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A Path Forward: Florida's Efforts to Combat Human Trafficking

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**A PATH FORWARD: FLORIDA’S EFFORTS TO COMBAT
HUMAN TRAFFICKING**

Jennifer L. Brinkley*

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I. INTRODUCTION

The National Human Trafficking Hotline ranks Florida as third in the United States in human trafficking cases.¹ Because Florida has several major international airports, many ports of entry, a thriving agricultural industry, and is a destination for tourists, retirees, and immigrants alike, it is an ideal location for human trafficking.² This Article will discuss the different types of human trafficking, as well as the various impacts human trafficking takes on the victim.³ This Article will explore human trafficking briefly at the global level before looking at efforts made in the United States.

Florida first created statutes to define and criminalize human trafficking in 2004.⁴ Florida has since amended these statutes to further criminalize behaviors related to trafficking.⁵ Following national trends in providing criminal record relief, the Florida legislature passed legislation allowing individuals to expunge various criminal offenses should the convictions have occurred while the individual was a victim of human trafficking.⁶ In June 2019, Florida's governor signed legislation into law in an attempt to toughen human trafficking laws in the state.⁷ The new legislation requires additional training for healthcare and law enforcement personnel and mandates keeping a public registry of those individuals soliciting prostitutes.⁸

Though Florida has continued to amend its statutes, this Article will look forward to other efforts that stakeholders could take to help survivors and prosecute perpetrators. A multidisciplinary collaboration that is both intentional and trauma informed is critical in breaking up human trafficking rings. This Article will highlight effective collaborations between law enforcement, legislators, prosecutors, and nongovernmental organizations to identify survivors and perpetrators of human trafficking. Strategies leading to evidence-based best practices to curb human trafficking will be explored.

1. *Hotline Statistics*, NAT'L HUMAN TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/states> [<https://perma.cc/4FRP-PQ7G>].

2. *Cf.* U.S. DEP'T OF HEALTH & HUMAN SERVS., FLORIDA: EFFORTS TO COMBAT HUMAN TRAFFICKING (2017), https://wwwstage.acf.hhs.gov/sites/default/files/otip/florida_profile_efforts_to_combat_human_trafficking.pdf [<https://perma.cc/VJ8T-QAWL>] (noting locations in Florida where human trafficking has been reported and locations that are often used in trafficking).

3. Victim and survivor will be used interchangeably to refer to individuals who were trafficked via labor or sex trafficking.

4. FLA. STAT. ANN. § 787.06(1)(b) (West 2018) (enacted in 2004).

5. *Id.* (amended 2016).

6. H.B. 1325, 2013 Leg., Reg. Sess. (Fla. 2013).

7. *See* H.B. 851, 2019 Leg., Reg. Sess. (Fla. 2019).

8. *Id.*

II. HUMAN TRAFFICKING

A. *The Global Picture*

Human trafficking is recognized as a transnational, organized criminal enterprise.⁹ The General Assembly of the United Nations adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) and entered it into force in December 2003.¹⁰ The Trafficking Protocol supplemented the Convention Against Transnational Organized Crime, known as the Palermo Protocol,¹¹ which entered into force in September 2003.¹² The Palermo Protocol was the first legally binding instrument at the global level to agree on a definition for human trafficking.¹³ A consistent definition is essential in establishing transnational efforts to prosecute perpetrators and to effectively assist survivors. Article 3(a) of the Trafficking Protocol gives the following definition of trafficking in persons:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁴

Article 3(b) clarifies that the consent of the victim is irrelevant when any of the means in Article 3(a) have been used.¹⁵ Thus, defendants are foreclosed

9. Roza Pati, *Human Trafficking: An Issue of Human and National Security*, 4 U. MIAMI NAT'L SEC. & ARMED CONFLICT L. REV. 29, 33 (2014).

10. See *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, UNODC, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> [<https://perma.cc/5RU6-NA34>]; G.A. Res. 55/25, annex, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Jan. 8, 2001).

11. Carol S. Brusca, *Palermo Protocol: The First Ten Years after Adoption*, 2 GLOBAL SECURITY STUDIES 1, 8 (2011).

12. *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, *supra* note 10.

13. See *id.* at 9.

14. G.A. Res. 55/25, *supra* note 10, at 32.

15. *Id.*; ILIAS CHATZIS, U. N. OFF. ON DRUGS & CRIME, THE CONCEPT OF 'EXPLOITATION' IN THE TRAFFICKING IN PERSONS PROTOCOL 5 (2015).

from asserting a consent defense. The three elements—act, means, and purpose (the intention to exploit)—must be present to meet the definition of trafficking in persons, unless the victim is a child.¹⁶ If the victim is a child, the *means* element is not required as part of the definition of trafficking in persons.¹⁷ A child is an individual under the age of eighteen.¹⁸ However, exploitation is not specifically defined. When individuals use coercion to place others in a situation where they can be exploited, the actual exploitation does not have to occur in order for a trafficking crime to occur.¹⁹

Human trafficking involves three components: the trafficker, the purchaser, and the individual being exploited.²⁰ An individual is used as a commodity for the financial gain of another. Human trafficking is a multibillion-dollar industry that is present everywhere.²¹ It is an increasingly growing global crime and operates in a black market. The International Labour Organization provides stark statistics on human trafficking at the global level. As of 2016, on any given day, 40 million people were survivors of modern-day slavery.²² One in four survivors were children.²³ Of this number, 24.9 million people were in forced labor situations, and 15.4 million people were forced into marriage.²⁴ Forced labor and forced marriage fall under modern-day slavery. The League of Nations defines slavery as “the status or conditions of a person over whom any or all of the powers attaching to the right of ownership are exercised.”²⁵ Forced labor is defined by the International Labour Organization Convention, 1930 (No. 29), as “all work or service which is exacted from any person under the menace of any penalty

16. *Id.*

17. *Id.*

18. *Id.* at 34.

19. INT’L LABOUR ORG. & WALK FREE FOUND., GLOBAL ESTIMATES OF MODERN SLAVERY: FORCED LABOUR AND FORCED MARRIAGE 18 (2017), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf [<https://perma.cc/25LR-4QH6>].

20. *As Fight Against Human Trafficking Takes Shape, Panel Urges Lawyers to Join Frontline*, ABA (Aug. 10, 2019), <https://www.americanbar.org/news/abanews/aba-news-archives/2019/08/as-fight-against-human-trafficking-takes-shape--panel-urges-lawy/> [<https://perma.cc/8RFE-ZSWR>].

21. *Human Trafficking*, INTERPOL, <https://www.interpol.int/Crimes/Human-trafficking> [<https://perma.cc/E4T9-XV8T>]. See generally U.N. OFF. ON DRUGS & CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS, U.N. Sales No. E.19.IV.2 (2018) (describing how human trafficking affects almost every region of the world).

22. INT’L LABOUR ORG. & WALK FREE FOUND., *supra* note 19, at 21.

23. *Id.* at 5.

24. *Id.* at 9–10.

25. *Id.* at 17; see also Cody Corliss, *Human Trafficking as “Modern Slavery”*: *The Trouble with Trafficking as Enslavement in International Law*, 71 S.C. L. REV. 603, at 615 (2020) (discussing the relationship between slavery and human trafficking as defined under international law).

and for which the said person has not offered himself voluntarily.”²⁶ Forced marriage is the forcing of an individual, no matter their age, to marry another person through deception, duress, coercion, or threats.²⁷ Modern-day slavery is a threat to both international and national security, as well as a violation of human rights.

Traffickers may use force or abduction to capture victims, but more often they are able to identify and exploit the traits that make potential victims more vulnerable to coercion and manipulation.²⁸ Minor victims may have run away from home and have no suitable alternatives for assistance. Victims may respond to false job advertisements—a tactic traffickers often use to trap victims—and find themselves in a situation with no easy exit.²⁹ Drug trafficking, for example, is an enterprise that uses human trafficking victims, often as drug mules, to transport drugs across borders, but because these victims either carry drugs with them or travel places with their traffickers, it is difficult for the victims to escape.³⁰ Poverty, debt, and restrictive immigration documents are factors that prevent victims from seeking assistance or attempting to enforce a fictitious employment advertisement.³¹ The power differential between the trafficker and the victim, due to abuse and vulnerability, is a specific tool for exploitation.³² Traffickers use various tactics to maintain sufficient control over victims. Specifically, means of coercion can include isolating and alienating victims, branding victims with tattoos,³³ withholding wages, threatening violence (physical and sexual), leveraging debt bondage, depriving food or sleep, and withholding passports, immigration paperwork, visas, or other government-issued identification.³⁴ A

26. International Labour Organization [ILO] *Forced Labour Convention, 1930 (No. 29)*, art. 2 (Jun. 10, 1930), https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms_346435.pdf [<https://perma.cc/UTN8-5GAA>].

27. INT’L LABOUR ORG. & WALK FREE FOUND., *supra* note 19, at 17.

28. SUZANNAH PHILLIPS ET AL., CITY UNIV. OF N. Y. SCH. OF LAW, *CLEARING THE SLATE: SEEKING EFFECTIVE REMEDIES FOR CRIMINALIZED TRAFFICKING VICTIMS* 8 (2014).

29. See Nicole Bogart, *Fake Job Posting for Real Restaurant a Reminder of Human Trafficking Danger*, CTV NEWS, (July 22, 2019, 8:18 PM), <https://www.ctvnews.ca/canada/fake-job-posting-for-real-restaurant-a-reminder-of-human-trafficking-danger-1.4519118> [<https://perma.cc/3BB9-2ARZ>].

30. *Drug Mules: Swallowed by the Illicit Drug Trade*, U.N. OFF. ON DRUGS & CRIME, https://www.unodc.org/southasia/frontpage/2012/october/drug-mules_-swallowed-by-the-illicit-drug-trade.html [<https://perma.cc/2RMC-RCLB>].

31. PHILLIPS ET AL., *supra* note 28, at 9.

32. See G.A. Res. 55/25, *supra* note 10.

33. PHILLIPS ET AL., *supra* note 28, at 9.

34. INT’L LABOUR ORG. & WALK FREE FOUND., *supra* note 19, at 31, 35.

victim experiencing continued trauma and coercion may suffer from hopelessness, depression, and fear—making an eventual escape unlikely.³⁵

B. United States Federal Legislation

The Trafficking Victims Protection Act of 2000 (TVPA) was a response by Congress to modern-day slavery.³⁶ The TVPA was drafted, in part, to provide victim assistance and strengthen penalties for offenders.³⁷ Also, Congress drafted the legislation to clarify the federal government's stance against the exploitation of individuals for financial or material gain.³⁸

One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern.³⁹

35. See Elizabeth K. Hopper, *Underidentification of Human Trafficking Victims in the United States*, 5 J. SOC. WORK RES. & EVALUATION 125, 130 (2004).

36. Trafficking Victims Protection Act, 22 U.S.C. § 7101(a) (2000).

37. *Id.* § 7101(a).

38. See *id.* § 7101(b)(24).

39. *Id.* § 7101(b)(22)–(23). Subsection 23 goes on to add: The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe. *Id.* § 7101(b)(23).

The Declaration of Independence states, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”⁴⁰ However, at the time of the Declaration’s drafting, equality was considered only for white men. It would not be until the Reconstruction Amendments to the U.S. Constitution that language would be included in the founding documents to abolish slavery.⁴¹ The Thirteenth Amendment to the Constitution states, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”⁴² Although the Amendment abolished slavery in 1865, forced labor continued and transformed into a type of servitude focused on agriculture. Sharecropping, primarily in southern states, involved contracts between white farm owners and black laborers to farm the land in exchange for food and shelter.⁴³ Though sharecropping was oppressive, it remained part of the economy through the 1930s.⁴⁴ Forced labor has an entrenched history within the United States, and migrant labor continues to operate within the agricultural industry.⁴⁵

In 2000, the TVPA revealed that more than 700,000 individuals, primarily women and children, were trafficked annually within or across international borders.⁴⁶ Women and children are the primary targets as they are disproportionately impoverished and lack access to education and employment opportunities.⁴⁷ Because victims are often unfamiliar with laws regarding human trafficking,⁴⁸ and live under a cloud of active coercion, exploitation, and fear of reporting violations,⁴⁹ it is difficult to obtain accurate data for the number of trafficking victims within the United States.

The TVPA defines severe forms of trafficking in persons in two ways: sex trafficking and labor trafficking.⁵⁰ As amended, it defines “severe forms of trafficking in persons” as follows:

40. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

41. U.S. CONST. amend. XIII, § 1.

42. *Id.*

43. Rebecca L. Wharton, *A New Paradigm for Human Trafficking: Shifting the Focus from Prostitution to Exploitation in the Trafficking Victims Protection Act*, 16 WM. & MARY J. WOMEN & L., 753, 764 (2010).

44. *Id.*

45. *Id.*

46. Trafficking Victims Protection Act, 22 U.S.C. § 7101(b)(1) (2000).

47. *Id.* § 7101(b)(4).

48. *Id.* § 7101(b)(20).

49. *Id.*

50. *Id.* § 7102(11)(A), (B).

sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or 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.⁵¹

Sex trafficking means “the recruitment, harboring, transportation, provision, obtaining, patronizing, or solicitation of a person for the purpose of a commercial sex act.”⁵² The commercial sex act is induced by force, fraud, or coercion.⁵³ Labor trafficking involves the exploitation of a person for labor or services by using force, fraud, or coercion in order to subject the person to involuntary servitude, peonage, debt bondage, or slavery.⁵⁴ Coercion includes threats of serious physical harm or physical restraint against an individual or the abuse or threatened abuse of the legal process.⁵⁵ Physical transportation of the victim from one location to another is not required.⁵⁶ The U.S. Department of Health and Human Services (HHS) identifies two types of labor trafficking: debt bondage and forced labor.⁵⁷ Debt bondage includes victims who “become bonded laborers when their labor is demanded as a means of repayment for a loan or service in which its terms and conditions have not been defined or in which the value of the victims’ services as reasonably assessed is not applied toward the liquidation of the debt.”⁵⁸ Forced labor can include “domestic servitude; agricultural labor; sweatshop factory labor; janitorial, food service and other service industry labor; and begging.”⁵⁹

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA) included a federal civil cause of action for survivors, enabling them

51. *Id.*

52. *Id.* § 7102(12).

53. *Id.* § 7102(11)(A).

54. *Id.* § 7102(11)(B).

55. *Id.* § 7102(3)(A)–(C).

56. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 5 (2019) [hereinafter TIP REPORT 2019], <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf> [<https://perma.cc/7UKK-QXG4>].

57. ADMIN. FOR CHILDREN & FAMILIES, U.S. DEP’T OF HEALTH & HUMAN SERVICES, FACT SHEET: LABOR TRAFFICKING (2012), https://www.acf.hhs.gov/sites/default/files/orr/fact_sheet_labor_trafficking_english.pdf [<https://perma.cc/R2MZ-SEPE>].

58. *Id.*

59. *Id.*

to recover actual and punitive damages, as well as attorney's fees.⁶⁰ As of 2015, forty states, along with the District of Columbia, have allowed trafficking survivors to sue their trafficker in civil court.⁶¹ The federal government provides survivor assistance primarily through the HHS and the U.S. Department of Justice (DOJ).⁶² Both agencies provide support for domestic and foreign national survivors.⁶³ As of 2015, forty-two states have established procedures to provide survivor assistance.⁶⁴ Beneficial services for survivors include therapeutic services, vocational training, housing resources, educational opportunities, medical services, and legal assistance.⁶⁵ It is critical to identify appropriate services for victims and allocate funding specifically for victim needs.

The TVPRA also enhanced prosecution of traffickers by adding human trafficking as a crime that could be charged under the Racketeer Influenced Corrupt Organizations (RICO) statute.⁶⁶ The TVPRA was reauthorized in 2005 and 2008.⁶⁷ It was also reauthorized in 2013 when passed as an amendment to the Violence Against Women Act.⁶⁸ The TVPRA's purpose was to strengthen collaboration between the federal government and state government agencies, and enhance state and local governmental responses to combat trafficking.⁶⁹ Each reauthorization of the original act has improved the federal response to human trafficking, with attempts by the government to be proactive rather than reactive, to create law using evidence-based research of trends in trafficking offenses, and to provide funding for tools to combat the continuation of trafficking nationally.⁷⁰ The TVPA, as amended, prohibits

60. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, sec. 4, § 1595, 117 Stat. 2875, 2878.

61. POLARIS PROJECT, HUMAN TRAFFICKING ISSUE BRIEF: CIVIL REMEDY (2015), <https://polarisproject.org/wp-content/uploads/2019/09/2015-Civil-Remedy-Issue-Brief.pdf> [<https://perma.cc/9GM7-ZPPB>].

62. POLARIS PROJECT, HUMAN TRAFFICKING ISSUE BRIEF: VICTIM ASSISTANCE (2015), <https://polarisproject.org/wp-content/uploads/2019/09/2015-Victim-Assistance-Issue-Brief.pdf> [<https://perma.cc/J2E6-RRJ2>].

63. *Id.*

64. *Id.*

65. *See id.*

66. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, sec. 5, § 1961(1), 117 Stat. 2875, 2879.

67. *Current Federal Laws*, POLARIS PROJECT, <https://web.archive.org/web/20191228032014/https://polarisproject.org/current-federal-laws> [<https://perma.cc/S4HF-5QXW>].

68. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, sec.1201, § 105, 127 Stat. 54, 136.

69. *Id.* sec.1202, § 105A.

70. *See Current Federal Laws*, *supra* note 67.

all forms of human trafficking, and prohibits conspiracy and any attempts to violate the provisions of the Act.⁷¹

In May 2015, the Justice for Victims of Trafficking Act (JVTA) became law.⁷² This allowed survivors to provide formal input in federal antitrafficking policies; gave incentives for states enacting laws preventing the prosecution of minor trafficking victims; amended the federal definition of child abuse and neglect to include trafficking; provided additional criminal liability for patrons or solicitors of commercial sex; and created a new offense prohibiting the advertising of sex trafficking activity.⁷³

Each year, the U.S. Department of State prepares a Trafficking Persons Report. As of 2019, the federal government meets the minimum standards for the elimination of trafficking.⁷⁴ However, the 2019 report indicates mixed prosecution results. In Fiscal Year (FY) 2018, the Department of Homeland Security (DHS) opened 849 human trafficking investigations—an increase compared to the 833 investigations in FY 2017.⁷⁵ The DOJ opened 657 human trafficking investigations in FY 2018, compared to the prior year's 783 investigations.⁷⁶ The DOJ initiated 230 federal human trafficking prosecutions in FY 2018, down from 282 prosecutions the previous year.⁷⁷ Additionally, 386 defendants were charged, a decrease from the previous year when 553 defendants were charged.⁷⁸ The majority of these prosecutions included sex trafficking (213) with 17 cases involving labor trafficking.⁷⁹ The DOJ obtained convictions against 526 human traffickers in FY 2018, which was an increase of 27 convictions from the previous year.⁸⁰ The majority of these convictions involved sex trafficking.⁸¹ Accordingly, it appears the focus of federal prosecution has been on sex trafficking offenses rather than labor trafficking.

C. *Human Trafficking Survivors*

Founded in 2002, Polaris is a nonprofit organization that collects data on human trafficking in the United States and houses the National Human

71. U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT* 389–93 (2016) [hereinafter *TIP REPORT 2016*], <https://2009-2017.state.gov/documents/organization/258876.pdf> [<https://perma.cc/46ZZ-JBEN>].

72. Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22, 129 Stat. 227.

73. *TIP REPORT 2016*, *supra* note 71, at 388.

74. *TIP REPORT 2019*, *supra* note 56, at 484.

75. *Id.* at 485.

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

Trafficking Hotline (National Hotline).⁸² Since 2007, the National Hotline has handled 51,919 reports.⁸³ This data set is a great resource in identifying measures to combat human trafficking while also providing meaningful ways to assist survivors. Polaris's *2018 Statistics from the National Human Trafficking Hotline* provides insight into the societal impact of human trafficking. During the 2018 calendar year, the National Hotline received 41,088 contacts via phone, text messaging, webchats, webforms, and e-mails.⁸⁴ The National Hotline found that there was a 25% jump in cases of human trafficking from 8,773 identified cases in 2017 to 10,949 cases in 2018.⁸⁵ Also, the National Hotline identified 23,078 survivors of human trafficking.⁸⁶

Demographic information of the identified survivors was collected, showing 15,042 were female and 2,917 were male (the remaining were gender minorities or unknown).⁸⁷ The average age at the time exploitation began for sex trafficking survivors was eighteen and for labor trafficking survivors was twenty-five.⁸⁸ The data also provided insight from the survivors about how the survivors were trafficked.⁸⁹ For sex trafficking, the most common recruitment tactic was through an intimate partner or a marriage proposal.⁹⁰ For labor trafficking, the most common recruitment tactic was via a job offer.⁹¹ However, both types of trafficking involved two common recruitment tactics: familial contacts and false promises or fraud.⁹² The data show the top five methods of fraud or force used on survivors are isolation or confinement, economic abuse, threats of any kind, emotional abuse, and physical abuse.⁹³ Additionally, the data highlights the top five risk factors for human trafficking.⁹⁴ Recent migration or relocation was given as a risk factor for 3,516 of the identified survivors.⁹⁵ The remaining four risk factors included

82. *Who We Are*, POLARIS, <https://polarisproject.org/> [<https://perma.cc/3ZQY-WPFM>].

83. *2018 Statistics from the National Human Trafficking Hotline*, POLARIS PROJECT, https://polarisproject.org/wp-content/uploads/2019/09/Polaris_National_Hotline_2018_Statistics_Fact_Sheet.pdf [<https://perma.cc/PUU7-ACPJ>].

84. *Id.* The calendar year ran from January 1, 2018–December 31, 2018. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

substance use, unstable housing, runaway or homeless youth, and mental health concerns.⁹⁶

Thousands of men, women, and children are forced to work for no compensation in deplorable conditions within the United States.⁹⁷ In 2005, the Human Rights Center at the University of California Berkeley, along with Free the Slaves and the Center for the Advancement of Human Rights at Florida State University, conducted a study to examine the demographics of victims and perpetrators of forced labor in the United States.⁹⁸ The data indicated forced labor operations were concentrated in California, Florida, New York, and Texas.⁹⁹ The victims came from over thirty-five different countries and were trafficked in over ninety different cities.¹⁰⁰ By 2012, human trafficking had become the “second fastest growing criminal activity in the United States, following drug trafficking.”¹⁰¹ Approximately 14,500 to 17,000 human trafficking victims are brought into the United States each year.¹⁰²

D. Human Trafficking at the State Level

1. Human Trafficking in Florida

Florida is considered a destination for many different groups of people—immigrants, retirees, tourists, military personnel, entrepreneurs, and human traffickers. Florida has been reported as the leading destination in the United States for women and children being trafficked.¹⁰³ There are various environmental factors that make Florida ripe for trafficking. For example, Florida has a long coastline with various ports of entry, granting traffickers more direct access to the state. Also, there is a year-round agricultural

96. *Id.*

97. Kevin Bales et al., *Hidden Slaves Forced Labor in the United States*, 23 BERKELEY J. INT’L L. 47, 51 (2005).

98. *Id.* at 52–53.

99. *Id.* at 58.

100. *See id.* at 48 (“Most are “trafficked” from thirty-five or more countries . . . forced labor operations have been reported in at least ninety U.S. cities.”).

101. UNIF. LAW COMM’N, THE UNIFORM ACT ON THE PREVENTION OF AND REMEDIES FOR HUMAN TRAFFICKING: A SUMMARY 1 (2013), <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=e4fbce72-ccc3-b4a4-5b61-58afedb40534&forceDialog=0> [https://perma.cc/78KJ-VL8A].

102. UNIF. LAW COMM’N, HUMAN TRAFFICKING (2013), <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=6a2928c4-3a5f-6f66-0210-23f2d0023219&forceDialog=0> [https://perma.cc/94Q9-5AKW].

103. FLA. STATE UNIV. CTR. FOR THE ADVANCEMENT OF HUMAN RIGHTS, FLORIDA RESPONDS TO HUMAN TRAFFICKING 27 (2003) [hereinafter FSU CTR.], <https://cahr.fsu.edu/wp-content/uploads/2018/01/thereport.pdf> [https://perma.cc/2WMB-8ULE].

industry, which requires a large labor force.¹⁰⁴ The agricultural industry is a favorable environment for forced labor trafficking.¹⁰⁵ One in five Floridians is an immigrant, making up more than one-fourth of the state's labor force.¹⁰⁶ Nearly one in eight residents is a native-born U.S. citizen with a foreign-born parent.¹⁰⁷ As of 2015, the largest share of immigrant workers in Florida worked in the agricultural industry.¹⁰⁸

The Florida State University (FSU) Center for the Advancement of Human Rights conducted a study of prosecutions between 2004 and 2010, finding that labor trafficking was the most prevalent type of trafficking in Florida.¹⁰⁹ The two economic sectors that experienced labor trafficking were the agricultural industry and the hospitality and tourism industry.¹¹⁰ Debt bondage was found to be the most common type of coercion in these cases.¹¹¹ The other most prevalent type of trafficking in Florida was domestic minor sex trafficking.¹¹² The study notes the importance of identifying these domestic minors as victims, instead of criminal perpetrators.¹¹³

Perhaps the most important step taken by the U.S. antitrafficking community in recent years has been the gradual recognition that thousands of our own U.S. citizen children are in fact victims of trafficking. It is estimated that at any given moment, there are between 30,000 to 40,000 pre-teen and teenage runaways in Florida. As a group, they are tremendously vulnerable to exploitation by pimps or to abuses in Florida's adult entertainment industry. Advocates note that the "recruiting" of runaway or throw-away children for sexual exploitation is increasingly done on the street, at

104. *See* Pati, *supra* note 9, at 36.

105. *See* FSU CTR., *supra* note 103, at 27 ("The demand for trafficking victims in Florida may be increasing because Florida's economy is heavily dependent on both agriculture and tourism: two sectors where trafficking can flourish.").

106. AM. IMMIGRATION COUNCIL, IMMIGRANTS IN FLORIDA 1 (2017), https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_florida.pdf [<https://perma.cc/5YWK-SMSW>].

107. *Id.*

108. *See id.*

109. FLA. STATE UNIV. CTR. FOR THE ADVANCEMENT OF HUMAN RIGHTS, FLORIDA STRATEGIC PLAN ON HUMAN TRAFFICKING 1 (2010) [hereinafter STRATEGIC PLAN], <http://centerforchildwelfare.fmhi.usf.edu/kb/humantraf/FLStrategicPlan-HumanTraffick2010.pdf> [<https://perma.cc/33YR-96FQ>].

110. *Id.*

111. *See id.* ("[D]ebt servitude is often the preferred means of coercion").

112. *Id.* at 2.

113. *See id.*

schools and in malls, online through Myspace and Facebook, and even outside juvenile courts.

When encountered by the law enforcement and judicial systems, many of these exploited children are often erroneously dealt with as criminals. Yet just as minors cannot consent to sex, neither can they legally consent to prostitution. Both state and federal law are clear that prostituted children are victims rather than criminals. Nonetheless, children under the age of 18 are at times still arrested for prostitution in Florida. There is, moreover, very little funding available for their care or protection. Two non-governmental organizations in Florida—Kristi House in Miami, and the KlaasKids Foundation in Pensacola—are among the leading organizations in the state to both care for U.S. domestic minor victims of sex trafficking and to call attention to their plight. Secure housing remains the most acute need for these children, as well as intensive recovery and support services.¹¹⁴

The FSU Center for Advancement of Human Rights also recognizes the demand for sex trafficking created on military bases throughout Florida:

U.S. military bases represent some of the greatest demand sites for sex services, including the South where the bases have created the market for an infrastructure of sex clubs, brothels and massage parlors similar to those found near military bases abroad. Large numbers of women and girls, particularly Asians, have been trafficked to the United States to work in the sex industries surrounding military bases. There are eight military bases in Florida that employ over 32,000 civilians and house over 57,000 military personnel. One Florida domestic violence program has reported suspected forced prostitution of a “mail order bride” on a Florida military base. Due to the large number of personnel at Florida military bases, it is likely that a number of trafficked women and girls may be living in areas surrounding these bases.¹¹⁵

The National Hotline shows an increase in reports of human trafficking cases in Florida.¹¹⁶ In 2014, 373 cases of human trafficking were reported to

114. *Id.* at 2–3.

115. FSU CTR., *supra* note 103, at 28.

116. Kelsey Sunderland, *Human Trafficking Sting in Tampa Sheds Light on Growing Problem in Florida*, WFLA (Nov. 18, 2019), <https://www.wfla.com/news/by-the->

the National Hotline, whereas in 2018, 767 cases were reported.¹¹⁷ Through these 767 reports, 1,771 victims were identified, 506 traffickers were identified, and 306 trafficking businesses were identified.¹¹⁸ The top sex trafficking venues in Florida are hotels or motels, commercial-front brothels, online advertisements, and street-based venues.¹¹⁹ The top labor trafficking venues in Florida are domestic work, agricultural industries, traveling sales crews, and restaurants or food services.¹²⁰

There is no recognized methodology for collecting data on human trafficking within the United States.¹²¹ Moreover, data sets and methods of data collection vary from state to state.¹²² One of the primary data sets in Florida for human trafficking minors is collected by the Department of Children and Families (DCF), which records the number of reports made to the Florida Abuse Hotline.¹²³ The DCF prepares an annual report on human trafficking. In its most recent report, which included data from state FY 2018–2019, the DCF found that the Florida Abuse Hotline received a total of 2,198 reports alleging human trafficking.¹²⁴ Of those reports, approximately 92.5% were coded as commercial sexual exploitation of a child and approximately 7% were coded as labor trafficking.¹²⁵ Unfortunately, Florida does not have a unified system of collecting data on the trafficking of adults.¹²⁶

In August 2019, a complaint in Broward County was filed against two traffickers in the Southern District of Florida.¹²⁷ The complaint alleged a

numbers/human-trafficking-sting-in-tampa-sheds-light-on-growing-problem-in-florida/ [https://perma.cc/F5UM-FE7S].

117. *Id.*

118. NAT'L HUMAN TRAFFICKING HOTLINE, FLORIDA SPOTLIGHT (2019), <https://humantraffickinghotline.org/sites/default/files/FL-2018-State-Report.pdf> [https://perma.cc/4AGG-WJ5N]. Of these reports, 524 involved sex trafficking, 127 involved labor trafficking, 58 involved both sex and labor trafficking, and 58 were not specified. *Id.*

119. Sunderland, *supra* note 116.

120. *Id.*

121. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, DEP'T OF LEGAL AFFAIRS, 2018 ANNUAL REPORT 8 (2019), [http://myfloridalegal.com/webfiles.nsf/WF/MVIS-B8JT3C/\\$file/HTAnnualReport2018Web.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MVIS-B8JT3C/$file/HTAnnualReport2018Web.pdf) [https://perma.cc/5U5D-LN3X].

122. *Id.*

123. *Id.*

124. FLA. DEP'T OF CHILDREN & FAMILIES, ANNUAL HUMAN TRAFFICKING REPORT 3 (2019), <https://www.myflfamilies.com/service-programs/child-welfare/docs/2019LMRs/Human%20Trafficking%20Annual%20Report%202019.pdf> [https://perma.cc/924K-KG3A]. This report includes data from July 1, 2018 to June 30, 2019. *Id.* at 2.

125. *Id.* at 4.

126. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 8.

127. Janelle Griffith, *Florida 13-Year-Old's Sex Traffickers Nicknamed Her 'Breadwinner,' Prosecutors Say*, NBC NEWS (Dec. 4, 2019, 3:37 PM), <https://www.nbcnews.com/news/us-news/florida-13-year-old-s-sex-traffickers-nicknamed-her-breadwinner-n1095656> [https://perma.cc/3R4P-TEFL].

thirteen-year-old girl's traffickers forced the young teen to have sex with over 100 men within a single month.¹²⁸ It further alleged the thirteen-year-old was a runaway who met two women, both who promised to help the girl make money by offering the girl for paid sex acts.¹²⁹ The complaint said the girl, whose traffickers nicknamed Breadwinner, engaged in sex under the direction of the women because she "had no money and nowhere to go."¹³⁰ The complaint alleged the girl reached out to a relative through text message, and by using the phone's records, law enforcement was able to set up a sting in June 2019 where they recovered the girl.¹³¹ As a result, four individuals have been arrested on sex trafficking charges relating to this case.¹³² One entered into a plea agreement on November 19, 2019, agreeing to cooperate with authorities.¹³³

In November 2019, an extensive investigation into a human trafficking ring in Hillsborough County, Florida, concluded with the arrest of more than 100 individuals.¹³⁴ Local deputies monitored websites, massage parlors, strip clubs, and motels for evidence of sex trafficking from June to November 2019.¹³⁵ Law enforcement interviewed each woman taken into custody to identify if they were a human trafficking victim.¹³⁶ Support services were offered to victims through the Salvation Army, Bridging Freedom, and Created Tampa organizations.¹³⁷ At a press conference announcing the arrests, Hillsborough County Sheriff Chad Chronister said: "I strongly believe that in order to eradicate human trafficking, we must continue to focus on reducing the demand."¹³⁸ Sheriff Chronister discussed a couple of the individual cases resulting from the sting.¹³⁹ One involved two men attempting to meet a teenage female for sex.¹⁴⁰ The two men, ages thirty-six and twenty-nine, met an undercover detective posing as the stepfather of a fourteen-year-

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. Ricky Pinela, *More Than 100 People Arrested in Florida Human Trafficking Sting: Report*, ORLANDO SENTINEL (Nov. 18, 2019), <https://www.orlandosentinel.com/news/crime/os-ne-more-than-100-people-arrested-in-florida-human-trafficking-sting-20191118-vcv4ybhkvrhphlxawg3espu4-story.html> [<https://perma.cc/EY64-UNE3>].

135. *Id.*

136. *Id.*

137. Ryan Hughes, *More Than 100 People Arrested in Hillsborough County Human Trafficking Sting*, WFLA (Nov. 19, 2019), <https://www.wfla.com/news/hillsborough-county/over-100-people-arrested-in-hillsborough-county-human-trafficking-sting/> [<https://perma.cc/PCM8-TCGF>].

138. *Id.*

139. *Id.*

140. *Id.*

old female.¹⁴¹ The men began negotiating a price for sex with the minor.¹⁴² They were given their pick of having sex with either a fourteen-year-old girl or a thirteen-year-old girl.¹⁴³ Both men “were arrested and charged with human trafficking for commercial sexual activity, traveling to meet a minor to solicit certain illegal acts[,] and unlawful use of a two-way communications device.”¹⁴⁴ In the other case, authorities arrested a twenty-nine-year-old male at a hotel when he tried to arrange a sex act with two women and an undercover detective.¹⁴⁵ One of the women claimed the male forced her to have sex with men.¹⁴⁶ The male, a Latin King gang member, was charged with human trafficking and deriving proceeds of prostitution.¹⁴⁷

2. Legislative Efforts in Florida

To address the flood of human trafficking activity within Florida, the Florida legislature passed its first human trafficking statute in 2004, becoming one of the first states to do so.¹⁴⁸ Though an important first step, the statute was rather limited in its text. Human trafficking was defined as “transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.”¹⁴⁹ Forced labor or services included those services obtained via threats, physical force, or restraint of the person.¹⁵⁰ The statute did not follow the example set by the United Nations or Congress in that the term *coercion* was not included, and there was no mention of slavery.¹⁵¹

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.*

148. S.B. 1962, 36th Sess., Reg. Sess. (Fla. 2004); see Stephanie Richard, *State Legislation and Human Trafficking: Harmful or Helpful?*, 38 U. MICH. J.L. REFORM 447, 456 (2005).

149. Fla. S.B. 1962, at § 2.

150. *Id.*

151. G.A. Res. 55/25, *supra* note 10, (“‘Trafficking in Persons’ shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”); 22 U.S.C. § 7101(b)(6) (2018) (“Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse”)

The statute was amended in October of 2006.¹⁵² This amendment included much more inclusive language of trafficking; however, the definition of human trafficking was not amended.¹⁵³ The statute expanded the forced labor or services definition beyond threats, physical force, or restraint to include debt bondage, causing or threatening financial harm to another, destroying or concealing passports, visas, immigration documents, or other government papers, and fraud or coercion.¹⁵⁴ The legislature found that trafficking is modern-day slavery and victims of trafficking are “subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.”¹⁵⁵ It was further found that victims work not only in prostitution and the adult entertainment industry but also in “domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.”¹⁵⁶ The statute’s amendment included identified tactics that traffickers use to enslave victims, stating that the most frequently used practices are isolating victims, confiscating documents that identify the victim (e.g., passports or visas), the use or threat of violence, the threat of deportation should the victim contact authorities, and the control of the victim’s finances.¹⁵⁷ The legislature went on to direct the Florida Supreme Court, Florida Bar, and relevant state agencies to implement training programs so that judges, attorneys, law enforcement officials, investigators, and others are trained in ways of identifying traffickers and victims.¹⁵⁸

Florida further amended the statute in 2012, 2014, 2015, and 2016.¹⁵⁹ The statute replaced forced labor or services with coercion, which is more in line with the TVPA and United Nations definitions.¹⁶⁰ Now, coercion means the use or threat of physical force against a person; restraining, isolating, or confining a person (or threat of doing so); destroying or withholding passports, visas, immigration documents, or other government identification

152. S.B. 250, 38th Sess., Reg. Sess. (Fla. 2006).

153. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(2)(c) (2006) (current version FLA. STAT. ANN. § 787.06(2)(c) (West 2018)).

154. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(2)(b) (2006) (current version FLA. STAT. ANN. § 787.06(2)(b) (West 2018)).

155. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(1)(a) (2006) (current version FLA. STAT. ANN. § 787.06(1)(a) (West 2018)).

156. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(1)(b) (2006) (current version FLA. STAT. ANN. § 787.06(1)(b) (West 2018)).

157. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(1)(c) (2006) (current version FLA. STAT. ANN. § 787.06(1)(c) (West 2018)).

158. Fla. S.B. 250, at § 1; FLA. STAT. § 787.06(1)(d) (2006) (current version FLA. STAT. ANN. § 787.06(1)(d) (West 2018)).

159. H.B. 7049, 44th Sess., Reg. Sess. (Fla. 2012); H.B. 989, 46th Sess., Reg. Sess. (Fla. 2014); H.B. 469, 47th Sess., Reg. Sess. (Fla. 2015); H.B. 545, 48th Sess., Reg. Sess. (Fla. 2016).

160. Fla. H.B. 7049; G.A. Res. 55/25, *supra* note 10, at annex II; 22 U.S.C. § 7101(b)(6) (2018).

documents; causing or threatening financial harm to a person; enticing or luring any person by fraud or deceit; providing a controlled substance to a person for the purpose of exploitation of that person; or establishing debt bondage.¹⁶¹ The definition of human trafficking is now the “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.”¹⁶² The statute, as currently amended, specifically states the “victim’s lack of chastity or the willingness or consent of a victim is not a defense to prosecution” if the victim was under the age of eighteen at the time of the offense.¹⁶³ If the victim is under the age of eighteen, the prosecution does not have to prove coercion.

The Florida Safe Harbor Act was enacted in 2012.¹⁶⁴ This legislation focuses on minors trafficked for the purpose of commercial sex exploitation.¹⁶⁵ Law enforcement can deliver the minor to a safe house where the minor will receive services.¹⁶⁶ The DCF will also address the needs of sexually exploited children and provide requirements for safe houses.¹⁶⁷ In that same year, House Bill 7049 was enacted.¹⁶⁸ The legislation combined statutes on involuntary servitude, human trafficking, and sex trafficking into a single statute, giving prosecutorial authority to the Florida Attorney General’s Office of Statewide Prosecution.¹⁶⁹ Pursuant to the legislation, offenders must register as sex offenders or sexual predators upon a conviction of trafficking.¹⁷⁰

Legislation continued to pass through the Florida legislature through the years.¹⁷¹ In 2016, the legislature passed House Bill 545, which made human

161. FLA. STAT. ANN. § 787.06(2)(a)(1)–(7) (West 2018).

162. *Id.* § 787.06(2)(d).

163. *Id.* § 787.06(11) (2018).

164. H.B. 99, 44th Sess., Reg. Sess. (Fla. 2012).

165. *Id.*

166. *Id.*

167. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 9.

168. H.B. 7049, 44th Sess., Reg. Sess. (Fla. 2012).

169. *See id.*

170. *Id.*

171. House Bill 989 was passed to increase protections to victims of human trafficking. *See* H.B. 989, 46th Sess., Reg. Sess. (Fla. 2014). It also created and increased criminal penalties relating to human trafficking. *See id.* The bill provides protections for disclosure of court records, including the use of a pseudonym for victims. *Id.* In 2015, three bills were enacted addressing human trafficking. House Bill 369 required various government agencies to display human trafficking public awareness signs at specified locations. H.B. 369, 47th Sess., Reg. Sess. (Fla. 2015). House Bill 465 enhanced criminal penalties for soliciting another to commit prostitution and allowed a representative from the state attorney’s office, law enforcement agency, safe house, or safe foster home, or residential facility to be present with the victim during the expungement court proceeding. H.B. 465, 47th Sess., Reg. Sess. (Fla. 2015). House Bill 469 exempted from public records the location of safe houses, safe foster homes, and other residential facilities providing services to victims. H.B. 469, 47th Sess., Reg. Sess. (Fla. 2015).

trafficking a predicate offense for felony murder.¹⁷² Legislators added human trafficking as a qualifying offense for first-degree murder, and the law also prohibits the branding of a victim for the purposes of human trafficking.¹⁷³ The legislation removed minors from being prosecuted for specified prostitution offenses.¹⁷⁴ Senate Bill 852 was enacted in 2017, requiring the DCF or a sheriff's office to conduct multidisciplinary staffing on child victims of commercial sexual exploitation to adequately determine the appropriate services and placement needs of the child.¹⁷⁵ The bill defines commercial sexual exploitation as "the use of any person under the age of 18 for sexual purposes in exchange for, or the promise for, or the promise of, money, goods or services."¹⁷⁶ It also added human trafficking to the list of crimes considered dangerous, which allows the court to deny nonmonetary pretrial release at first appearance.¹⁷⁷

The Florida legislature was active in 2019 as well in producing legislation regarding human trafficking.¹⁷⁸ Within the last year, the legislature revisited § 772.102 of the Florida Statutes, which includes human trafficking as a type of criminal activity that allows a victim a civil remedy.¹⁷⁹ Florida does offer relocation assistance to survivors of trafficking.¹⁸⁰ Originally enacted in 2015, but amended in 2019, § 960.196 of the Florida Statutes provides a one-time payment of \$1,500 to victims, with a lifetime maximum of \$3,000, to escape from an unsafe environment.¹⁸¹ The Florida legislature has also recognized survivors experience obstacles to societal reentry through the Internet.¹⁸² There are third-party websites that mine law enforcement databases for mugshots taken at the time of arrest.¹⁸³ In order to remove the photos originally taken from public record sources, the websites require a fee from

172. H.B. 545, 48th Sess., Reg. Sess. (Fla. 2016).

173. *Id.*

174. *Id.*

175. *See* S.B. 852, 49th Sess., Reg. Sess. (Fla. 2017).

176. *Id.*

177. *Id.*

178. *See, e.g.*, S.B. 540, 51st Sess., Reg. Sess. (Fla. 2019).

179. FLA. STAT. ANN. § 772.102(1)(a)(15) (West, Westlaw current through the 2019 First Reg. Sess. 26th Legis.).

180. FLA. STAT. ANN. § 960.196 (West, Westlaw current through the 2019 First Reg. Sess. 26th Legis.).

181. *Id.* § 960.196(1).

182. STAFF OF FLA. S. COMM. ON CRIMINAL JUSTICE, BILL ANALYSIS AND FISCAL IMPACT STATEMENT, S. 2017-118, Reg. Sess., at 2 (2017), <http://www.flsenate.gov/Session/Bill/2017/118/Analyses/2017s00118.cj.PDF> [<https://perma.cc/ULW5-NPZE>].

183. *See* ERIN MARSH ET AL., STATE REPORT CARDS: GRADING CRIMINAL RECORD RELIEF LAWS FOR SURVIVORS OF HUMAN TRAFFICKING 24 (2009), <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf> [<https://perma.cc/WS8B-JUSE>].

the requesting individual.¹⁸⁴ These fees can often be exorbitant for survivors. Though many of the website companies are hosted overseas making enforcement difficult, Florida enacted legislation to ban websites from demanding fees to obtain removal of the photos from the website.¹⁸⁵ This type of legislation will help remove barriers survivors face in removing the stigma of past criminal offenses.

In June 2019, Governor Ron DeSantis signed House Bill 851 to be effective July 1, 2019.¹⁸⁶ This legislation came months after the “Operation Trade Secrets” sting in the Tampa area which resulted in eighty-five arrests, including the arrest of New England Patriots owner, Robert Kraft, on charges of soliciting sex at a spa.¹⁸⁷ The sting focused on hotels, motels, spa and massage establishments, strip clubs, adult bookstores, and Internet traffic.¹⁸⁸ However, the raids did not result in any human trafficking charges.¹⁸⁹ The new law requires licensees of various healthcare establishments to complete one-hour trainings on human trafficking and to post at the workplace a sign instructing individuals to call the National Human Trafficking Resource Center should they suspect prostitution or human trafficking activity.¹⁹⁰ A massage establishment must identify a designated establishment manager to the state by January 1, 2020, or face suspension.¹⁹¹ This requirement makes it more difficult for a massage business to be reopened and licensed following a prostitution raid.¹⁹² The law also creates a public registry of men and women convicted of soliciting a prostitute.¹⁹³ The names and pictures of those convicted will remain on the list for five years.¹⁹⁴ The state also allocated \$250,000 in funding to establish a nonprofit to help agencies track traffickers and care for victims.¹⁹⁵

184. *See id.*

185. *See* David Harris, *Florida's New Law Targeting Mug Shot Websites Takes Effect Soon, but May Be Hard to Enforce*, ORLANDO SENTINEL (June 21, 2018), <https://www.orlandosentinel.com/news/breaking-news/os-mugshot-law-florida-20180618-story.html> [<https://perma.cc/76G3-AXMJ>].

186. *See* H.B. 1325, 2013 Leg., Reg. Sess. (Fla. 2013).

187. Dave Dunwoody, *New Law Seeks to Curb Human Trafficking*, WUWF (June 30, 2019) <https://www.wuwf.org/post/new-law-seeks-curb-human-trafficking> [<https://perma.cc/ZBN8-JDAF>]; Lulu Ramadan, *New Florida Law Targets Sex Trade and Trafficking at Spas and Hotels*, PALM BEACH POST (July 9, 2019), <https://www.palmbeachpost.com/news/20190709/new-florida-law-targets-sex-trade-and-trafficking-at-spas-and-hotels> [<https://perma.cc/9PZV-6L76>].

188. Dunwoody, *supra* note 187.

189. Ramadan, *supra* note 187.

190. H.B. 851, 2019 Leg., Reg. Sess. (Fla. 2019).

191. *Id.* at 20–21.

192. Ramadan, *supra* note 187.

193. Fla. H.B. 851.

194. *Id.* at 30.

195. *See id.* at 34.

E. Identifying Individuals as Victims

In 2010, the American Bar Association made a proposal to the Uniform Law Commission to work on drafting a uniform state law addressing human trafficking.¹⁹⁶ The Uniform Law Commission's Uniform Act on the Prevention of and Remedies for Human Trafficking (UAPRHT) provides model language for states to adopt in an effort to assist survivors.

The UAPRHT enables states to update and strengthen their existing state laws with state-of-the-art provisions that reflect emerging best practices. Some states have comprehensive criminal laws on most facets of human trafficking. Others have only minimal criminal provisions. Some states cover all forms of labor and sex trafficking and protect all children under eighteen. Others may cover only sex trafficking or fail to protect all children under eighteen. Some states cover all methods that traffickers use to keep their workers as virtual slaves. Others do not cover some methods that traffickers use to ensure their workers remain under their control and unable to escape, such as threatening to hurt or kill the workers' loved ones, confiscating the workers' immigration papers, or "debt bondage" (ensnaring victims in ever-rising and often-fictitious debt to be repaid through physical labor that can never satisfy the debt).¹⁹⁷

The UAPRHT recommends a three-pronged approach for state legislative bodies to adopt.¹⁹⁸ First, the act seeks to define the criminalized conduct of trafficking, forced labor, and sexual servitude and recognize the types of coercion used by traffickers.¹⁹⁹ The second prong strives to provide protections for survivors with respect to confidentiality for the victim and victim's family and to prohibit the introduction of evidence of the victim's past sexual acts, similar to rape shield laws.²⁰⁰ Immunity is also provided to minors who are survivors of human trafficking and who commit nonviolent offenses resulting from their being a victim.²⁰¹ Additionally, the act creates an affirmative defense to prostitution charges or other nonviolent offenses, and victims may seek criminal record relief of convictions for these charges directly related to being a victim.²⁰² Survivors may also bring civil causes of

196. UNIF. LAW COMM'N, *supra* note 102.

197. *Id.*

198. *Id.*

199. *See id.* at 1–2.

200. *Id.* at 2.

201. *Id.*

202. *Id.* at 3.

actions against the traffickers in state courts.²⁰³ The third prong seeks to form collaborative partnerships among agencies, encourages public awareness campaigns, and provides resources for training, data collection, access for survivors to state victims' compensation boards, and funding for survivor services.²⁰⁴ As of 2013, nine states and the U.S. Virgin Islands had enacted the act.²⁰⁵ The American Bar Association endorsed the Uniform Act after its adoption in 2013 as a "critical step forward in providing states with the comprehensive road map necessary to establish effective criminal penalties and victim protections."²⁰⁶

Because human trafficking is often viewed through the lens of criminal behavior, many countries, including the United States, focus legislation and resources on the prosecution of traffickers. This approach often sweeps up the victims of trafficking within the prosecution model as they are not viewed as crime victims in the traditional sense. According to the Polaris state report cards, "[t]he first time trafficking survivors come into contact with law enforcement officers is often as an offender, and not as a victim."²⁰⁷ Sex trafficking survivors are often arrested for offenses including prostitution, drug possession, or identity theft.²⁰⁸ Typically, the former victims committed these offenses only because their traffickers coerced them to do so.²⁰⁹ Minors who are trafficked for sex or labor are often charged with juvenile status offenses including truancy and running away.²¹⁰ Trafficking victims can be fearful of law enforcement or governmental agencies due to potential arrests or deportations. When victims with prior arrests have contact with law enforcement, they can suffer trauma during these interactions, which reinforces the fears the victims' traffickers instilled in them. The criminal justice system tends to prioritize prosecution over victims' rights and can further fracture the relationship between the survivor and law enforcement.²¹¹

In 2016, the National Survivor Network conducted a survey on the long-term impact of criminal arrests and convictions on survivors of human

203. *Id.*

204. *Id.*

205. See *A Few Facts About the Uniform Act on the Prevention of and Remedies for Human Trafficking (2013)* UNIFORM L. COMMISSION (Sept. 25, 2019), <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=c0ba9993-28e6-a508-0209-c6cc3babe6ca&forceDialog=0> [<https://perma.cc/FLU3-2YZR>].

206. *A Look Back: Building a Human Trafficking Legal Framework*, POLARIS (Sept. 1, 2014), <https://polarisproject.org/wp-content/uploads/2019/09/2014-Look-Back.pdf> [<https://perma.cc/G67W-BDPX>].

207. MARSH ET AL., *supra* note 183, at 5.

208. *Id.*

209. *Id.*

210. *Id.*

211. PHILLIPS ET AL., *supra* note 28, at 16.

trafficking.²¹² The survey found 90.8% of 130 trafficking survivor respondents reported having been arrested—over 40% reporting being arrested nine times or more.²¹³ Over one-half of the respondents (50.6%) reported that the cause of their arrests was trafficking.²¹⁴ Respondents reported feeling pressure from law enforcement to testify against their trafficker (30.5%).²¹⁵ Some of their comments about this feeling of pressure to testify in order to obtain services include the following:

- “In order to get victim witness assistance[,] I had to sign papers saying I would testify against my trafficker in court. If I accepted financial assistance and then refused to testify the program could then sue me for the assistance money.”²¹⁶
- “I was scared they told me if I didn't tell they would keep arresting me [and] keep me in jail for a very long time.”²¹⁷
- “I was told they would go after me for tax evasion and I would get 20 [or more] years and take my daughter, whom I would never see again. They also told me my mom would go to prison for living off the proceeds of a prostitute and she would die in prison.”²¹⁸
- “Nobody was concerned about [me], my needs or [my] concerns. They only cared about my cooperation.”²¹⁹

Respondents also reported negative impacts from having a criminal record, including inability to obtain housing, employment, educational opportunities, benefits, and loans.²²⁰ Over 75% of respondents reported not being able to vacate their criminal convictions.²²¹ The respondents had several pieces of advice for law enforcement:

212. *National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking*, NAT'L SURVIVOR NETWORK (Aug. 2016) <https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf> [<https://perma.cc/QA55-RCCN>].

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.*

220. *Id.*

221. *Id.*

- “I would suggest that all non-violent crimes be automatically expunged after five years if no other convictions of any kind.”²²²
- “Please don’t arrest victims.”²²³
- “Help me charge my trafficker.”²²⁴
- “I would ask them to look at all the progress a survivor has made and see that we are not criminals.”²²⁵
- “Our criminal history should be wiped clean as we deserve a fresh start. We may not only have prostitution charges as we are also used to facilitate drug trafficking and that leads to various other charges all related. My theft charges were for food or clothing during times I ran from pimp in order to survive but went to jail.”²²⁶
- “Expunge for free. Offer services to stop the cycle.”²²⁷
- “I was a victim NOT a criminal. The imprisonment from the system only made it easier for ‘the life’ to keep me enslaved because 1) I couldn’t trust law enforcement to help 2) being arrested made me feel helpless/hopeless 3) criminal record didn’t give me any other options other than ‘the life.’”²²⁸

It is important for agency officials working with trafficking victims to understand the difficulty in identifying individuals as victims. Because victims have typically undergone coercion, as well as chronic trauma, they often do not identify themselves as victims.²²⁹ Additionally, their traffickers have made them fearful of authority figures, often threatening them with deportation or criminal arrest. It is important for those who are suspected trafficking victims to be removed from the site of exploitation and taken to an

222. *Id.*

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.*

227. *Id.*

228. *Id.*

229. OFF. TO MONITOR & COMBAT TRAFFICKING IN PERSONS, U.S. DEP’T OF STATE, THE BENEFITS OF SMART RAIDS V. BLIND SWEEPS 1 (2012), <https://2009-2017.state.gov/documents/organization/194935.pdf> [<https://perma.cc/R8G-7H8V>].

environment where they perceive safety.²³⁰ When authorities separate traffickers from victims and victims are interviewed in a trauma-informed way, they might be more willing to cooperate with authorities. When it comes to minor trafficking victims—those under the age of eighteen—the law is clear that they are unable to consent, and there can be no rationalization to prevent removal of the minors from the trafficking situation.²³¹ A challenge for law enforcement in identifying victims, other than the lack of cooperation on the part of victims, can be cultural. Many victims have been transported between cities, states, and countries. Finding a translator to communicate with a suspected victim can pose a challenge.²³² Some victims may have been raised in human trafficking rings and know no other type of lifestyle. Former FBI agent Eileen Jacob of the Jacksonville Sheriff’s office said that asking victims why they became involved in trafficking is the wrong question: “These girls have no choice. Even when they think they have a choice, they really don’t.”²³³

There are various avenues of assistance available when identified victims of trafficking have immigration needs. The HHS enables trafficking victims who are non-U.S. citizens to obtain benefits and services to the same extent as a refugee.²³⁴ Victims can receive food, housing aid, health care, language instruction, and employment assistance.²³⁵ HHS recognizes the reluctance of victims to approach law enforcement, and thus, it works to connect victims to other organizations that are capable of providing services like counseling, case management, and benefit coordination.²³⁶ Congress created the T visa in 2000 through the Victims of Trafficking and Violence Prevention Act (VTVPA).²³⁷ This is a process for immigrants who are severe human trafficking victims to remain in the United States for four years.²³⁸ To qualify, the person must have been a victim of severe forms of trafficking, must be physically present in the United States or port of entry, cooperate with law enforcement (unless the

230. *Id.*

231. *See id.*

232. Adam Butkus, *Ending Modern-Day Slavery in Florida: Strengthening Florida’s Legislation in Combating Human Trafficking*, 37 STETSON L. REV. 297, 314 (2007).

233. Larry Hannan, *Just 21, Human-trafficking Survivor Alyssa Beck has Lived a Life Most Cannot Imagine*, FLA. TIMES-UNION (July 30, 2016, 10:24 PM), <https://www.jacksonville.com/news/crime/2016-07-30/story/just-21-human-trafficking-survivor-alyssa-beck-has-lived-life-most> [<https://perma.cc/2MTY-EWBH>].

234. ADMIN. FOR CHILDREN & FAMILIES, *supra* note 57.

235. *Id.*

236. *Id.*

237. *Victims of Human Trafficking: T Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SEVRS., <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status/victims-human-trafficking-t-nonimmigrant-status> [<https://perma.cc/C3E5-6GNW>].

238. *Id.*

person is a minor or is unable to do so because of physical or psychological trauma), and would suffer extreme hardship upon removal from the United States.²³⁹

1. *Criminal Record Relief*

The TVPA cautioned prosecutors and law enforcement about the need to treat victims of human trafficking differently from other victims of crime:

Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.²⁴⁰

Traffickers use force, fraud, or coercion to compel labor or sex trafficking from victims.²⁴¹ Victims, while being exploited, often are forced to commit criminal offenses at the hands of their traffickers, resulting in criminal convictions.²⁴² Common policing strategies in the United States include criminalization of lower-level crimes that, pursuant to a “broken windows” strategy of crime theory and causes, can lead to a higher volume of criminal activity within a community.²⁴³ In an effort to prevent sex trafficking, law enforcement often arrests trafficking victims through raids.²⁴⁴ The ultimate result ends up being the trafficked victim is arrested and put through the criminal justice system, typically leading to a conviction with no prosecution of the trafficker.²⁴⁵

In 2012, New York arrested 2,962 individuals for prostitution or loitering for prostitution, but only thirty-four individuals were prosecuted statewide for human trafficking offenses.²⁴⁶ Law enforcement should operate raids and stings based on good intelligence and planning.²⁴⁷ “Smart” raids are those

239. Victims of Trafficking and Violence Prevention Act of 2000, Pub. L. No. 106-386, § 107(e)(1)(C), 114 Stat. 1464, 1477–78, <https://www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf> [<https://perma.cc/B8XN-8H3C>].

240. Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101(b)(19) (2015).

241. See POLARIS PROJECT, *supra* note 62.

242. See *id.*

243. INT’L WOMAN’S HUMAN RIGHTS CLINIC & TRAFFICKING VICTIMS ADVOCACY PROJECT, CRIMINALIZATION OF TRAFFICKING VICTIMS 3 (2015), <https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/hrjg/publications/Criminalization-of-Trafficking-Victims.pdf> [<https://perma.cc/8T4G-2X2R>].

244. *Id.*

245. *Id.*

246. PHILLIPS ET AL., *supra* note 28, at 14.

247. OFF. TO MONITOR & COMBAT TRAFFICKING IN PERSONS, *supra* note 229.

which free trafficking victims with the minimization of harm to others, whereas “blind” raids are executed without the knowledge of whether there are trafficking victims at the location.²⁴⁸ Smart raids focus on the use of evidence-based knowledge, with officials trained in dealing with trafficking victims, and the use of support services for victim aftercare.²⁴⁹ Blind raids can lead to mistrust between trafficking victims and law enforcement officials, negatively impacting the collection of evidence needed for successful prosecution.

Though the TVPA was enacted in 2000, it took ten years for a state to provide criminal record relief for trafficking survivors.²⁵⁰ New York was the first state to enact a vacating convictions statute, allowing the conviction to be vacated upon a showing by the applicant that the individual is a survivor of sex trafficking, labor trafficking, or compelling prostitution.²⁵¹ The Exploitation Intervention Project at the Legal Aid Society of New York, Brooklyn Law School’s Criminal Defense and Advocacy Clinic, and pro bono partners have helped vacate over 1,800 convictions for 109 individual trafficking survivors in New York.²⁵²

Since New York enacted this initial statute, forty-two states, plus the District of Columbia, have adopted legislation to allow a process for human trafficking survivors to vacate their criminal convictions.²⁵³ These statutes open pathways for victims to seek additional educational, housing, and employment opportunities, allowing them to move on from the past exploitation. This remedy also recognizes the deep injustice of forcing trafficking survivors to bear the burden of a criminal record of crimes they were coerced to commit.²⁵⁴ While this effort is a good start, these state statutes vary widely in the type of relief offered to survivors. Survivors can file a motion with a criminal court to have their conviction vacated. When the court grants the motion to vacate, the conviction will no longer show on the record of the victim. In order to persuade the court, the individual must present evidence to the court that had the victim not been a human trafficking victim, the conviction would not have occurred.²⁵⁵ The process will vary from state to state, as well as the impact of vacated convictions.

248. *Id.*

249. *Id.*

250. See Legal Exec. Inst., *Relief Not Arrests: Strengthening Laws for Survivors of Human Trafficking*, THOMSON REUTERS (Apr. 3, 2019), <http://www.legalexecutiveinstitute.com/polaris-arrests-human-trafficking/> [https://perma.cc/9P37-LVZE].

251. N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2019).

252. MARSH ET AL., *supra* note 183, at 10.

253. Crime & Justice News, *States Allow Sex-Trafficking Victims to Erase Records*, THE CRIME REPORT (Jan. 9, 2019), <https://thecrimereport.org/2019/01/09/states-allow-sex-trafficking-victims-to-erase-records/> [https://perma.cc/BJ8P-RVMJ].

254. See PHILLIPS ET AL., *supra* note 28, at 25.

255. See N.Y. CRIM. PROC. LAW § 440.10(1)(i)(ii).

Human trafficking survivors may have the need to clear several types of criminal offenses from their criminal records. Statutes allowing criminal record relief need to identify this possibility. When prosecutors review applications for relief filed with the court, it would be ideal for trauma-informed prosecutors to be the ones reviewing the motions when determining whether to object or not. A trauma-informed prosecutor is one who has undergone substantial training in the area of chronic trauma and how that impacts an individual's propensity to commit a criminal act. A prosecutor well versed in human trafficking would understand the coercive force placed upon the survivor. The Substance Abuse and Mental Health Services Administration highlights six principles to using a trauma-informed approach with survivors when providing victim services: safety, trustworthiness and transparency, peer support, collaboration and mutuality, empowerment, voice and choice, and cultural, historical, and gender issues.²⁵⁶

As with any type of conviction, there can be real-world impacts resulting from the conviction, including housing, voting, employment, or immigration issues. Legislative bodies can work to create statutes that vacate convictions, seal arrests, or expunge convictions tied specifically to human trafficking survivors. By allowing survivors a path to vacate the conviction, they can improve their abilities to integrate into society without a criminal conviction on their record.

In 2013, the Florida legislature passed House Bill 1325, to be effective January 1, 2014.²⁵⁷ This legislation provides a pathway for victims of human trafficking to obtain post-conviction relief via expungement proceedings.²⁵⁸ Once survivors of human trafficking are no longer victims, they can petition the court for expungement of criminal arrests and convictions from their criminal record relating to acts committed during the trafficking victimization.²⁵⁹ The court shall grant the petition upon a preponderance of the evidence.²⁶⁰ Florida's expungement law for victims does have exceptions to the offenses victims can have expunged.²⁶¹ A conviction expunged for a

256. *Human Trafficking: An Overview of Services and Funding for Survivors*, NAT'L CONF. OF ST. LEGISLATORS (May 31, 2018) [hereinafter *Human Trafficking*], <https://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-an-overview-of-services-and-funding-for-survivors.aspx> [<https://perma.cc/MPW9-JPQF>].

257. H.B. 1325, 2013 Leg., Reg. Sess. (Fla. 2013).

258. Fla. H.B. 1325.

259. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 9.

260. Fla. H.B. 1325.

261. FLA. STAT. ANN. § 943.0583(3) (West 2018). The Polaris Project graded criminal record relief laws in those states allowing such relief. The criteria identified the following in its review: range of relief (including the type of criminal record relief the state has in place); arrests and adjudications relief (whether arrests appear on the individual's record); offenses covered (what types of offenses can qualify for relief); judicial discretion (the ability of the court to grant

victim is deemed vacated due to a substantive defect in the underlying criminal proceedings.²⁶² Should the petition be granted, the person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record is a candidate for employment with a criminal justice agency or is a defendant in a criminal prosecution.²⁶³

III. EVIDENCE-BASED BEST PRACTICES

A consistent approach across states is needed to criminalize trafficking activity appropriately, address the needs of survivors and how they can integrate back into society without carrying with them a stigma, and to end the supply, and demand, side of the trafficking industry. Every state needs a comprehensive public awareness campaign, as trafficking has been reported across the entire United States. This is a criminal enterprise that often occurs in plain sight. Without proper education, members of the public cannot report the criminal activity, law enforcement may not appropriately respond with correct charges when faced with survivors, and prosecutors may not be addressing the true root of the trafficking problem.

Though prosecution is a necessary step in terminating human rights abuses caused by trafficking persons, it alone cannot serve as the solution. Multidisciplinary collaboration is crucial to create proactive and innovative strategies that will assist victims. The American Bar Association launched the Survivor Reentry Project (SRP) in 2016 to provide training and assistance for

relief where it finds the elements of the statute satisfied); nexus to trafficking (how the criminal offense is connected to the trafficking experience); time limitations and wait times (restricting the amount of time a survivor has to apply for the relief); hearing requirement (whether the survivor must appear in person at hearings); burden of proof (what the applicant must prove to obtain relief); official documentation (any certification from an authority that the applicant is a trafficking victim); confidentiality (the statute allows the applicant to file under seal); and additional restrictive conditions on relief (any restrictions to discourage the applicant from seeking relief). *Criminal Relief for Trafficking Survivors Florida*, POLARIS, <https://polarisproject.org/wp-content/uploads/2019/10/2019-CriminalRecordRelief-Florida.pdf> [https://perma.cc/L4WG-J2JJ]. Florida ranks third on the list, after Nebraska and Wyoming, with a total score of 72 and a grade of C. *Id.* The report notes that Florida's law mandates survivors cannot have a motion pending for relief at the same time in another jurisdiction. *Id.* Survivors with multiple convictions across the country, must first resolve those convictions before filing in Florida. *Id.* This can result in a lengthy process for survivors to vacate convictions. *Id.* These include convictions for the following: arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault with a deadly weapon, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, or aggravated stalking. FLA. STAT. ANN. § 775.084 (West 2018).

262. FLA. STAT. ANN. § 943.0583(3) (West 2018).

263. *Id.* § 943.0583(8)(b).

attorneys working with survivors of human trafficking.²⁶⁴ In 2019, the SRP convened a roundtable discussion with state and local prosecutors to develop best practices for prosecutors on vacating convictions and expungement for survivors of human trafficking.²⁶⁵ Regarding criminal record relief, the roundtable affirmed that criminal convictions revictimize survivors by preventing access to basic needs and agreed that providing criminal record relief alleviates future exploitation of the survivor.²⁶⁶ The panel urged multidisciplinary collaboration to occur between prosecutors and other agencies in an effort to make creative strategies about how to use resources adequately to benefit survivors. One participant said that “no single agency or group of people can or should own this” and that criminal record relief should be a partnership among community partners.²⁶⁷

The roundtable identified five common challenges prosecutorial agencies have when attempting to obtain criminal record relief for survivors: lack of awareness of remedies and human trafficking, survivors involved in open cases or investigations, survivors with arrests or open warrants in multiple jurisdictions, level of corroboration required, and survivor cases involving other victims.²⁶⁸ It is clear there is a need for better education of the existing statutes that can benefit human trafficking survivors. Prosecutors, bar associations, law enforcement, and social service agencies should collaborate to better educate survivors, as well as agency workers, about the ability to vacate past convictions.

The SRP identified several strategies for best practices. One includes the need for a larger network of trained stakeholders to help survivors maneuver the criminal justice system, specifically when seeking criminal record relief. These stakeholders include prosecutors, judges, defense attorneys, victim advocates, court staff, and legislators.²⁶⁹ There is a need to provide trainings for these stakeholders in an effort to educate them about the current statutory relief provided to allow expungements or vacating convictions. It would be ideal to have an attorney in both the prosecutor’s office and the public defender’s office in a jurisdiction to be trained on the trauma that survivors of human trafficking suffer and the best approaches to move survivors out of that exploitative situation.

264. JESSICA KITSON & KATE MOGULESCU, COMM’N ON DOMESTIC & SEXUAL VIOLENCE, A.B.A., WORKABLE SOLUTIONS FOR CRIMINAL RECORD RELIEF: RECOMMENDATIONS FOR PROSECUTORS SERVING VICTIMS OF HUMAN TRAFFICKING 1 (2019), https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/SRP/aba-cdsv-workable-solutions.pdf [<https://perma.cc/7QU6-H8B7>].

265. *Id.* at 2.

266. *Id.* at 3–4.

267. *Id.* at 4.

268. *Id.* at 5–7.

269. *Id.* at 10.

Human trafficking poses both a domestic and international threat. To effectively combat the impacts of human trafficking upon victims and society at large, a multidisciplinary approach is needed. In January 2017, Palm Beach County, Florida, started a Human Trafficking Task Force, which has obtained thirty arrests and twelve convictions in state and federal courts since its formation.²⁷⁰ This task force is an example of collaboration between governmental agencies—the Palm Beach County Sheriff’s Office, the Palm Beach County State Attorney’s Office, the Federal Bureau of Investigation, and the U.S. Attorney’s Office.²⁷¹ In the first three quarters of 2018, the Task Force made over thirteen felony arrests (state and federal) and identified or recovered over fifty new human trafficking victims.²⁷² The mission “is to combat human trafficking through a collaborative, victim centered, trauma informed framework by identifying, rescuing, and restoring victims; investigating and prosecuting trafficking crimes; and building awareness about trafficking in and around the community.”²⁷³ The establishment of these task forces nationally would be a useful allocation of resources in identifying victims and training law enforcement personnel for the specific challenges faced in this type of criminal activity.

In 2014, the Florida legislature created the Statewide Council on Human Trafficking in an effort to combat human trafficking.²⁷⁴ The Council is one of the first established in the United States to focus on creating policy addressing human trafficking and is chaired by the Florida Attorney General.²⁷⁵ Each year, the Council must submit an annual report to the legislature detailing how state funding is used to aid victims and curb trafficking offenses. This type of statewide council can be very useful in developing policy recommendations for effective victim services and provide consistent, statewide support that coordinates agency responses to trafficking victims and perpetrators. It would be ideal for each state to create its own council to develop overall policy recommendations. As of April 2018, approximately thirty-seven states had created, through legislation or executive order, a human trafficking council, workgroup, or task force.²⁷⁶ This type of collaborative effort is important in bringing together various agencies to address the specific needs within the state.

270. Julius Whigham, II, *Two Years, 30 Arrests, 12 Convictions: A Task Force’s Track Record*, PALM BEACH POST, <https://www.palmbeachpost.com/news/20190522/two-years-30-arrests-12-convictions-task-forces-track-record> [<https://perma.cc/MFG9-8N4V>].

271. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 27.

272. *Id.* at 28.

273. *Id.*

274. *Id.* at 6.

275. *Id.*

276. *Human Trafficking*, *supra* note 256.

In an attempt to identify victims, the Florida Department of Health (DOH) developed a screening tool to be given to clients.²⁷⁷ Eight county health departments participated in the screening tool piloting program.²⁷⁸ The first priority of the screening tool pilot program was to develop questions to identify potential victims.²⁷⁹ The second priority was to link clients to services. The third priority was to collect data that could be accurately and consistently recorded.²⁸⁰ Florida's DOH first developed the screening tool in the fall of 2014, and the DCF launched it statewide in January 2016.²⁸¹ As of August 1, 2019, a DCF workgroup has administered 16,477 tools to 8,769 youth, of which 7,808 resulted in a call to the Florida Abuse Hotline.²⁸² This type of screening tool should be a national standard for medical facilities, health departments, and social service agencies.

The FSU Center for the Advancement of Human Rights developed a Florida Strategic Plan on Human Trafficking. It identified five goals for the state in moving forward to address human trafficking:

1. To have useful data that reflects and is used to evaluate the prevention of human trafficking, protection and support for victims and success in prosecuting traffickers.
2. To have a resource directory of all service programs that is user-friendly and current.
3. To deploy effective public awareness strategies.
4. To enact effective laws to protect and support victims and punish traffickers.
5. To have strong and effective local and state programs, law enforcement, social services, justice system and other community responses that protect and support victims and punish traffickers, especially among those communities that are disproportionately affected by human trafficking.²⁸³

277. OFF. OF PROGRAM POL'Y ANALYSIS & GOV'T ACCOUNTABILITY, SERVICE MODEL SLOWLY ADAPTING FOR COMMUNITY CSE VICTIMS: LIMITED PROGRESS IN LESS RESTRICTIVE PLACEMENTS FOR DEPENDENT CSE VICTIMS, REP. NO. 18-05, 13-14 (2018), <http://www.opaga.state.fl.us/MonitorDocs/Reports/pdf/1805rpt.pdf> [<https://perma.cc/9X6V-3G4Q>].

278. *Id.*

279. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 18.

280. *Id.*

281. FLA. DEP'T OF CHILDREN & FAMILIES, *supra* note 124, at 9.

282. *Id.* at 9-10.

283. STRATEGIC PLAN, *supra* note 109, at xii.

Florida continues to serve as a national leader for others to emulate in its response to human trafficking. In 2019, *Time* magazine highlighted the DCF regarding its work in the area of commercial sexual exploitation of minors.²⁸⁴ The Florida Department of Juvenile Justice (DJJ) has fully integrated human trafficking training and awareness throughout the DJJ and its partners, and established a statewide network of Human Trafficking Liaisons within the probation branch.²⁸⁵ These liaisons advocate in court on behalf of minor victims of commercial sex exploitation as well as work with the DCF to track potential victims in an effort to make appropriate service recommendations.²⁸⁶ The Office of the Attorney General has partnered with the Florida legislature, as well as the executive branch, to create a zero-tolerance policy for human trafficking in Florida.²⁸⁷ Its initiatives serve as a guide to other states about creating policy to both criminalize the offense and to provide survivor assistance.

IV. CONCLUSION

The development of goals like the ones developed in Florida are an important step for state and federal agencies and legislative bodies in combating human trafficking. As resources are often scarce, it is helpful to identify priorities for funds. Legislative bodies need to determine how much priority will be placed on prosecution and criminalization versus resources for victim support services. Victim-centered laws should be created, and funded, to help survivors integrate into society without stigma.

A consistent methodology for collecting data for minors and adults who have been trafficked is clearly needed at both the state and federal levels. This type of data collection could identify trends in human trafficking, track both offenders and victims, and provide evidence-based practices for those working in victim assistance. A priority should be placed on improving data collection methods relating to human trafficking in an effort to guide policy decisions. Additionally, an avenue to make data public and encourage sharing among various agencies is an important step in data gathering. It is critical to strengthen standardized data collection efforts so to monitor the progress of human trafficking laws.

Though Florida has created a path forward via legislative enactment in the past fifteen years, there are still improvements that can be made. It is still a landscape ripe for trafficking to occur. The focus of prosecution should be

284. FLA. DEP'T OF CHILDREN & FAMILIES, *supra* note 124, at 12.

285. STATEWIDE COUNCIL ON HUMAN TRAFFICKING, *supra* note 121, at 22.

286. *Id.*

287. *Id.* at 11.

made equally on labor and sex trafficking offenses. Additionally, minor victims and adult victims should receive the same allocation for resources for services like victim advocacy and housing. It is by being proactive, rather than reactive, that true change will come to removing Florida from the top three in the United States for human trafficking cases. This means equally addressing the demand for both labor and sex trafficking.