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UNCOVERING THE "HIDDEN CRIME" OF HUMAN TRAFFICKING BY EMPOWERING INDIVIDUALS TO RESPOND

Laura Shoop*

INTRODUCTION

Chantal, as an adult and a U.S. citizen rather than a child or an immigrant, was hardly the stereotypical sex trafficking victim.¹ Even after she was arrested twelve times for prostitution, none of the prosecutors, defense attorneys, judges, service providers, or law enforcement officers who interacted with her thought to probe deeper into her situation—likely assuming that hers was yet another story of “girl gone bad.”² If they had, they would have discovered that she was one of many women whom her former boyfriend was coercing to perform the sexual acts that led to her arrests.³

Compare Chantal’s story with that of Olga, a Ukrainian woman admitted to a psychiatric ward in New York City after attempting suicide.⁴ Thankfully for Olga, a social worker at the psychiatric ward

* J.D. Candidate, 2020, Georgia State University College of Law. I am so grateful to Professor Jonathan Todres for his guidance and hours of constructive feedback throughout this Note-writing process. A huge thank you to my hard-working peers from the *Georgia State University Law Review* for the countless hours you have spent preparing this Note and many others for publication. To my family and friends, especially my parents and sister, words cannot express how thankful I am for your encouragement and support during law school. I could not have done it without you. I would be remiss if I failed to express my gratitude to my employer, Gil Howard, whose encouragement caused me to embark upon this law school journey, and to my Savior, who made it all possible. Last, but not least, to those who are or have been in situations such as those described in this Note: this is for you. You are not forgotten.

1. Dorchen A. Leidholt & Katherine P. Scully, *Defining and Identifying Human Trafficking*, in *LAWYER’S MANUAL ON HUMAN TRAFFICKING: PURSUING JUSTICE FOR VICTIMS* 31 (Jill L. Goodman & Dorchen A. Leidholt eds., 2011), https://www.americanbar.org/content/dam/aba/multimedia/trafficking_task_force/resources/Defining_and_Identifying_Human_Trafficking.authcheckdam.pdf [<https://perma.cc/68TJ-VW4R>]. The executive director of STEPS to End Family Violence shared this story with the authors. *Id.* at 44 n.25. The name of the victim was changed to protect her privacy. *Id.* at 44 n.23.

2. *Id.* at 31.

3. *Id.*

4. *Id.* at 31–32. Lori Cohen, senior staff attorney for the Immigration Intervention Project, Sanctuary for Families Center for Battered Women’s Legal Services and Tatyana Kopit, director of finance for the Sanctuary for Families, provided the authors with this story. Leidholt & Scully, *supra* note 1, at 44 n.26.

thought to probe deeper: Olga’s terror of the “family members” who awaited her release aroused the social worker’s suspicions.⁵ She arranged for a translator to speak with Olga, who was not fluent in English, and subsequently discovered that Olga was a victim of labor trafficking.⁶

Despite the fact that human trafficking is a widespread problem in the United States, many Americans are unaware that it exists in their communities; even those who are—like the law enforcement officers who arrested Chantal—often do not know how to identify victims or respond to a suspected human trafficking case.⁷ Although the 2018 Global Slavery Index gave the United States government the second-highest rating in the world for taking action to respond to human trafficking, “the best laws and policies will be ineffective if those most likely to come in contact with victims do not know how to identify them or are not empowered to assist them.”⁸ Sex and labor

The name of the victim was changed to protect her privacy. *Id.* at 44 n.23.

5. *Id.* at 32.

6. *Id.*

7. COLLEEN OWENS ET AL., URBAN INST. & NE. UNIV., UNDERSTANDING THE ORGANIZATION, OPERATION, AND VICTIMIZATION PROCESS OF LABOR TRAFFICKING IN THE UNITED STATES xviii (2014), <https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF> [<https://perma.cc/V5GY-MTC2>]; *see also* AMY FARRELL ET AL., NE. UNIV. & URBAN INST., IDENTIFYING CHALLENGES TO IMPROVE THE INVESTIGATION AND PROSECUTION OF STATE AND LOCAL HUMAN TRAFFICKING CASES 8 (2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf> [<https://perma.cc/A59W-2UTS>] (noting the “widespread lack of awareness” of the problem of human trafficking).

While the public thinks that human trafficking happens in the U.S., they are less willing to say that it happens in their own community. When asked about how common sex trafficking is, 73% of the public reports that it is widespread or occasional in the U.S.; however, that number drops to 54% when asked about their state, and 20% when asked about their local community[.] Similar patterns appear with labor trafficking, with figures of 69%, 50%, and 20%, respectively.

VANESSA BOUCHE ET AL., IDENTIFYING EFFECTIVE COUNTER-TRAFFICKING PROGRAMS AND PRACTICES IN THE U.S.: LEGISLATIVE, LEGAL, AND PUBLIC OPINION STRATEGIES THAT WORK 31 (2015), <https://www.ncjrs.gov/pdffiles1/nij/grants/249670.pdf> [<https://perma.cc/ZY7X-WBYU>].

8. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 9 (2018); WALK FREE FOUND., THE GLOBAL SLAVERY INDEX 2018, at 41 (2018), <https://www.globalslaveryindex.org/resources/downloads/> [<https://perma.cc/FTG5-GHU3>] (finding that the Netherlands is the government “taking the most action to respond to modern slavery,” followed by the United States and the United Kingdom). One study noted that public engagement on human trafficking is “[p]erhaps the most important and least understood mechanism to combat” it because the public generates the demand for human trafficking and, if aware of the problem and engaged in fighting it, the public could reduce the demand, and “the greater weight that

trafficking survivors often interact with other members of the community in areas including schools, churches, health clinics and hospitals, public transportation, and local businesses.⁹ However, human trafficking is known as the crime “hidden in plain sight” for good reason—many victims do not self-identify, and a casual observer may not recognize that the victim is being trafficked.¹⁰

Although there are notable exceptions, many individuals, including professionals who are more likely to encounter trafficked individuals, such as health care practitioners, law enforcement officers, and child welfare caseworkers, receive little or no training to help them identify human trafficking survivors.¹¹ As Olga’s story demonstrates, professionals and other individuals who recognize the signs of human trafficking sufficiently to identify survivors and report it can make a significant difference in the life of a trafficked individual.¹² State law

the public places on an issue, the more likely that issue is to be prioritized by legislators, law enforcement, and policy stakeholders.” BOUCHE ET AL., *supra* note 7, at 29.

9. U.S. DEP’T OF STATE, *supra* note 8.

10. *Id.* at 9–10. “Traffickers often hide their actions in plain sight by disguising their real purpose under the façade of a legitimate business or aid,” such as “own[ing] a massage parlor and use[ing] victims both for legal purposes (massages) and for the commonly humorized ‘happy endings’ clients may request.” Merideth J. Hogan, *A Review of Human Trafficking*, J. KAN. B. ASS’N, June 2018, at 36, 38. Traffickers will also launder money to “hide their proceeds” while appearing as “a legitimate business venture.” *Id.*

11. FARRELL ET AL., *supra* note 7, at 93; KATE WALKER & FIZA QURAISHI, NAT’L CTR. FOR YOUTH LAW, FROM ABUSED AND NEGLECTED TO ABUSED AND EXPLOITED: THE INTERSECTION OF THE CHILD WELFARE SYSTEM WITH THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN 5 (2014), <https://2715111qnwey246mkc1vzqg0-wpengine.netdna-ssl.com/wp-content/uploads/2015/02/CSEC-Child-Welfare-Report.pdf> [<https://perma.cc/X64H-CR9U>]; *Health Care Professionals Often Don’t Recognize Victims of Human Trafficking; American Journal of Nursing Report Highlights Indicators to Help Identify Victims*, WOLTERS KLUWER, <https://wolterskluwer.com/company/newsroom/news/health/2011/02/health-care-professionals-often-don%E2%80%99t-recognize-victims-of-human-trafficking-american-journal-of-nursing-report-highlights-indicators-to-help-identify-victims.html> [<https://perma.cc/J9CU-E7R7>] (last visited Mar. 26, 2020).

12. See Leidholt & Scully, *supra* note 1, at 32; see also BOUCHE ET AL., *supra* note 7, at 29.

First, it is the public that generates the demand for both commercial sex and certain goods and services that makes trafficking in human beings among the most profitable enterprises in the world. Increased public awareness and engagement could have a large impact on reducing demand and driving traffickers out of business. Second, the public impacts the passage of sound, comprehensive legislation; the greater weight that the public places on an issue, the more likely that issue is to be prioritized by legislators, law enforcement, and policy stakeholders Finally, through interviews with policy stakeholders (legislative sponsors, legislative aides, interest group members, etc.) in six states, two authors of this project have discovered that public opinion oftentimes

is essential to creating an environment where human trafficking is recognized and effectively reported, in part because state law determines training requirements for workers most likely to encounter trafficking survivors, such as local law enforcement.¹³ State law is also instrumental in combatting human trafficking because state and local authorities bear the primary responsibility for handling criminal offenses in the United States, and state legislators have the freedom to try innovative solutions to target unique challenges in confronting trafficking within their respective states.¹⁴

This Note will examine current state law promoting awareness of human trafficking and identification of trafficking survivors in the United States and make recommendations as to what further measures, if any, state legislators should take to increase awareness, identification, and reporting of human trafficking. Part I explains the history and development of human trafficking legislation at the federal and state levels. Part II analyzes the methods that states currently use to promote public awareness and identification. Part III discusses a proposal for amending current state law to better encourage and facilitate awareness of human trafficking and the identification and reporting of trafficking survivors.

I. Background

Federal law defines “severe forms of trafficking in persons” to include 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 [eighteen] years of age”; and labor trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or

drives a policymaker’s human trafficking agenda Since lawmakers are responsive to their constituencies because of re-election concerns, increased public engagement on human trafficking influences whether and how legislators prioritize the issue.”

Id.

13. Jennifer A.L. Sheldon-Sherman, *The Missing “P”: Prosecution, Prevention, Protection, and Partnership in the Trafficking Victims Protection Act*, 117 PENN ST. L. REV. 443, 460 (2012).

14. FARRELL ET AL., *supra* note 7, at 2–3; *see, e.g., infra* note 118 and accompanying text.

coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”¹⁵ Although attempts to quantify the victims abound, “no reliable estimate of the number of trafficking victims in the United States” exists due to the largely hidden nature of the crime.¹⁶ Estimates vary widely: in 2000, Congress estimated that “[a]pproximately 50,000 women and children are trafficked into the United States each year,” a figure that did not include U.S. citizens who were trafficked.¹⁷ The Global Slavery Index estimated the number of victims of human trafficking in the United States in 2018 to be 403,000.¹⁸ In 2017, the National Human Trafficking Hotline and BeFree Textline (National Hotline) received calls or texts identifying 10,615 trafficking survivors—a large number, but far below estimates of the total number of survivors.¹⁹ Contrary to popular stereotypes, U.S. citizens, as well as authorized and unauthorized immigrants, fall victim to traffickers.²⁰

15. Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7102 (2018).

16. U.S. DEP’T OF JUSTICE, NATIONAL STRATEGY TO COMBAT HUMAN TRAFFICKING 2 (2017).

17. Victims of Trafficking and Violence Protection Act § 7102.

18. WALK FREE FOUND., *supra* note 8, at 78.

19. POLARIS, 2017 STATISTICS FROM THE NATIONAL HUMAN TRAFFICKING HOTLINE AND BEFREE TEXTLINE 1 (2017), <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf> [<https://perma.cc/2343-SM26>]; *Mission*, NAT’L HUMAN TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/mission> [<https://perma.cc/7HZ5-7K2A>] (last visited Mar. 26, 2020). The National Hotline was established in December 2007 by Polaris, a nonprofit organization dedicated to combatting human trafficking and funded by the Department of Health and Human Services as well as private donors. *Mission, supra*. The toll-free national hotline operates twenty-four hours a day, seven days a week, in over 200 languages, to provide human trafficking victims with a safe and confidential means of obtaining help and support and to give the public a place to report suspected cases of human trafficking and get information. *Id.*

20. OWENS ET AL., *supra* note 7, at xvi; LAURA SIMICH ET AL., VERA INST. OF JUSTICE, IMPROVING HUMAN TRAFFICKING VICTIM IDENTIFICATION—VALIDATION AND DISSEMINATION OF A SCREENING TOOL 7 (2014), https://storage.googleapis.com/vera-web-assets/downloads/Publications/out-of-the-shadows-identification-of-victims-of-human-trafficking/legacy_downloads/human-trafficking-identification-tool-technical-report.pdf [<https://perma.cc/2TVR-ESSF>]. In fact, one 2012 study found that 81% of the sex trafficking survivors identified in the study were United States citizens. FARRELL ET AL., *supra* note 7, at 56. The report also indicated that the percentage of sex trafficking victims that were U.S. citizens rather than foreigners was consistent with prior research conducted by law enforcement relating to human trafficking. *Id.* By way of a caveat, the authors of the study specified that the study was limited to “patterns of human trafficking investigations and prosecutions in only twelve counties in the U.S.” and was “not intended to be nationally representative.” *Id.* at 66.

A. *Development of Federal Human Trafficking Law—TVPA*

Until Congress passed the Trafficking Victims Protection Act of 2000 (TVPA), laws specifically addressing human trafficking were limited.²¹ Congress developed the TVPA to “combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”²² To accomplish its purpose, the TVPA adopted the “3Ps” approach: prevent human trafficking, protect and assist trafficking victims, and prosecute traffickers.²³ Two key provisions of the original TVPA included restitution for human trafficking victims and the T-visa, available to victims who were trafficked into the country as illegal immigrants.²⁴ The TVPA provided for the U.S. State Department to issue an annual Trafficking in Persons Report that ranks all countries according to a three-tier system depending on the countries’ respective

21. Hogan, *supra* note 10, at 41.

22. Victims of Trafficking and Violence Protection Act § 7102. The TVPA was reauthorized in 2003, 2005, 2008, and 2013, adding new protections with each reauthorization. See FARRELL ET AL., *supra* note 7, at 2; CHERYL TAYLOR PAGE & ROBERT WILLIAM PIATT, JR., HUMAN TRAFFICKING 26–28 (2016). In 2003, the Trafficking Victims Protection Reauthorization Act added a civil remedy to allow trafficking victims to sue their traffickers. PAGE & PIATT, JR., *supra*, at 26. The 2005 reauthorization included, in part, provisions to shelter victims of human trafficking and to reduce the demand for sex tourism. *Id.* The latest reauthorization, which Congress included as part of the Violence Against Women Reauthorization Act of 2013, added provisions to discourage the purchase of goods produced with trafficked labor and to restrict child marriage. *Id.* at 27–28.

23. Marley S. Weiss, *Human Trafficking and Forced Labor: A Primer*, 31 A.B.A. J. LAB. & EMP. L. 1, 29–30 (2015). The TVPA “seeks to *prevent* human trafficking by raising domestic and international public awareness and by monitoring and sanctioning human trafficking through a State Department-led program; to *protect* victims of human trafficking through the T-visa program and other victims’ services; and to *prosecute* traffickers with federal crimes that carry severe penalties.” Laura Pratt, *Hidden in Plain Sight: A General Overview of the Human Trafficking Issue*, 75 TEX. B.J. 762, 763 (2012).

24. PAGE & PIATT, JR., *supra* note 22, at 26. The Victims of Trafficking in Persons (T) nonimmigrant visa permits human trafficking victims who would otherwise be deported as illegal immigrants to remain in the United States if they follow certain conditions, including “cooperat[ing] fully” with law enforcement in investigating and prosecuting their trafficker. *Id.* at 192. Those who are “possible” witnesses may qualify for the “continued presence” visa, which grants applicants work authorization. Shelly George, *The Strong Arm of the Law Is Weak: How the Trafficking Victims Protection Act Fails to Assist Effectively Victims of the Sex Trade*, 45 CREIGHTON L. REV. 563, 572–73 (2012).

progress in the 3Ps.²⁵ Countries in the bottom third tier may lose U.S. foreign aid.²⁶

B. Development of State Human Trafficking Law

States began enacting their own legislation specifically addressing human trafficking shortly after Congress passed the TVPA, with Texas and Washington becoming the first two states to enact human trafficking laws in 2003.²⁷ Recognizing that efforts to address human trafficking would be insufficient without the assistance of state and local criminal justice systems, the federal government encouraged local responses by funding training for law enforcement and multi-agency task forces.²⁸ The Department of Justice, in a further attempt to promote state involvement in prosecuting human trafficking cases, provided the Model State Anti-Trafficking Criminal Statute as a model state law in 2004.²⁹ However, states found the model legislation to be confusing to implement and lacking in victim service provisions, so they instead began enacting provisions of model legislation templates developed by nongovernmental organizations (NGOs) dedicated to combatting human trafficking, including Polaris Project, Freedom Network USA, and Global Rights.³⁰ The Uniform Law Commission developed a Uniform Act on Prevention of and Remedies for Human Trafficking in 2013 (Uniform Act), which the American Bar Association approved and nine states plus the U.S. Virgin Islands enacted.³¹

25. Weiss, *supra* note 23, at 30.

26. *Id.*

27. Joseph A. Colquitt, *Attacking Human Trafficking Through Legislative Change*, 52 WAKE FOREST L. REV. 457, 458 (2017). Even after states began passing laws against human trafficking, it took several years for states to prosecute anyone under human trafficking laws: "Washington was one of the first states to pass legislation in 2003, but state prosecutors did not charge anyone with a human trafficking offense until 2009." BOUCHE ET AL., *supra* note 7, at 2.

28. FARRELL ET AL., *supra* note 7, at 2–3. From 2002–2009, the federal government provided approximately \$73 million to support "state law enforcement's anti-trafficking efforts." *Id.* at 3 n.2.

29. *Id.* at 3.

30. *Id.* at 4.

31. *A Few Facts About the Uniform Act on the Prevention of and Remedies for Human Trafficking (2013)*, UNIFORM L. COMMISSION, <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=c>

Overall, states have made significant legislative efforts to pass laws combatting human trafficking since 2003: all states now have at least some legislation addressing and prohibiting human trafficking.³² By 2014, thirty-nine states had received the highest “Tier One” rating from Polaris Project for enacting at least seven of the ten laws Polaris recommended to curb human trafficking.³³ Just three years prior, in 2011, only eleven states had received the Tier One rating.³⁴ Shared Hope International, an NGO dedicated to fighting sex trafficking, reported a similar improvement in state legislation: in 2011, it gave twenty-six states its lowest “F” rating; no state received an “A.”³⁵ By 2017, however, Shared Hope International gave thirty-four states a rating of “A” or “B.”³⁶

0ba9993-28e6-a508-0209-c6cc3babebea&forceDialog=0 [https://perma.cc/NNJ6-ZE9D] (last visited Mar. 26, 2020). The states that have enacted at least a portion of the Uniform Act are as follows: Delaware, Louisiana, Montana, New Hampshire, North Dakota, Pennsylvania, Rhode Island, South Carolina, and West Virginia as well as the U.S. Virgin Islands. *Id.* The Maine legislature introduced it during the 2017 session but did not enact it. *Id.*; see also Colquitt, *supra* note 27, at 464; Weiss, *supra* note 23, at 42. The Uniform Law Commission is a nonpartisan organization that exists to provide model legislation to “bring[] clarity and stability to critical areas of state statutory law.” *Overview: About Us*, UNIFORM L. COMMISSION, <https://www.uniformlaws.org/aboutulc/overview> [https://perma.cc/NQ55-L4PS] (last visited Mar. 26, 2020).

32. POLARIS, 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS 2–3 (2014), www.polarisproject.org/2014stateratings [https://perma.cc/3JXQ-AQF6] [hereinafter POLARIS 2014]; Weiss, *supra* note 23, at 41. The full list of laws Polaris examined to determine state rankings included statutes criminalizing sex trafficking, criminalizing labor trafficking, allowing for asset forfeiture for human trafficking crimes and providing investigating tools for law enforcement, providing training on human trafficking for law enforcement and creating a human trafficking commission or task force, lowering the burden of proof for minor sex trafficking, posting a human trafficking hotline, enacting a Safe Harbor statute giving sexually exploited minors immunity from prosecution, providing victim assistance, allowing victims access to civil damages from their traffickers, and vacating convictions for sex trafficking victims. POLARIS 2014, *supra*, at 4.

33. POLARIS 2014, *supra* note 32. The ten recommended laws included measures such as criminalizing sex and labor trafficking, creating a human trafficking commission or task force, and vacating convictions for sex trafficking victims. *Id.*

34. POLARIS, A LOOK BACK: BUILDING A HUMAN TRAFFICKING LEGAL NETWORK 3 (2014), <https://polarisproject.org/sites/default/files/2014-Look-Back.pdf> [https://perma.cc/VQ5E-EA5K].

35. SHARED HOPE INT’L, THE PROTECTED INNOCENCE CHALLENGE 12–13 (2011), http://sharedhope.org/wp-content/uploads/2012/10/PIC_ChallengeReport_2011.pdf [https://perma.cc/94GM-MHZD] [hereinafter PROTECTED INNOCENCE].

36. SHARED HOPE INT’L, TOOLKIT 2017, at 2 (2017), https://sharedhope.org/wp-content/uploads/2017/11/2017-PIC-Fact-Sheet_2.pdf [https://perma.cc/79R7-MXDY] [hereinafter TOOLKIT]. Similar to Polaris, its rating system was based upon states enacting measures in six areas of law that address “key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking.” PROTECTED INNOCENCE, *supra* note 35, at 17. These six areas are as

C. Hidden Nature of Human Trafficking and the Need for Training and Public Awareness

Despite many states enacting laws creating stern penalties for human traffickers and protective measures for victims, such laws will have limited effect if human trafficking victims are not identified.³⁷ "Many victims . . . do not self-report" for a variety of reasons.³⁸ Traffickers often use psychological abuse, fear of deportation or prison, and threats against victims' family members to prevent them from seeking help, particularly from law enforcement, even when victims are in positions where they interact frequently with the public.³⁹ Whether engaged in prostitution as a result of sex trafficking or having the status of an undocumented immigrant, as do many labor trafficking victims, "[u]ntil they recognize that they're an actual victim, they just think they're a criminal."⁴⁰ Foreign victims in particular are fearful of deportation, in part because traffickers threaten that police will immediately deport them if they seek help.⁴¹ Although many victims do seek assistance despite the danger, law enforcement often "depend[s] upon investigation and tips from the public to discover trafficking."⁴²

Although most traffickers hide their victims, the public has an opportunity to identify victims when traffickers cannot avoid

follows: criminalization of domestic minor sex trafficking, criminal provisions addressing demand, criminal provisions for traffickers, criminal provisions for facilitators, protective provisions for child victims, and criminal justice tools for investigation and prosecution. *Id.*

37. U.S. DEP'T OF STATE, *supra* note 8.

38. U.S. DEP'T OF JUSTICE, *supra* note 16.

39. OWENS ET AL., *supra* note 7, at xii; *see also* FARRELL ET AL., *supra* note 7, at 76 (describing the efforts of both traffickers and consumers of trafficked humans to prevent detection).

40. FARRELL ET AL., *supra* note 7, at 82 (quoting a detective interviewed for the study). Some victims do not realize that they are being trafficked or that their status as a trafficking victim gives them rights despite their immigration status. OWENS ET AL., *supra* note 7. Sex traffickers in particular often brainwash their victims into believing that their situation is temporary, that the trafficker truly cares for them, or that the victim is the one committing a crime; and victims with a history of trauma or abuse may not recognize that they are being trafficked. FARRELL ET AL., *supra* note 7, at 83.

41. FARRELL ET AL., *supra* note 7, at 85.

42. U.S. DEP'T OF JUSTICE, *supra* note 16; *see also* FARRELL ET AL., *supra* note 7, at 39–40 (finding in its study that "[t]he most common means for a case of human trafficking to come to the attention of law enforcement was through a tip," in part because neither victims nor victims' families were likely to self-report).

community interaction.⁴³ Victims of human trafficking cross multiple industries and interact with a wide variety of people, including “law enforcement officers, health care providers, school administrators and teachers, prosecutors and judges, labor inspectors, [and] transportation providers” when they “come into contact with the criminal justice system, seek medical care, attend school or faith services, work in local businesses, or utilize public transportation.”⁴⁴ Victims work in both legal and illegal industries, including “commercial sex, hospitality, traveling sales crews, agriculture, janitorial services, construction, restaurants, care for persons with disabilities, salon services, massage parlors, fairs and carnivals, peddling and begging, drug smuggling and distribution, and child care and domestic work.”⁴⁵

However, the American public is “largely unaware that crimes resembling slavery take place in America.”⁴⁶ In some situations, even when victims reached out for help, those they asked had trouble identifying and assisting them, leading to further discouragement.⁴⁷ Law enforcement officials are more likely to come into contact with

43. Leidholt & Scully, *supra* note 1, at 32. “Traffickers often hide their actions in plain sight by disguising their real purpose under the façade of a legitimate business or aid . . . [T]o hide their proceeds, traffickers might set up money laundering schemes to give the appearance of a legitimate business venture.” Hogan, *supra* note 10. Recent stories of workers within the transportation industry who successfully identified human trafficking victims and thwarted their traffickers highlight the fact that the public has opportunity to act on behalf of victims if they recognize that the victim is being trafficked. See Caroline A. Ross, *Land of the Free, Home of the Slave: Human Trafficking Legislation in South Carolina*, 68 S.C. L. REV. 1015, 1041 (2017); Brian Latimer, *Uber Driver Saves 16-Year-Old Girl from Sex Trafficking*, NBC NEWS (Dec. 29, 2016, 2:21 PM), <https://www.nbcnews.com/news/latino/uber-driver-saves-16-year-old-girl-sex-trafficking-n701241> [<https://perma.cc/L874-6BGR>] (detailing the story of a California Uber driver who overheard two of his passengers discussing their plans to prostitute the third passenger, a young girl, and called the police; the traffickers were arrested and the girl was rescued). A flight attendant rescued a victim when she spotted a well-dressed man flying with a teenage girl who “looked like she had been through pure hell” and became suspicious. Kalhan Rosenblatt, *Flight Attendants Train to Spot Human Trafficking*, NBC NEWS (Feb. 4, 2017, 6:01 AM), <https://www.nbcnews.com/storyline/airplane-mode/flight-attendants-train-spot-human-trafficking-n716181> [<https://perma.cc/RH8L-HG45>]. After communicating secretly with the girl by leaving a note in a bathroom, she told the pilot, who arranged for the police to be at the terminal when they landed. *Id.* Airline Ambassadors International is a nonprofit that offers training for flight attendants to recognize the warning signs of human trafficking. *Id.*

44. U.S. DEP’T OF STATE, *supra* note 8.

45. *Id.* at 448.

46. OWENS ET AL., *supra* note 7; see also FARRELL ET AL., *supra* note 7 (noting the “widespread lack of awareness” of the problem of human trafficking).

47. OWENS ET AL., *supra* note 7.

trafficked individuals than those in other professions, yet some officials do not believe that human trafficking impacts their local community, negatively impacting their ability to identify trafficked victims.⁴⁸ In addition, before 2015, “50–88% of trafficking victims saw one or more health care provider[s] while trafficked, yet none were identified as victims.”⁴⁹ Likewise, many child human trafficking victims attend public schools, providing an opportunity for school personnel to identify them and report the trafficking.⁵⁰ A number of sex trafficking victims were previously involved in the child welfare system, yet few jurisdictions have training or protocols to educate child welfare workers on identifying children who are being sexually exploited or are at risk for sexual exploitation.⁵¹

48. See U.S. DEP’T OF STATE, *supra* note 8; FARRELL ET AL., *supra* note 7, at 7. Labor trafficking cases in particular are difficult for law enforcement to distinguish from other crimes because law enforcement agencies do not prioritize labor trafficking investigations. OWENS ET AL., *supra* note 7, at viii, xiv; see also FARRELL ET AL., *supra* note 7, at 99.

Even in sites where there were structural mechanisms to support the identification of human trafficking incidents such as state legislation and federally-funded task forces, law enforcement officials indicated that identifying human trafficking cases, particularly labor trafficking cases was not a high priority within their agency or their community more broadly.

FARRELL ET AL., *supra* note 7, at 99. Although the obvious first step for law enforcement to act in a labor trafficking case is to identify the situation as one involving trafficking, “identification can be challenging for law enforcement officials, who are not frequently trained to differentiate between labor exploitation and labor trafficking.” OWENS ET AL., *supra* note 7, at 177. “When victims are afraid to approach law enforcement about their situations and law enforcement is unable to properly identify labor trafficking, a double blindness ensues that acts as a significant barrier to the identification of cases.” *Id.*

49. *Bringing the Full Force of HHS to Prevent and End Human Trafficking*, OFF. ON TRAFFICKING PERSONS (July 30, 2018), <https://www.acf.hhs.gov/otip/resource/fullforce> [<https://perma.cc/C7Q3-VCAW>] [hereinafter *Full Force of HHS*]. Training targeted toward health care providers appeared to have an impact on the number of victims identified: after noting the abysmal rates of health care providers identifying human trafficking victims, the United States Department of Health and Human Services in 2014 launched and later expanded the SOAR to the Health and Wellness training program, which included accredited training for health care providers in human trafficking. *Id.* Between 2014 and 2017, the number of trafficking-related calls to the National Hotline from health care providers increased by 171% while the number of overall trafficking-related calls had only increased by 54%; and “engagement with the health care sector was the third most likely way for victims of trafficking to seek help from the Hotline, after engagement with friends and family and law enforcement.” *Id.*

50. U.S. DEP’T OF EDUC., *HUMAN TRAFFICKING IN AMERICA’S SCHOOLS 1* (2015). Although runaway and homeless children “are at particularly high risk for becoming victims,” some children “continue living at home and attending school” while victims of trafficking. *Id.* at 4. Recruiters often target children who have experienced “sexual abuse, dating violence, low self-esteem, and minimal social support.” *Id.*

51. WALKER & QURAIISHI, *supra* note 11.

Despite the fact that many victims of sex trafficking have previous involvement in the

II. Analysis

As with state human trafficking laws in general, state laws specifically designed to promote public awareness and identification of human trafficking survivors are widely varied.⁵² As detailed below, most states have addressed the issue in some manner, and the number and variety of statutes requiring or encouraging measures to increase awareness have increased exponentially within the past two years, with many going into effect in 2017 or 2018.⁵³ Determining which laws are most effective is problematic due to the dearth of reliable statistics regarding human trafficking and the short length of time many of these provisions have been in place.⁵⁴ A significant number of these statutes lack either a mandate or a penalty for noncompliance, weakening their impact and diminishing their effectiveness.⁵⁵ The following section describes and analyzes several such state laws that encourage public awareness of human trafficking and identification of survivors.

A. National Hotline Posting

Two sections of the Uniform Act, which many states have adopted, contain model language for measures to promote awareness of human trafficking.⁵⁶ One requires establishments where trafficked victims are likely to come, including rest areas, strip clubs, job recruitment centers, and hospitals, to post a public awareness sign containing a

child welfare system, many jurisdictions do not have initiatives or protocols in place to train child welfare workers on commercial sexual exploitation and how to identify children who either have been exploited or are at risk for such exploitation.

Id.

52. *See infra* Part II.

53. *See, e.g.*, CAL. EDUC. CODE § 51950(a)–(b), (f) (West 2018); CAL. EDUC. CODE § 51934(a)(10) (West 2018); KAN. STAT. ANN. § 8-2,157 (2001); MO. REV. STAT. § 595.120 (2018); N.J. ADMIN. CODE § 5:10-29.1(a)–(b) (2018).

54. *See, e.g.*, MO. REV. STAT. § 595.120 (only effective since August 2018 and only required to be enacted since January 2019); U.S. DEP'T OF JUSTICE, *supra* note 16.

55. *See* JOHN VANEK, THE ESSENTIAL ABOLITIONIST: WHAT YOU NEED TO KNOW ABOUT HUMAN TRAFFICKING & MODERN SLAVERY (Daliwal Press, 2015), <https://johnvanek.com/2018/01/25/why-are-human-trafficking-cases-difficult-to-identify-and-prosecute/> [<https://perma.cc/XVY2-A2P5>] (excerpt of book in author's blog).

56. UNIF. ACT ON PREVENTION OF & REMEDIES FOR HUMAN TRAFFICKING §§ 19–20 (UNIF. LAW COMM'N 2013).

local, state, or national hotline for human trafficking victims to call for help.⁵⁷ The model statute specifically references the National Hotline.⁵⁸ For establishments that fail to comply, the Uniform Act recommends a fine of \$300 per violation.⁵⁹

A significant majority of states have adopted the Uniform Act's model legislation, or a similar derivative, requiring certain establishments to display a poster containing the National Hotline—at least thirty-five states and the District of Columbia.⁶⁰ Most states require display of the poster only at businesses where human

57. *Id.* § 20. The model statute for the display of public-awareness signs provides:

(a) The [state transportation department] shall display a public-awareness sign . . . in every transportation station, rest area, and welcome center in the state which is open to the public.

(b) A public awareness sign . . . shall be displayed at the following locations in a place that is clearly conspicuous and visible to employees:

- (1) a strip club and any other sexually-oriented business;
- (2) an entity found to be a nuisance for prostitution . . . ;
- (3) a job recruitment center;
- (4) a hospital; and
- (5) an emergency care provider.

Id.

58. *Id.*; *Mission, supra* note 19. Polaris, a nonprofit organization dedicated to combatting human trafficking that is funded by the Department of Health and Human Services as well as private donors, established the National Hotline in December 2007. *Mission, supra* note 19.

59. UNIF. ACT ON PREVENTION OF & REMEDIES FOR HUMAN TRAFFICKING § 20.

60. ALA. CODE § 13A-6-170 (2016); ARK. CODE ANN. § 12-19-102 (2016); CAL. CIV. CODE § 52.6(a) (West 2007); CONN. GEN. STAT. §§ 54-222(a)–(b), -234a (2019); D.C. CODE § 22-1843 (2012) (passed but not applicable until included in an approved budget); FLA. STAT. § 787.29 (2018); GA. CODE ANN. § 16-5-47 (2019); HAW. REV. STAT. ANN. § 371-20 (LexisNexis 2016); IDAHO CODE § 40-507 (2011); 775 ILL. COMP. STAT. ANN. 50 / 10 (West 2014); KAN. STAT. ANN. § 75-759 (1997); KY. REV. STAT. ANN. § 176.415 (West 1999); LA. STAT. ANN. § 15:541.1 (2012); ME. REV. STAT. ANN. tit. 26, § 879 (2007); MD. CODE ANN., BUS. REG. §§ 15-207, 19-103 (LexisNexis 2015); MD. CODE ANN., TRANSP. § 8-655 (LexisNexis 2012); COMP. LAWS ANN. §§ 752.1033, .1035, .1039 (West 2004); MINN. STAT. § 299A.7957 (2009); MO. REV. STAT. § 595.120 (2018); MONT. CODE ANN. § 44-4-1501 (2017); NEB. REV. STAT. § 81-1430(3)(a)–(b) (2014); N.J. ADMIN. CODE § 5:10-29.1(c) (2018); N.M. STAT. ANN. § 30-52-2.1 (2017); N.C. GEN. STAT. §§ 14-202.13, 19-8.4, 90-632.19, 131E-84.1, 143B-431.3 (2017); N.D. CENT. CODE § 12.1-41-16 (2012); OHIO REV. CODE ANN. § 5502.63(B) (LexisNexis 2016); OR. REV. STAT. § 377.880 (2019); 43 PA. STAT. AND CONS. STAT. ANN. § 1493 (West 2009); 11 R.I. GEN. LAWS § 11-67.1-20 (2002); S.C. CODE ANN. § 16-3-2100 (2015); TENN. CODE ANN. § 39-13-313 (2018); TEX. HEALTH & SAFETY CODE ANN. §§ 241.011, 245.025 (West 2017); TEX. ALCO. BEV. CODE ANN. § 104.07 (West 2007); TEX. BUS. & COM. CODE ANN. § 102.101 (West 2017); TEX. OCC. CODE ANN. § 1602.408 (West 2019); 16 TEX. ADMIN. CODE § 83.71(m) (2018); VT. STAT. ANN. tit. 13, § 2661 (2018); VA. CODE ANN. §§ 40.1-11.3 (2013), 32.1-34.2, 32.1-133.1, 33.2-267.1 (2018); WASH. REV. CODE §§ 43.280.110, 47.38.080 (2019); W. VA. CODE § 15A-2-5 (2019); WIS. STAT. § 165.71 (2016).

trafficking survivors are most likely to come.⁶¹ Some states also require government buildings to display the poster.⁶² Although a few only require posting at rest areas, others have sweeping requirements such as posting at all establishments with public restrooms, by all employers subject to the Minimum Wage Fairness Act, or by all licensed professionals.⁶³ Interestingly, Ohio requires the display of the poster at championship sports games and fairs, and in 2018, Kentucky added a requirement for display in public schools.⁶⁴

Despite its popularity, no study has evaluated the effectiveness of the National Hotline, although one is currently underway and should be completed in 2020.⁶⁵ The number of calls to the National Hotline nearly doubled from 2012 to 2017, which may indicate that requiring its display increases public knowledge of its existence but does not necessarily suggest that people are identifying more survivors.⁶⁶ On the other hand, the number of survivors who call is a fraction of the total estimated number.⁶⁷ Language and cultural barriers, coupled with the fact that most posters give only a cursory description of human trafficking without warning signs that might help survivors recognize

61. *See, e.g.*, MO. REV. STAT. § 595.120. In most states, the state government develops and links the poster to a government website for businesses to download, with businesses responsible for the minimal cost of printing; however, in Oregon, nonprofits may develop the poster and are responsible for the cost. *See, e.g.*, ALA. CODE § 13A-6-170(c); OR. REV. STAT. § 377.880.

62. GA. CODE ANN. § 16-5-47.

63. IDAHO CODE § 40-507(4) (“The department will allow posters and signs to be placed by nonprofit anti-human trafficking organizations in or around safety rest areas.”); N.M. STAT. ANN. § 30-52-2.1(A) (“An employer subject to the Minimum Wage Act, a person licensed . . . a health facility licensed . . . and a state or local government agency that manages a transportation facility, including a highway rest area, shall post a [notice] . . .”); OR. REV. STAT. § 377.880 (allowing nonprofits to post the notice in stalls at rest areas); WASH. REV. CODE § 47.38.080 (voluntary, not mandatory, posting in restrooms for all establishments that maintain public restrooms).

64. KY. REV. STAT. ANN. § 156.095(8)(g) (West 2019); OHIO REV. CODE ANN. § 5502.63(B)(2)(g), (i) (LexisNexis 2019).

65. *Evaluation of the National Human Trafficking Hotline Program Overview*, OFF. PLAN., RES. & EVALUATION (Oct. 24, 2016), <https://www.acf.hhs.gov/opre/resource/coming-soon-evaluation-of-the-national-human-trafficking-hotline-program> [<https://perma.cc/T7FK-JQ77>].

66. *Compare Hotline Statistics 2017*, NAT’L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/states> [<https://perma.cc/KTM9-HYVA>] (last visited Mar. 28, 2020), with *Hotline Statistics 2012*, NAT’L HUM. TRAFFICKING HOTLINE, <https://webarchive.loc.gov/all/20190107115417/https://humantraffickinghotline.org/states> [<https://perma.cc/Z3K8-5PX7>] (last visited Mar. 28, 2020).

67. *Compare* WALK FREE FOUND., *supra* note 8, at 78, with POLARIS, *supra* note 19.

themselves, likely limit the poster's usefulness in helping third parties to identify survivors or survivors themselves to self-identify.⁶⁸ The extent of the National Hotline's effectiveness is thus unclear: a 2015 study found that state laws requiring posting of the National Hotline were the most significant laws in increasing human trafficking *arrests*; however, a posting requirement did not significantly impact the number of human trafficking *prosecutions* within a state, suggesting that this method alone is limited in its impact.⁶⁹ The popularity of National Hotline legislation is thus likely due to its inclusion in the Uniform Act, ease of implementation, and comparatively minuscule cost to the state rather than its effectiveness compared with other measures.

Lack of enforcement is another barrier to effectiveness of laws requiring the display of the National Hotline poster. Nine states merely encouraged but did not require display.⁷⁰ Of those that required

68. See, e.g., S.C. CODE ANN. § 16-3-2100 (2015). Although the actual text of the poster varies slightly from state to state, the key requirements for most states are that the poster contain a brief description of human trafficking and the service that the National Hotline offers and that establishments display it in a prominent place with large font in both English and Spanish. See *id.* The required text of the South Carolina poster, which is a representative example of the language found in other state statutes, reads in part as follows:

If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under federal law and the laws of South Carolina.

Id.

69. BOUCHE ET AL., *supra* note 7, at 17. This finding "suggests that when human trafficking arrests are reactive in nature—based on a tip from the hotline—the arrest does not necessarily produce the requisite evidence that leads to a prosecution." *Id.* at 20. A comprehensive approach to human trafficking law is necessary, including "enhanced investigative tools, such as wiretapping, for law enforcement encourages a more proactive approach to investigating these cases, thereby leading to stronger evidence for prosecution." *Id.*

70. IDAHO CODE § 40-507(4) (2015) (stating "[t]he department will allow posters and signs to be placed by nonprofit anti-human trafficking organizations in or around safety rest areas" but posting is not required); KAN. STAT. ANN. § 75-759(a) (2017) (requiring posting on government websites but only "may" be posted in workplaces); MONT. CODE ANN. § 44-4-1501(2)–(3) (2013) (providing the department of justice "shall request that any person or entity receiving a copy of the poster display the poster in a location that is accessible to employees and members of the public") (emphasis added); NEB. REV. STAT. § 81-1430(3)(b) (2017) (requiring poster display at rest areas and strip clubs but making display voluntary at other establishments); OHIO REV. CODE ANN. § 5502.63(2) (LexisNexis 2019) ("The division [of criminal justice services] shall make the poster available . . . to and encourage its display at [various establishments]."); TENN. CODE ANN. § 39-13-313(c) (2011) ("Any governmental entity or private

display, a large number of states did not create a penalty for noncompliance, rendering the requirement practically voluntary.⁷¹

B. Human Trafficking Council

Another section of the Uniform Act contains model language to improve states' response to human trafficking, including increasing awareness and identification of victims by establishing a human trafficking council to coordinate the efforts of state entities, NGOs, and other organizations or individuals such as survivors, in opposing human trafficking.⁷² The council would meet regularly to, among other things, "promote public awareness about human trafficking, victim remedies and services, and trafficking prevention" and "coordinate training on human trafficking prevention and victim services for state [and local] employees who may have recurring contact with victims or perpetrators."⁷³ At least eighteen states have enacted a form of this model legislation, generally in the form of either a human trafficking council or task force.⁷⁴ In two of those states, the council or task force

business or establishment that provides or offers a place of assembly or entertainment, transportation, lodging, dining, educational, medical or leisure activities or services, or any business or establishment that is licensed by the state or any political subdivision thereof, or that is engaged in commerce in this state is *strongly encouraged* to post a sign.") (emphasis added); VT. STAT. ANN. tit. 13, § 2661(a) (2011) (poster "may be posted" at workplaces); WASH. REV. CODE § 43.280.110(1) (2015) ("Every establishment that maintains restrooms for use by the public *may voluntarily*, upon availability of the model notice as described in subsection (2) of this section, post a notice . . .") (emphasis added); WIS. STAT. § 165.71(2) (2015) (display encouraged but not required).

71. See, e.g., LA. STAT. ANN. § 15:541.1(E) (2019) (civil penalty for noncompliance "may" be assessed); MO. REV. STAT. § 595.120(4) (2018) (after the initial warning for noncompliance, violators "may" be guilty of an infraction for subsequent violations); N.M. STAT. ANN. § 30-52-2.1 (2014) (no fine in statute); N.C. GEN. STAT. §§ 90-632.19, 143B-431.3, 19-8.4, 131E-84.1, 14-202.13 (2017) (no fine in statute); N.D. CENT. CODE § 12.1-41-16 (2015) (no fine in statute); TEX. HEALTH & SAFETY CODE ANN. § 245.025 (West 2017) (no fine in statute).

72. UNIF. ACT ON PREVENTION OF & REMEDIES FOR HUMAN TRAFFICKING § 19–20 (UNIF. LAW COMM'N 2013).

73. *Id.*

74. ARK. CODE ANN. § 12-19-101(d)(8)(B) (2016); COLO. REV. STAT. § 18-3-505 (2018) (repealed 2019); CONN. GEN. STAT. § 46a-170(f)(1)–(2) (2019); FLA. STAT. § 16.617(d) (2018); IOWA CODE § 80.45 (2018); KAN. STAT. ANN. § 75-757 (2017); LA. STAT. ANN. § 46:2165(A)(9)–(10) (2017); MICH. COMP. LAWS § 752.974 (2014); NEB. REV. STAT. § 81-1430(2) (2016); N.J. STAT. ANN. § 52:17B-237(a) (West 2013); N.Y. SOC. SERV. LAW § 483-ee (McKinney 2018); N.D. CENT. CODE § 54-12-33 (2019); 11 R.I. GEN. LAWS § 11-67.1-19(3), -19(5) (2018); TENN. CODE ANN. § 4-3-3001 (2015); TEX. GOV'T CODE ANN. § 402.035 (West 2019); WASH. REV. CODE § 7.68.350 (2015). Kentucky also has a Human

will expire in 2019 if it is not reauthorized.⁷⁵ Virginia previously had a council, but it has already expired.⁷⁶

Human trafficking councils have not been evaluated in formal studies, although a study of one local task force is currently underway.⁷⁷ However, more generalized research indicates that task forces are useful in providing the comprehensive legal structure necessary to effectuate human trafficking litigation: one study found that "more comprehensive laws do increase arrests and prosecutions for human trafficking" because "it is actually the support structure around the criminalization of the act that induces law enforcement action."⁷⁸ The study further indicated that task forces "are the strongest predictors of state prosecution of human trafficking suspects."⁷⁹

C. Professional Licensure and Continuing Education

Many states have recently added training in human trafficking as a component of professional licensure and continuing education; however, their methods vary widely: training in human trafficking is voluntary in some states, mandatory for licensure in others, and mandatory but lacking a penalty for noncompliance in others.⁸⁰ For example, although Ohio stopped short of a mandate, its general assembly *strongly* recommended that licensing boards for professionals who "may encounter human trafficking victims in the

Trafficking Taskforce, and the state's attorney general created a competition in 2018 for high school and college students to create its logo to "raise awareness of human trafficking." *Kentucky Attorney General Launches Initiative to Spread Awareness on Human Trafficking*, ABC 13WBKO (Aug. 20, 2018, 5:34 PM), <https://www.wbko.com/content/news/Kentucky-attorney-general-launches-initiative-to-spread-awareness-on-human-trafficking-491304491.html> [<https://perma.cc/AJ7V-GDBQ>].

75. COLO. REV. STAT. § 18-3-505 (the statute was enacted in 2014 but repealed in 2019); N.Y. SOC. SERV. LAW § 483-ee (McKinney 2018) (one of the earliest task forces on human trafficking, it was enacted in 2007 and expired in 2019).

76. VA. CODE ANN. § 30-288 (Commission on the Prevention of Human Trafficking, expired in 2009).

77. Kelle Barrick, *Evaluation of the San Francisco Mayor's Task Force on Anti-Human Trafficking*, RTI INT'L, <https://www.rti.org/impact/evaluation-san-francisco-mayors-task-force-anti-human-trafficking> [<https://perma.cc/M5WP-KJNS>] (last visited Mar. 28, 2020). The study was commissioned by the National Institute of Justice and started in 2016, with the purpose of evaluating the San Francisco Mayor's Task Force on Anti-Human Trafficking. *Id.*

78. BOUCHE ET AL., *supra* note 7, at 20.

79. *Id.* at 17.

80. *See infra* Section II.C.

normal course of their work” require those professionals to have training in human trafficking as a condition of issuing and renewing licenses.⁸¹ A significant number of licensing boards followed Ohio’s recommendation; however, some boards allowed human trafficking education to be one of several options for continuing education hours rather than mandatory.⁸²

Ohio is not the only state that does not mandate training. Of those that have training laws, many states list it as a mere option for continuing education hours for licensure.⁸³ However, professionals may have little incentive to obtain training absent a mandate.⁸⁴ Even statutes with a mandate often lack a penalty for noncompliance, resulting in diminished compliance.⁸⁵

At least eleven states require that human trafficking be included in law enforcement training.⁸⁶ Three states provide that such training

81. OHIO REV. CODE ANN. § 4743.07 (LexisNexis 2018).

82. OHIO ADMIN. CODE 4501-7-28(J)(10) (2016) (part of the curriculum for commercial motor vehicle training); OHIO REV. CODE ANN. § 4743.07 (human trafficking content part of in-service training for teachers); OHIO ADMIN. CODE 4779-9-01(D) (2015) (orthotists and prosthetists “may” be required to complete at least one hour of continuing education on human trafficking as a condition of license renewal); OHIO ADMIN. CODE 4753-4-01(2)–(3) (2017) (training on human trafficking an option for continuing education hours for pathologists and audiologists); OHIO ADMIN. CODE 4734-7-02(B)(5) (2016) (training on human trafficking an option for continuing education hours for chiropractors); OHIO ADMIN. CODE 4723-14-03(A), (J) (2018) (human trafficking training a continuing education option for nurses); OHIO ADMIN. CODE 5101:2-33-55(F)(4), (G) (2019) (caseworkers for public children services agency must complete an introductory course on human trafficking within two years of the hiring date); OHIO ADMIN. CODE 4713-1-14(A) (2019) (training on human trafficking required either during cosmetology school or as continuing education); OHIO ADMIN. CODE 4713-1-14(C) (2019) (human trafficking education a condition for obtaining a boutique services registration); OHIO ADMIN. CODE 3772-20-03(C), (D)(7) (2017) (training a requirement for casino security department employees); OHIO ADMIN. CODE 1301:8-5-08(B)(1)(e)(viii) (2017) (human trafficking training an option for continuing education for pawnbrokers).

83. See, e.g., ARIZ. ADMIN. CODE § R7-2-619(C) (2018); OHIO ADMIN. CODE 4753-4-01(2).

84. See Clydette Powell et al., *Training US Health Care Professionals on Human Trafficking: Where Do We Go from Here?*, 22 MED. EDUC. ONLINE, no. 1, 2017, at 1, 5, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5328372/pdf/zmeo-22-1267980.pdf> [<https://perma.cc/6G3F-K8AA>].

85. See VANEK, *supra* note 55.

86. ALASKA ADMIN. CODE tit. 13, § 85.050(b)(7)(C) (2019); CAL. PENAL CODE § 13519.14(e) (West 2012); CONN. GEN. STAT. § 17a-106h(a)-(b) (2019); D.C. CODE § 22-1842 (2015); IND. CODE § 5-2-1-9(a)(10) (West 2017); KY. REV. STAT. ANN. § 15.334(1)(e) (West 2018); LA. STAT. ANN. § 40:2405.7(B)(3) (2012) (training “provide[d]” for law enforcement in, among other topics, “[m]ethods used in identifying United States citizens and foreign national victims of human trafficking, including preliminary interview techniques and appropriate questioning methods”; it is unclear whether this training is required); 31 MISS. CODE R. § 97-3-54.8(2) (2014); N.J. STAT. ANN. § 2C:13-12(a) (2015);

“may” be required but do not specifically mandate it.⁸⁷ New York requires the dissemination of educational materials and procedures to all members of the state police force but does not have a training requirement.⁸⁸ A number of states expand training for law enforcement to include the entire criminal justice system.⁸⁹ Two states implemented mandatory training programs for judicial staff.⁹⁰

Where these measures fail to enact a penalty for noncompliance, their usefulness is hampered due to the lack of incentive for law enforcement divisions to comply promptly. Although California in 2012 mandated a minimum two-hour training session on human trafficking for law enforcement, the statute did not assign a penalty for noncompliance.⁹¹ Consequently, a majority of officers had received no such training as of 2015.⁹² However, training for law enforcement is necessary because studies have found it to be “key to increasing the number of human trafficking cases identified by law enforcement.”⁹³ A demonstration project in Utah reported that training for local law enforcement caused participants’ attitudes to shift significantly toward viewing trafficked individuals as victims rather than criminals.⁹⁴

N.M. CODE R. § 10.29.9.8.J(2) (2012); TENN. CODE ANN. § 38-6-114 (2014).

87. ARK. CODE ANN. § 12-18-1202 (2016) (allowing for training of “[t]he Arkansas Juvenile Officers Association, Arkansas Law Enforcement Training Academy, or the Prosecutor Coordinator may provide training to intake officers, law enforcement, prosecutors, and any other appropriate staff” on identifying sexually exploited children); FLA. STAT. § 409.1754(4)(a) (West 2018) (training on sexual exploitation of children may occur if funds are available); OR. REV. STAT. § 181A.480 (2018) (stating the Board on Public Safety Standards and Training “may” require that police officers receive training); WASH. REV. CODE § 43.280.095 (2019) (providing the office of crime victims advocacy will establish a training program for criminal justice personnel).

88. N.Y. EXEC. LAW § 214-d (McKinney 2018).

89. KY. REV. STAT. ANN. § 15.718(1)(b); NEB. REV. STAT. § 81-1431(1)(b) (2014); TEX. GOV’T CODE ANN. § 531.384 (West 2017); WASH. REV. CODE § 43.280.095.

90. CONN. GEN. STAT. § 17a-106h; N.J. STAT. ANN. § 2C:13-12(d)(1)–(2).

91. *See* CAL. PENAL CODE § 13519.14(e) (“Every law enforcement officer who is assigned field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of human trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later.”); *see also* VANEK, *supra* note 55.

92. *See* VANEK, *supra* note 55 (explaining that although the statutes required training to be complete by 2014, many jurisdictions had not yet done so by 2015).

93. FARRELL ET AL., *supra* note 7, at 94.

94. JENNIFER HARDISON WALTERS ET AL., EVALUATION OF DOMESTIC VICTIMS OF HUMAN TRAFFICKING DEMONSTRATION PROJECTS 26 (2015), <https://www.acf.hhs.gov/sites/>

Some states recently required professionals who work primarily with children to have human trafficking training, with at least three states requiring it for school employees.⁹⁵ Some also require training for child care workers, foster parents, social workers, and caseworkers.⁹⁶ By contrast, in Arizona, human trafficking is merely one of many topics that educators may choose from to complete their continuing education hours.⁹⁷ Similarly, other states distribute resources on human trafficking to school personnel, parents, and students, but have no training requirement.⁹⁸ Although such laws would have a limited impact on *adult* victims, they have potential to help *child* victims of sex trafficking, a majority of whom have contact with the child welfare system.⁹⁹ However, mere distribution of

default/files/opre/sc1_final_report_508_compliantb.pdf [https://perma.cc/R4R4-PSGA]. The project director reported a “shift” that occurred within “some law enforcement agencies. *Id.* In a situation where they would traditionally be picking someone up on a prostitution charge, they’re now trying to take another look and ask, ‘Is there trafficking here?’” *Id.*

95. CONN. GEN. STAT. § 17a-106h; IND. CODE § 20-28-3-7(a) (West 2007) (requiring one hour of training every two years “pertaining to the identification and reporting of human trafficking” for all school employees of public and accredited nonpublic schools who are likely to have contact with students, effective 2018); OHIO REV. CODE ANN. § 3319.073(A)–(B) (LexisNexis 2018).

96. 9 DEL. ADMIN. CODE 201-37.2.16 (2019); D.C. CODE § 22-1842 (2015); FLA. ADMIN. CODE ANN. r. 65C-43.004(3)(d) (2019); KAN. ADMIN. REGS. 28-4-1255(k)(2)(B) (2014); NEB. REV. STAT. § 43-4707 (2016) (authorizing the adoption of rules for training foster parents in 2016; however, it does not appear from Nebraska’s legal code that the rules have been adopted); N.J. ADMIN. CODE §§ 3A:56-5.4(c)(6), 3A:55-5.4(c)(7) (2018); OHIO ADMIN. CODE 5101:2-33-55(4) (2018); TEX. FAM. CODE ANN. § 264.153(a)(4) (West 2019) (developing a plan to identify training needs for caseworkers and train them with curriculum developed by the human trafficking prevention task force; however, it does not appear from the Texas legal code that this is a mandate).

97. ARIZ. ADMIN. CODE § R7-2-619(C) (2018) (listing human trafficking as one among several topics from which educators can choose for continuing education hours).

98. ARK. CODE ANN. § 6-17-710(a)(1)–(2) (2018) (providing the state “make[s] available” thirty minutes of training per year on “[r]ecognizing the warning signs that a child is a victim of human trafficking” and “[r]eporting a suspicion that a child is a victim of human trafficking”); IND. CODE § 20-19-3-11.7(a)–(b) (2018) (requiring a link on the education department’s website containing resources about human trafficking and how to report suspected incidents; effective 2018); MD. CODE ANN., EDUC. § 7-432(b)(1)–(2) (LexisNexis 2011) (stating the Maryland Department of Health “shall provide” resources and materials on human trafficking developed and distributed to school personnel, including counselors and health care providers, and to students and parents); VA. CODE ANN. § 63.2-214.3 (2017) (stating Virginia “shall provide” resources on human trafficking distributed to schools, parents, and teachers).

99. *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States* 3, U.S. DEP’T HEALTH AND HUM. SERVICES: ADMIN. CHILD., YOUTH AND FAMILIES, https://www.acf.hhs.gov/sites/default/files/cb/acyf_human_trafficking_guidance.pdf [https://perma.cc/72ML-QW7J] (last visited Mar. 28, 2020). A 2013 California Child Welfare Council

resources likely will not have the same impact as required training sessions because there is no guarantee that recipients will review the resources. Also, distributed resources, as opposed to a training program tailored to situations that employees working with children might encounter, may not contain enough detail and specificity to be useful.

A handful of states have also begun within the past two years to require medical personnel to obtain training in human trafficking.¹⁰⁰ Texas requires training for employees at facilities providing abortions to "identify and assist victims of human trafficking."¹⁰¹ Washington requires the state to disseminate information about human trafficking to licensed psychologists and physicians but does not make training a condition for licensure.¹⁰² One study revealed that such training will likely prove useful in identifying victims: a project providing training to medical personnel at a community hospital, where no health care workers had previously identified human trafficking victims, resulted in newly-trained personnel identifying thirty-eight potential victims during five months, 20% of whom accepted assistance.¹⁰³ However, where training is voluntary, as in Washington where only information dissemination is required, there is no extrinsic incentive for the recipient to review the information and no opportunity to ensure that recipients understand the information sufficiently to apply it.

study found that "between 50 and 80 percent of commercial sexual exploitation victims were involved with child welfare at some point," and the Connecticut Department of Children and Families conducted a study which found that out of eighty-eight child sex trafficking victims, eighty-six were involved with child welfare services. *Id.*

100. CONN. GEN. STAT. § 17a-106h (2019); FLA. STAT. § 464.013(3)(c) (2018); OHIO ADMIN. CODE 4723-14-03, 4734-7-02, 4753-4-01, 4779-9-01(D) (2018). In New Jersey, such training for health care employees is a condition of issuing and renewing licensure for health care facilities. N.J. STAT. ANN. § 2C:13-12(c)(1) (West 2015).

101. TEX. HEALTH & SAFETY CODE ANN. § 171.082(a) (West 2015).

102. WASH. REV. CODE §§ 18.83.090(2) (2009), 18.71.080(2) (2015).

103. Emergency Nurses Ass'n, *Study Highlights Need for Education and Training to Help Human Trafficking Victims*, EUREKALERT! (June 26, 2017), https://www.eurekalert.org/pub_releases/2017-06/m-shn062217.php [<https://perma.cc/ZV6Y-6JQ6>]. A team conducted the training project at a "level two trauma center in a southwestern Pennsylvania community hospital ED," taught the staff using "a two-pronged identification approach: medical red flags created by a risk assessment tool embedded into the electronic health record and a silent notification process," and provided advice on the "proper protocol to ensure the successful rescue and safety of the victims." *Id.*

D. *New Training Laws*

Several very recently enacted laws requiring training in particular industries to promote public awareness and identification of human trafficking survivors deserve their own discussion. Illinois, Ohio, and Texas require training on recognizing and preventing human trafficking to be part of the mandatory curriculum for commercial motor vehicle training.¹⁰⁴ Arkansas and Kansas require such training both for commercial license issuance and renewal as of 2017 and July 2018, respectively.¹⁰⁵ Texas and Maine both started requiring that informational material about human trafficking be distributed to commercial driver's license applicants in 2017.¹⁰⁶

Because sex trafficking often occurs at truck stops and is advertised through radios used by truckers, training commercial drivers to identify survivors and report suspected cases has potential to greatly impact human trafficking prosecutions.¹⁰⁷ However, laws that only require distribution of human trafficking material may not be as effective as laws that mandate training because recipients will not have the same incentive to read the material. Also, material developed for mass distribution would likely lack the level of depth and specificity needed to adequately prepare truckers to identify victims and report suspected cases.

104. ILL. ADMIN. CODE tit. 92, § 1060.200 (2018); OHIO ADMIN. CODE 4501-7-28(J)(10) (2018); TEX. EDUC. CODE ANN. §§ 130.0105, 132.006 (West 2002).

105. KAN. STAT. ANN. § 8-2,157 (2001) (training in human trafficking required for license issuance or renewal, effective July 2018). In Arkansas, a commercial driver's license applicant must either complete an approved human trafficking prevention course or become a "Certified Trucker Against Trafficking by completing the online certification course offered by Truckers Against Trafficking" to receive the license. ARK. CODE ANN § 27-23-108(e)(1)(A)–(B) (2014).

106. TEX. TRANSP. CODE ANN. § 522.035 (West 2018) (department will distribute "informational materials regarding the recognition and prevention of human trafficking" to commercial driver's license applicants). In another new law enacted in 2017, information on human trafficking prevention must accompany an initially issued or renewed commercial driver's license in Maine. ME. STAT. tit. 29-A, § 1253(6) (2018).

107. *See Truck Stop-Based, NAT'L HUM. TRAFFICKING HOTLINE*, <https://humantraffickinghotline.org/sex-trafficking-venuesindustries/truck-stop-based> [https://perma.cc/NCG5-DX8D] (last visited Mar. 3, 2020).

Laws in Connecticut and New Jersey require training for hotel employees.¹⁰⁸ Because hotels are the location most commonly reported for sex trafficking, Connecticut requires hotel employees to be trained upon hire and annually thereafter to recognize and report suspected trafficking cases.¹⁰⁹ Hotels must keep records of each employee's training.¹¹⁰ Government agencies and the "state and national hotel and lodging association" developed the training program in partnership.¹¹¹ New Jersey only requires a one-time training on human trafficking, but a hotel's licensure is conditioned upon compliance.¹¹² Because the laws are relatively new—Connecticut enacted the law in 2016 and New Jersey enacted the law in 2013—their impact and effectiveness are unknown.¹¹³

Though both laws represent a laudable effort to increase the identification and reporting of trafficking victims at locations identified as human trafficking hotspots, there is room for improvement.¹¹⁴ Nothing in Connecticut's statute states a consequence for failure to train hotel employees in human trafficking prevention.¹¹⁵ This lack of an enforcement provision will likely compromise the law's effectiveness because the cost and inconvenience of providing

108. CONN. GEN. STAT. §§ 17a-106g, 44-5 (2019) ("[E]ach employee of [a] hotel, motel, inn or similar lodging [must] receive training at the time of hire on the (1) recognition of potential victims of human trafficking, and (2) activities commonly associated with human trafficking. In addition, such operator shall conduct ongoing awareness campaigns for employees on the activities commonly associated with human trafficking."); N.J. STAT. ANN. § 2C:13-12(b)(1) (West 2015) (requiring a one-time training course for "owners, operators, and staff of hotels and motels" as "a condition of issuance, maintenance, or renewal of any license, permit, certificate, or approval").

109. Katherine M. Forbes, *Highways and Byways: Following Connecticut's Path in Creating Holistic Domestic Sex Trafficking Laws in Indiana*, 51 IND. L. REV. 499, 508–09 (2018). The training includes developing a process for hotel employees to report suspected human trafficking cases, including collaboration with law enforcement. *Id.* at 509–10.

110. CONN. GEN. STAT. § 44-5.

111. Forbes, *supra* note 109, at 510–11. The "Commissioner of Children and Families with the Commissioner of Emergency Services and Public Protection" partnered with the hotel association to develop training curriculum for hotel staff on "identifying and reporting suspected incidents of human trafficking." *Id.* Indicators of trafficking specific to the hotel industry include "paying for a room in cash or with a pre-paid card," "extended stays with only few possessions," and "requesting a room overlooking the parking lot." *Id.*

112. N.J. STAT. ANN. § 2C:13-12(b)(1) (West 2015); N.J. ADMIN. CODE § 5:10-29.1 (2018).

113. CONN. GEN. STAT. §§ 17a-106g, 44-5; N.J. STAT. ANN. § 2C:13-12(b)(1).

114. *See* Forbes, *supra* note 109, at 509–10.

115. CONN. GEN. STAT. § 44-5.

training may discourage voluntary compliance. On the other hand, tailoring the training curriculum specifically for hotel employees with input from the hotel association will create a more effective program than a generalized curriculum. Under New Jersey's statute, hotels that fail to comply would be unable to obtain, maintain, or renew their licenses.¹¹⁶ However, New Jersey's is only a one-time requirement, which will have diminished effectiveness for longtime employees.¹¹⁷

E. Training for Schoolchildren

Although most laws focus solely on increasing awareness among adults, Texas and California recently enacted statutes requiring human trafficking training for schoolchildren in response to numerous findings that child victims of sex trafficking often attend school and are frequently recruited for sex trafficking by a classmate.¹¹⁸ The law's authors wanted to reach those most at risk (children between ages nine and eighteen) to enable them to recognize would-be traffickers before being victimized.¹¹⁹ In both California and Texas, parents may excuse their children from the training classes.¹²⁰ California requires that students receive instruction on identifying human trafficking at least once in middle school and once in high school.¹²¹

The impact of these laws is unclear because they were so recently enacted—Texas in 2017 and California in 2018.¹²² The cost is extensive: an estimated “\$20,000 to develop the training curriculum” and “\$5 million to administer the training.”¹²³ Although the laws have

116. N.J. STAT. ANN. § 2C:13-12(b)(1).

117. *See id.*

118. CAL. EDUC. CODE § 51934(a)(10) (West 2018); TEX. EDUC. CODE ANN. § 28.017(a) (West 2018); *see* Shelby Lundahl, *Chapter 558: California's Fight Against Modern Day Slavery*, 49 U. PAC. L. REV. 427, 437–38 (2018). The California law was developed after a three-year study in San Diego found that, of the twenty high schools that participated, all had students that sex traffickers were recruiting; and “[o]ne hundred and forty-one participating high school staff members reported 81 victims and 54 suspected victims in the past five years, along with 17 recruiters targeting the school campuses.” *Id.*

119. Lundahl, *supra* note 118, at 435.

120. CAL. EDUC. CODE § 51950(c) (West 2018); TEX. EDUC. CODE ANN. § 28.017(c)(3).

121. CAL. EDUC. CODE § 51934(a).

122. *Id.* §§ 51950(c), 51934; TEX. EDUC. CODE ANN. § 28.017.

123. Lundahl, *supra* note 118, at 446.

potential for significant impact on children at risk for domestic sex trafficking, they will have limited impact on trafficking victims who do not attend school.¹²⁴ On the other hand, interviews with prior child sex trafficking survivors indicate that training for schoolchildren would be worth the investment because of its potential impact on the target community of children at risk for domestic sex trafficking.¹²⁵ Some survivors indicated that their naivety about the world in general and human trafficking in particular played a key role in them becoming victims.¹²⁶

III. Proposal

Because a key component of fighting this largely hidden crime involves making members of the public aware of it and preparing them to respond, states' ability to uncover and decrease human trafficking will be hampered if the public remains unaware of its occurrence in their communities and unfamiliar with warning signs. Although a majority of states have legislation promoting awareness and identification of human trafficking, the effectiveness of these laws could be significantly increased with additions and improvements. Specifically, states should first amend current laws to improve their effectiveness, primarily by mandating provisions that are currently voluntary and by creating penalties for noncompliance. Second, states should expand training requirements by mandating training for licensed professionals, tailoring curriculum to fit the needs of each industry where training occurs, ensuring a plan for funding, evaluating training programs, and including training that focuses on labor trafficking. Third, states should offer tax incentives for employers that

124. See Cynthia Hawkins DeBose & Alicia Renee Tarrant, *Child Sex Trafficking and Adoption Re-Homing: America's 21st Century Salacious Secret*, 7 WAKE FOREST J.L. & POL'Y 487, 533 (2017) (observing victims of child sex trafficking stating that "had they been educated properly, they would have been equipped with better tools to avoid falling victim to the sex trade").

125. *Id.*

126. *Id.* A former victim of child sex trafficking, when asked what would have helped to prevent her from becoming a victim, stated, "As a child I needed more knowledge about the world, and more education about sex. I needed to know more about sex and about violence and about drugs and about how the world operates. I was very naïve." *Id.*

provide ongoing training for employees who meet specified requirements and are regularly evaluated. Finally, states should enact human trafficking councils to coordinate and analyze the state's response to human trafficking.

It is important to note that certain states have many creative laws to promote awareness and identification of human trafficking.¹²⁷ Moreover, some states that have not passed many such laws have put forth considerable effort to improve their human trafficking laws generally.¹²⁸ The following proposal is not intended to belittle the noteworthy efforts of states in the area of human trafficking; however, while the problem persists, it is incumbent upon the entire community to analyze and improve upon even the most notable efforts.

A. *Improve Existing Laws*

States should mandate the provisions in existing laws and include penalties for noncompliance. Although few studies have measured the effectiveness of laws focusing on public awareness and identification, studies that do exist indicate that such laws have an impact on increasing human trafficking prosecutions.¹²⁹ However, even well-meaning individuals and entities tend to take longer to comply or do not comply at all when requirements are not mandated.¹³⁰ Issuing mandates and penalties for noncompliance would increase the effectiveness of existing laws. For instance, states with legislation regarding the display of a National Hotline poster should mandate the

127. *See supra* Part II.

128. *See* POLARIS 2014, *supra* note 32. Although several states have one or fewer laws focused on human trafficking awareness and identification, many of those states, including Alabama, Delaware, Georgia, and New Hampshire, received the highest rating from Polaris in 2014 for their human trafficking laws. *See id.*; ALA. CODE § 13A-6-170 (2015); 9 DEL. ADMIN. CODE 201-37.2.16 (2018); GA. CODE ANN. § 16-5-47 (2017).

129. BOUCHE ET AL., *supra* note 7, at 17–18. A 2015 study found that “every aspect of state investment [requiring posting of the National Hotline, creating a task force, providing training, providing victim assistance, enabling police with investigative tools] has a positive and significant impact on increasing arrests for human trafficking in the state[.]” *Id.*

130. *See* KNOW THE CHAIN, FIVE YEARS OF THE CALIFORNIA TRANSPARENCY IN SUPPLY CHAINS ACT 5 (2015), https://knowthechain.org/wp-content/uploads/2015/10/KnowTheChain_InsightsBrief_093015.pdf [<https://perma.cc/FGJ7-9SB5>]; VANEK, *supra* note 55.

display and provide a meaningful penalty for noncompliance. Maryland's statute provides a prime example: hotels where law enforcement has made arrests resulting in convictions of prostitution, solicitation of a minor, or human trafficking must display the poster in each guest room, with a fine for noncompliance of up to \$1,000 per day per guest room.¹³¹

Statutes regarding display of the National Hotline should also require that the posters include warning signs for human trafficking and be displayed in areas such as restrooms where the public will easily see them. Because many trafficking victims do not self-identify and many members of the public do not know the warning signs for human trafficking, National Hotline posters should include at least basic warning signs.¹³² Also, a specific location requirement, such as a restroom, would increase the chances of an individual seeing the poster, compared with the vague requirement in most statutes for entities to display it in "a conspicuous location."¹³³

B. Expand Training Requirements

Training is vital for increasing the chances for victims to be identified due to the in-depth knowledge it provides for a wide range of people. The few existing studies that measure the impact of human trafficking training indicate that it has an impact on identifying victims and prosecuting traffickers.¹³⁴ Demonstration projects in Utah, New York, and Arizona found that conducting in-person training for law enforcement and local professionals raised awareness about human

131. MD. CODE ANN., BUS. REG. § 15-207(b)–(c) (LexisNexis 2019).

132. See U.S. DEP'T OF STATE, *supra* note 8, at 9–10; FARRELL ET AL., *supra* note 7. Maryland's statute provides a good example: posters encourage viewers to call if they or someone they know "[i]s being forced to have sex without consent," "[h]as had an ID or documents taken away," "[i]s being threatened by or is in debt to an employer," or "[w]ants to leave a job but cannot freely do so." MD. CODE ANN., BUS. REG. § 15-207(a)(1) (LexisNexis 2019).

133. See, e.g., CONN. GEN. STAT. § 54-234a(a)(2) (2019); FLA. STAT. § 787.29(3) (2017). Again, Maryland provides an example of a statute with a more specific requirement. MD. CODE ANN., BUS. REG. § 19-103(b)(2)(i)–(ii) (LexisNexis 2017) (requiring signs be posted "on the inside of each stall door in the restroom; or on the back of the door at the entrance to the restroom").

134. See, e.g., FARRELL ET AL., *supra* note 7, at 94; Emergency Nurses Ass'n, *supra* note 103; *Full Force of HHS*, *supra* note 49.

trafficking and available resources for victims.¹³⁵ The difference in identification and prosecution before and after training was particularly noticeable in Utah, where the community was less aware of human trafficking at the beginning of the project.¹³⁶

1. Mandate Human Trafficking Training for Professionals

Incentives are necessary to encourage professionals to attend human trafficking training.¹³⁷ In a study of human trafficking training for health care professionals, interviewees who conducted the training expressed the need to establish incentives for health care professionals to attend training sessions and stated that requiring training for licensure or continuing education hours would provide such incentive.¹³⁸ States that have not yet done so should require human trafficking training for a wide variety of professionals subject to state licensure, as Michigan has done.¹³⁹ Although it may appear extreme to require training for such a broad range of professionals, even workers,

135. WALTERS ET AL., *supra* note 94, at 17–18. The projects trained organizations and professionals, including “social services employees, law enforcement, medical students and providers, educators, child protective services, first responders, and foster parents” with topics including “local human trafficking statistics and issues, ‘red flags’ or indications that someone might be a trafficking victim, information on providing trauma-informed care, local services for trafficking victims, state laws related to human trafficking, and contact information and resources” tailored to the specific needs of the audience. *Id.*

136. *Id.* at 18.

137. Powell et al., *supra* note 84.

138. *Id.*

139. Michigan licensure boards require training in identifying human trafficking victims for the following professionals: MICH. ADMIN. CODE r. 338.3659 (2016) (pharmacy technicians); MICH. ADMIN. CODE r. 338.2525 (2019) (psychologists); MICH. ADMIN. CODE r. 339.14012 (2019) (nursing home administrators); MICH. ADMIN. CODE r. 338.3901a (2016) (sanitarians); MICH. ADMIN. CODE r. 338.13002 (2019) (acupuncturists); MICH. ADMIN. CODE r. 338.120 (2016) (doctors practicing osteopathic medicine and surgery); MICH. ADMIN. CODE r. 338.7202 (2019) (marriage and family therapists); MICH. ADMIN. CODE r. 338.1303 (2019) (athletic trainers); MICH. ADMIN. CODE r. 338.2201a (2019) (workers involved with respiratory care); MICH. ADMIN. CODE r. 338.6103 (2019) (physicians’ assistants); MICH. ADMIN. CODE r. 338.7126 (2019) (physical therapists); MICH. ADMIN. CODE r. 338.17111 (2019) (midwives); MICH. ADMIN. CODE r. 338.1a (2019) (audiologists); MICH. ADMIN. CODE r. 338.471b (2017) (pharmacists); MICH. ADMIN. CODE r. 338.1751a (2016) (counselors); MICH. ADMIN. CODE r. 338.2413 (2016) (doctors); MICH. ADMIN. CODE r. 338.10105 (2017) (nurses); MICH. ADMIN. CODE r. 338.11123 (2017) (dentists); MICH. ADMIN. CODE r. 338.303 (2019) (optometrists); MICH. ADMIN. CODE r. 338.604 (2016) (speech pathologists); MICH. ADMIN. CODE r. 338.2929 (2016) (social workers); MICH. ADMIN. CODE r. 338.1821 (2019) (behavioral analysts); MICH. ADMIN. CODE r. 338.1215 (2017) (occupational therapists); MICH. ADMIN. CODE r. 338.8102 (2018) (podiatrists); and MICH. ADMIN. CODE r. 338.732 (2019) (massage therapists).

such as building inspectors, in industries not considered hotspots of human trafficking encounter victims of human trafficking.¹⁴⁰ A broad requirement would increase the scope of individuals receiving training and thus would increase public awareness overall. It would be relatively uncomplicated to implement because licensure and continuing education requirements are already established; human trafficking training would simply add to the structure already in place. Also, by tying workers' ability to practice their profession with obtaining the required human trafficking training, enforcement would be built into the statute.¹⁴¹

For employees who are not required to have licenses themselves but work at businesses where trafficking victims are likely to come, states should link human trafficking training with licensure requirements for the business. For example, hotels in New Jersey that fail to provide training for their employees may be unable to renew their licenses.¹⁴² Kentucky enforced its requirement that daycare center employees receive human trafficking training by making employees' ability to work directly with children contingent upon completing the training.¹⁴³

2. Tailor Training to Fit the Target Industry

Laws requiring human trafficking training for professionals often lack direction regarding the type of training, standards the training curriculum must meet, or whether training must be directed at the

140. Ross, *supra* note 43 (recounting that the Attorney General of South Carolina encouraged training of inspectors because of the number of reports that inspectors had seen signs of human trafficking while working yet failed to report them). Building inspectors had witnessed evidence of human trafficking while at work, including repeated movement into and out of buildings, windows that always remain covered, and unclothed women. *Id.* Unfortunately, inspectors rarely called the police; and even when they did, usually the traffickers and their victims had vanished before police arrived, indicating inspectors' need for training in identification and reporting signs of human trafficking. *Id.*

141. *See, e.g.*, ARK. CODE ANN § 27-23-108(e)(1)(A)–(B) (2019); KAN. STAT. ANN. § 8-2,157 (2018).

142. N.J. STAT. ANN. § 2C:13-12(b)(1) (2015).

143. KAN. ADMIN. REGS. 28-4-1255(k)(2) (2013). "Each direct care staff member [of infant/toddler care services] shall complete an additional [forty] clock-hours of orientation training before assuming direct supervision and before being counted in the ratio of direct care staff members to residents . . . The additional training shall include the following topics: . . . human trafficking and exploitation." *Id.*

professionals' respective industries.¹⁴⁴ As a result, training programs vary widely, even within industries.¹⁴⁵ State regulations should ensure that curriculum goes beyond basic introductory training to encompass skills that professionals will need in their particular industry to recognize trafficking cases and effectively report them.¹⁴⁶ Developing a standardized curriculum for each industry would be particularly helpful where the individual providing the training has no experience in the target audience's industry.¹⁴⁷ States may create tailored curriculum by partnering with a local or national association associated with the industry, such as the partnership between the Minnesota Department of Health and the Minnesota Lodging Association that produced the state's human trafficking training program for hotel workers.¹⁴⁸

3. *Ensure a Plan for Funding*

Funding for training programs may be costly.¹⁴⁹ Concern over expenses may discourage a state from passing a human trafficking awareness law and, if public funds are not clearly available to defray costs, may also discourage entities from implementing training programs.¹⁵⁰ Laws requiring training should provide funding or in-kind support to encourage compliance.

144. *See supra* Sections II.C–D and accompanying notes.

145. *See* Powell et al., *supra* note 84, at 4. Human trafficking training for health care professionals has “varied greatly.” *Id.* “For example, one session type consisted of a focused, 20-minute presentation; whereas most were half-day (46%) or whole-day seminars and workshops.” *Id.*

146. *Id.* at 5. The study conducted interviews of “experts in human trafficking [health care professional] education,” and all interviewees believed that human trafficking training “needed to move beyond knowledge to skill development and application.” *Id.*

147. *See id.*

148. *See* Powell et al., *supra* note 84, at 4 (explaining that the variation in training for health care professionals, interviewees of the study recommended that “an authoritative national body should lead the charge” to oversee standardization of human trafficking training for the health care industry); *Prevention and Response Training for the Minnesota Lodging Industry*, MINN. DEP’T HEALTH, <https://www.health.state.mn.us/communities/safeharbor/communities/hoteltrafficking.html> [<https://perma.cc/2FPA-G6S6>] (last visited Mar. 28, 2020) (detailing that newly-enacted state law requires hotels and motels to use a sex trafficking prevention and response curriculum developed in partnership with the Minnesota Lodging Association to train employees).

149. Lundahl, *supra* note 118, at 446.

150. Powell et al., *supra* note 84, at 4 (one institution did not take human trafficking training for health

States have varying methods of addressing the cost of implementing training programs. Minnesota provides a training package for hotel employees free of charge but does not provide further assistance.¹⁵¹ California, on the other hand, reimburses intercity transit agencies for the cost of training employees under a newly passed training requirement.¹⁵² If a state has concerns regarding the cost of developing training programs, it could partner with states that already developed programs or obtain training in partnership with nonprofits, some of which provide training at no charge.¹⁵³

4. *Conduct Evaluations of Training*

Evaluating training programs is necessary to determine the most effective training methods. Despite this fact, a study of human trafficking training in the health care industry found that few evaluations have been conducted, particularly those measuring long-term impact.¹⁵⁴ Although some programs included a short test immediately following the training that “captured immediate changes in knowledge and[/]or attitude,” aside from one follow-up evaluation after three months, none of the study’s interviewees reported a long-term evaluation.¹⁵⁵ A follow-up evaluation to measure long-term impact should be incorporated into training curriculum for each industry. Such measures will reveal whether a particular training program is effective and may provide justification for maintaining the program or enacting a similar program in other states.

care professionals seriously “until grant money was awarded”).

151. MINN. DEP’T OF HEALTH, *supra* note 148.

152. Assemb. B. 2034, 2017-2018 Reg. Sess. (Cal. 2018) (signed by the governor and adopted Sept. 27, 2018); *AB-2034 Human Trafficking: Notice*, CA. LEGIS. INFO., https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill_id=201720180AB2034 [<https://perma.cc/D92X-PXUR>] (last visited Jan. 12, 2020).

153. *Law Enforcement Training, TRUCKERS AGAINST TRAFFICKING*, truckersagainsttrafficking.org/law-enforcement-training/ [<https://perma.cc/245W-VFZE>] (last visited Mar. 28, 2020) (offering a free training video for law enforcement as well as more in-depth training); *see Say Hi to CHARLI*, SHAREDHOPE INT’L, <https://sharedhope.org/what-we-do/prevent/charli-training/> [<https://perma.cc/93YT-5BNX>] (last visited Mar. 28, 2020) (offering training curriculum targeted toward professionals in various fields for a fee).

154. Powell et al., *supra* note 84.

155. *Id.*

5. *Include Training Targeting Labor Trafficking*

The overall response to human trafficking in the United States lacks “sustained effort to address labor trafficking compared to sex trafficking.”¹⁵⁶ Many of the training requirements passed in recent years target sex trafficking but not labor trafficking, such as laws requiring training for hotel employees and implementing training for school children.¹⁵⁷ Failure to include training to help professionals recognize labor trafficking greatly reduces the impact of training because it omits a substantial number of human trafficking victims. States should therefore ensure that training requirements address sex trafficking and labor trafficking equally.

C. *Offer Tax Incentives*

States should offer tax incentives for businesses that promote human trafficking training and reporting among their employees. Such incentives would be particularly useful in states that have not mandated measures to increase public awareness and identification due to a belief that such measures would not be politically feasible. Without analyzing the objections that legislators may have to mandating laws that increase public awareness, which would be beyond the scope of this Note, tax incentives for businesses that follow recommended procedures to encourage awareness of human trafficking would provide a financial incentive for businesses to enact the procedures, which may offset the cost and inconvenience of implementation. Studies have found that financial incentives have a moderate impact on changing behavior regarding environmental regulation, which suggests that they may have a similar impact on changing behavior regarding human trafficking.¹⁵⁸

156. U.S. DEP’T OF STATE, *supra* note 8, at 442.

157. *See supra* Sections II.D–E and accompanying notes.

158. Stephanie Stern, *Encouraging Conservation on Private Lands: A Behavioral Analysis of Financial Incentives*, 48 ARIZ. L. REV. 541, 560 (2006) (stating that “the bulk of experiments have found increases in net pro-environmental behavior in the range of 10%–30% averaged across subject groups”).

D. Develop a Human Trafficking Council

States should create and maintain human trafficking councils or task forces because they are uniquely poised to develop comprehensive laws to combat human trafficking: they have the time, resources, and expertise that lawmakers lack to develop thoughtful legislation tailored to the unique needs of the community.¹⁵⁹ Councils and task forces, unlike legislators, can focus on the single issue of human trafficking and typically have a variety of experts from various professions providing input, including state agencies, law enforcement, community-based organizations, nonprofits, and the judiciary.¹⁶⁰ Some task forces also have freedom to implement measures on a temporary and local basis to test their effectiveness as opposed to passing legislation that would be much more difficult to alter if the results were not as anticipated.¹⁶¹ The few studies that exist indicate that they are useful; one found that law enforcement agencies that partnered with a human trafficking task force were more likely than those that did not to view human trafficking as a serious issue in their community and conduct training sessions.¹⁶² Importantly, states would have financial help to implement them because the federal government offers grants to states for task forces.¹⁶³

CONCLUSION

The widespread impact of human trafficking reaches to the corners of every state. Because of the crime's hidden nature, many remain

159. *See generally* OFFICE FOR VICTIMS OF CRIME & BUREAU OF JUSTICE ASSISTANCE, HUMAN TRAFFICKING TASK FORCE E-GUIDE § 3.3 OUTREACH AND AWARENESS, <https://www.ovcttac.gov/taskforceguide/eguide/3-operating-a-task-force/33-other-task-force-activities/outreach-awareness/> [<https://perma.cc/894W-SPYS>] (last visited Mar. 26, 2020) (e-guide).

160. *See* Forbes, *supra* note 109, at 507.

161. *See* OFFICE FOR VICTIMS OF CRIME & BUREAU OF JUSTICE ASSISTANCE, *supra* note 159. A task force did a case study about its own campaign to place "anti-trafficking awareness ads" on seventy-five county buses and found that, although trafficking cases were initiated through the campaign, it was "very costly" and "not as effective as they hoped," in part because they used their own hotline, which shut down at night, instead of the continuously-monitored National Hotline. *Id.* The task force determined that the money would be more effective if spent on "targeted training" of key personnel like "nurses, emergency room staff, or law enforcement." *Id.*

162. FARRELL ET AL., *supra* note 7.

163. *Id.* at 2–3.

unaware that the vast underworld of human trafficking touches their communities and are ill-equipped to respond to it. By improving existing laws to promote public awareness of human trafficking, expanding training requirements, offering tax incentives for businesses, and establishing human trafficking councils, lawmakers can help equip the public to become partners in a comprehensive legal structure to combat human trafficking—one that not only prosecutes traffickers and rehabilitates victims but also takes the foundational key step of identifying traffickers and victims.