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Domestic Human Trafficking Legislation in the 114th Congress

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Summary

Legislation aimed at combating trafficking in persons (TIP) is a top item on the legislative agenda for the 114th Congress. TIP is of significant interest to the United States as a serious human rights concern, and it is believed to be one of the most prolific areas of contemporary criminal activity. TIP is both an international and domestic crime that involves violations of labor, public health, and human rights standards, as well as criminal law. The Trafficking Victims Protection Act (TVPA)—most recently reauthorized in March 2013 (Title XII of P.L. 113-4)—is the primary law that addresses human trafficking. Domestically, anti-TIP efforts provided under the TVPA include protection for victims, the investigation and prosecution of trafficking offenses, and education of the public. This report discusses TIP issues that have received legislative action or are of significant interest in the 114th Congress.

As human trafficking issues intersect with many different policy areas (e.g., immigration, child welfare, the criminal justice system, missing and exploited youth), legislation to address human trafficking is varied. This is illustrated by the panoply of bills that have recently passed the House. For example, the Human Trafficking Prevention, Intervention, and Recovery Act of 2015 (H.R. 350), Trafficking Awareness Training for Health Care Act of 2015 (H.R. 398), and the Human Trafficking Prioritization Act (H.R. 514), as passed by the House, would address interagency coordination, efficiency, and best practices as they relate to combating human trafficking. The Human Trafficking Prevention Act (H.R. 357) and the Human Trafficking Detection Act of 2015 (H.R. 460), as passed by the House, would enhance training for officials to help identify victims of trafficking. The International Megan’s Law to Prevent Demand for Child Sex Trafficking (H.R. 515), as passed by the House, would create a new center in the Department of Homeland Security (DHS) that would be responsible for notifying the destination country of international travel by child-sex offenders, where appropriate.

Several other bills, as passed by the House, would strengthen the federal and state responses to trafficking through a variety of service systems. H.R. 246, To Improve the Response to Victims of Child Sex Trafficking, would ensure that reports to a federally funded tipline of sexually exploited children can include children who are victims of sex trafficking. The Enhancing Services for Runaway and Homeless Youth Victims for Youth Trafficking Act of 2015 (H.R. 468) would use the Runaway and Homeless Youth program as a vehicle to enhance services to youth who are vulnerable to sex and labor trafficking. The Strengthening Child Welfare Response to Trafficking Act of 2015 (H.R. 469) would strengthen state child welfare agencies’ responses to the trafficking of children.

A number of bills would amend criminal justice policy in an attempt to obstruct human trafficking. For instance, the Stop Advertising Victims of Exploitation Act of 2015 (SAVE Act, H.R. 285, as passed by the House), would provide penalties for knowingly advertising, or knowingly selling advertising that offers, certain commercial sex acts. The Stop Exploitation Through Trafficking Act (H.R. 159, as passed by the House) would incentivize states to enact safe harbor legislation—which would ensure that children who are found in prostitution would be treated as victims rather than perpetrators—and increase restitution amounts for victims.

Several pending bills, such as the Justice for Victims of Trafficking Act of 2015 (H.R. 181), the Stop Exploitation Through Trafficking Act of 2015 (H.R. 159), and the Human Trafficking Prevention, Intervention, and Recovery Act of 2015 (H.R. 350), all as passed by the House, would adopt a multi-prong approach to anti-TIP efforts, including improving services to victims.

For example, H.R. 181 would create new grant programs for law enforcement and victims services, and would amend the criminal code (Title 18 of the U.S. Code) for certain trafficking-related activities.

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The 114th Congress has made fighting trafficking in persons (TIP) within the United States a legislative priority.¹ TIP is of significant interest to the United States as a serious human rights concern and a prolific area of contemporary criminal activity.² TIP is both an international and domestic crime that involves violations of labor, public health, and human rights standards, as well as criminal law.

The United States is a source, transit, and destination country for men, women, and children subject to trafficking in persons.³ Human trafficking occurs in every state, and it victimizes both U.S. citizens and noncitizens.⁴ There are no current, reliable data on the number of individuals trafficked in the United States. However, some have suggested as many as 17,500 may be trafficked *into* the country each year,⁵ and perhaps 100,000 U.S. citizen children may be victims of trafficking *within* the United States.⁶ The trafficking of individuals within U.S. borders is commonly referred to as domestic human trafficking; it occurs primarily for labor, most often in domestic service, agriculture, manufacturing, janitorial services, hotel services, construction, health and elder care, hair and nail salons, and strip club dancing. However, more investigations and prosecutions have taken place for sex trafficking offenses than for labor trafficking offenses.⁷

Noncitizens are more susceptible than U.S. citizens to labor trafficking,⁸ and more foreign victims⁹ are found in labor trafficking than in sex trafficking. Migrant labor camps tend to be common settings for labor exploitation and domestic trafficking.¹⁰ Although labor trafficking can happen to U.S. citizens, significantly more U.S. citizens are found in sex trafficking than in labor trafficking.¹¹ Research indicates that most of the victims of sex trafficking into and within the United States are women and children.

¹ Within the first month of the 114th Congress, at least 12 bills concerning human trafficking saw legislative action in the House. The Senate Judiciary Committee has also placed trafficking bills on its agenda.

² U.S. Department of State, *Trafficking in Persons Report, 2014*, June 2014.

³ Ibid.

⁴ Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, Washington, DC, December 2008, p. 2. (Hereinafter, Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*.)

⁵ Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, June 2004, p. 4. This is the most recent U.S. government estimate of those who enter the United States and end up in trafficking situations. For more on the estimates, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen.

⁶ For a discussion of the estimates of U.S. citizen children who are victims of trafficking, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

⁷ U.S. Department of State, *Trafficking in Persons Report, FY2011*, June 2012, p. 360. Although sex trafficking is sometimes considered a subset of human trafficking, the Trafficking Victims Protection Act (TVPA) defines them separately, 22 U.S.C. §7102.

⁸ Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, pp. 3-6.

⁹ Foreign victims do not include lawful permanent residents (LPRs). LPRs are foreign nationals who live permanently in the United States and are also called immigrants. For the purposes of discussing trafficking victims in the United States, LPRs are grouped with U.S. citizens.

¹⁰ Domestic human trafficking of migrant labor primarily occurs in the southeast and central regions of the United States, although such conduct has been identified in other places. Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, pp. 3-6.

¹¹ U.S. Department of State, *Trafficking in Persons Report, FY2009*, June 2010, p. 338.

Domestically, anti-TIP efforts include protection for victims, education of the public, and the investigation and prosecution of trafficking offenses. The Departments of Justice (DOJ), Health and Human Services (HHS), and Labor (DOL) have programs or administer grants to other entities to provide assistance specific to the needs of trafficking victims. This includes temporary housing, independent living skills, cultural orientation, transportation, job training, mental health counseling, and legal assistance. A number of federal agencies administer public awareness campaigns on recognizing human trafficking victims. The majority of cases investigated at the federal level are handled by agents in DOJ's Federal Bureau of Investigation (FBI) and the Department of Homeland Security's (DHS') U.S. Immigration and Customs Enforcement (ICE), among others, who coordinate as appropriate. These cases are prosecuted by DOJ.¹²

For more than a decade, Congress has been actively legislating to counter domestic human trafficking. Through the Trafficking Victims Protection Act of 2000 (TVPA, Division A of P.L. 106-386) and its four reauthorizations (TVPRAs),¹³ Congress has aimed to eliminate human trafficking within the United States by creating domestic grant programs for both victims and law enforcement, enhancing criminal laws, and conducting oversight on the effectiveness and implications of U.S. anti-TIP policy. The most recent reauthorization of the TVPA was in the Violence Against Women Reauthorization Act of 2013 (Title XII of P.L. 113-4). In addition to making other changes to the act, Congress reauthorized the grant programs through FY2017.

This report discusses domestic human trafficking-related issues that have received legislative action or are of significant interest in the 114th Congress. It accompanies CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen; and CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

Definition of Human Trafficking

Federal statutes do not formally define human trafficking or trafficking in persons. Instead, the TVPA defines “severe forms of trafficking in persons” to mean

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

¹² The cases are prosecuted by the U.S. Attorneys Offices, “as well as by two specialized units—the Civil Rights Division’s Human Trafficking Prosecution Unit (HTPU), which oversees prosecutions involving labor trafficking and sex trafficking of adults, and the Criminal Division’s Child Exploitation and Obscenity Section (CEOS), which specializes in prosecuting child sex trafficking and child sex tourism.” U.S. Department of State, *Trafficking in Persons Report 2014*, June 2014, p. 398.

¹³ Prior to the most recent authorization in 2013 (P.L. 113-4), the TVPA was reauthorized in 2003 by the Trafficking Victims Reauthorization Act of 2003 (P.L. 108-193); in 2005 by the Trafficking Victims Reauthorization Act of 2005 (P.L. 109-164); and in 2008 by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-547). Other legislation has included anti-trafficking provisions. For a discussion of anti-trafficking legislation, see Appendix A in CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen.

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.¹⁴

There appears to be a consensus among experts that the prostitution of minors fits the definition of “severe forms of trafficking in persons” as defined under the TVPA.

Other TVPA Definitions

The TVPA provides other definitions relevant to trafficking. Some of these definitions are referenced in the pending legislation.

- “Sex trafficking”: the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- “Victim of Trafficking”: a person subjected to an act or practice described under the definitions of “severe forms of trafficking in persons” or “sex trafficking.”
- “Commercial Sex Act”: any sex act on account of which anything of value is given or received by any person.
- “Coercion”: (1) threats of serious harm to or physical restraint against any person; (2) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm or physical restraint against any person; or (3) the abuse or threatened abuse of the legal process.

Select Anti-trafficking Legislation in the 114th Congress

This report examines the trafficking-related provisions in legislation that has at least been reported out of committee in the 114th Congress. Where applicable, it discusses companion legislation that may not have been considered in committee and related legislation in the 113th Congress. The legislation includes the following:

- Stop Exploitation Through Trafficking Act of 2015 (H.R. 159), as passed by the House on January 27, 2015.¹⁵
- Justice for Victims of Trafficking Act of 2015 (H.R. 181), as passed by the House on January 27, 2015.¹⁶
- To Improve the Response to Victims of Child Sex Trafficking (H.R. 246), as passed by the House on January 27, 2015.¹⁷

¹⁴ Section 103(8) of Div. A of P.L. 106-386, Victims of Trafficking and Violence Protection Act of 2000; approved October 28, 2000; 22 U.S.C. §7102.

¹⁵ Bills with similar names and provisions—the Stop Exploitation Through Trafficking Act of 2014 (S. 2599; H.R. 3610, passed by the House) and the Stop Exploitation Through Trafficking Act of 2013 (S. 1733)—were introduced in the 113th Congress.

¹⁶ S. 178 in the 114th Congress has the same name and some similar provisions to H.R. 181. Bills with similar names and provisions—the Justice for Victims of Trafficking Act of 2014 (H.R. 3530, passed by the House) and the Justice for Victims of Trafficking Act of 2013 (S. 1738)—were introduced in the 113th Congress.

¹⁷ A bill with the same name and similar provisions—To Improve the Response to Victims of Child Sex Trafficking (H.R. 5111)—was passed by the House in the 113th Congress.

- Stop Advertising Victims of Exploitation Act of 2015 (SAVE Act, H.R. 285), as passed by the House on January 27, 2015.¹⁸
- Human Trafficking Prevention, Intervention, and Recovery Act of 2015 (H.R. 350), as passed by the House on January 27, 2015.¹⁹
- Human Trafficking Prevention Act (H.R. 357), as passed by the House on January 26, 2015.²⁰
- Trafficking Awareness Training for Health Care Act of 2015 (H.R. 398; S. 205), as passed by the House on January 27, 2015.²¹
- Human Trafficking Detection Act of 2015 (H.R. 460), as passed by the House on January 27, 2015.²²
- Enhancing Services for Runaway and Homeless Victims of Youth Trafficking Act of 2015 (H.R. 468), as passed by the House on January 26, 2015.²³
- Strengthening Child Welfare Response to Trafficking Act of 2015 (H.R. 469), as passed by the House on January 27, 2015.²⁴
- Human Trafficking Prioritization Act (H.R. 514), as passed by the House on January 26, 2015.²⁵
- International Megan’s Law to Prevent Demand for Child Sex Trafficking (H.R. 515), as passed by the House on January 26, 2015.²⁶

The sections that follow discuss issues raised in the bills. The issues are grouped under the following themes: (1) restoring victims through services and benefits, (2) criminal justice, (3) domestic sex trafficking of children, and (4) other issues that include inter-agency coordination, training, and sex offender registry and notification.

¹⁸ A bill with a similar name and provisions—the SAVE Act of 2014 (H.R. 4225)—was passed by the House in the 113th Congress.

¹⁹ A bill with a similar name and provisions—the Human Trafficking Prevention, Intervention, and Recovery Act of 2014 (H.R. 5135)—was passed by the House in the 113th Congress.

²⁰ A bill with the same name and similar provisions—the Human Trafficking Prevention Act (H.R. 4499)—was passed by the House in the 113th Congress.

²¹ A bill with a similar name and provisions—the Trafficking Awareness Training for Health Care Act of 2014 (H.R. 5411)—was introduced in the 113th Congress.

²² A bill with a similar name and provisions—the Human Trafficking Detection Act of 2014 (H.R. 5116)—was passed by the House in the 113th Congress.

²³ Another pending bill (S. 262) includes similar provisions. A bill with a similar name and provisions—the Enhancing Services for Runaway and Homeless Victims of Youth Trafficking Act of 2014 (H.R. 5076)—was passed by the House in the 113th Congress.

²⁴ A bill with a similar name and provisions—the Strengthening the Child Welfare Response to Human Trafficking Act of 2014 (H.R. 5081)—was passed by the House in the 113th Congress.

²⁵ A bill with the same name and similar provisions—the Human Trafficking Prioritization Act (H.R. 2283)—was passed by the House in the 113th Congress.

²⁶ A bill with the same name and similar provisions—the International Megan’s Law to Prevent Demand for Child Sex Trafficking (H.R. 4573)—was passed by the House in the 113th Congress.

Restoring Victims: Services and Benefits

In general, the trafficking business feeds on continuing demand and conditions of vulnerability, such as youth, gender, poverty, and social exclusion. Actors engaged in human trafficking range from family-run organizations to sophisticated transnational organized crime syndicates. Trafficking victims are often subjected to mental and physical abuse in order to control them. Abuses may include debt bondage, social isolation, removal of identification cards and travel documents, violence, and threat of reprisals against them or their families.²⁷

A major aspect of U.S. anti-trafficking efforts is victim assistance: providing immediate services when victims are identified and helping them recover from the victimization and reclaim their lives. Pending legislation (H.R. 181, H.R. 159, and H.R. 350) seeks to improve services to victims.

Adequacy of Services for Victims

One issue surrounding U.S. policy to combat human trafficking is whether the United States provides equal treatment of all victims—foreign nationals and U.S. citizens, as well as victims of labor trafficking and sex trafficking. Related to this is whether current services are adequate to combat sex trafficking of minors in the United States (i.e., the prostitution of children). There is confusion over whether U.S. citizens, as well as noncitizens, are eligible for services under all the anti-trafficking grant programs authorized by the TVPA, and whether Congress has provided funding for programs that target U.S. citizen and lawful permanent resident (LPR) victims.²⁸ Under the TVPA, DOJ, HHS, and DOL have programs or administer grants to other entities to provide services to trafficking victims.²⁹ Only the DOJ and HHS programs receive specified funding for trafficking victims services.

A related issue is the overall amount of funding for victims services, especially as the focus on sex trafficking is broadening to include minor sex trafficking victims in the United States who are U.S. citizens. Between FY2002 and FY2013, Congress appropriated approximately \$20 million each year for victims services, and the amount was increased to approximately \$28 million in FY2014 and approximately \$58 million in FY2015. Between FY2009 and FY2013, HHS used all of its appropriated money on services for trafficking victims before the end of the fiscal year—and all of the services were provided to noncitizen victims. Notably, the Department of State's *Trafficking in Persons Report, FY2012* recommended increasing funding for relevant agencies to provide victims services.³⁰ Nongovernmental organizations (NGOs) report a critical need for an increase in the overall funding for comprehensive services.³¹

²⁷ CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen.

²⁸ Under the TVPA, "noncitizen victims" refers to victims of human trafficking in the United States who are either on temporary visas or are illegally present (i.e., unauthorized aliens). It does not include LPRs. References to U.S. citizen trafficking victims include LPR victims.

²⁹ In addition, the Legal Services Corporation (LSC) has instructed its lawyers to provide legal assistance to trafficking victims. The LSC, established by Congress, is a private, nonprofit, federally funded corporation that helps provide legal assistance to low-income people in civil (i.e., noncriminal) matters.

³⁰ U.S. Department of State, *Trafficking in Persons Report, FY2012*, June 2013, p. 382.

³¹ *Ibid.*, p. 381.

The 113th Congress amended certain grant programs so that sex trafficking victims would be eligible for victims services programs. For example, the 2013 reauthorization of the Violence Against Women Act (VAWA, P.L. 113-4) clarifies that victims services and legal assistance under VAWA³² include services and assistance to victims of domestic violence, dating violence, sexual assault, or stalking *who are also victims of severe forms of trafficking in persons*.³³ In addition, P.L. 113-4 amended the purpose for grants to tribal governments to combat violence against women to include sex trafficking and created a new purpose area to provide services to address the needs of youth who are victims of several crimes, including sex trafficking. The act also created a new tribal coalition grant program (administered by DOJ), which, among other purposes, seeks to enhance access to essential services for Indian women victimized by domestic and sexual violence, including sex trafficking; and to assist Indian tribes in developing and promoting state, local, and tribal laws and policies that enhance best practices for responding to violent crimes against Indian women, including sex trafficking.³⁴ In addition, P.L. 113-4 amended the grant program for state and local law enforcement's anti-trafficking programs focusing on U.S. citizen victims³⁵ so that these grants can be used for anti-trafficking programs for noncitizen victims as well.³⁶

Pending legislation in the 114th Congress also aims to enhance services to trafficking victims. The Human Trafficking Prevention, Intervention, and Recovery Act of 2015 (H.R. 350), would clarify that DOJ grants for trafficking victims services could be used to provide housing. The Stop Exploitation Through Trafficking Act of 2015 (H.R. 159) would require, beginning in FY2017, that the Secretary of HHS make grants for a national communications system to help victims of severe forms of trafficking communicate with service providers. The Justice for Victims of Trafficking Act of 2015 (H.R. 181) would, among other things, add additional rights for victims of federal crime, including the right to be informed in a timely manner of court agreements and, with some exceptions, to be informed about certain victims services.

Certification

Under the TVPA, noncitizen victims of trafficking are certified as victims by HHS, which makes them eligible for services.³⁷ U.S. citizen and LPR trafficking victims are not required to be certified by HHS, and indeed would not meet the criteria to be certified because certification applies only to foreign nationals who need an immigration status (e.g., T status or continued presence)³⁸ to remain in the United States.³⁹ Thus, an issue that has arisen is whether U.S. citizen

³² For more on these grants, see CRS Report R42499, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, by Lisa N. Sacco.

³³ Under these provisions, "severe forms of trafficking in persons" is defined under the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

³⁴ For more on these grants, see CRS Report R42499, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, by Lisa N. Sacco.

³⁵ This grant program was created in P.L. 109-164, §204 (42 U.S.C. §14044c(d)).

³⁶ The grant program was also modified so that funding is available for victim identification training and prioritizing cases involving minor victims of sex trafficking.

³⁷ The programs in TVPA for noncitizen victims were created in part because under the law noncitizen victims are statutorily ineligible for many public benefits (e.g., Medicaid, housing assistance). For a discussion of noncitizen eligibility for public benefits, see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Alison Siskin.

³⁸ T status or T visas are given to victims of severe forms of trafficking who meet certain requirements. Continued presence is not an immigration status; it refers to the Secretary of DHS' discretionary authority to use a variety of (continued...)

and LPR victims are eligible for certain victims services (e.g., those funded by HHS and DOL) since they do not need to undergo certification.⁴⁰ H.R. 181 would clarify that U.S. citizen and LPR victims of trafficking are not required to be certified by HHS in order to be eligible for HHS-provided services for trafficking victims.⁴¹

Job Corps Program

Job Corps is an employment and job training program for 16-to-24 year olds that is administered by DOL.⁴² H.R. 159 would amend the Workforce Innovation and Opportunity Act (which supersedes the Workforce Investment Act as of July 1, 2015) to specify that victims of a severe form of trafficking (as defined in the TVPA) do not need to meet the income requirement to be eligible for the Job Corps program.⁴³

Restitution and Damages

Victims of human trafficking often suffer injuries that can affect them for the rest of their lives. Medical care, psychological treatment, job training, and more may be necessary to assist victims in recovering.⁴⁴ Current law allows a victim of peonage, slavery, or trafficking in persons to bring a civil action against his/her perpetrator and obtain civil remedies. H.R. 159 would require the Attorney General to collect and tabulate data on mandatory restitution orders (the TVPA requires the court to order restitution—paid by the defendant to the victim—for any crime of peonage, slavery, or trafficking in persons) including demographic data on the perpetrators.

Criminal Justice

While the United States has a number of statutes that can and have been used to combat human trafficking, law enforcement and policy makers remain interested in ways to enhance investigations and prosecutions of individuals who commit trafficking offenses. In general, federal law enforcement has targeted criminal networks that may involve individuals operating in a number of capacities.

(...continued)

statutory and administrative mechanisms to ensure the alien's continued presence in the United States. For more on T status and continued presence, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen.

³⁹ Before certification however, victims are eligible for services that are funded by DOJ.

⁴⁰ Under the TVPA, certification appears to be required for victims receiving services through HHS and DOL. For an in-depth discussion of this issue, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen.

⁴¹ TVPA §107(f); 22 U.S.C. 7105(f).

⁴² For further information about the Job Corps program, see CRS Report R40929, *Vulnerable Youth: Employment and Job Training Programs*, by Adrienne L. Fernandes-Alcantara.

⁴³ One of the eligibility requirements for the Job Corps program is that the applicant is a low-income individual. Section 144 of the Workforce Innovation and Opportunity Act (P.L. 113-128).

⁴⁴ Polaris Project and the Law Firm of Fulbright & Jaworski L.L.P., *Maximizing Restitution Awards for Labor and Sex Trafficking Victims, A Guide for Federal Prosecutors and Pro Bono Attorneys*, 2013, p. 5.

In an effort to help law enforcement combat the advertising side of commercial sexual exploitation, H.R. 285 aims to permit the prosecution of entities (including websites) that advertise a person “knowing”, or in reckless disregard of the fact, that force or fraud has been used to cause the person to engage in a commercial sex act or that the victim is a minor. For entities that have not advertised but “benefit” from participating in a venture that has engaged in such advertising, reckless disregard of the fact that force or fraud has been used or that a minor was involved would not be enough; they would have to *know* either fact exists.

H.R. 181 would expand the ability of federal, state, and local prosecutors to obtain wiretap orders from courts for certain investigations by including additional trafficking-related offenses as allowable investigations. H.R. 181 would also expand law enforcement’s “toolbox” for prosecuting individuals who transport minors for illegal sexual activity by requiring prosecutors to show “clear and convincing evidence” rather than a “preponderance of evidence” that the defendants knew that the individual with whom they had engaged in sexual activity had not attained 18 years of age.⁴⁵ H.R. 159 would clarify that the U.S. Marshals Service has the authority to help (upon request) federal, state, and local law enforcement agencies in locating and recovering missing children.

Reducing Demand

Experts widely agree that any efforts to reduce the prevalence of trafficking should address not only the supply but also the *demand*.⁴⁶ While statutes exist to allow federal law enforcement to prosecute the buyers of commercial sex, federal legislation has focused more extensively on penalizing the traffickers and placed less emphasis on the buyers. To increase focus on combating the demand for sex trafficking, H.R. 181 would, among other things, explicitly prohibit the patronizing or soliciting of commercial sex (or benefiting from these activities).⁴⁷ It would also clarify that federal prosecutors need not prove that a defendant both knew and disregarded the fact that a victim had not yet attained 18 years of age. In addition, H.R. 181 would require the Attorney General to ensure that working groups and task forces within the Violent Crimes Against Children program (which includes the Innocence Lost National Initiative) work to enhance state and local law enforcement investigative capabilities to detect, investigate, and prosecute individuals who patronize or solicit children for sex. The Innocence Lost National Initiative is a partnership between the FBI, DOJ’s Child Exploitation and Obscenity Section, and the National Center for Missing and Exploited Children (NCMEC)⁴⁸ that develops task forces and working groups to recover children who are prostituted and prosecutes the perpetrators of child sex trafficking.⁴⁹

⁴⁵ It would amend 18 U.S.C. §2423(g).

⁴⁶ Polaris Project, *Why Trafficking Exists*, <http://www.polarisproject.org/human-trafficking/overview/why-trafficking-exists>. The Polaris Project is a nonprofit organization that works on human trafficking issues. See also Shared Hope International, *DEMAND. A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States*, 2007.

⁴⁷ The amendment would be made to the criminal code concerning sex trafficking of children: 18 U.S.C. §1591.

⁴⁸ NCMEC is a nonprofit, federally funded organization that operates the national clearinghouse on missing and sexually exploited children.

⁴⁹ For more on the Innocence Lost Initiative, see Federal Bureau of Investigation, *Violent Crimes Against Children – Innocence Lost*, http://www.fbi.gov/about-us/investigate/vc_majorthefts/cac/innocencelost.

Domestic Sex Trafficking of Children

Domestic sex trafficking of children is trafficking within the United States involving a commercial sex act in which the person induced to perform such act has not attained 18 years of age.⁵⁰ Regardless of whether a child is believed to have consented to sex or whether the child represents himself/herself as an adult, the child is considered a trafficking victim under federal law.⁵¹ The exact number of child victims of sex trafficking in the United States is unknown because of challenges in defining the population and varying methodologies used to arrive at estimates. Most of the victims are U.S. citizens and LPRs.⁵²

Commercial sexual exploitation of children appears to be fueled by a variety of individual (e.g., homelessness or history of child abuse), relationship (e.g., family conflict or dysfunction), community (e.g., peer pressure or gang involvement), and societal (e.g., sexualization of children) variables.⁵³ These factors may interact in ways that can increase the risk of exploitation. As part of its 2013 report on child sex trafficking, the National Academy of Sciences recommended that multiple stakeholders—such as the federal government, state and local governments, academic and research institutions, foundations and nongovernmental organizations, and the commercial sector—collaborate to address this issue.⁵⁴

The 113th Congress passed legislation to address sex trafficking of children, including the E. Clay Shaw, Jr. Missing Children’s Assistance Reauthorization Act (P.L. 113-38) and the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). P.L. 113-38 directs DOJ’s Missing and Exploited Children’s program to provide assistance to responders that assist child sex trafficking victims, and P.L. 113-183 requires child welfare agencies to identify and determine appropriate services for certain children who are victims of sex trafficking, or are at risk of victimization. In addition, the 2013 TVPA reauthorization act (P.L. 113-4) created a new discretionary grant program for child sex trafficking victims.⁵⁵ The new grant program authorizes

⁵⁰ For more information on sex trafficking of children in the United States, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

⁵¹ Under 18 U.S.C. §1591(c), the prosecution is relieved of proving the defendant “knew” the victim was under 18 years old if he had a “reasonable opportunity” to observe the victim. However, the lower courts are split on whether this alternative mental state requirement relieves the government of proving both “knowing” and “reckless disregard” in §1591(a) or just the “knowing” requirement. Compare *United States v. Robinson*, 702 F.3d 22, 31-32 (2d Cir. 2012) (holding that subsection (c) relieves both requirements where the defendant had opportunity to observe) with *United States v. Wilson*, No. 10-60101-CR, 2010 WL 2991561, *7 (S.D. Fl July 27, 2010) (holding that subsection (c) only relieves the knowing, and not the reckless disregard, requirement). As noted, H.R. 181 would address this issue in favor of an alternative reading (either knew or recklessly disregarded, but not both).

⁵² Linda A. Smith, Samantha Headly Vardaman, and Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children*, Shared Hope International, May 2009. (Hereinafter Linda A. Smith, Samantha Healy Vardaman, and Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children*).

⁵³ Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, eds., *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, National Academy of Sciences, 2013, pp. 42-43.

⁵⁴ *Ibid.*, pp. 337-342.

⁵⁵ This grant program replaced the HHS grant program for states; Indian tribes; units of local government; and nonprofit, nongovernmental victims’ service organizations to provide assistance programs for U.S. citizens or LPR trafficking victims created in P.L. 109-164 (§202).

DOJ, in consultation with HHS, to award one-year grants to six grantees to combat sex trafficking of children in the United States, with a focus on providing direct services to victims.

The 114th Congress continues to consider legislation on sex trafficking of children. Many of these bills touch on a variety of policy areas, including missing and runaway youth, the child welfare system, and juvenile justice. For instance, the House has passed three bills that seek to strengthen the federal and state responses to trafficking through a variety of service systems. H.R. 246 would ensure that reports to a federally funded tipline of sexually exploited children can include children who are victims of sex trafficking. H.R. 468 would require the Runaway and Homeless Youth program to prioritize staff training on sexual exploitation and sex trafficking and target certain services to youth who are vulnerable to sex and labor trafficking. H.R. 469 would reinforce the type of requirements enacted under P.L. 113-183 for state child welfare agencies to respond to child sex trafficking and would further specify that these agencies can respond to child victims of labor trafficking.

Missing and Exploited Children

The Missing and Exploited Children's (MEC) program, administered by DOJ, authorizes supports for children who are missing and/or sexually exploited. The Missing Children's Assistance Act requires DOJ to provide an annual grant to the National Center for Missing and Exploited Children (NCMEC), which serves as a clearinghouse for assisting law enforcement and other stakeholders in responding to cases involving these children.⁵⁶

As noted, the E. Clay Shaw, Jr. Missing Children's Assistance Reauthorization Act (P.L. 113-38) addressed child sex trafficking through amendments to the Missing Children's Assistance Act. In addition to reauthorizing the MEC Program, it added a requirement for NCMEC that pertains to child sex trafficking. Specifically, the law directed NCMEC to provide technical assistance to law enforcement agencies and first responders in identifying, locating, and recovering victims of, and children at risk for, child sex trafficking. Although this responsibility was not specified in the law before P.L. 113-38 was enacted, generally such activities have been carried out by NCMEC in recent years.

H.R. 246 in the 114th Congress would make additional changes to the Missing Children's Assistance Act. Currently, the law specifies that NCMEC is to operate a tipline for online users and electronic service providers to report Internet-related child sexual exploitation. The act currently outlines eight categories that can be reported to the tipline (referred to as the CyberTipline), including child prostitution. H.R. 246 would strike "child prostitution" and replace it with "child sex trafficking, including child prostitution." In practice, NCMEC already refers to this category as "child sex trafficking."⁵⁷

H.R. 181 would amend federal laws concerning reporting children to the federal National Crime Information Center (NCIC) Missing Person File. In order to gain information on one pool of potential human trafficking victims, H.R. 181 would require law enforcement agencies submitting

⁵⁶ The MEC program supports a range of activities authorized under the Missing Children's Assistance Act and other laws. For further information, see CRS Report RL34050, *Missing and Exploited Children: Background, Policies, and Issues*, by Adrienne L. Fernandes-Alcantara.

⁵⁷ See, NCMEC, "CyberTipline," <http://www.missingkids.com/cybertipline/>.

information to NCIC on a missing child to include a recent (within 180 days) photograph and to notify NCMEC of each report that relates to a child reportedly missing from foster care.

The NCIC is a computerized index of information on crimes and criminals that is maintained by the FBI. Under current federal law, (1) no law enforcement agency within a state may establish or maintain policies that require a waiting period before accepting a missing child or unidentified person report; (2) no law enforcement agency may establish or maintain any policy that requires the removal of a missing person entry from the NCIC (or the state law enforcement system) solely based on the age of the person; and (3) the report of each missing child must include certain items, such as demographic information, location of the last known contact with the child, and the category under which the child is reported. States must further ensure that law enforcement agencies enter the profile of each child—including young adults ages 18 to 21—to the NCIC (and state law enforcement database) within two hours of receiving a report that he or she is missing.⁵⁸

Runaway and Homeless Youth

The Runaway and Homeless Youth program is administered by HHS and authorized under the Runaway and Homeless Youth Act. The act funds organizations throughout the country to provide services to youth who have run away and/or experienced homelessness. It also supports research, evaluations, and technical assistance for grantees.⁵⁹

The Enhancing Services for Runaway and Homeless Victims for Youth Trafficking Act of 2015 (H.R. 468) would amend provisions in the Runaway and Homeless Youth Act on grants for research, evaluation, demonstration, and service projects. Specifically, the bill would expand on the types of research and other projects that HHS should prioritize, including projects that address staff training on (1) the behavioral and emotional effects of severe forms of trafficking (both sex and labor trafficking) and sex trafficking, (2) responding to youth showing effects of such trafficking victimization, and (3) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized, including victims of sex trafficking. The bill would separately amend the Street Outreach Program (SOP) to make a change to the law that addresses HHS' authority to make grants under the program. Current law specifies that the SOP is to serve runaway and homeless youth, and street youth, who have been subjected to, or are at risk of being subjected to, sexual abuse, prostitution, or sexual exploitation. The bill would add severe forms of trafficking in persons or sex trafficking, as defined by the TVPA, to the list of victimization categories. By referencing the TVPA definitions of “severe forms of trafficking in persons” and “sex trafficking” for both the SOP and the provisions on research and other projects, the bill encompasses child and adult victims of sex and labor trafficking.

Improving Investigations and Prosecutions of Child Abuse

Subtitle A of the Victims of Child Abuse Act supports improving investigation and prosecution of child abuse through the expansion and improvement of Children's Advocacy Centers (CACs). In

⁵⁸ 42 U.S.C. §5779 et seq.

⁵⁹ For further information about the Runaway and Homeless Youth program, see CRS Report RL33785, *Runaway and Homeless Youth: Demographics and Programs*, by Adrienne L. Fernandes-Alcantara.

addition, it provides for related technical assistance and training, including training for attorneys or others involved in the prosecution of child abuse.

CACs are intended to coordinate a multi-disciplinary response to child abuse (e.g., law enforcement, child protection/social service, medical, mental health) in a manner that ensures child abuse victims (and any nonoffending family members) receive the support services they need and do not experience added trauma as a result of the investigation of child abuse. CACs are located in all 50 states and the District of Columbia.⁶⁰ The law also requires the establishment and support of four regional children’s advocacy centers to increase the number of communities with CACs, help improve their practices, and support development of state chapter organizations for CACs.

H.R. 181 would amend Subtitle A of the Victims of Child Abuse Act by expanding the definition of “child abuse” used by CACs—meaning physical or sexual abuse or neglect of a child—to include the production of child pornography⁶¹ and human trafficking. In addition, H.R. 181 would direct grantees receiving funding for CACs or training and technical assistance to meet certain oversight and accountability requirements, and to disclose other sources of federal funding. Separately, the bill would enable DOJ to make grants for the development and implementation of specialized programs to identify and provide direct services to victims of child pornography.

Response by the Child Welfare System

State and local child welfare agencies are responsible for carrying out child welfare policies that are intended to promote the safety, well-being, and permanency of all children. Child victims of sex trafficking may come to the attention of a child welfare agency if they are reported to an agency’s child protective services (CPS) hotline. Children in foster care—who are placed out of their homes typically due to abuse or neglect by their parents or caregivers—may be vulnerable to trafficking. Youth who run away from foster care are perceived to be especially susceptible to this type of victimization. The capacity for state and local child welfare agencies to respond to the needs of sex trafficking victims is believed to be limited. This may be due, in part, to inadequate training, insufficient resources, high caseloads, and the perception that victims should be handled in the juvenile justice system.⁶² In addition, states may not have mechanisms in place to “screen in” cases involving a child who is sex trafficked because the perpetrator involved is not the child’s parent or caregiver as these terms are defined under state law.⁶³

The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), enacted in September 2014, specified a new role for state child welfare agencies in responding to child sex trafficking.⁶⁴ Specifically, it amended the federal foster care program (authorized in Title IV-E of

⁶⁰ For further information about Children’s Advocacy Centers, see CRS Report R43458, *Child Welfare: An Overview of Federal Programs and Their Current Funding*, by Emilie Stoltzfus.

⁶¹ The production of child pornography for profit could be a human trafficking violation.

⁶² Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, eds., *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, National Academy of Sciences, pp. 186, 237-241.

⁶³ For further information, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

⁶⁴ For further information, see CRS Report R43757, *Child Welfare and Child Support: The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)*, by Emilie Stoltzfus, Adrienne L. Fernandes-Alcantara, and Carmen Solomon-Fears. P.L. 113-183 draws from Section 103 of the Trafficking Victims Protection Act (TVPA) to define a (continued...)

the Social Security Act) to require state child welfare agencies to develop and implement procedures to identify, document in agency records, and determine appropriate services for certain children or youth who are victims of sex trafficking, or at risk of being such victims. The procedures need to ensure relevant training for caseworkers and must be developed in consultation with state and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth.

The law further requires state child welfare agencies to report (1) information it receives on missing and abducted children to NCMEC and to law enforcement authorities for inclusion in the NCIC database; and (2) to HHS annually on the total number of children and youth who are sex trafficking victims. The procedures to identify, document in agency records, and determine services for victims of, or those at risk of, sex trafficking must apply to all children in the care, placement, or supervision of the state child welfare agency.⁶⁵ In addition, a state may elect to use these procedures to identify individuals up to the age of 26 who are victims, or at risk of becoming victims, of sex trafficking without regard to whether the youth was ever in foster care. Separately, HHS is required under the law to establish a national advisory committee on child sex trafficking that must develop policies on improving the nation's response to domestic sex trafficking, among other responsibilities.

A pending bill, the Strengthening the Child Welfare Response to Trafficking Act of 2015 (H.R. 469), seeks to reinforce some of these same concepts via the state grants program under Section 106 of the Child Abuse Prevention and Treatment Act (CAPTA). The bill would seek to ensure that initial investigation and assessment of child trafficking occurs, and to support states in developing procedures with regard to child victims of labor trafficking as well. Funding for CAPTA state grants is provided to help states improve their child welfare systems and may be used for a range of purposes specified in the law.⁶⁶ As part of their CAPTA state plans submitted to HHS, states are required to have a statewide law or program to receive and respond to allegations of child abuse or neglect, ensure children's safety, and provide appropriate referrals; and to have in place other procedures to respond to abused and neglected children.⁶⁷

H.R. 469 would add that the state plans must include provisions and procedures related to sex trafficking of children. Specifically, such provisions and procedures would have to address (1) identifying and assessing reports involving children who are sex trafficking victims, (2) training representatives of the state child protective services about identifying and assessing such children,

(...continued)

“sex trafficking victim” as an individual subject to the “recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act” or who is a victim of a “severe form of trafficking in persons” in which “a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age.”

⁶⁵ This includes children who are in foster care and under age 18 (or up to any age under 21, if the state has elected to serve such older youth with Title IV-E foster care assistance); children (under age 18) who are not in foster care but for whom the agency has an open case file; current and former foster youth (up to age 21, or 23 in limited circumstances) who are receiving services under the Chafee Foster Care Independence Program (CFCIP); and children who run away from foster care, provided they have not reached the age at which the state ends Title IV-E assistance (or have not been formally discharged from care).

⁶⁶ To see CAPTA as it is included in current law, see HHS, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau website, “The Child Abuse Prevention and Treatment Act, Including Adoption Opportunities & The Abandoned Infants Assistance Act,” <http://www.acf.hhs.gov/sites/default/files/cb/capta2010.pdf>.

⁶⁷ Section 106(b)(2)(B) of CAPTA.

and (3) identifying services (including services provided by state law enforcement officials, the state juvenile justice system, and social service agencies such as runaway and homeless youth shelters) and procedures for appropriately referring child victims of sex trafficking to address their needs. Further, the bill would permit states to develop these same provisions and procedures for children who are victims of labor trafficking. States would also be required to include in their annual data reports to HHS the number of children identified as sex trafficking victims, and if applicable, labor trafficking victims.

Separately, H.R. 469 would direct HHS to report to Congress on child sex and labor trafficking, including (1) the specific type and prevalence of severe forms of trafficking (both sex and labor trafficking) perpetrated against children who have been identified for services or intervention while under the care and placement of the child welfare agency (including a state or Indian child welfare agency or Indian tribe); (2) the practices and protocols used by states under the CAPTA state grants program to identify and serve children who are, or are at-risk of becoming, victims of trafficking; and (3) any barriers in federal laws or regulations that may prevent identifying and assessing children who are such victims, including an evaluation of the extent to which states are able to address the needs of trafficked children without amending the definition of “abuse and neglect” under CAPTA.⁶⁸

Grant Programs for Domestic Minor Victims of Sex Trafficking

One overriding issue concerning minor victims of sex trafficking is the extent to which federal agencies can and do provide services to U.S. citizen and lawful permanent resident (LPR) minor sex trafficking victims. The 2013 TVPA reauthorization law (P.L. 113-4) created a discretionary new grant program for child sex trafficking victims.⁶⁹ The new grant program authorizes DOJ, in consultation with HHS, to award one-year grants to six grantees to combat sex trafficking of children in the United States. Of the grant amounts, at least 67% must be allocated to nongovernmental organizations (NGOs) to provide counseling, legal services, shelter, clothing, and other social services to victims, while not less than 10% must be allocated to provide services to victims or training for service providers on sex trafficking of children.⁷⁰

Likewise, the Justice for Victims of Trafficking Act of 2015 (H.R. 181) would authorize the Attorney General to make grants to an eligible entity to develop, improve, or expand domestic child human trafficking deterrence programs designed to aid victims while investigating and prosecuting the trafficking offenses. An eligible entity is a state or unit of local government that meets specified criteria.⁷¹ The grants could be used to establish or enhance specialized training

⁶⁸ States and territories that receive CAPTA basic state grants must define “child abuse and neglect” to be consistent with the federal definition of abuse and neglect under CAPTA: “at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.” The terms “parent” and “caretaker” are not defined in law, and trafficking of children may not be considered abuse or neglect under CAPTA because the perpetrator (the trafficker) may not be understood in state law as the child’s “parent or caretaker.”

⁶⁹ This grant program replaced the HHS grant program for states; Indian tribes; units of local government; and nonprofit, nongovernmental victims’ service organizations to provide assistance programs for U.S. citizens or LPR trafficking victims created in P.L. 109-164 (§202).

⁷⁰ Funds can also be used for training for law enforcement; investigative and prosecution expenses; case management; salaries for law enforcement officers and state and local prosecutors; and outreach, education, and treatment programs.

⁷¹ The criteria are that the state or unit of local government

1. has significant criminal activity involving child human trafficking;

(continued...)

programs on the prevention of child trafficking for law enforcement, first responders, health care officials, child welfare officials, juvenile justice personnel, prosecutors, and judicial personnel; establish law enforcement and prosecution units dedicated to fighting trafficking of children; and establish or enhance court programs to assist child trafficking victims.⁷² Furthermore, the bill would direct DOJ to audit the grantees every year to prevent waste, fraud, and abuse of the grant monies.

Juvenile Justice⁷³

Under the TVPA, the federal government treats individuals under the age of 18 who are involved in commercial sexual activity as victims rather than perpetrators,⁷⁴ and victims are eligible for specialized services. The same is not always true at the state level; at times, minors involved in commercial sexual activity may be labeled as child prostitutes or juvenile delinquents and treated as criminals rather than being labeled and treated as victims.⁷⁵

The 2013 TVPA reauthorization (P.L. 113-4) specified that the model state anti-trafficking laws created by the Attorney General should include safe harbor provisions that treat an individual under 18 years of age who has been arrested for prostitution as a victim of a severe form of trafficking, prohibit the prosecution of such a person, and refer them to service providers who provide assistance to victims of commercial sexual exploitation.

H.R. 159 would incentivize states to enact safe harbor laws that would (1) treat each minor involved in commercial sexual activity as a victim of a severe form of trafficking in persons, (2) discourage the charging and prosecution of these minors for prostitution or sex trafficking offenses, and (3) encourage the diversion of these minors to child protection services. This bill would allow DOJ to give community policing grants preference to applicants from states that had adopted safe harbor laws.⁷⁶

(...continued)

2. has demonstrated cooperation between federal, state, local, and, if applicable, tribal law enforcement agencies, prosecutors, and social service providers in addressing child human trafficking;
3. has developed a workable, multi-disciplinary plan to combat child human trafficking;
4. has a victim certification process for eligibility for state-administered medical care to ensure that minor victims of human trafficking who are not eligible for interim assistance under TVPA §107(b)(1)(F) are granted eligibility for, and have access to, state-administered medical care immediately upon certification; and
5. provides an assurance that a victim of child human trafficking shall not be required to collaborate with law enforcement officers to have access to any shelter or services.

⁷² This grant program would replace a pilot program to create residential treatment facilities for juvenile trafficking victims in the United States. The pilot program, which was established in the Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164), was never funded.

⁷³ For more information, see CRS Report R43677, *Juvenile Victims of Domestic Sex Trafficking: Juvenile Justice Issues*, by Kristin Finklea.

⁷⁴ 18 U.S.C. §1591(a).

⁷⁵ See, for example, Linda A. Smith, Samantha Healy Vardaman, and Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children*.

⁷⁶ For more information about DOL's community policing grants, see CRS Report RL33308, *Community Oriented Policing Services (COPS): In Brief*, by Nathan James.

Other Issues

Inter-agency Coordination/Efficiency

There have been concerns about possible duplication of efforts and a lack of coordination among the agencies that conduct anti-trafficking activities, and whether the fact that so many agencies are involved with anti-trafficking policy leads to duplication or funds not being used in the most efficient manner.⁷⁷ The TVPA, as amended, established both the President's Interagency Task Force to Monitor and Combat Trafficking (PITF) and the Senior Policy Operating Group (SPOG) in part to facilitate coordination on anti-trafficking policy across U.S. government agencies to ensure that there is not a duplication of efforts.⁷⁸ In addition, the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) requires HHS to establish, by September 2016, the National Advisory Committee on Sex Trafficking of Children and Youth in the United States to improve the nation's response to sex trafficking and develop best practices and recommendations for states to combat sex trafficking of children, among other duties.

The federal government does not currently have a national strategy broadly directed at combating human trafficking.⁷⁹ H.R. 350 would direct the President's Interagency Task Force to Monitor and Combat Trafficking to conduct a review of human trafficking within the United States. The report would include (1) cataloging the U.S. government's efforts to prevent individuals from committing trafficking offenses and prevent children from becoming victims; (2) surveying the literature related to deterring individuals from trafficking, and preventing children from becoming victims; (3) identifying best practices related to preventing human trafficking of children; and (4) identifying gaps in research and data that would be helpful in formulating strategies to prevent child trafficking. H.R. 350 would also require a Government Accountability Office (GAO) report to Congress that would include information on federal and state law enforcement agencies' efforts to combat human trafficking, and information on each federal grant program that has an anti-trafficking purpose.

Among other things,⁸⁰ the Human Trafficking Prioritization Act (H.R. 514) would change the status of the Office to Monitor and Combat Trafficking within the Department of State (DOS) to that of the Bureau to Combat Trafficking in Persons. The bill would also require that DOS report

⁷⁷ At a 2011 hearing on the TVPA reauthorization, the then-ranking Member of the Senate Judiciary Committee, Senator Charles Grassley, stated: "[I] feel that the bill ought to be reauthorized. But I make a point of saying that we have a terrible budget situation and it requires that we take a close look at how some of this money is spent." U.S. Congress, Senate Committee on the Judiciary, *The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking*, 112th Cong., 1st sess., September 14, 2011.

⁷⁸ The PITF is a cabinet-level entity which consists of 14 departments and agencies across the federal government that are responsible for coordinating U.S. government-wide efforts to combat trafficking in persons. The SPOG is comprised of the senior officials designated as representatives of the PITF members. See Department of State, "President's Interagency Task Force to Monitor and Combat Trafficking in Persons," accessed January 29, 2015, <http://www.state.gov/j/tip/response/usg/>.

⁷⁹ There is a strategic plan to provide services to victims of human trafficking. See the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013-2017.

⁸⁰ The bill would also make changes to how countries are rated for the purpose of the annual DOS Trafficking in Persons report. This issue is beyond the scope of this report, but for more information, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana W. Rosen; and CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana W. Rosen.

to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations on whether DOS intends to designate one of the Assistant Secretary of State positions as the Assistant Secretary of State to Combat Trafficking in Persons, and the reasons for that decision. According to the bill's Sense of Congress statement, changing the status of the office "would be more effective in carrying out the duties mandated by Congress in the Trafficking Victims Protection Act of 2000 if the Bureau were headed by an Assistant Secretary with direct access to the Secretary of State, rather than an Ambassador-at-Large."

Training

While U.S. Inspections and Customs Enforcement is one of the two lead agencies responsible for human trafficking investigations,⁸¹ personnel from several agencies within DHS may encounter instances and victims of trafficking during the course of their regular duties.⁸² For example, agents from the Transportation Security Administration (TSA) may encounter trafficking victims at airports as traffickers attempt to move the victims around the country. The Human Trafficking Detection Act of 2015 (H.R. 460) would direct the Secretary of DHS, within 180 days, to implement a training program on deterring, detecting, and disrupting human trafficking during the course of their primary roles and responsibilities for personnel from TSA, Customs and Border Protection (CBP), and any other agency that the Secretary deems appropriate. The bill would also require the Secretary to ensure that such personnel regularly receive current information related to the detection of human trafficking. The Secretary would be required to certify to the appropriate congressional committees no later than one year after enactment that the training has been completed. The bill would also require the Secretary to submit an annual report to the committees on the effectiveness of the training program required under the bill, including the number of cases in which DHS personnel suspected human trafficking, and the number of confirmed cases of human trafficking. The bill would allow the Secretary to provide the training curricula to any state, local or private government, or any private organization to assist such entities in creating their own programs to identify human trafficking.

H.R. 357, the Human Trafficking Prevention Act, would amend the TVPA to include members of the Foreign Service as persons who are required to be trained on how to identify and protect trafficking victims. The bill would also specify minimum requirements for the training. For example, the bill would require that all ambassadors and deputy chiefs of mission receive a briefing on trafficking issues prior to departing for their posts.

Separately, the Trafficking Awareness Training for Health Care Act of 2015 (H.R. 398) would require HHS' Agency for Healthcare Research and Quality (AHRQ) to competitively award a grant to one medical or nursing school for developing best practices for health care professionals to recognize and appropriately respond to victims of severe forms of human trafficking. This entity would be required to analyze and evaluate, in consultation with others, existing best practices for interprofessional collaboration, and develop trainings for health care professionals on such best practices. Further, the grantee would make a subgrant to one entity near an established anti-human trafficking task force initiative in each of the 10 administrative regions of

⁸¹ The other agency is the FBI.

⁸² For a discussion of DHS efforts related to human trafficking, see Department of Homeland Security, "Government Roles," press release, December 22, 2014, <http://www.dhs.gov/government-roles>. For U.S. efforts on combating human trafficking, see Department of Justice, *Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2012*, Washington, DC, July 14, 2014.

HHS to establish a pilot program that uses the best practices and training, and to analyze the results of the pilot programs. The bill would further require AHRQ to post and disseminate the best practices identified by the medical or nursing school.

As noted previously, the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) amended federal child welfare law to require state child welfare agencies to develop procedures needed to ensure relevant training for caseworkers. These procedures must be developed in consultation with state and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth. H.R. 469 would similarly amend a separate child welfare law to ensure that state child welfare agencies develop provisions and procedures for training child protective services (CPS) workers about identifying and assessing children who are victims of sex trafficking (and may develop such procedures with regard to victims of labor trafficking).

Sex Offender Registry

The Sex Offender Registration and Notification Act (SORNA)⁸³ provides a set of minimum standards for sex offender registration and notification in the United States.⁸⁴ SORNA defines sex offenders according to three tiers. Tier III is the highest classification and includes those individuals convicted of the most egregious crimes (predicate offenses for sex offender registration and notification).⁸⁵ The SORNA requirements involve Tier III offenders being subject to the strictest registration and notification requirements.

Tier I: Predicate offenses include whatever offenses do not support a higher classification, such as misdemeanor registration offenses and child pornography possession.

Tier II: Predicate offenses include most felonious sexual abuse or sexual exploitation crimes involving victims who are minors, including distribution and production of child pornography.

Tier III: Predicate offenses generally encompass sexual assaults involving sexual acts regardless of victim age, sexual contact offenses against children below the age of 13, nonparental kidnapping of minors, and attempts or conspiracies to commit such offenses.⁸⁶

H.R. 515 would direct the Secretary of DHS to establish a center in ICE, to be known as the “Angel Watch Center.” The Angel Watch Center would receive information on travel by child-sex offenders,⁸⁷ and would establish procedures for notifying or making the decision not to notify a destination country of current or impending travel by a child-sex offender.⁸⁸ H.R. 515 would also

⁸³ Title I of the Adam Walsh Child Protection and Safety Act of 2006; P.L. 109-248.

⁸⁴ For more information about SORNA and how these standards are administered by the federal government, see the website of the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office), at <http://www.smart.gov/>.

⁸⁵ A Tier II sex offender means, among other things, a sex offender whose offenses are “comparable to or more severe than” offenses including sex trafficking (as defined under 18 U.S.C. §1591) when committed against a minor. Tier II offenses include sex trafficking or an attempt or conspiracy to commit such an offense against a minor.

⁸⁶ More information on the tiering system can be found at http://www.smart.gov/faqs/faq_subimplementation.htm#4.

⁸⁷ The bill would reference the definition of “child-sex offender” under the Adam Walsh Act (42 U.S.C. §16911), which means an individual who is convicted of a child-sex offense.

⁸⁸ If the center has reason to believe that transmission of the notice poses a risk to the life or well-being of the child-sex (continued...)

express a sense of Congress that the President should negotiate bilateral agreements with foreign governments to transmit and receive information on international travel by child-sex offenders, including U.S. citizens who are arrested or convicted for child-sex offenses in a foreign country.

(...continued)

offender, the center would be required to make every reasonable effort to issue a warning to the child-sex offender. In addition, if the center has reason to believe that the destination country is highly likely to deny entry to the child-sex offender, the center would be required to make a reasonable effort to notify the offender.

Appendix. Pending Human Trafficking Bills that Have Received Congressional Action or Are of Significant Congressional Interest

Table A-1. Active Legislation in the 114th Congress that Addresses Human Trafficking

| Bill/Law Number and Sponsor(s) | Companion Bill | Brief Overview of the Bill | Latest Action |
|--------------------------------|--------------------------------------|---|--|
| H.R. 159, Rep. Paulsen | | Would incentivize states to enact safe harbor legislation, and create a system to assist victims in communicating with service providers. Would specify that victims of severe forms of trafficking in persons are eligible for the Job Corps program. Would require the Department of Justice (DOJ) to report on mandatory restitution amounts for victims of trafficking, including demographic data on perpetrators. Would clarify U.S. Marshals Service's authority to assist in recovering missing children. | As passed by the House on January 27, 2015. H.Rept. 114-6 Part I. |
| H.R. 181, Rep. Poe | S. 178 ^a , Sen. Cornyn | Would amend the TVPA to allow the Attorney General to award grants to combat domestic child trafficking, and would direct DOJ to audit the grantees every year. Would amend Subtitle A of the Victims of Child Abuse Act by expanding the definition of "child abuse" used by the Children's Advocacy Center (CAC) program to include the production of child pornography and human trafficking. Would enable DOJ to make grants for the development and implementation of specialized programs to identify and provide direct services to victims of child pornography. Would expand the ability of federal, state, and local prosecutors to obtain wiretap orders from courts for certain investigations by including additional trafficking-related offenses as allowable investigations. Would expand the requirements for submitting information to the National Crime Information Center. Would prohibit the patronizing or soliciting of commercial sex (or benefiting from these activities), and would remove the requirement that federal prosecutors prove that the defendant knew that victim had not yet attained 18 years of age. Would require the Attorney General to ensure task forces within the Violent Crimes Against Children program work to enhance state and local law enforcement investigative capabilities to reduce demand. Would change the standard of evidence (from "a preponderance of the evidence" to "clear and convincing evidence") for prosecuting individuals for transporting minors for illegal sexual activities. Would establish mandatory audits for anti-trafficking grant programs. Would clarify that U.S. citizen and lawful permanent resident victims of trafficking are not required to be certified by the Department of Health and Human Services (HHS) in order to be eligible for HHS-provided services for trafficking victims. | As passed by the House on January 27, 2015 H.Rept. 114-7. |
| H.R. 246, Rep. Beatty | | Would change the name of a category from "child prostitution" to "child sex trafficking, including child prostitution" within the federally mandated tipline (CyberTipline) for online users and electronic service providers to report Internet-related child sexual exploitation. | As passed by the House on January 27, 2015. |
| H.R. 285, Rep. Wagner | | Would permit the prosecution of entities that advertise a person "knowing", or in reckless disregard of the fact, that force or fraud has been used to cause the person to engage in a commercial sex act or that the victim is a minor. | As passed by the House on January 27, 2015. |

| Bill/Law Number and Sponsor(s) | Companion Bill | Brief Overview of the Bill | Latest Action |
|---------------------------------------|-------------------------|---|---|
| H.R. 350, Rep. Noem | | Would direct the Interagency Task Force to Monitor and Combat Trafficking to conduct a review of trafficking in persons in the United States that includes (1) consulting with nongovernmental organizations to determine appropriate surveys and catalogs of federal and state activities to deter individuals from committing offenses and to prevent children from becoming victims; (2) surveying academic literature on such deterrence and prevention, commercial sexual exploitation of children, and similar topics; (3) identifying best practices and strategies on deterrence and prevention; and (4) identifying current gaps in research on deterrence and prevention. Would require a report to Congress on this review. Would also direct the Government Accountability Office (GAO) to report to Congress on federal and selected state law enforcement agencies' efforts to combat human trafficking, and information on each federal trafficking grant. Would clarify that the DOJ grant program for victims services programs for victims of trafficking can include programs that provide housing to victims. | As passed by the House on January 27, 2015. H.Rept. 114-9, Part I. |
| H.R. 357, Rep. Maloney | | Would require (1) members of the Foreign Service to receive training on trafficking-in-persons issues and DOS's obligations under the TVPA; (2) trafficking-in-persons briefings for all ambassadors and deputy chiefs of mission before they depart for their posts; and (3) at least annual reminders to relevant personnel on key problems and signs of trafficking and procedures for reporting trafficking. | As passed by the House on January 26, 2015. |
| H.R. 398, Rep. Ellmers | S. 205, Sen. Cassidy | Would require HHS' Agency for Healthcare Research and Quality (AHRQ) to competitively award a grant to one medical or nursing school for developing best practices for health care professionals to recognize and respond to victims of severe forms of human trafficking. Would require the grantee, among other things, to evaluate best practices for interprofessional collaboration; develop materials to train health care professionals; create a pilot program to test the best practices and training; and analyze the pilot program results. Would require AHRQ to post and disseminate the best practices identified. | As passed by the House on January 27, 2015. |
| H.R. 460, Rep. Walker | | Would direct the Secretary of the Department of Homeland Security (DHS) to implement a program to (1) train, and periodically retrain, relevant Transportation Security Administration, U.S. Customs and Border Protection, and other DHS personnel on how to (during the course of their primary roles and responsibilities) effectively deter, detect, and disrupt human trafficking and interdict suspected perpetrators; and (2) ensure that such personnel regularly receive current information on matters related to the detection of human trafficking. Would direct the DHS Secretary to certify to the appropriate congressional committees that all appropriate personnel have completed the required training, and provide an annual report to Congress on the overall effectiveness of the program and the number of suspected and confirmed cases of human trafficking reported by DHS personnel. Would also allow DHS to provide training curricula to any state, local, or tribal government or private organization to assist them in establishing training programs on identifying human trafficking. | As passed by the House on January 27, 2015. |

| Bill/Law Number and Sponsor(s) | Companion Bill | Brief Overview of the Bill | Latest Action |
|--------------------------------|----------------|--|---|
| H.R. 468, Rep. Heck | | Would expand on the types of projects that HHS should prioritize under the Runaway and Homeless Youth Act, including projects that address staff training on the behavioral and emotional effects of severe forms of trafficking (both sex and labor trafficking) and sex trafficking, responding to youth showing effects of such trafficking victimization, and agency-wide strategies for working with runaway and homeless youth who have been sexually victimized, including those who are victims of sex trafficking. Would separately amend the Street Outreach Program to add that the program is intended to serve youth who are victims of severe forms of trafficking in persons or sex trafficking (among other sexually victimized youth, as specified in current law). | As passed by the House on January 26, 2015. |
| H.R. 469, Rep. Bass | | Would require states, as part of their state plan under the Child Abuse Prevention and Treatment Act (CAPTA) state grant program, to have a statewide law or program that includes provisions and procedures on (1) identifying and assessing reports involving children who are sex trafficking victims (and that may also involve reporting children who are victims of severe forms of trafficking in persons), (2) training representatives of the state child protective services agencies about identifying and assessing such children, and (3) identifying services and procedures for appropriate referral to address the needs of such children. Would also require states to include in their annual data reports to HHS the number of children identified as sex trafficking victims, and if applicable, labor trafficking victims. Would separately direct HHS to report to Congress on child and sex labor trafficking, including on the type and prevalence of trafficking victims served by child welfare agencies; practices and protocols used under the CAPTA state grant program to identify and serve victims and those at risk; and any barriers in federal law or regulation that may prevent identification and assessment of children who are such victims, including the extent to which states can address the needs of trafficked children without altering the CAPTA definition of “abuse and neglect.” | As passed by the House on January 27, 2015. |
| H.R. 514, Rep. Smith | | Would change the status of the Office to Monitor and Combat Trafficking to that of the Bureau to Combat Trafficking in Persons. According to the bill, this would enable the Department of State to more effectively carry out the duties mandated by Congress in the Trafficking Victims Protection Act of 2000 if the bureau were headed by an Assistant Secretary with direct access to the Secretary of State, rather than an Ambassador-at-Large. Would direct the DOS Secretary to report to Congress on specified details for each current Assistant Secretary of State position (e.g., whether that designation was legislatively mandated) and whether the DOS Secretary intends to designate one of the Assistant Secretary of State positions as the Assistant Secretary of State to Combat Trafficking in Persons. Would prohibit additional funds to be appropriated for diplomatic and consular programs to carry out these provisions. | As passed by the House on January 26, 2015. |
| H.R. 515, Rep. Smith | | Would create a new center in DHS that would receive information on travel by child-sex offenders, and, if appropriate, notify a foreign country of travel to that country by a child-sex offender. | As passed by the House on January 26, 2015. |

Source: Congressional Research Service (CRS).

- a. S. 178 has substantive differences from H.R. 181. Those differences are not outlined in this report.

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