking. If passed, this bill would make human trafficking in the first degree an unclassified felony; human trafficking in the second degree a class A felony; and human trafficking in the third degree a class B felony.

This bill also includes provisions that could restrict sex offenders from living within 500 feet of a school.

The Department of Corrections is unable to determine the fiscal impacts of the passage of this legislation, as we cannot estimate the total number of actual violations that will occur. The Department of Corrections will closely monitor potential future fiscal impacts of this legislation.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version SB110
 Fiscal Note Number 4
 Publish Date _____

Identifier (file name) SB110-DOA-OPA-12-12-2011 Dept. Affected Administration
 Title Human Trafficking/Sex Offenses Appropriation Legal and Advocacy Services
 Allocation Office of Public Advocacy
 Sponsor Senators Wielechowski, McGuire
 Requester Senate Judicial OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Richard Allen, Director
 Division Office of Public Advocacy
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907 269-3504
 Date/Time 11/29/2011 11:43 a.m.
 Date 12/12/2011

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. SB110

Analysis

This bill expands the range of conduct that may be prosecuted as human trafficking to include enticing someone to move within the state of Alaska to engage in sexual conduct or adult entertainment by force, threat, or deception. It would also make human trafficking an unclassified felony if the victim is a minor.

The agency cannot reliably predict the number of additional cases that may be prosecuted as a result of this bill. Accordingly, the Office of Public Advocacy has submitted an indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version SB 110
 Fiscal Note Number _____
 Publish Date _____

Identifier (file name) SB110-LAW-CRIM-12-14-11 Dept. Affected Law
 Title An Act relating to human trafficking; and relating to Appropriation Criminal
sentencing and conditions of probation in criminal cases. Allocation Criminal Justice Litigation
 Sponsor SENATORS WIELECHOWSKI
 Requester (S) Judiciary OMB Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY13	FY14	FY15	FY16	FY17
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for new fiscal year form.

Prepared by Eileen Donahue, Division Operations Manager Phone 465-5427
 Division Administrative Services Date/Time 2/16/12 5:25PM
 Approved by Michael C. Geraghty, Attorney General Date 2/16/2012
Department of Law

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB 110

Analysis

SB 110 adds a new, more serious level of human trafficking. It would adopt an unclassified felony if a person induces, compels, or entices a person under 18 years old to move from one place to another and engage in sexual conduct, adult entertainment, or prohibited acts.

The bill also amends current law prohibiting human trafficking by making it a class A felony to compel, entice, or induce another person to move from one place to another in the state to engage in sexual conduct, adult entertainment, or forced labor.

This bill would have an indeterminate fiscal impact to the Department of Law.

CHAIR FRENCH noted that the administration is pretty consistent about supporting its own bills.

MS. RUTHERDALE said that DOL does not take a position on bills. She said that every suggestion she made, and every change that OCS made, was incorporated into the bill.

SENATOR PASKVAN said that he is taking this to mean that the language in the bill is the best that can be achieved.

MS. RUTHERDALE replied that is correct. She said that as a practicing lawyer she does not want a bill that will cause any harm and she does not believe that this bill will do so.

2:28:13 PM

CHAIR FRENCH noted there is support from many different associations, such as the Alaska Association of Homes for Children, the Advisory Board on Alcoholism and Drug Abuse, the National Association of Social Workers, the Alaska Behavioral Health Association, Alaska Children's Services, and Denali Family Services.

CHAIR FRENCH announced that he would hold SB 82 in committee in order to see a document with the amendment included.

SB 110-HUMAN TRAFFICKING/SEX OFFENSES

2:29:11 PM

CHAIR FRENCH announced the consideration of SB 110.

2:29:19 PM

SENATOR WIELECHOWSKI said the committee has heard that there are human traffickers targeting young Native girls, and it is a serious problem. He noted that putting someone on a plane from a village to Anchorage for the purpose of sex trafficking should be made illegal. There is a trafficking law, but it only applies to transporting someone from out of state, not instate. He noted that the bill does a few things: Section 1 changes human trafficking in the first degree by adding a provision for persons under age 18 and increasing the penalty for that; this section also adds the word "enticing."

Section 2 also adds a provision about "enticing", and it adds that to "move from one place to another in the state" constitutes the crime of human trafficking.

He noted that there are concerns on the broad nature of the language. He feels that encouraging someone to move from one part of the state to another is just as serious as encouraging them to move from Seattle to Alaska.

Another major provision is in Section 8, which says a judge should have authority to remove sex offenders who live near schools, but is not a blanket application to all convicted sex offenders.

2:34:21 PM

LAUREN RICE, Director of Public Affairs, Covenant House Alaska (CHA), testified in support of SB 110. CHA offers shelter for unaccompanied youth--emergency shelter, food, healthcare, access to permanent housing. It is located in Anchorage, but about 44 percent of the children come from outside of Anchorage and almost 45 percent are Alaska Native.

Covenant House Alaska began taking an active role in combating human trafficking about five years ago. Both the Anchorage Police Department (APD) and the FBI have given them long term trafficking prevention strategies. CHA has witnessed a visible decrease around its area, but this is still very prevalent in the state. CHA has helped kids coming from other countries, out of state, and in state. Youth in need of protection against active human trafficking are identified on a monthly basis.

She noted the roots of trafficking are found in childhood trauma; the vast majority of youth being trafficked are victims of sexual or physical violence in their younger years. The issue requires a holistic approach to really protect Alaska's children. One young woman told CHA staff she could stay at home and be raped by her grandfather, or she could be paid for the same act. Covenant House Alaska is committed to giving youth choices beyond human trafficking.

2:39:07 PM

CHAIR FRENCH asked what the scope of the problem is within the state.

MS. RICE replied CHA used to collect data on an informal basis and have become more sophisticated about it. They wanted to make sure that they had services to help, depending on the answers to these questions. She said they know that about 50 percent of the girls in their facility have been sexually abused, and 35 percent of their kids (both male and female) have engaged in "survival sex" or informal prostitution in order to get the

commodities that they need. Of those, probably half have been tied to active trafficking situations. But that number is truly a guess; it used to be significantly more visible and has become less so because APD has targeted individuals who were hanging around outside the shelter and targeting kids. However, they know that kids are still being trafficked on the Internet, and there is proof of that.

2:41:51 PM

REGINA CHENAULT, representing herself, testified in support of SB 110. She is a trauma surgeon who has treated patients who have experienced violent sexual crimes. She serves on the state violent crimes board, and last year Sexual Assault Against Minors were the highest growing category of crimes. They don't know if that is due to increased reporting or increased occurrence of assaults. She also serves on the State Trauma Committee, where they are tallying injuries.

She said she is a mother of three and fears this could happen to her children, because it crosses all groups and all lines. She noted that 85 percent of Alaska Natives serving a prison sentence for sexual assault of minors were sexually assaulted themselves as minors; this is a cycle the state needs to end. Traffickers are even targeting children who hang out at malls. She said that the definition of trafficking should be strong, and should include trafficking within the state. She noted the Webster Case; there are victims who now have children, drug dependency, and lifelong STDs.

She recently learned that a group of Koreans are targeting children in the villages. There's a scheme set up where a customer cannot get to the point of having sex with a child until they first hire an adult prostitute and have sex with him or her. In this way, they ensure it's not a sting operation. This ring seems to be the fastest growing group that is targeting children in Alaska.

2:48:20 PM

ANNE CARPENETI, Criminal Division, Department of Law said that this is a serious problem in the state. She said she had a long conversation with Sergeant Lacey from APD and learned that the problem is enforcement. For her, trafficking is moving individuals from one place to another. But the new trend is what used to be called "pimping" or "promoting prostitution."

CHAIR FRENCH asked where promoting prostitution comes in, and what is missing from that statute.

MS. CARPENETI replied nothing; promoting prostitution in the first degree is an unclassified felony if the person is under age 18. It is much easier to prove promoting prostitution than trafficking. Under this bill DOL has to prove force, deception, and movement for trafficking. This does not attack the problem of promoting prostitution. It can be called trafficking, but it is really promoting prostitution of young women. Some young women actually come to urban areas on their own with no support, and they become easy victims. Right now, she said, no prosecutor would bring charges under this bill when he or she could bring charges under promoting prostitution.

2:51:29 PM

SENATOR COGHILL said one of the problems that he sees is that some people are surviving off of sexual behavior. He asked if this would still be under the prostitution issue or would the trafficking bill take care of this.

MS. CARPENETI replied if you induce or cause someone to engage in commercial sex, it would be considered prostitution. The problem is getting the victims to let them know who the perpetrators are. She said the range of penalty for a first felony conviction for promoting prostitution of a child under age 18 is 20-30 years, depending on the age of the victim. If the victim is under 13, the penalty would be 25-35 years; if the victim is between 13 and 18, the penalty would be 20-30 years. Current law takes this very seriously.

SENATOR WIELECHOWSKI said he has a slightly different take on it. Section 2 deals with human trafficking. It deals with prostitution, but also adult entertainment--forcing someone to work through force, or threat of force. When speaking about prostitution you are only speaking talking about AS 11.41.360.

MS. CARPENETI replied there is a crime in Title 23 dealing with forced labor. She said DOL has suggestions. For example, the forced labor of young children in Title 23 for commercial sex is a class C felony. She agreed that prostitution does not deal with labor. The problem in the state is not the trafficking, it's the prostitution. People aren't found and moved from one place to another; they are found in one place and victimized.

CHAIR FRENCH asked if she could go back over the last five years and let the committee know how many trafficking prosecutions there have been and how many prostitution prosecutions.

SENATOR COGHILL clarified how many charges, versus convictions.

MS. CARPENETI said that there are some concerns about the second degree language, which DOL found to be overbroad. "Entices" is a very broad word.

SENATOR WIELECHOWSKI said he and his staff have been working with Ms. Carpeneti.

2:56:41 PM

QUINLAN STEINER, Director, Alaska Public Defender Agency, said he has the same concerns that Ms. Carpeneti expressed. Definition of these words becomes quite broad. Enticing does not imply changing someone's mind or forcing an individual to do something other than simply offering an enticement. "Move from one place to another" might run into some constitutional problems. The combination of the three concepts causes him some concern on how this might be charged.

2:58:52 PM

DOUG GARDINER, Director, Legislative Legal Services, introduced himself and said he was available to answer questions.

CHAIR FRENCH said that Senator Wielechowski says that the word enticed comes from statutes in other states.

MR. GARDNER replied this term comes from the on-line statute in existing Alaska Statutes. He said he does not have a specific definition for entice, and is not aware of any case law in the state that defines this. He noted that Senator Coghill made a good point; what would happen if you moved an underage person within the state for sexual purposes, but DOL was unable to prove there was some type of agreement for prostitution. In that case, DOL might actually be better off with the proposal for promoting human trafficking.

3:01:34 PM

Chair French announced he would hold SB 110 in committee. There being no further business to come before the committee, Chair French adjourned the meeting at 3:01 p.m.