

SB

170

<TARGET><BILL>SB 170</BILL><SUBJECT>SB
170</SUBJECT><COMM>SJUD28</COMM></TARGET>

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 170
Fiscal Note Number: 1
(S) Publish Date: 3/24/14

Identifier: SB170-DOA-OPA-03-07-2014
Title: AFFIRMATIVE DEFENSE TO PROSTITUTION
Sponsor: GARDNER
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
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 (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: <u>Richard Allen, Director</u>	Phone: <u>(907)269-3504</u>
Division: <u>Office of Public Advocacy</u>	Date: <u>03/07/2014 12:15 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/07/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #1

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. SB 170

Analysis

SB170 creates an affirmative defense for defendants accused of prostitution if the person was induced or caused to engage in prostitution by another person engaged in sex trafficking.

SB170 is not expected to have a fiscal impact on the Office of Public Advocacy, therefore OPA submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 170
Fiscal Note Number: 2
(S) Publish Date: 3/24/14

Identifier: SB170-LAW-CRIM-03-07-14
Title: AFFIRMATIVE DEFENSE TO PROSTITUTION
Sponsor: GARDNER
Requester: (S) JUDICIARY

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
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 (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version, not applicable.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division:	Department of Law	Date:	03/07/2014 04:46 PM
Approved By:	Michael C. Geraghty, Attorney General	Date:	03/07/14
Agency:	Department of Law		

FISCAL NOTE ANALYSIS #2

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. SB 170 _____

Analysis

SB 170 would adopt an affirmative defense to the crime of prostitution that at the time of the offense, the prostitute was induced to engage in prostitution by a person engaged in sex trafficking.

The Department of Law does not anticipate a fiscal impact.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 170
Fiscal Note Number: 3
(S) Publish Date: 3/24/14

Identifier: SB170-DOA-PDA-03-07-14
Title: AFFIRMATIVE DEFENSE TO PROSTITUTION
Sponsor: GARDNER
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
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 (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: <u>Quinlan Steiner, Public Defender</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/07/2014 10:40 AM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/07/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #3

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 170

Analysis

SB170 creates an affirmative defense for defendants accused of prostitution if the person was induced or caused to engage in prostitution by another person engaged in sex trafficking.

SB170 is not expected to have a fiscal impact on the Public Defender Agency; the agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 170
Fiscal Note Number: 4
(S) Publish Date: 3/24/14

Identifier: SB170-DOC-OC-03-07-14
Title: AFFIRMATIVE DEFENSE TO PROSTITUTION
Sponsor: GARDNER
Requester: Senate Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
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 (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By:	April Wilkerson, Director	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/07/2014 01:00 PM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	03/07/2014
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS #4

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. SB 170

Analysis

This legislation creates an affirmative defense for defendants being prosecuted for prostitution if, at the time of the offense, they were victims of sex trafficking.

At this time, data is not available for the Department of Corrections to calculate the number of defendants who would be able to use this defense. The Department will continue to monitor the potential impacts of this legislation.



Urban Justice Center

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February 27, 2014

Senator Berta Gardner
State Capitol Bldg., Room 417
Juneau, AK 99801

Senator Lesile McGuire
State Capitol Room 103
Juneau AK, 99801

Senator John Coghill
State Capitol Room 119
Juneau AK, 99801

Senator Click Bishop
State Capitol Room 115
Juneau AK, 99801

Senator Johnny Ellis
State Capitol Room 7
Juneau AK, 99801

Dear Senators Gardner, McGuire, Coghill, Bishop, and Ellis,

I am writing as an anti-trafficking advocate and a concerned Alaskan. Trafficking is a serious issue that deserves serious answers and I would like to commend you and your co-sponsors for crafting SB 170 in an effort to refine Alaskan law to reflect the lived experiences of trafficking survivors in Alaska. I have been working on anti-trafficking issues for some time now and have been able to see the many failed attempts and wrong turns that other states have made in their efforts to combat human trafficking. Luckily, I know that my state has never been one to follow the lead of the lower forty-eight. In the hopes of making Alaska the leader of the anti-trafficking effort in the U.S. and a model after which other states might aspire to, I offer the following suggestions to the bill.

I. Expand SB 170 to Include Human Trafficking Convictions

The introduction to SB 170 makes an apt point when it states that “anti-sex trafficking statutes may ensnare those who have been trafficked, resulting in arrests and prosecution of those who were, themselves, victims of sex trafficking.” This is absolutely true and a point that many state legislators (and the federal government) have failed to adequately recognize. Victims of trafficking are forced to commit not only prostitution, but also many other acts which fall under the definition of the crime of sex

trafficking. This is especially true as traffickers often try to insulate themselves from criminal conviction at all costs. This problem is the most acute in states like Alaska that have expanded the definition of sex trafficking by eliminating the element of “force, fraud, or coercion.” Indeed, under state law, if a sex trafficking victim is able to obtain condoms in order to afford herself some safety from STDs and forced abortions, and then she shares those condoms with a fellow victim, she would fit the definition of a human trafficker in the 3rd degree as someone who has “engage[d] in conduct that institutes, aids, or facilitates a prostitution enterprise.” She could also be guilty of human trafficking in the fourth degree. If a trafficking victim is forced to post pictures of herself and others in online ads for sex, as is very often the case, she would be guilty of human trafficking in the second degree because she has “procure[d] or solicit[ed] a patron for a prostitute.” To better serve the stated purpose of preventing the system of “re-victimization,” I humbly propose that the language of SB170 be expanded to fit the language of its introduction and to allow for the affirmative defense of trafficking to be applicable to human trafficking charges as well as prostitution charges.

II. Expand SB 170 to Apply to Victims Who Cannot Come Forward Until After Their Conviction

Expanding SB 170 to apply to victims who do not come forward with their victimization until after their conviction would not only serve the important goal of allowing victims of sex trafficking an opportunity to move on with their lives free from the stigma of a criminal record which was forced upon them, as well as help victims who are now living with forced criminal records resulting from convictions that predate this important legislation, but it also serves the goal stated in the introduction to SB 170 to “expose the extent of sex trafficking in Alaska.” If the remedy were applicable to victims post-conviction, they have an incentive to report their victimization to law enforcement – a process that can trigger PTSD symptoms in many survivors. This will provide law enforcement with the leads and the victim-cooperation necessary to capture and punish traffickers. Importantly, it will also give Alaskans a more complete picture of how trafficking has existed in Alaska throughout the years.

For many victims, the time between arrest and conviction is confusing at best, and re-traumatizing at worst. Very few victims are armed with the language of trafficking and have been conditioned to not only think that they are guilty of prostitution, but also to think that no one will believe them or care if they come forward about their abuse. That they were arrested in the first place is nearly proof of this fact for many victims. As the introduction to SB 170 rightly points out, some victims do not feel safe reporting their traffickers to law enforcement due to extreme violence and persecution that they have faced at the hands of the police. Bearing in mind all of the many hurdles a victim would have to overcome without any support or social services in the short time between arrest and conviction, combined with the important need for law enforcement to assess and combat the full extent of sex trafficking in Alaska, I believe it is in the best interest of Alaska to expand the language of SB 170 to create a remedy for victims at any stage in the criminal process.

III. SB 170 Should Include a Provision for the Proper Training of Law Enforcement as Well as the Creation of a Safety Net for Cooperating Survivors

I applaud Senator Gardner and the Co-Sponsoring Senators for pointing out the very difficult relationship that victims of trafficking have with law enforcement, and for highlighting the importance of services for survivors of trafficking. Repairing the relationship between survivors and law enforcement is the number one action that law enforcement can take to fight trafficking. The current dynamic allows for traffickers to actually insulate themselves from law enforcement, because they know that victims fear the police, and that police often fail to effectively screen people for signs of trafficking. Additionally, the lack of services to those most vulnerable to trafficking allows traffickers to exert a tremendous amount of control over their victims. Lack of shelter, drug and alcohol dependence, or mental illness can allow traffickers to maintain complete control over their victims without the use of locks and chains. In the current situation, victims maintain chained to their traffickers, and the efforts of

law enforcement to apprehend traffickers is greatly impeded. Providing effective screening training to law enforcement by actual survivors and training law enforcement to treat potential victims with dignity and respect, in combination with an effective safety net for victims who would otherwise have to choose between being without shelter in the Alaskan winter or returning to the warm home of their trafficker, would arm law enforcement with the tools and the allies that they need to fight trafficking effectively.

IV. SB 170 Should Provide Limited Immunity for People Who Report Incidents of Human Trafficking to Law Enforcement

Due to the illegal nature of trafficking, the stigma of forced prostitution, and fear of the police, it is only the rarest occasion when the victim is the person who reports the crime of trafficking to law enforcement. However, this does not mean that good Samaritans do not encounter trafficking victims. The people who are most likely to encounter a victim of forced prostitution are others who work in prostitution, and their customers. Currently, these same people could face investigation and prosecution if they come forward to the police with information about a trafficking victim. As such, it is of the gravest importance to the well-being of victims and the efforts of law enforcement that SB 170 include a provision that makes it safe for people to report trafficking when they see it.

I am so happy to see my state taking human trafficking seriously and I have no doubt that Alaskans can be the leaders this nation needs to thoughtfully and effectively eradicate human trafficking.

Sincerely,



Robin Richardson
Equal Justice Works Fellow
Sponsored by The Friends & Family of Philip M. Stern
Urban Justice Center

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ALASKA STATE LEGISLATURE

JUNEAU

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SENATOR BERTA GARDNER

SENATE DISTRICT H

SB 170 - An Act recognizing that some prostitutes are victims of coercion, extortion, or oppression.

This bill directs the court system to accept an affirmative defense in the crime of prostitution, if a person can prove they were the victim of sex trafficking at the time of the prostitution charge. Currently, in Alaska, anti-sex trafficking statutes may ensnare those who have been trafficked, resulting in the arrests and prosecution of those who were, themselves, victims of sex trafficking. This creates a system of re-victimization; a prostitute forced into sex work can be subjected to arrest, prosecution and the hardships and stigmas of conviction.

SB 170 will not only provide protection from the double victimization explained above but it will also help to expose the extent of sex trafficking in Alaska. According to the FBI in Anchorage, seven sex trafficking cases have resulted in 105 arrests. But these are not complete numbers. Prostitutes do not call law enforcement or other emergency services to report victimization out of fear of arrest and conviction. This set of circumstances not only denies people access to basic and necessary services; it renders sex trafficking and prostitution in the state extremely difficult to address or measure.

As supporting documentation indicates, other states are recognizing the irrationality and unfairness of such a system. This bill will refine Alaska law to differentiate between a victim of sex trafficking and a person willfully committing a crime, and thus begin the process of rehabilitation of sex trafficking victims forced into prostitution. Federal and state law enforcement and public policy experts contacted in the research phase of this bill summarily welcomed SB 170 as appropriate and timely.

The Alaska Department of Law has reviewed the bill and supports its intent and language. I hope you will join them, the co-sponsors, and this office in support of this important bill.

ALASKA STATE LEGISLATURE



JUNEAU

STATE CAPITOL BLDG. RM 417

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SENATOR BERTA GARDNER

SENATE DISTRICT H

Sectional Analysis

SB 170 Version U

Section 1: Adds a section to Sec. 11.66.110, providing affirmative defense to charge of prostitution if defendant was induced or caused to engage in the act.



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

Alaska State Report State Ratings 2013

The Polaris Project annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris Project believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier One (green)

Total Points: 7

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 7 No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors; 9 Civil Remedy.

Categories Still Needed: 4(b) Task Force; 5 Posting of the National Hotline; 6 Safe Harbor for Minors; 8 Victim Assistance; and 10 Vacating Convictions

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§11.66.110. Sex Trafficking in the First Degree

- (a) A person commits the crime of sex trafficking in the first degree if the person
- (1) induces or causes a person to engage in prostitution through the use of force;
 - (2) as other than a patron of a prostitute, induces or causes a person under 20 years of age to engage in prostitution; or
 - (3) induces or causes a person in that person's legal custody to engage in prostitution.
- (b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 20 years of age or older.
- (c) Except as provided in (d) of this section, sex trafficking in the first degree is a class A felony.

§11.66.120 Sex trafficking in the second degree.

- (a) A person commits the crime of sex trafficking in the second degree if the person
- (1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution;
 - (2) procures or solicits a patron for a prostitute; or
 - (3) offers, sells, advertises, promotes, or facilitates travel that includes commercial sexual conduct as enticement for the travel; in this paragraph, "commercial sexual conduct" means sexual conduct for which anything of value is given or received by any person.
- (b) Sex trafficking in the second degree is a class B felony.

§11.66.130 Sex trafficking in the third degree. (is amended to read:)

- (a) A person commits the crime of sex trafficking in the third degree if, with intent to promote prostitution, the person
- (1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;
 - (2) as other than a patron of a prostitute, induces or causes a person 20 years of age or older to engage in prostitution;
 - (3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other under an agreement or understanding that the money or other derived from prostitution; or
 - (4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.
- (b) Sex trafficking in the third degree is a class C felony.

§11.66.135 Sex trafficking in the fourth degree.

- (a) A person commits the crime of sex trafficking 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).
- (b) Sex trafficking in the fourth degree is a class A misdemeanor.

Category 2: Labor Trafficking Statute

§11.41.360. Human trafficking in the first degree.

- (a) A person commits the crime of human trafficking in the first degree if the person compels or induces another person to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception.
- (b) In this section,
- (1) "adult entertainment" means the conduct described in AS 23.10.350(f)(1) - (3);
 - (2) "deception" has the meaning given in AS 11.46.180;
 - (3) "sexual conduct" has the meaning given in AS 11.66.150.
- (c) Human trafficking in the first degree is a class A felony.

§11.41.365. Human trafficking in the second degree.

- (a) A person commits the crime of human trafficking in the second degree if the person obtains a benefit from the commission of human trafficking under 11.41.360, with reckless disregard that the benefit is a result of the trafficking.
- (b) Human trafficking in the second degree is a class B felony.

Category 3(a): Asset Forfeiture

§11.66.145. Forfeiture.

Property used to institute, aid, or facilitate, or received or derived from, a violation of **AS 11.66.100(c) or 11.66.110 - 11.66.135** shall be forfeited.

Category 3(b): Investigative Tools

SB 22 (2013)

§ 12.37.010. Authorization to intercept communications.

The attorney general, or a person designated in writing or by law to act for the attorney general, may authorize, in writing, an ex parte application to a court of competent jurisdiction for an order authorizing the interception of a private communication if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit, the following offenses:

(4) sex trafficking in the first or second degree under AS 11.66.110 and 11.66.120; or

(5) human trafficking in the first degree under AS 11.41.360.

Category 4(a): Training for Law Enforcement

HB 65 Appropriations (2013)

“It is the intent of the legislature that the Department of Public Safety, Alaska State Troopers, allocate funding for training and investigation of sex trafficking during the fiscal year ending June 30, 2014.”

Category 4(b): Human Trafficking Task Force

None. Repealed by Section 19 of SB 210 (2012).

Category 5: Posting of a Human Trafficking Hotline

None.

Category 6: Safe Harbor

None.

Category 7: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See §11.66.110 (a)(2).

Category 8: Victim Assistance

None.

Category 9: Civil Remedy

SB 22 (2013)

§09.10.065. Commencement of actions for acts constituting sexual offenses.

(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses: (1) felony sexual abuse of a minor; (2) felony sexual assault; [OR] (3) unlawful exploitation of a minor; **(4) felony sex trafficking; or (5) felony human trafficking.**

Category 10: Vacating Convictions

None.

For guidelines and examples of bill language, please consult Polaris Project's Model Provisions of Comprehensive State Legislation to Combat Human Trafficking and Commentary available on our website (www.polarisproject.org). If you need technical assistance in enacting laws to fill in the gaps, please contact the Polaris Project Policy Program at policy@polarisproject.org.

include children under the age of sixteen used in prostitution by a person twenty-one or older.³⁴³ Massachusetts expanded its definition of "children in need of services" to include "sexually exploited children," which it defined as **victims** under its trafficking statute or **victims** under 22 U.S.C. § 7105.³⁴⁴ Massachusetts also enacted a protective provision for minor **victims**.³⁴⁵ Louisiana expanded its definition of "child in need of care" to include trafficking **victims**,³⁴⁶ and Maryland expanded its definition of "sexual abuse" to include "**human** trafficking" and "[a]llowing or encouraging a child to engage in ... [p]rostitution," which allows trafficking **victims** to fall under the definition of "child in need of services."³⁴⁷ Bills passed by the legislatures of Alaska and South Carolina created trafficking task forces charged with looking at **victim** services.³⁴⁸ Tennessee passed a law directing the Department of Health Services to "establish a plan *691 for the delivery of services to **victims of human** trafficking," which includes **victim** identification; "[i]dentif[ying] community-based services for **victims of human** trafficking"; and "[c]oordinat [ing] delivery of services and information concerning health care, mental health care, legal services, housing, job training, education and **victim's** compensation funds."³⁴⁹

Other important **victims'** rights provisions include Louisiana adding an **affirmative defense** to the prostitution statute for child **sex** trafficking **victims**,³⁵⁰ South Dakota and Tennessee offering an **affirmative defense** under their prostitution statutes for trafficking **victims**,³⁵¹ and Washington providing an **affirmative defense** to its prostitution statute for persons who are trafficking **victims** under Washington or federal law or **victims** of promoting prostitution.³⁵² South Carolina also enacted an **affirmative defense** stating that:

In a prosecution of a person who is a **victim** of trafficking in persons, it is an **affirmative defense** that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking.³⁵³

Massachusetts's comprehensive trafficking law also included an **affirmative defense**.³⁵⁴

Several states also enacted provisions permitting convictions for prostitution to be vacated if the defendant is a trafficking **victim** or allowing expunction of prostitution offenses if the defendant is a child trafficking **victim**.³⁵⁵ With respect to **victim** compensation, *692 Louisiana modified its restriction on offenders or accessories obtaining funds by adding that the "ineligibility shall not apply if the claimant is a **victim of human** trafficking or trafficking of children for sexual purposes."³⁵⁶ Ohio also amended its **victim** compensation statute to make clear that "[n]othing in [the] section shall be construed to prohibit an award to a claimant whose claim is based on the claimant's being a **victim** of a violation of [compulsory involuntary servitude] if the claimant was less than eighteen years of age when the criminally injurious conduct occurred."³⁵⁷

The Wisconsin, South Carolina, and Massachusetts legislatures expanded their child-friendly court procedures for trafficking **victims**. Wisconsin expanded its rape shield law to include the offenses of child enticement, soliciting a child for prostitution, and sexual intercourse with a child sixteen years old or older in the list of offenses for which "any evidence concerning the complaining witness's prior sexual conduct or opinions of the witness's prior sexual conduct and reputation as to prior sexual conduct shall not be admitted into evidence" except in certain situations.³⁵⁸ South Carolina included in its trafficking law the following protections:

Evidence of the following facts or conditions do not constitute a **defense** in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation: (1) the **victim's** sexual history or history of commercial sexual activity, the specific instances of *693 the **victim's** sexual conduct, opinion evidence of the **victim's** sexual conduct, and reputation evidence of the **victim's** sexual conduct; (2) the **victim's** connection by blood or marriage to a defendant in the case or to anyone involved in the **victim's** trafficking; (3) the implied or express consent of a **victim** to acts which violate the provisions of this section



Recommended Actions

To Address

Sex Trafficking in Alaska

Ad Hoc NGO Working Group on Sex Trafficking in Alaska

Introduction

Sex trafficking is one form of human trafficking and is considered a modern form of slavery. The Trafficking Victims Protection Act of 2000 (22 USC. 7102) defined sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, and severe forms as when a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

The U.S. government estimates that 14,500-17,500¹ individuals from other countries are trafficked into the United States annually for forced labor or sexual exploitation, or both. U.S. citizens and legal residents are also victims of human trafficking, some are moved to other states, moved among communities in their own states and others are held against their will in their own home towns.

According to the U.S. Department of Justice, between 2008 and 2010, federally funded task forces on human trafficking opened 2,515 investigations of human trafficking cases.² Eighty-two percent of the incidents reported involved sex trafficking, 11 percent involved labor trafficking and seven percent were unknown. Eighty-three percent of the victims in the sex trafficking incidents were U.S. citizens. In 2001, researchers estimated that between 244,501 and 286,506 youth in the U.S. to be at risk for commercial sexual exploitation.³

Since 2000, the federal government and states have been proactive in efforts to eradicate human trafficking by establishing task forces, building collaborations across agencies and service fields, training

¹ Clawson, H. Dutch, N., Salomon, A & Goldblatt Grace, L. (2009). *Human trafficking into and within the United States: A review of the literature*. U.S. Department of Health and Human Services.

² Banks, D., & Kyckelhahn, T. (2011). *Characteristics of suspected human trafficking incidents, 2008-2010. Special Report*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

³ Estes, R. & Weiner, N. (2001) *The commercial sexual exploitation of children in the U.S., Canada and Mexico*. Philadelphia: University of Pennsylvania.

law enforcement and service providers, collecting data, developing prevention strategies, implementing strategies to reduce demand, and establishing innovative ways to support victims.

Alaskans are also taking action. In the 2012 legislative session, the Alaska State Legislature created an official governmental task force to study the topic and updated the definition of sex trafficking:

“A person commits the crime of sex trafficking in the first degree if the person
 (1) induces or causes a person to engage in prostitution through use of force.
 (2) as other than a patron of a prostitute, induces or causes a person under 20 years of age to engage in prostitution; or
 (3) induces or causes a person in that person’s legal custody to engage in prostitution.”⁴

The Ad Hoc NGO Working Group on Sex Trafficking in Alaska

The Ad Hoc NGO Working Group (hereafter referred to as “the Working Group”) on Sex Trafficking was convened by the Cook Inlet Tribal Council (CITC) in May, 2012 when the Alaska First Lady, Sandy Parnell, requested meeting to discuss trafficking of Alaska Native youth. The Working Group consisted of the NGO representatives who attended the meeting. Attendees decided to explore the issue, attempt to develop some recommendations for action, and to reconvene in the fall of 2012.

The Working Group included the following organizations:

- ∞ *Cook Inlet Tribal Council*
- ∞ *Alaska Immigration Justice Project (AIJP)*
- ∞ *YWCA Alaska*
- ∞ *Covenant House Alaska*
- ∞ *Southcentral Foundation (SCF)*
- ∞ *Native American Rights Fund (NARF)*
- ∞ *Anchorage Community Mental Health Services (ACMHS)*
- ∞ *First Alaskans Institute*
- ∞ *Tundra Women’s Coalition (TWC)*
- ∞ *Alaska Native Justice Center (ANJC)*

The following entities served in an advisory capacity:

- ∞ *The Alaska Department of Juvenile Justice (DJJ)*
- ∞ *Anchorage Police Department, Vice Unit (APD)*
- ∞ *Federal Bureau of Investigation, Innocence Lost Task Force (FBI)*

The Working Group, convened and staffed by CITC staff member, Lisa Moreno, met as a whole, twice from July to August 2012. The Working Group identified six subgroups: 1) emergency response, 2) prevention, education and outreach, 3) training, 4) data collection 5) statutory review, and 6) overarching strategic framework. With the exception of the strategic framework subgroup, all groups met at least once, in some form. The first three groups—emergency response, prevention, education and outreach and training each met twice. The Native American Rights Fund donated their staff time to complete the statutory and legal review. This report is a presentation of the group’s recommendations.

⁴ *Sec. 8 AS 11.66.110(a)*

Background: Sex Trafficking in Alaska

Since 2001, there have been six prosecutions for sex trafficking—The Crazy Horse case in 2001, Josef Boehm in 2005, Don Webster/Jerry Starr in 2008, and Sabil Mumin Mujahid in 2009. Two additional cases have been indicted more recently, a case in Homer in 2011, and a more recent case for which no details are publically available. These six cases involved a total of 105 victims, 20 percent of whom were Alaska Native. Forty percent of the total victims were minors.⁵ The perpetrators make money off of their victims, a lot of money. The U.S. Department of Labor estimated that Don Webster, aka Jerry Starr, made \$3.6 million off of 13 of his 25 known victims. The agency considered the estimate “conservative”.⁶

In addition, Covenant House Alaska reports that their staff members are informed by their residents of two cases of trafficking and or survival sex from their service population per month.⁷ The Anchorage Police Department reports having made 102 arrests for prostitution from 200 to 2012, and 3 percent of the women arrested were Alaska Native.⁸ Beyond these cases and numbers, little is known about the scope of the problem in Alaska.

In 2008, Alaska was home to the tenth highest concentration of homeless individuals in the U.S.⁹ and in 2002, Alaska had the highest rate of reported forcible rape in the country.¹⁰ The state has one of the five highest rates of child abuse in the country,¹¹ and 58.6 percent of women in Alaska experienced intimate partner violence, sexual violence or both in their lifetimes.¹² The child sexual assault rate for Alaska is more than six times the national average.¹³ Twenty-one percent of Alaskans reported binge drinking in the Behavioral Risk Factor Surveillance System survey in 2010.¹⁴

In research based on interviews with adult and child victims of prostitution and sex trafficking, victims’ vulnerability is caused by trauma related to child sexual abuse, physical abuse and neglect, domestic violence, rape, and vulnerability caused by poverty, homelessness, substance abuse, lack of family structure, gender identity formation, disability, dislocation caused by migration, school failure and lack of opportunity.¹⁵ In thinking about sex trafficking, it is difficult to overstate the impact of childhood abuse and neglect. In the research noted above, researchers found, recurrently, that the vast majority of victims were maltreated as children. If one were to name a single root cause for sex trafficking it would surely be childhood maltreatment. Given the high rates of vulnerability and trauma in the Alaska population, it is possible that Alaska also has a large pool of people at risk of being recruited into sex trafficking.

We know from anecdotal evidence, police investigation and prosecution data that trafficking is happening in Alaska. However, concrete action is stymied by the current paucity of prevalence data and research detailing the occurrence and forms of sex trafficking in Alaska. Designing programs would be

⁵ J. Goeden (personal communication, September 18, 2012)

⁶ J. Goeden. (personal communication, September 14, 2012).

⁷ D. Blin and M. Dompier. (personal communication, June 8, 2012).

⁸ K. Lacey & D. Neer (personal communication, September 18, 2012)

⁹ Justice Center, University of Alaska Anchorage. (2009). *A look at homelessness in Alaska*. *Alaska Justice Forum*, 26(2), pp. 2-5.

¹⁰ Justice Center, University of Alaska Anchorage. (2006). *Forcible rapes and sexual assaults in Anchorage*. *Alaska Justice Forum*, 22(4), Winter 2006.

¹¹ Providence Health & Services. (2012). *Facts about child sexual abuse*.

¹² Justice Center, University of Alaska Anchorage. (2010). *Intimate partner violence and sexual violence in the State of Alaska: Key results from the 2010 Alaska victimization survey*. *Alaska Victimization Survey*. <http://justice.uaa.alaska.edu/avs>

¹³ Martin, S., & Villalobos Melendez, A. (2010) *Youth in Crisis. Characteristics of homeless youth served by Covenant House Alaska*. Institute of Social and Economic Research, University of Alaska Anchorage.

¹⁴ Alaska Division of Public Health. (2010) *Alaska BRFSS highlights 2010*. Department of Health and Social Services, State of Alaska.

¹⁵ Farley, M., Matthews, N., Deer, S., Lopez, G., Stark, C. & Hudon, E. (2011). *Garden of truth: The prostitution and trafficking of Native women in Minnesota*. St. Paul, MN: William Mitchell College of Law.

Estes, R. & Weiner, N. (2001). *The commercial sexual exploitation of children in the U.S., Canada and Mexico*. Philadelphia, PA: University of Pennsylvania.

easier if we knew how, and at what age people in Alaska tend to be recruited, and what services at what points would have helped them escape once recruited. However, there is sufficient national and international research and concrete examples of action from other states in the country to guide the development of a basic framework for action in Alaska in spite of the lack of Alaska specific research. In short, action can be taken in the immediate range while research can be done to inform a longer-range response. For that reason, these recommendations are presented in a phased approach.

Recommendations for Alaska 4-P Response:

PREVENTION, PROTECTION, PROSECUTION & PARTNERSHIP

The United Nations Palermo Protocol and the Trafficking Victims Protection Act of 2000 provided a framework for developing a comprehensive response to trafficking called the three “P”s: prevention, protection, and prosecution. A fourth “P”, “partnership” was added to the framework in 2009. This report will utilize the Four “P” framework, and recommends action in a phased action plan.

Ad Hoc NGO Working Group Recommendations—Phase I

PREVENTION—PHASE I

∞ Data Collection

As mentioned above, without Alaska specific data, developing a response appropriate to Alaska is stymied. A data collection effort should begin with an assessment of known details of trafficking in Alaska and the gaps in our knowledge, based on interviews with anyone who has actually dealt with the existing cases and investigations. In addition, it is important to do a thorough assessment of national, state and local data collection efforts to identify the best ways to track and measure the problem. Once the key measures used elsewhere are identified, the next step would be identifying measures in Alaska that will help us assess and measure this problem. An assessment of the demand for commercial sex and the economics of commercial sex would help inform demand reduction policy development.

An assessment of this type could be contracted out to a research firm for approximately \$40,000. In fact, the McDowell Group has an epidemiologist on staff who worked for the International Organization for Migration in Moldova collecting data from victims of sex trafficking and supporting coordination efforts in the U.S. in Georgia.

∞ Public Education--Post the National Hotline Number

One simple action, posting the national hotline number, could make a world of difference for some victims. Anecdotal information suggests that many victims escape their situation through the use of the hotline. The national human trafficking hotline is a 24-hour hotline and has the capacity for immediate simultaneous translation into a number of languages, including Yup'ik. This number should be publicized around the state in locations that victims may frequent. It should also be posted in multiple languages. Washington State posted the number in bathroom stalls in highway rest stops and included the information in the posters employers were already required to post. Texas required the information posted in all locations where alcohol was sold.

Because many locations may not voluntarily post this number, massage parlors or strip clubs, we propose amending the public accommodations statute (Alaska Statute 18.35) to require the number be posted. This recommendation is discussed in more detail in the memo provided by the Native American Rights Fund.

However, posting the hotline number as a stand alone action is insufficient. The utility of a hotline is exponentially increased if the service providers to which victims will be referred are

fully prepared to receive and support the victims. The service providers also need to coordinate with the hotline to ensure an effective referral process. We recommend that posting the hotline be combined with, and follow, improved community coordination in key locations.

∞ **Public Education—Earned Media Campaign**

In addition, the public needs to be alerted that this is happening in Alaska. Until more is known and target audiences and messages can be clearly defined, an earned media campaign on the topic would be a worthwhile investment. A simple earned media campaign could include radio shows, and well-timed and well-chosen speaking engagements by high profile and easily recognizable local personalities.

PROTECTION/ INTERVENTION—PHASE I

∞ **Improve community coordinated emergency response in key locations—Phase I**

When victims are found, a community must respond immediately. Victims need a safe place to stay, and the services needed run the gamut from a toothbrush and clothing to detox and dental care. Coordinated community response teams should be established in key locations to coordinate services across agencies and to provide intensive case management for victims. The goal would be to create a local network of professionals trained on sex trafficking who are able to respond immediately to cases, to communicate regularly about cases, to develop common systems of data collection, common policies and procedures, and information sharing protocols and agreements.

At this point, given the cases prosecuted to date, Anchorage is an obvious location for such a team. Coordination would include agreed upon protocols for collaboration, intake, client tracking, and information sharing. Currently, the FBI's victims' specialist is the only person providing dedicated case management to these victims. As more cases are identified and prosecuted, the existing arrangement will no longer meet the need. In addition, as data is collected, the need for teams in other locations may be identified. Funding for coordinated community response teams should be appropriated.

∞ **Training**

One of the major barriers to identifying victims is that law enforcement and service providers fail to recognize the individual as a victim of sex trafficking. Currently, law enforcement officers are the main professionals identifying victims. However, not all law enforcement personnel have been adequately trained on sex trafficking. The Department of Public Safety (DPS), Anchorage Police and the FBI have discussed plans to develop protocols for consistent training content across police agencies in Alaska and to develop distance delivery training modules on sex trafficking. The cost of the training was assessed at \$15,000. This should be a top priority.

Victims are currently seeking services. They may show up in child welfare caseloads, in domestic violence and youth shelters, emergency rooms and public health clinics. Service providers, particularly line-level caseworkers in child welfare, youth services, domestic violence, sexual assault, and public benefit services should be trained on the topic and provided clear protocols for response. Emergency room, hospital social workers and staff in reproductive health clinics, mental health and substance abuse treatment counselors, social workers, and public defenders should also be trained. The more professionals trained to identify sex

trafficking victims, the more likely victims will be found. Trainings need to include the specifics of trafficking and consistent protocols on to whom and how to report the information.

∞ **Ensure Law Enforcement’s continued ability to find victims**

The impact of budget cuts on the ability of local law enforcement agencies and troopers to effectively identify victims should be assessed. The analysis should identify competing priorities, and the funding needed for law enforcement to enhance their effectiveness identifying sex trafficking and sex trafficking victims.

PROTECTION/ INTERVENTION & RESTORATION—PHASE I

∞ **Language Access**

For victims for whom English is not their first language, access to professional interpreters is vital. All state agencies that could come in contact with limited- or non-English speaking victims should be directed to prioritize developing protocols to ensure access to such services.

PROTECTION/ RESTORATION—PHASE I

∞ **Ensure Access to Compensation—Phase I**

Ensure eligibility for victims of sex trafficking for compensation from the Alaska Violent Crimes Compensation Board. Sex trafficking and CSEC are not explicitly included in the list of eligible crimes. Also, the five day reporting requirement is likely a barrier, and should be waived for these victims. Victims of sex trafficking should be included with victims of domestic violence, sexual assault and sexual abuse of a minor in the stipulation that the Board “cannot deny a claim based on provocation, use of alcohol or drugs, or prior social history of the victim.”¹⁶

PROSECUTION—PHASE I

∞ **Training—Phase I**

Training prosecutors, judges and court personnel is vital to successfully treating victims of trafficking as victims, instead of criminals, and to ensuring that traffickers and buyers are appropriately sanctioned. The Department of Law should immediately undertake an assessment to identify opportunities, trainers and funding needs in order to train these professionals. If prosecutors and judges are not on the same page with law enforcement, efforts to appropriately identify victims and investigate sex trafficking cases will be wasted, and the victims will not be treated as such nor will they receive the services that they need. An action plan to implement this training should be developed immediately.

∞ **Amend Existing Statutes to Include “fraud or coercion” —Phase I**

Currently, Alaska Statute 11.66.110(a)(1) provides that a person commits a crime only if he or she “induces or causes a person to engage in prostitution through the use of force.” Similarly, Alaska Statute 11.41.360(a) describes human trafficking in the first degree as compelling or inducing a person to engage in sexual conduct “by force or threat of force.” In all trafficking statutes, the term “fraud or coercion” should be added after the word “force.” Requiring “force” is simply too restrictive as many pimps do not physically force their prostitutes to work

¹⁶ Alaska Violent Crimes Compensation Board, Alaska Department of Administration. (2012). Eligibility. <http://doa.alaska.gov/vccb/Victims/eligibility.html>

through use of violence or a weapon. Instead, many take the prostitute's identification, threaten them, and make misrepresentations or otherwise deceive or pressure the prostitutes into working for them. Thus, limiting the statute to use of force simply does not represent the full reality of how pimps operate. This point is discussed in more detail in the memo provided by the Native American Rights Fund.

PARTNERSHIP—PHASE I

∞ Expand the Role of the Task Force to Address Sex Trafficking to Improve coordination among State agencies—Phase I

SB 21 established task force to assess the magnitude of the problem and the services available to victims, but it currently only requires one report due on January 15, 2013 and does not provide for any actions following the report. In addition, the task force was unfunded and the involvement by staff the Department of Law, Department of Public Safety and Department of Health and Social Services is collateral duty for those assigned. Similarly constituted task forces in other states are broader in scope, envision multi-year activities and include the design and implementation of State Plan for the prevention of human trafficking. A funded, inter-agency taskforce with multi-year mission could effectively leverage the work of the current taskforce, identify next steps, measure progress and hold agencies accountable for implementation. The task force should also report regularly to the public on State progress toward the elimination of trafficking. This effort should have dedicated staff for the duration of the taskforce. This recommendation is discussed further in the memo provided by the Native American Rights Fund.

Ad Hoc NGO Working Group Recommendations—Phase II

PREVENTION—PHASE II

∞ Data Collection

There are number of ongoing State efforts already collecting data on high-risk behaviors and/or child maltreatment. The Behavioral Risk Factor Surveillance System (BRFSS) and the Youth Risk Behavior Surveys (YRBS) are annual phone surveys tracking risky behavior that leads to disease and accidental injury. There has been some discussion about including questions related to adverse childhood experiences in the BRFSS, which is a move that would help assess the pool of individuals at risk of trafficking. The YRBSS is administered in high schools to track high-risk behavior among youth. It may be helpful if these surveys included some variables on sex trafficking in the future.

In addition, the Alaska Surveillance of Child Abuse and Neglect (SCAN) program may be an additional existing asset in the data collection effort on sex trafficking. Currently, their focus is on maltreatment of children from age 0-8, but they expect to expand the focus in the future to include older youth. In addition, the Alaska Native Epidemiology Center is planning to take part in a national domestic violence survey tracking domestic violence in Native communities. Their survey may provide an additional opportunity to include trafficking variables.

Finally, two studies should be conducted in Alaska as soon as possible. One should collect data from extensive interviews with service providers to learn what line staff members are seeing among their caseloads, and the other should gather data from interviews with women

and youth involved in, leaving prostitution, or who have been trafficked to learn how the process works here in Alaska.

∞ **Public Education**

Once more data is available, a statewide anti-trafficking campaign should be established. Ideally, the campaign should have a dual focus—targeted prevention messages, and a demand reduction message. If individuals from a particular region of the State are more at risk than others, mini-grants to community groups to develop local campaigns may also be effective. The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) has significant expertise developing and managing public education campaigns on violence-related topics. ANDVSA estimates that total expenses for a campaign can run between \$50,000 and \$500,000 depending on reach, complexity and staffing needs.

∞ **Build Resilience In School-aged Youth**

Nationally, the average age of entrance into prostitution is 15, but some youth begin as early as 12. Once there is data to identify where victims are originating, it would be wise to invest in trauma informed programs to build resilience in school-aged youth. One example of such a program is the YWCA's Girls' Circles. Girls Circles is a national and evidenced-based program to help girls build resilience and develop protective factors. The program was recently updated with a trauma informed curriculum. Trauma informed programs designed to support school aged youth and youth at risk for CSEC and trafficking could provide a safe place for youth to process their experiences and acknowledge their strengths. Resilience building programs would be an important element of any strategy to prevent high risk behavior. Taking a program like Girls' Circles to regional hubs would include start up costs of \$60,000 and operational costs of \$50,000 per location.

PROTECTION/ INTERVENTION—PHASE II

∞ **Clarify Jurisdiction Over Minor Victims**

It is unclear to whom one should report suspected cases of Commercial Sexual Exploitation of children (CSEC). CSEC victims are minors who are being exploited and abused, but the abuse is happening outside the home, often by a third party who is not related to the victim. The State should clarify where the jurisdiction over the welfare of these youth resides, the Office of Children's Services, the Department of Juvenile Justice, or some innovative a collaboration of the two.

∞ **Safe Harbor Bills**

Currently minors in Alaska can be prosecuted under Alaska Statute 11.66. They should be immune from prosecution because they are below the legal age for responsible decision making. Many states (MN, TX, NY, OH, MA, WA, CT, FL, TN) have passed safe harbor bills or taken other action to protect exploited minors from prosecution. This point is discussed in more detail in the memo provided by the Native American Rights Fund.

PROTECTION/ RESTORATION—PHASE II

∞ **Vacate Convictions for Victims of Sex Trafficking**

conviction for prostitution follows a person for life, and complicates finding a job and leading a productive life. These consequences should not follow someone whose conviction was the result of human trafficking. The legal record complicates their ability to start over once they are free and safe. State must explore vacating victims' records of such charges. This issue is discussed further in the legal memo provided by the Native American Rights Fund.

∞ **Funding Sources for Services**

Victims of sex trafficking have unique physical, psychological, and social needs that stem from experiences that made them vulnerable to trafficking, and the trafficking experience. Their needs are numerous and diverse, and it may take years to restore victims to a healthy and normal life. If Alaska is found to have a significant trafficking problem, a reliable source of funding to meet the needs of victims should be authorized and appropriated.

Ad Hoc NGO Working Group Recommendations—Phase III

PREVENTION—PHASE III

∞ **Stop the Cycle of Trauma**

The only way to reduce the pool of individuals vulnerable enough to be at risk of being recruited into trafficking is to stop the cycle of trauma in Alaska. The fields of neuropsychology and epigenetics have shown that trauma and high-risk behavior can be multigenerational processes. One proven way to do this is to provide vulnerable mothers the support necessary to break the cycle.

If one were to name a single root cause for trafficking it would surely be childhood maltreatment. Childhood abuse and neglect are also potent risk factors, later in life, for attempted suicide, becoming addicted to alcohol, tobacco and illicit drugs, engagement in relationships marred by domestic violence, and an astonishing range of mental and physical health problems.¹⁷ Sex trafficking is one manifestation of the social, mental, and physical health problems that ultimately flow from childhood maltreatment. The most effective, inter-generationally sustainable strategy to prevent sex trafficking—and other related social problems—is the prevention of child maltreatment.

Large and rapidly growing evidence base from developmental neurobiology and related fields, and econometric research, by Nobel laureate James Heckman and colleagues suggests prevention and resilience building is the most affordable solution. The current gold standard for prevention of child maltreatment is the Nurse Family Partnership (NFP), a home-visiting program that links nurses and at-risk young mothers and their newborns.¹⁸ Not only has NFP been shown effective at prevention of maltreatment, econometric research shows a high return on investment. Wyoming, for example, is a state with a population size similar to Alaska and it has reached 100% implementation of NFP. Rand Corporation study estimates that \$4.00 is saved for every \$1.00 invested in NFP and that the net government savings per family served is \$18,611.¹⁹ There are other effective and economically sustainable approaches to prevention and improving child resilience, e.g., Triple P, Multidimensional Treatment Foster Care, and

¹⁷ see, for example, <http://www.cdc.gov/ace/>

¹⁸ US Coalition for Evidence-Based Policy at <http://coalition4evidence.org/wordpress/>

¹⁹ Karoly, L., Kilburn, M.R., Cannon, J. (2005) *Early childhood interventions. Proven results, future promise.* Santa Monica, CA: Rand Corporation.

Abecedarian preschool. A effort that integrates complementary approaches is likely to be the most effective way to prevent sex trafficking and related problems across generations.

∞ **Reduce Demand**

It is important to remember that trafficking is a multi-million dollar business. The law of supply and demand applies. While it is important to reduce the flow of vulnerable women and youth into sex trafficking, throwing a wrench in the economic system of sex trafficking by reducing demand is an important strategy to concurrently employ. A 2008 study done in Chicago that surveyed 113 men buying sex found that the average age of men buying sex was 39, 79% had some college or a college or graduate degree, 62% made more than \$40,000 per year, and 62% were married or had regular sex partner.²⁰ Common strategies used to impact demand include reverse stings, reverse internet stings, “john” schools, vehicle seizures, license suspensions, increased penalties, shaming by publicly publishing names, shaming by sending letters home, geographic restraining orders, community service and public education campaigns.²¹

A action plan to reduce demand in Alaska should be developed. Any revenue generated from increased fines and property seizures should be linked to prevention programs and restoration services.

PROTECTION/ INTERVENTION—PHASE III

∞ **Street Outreach**

The data, once collected, may indicate need for increasing street outreach and/or some form of electronic outreach to prevent future victims and to intervene with current victims.

PROTECTION/ RESTORATION—PHASE III

∞ **Provide Safe Shelter**

Currently, victims are placed in available, safe emergency and transitional shelter. Some couch surf due to a shortage of housing. There are model shelters dedicated to CSEC victims and at least one dedicated to supporting adult female victims. Given the shortage of housing and shelter in Alaska, particularly in Anchorage, the State of Alaska may have to grapple with this issue of safe and secure shelter and transitional housing for these victims in the future.

∞ **Create a Civil Cause of Action for Victims of Sex Trafficking**

Currently there is a civil cause of action under the Trafficking Victims Protection Act (TVPA), but there is no corresponding cause of action under state law. The lack of such an option forces victims into federal court when they may be better served by having access to Alaska state courts. In addition, the standard of proof under the TVPA is unnecessarily rigorous considering the person is a victim of a crime. This recommendation is discussed in more detail in the memo provided by the Native American Rights Fund.

PROSECUTION—PHASE III

²⁰ Durchslag, R., Goswami, S., (2008) *Deconstructing the demand for prostitution: Preliminary insights from interviews with Chicago men who purchase sex*. Chicago, IL: Case Alliance Against Sexual Exploitation.

²¹ Shively, M., Kliorys, K., Wheeler, K., Hunt, D. (2012). *A national overview of prostitution and sex trafficking demand reduction efforts*. Cambridge, MA: prepared by ABT Associates for the U.S. Department of Justice.

∞ **Court diversion programs**

Some courts have established diversion programs for individuals who are repeat truants, runaways and, or arrested for prostitution. Assessing the need and value added of such a program in Alaska may be needed.

PHASE	4 Ps	SUBCATEGORY	RECOMMENDED ACTION
PHASE I	Prevention	Data Collection	Assessment of existing research and measures
	Prevention	Public Education	Require the national hotline number to be posted in key locations, combine with improving community coordinated response
	Prevention	Public Education	High profile earned media campaign
	Protection	Intervention & Partnership	In key locations improve community ability to provide coordinated emergency response
	Protection	Intervention	Fund training of law enforcement, and key service providers
	Protection	Reduce Demand	Assess impact of budget cuts o law enforcement agencies' capacity to find sex trafficking victims, identify competing priorities and funding needs
	Protection	Intervention & Restoration	Develop protocols for language access for State agencies likely to come in contact with limited English speaking victims
	Protection	Restoration	Explicitly clarify that sex trafficking is a crime eligible for the Violent Crime Compensation Board funding and are provided same assurances as domestic violence and sexual assault victims.
	Prosecution	Training	Train prosecutors, judges and court personnel o sex trafficking
	Prosecution	Amendments to Criminal Statue	Ad the term "fraud or coercion"
	Partnership	State Coordination	Improve coordinated state response by

			expanding the role of the Task Force to Address Sex Trafficking.
PHASE II	Prevention	Data Collection	Include trafficking and ACES questions in BRFSS, include trafficking variables in YRBSS and SCAN when appropriate. Conduct research involving extensive interviews with local service providers and women in prostitution and trafficking in Alaska
	Prevention	Public Education	Fund data-informed statewide anti-trafficking campaign
	Prevention	Resilience Building	Establish resilience building programs for school-aged youth in key geographical locations
	Protection	Intervention	Clarify jurisdiction over minor victims – Office of Children’s Services, Dept. of Juvenile Justice or a alternate solution?
	Protection	Intervention	Ensure immunity for minor trafficking victims from prostitution charges; Pass safe harbor bill for minors in Alaska.
	Protection	Restoration	Vacate convictions for victims
	Protection	Restoration	Develop funding mechanism for victims’ services.
PHASE III	Prevention	Work to stop the cycle of trauma	Establish and fund evidence-based programs to support parent infant health, stability and bonding. Supporting healthy family relationships at this stage is necessary to stop the cycle of violence and abuse.
	Prevention	Reduce demand	Develop an action plan to reduce demand.
	Protection	Intervention	Develop funding mechanism for intensive street and/or electronic outreach program
	Protection	Shelter	Provide safe shelter for victims

	Protection	Restoration	Create a state civil cause of action for victims of sex trafficking
	Prosecution	Diversion programs	Identify diversion programs in other states that indicate promising practices for CSEC and adult prostitutes, chronic runaways and truants, and explore utility of such programs in Alaska.

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CRIME

Sex Trafficking In Alaska 'Notoriously Underreported,' Targets Native Girls, Task Force Hears

By RACHEL D'ORO 11/05/12 09:55 PM ET EST **AP**



Alaska Attorney General Michael Geraghty, chairman of a new state task force on sex and human trafficking.

ANCHORAGE, Alaska – Experts testifying before a new Alaska task force on sex trafficking said Monday the teenage victims often are too afraid and embarrassed, and sometimes too addicted to drugs, to come forward.

The comments were made at a hearing to address sex trafficking, which authorities say is notoriously underreported. Among the most vulnerable are chronic runaways whose own parents have quit looking for them, said Detective Sgt. Kathy Lacey, who heads the Anchorage Police Department's vice unit.

"Those kids are falling through the cracks," she told the panel.

Jolene Goeden, an FBI special agent in Anchorage who investigates sex crimes, said there have been seven federal prosecutions of human trafficking cases, noting that not all of them were filed as trafficking cases. In the seven cases, 105 trafficking victims were identified.

Recorded conversations with a victim identified as "Heather" also were played. She said her pimp initially was treated her well and told her she would not want for anything, then the relationship deteriorated to the point where she was beaten for being even a dollar short, hogtied and gagged and thrown into an "underground tunnel" for days.

"It was brutal," she said.

The state task force aims to gauge the prevalence of human trafficking and prostitution in Alaska, as well as the services available to help victims. It also plans a December public hearing in Bethel.

State lawmakers earlier this year unanimously approved a bill that established the task force and created harsher penalties for human trafficking crimes.

The legislation, sponsored by Gov. Sean Parnell, also called for removing the label of "prostitute" from victims and changing court procedures to expedite justice and make the process easier on victims.

Authorities say victims' shame, fear of repercussions and poor support structures are some of the reasons sex trafficking goes unreported.

Authorities testifying Monday said other highly vulnerable targets are Alaska Native girls from rural communities who end up in Anchorage working, then out of innocence recruit young village girls.

Parnell has said he became aware of the issue while in Italy last year. He said he visited a shelter run by a missionary who has helped create more than 100 anti-trafficking shelters around Italy. Parnell and his wife, Sandy, began exploring the extent of the problem in Alaska and ultimately formed the legislation.

At last month's convention of the Alaska Federation of Natives, Sandy Parnell told an audience she was disturbed to learn that young Alaskans have been targeted by sex traffickers during past AFN conventions. She said the task force will report its findings to state legislators by Jan. 15.

"So what is sex trafficking?" Sandy Parnell said. "It is modern-day slavery."

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[Jerzy Shedlock](#) ^[1]

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Main Image:

[Alaska International Day to End Violence Against Sex Workers 04.jpg](#) ^[2]

About a dozen proponents of stronger rights for sex workers gathered at a downtown Anchorage bar Tuesday night to speak against violence often associated with that line of work; violence perpetuated not only by customers but by laws meant to protect prostitutes from further harm, they said.

The small gathering drew an Alaska graduate student studying justice, women in the trade, a historical writer and the clinical officer of a mental health services nonprofit operating statewide. It served as Anchorage's part in the 11th annual International Day to End Violence Against Sex Workers, meant to highlight the oftentimes commonplace violence endured by sex workers. It also serves to recognize them as more than victims.

Alaska's history and economic growth is steeped in prostitution and "dance hall girls." Women emigrated to the state during the gold rush, offering respite in mining camps where the male to female ratio was as disproportionate as seven to one, said Lael Morgan, author of "[Good Time Girls of the Alaska-Yukon Gold Rush: Secret History of the Far North](#)" ^[3]. Morgan was on hand during Tuesday's event at Fusions to give a brief background of ladies of the night in the north.

"Good time girls' have far fewer rights today (than) their pioneering predecessors," she said. "This is not a new thing, and it was handled better in the past."

Some of the advocates at the event called for nothing less than the decriminalization of prostitution. They argued new laws, like a sex trafficking bill passed just last year by the Alaska Legislature, result in more problems than solutions. Branding prostitutes as criminals is the cause of more violence, said Maxine Doogan, an advocate for sex workers' rights.

Protecting sex workers from harm

Doogan represents the San Francisco-based Erotic Service Providers Union, one of the advocacy groups that recently [helped overturn regulations in California](#) ^[4] that barred prostitutes who were beaten or raped from receiving financial compensation or health care after their assaults.

The 14-year-old policy states that victims of violent crimes can be denied compensation based on the events leading up to those crimes, such as mutual combat, drug activity or prostitution. Sex workers and advocates argued the law was discriminatory and falsely blamed prostitutes for

their own rapes. They said it also put other women at greater risk.

California is the only state that blocks prostitutes from victim compensation funds, a state official there told the Associated Press [5]. Now, its three-member Victim Compensation and Government Claims Board will begin a formal process to remove the policy from its guidelines.

Doogan said the ultimate goal is the decriminalization of prostitution nationwide. Laws "incentivizing the protection of (sex workers) instead of harming them" need to be passed, she said.

Generally, when lawmakers create laws meant to punish sex workers or other criminal goings-on related to that workforce, it's done so by groups with political interests beyond "saving children" from sex trafficking, Doogan said. Sex workers content with their lifestyles then often get caught in the legal crosshairs, even when they themselves are victims of rape and assault, she said.

But fights for decriminalization often fail with opponents arguing prostitution is immoral and dangerous. Smaller achievements like the change in California's victim compensation law help sex workers' immediate dilemmas, Doogan said. Alaska advocates hope to repeal the state's current sex trafficking laws and replace them with something better. That difficult process was set in motion with a records request.

Improving the situation?

In April 2012, the Alaska Legislature passed House Bill 359 [6], a piece of legislation sponsored by Gov. Sean Parnell that strengthened the penalties for anyone conspiring to commit human or sex trafficking crimes.

Lawmakers said the bill would stiffen the penalties, remove the label "prostitute" from victims and change court procedures in an effort to speed up and make the judicial process easier on those victims.

As a justice graduate student at the University of Alaska Fairbanks, Terra Burns is trying to figure out whether or not the newly passed law is working as intended. So far, she said she's discovered little improvement.

Burns works with Community United for Safety and Protection -- a group of sex trafficking survivors, former and current sex workers and their allies.

"In Alaska, sex workers don't call the police, because when they do they go to jail," Burns said.

She wanted to know how the new law was actually being applied since its inception, so she requested court filings for all the state cases involving sex trafficking and prostitution in 2012 and 2013. The Alaska Department of Law responded with six case numbers.

According to Burns, every defendant charged with sex trafficking under the new law has also been charged with prostituting themselves.

One such case involves three Kenai Peninsula women who worked at Gifted Hands Massage in Kenai, a small city of nearly 7,000 located near the mouth of the world-famous river sharing the

same name.

The massage parlor's operator, 49-year-old Karen Carpenter, was charged with various degrees of sex trafficking, including first-degree. Police say she persuaded two young girls to perform sex acts for clients. However, the alleged victims -- aged 19 and 20 -- of Carpenter's crimes were both also charged with misdemeanor prostitution. Both pleaded guilty earlier this year.

"What is clear is that in the year and a half since they were passed, the new sex trafficking laws have only been used against sex workers and not to protect them. This criminalization makes sex workers more, not less, vulnerable to sex trafficking," Burns said.

The vulnerable victims

The arguments for legalizing prostitution in Alaska speak against what experts testified before a sex trafficking task force in late 2012 [7]. In November of last year, a vice unit detective with the Anchorage Police Department told a panel of lawmakers the crime is notoriously underreported.

Among those most vulnerable are chronic runaways whose own parents have quit looking for them, the detective said. Authorities testifying also said other highly susceptible victims include Alaska Native girls from rural villages.

Patrick Ventgen, chief clinical officer for Akeela [8] -- a behavioral health agency offering mental health and substance abuse programs in Anchorage and Ketchikan -- said many of the agency's clients have "a history of occupation in prostitution." He was the sole nonprofit representative and male speaker at Tuesday's gathering.

Akeela also operates in the state's jails and prisons.

Many of the Alaskans Ventgen and his colleagues have helped fell into prostitution as a means of survival; in the world of addiction, it's a common strategy, he said.

But labeling as sex traffickers defendants who in fact aren't results in a lifelong stigma impossible to escape, Ventgen said. He likened it to being on a sex offender list.

"We do not condone illegal behavior of any kind, but we work with our clients from where they're at, to build a life of well-being as they choose to do it," he said.

Commemorating victims of Robert Hansen

Following other speeches, organizers and attendants gathered in a circle for a candlelight vigil -- inside, as temperatures had dipped below zero outside.

The vigil served to commemorate the many victims of Robert Hansen, regarded as Alaska's only serial killer until last year [9]. Hansen often preyed on prostitutes, a segment of the population he regarded as dispensable.

Holding small white tea candles, as green and red lights bounced off the walls of the bar, attendants took turns calling out the names: Lisa Futrell, Sue Luna and "Eklutna Annie," among

others.

These women suffered the ultimate price for simply working, Doogan said.

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[3] <http://www.amazon.com/Good-Time-Girls-Alaska-Yukon-Gold/dp/0945397763>

[4] <http://www.sfgate.com/default/article/Raped-prostitutes-could-be-eligible-for-victim-aid-5060138.php>

[5] http://www.washingtonpost.com/national/questions-and-answers-about-calif-sex-worker-rule/2013/12/12/6f5a3f26-62f7-11e3-af0d-4bb80d704888_story.html

[6] <http://gov.alaska.gov/parnell/press-room/full-press-release.html?pr=6104>

[7] http://www.huffingtonpost.com/2012/11/06/sex-trafficking-alaska-task-force_n_2081884.html

[8] <http://www.akeela.us/>

[9] <http://www.alaskadispatch.com/article/20130409/audio-tapes-reveal-serial-killer-israel-keyes-wish-be-executed>

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