

HIGHWAYS AND BYWAYS: FOLLOWING CONNECTICUT'S PATH IN CREATING HOLISTIC DOMESTIC SEX TRAFFICKING LAWS IN INDIANA

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INTRODUCTION

In the summer of 2004, Detective Deborah Scates, working with the Hartford, Connecticut police force, met with a young woman named Gwen who had been caught in a prostitution sting operation.¹ When Detective Scates met with Gwen, the young woman informed the detective that she had been injected with heroin and raped.² Gwen also stated that men would come to her to have sex with her.³ At first, Detective Scates thought Gwen was using excuses to get out of a court-ordered drug-counseling program, but then Gwen mentioned the name “Rahmyti,” an alias for Dennis Paris, a known pimp.⁴

Gwen entered the world of human trafficking in the fall of 2013 when she became romantically involved with a man named Brian.⁵ He talked her into inviting her best friend Alicia to visit.⁶ After picking Alicia up, he took both girls to a hotel where he raped them, bought them heroin, and forced them to have sex with other men for money.⁷ However, the girls never saw any of this money.⁸ After a few months, he sold the girls to Dennis Paris for \$1,200.⁹

Gwen continued to be trafficked by Dennis Paris until the fateful day Detective Scates believed her story.¹⁰ Her testimony led to the formation of an investigative task force.¹¹ The FBI became involved.¹² But it was not until

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1. Amy Fine Collins, *Sex Trafficking of Americans: The Girls Next Door*, VANITY FAIR (May 24, 2011, 12:00 AM), <http://www.vanityfair.com/news/2011/05/sex-trafficking-201105> [<https://perma.cc/HY39-SQMC>].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

halfway through developing the case that the task force realized they could use a then little-known federal law, the Trafficking Victims Protection Act 18 U.S.C. § 1591 (“TVPA”), in the prosecution.¹³

Gwen’s story is not unique.¹⁴ Today, human trafficking is the second largest criminal industry in the world.¹⁵ According to the U.S. State Department, human trafficking is a 150 billion dollar industry¹⁶ that brings between 14,500 to 17,500 people into the United States every year.¹⁷ Although these numbers include both sex trafficking and labor trafficking, seventy-five percent of U.S. human trafficking cases dealt with by the National Human Trafficking Resource Center in 2015 involved sex trafficking.¹⁸ In 2013, Havocscope, a resource for global black market information, estimated that every hour, thirty-four people in the United States are forced into prostitution.¹⁹ In response, legislation against domestic sex trafficking, at federal and state levels, has developed over the past two decades.²⁰

Along with rapid development in federal law, states have responded to the growth of this criminal industry with their own legislation.²¹ Today, every state has a criminal statute against human trafficking.²² However, the strength and

13. *Id.*

14. *See generally End Trafficking*, UNICEF, <https://www.unicefusa.org/sites/default/files/assets/pdf/End-Child-Trafficking-One-Pager.pdf>, [https://perma.cc/N5L5-GS2N] (last visited Sept. 16, 2016).

15. *Id.*

16. U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT JUNE 2016*, at 3 (2016), *available at* <https://www.state.gov/documents/organization/258876.pdf> [https://perma.cc/A65K-D3SB].

17. U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT JUNE 2004*, at 23 (2004), *available at* <https://www.state.gov/documents/organization/34158.pdf> [https://perma.cc/BQ5X-HZGG].

18. NATIONAL HUMAN TRAFFICKING RESOURCE CENTER, *TEN YEARS OF SEX TRAFFICKING CASES IN THE UNITED STATES* (July 2016), <https://traffickingresourcecenter.org/sites/default/files/Sex%20Trafficking%20Prosecutions%20in%20the%20US%202006-2015%20-FINAL.pdf> [https://perma.cc/666G-BH64].

19. Theresa Fisher, *Humans Not for Sale: Federal and State Trafficking Legislation*, JUVENILE JUSTICE INFO. EXCH. (Jan. 23, 2014), <http://jjie.org/humans-not-for-sale-federal-and-state-trafficking-legislation/106118/> [https://perma.cc/4SKQ-T58L].

20. Anna Bisaro, *3 ways a new Connecticut law aims to help eradicate sex trafficking*, NEW HAVEN REGISTER (June 1, 2016, 11:55 AM), <http://www.nhregister.com/government-and-politics/20160601/3-ways-a-new-connecticut-law-aims-to-help-eradicate-sex-trafficking> [https://perma.cc/S8CC-SR2A].

21. *See generally State Laws & Issue Briefs*, POLARIS, <https://polarisproject.org/state-laws-issue-briefs> [https://perma.cc/DK59-97FE] (last visited Sept. 16, 2016); *2015 State Report Cards – Protected Innocence Challenge*, SHARED HOPE INT’L, <http://sharedhope.org/what-we-do/bring-justice/reportcards/2015-reportcards/> [https://perma.cc/4L5D-TTD7] (last visited Sept. 16, 2016).

22. POLARIS, *A LOOK BACK: BUILDING A HUMAN TRAFFICKING LEGAL FRAMEWORK 1*, *available at* <https://polarisproject.org/sites/default/files/2014-Look-Back.pdf> [https://perma.cc/LD8U-CLKY] [hereinafter POLARIS].

scope of each state's laws vary.²³

Two non-governmental organizations (NGOs), Polaris Project and Shared Hope International, focus on human trafficking both at the federal and state levels. Polaris Project, founded in 2002, is considered a leader in the fight against human trafficking.²⁴ Similarly, Shared Hope International, founded in 1998 by former U.S. Representative Linda Smith, strives to increase awareness and legislative improvements.²⁵ Both Polaris Project and Shared Hope International have systems for rating or grading the development of every state's anti-human trafficking laws.²⁶ Their research reports pinpoint the strengths and weaknesses in each state's laws.²⁷ Because there is a hidden nature to the crime of human trafficking, it is difficult to conduct research or extract exact numbers.²⁸ So, both Polaris Project and Shared Hope International are seen as national experts for research and policy development.²⁹ Although these organizations address the broad scope of human trafficking, which includes both international and domestic trafficking in areas that include sex and labor slavery, the area covered in this Note will focus narrowly on the issue of domestic sex trafficking in the United States.

In 2015, Connecticut received a "C" from Shared Hope International's grading system.³⁰ The grades are based on a legislative analysis in six areas: (1) the criminalization of domestic minor sex trafficking, (2) criminal provisions addressing demand, (3) criminal provisions for traffickers, (4) protective provisions for the child victims, (5) criminal provisions for facilitators, and (6) criminal justice tools for investigation and prosecution.³¹ Connecticut's weakest three areas were in providing criminal provisions for facilitators, criminal

23. *Id.*

24. *Mission Statement*, POLARIS PROJECT, <https://www.guidestar.org/profile/03-0391561> [<https://perma.cc/Z3TE-BYTF>] (last visited Mar. 17, 2017).

25. Sarah Anne Wright, *Smith fights against human trafficking*, SEATTLE TIMES (Mar. 1, 2003, 12:00 AM), <http://community.seattletimes.nwsources.com/archive/?date=20030301&slug=trafficking01m> [<https://perma.cc/QF9K-NXSY>].

26. *See generally* POLARIS, *supra* note 22 (report discussing state ratings on Human Trafficking Laws); *see also* 2015 State Report Cards – Protected Innocence Challenge, *supra* note 21.

27. *See generally* POLARIS, *supra* note 22 (report discussing state ratings on Human Trafficking Laws); *see also* 2015 State Report Cards – Protected Innocence Challenge, *supra* note 21.

28. NITA BELLES, IN OUR BACKYARD: HUMAN TRAFFICKING IN AMERICA AND WHAT WE CAN DO TO STOP IT 25 (Baker Books 2015).

29. *See* OFFICE OF THE INDIANA ATTORNEY GENERAL, THE FIGHT TO END HUMAN TRAFFICKING: TOOLKIT FOR LOCAL INITIATIVES 13 (2012), *available at* http://www.in.gov/attorneygeneral/files/Human_Trafficking_Toolkit.pdf [<https://perma.cc/XSH9-ZSAS>].

30. SHARED HOPE INT'L, PROTECTED INNOCENCE CHALLENGE, CONNECTICUT REPORT CARD 2015, *available at* http://sharedhope.org/PICframe5/reportcards/PIC_RC_2015_CT.pdf [<https://perma.cc/43ZU-3NZR>].

31. *Id.*

provisions addressing demand, and criminal justice tools for investigation and prosecution.³² However, on June 1, 2016, Connecticut's Governor signed Public Act No. 16-71, and, on June 8, 2017, he signed Public Act No. 17-32 (both aka "An Act Concerning Human Trafficking") into law.³³ These amendments, which took effect in October 2016 and 2017 respectively,³⁴ strengthen Connecticut's human trafficking legislation in ways few others states, or even the U.S. federal government, have addressed.³⁵ The boldest step pertains to hotels and motels.³⁶ The law requires all lodging businesses to keep records of all guests for a minimum of six months after the guest has vacated.³⁷ In addition, all staff must pass a training program for identifying and reporting suspected human trafficking.³⁸ Two other amendments to the law include a stronger "safe harbor" law, which defines any sex worker under the age of eighteen as a victim rather than a perpetrator of prostitution,³⁹ and a newly created felony for a person who pays a fee or agrees to pay a fee for sex with a minor.⁴⁰ These changes in Connecticut's law have improved its grade from a "C" to a "B" in Share Hope International's 2016 report card system.⁴¹

Indiana has also received a "C" grade from Shared Hope International's grading system.⁴² However, little actual legislative progress has been completed to improve the areas of Indiana's anti-trafficking laws that need to be addressed.⁴³

32. *Id.*

33. *Substitute for Raised H.B. No. 5621: Session Year 2016*, CONN. GEN. ASSEMBLY, https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05621&which_year=2016 [perma.cc/GUW9-EGD3] (last visited on Oct. 18, 2016); *Substitute for Raised H.B. No. 7309*, CONN. GEN. ASSEMBLY, <https://www.cga.ct.gov/2017/cbs/H/pdf/HB-7309.pdf>

34. Bisaro, *supra* note 20; Michelle Kirby, Connecticut's Recent Human Trafficking Legislation, Office of Legislative Research, (Dec. 13, 2017), <https://www.cga.ct.gov/2017/rpt/pdf/2017-R-0336.pdf>.

35. Jillian Gilchrest & Courtney Walsh, *Connecticut Moves Toward Eradicating Human Trafficking in Hotels and Motels with New Law*, POLARIS (Aug. 5, 2016), <https://polarisproject.org/blog/2016/08/05/connecticut-moves-toward-eradicating-human-trafficking-hotels-and-motels-new-law> [https://perma.cc/79V7-QKVT].

36. *See id.*

37. An Act Concerning Human Trafficking, Pub. L. No. 16-71, § 5 (2016); *see also* Bisaro, *supra* note 20.

38. An Act Concerning Human Trafficking, Pub. L. No. 16-71, § 5.

39. *See* CONN. GEN. STAT. § 53a-192a (2017); *id.* § 53a-82(a).

40. CONN. GEN. STAT. § 53a-83b (2017).

41. SHARED HOPE INT'L, PROTECTED INNOCENCE CHALLENGE, CONNECTICUT REPORT CARD 2016, available at http://sharedhope.org/PICframe6/reportcards/PIC_RC_2016_CT.pdf [https://perma.cc/D2MD-ZF9X].

42. SHARED HOPE INT'L, PROTECTED INNOCENCE CHALLENGE, INDIANA REPORT CARD 2015, available at http://sharedhope.org/PICframe5/reportcards/PIC_RC_2015_IN.pdf [https://perma.cc/S5QB-D9TH].

43. Interview with Megan McGuire, CEO, Ascent 121, in Carmel, Ind. (Feb. 8, 2017).

Only one area of human trafficking law that Connecticut has just enacted has even been addressed within Indiana's current human trafficking law.⁴⁴ Thus, Indiana remains at the "C" level under Shared Hope International's evaluation.⁴⁵

This Note explores the research and reasoning behind Connecticut's three amendments to its human trafficking law: (1) hotel/motel education and accountability, (2) safe harbor laws for all minors, and (3) harsher punishment for demand (a.k.a. purchasers of sex), and, argues that Indiana's legislature should adopt similar laws. Part I of this Note provides an overview of the U.S. development of human trafficking legislation. Part II explains the research behind the development of human trafficking legislation. Part III examines three distinct amendments Connecticut added to its human trafficking law and how those amendments create a more comprehensive anti-human trafficking policy. Part IV recounts the development of Indiana's human trafficking law and analyzes the issues left unaddressed. Finally, Part IV looks at the steps Indiana has made regarding safe harbor laws and argues that mirroring Connecticut's other two new amendments would address remaining issues and create a more substantial and comprehensive law in Indiana.

I. HUMAN TRAFFICKING LEGISLATION IN THE UNITED STATES

Comprehensively, the term "human trafficking" covers commercial sexual exploitation, forced labor, and domestic servitude, which affect twenty million people worldwide.⁴⁶ Human trafficking is tied to arms dealing, it is the second largest criminal enterprise, and it is also the fastest growing crime.⁴⁷ Of all trafficked individuals, about eighty percent are female and about fifty percent are children.⁴⁸ Seventy percent of female victims are trafficked for the purpose of sexual exploitation.⁴⁹ The average age of entry for children is low; for girls, it is twelve to fourteen years of age; for boys, it is eleven to thirteen years.⁵⁰

In 2000, Congress passed the TVPA as the "country's first comprehensive

(transcript on file with author). Ascent 121 is an Indiana non-profit organization involved with IPATH that focuses on domestic human trafficking by partnering with law enforcement and other agencies to provide clinical services, awareness, and outreach and provides a continuum of care for teen survivors. *Id.*

44. See IND. CODE ANN. § 31-34-1-3.5 (West 2017); *id.* § 31-9-2-133.1; *id.* § 35-31.5-2-178.5.

45. SHARED HOPE INT'L, PROTECTED INNOCENCE CHALLENGE, INDIANA REPORT CARD 2016, available at http://sharedhope.org/PICframe6/reportcards/PIC_RC_2016_IN.pdf [https://perma.cc/3AAB-ZCSQ].

46. Jason Kornwitz, *Study Finds Human Trafficking is Judged Unevenly by Law, Public*, NEWS@NORTHEASTERN (Jan. 25, 2016), <http://www.northeastern.edu/news/2016/01/new-study-examines-effectiveness-of-human-trafficking-legislation/> [https://perma.cc/ZX5Y-5V5R].

47. BELLES, *supra* note 28, at 24.

48. *Id.*

49. *Id.*

50. *Id.* at 25.

anti-trafficking law.”⁵¹ The TVPA was enacted in response to increasing awareness of the human trafficking problem within the United States.⁵² Since its initial enactment, the law has been reauthorized four times (2003, 2005, 2008, and 2013), and each iteration of the Act has improved upon the last version, evolving with the growing knowledge of the nature of human trafficking in the United States and what tools are necessary to fight it.⁵³ The most recent reenactment incorporated the TVPA as an amendment under the Violence Against Women Reauthorization Act of 2013.⁵⁴ The TVPA provides an understanding of human trafficking as a form of “modern-day slavery that subjects children, women, and men to force, fraud, or coercion for the purpose of commercial sexual exploitation or forced labor.”⁵⁵ Federal lawmakers have taken “an important foundational step in moving towards our ultimate collective goal of eradication” of human trafficking by constructing “a comprehensive legal framework” of anti-trafficking laws.⁵⁶ But the federal law is not enough to eradicate human trafficking alone.⁵⁷ The TVPA drives federal law enforcement to focus on larger trafficking rings, but it does not address the rapidly growing intra-state trafficking.⁵⁸ Rather, new laws at the state level are needed to grow anti-trafficking efforts in the same way that federal laws have evolved and improved since 2000.⁵⁹

When TVPA was first passed, there were no state-level anti-trafficking laws.⁶⁰ However, in 2003, tools were developed “to assist states in enacting anti-human trafficking laws.”⁶¹ The Polaris Project, “a nongovernmental organization that works to combat modern-day slavery and human trafficking,”⁶² and other nongovernmental organizations (NGOs) began working with advocates and policymakers to pass anti-trafficking laws in all fifty states.⁶³ This goal was

51. Fisher, *supra* note 19; *see also* 22 U.S.C. § 7101 (2018).

52. *See* POLARIS, *supra* note 22, at 1.

53. *Id.*

54. *See* Julia Dahl, *President Obama signs Violence Against Women Act*, CBS NEWS (Mar. 7, 2013, 2:42 PM), <http://www.cbsnews.com/news/president-obama-signs-violence-against-women-act/> [<https://perma.cc/42TQ-9M58>].

55. *See* UNICEF, *END TRAFFICKING: FAST FACTS 2016*, available at <https://www.unicefusa.org/sites/default/files/End%20Trafficking%20OnePager-%202016.pdf>, [<https://perma.cc/U85W-RLAK>]; *see also* Kelly Heinrich & Kavitha Sreeharsha, *The State of State Human-Trafficking Laws*, 52 JUDGES' J. (2013), available at http://www.americanbar.org/publications/judges_journal/2013/winter/the_state_of_state_humantrafficking_laws.html [<https://perma.cc/MEV9-7UMJ>].

56. POLARIS, *supra* note 22, at 1.

57. *See id.*

58. Fisher, *supra* note 19.

59. POLARIS, *supra* note 22, at 1.

60. *Id.*

61. *Id.* at 2.

62. Kornwicz, *supra* note 46.

63. *See generally* POLARIS, *supra* note 22.

finally realized in 2013 when Wyoming became the final state to criminalize human trafficking.⁶⁴ Nevertheless, many of these initial anti-trafficking bills narrowly focused on the criminalization of human trafficking.⁶⁵ Although state laws now criminalize human trafficking, prosecutors remain more likely “to prosecute a human trafficking case as pimping, pandering, compelling prostitution, or any number of other related crimes, rather than as human trafficking.”⁶⁶ Prosecutors can be reticent to use new or untested statutes and lack familiarity with this new crime.⁶⁷ Thus, even if a case may qualify as human trafficking, a prosecutor might not charge it as such.⁶⁸ Additionally, researchers studying the criminal justice system’s response to human trafficking in the United States discovered that more comprehensive laws lead to more arrests and prosecutions rather than harsher criminal penalties.⁶⁹

II. FORCES BEHIND THE HUMAN TRAFFICKING LEGISLATION

A. The Push for Comprehensive Laws

The Polaris Project recently conducted a report on the effectiveness of states’ various anti-trafficking laws in relation to “identification, arrest, and prosecution of human trafficking suspects.”⁷⁰ The study divided the laws into three broad categories: “criminalization, state investment, and civil remedies.”⁷¹ The research unveiled a correlation between comprehensive laws that invested in all three broad categories and an increase in arrests and prosecutions for human trafficking.⁷² Additionally, the report revealed that focusing on harsher criminal penalties did not increase the rate of arrests and prosecutions.⁷³ Thus, laws that increased a state’s investment, such as forming a task force or training law enforcement on how to recognize the signs of human trafficking, identified human trafficking as a state priority.⁷⁴ Civil provisions, or rather, safe harbor

64. Megan Fowler, *Wyoming Becomes 50th State to Outlaw Human Trafficking*, POLARIS (Feb. 27, 2013), <https://polarisproject.org/news/press-releases/wyoming-becomes-50th-state-outlaw-human-trafficking> [https://perma.cc/E6H7-593X].

65. See POLARIS, *supra* note 22, at 1.

66. VANESSA BOUCHE ET AL., IDENTIFYING EFFECTIVE COUNTER-TRAFFICKING PROGRAMS AND PRACTICES IN THE U.S.: LEGISLATIVE, LEGAL, AND PUBLIC OPINION STRATEGIES THAT WORK 6 (2015), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/249670.pdf> [https://perma.cc/F94T-MNT6].

67. *Id.*

68. *Id.*

69. *Id.* at 1-25; Kornwitz, *supra* note 46.

70. Kornwitz, *supra* note 46.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

provisions, effectively increased arrests and prosecutions.⁷⁵ Safe harbor laws effectively provide immunity to victims of human trafficking who are minors.⁷⁶ Another effective civil provision is the ability to seek compensatory or punitive damages.⁷⁷ Overall, Polaris Project's report shows that a state's human trafficking enforcement is lacking if it is without any "strong state investment, safe harbor, and civil actions provisions."⁷⁸

B. The Push for Consistent State-to-State Laws

Not only do states need more comprehensive laws to address human trafficking, but the laws from state-to-state need to be more uniform.⁷⁹ Although every state has a law in place that identifies human trafficking as a crime, the laws are varied in their definitions of human trafficking and the elements that make up the crime.⁸⁰ For example, some state laws only consider sex trafficking and not labor trafficking.⁸¹ Some states only address the sex trafficking of minors.⁸²

Beyond the inconsistencies between the states' laws, there are different levels of commitment within states to address the issue.⁸³ For example, some states have formed task forces or coordination efforts with nongovernmental organizations to study and make policy recommendations.⁸⁴ Other states have mandated training for their law enforcement agencies.⁸⁵

To harmonize state laws, the Uniform Law Commission began working toward a uniform human trafficking law to guide legislative development within the United States.⁸⁶ The primary focus of the uniform law was to correct criminal provisions and elements of human trafficking.⁸⁷

Additionally, states are encouraged by NGOs and other researchers to continue expanding their anti-trafficking efforts beyond criminal law into areas of identification, protection, and prevention.⁸⁸ Anti-human trafficking work requires a comprehensive effort of states and state agencies.⁸⁹ The need for multi-faceted legislation that is consistent from state-to-state provides a distinct motivation for Indiana's legislature to take a close look at the legal changes

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *See* Heinrich & Sreeharsha, *supra* note 55.

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.*

Connecticut is adopting in its own fight against this crime.⁹⁰

III. THREE IMPROVEMENTS WITHIN CONNECTICUT'S HUMAN TRAFFICKING LAW

Since 2006, twenty-nine federal indictments for human trafficking took place in Connecticut.⁹¹ However, there have been only two state-level human trafficking convictions.⁹² Most of the human trafficking cases in Connecticut concern sex trafficking.⁹³ To strengthen its state law, Connecticut passed Public Act No. 16-71 in early 2016.⁹⁴ The Act, which went into effect in October of 2016, was given the title “An Act Concerning Human Trafficking.”⁹⁵ The law builds on Connecticut’s already established criminalization of human trafficking with the goals of providing law enforcement and prosecutors better tools for identifying and prosecuting the crime and raising awareness for anyone else in a position likely to encounter victims.⁹⁶ The law was created through a collaborative effort between lawmakers and several other stakeholders, which included Connecticut’s Trafficking in Persons Council (TIP).⁹⁷

TIP is chaired by the Commission on Women, Children, and Seniors, and is composed of diverse representatives from state agencies, law enforcement, community-based organizations, NGOs, the judicial branch, and the public sector who are all committed to eradicating human trafficking.⁹⁸ During 2016, these individuals met five times to discuss topics related to sex trafficking.⁹⁹ The TIP Council discussed enacted legislation – what is working and what is not working.¹⁰⁰ It conducted research and collected data in efforts to make further legislative recommendations for the state.¹⁰¹ Much of the data relied upon governmental and non-governmental organizations such as the Laboratory to Combat Human Trafficking (LCHT) and the National Human Trafficking

90. *See generally id.*

91. Bisaro, *supra* note 20.

92. *Id.*

93. POLARIS PROJECT, HUMAN TRAFFICKING AND THE HOTEL INDUSTRY 2016, *available at* <https://polarisproject.org/sites/default/files/human-trafficking-hotel-industry-recommendations.pdf> [<https://perma.cc/6SZP-34Y2>] (Ninety-two percent of trafficking cases in the U.S. are sex trafficking).

94. Gilchrest & Walsh, *supra* note 35.

95. An Act Concerning Human Trafficking, Pub. L. No. 16-71, § 5 (2016).

96. Gilchrest & Walsh, *supra* note 35.

97. *Id.*

98. JILLIAN GILCHREST, STATE OF CONN. GEN. ASSEMBLY: TRAFFICKING IN PERSONS COUNCIL 2016 ANNUAL REPORT 3 (2017), *available at* https://ctewcs.files.wordpress.com/2016/06/tip-council_2016-annual-report.pdf [<https://perma.cc/PUR4-PHG4>]; *see also* Gilchrest & Walsh, *supra* note 35.

99. GILCHREST, *supra* note 98.

100. *See generally id.* (review of annual report).

101. *Id.*

Resource Center (NHTRC).¹⁰² TIP mirrored its initiatives to the “4P” paradigm of the Department of State – “prevention, protection, prosecution, and partnership.”¹⁰³

Under the “4P” paradigm, “Prevention” means educating, increasing awareness, and promoting advocacy against sex trafficking in order to monitor the supply chains and reduce the demand.¹⁰⁴ “Protection” efforts include three “R’s” – rescue, rehabilitation, and reintegration.¹⁰⁵ These efforts are victim-focused to provide health care, counseling, and legal and shelter services, and they require an effective partnership between service providers and local law enforcement.¹⁰⁶ “Prosecution” efforts focus on developing laws that address the full timeline of any exploitation, implementing those laws, and pursuing criminal punishments.¹⁰⁷ Finally, “Partnership” efforts tie together all available resources within the society to create comprehensive responses to trafficking incidents.¹⁰⁸ Each of the three amendments discussed below directly relate to one or more of these four types of initiatives.

A. Hotels and Motels

Although Connecticut’s legislative focus on the involvement of hotels and motels in the sex trafficking industry is novel for lawmakers, the idea is not new for advocacy groups who have already developed initiatives to address the problem.¹⁰⁹ The Polaris Project singled out the hotel industry as having a unique role to play in the fight against human trafficking,¹¹⁰ since the most commonly reported venue for sex trafficking is within hotels and motels.¹¹¹ Pimps and traffickers take advantage of the isolated nature of these venues to set up “dates” between their victims and those purchasing sex.¹¹² Often, the hotel and motel staff are the only outsiders that could have knowledge of the activity.¹¹³ Unfortunately,

102. *Id.*

103. *Id.* at 6.

104. *Four “Ps”: Prevention, Protection, Prosecution, Partnerships*, U.S. DEP’T OF STATE (Oct. 4, 2013), <https://ctcwcs.files.wordpress.com/2016/07/four-ps.pdf> [<https://perma.cc/D4AU-7MGA>].

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *See generally Hotels*, POLARIS, <https://polarisproject.org/initiatives/hotels> [perma.cc/CHF9-CAWV] (last visited Oct. 21, 2016) (discussing industry leaders recognizing awareness in hotels and motels as applicable to trafficking).

110. POLARIS PROJECT, *supra* note 93.

111. *Hotels*, *supra* note 109.

112. *Id.*

113. Amber Stearns, *Human Trafficking in Indiana*, NUVO (Jan. 20, 2016), <http://www.nuvo.net/indianapolis/human-trafficking-in-indiana/Content?oid=3741423> [<https://perma.cc/99LA-RXEL>].

hotel staff, managers, and executives remain ignorant of human trafficking indicators.¹¹⁴ Thus, Connecticut enacted new regulations targeting the hotel and motel industry within its state.¹¹⁵

1. *The Research and Policy Behind the Amendment.*—Jillian Gilchrest, the senior policy analyst for TIP, noted that Connecticut's Interstate 95 corridor provides spaces for sex trafficking.¹¹⁶ Within hotels and motels along this corridor, sex trafficking victims are kept secluded and isolated by their captors.¹¹⁷ In its 2015 Annual Report, TIP specifically discussed what could be done about holding hotel and motel management accountable for the activities within their establishments.¹¹⁸ The law already in place that TIP specifically discussed was 53a-89: *Permitting Prostitution (Class A misdemeanor)*, where a "person is guilty of permitting prostitution when, having possession or control of premises which he knows are being used for prostitution purposes, he fails to make reasonable effort to halt or abate such use."¹¹⁹ Under this law, five arrests and five convictions were made in the 2014-2015 years.¹²⁰ But the concern of TIP was that this statute was not enforced at hotels or motels where trafficking was known to take place.¹²¹ In 2016, TIP decided to investigate the barriers to the enforcement of the statute.¹²²

TIP eventually identified two sides to the same coin related to trafficking within hotels and motels: establishments that lack the knowledge to recognize human trafficking activity, and establishments that do have the knowledge but reap a financial benefit from it.¹²³ Therefore, if mandatory training on recognizing the signs of human trafficking and victims were made law for all hotel and motel managers, feigning ignorance would no longer be an option for those on one side of the coin, and actual ignorance would no longer be an issue for those on the other side of the coin.¹²⁴ Thus, the Polaris Project recommended and TIP agreed that training to identify and respond to human trafficking be required for all hotel and motel businesses, and that the education should occur annually for current employees and at the point of hire.¹²⁵ This training should include the development of internal protocols and processes within establishments to respond

114. *Hotels*, *supra* note 109.

115. Bisaro, *supra* note 20.

116. *Id.*

117. Stearns, *supra* note 113.

118. TRAFFICKING IN PERSONS COUNCIL, HUMAN TRAFFICKING & HOTELS 1-2 (2016), available at <https://ctcwcs.files.wordpress.com/2016/07/tip-council-discussion-on-hotels-motels.pdf> [<https://perma.cc/PP7F-8395>].

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. Gilchrest & Walsh, *supra* note 35.

124. *Id.*

125. POLARIS PROJECT, *supra* note 93.

to and report identified human trafficking situations.¹²⁶ Additionally, the incorporated protocol should include collaboration with law enforcement, enabling them to act on the information hotel managers or community members provide.¹²⁷ The importance of a well-trained hospitality staff is heightened in light of the fact that trafficking victims are often unaware of their own rights and lack the ability to self-identify as victims.¹²⁸

In addition to awareness training for hotel and motel staffs, research shows that posting the National Human Trafficking Resource Center (NHTRC) hotline number in public places, such as a hotel lobby, plays an increasingly important role in human trafficking detection and arrests.¹²⁹

2. *The Amendment Connecticut Created.*—Based on the above research and the legislative effort of TIP and Connecticut’s legislature, part of Connecticut’s new law states that every operator of a “hotel, motel, inn or similar lodging shall ensure that each employee . . . receive training at the time of hire.”¹³⁰ This training must educate the new hire to recognize (1) potential victims of human trafficking and (2) activities commonly associated with human trafficking.¹³¹ Additionally, it is mandatory for owners to “conduct ongoing awareness campaigns for employees on the activities commonly associated with human trafficking.”¹³² This law, which requires extensive collaboration between hotel or motel owners and advocacy and education programs, falls directly into the “Partnership” element of the 4P initiative.¹³³

The law is further amended to provide that the Commissioner of Children and Families with the Commissioner of Emergency Services and Public Protection will work with the state and national hotel and lodging association to develop the educational training programs to be used in Connecticut’s hospitality industry.¹³⁴ This partnership will develop the training program that educates hotel and motel staff on identifying and reporting suspected incidents of human trafficking.¹³⁵ Examples of trafficking indicators include: (1) paying for a room in cash or with a pre-paid card; (2) extended stays with only few possessions; (3) requesting a room overlooking the parking lot; (4) the presence of drugs, alcohol, and sex paraphernalia; (5) excessive foot traffic in or out of the hotel room; (6) frequent requests for fresh linens; and (7) customers dressing inappropriately for the

126. *Id.*

127. Stearns, *supra* note 113.

128. Heinrich & Sreeharsha, *supra* note 55.

129. BOUCHE ET AL., *supra* note 66, at 17, 20.

130. An Act Concerning Human Trafficking, Pub. Act. No. 16-71, § 5 (2016).

131. *Id.*

132. *Id.*

133. See Four “Ps”: Prevention, Protection, Prosecution, Partnerships, *supra* note 104.

134. Jamison Bazinet, *Connecticut’s Anti Trafficking Laws Lead the Way Nationally; New law requiring hotel and motel training goes into effect Oct. 1*, CONN. HOUSE REPUBLICANS (Aug. 16, 2016), <http://cthousegop.com/2016/08/connecticuts-anti-trafficking-laws-lead-way-nationally-new-law-requiring-hotel-motel-training-goes-effect-oct-1/> [https://perma.cc/8T6S-EPG4].

135. Bisaro, *supra* note 20.

climate.¹³⁶ Not only will hotel and motel staff learn to recognize these indicators, but the amendment additionally requires every hotel and motel to “maintain a record-keeping system of all guest transactions and receipts”¹³⁷ for at least six months.¹³⁸ This required record keeping, as stated previously, is a law new to the sex trafficking fight in this country and is intended to help law enforcement investigations.¹³⁹

Finally, in response to the positive research concerning the posting of the NHTRC hotline number in public places, the new law requires that all hotels and motels post the NHTRC hotline and information on recognizing human trafficking in public places.¹⁴⁰ The notice must be posted “in plain view in a conspicuous location where . . . sales, are to be carried on.”¹⁴¹ Posting this information in a highly visible area gives victims of human trafficking, who are kept isolated, a greater chance to see this lifeline to safety.¹⁴²

B. Safe Harbor

At the federal level, the Trafficking Victims Protection Act already provides a safe harbor law for minors engaged in a commercial sexual act.¹⁴³ A safe harbor provision within human trafficking law means anyone under the age of eighteen is automatically treated as a victim of trafficking, and the proof of “force, fraud and/or coercion” does not need to be present.¹⁴⁴ Although this provision has been enacted at the federal level, it has not been adopted in all state laws.¹⁴⁵ Therefore, not only are sex-trafficking victims often arrested and classified as sex offenders, but also some law enforcement officers think that arresting a minor for prostitution is the only way to mandate services and deal with sex trafficking, not understanding how this criminalization can have a negative long-term impact.¹⁴⁶ The result is a second victimization that punishes victims of sex trafficking for the crimes they were forced to commit.¹⁴⁷ Moreover, a survivor of sex trafficking can struggle with simple elements of recovery like renting an apartment or finding employment because of their arrest or conviction records.¹⁴⁸ To victims,

136. POLARIS PROJECT, *supra* note 93.

137. An Act Concerning Human Trafficking, Pub. Act No. 16-71, § 3.

138. Bisaro, *supra* note 20.

139. Bazinet, *supra* note 134.

140. Gilchrest & Walsh, *supra* note 35.

141. CONN. GEN. STAT. § 54-234a (2017).

142. Gilchrest & Walsh, *supra* note 35.

143. Stearns, *supra* note 113.

144. *Id.*

145. *Prevention of and Remedies for Human Trafficking Summary*, UNIF. LAW COMM’N, <http://www.uniformlaws.org/ActSummary.aspx?title=Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking> [<https://perma.cc/6DR2-9F7N>] (last visited Dec. 2, 2016).

146. Heinrich & Sreeharsha, *supra* note 55.

147. U.S. DEP’T OF STATE, *supra* note 16, at 26-27.

148. *Id.* at 26.

these records reinforce what their traffickers say: “law enforcement will not help you.”¹⁴⁹

1. *The Research and Policy Behind the Amendment.*—A research project sponsored by the Department of Justice shows that safe harbor laws are civil provisions that help increase the arrest and prosecution levels within a state.¹⁵⁰ The evidence suggests that “[b]y providing immunity to minor victims of human trafficking for offenses they were forced to commit while being trafficked, safe harbor makes prosecuting cases of minor victims less difficult. Minors may be more likely to cooperate in an investigation and prosecution given the safe harbor guarantees.”¹⁵¹ Therefore, safe harbor laws provide protection to trafficking victims, showing them they will not be treated as criminals as they might have feared.¹⁵² Additionally, “research suggests that in the absence of . . . safe harbor [legislation] . . . a state’s human trafficking enforcement will be lacking.”¹⁵³

Safe harbor laws also address inconsistencies between how adults are dealt with in statutory rape cases and the cases where adults pay for sex with minors.¹⁵⁴ In states with no safe harbor law, minors who provide commercial sex are often the ones arrested and prosecuted for prostitution, creating an inconsistent treatment for these children being exploited for labor or sex.¹⁵⁵ Safe harbor laws not only protect exploited children from acquiring criminal records, but by properly labeling minors as children in need of services, also provide assistance and services to shield them from further exploitation.¹⁵⁶ Additionally, safe harbor laws can also work with other civil law provisions to allow a victim of human trafficking to bring a civil action against their traffickers to obtain restitution.¹⁵⁷

2. *Connecticut’s Safe Harbor Amendment.*—Connecticut’s law goes beyond its preexisting legal framework since the state’s age of consent is sixteen.¹⁵⁸ Nevertheless, the state has amended its safe harbor law to provide protection from prosecution for anyone under eighteen.¹⁵⁹ The first applicable section of Connecticut’s new statute states: “A person is guilty of trafficking in persons when such person . . . compels or induces another person who is under *eighteen years* of age to engage in conduct involving sexual contact with one or more third

149. Heinrich & Sreeharsha, *supra* note 55.

150. BOUCHE ET AL., *supra* note 66, at 20.

151. *Id.*

152. POLARIS, *supra* note 22.

153. BOUCHE ET AL., *supra* note 66, at 20.

154. POLARIS, HUMAN TRAFFICKING ISSUE BRIEF: SAFE HARBOR, FALL 2015, *available at* <https://polarisproject.org/sites/default/files/2015%20Safe%20Harbor%20Issue%20Brief.pdf> [<https://perma.cc/Z6PP-8369>].

155. *Id.*

156. *Id.*; see also *Prevention of and Remedies for Human Trafficking Summary*, *supra* note 145.

157. *Prevention of and Remedies for Human Trafficking Summary*, *supra* note 145.

158. Bisaro, *supra* note 20.

159. See CONN. GEN. STAT. § 53a-192a (2017); CONN. GEN. STAT. § 53a-82(a) (2017).

persons Trafficking in persons is a class B felony.”¹⁶⁰

This statute focuses on the prosecution of the trafficker under the safe harbor principle, which eradicates for the prosecutor the necessity of proving force or coercion.¹⁶¹ The second section of the statute related to safe harbor provisions states: “A person eighteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.”¹⁶² Although it is stated in the negative, this prostitution statute has changed the age cutoff from sixteen to eighteen as a required element for a prostitution conviction.¹⁶³

C. Harsher Punishment for Demand

Trafficking requires three individuals: the victim, the trafficker, and the purchaser.¹⁶⁴ However, the element that perpetuates the crime of trafficking is the demand of the purchaser.¹⁶⁵ This demand mainly comes from men, and what they demand dictates the type of “product” traffickers seek.¹⁶⁶ Current demand from purchasers is for younger “product” because they are seen as being healthier.¹⁶⁷ Therefore, traffickers seek out younger victims to service this demand.¹⁶⁸ Additionally, the abuse suffered by victims at the hands of traffickers is well understood, but there is also abuse suffered at the hands of purchasers.¹⁶⁹ Sometimes the abuses from purchasers can be even more violent because it fulfills a buyer’s sexual fantasy.¹⁷⁰

At the federal level, in 2005, Congress began debating the complexity of human trafficking in connection with the demand for purchasing sex.¹⁷¹ Up until this point, the “purchase of sex [was] largely considered a ‘vice crime,’ which [was] punishable as just a misdemeanor under prostitution statutes.”¹⁷² These debates helped to create a distinction in the minds of legislators between

160. CONN. GEN. STAT. § 53a-192a (emphasis added).

161. *See Id.*; *see also* Susan Campbell, *CT’s Fight Against Human Trafficking*, CONN. HEALTH I-TEAM (Aug. 9, 2016), <http://c-hit.org/2016/08/09/cts-fight-against-human-trafficking/> [https://perma.cc/8K2Z-FZUN].

162. CONN. GEN. STAT. § 53a-82(a).

163. Bisaro, *supra* note 20.

164. Samantha Healy Vardaman & Christine Raino, *Prosecuting Demand as a Crime of Human Trafficking: The Eighth Circuit Decision in United States v. Jungers*, 43 U. MEM. L. REV. 917, 921 (2013).

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. *Id.* at 929.

170. *Id.*

171. *Id.* at 930.

172. *Id.*

“prostitution” and “trafficking” when it came to prosecuting purchasers of sex.¹⁷³ This distinction was incorporated into the End Demand for Sex Trafficking Act of 2005, which became “Title II of the Trafficking Victims Protection Reauthorization Act of 2005.”¹⁷⁴

Despite the criminalization of the purchasing of sex, Gilcrest, the senior policy analyst for TIP, notes that for the last ten years in Connecticut, 1,847 individuals (mostly women) were convicted of prostitution.¹⁷⁵ However, in that same time, only 267 men who purchased illegal sex were convicted.¹⁷⁶

1. *The Research and Policy Behind the Amendment.*—In 2007, Shared Hope International (Shared Hope) created a comparative analysis of the demand for sex tourism in four countries: Jamaica, Japan, the Netherlands, and the United States.¹⁷⁷ In its research concerning the United States in 2002, Shared Hope found that purchasers of commercial sex made up only thirty-four percent of prostitution related arrests.¹⁷⁸ Additionally, Shared Hope looked at the research Congress did in 2005, which stated that for every eleven females arrested in Boston for commercial sex, only one male purchaser was arrested.¹⁷⁹ Similarly, this same disproportionate arrest rate is evidenced in Chicago where, for every one male buyer arrested, nine female prostitutes are arrested.¹⁸⁰

To address such disproportionality, the Uniform Law Commission incorporated the issue of arrests and convictions for purchasers of illegal sex into sections six and seven of its “Uniform Act on Prevention of and Remedies for Human Trafficking.”¹⁸¹ Section six addresses the patronizing of a victim of sexual servitude.¹⁸² It imposes “felony-level punishment when the defendant offers anything of value to engage in commercial sexual activity with an individual that the defendant knows is a victim of sexual servitude.”¹⁸³ Section seven addresses the patronizing of a minor.¹⁸⁴ Thus, when a defendant intended “to engage in commercial sexual activity with a minor and offers anything of value, felony-level penalties are imposed.”¹⁸⁵

2. *Connecticut’s Amendment.*—Connecticut echoes the Uniform Law

173. *Id.*

174. Trafficking Victims Protection Reauthorization Act of 2005, 119 STAT. 3558 (2006); *see also* Vardaman & Raino, *supra* note 164, at 932.

175. Campbell, *supra* note 161.

176. *Id.*

177. *See* SHARED HOPE INT’L, DEMAND: A COMPARATIVE EXAMINATION OF SEX TOURISM AND TRAFFICKING IN JAMAICA, JAPAN, THE NETHERLANDS, AND THE UNITED STATES (2007), <http://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf> [<https://perma.cc/2K86-TSM5>].

178. *Id.* at 91.

179. *Id.*

180. *Id.*

181. *Prevention of and Remedies for Human Trafficking Summary*, *supra* note 145.

182. *Id.*

183. *Id.*

184. *Id.*

185. *Id.*

Commission in the creation of a new felony crime called “commercial sexual abuse of a minor.”¹⁸⁶ Under this new law, a person is guilty of commercial sexual abuse of a minor when he or she pays either the minor or a third person for “having engaged in sexual conduct” with the minor or if they pay the fee “pursuant to an understanding” they “will engage in sexual conduct with “ a minor.¹⁸⁷ Even if a person only “solicits or requests to engage in sexual conduct with a minor . . . in return for a fee,” without actually exchanging money, he or she is guilty of the crime.¹⁸⁸ If the minor involved is a fifteen, sixteen, or seventeen year old, the crime constitutes a class B felony.¹⁸⁹ If the minor is younger than fifteen, the crime constitutes a class A felony.¹⁹⁰

IV. INDIANA’S HUMAN TRAFFICKING LAW

A. The Presence of Human Trafficking in Indiana

Many who live in Indiana might find it hard to believe that human trafficking happens in Indiana, but it is an issue and it is growing.¹⁹¹ Between January and October of 2016, Indiana Youth Services, an Indiana Trafficking Victims Assistance program, aided in 178 cases of trafficked or commercially sexually exploited youth throughout Indiana.¹⁹² Of the trafficking victims who were under twenty-one, ninety-four percent were girls.¹⁹³ Also striking are the ages of these victims, as almost thirty percent are fifteen years or younger.¹⁹⁴ Victims in Indiana have been as young as seven years old.¹⁹⁵ Another indicator of the human trafficking in Indiana is the increase in tips or notifications coming into the Office of the Attorney General through the years.¹⁹⁶ In 2014, 130 reports came in.¹⁹⁷ This number more than doubled, with 275 cases reported in 2015.¹⁹⁸ The 2014 number increased by four times in 2016 with 520 tips.¹⁹⁹ Although not all of these reports were confirmed as human trafficking cases, the increase in tips confirms the

186. CONN. GEN. STAT. § 53a-83b (2017).

187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.*

191. Stearns, *supra* note 113.

192. OFFICE OF THE IND. ATTORNEY GENERAL, THE 2016 INDIANA STATE REPORT ON HUMAN TRAFFICKING 7 (2016), available at <https://www.in.gov/attorneygeneral/files/ht%20report%202016.pdf> [https://perma.cc/NYE5-GDN2].

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

growing recognition of potential trafficking situations.²⁰⁰

In a report by Jessica Evans, executive director of Purchased, an Indianapolis-based non-profit dedicated to raising awareness about human trafficking, she noted: “[w]e see victims of human trafficking who are both genders, who are affluent, and who are from poverty situations.”²⁰¹ Although Evans stated that Indiana has not done a good job of capturing hard numbers, evidence of human trafficking can be inferred from the calls from Indiana to the NHTRC hotline.²⁰² In 2015, the NHTRC received 243 calls from Indiana, and the facts from 53 of these calls indicated a high likelihood of human trafficking.²⁰³ Between 2007 and January 2016, the national hotline received a total of 1,027 calls from Indiana that resulted in a total of 253 human trafficking cases reported.²⁰⁴

B. The Development of Indiana’s Human Trafficking Law

In addition to the above statistics, the fact that human trafficking is a serious issue for Indiana is further evidenced by the meeting the U.S. Justice Department (DOJ) had with Indianapolis area law enforcement and other victim service providers in 2004.²⁰⁵ During this meeting, the DOJ stated that the “Indianapolis area was at high risk for human trafficking.”²⁰⁶ This assessment was based on information coming from “similarly situated cities in the country and Indiana’s specific location as a state with a number of intersecting national highways: the ‘crossroads of America.’”²⁰⁷ In response, the U.S. Attorney for the Southern District of Indiana formed the Indiana Protection for Abused and Trafficked Humans Task Force (IPATH) in 2006.²⁰⁸ The goal of IPATH was to provide guidance in improving the trafficking law at that time.²⁰⁹ However, at the time of formation, IPATH’s jurisdiction was limited to the Southern District.²¹⁰ Then, in 2013, the U.S. Attorney for the Northern District of Indiana joined the task force, giving IPATH’s initiatives a statewide impact.²¹¹

Much like TIP in Connecticut, IPATH consists of over seventy-five

200. *Id.* at 7-8.

201. Stearns, *supra* note 113.

202. *Id.*

203. OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 192, at 8.

204. Stearns, *supra* note 113.

205. OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 192, at 10.

206. *Id.*

207. *Id.*

208. *Indiana Law Enforcement Human Trafficking Task Force Announces First Federal Charges*, U.S. DEP’T OF JUSTICE (Feb. 4, 2014), <https://www.justice.gov/opa/pr/indiana-law-enforcement-human-trafficking-task-force-announces-first-federal-charges> [<https://perma.cc/Q9T6-U3FC>].

209. See Abigail Lawlis Kuzma, *Game Plan to Fight Human Trafficking: Lessons from Super Bowl XLVI*, 2 DEPAUL J. WOMEN, GENDER & L. 129, 142-44 (2012).

210. OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 192, at 10.

211. *Id.*

organizations which include: “state and federal law enforcement and other government agencies, social service, health care and legal services providers, as well as faith based, community and educational organizations.”²¹² Its goals follow the same federal and Connecticut categories of Prosecution, Protection, and Prevention.²¹³ However, Indiana does not include the fourth P, Partnership. Nevertheless, Indiana’s goals include educating law enforcement on identifying and recovering trafficking victims, enabling prosecutors to prosecute traffickers, providing comprehensive services to victims, and employing strategies to decrease demand and prevent trafficking.²¹⁴ The members of IPATH serve on internal committees that address the different areas pertaining to Prosecution, Protection, and Prevention.²¹⁵ One such committee is the Policy Development committee, which was created in 2015 at the suggestion of Indiana’s Chief Justice Loretta Rush to address the need to develop legislation and policy goals.²¹⁶ The committee’s main goal is to coordinate the efforts of the statehouse and agencies around the state to better identify and serve trafficking victims.²¹⁷

Indiana’s first state law addressing human trafficking was passed in 2006.²¹⁸ The most recent anti-human trafficking statute in Indiana defines a sex trafficker as “[a] person who knowingly or intentionally uses force, threat of force, coercion, or fraud to recruit, entice, harbor, or transport an individual with the intent of causing the individual to: . . . participate in sexual conduct.”²¹⁹ This current law recently added the much needed element of “coercion” to its definition of a sex trafficker since a trafficker commonly engages a victim in prostitution via coercion.²²⁰ This is significant for prosecution because proving force or threat of force can be more difficult to prove than coercion.²²¹ Moreover, many victims of human trafficking, like Gwen, are not brought into their trafficking situation by violence, but by a deceitful relationship that incorporates coercion.²²² Despite this legislative improvement, Indiana’s law also does not yet address two of the areas that Connecticut’s new amendments focus on: hotel or motel awareness and accountability and harsher punishments on sex purchasers.

212. *Id.*

213. *Id.*

214. *Id.*

215. *Id.* at 11-13.

216. *Id.* at 12.

217. *Id.* at 12-13.

218. *Id.* at 13.

219. BURNS IND. CODE ANN. § 35-42-3.5-1.1 (2018).

220. Abigail Kuzma, former Assistant Attorney General at Office of the Indiana Attorney General, Summary of the Indiana Attorney General’s State Report on Trafficking, IPATH Human Trafficking Awareness Event (Jan. 20, 2017); E-mail from Abigail Kuzma, former Assistant Attorney General at Office of the Indiana Attorney General, to Katherine M. Forbes, Author (Mar. 19, 2017, 01:24 EST) (on file with author).

221. *Id.*

222. *See* Collins, *supra* note 1.

Indiana has only recently codified laws that could amount to safe harbor laws.²²³

1. *Indiana Needs a Hotel/Motel Amendment.*—Although Jessica Evans states that each year “more and more victims [are] identified and identified properly,”²²⁴ the 261 miles that stretch across Indiana continue to provide a route for traffickers to exchange and sell victims of sex trafficking.²²⁵ Many victims are sold into prostitution and placed in cities like Lafayette because of the convenient proximity between Indianapolis and Chicago.²²⁶ The network of interstates and highways throughout Indiana resembles Connecticut’s Interstate-95 corridor.²²⁷ The hotels and motels along these roads give traffickers secluded and isolated locations for their victims to be sexually exploited.²²⁸

Presently, Indiana’s only applicable statute to hold hotel and motel owners or managers accountable for this trafficking activity is Indiana Code Annotated section 35-42-3.5-1.1, which applies to a “person so who knowingly or intentionally . . . harbor[s] . . . an individual with the intent of causing the individual to: . . . ((2) engage in prostitution; or (3) participate in sexual conduct,”²²⁹ but this includes language that requires a “knowing[] benefit from trafficking.”²³⁰ Another possibly applicable statute is a new “common nuisance” law, Indiana Code Annotated section 35-45-1-5, which makes it a Level 6 felony if a person “knowingly or intentionally maintains a common nuisance,” which is further defined as including a building, structure, vehicle, or other place that is used for “a person to pay, offer to pay, or agree to pay money or other property to another person for a human trafficking victim or an act performed by a human trafficking victim.”²³¹ This law addresses the human trafficking problem, but does not, unlike Connecticut’s law, address the prevention element or the “P” that is missing in Indiana’s legislative development – Partnership. Rather, at the community or civil level, hotel corporations, such as Hilton Hotels, have voluntarily decided to train their staff on the signs of human trafficking.²³² To assist this volunteer effort, IPATH has partnered with a variety of hotel and motel chains across the state to train these hotel staffs using materials developed by the

223. See IND. CODE ANN. § 31-34-1-3.5 (West 2017); *id.* § 31-9-2-133.1; *id.* § 35-31.5-2-178.5.

224. Stearns, *supra* note 113.

225. Joseph Paul, *Interstate 65 a route for human traffickers*, J. & COURIER (May 28, 2016, 10:19 PM), <http://www.jconline.com/story/news/crime/2016/05/27/interstate-65-route-human-traffickers/84901346/> [<https://perma.cc/TW6F-XYDD>].

226. *Id.*

227. See Bisaro, *supra* note 20; OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 192, at 10.

228. See Stearns, *supra* note 113.

229. BURNS IND. CODE ANN. § 35-42-3.5-1.1 (2018).

230. SHARED HOPE INT’L, 2016 ANALYSIS AND RECOMMENDATIONS: INDIANA 28 (2016), available at http://sharedhope.org/PICframe6/analysis/PIC_AR_2016_IN.pdf [<https://perma.cc/DYP8-QKZS>].

231. BURNS IND. CODE ANN. § 35-45-1-5 (2018).

232. Kuzma, *supra* note 220; E-mail from Abigail Kuzma, *supra* note 220.

Sandra Day O'Connor Institute and the University of Arizona.²³³ Also, during the 2012 Super Bowl in Indianapolis, IPATH worked with ECPAT International to use investment influence on hotel chains to sign a pledge agreeing to train their staff and discourage trafficking within their hotels.²³⁴

Nevertheless, it is not the large corporate hotels that harbor most trafficking victims.²³⁵ The problem lies with the smaller, independent or cheaper hotels and motels along highways and byways.²³⁶ These establishments have not made promises or created initiatives to train their own staff in recognizing the signs of trafficking.²³⁷ Additionally, these are the businesses that profit, either knowingly or unwittingly, from trafficking on their premises.²³⁸ Here is a situation that community involvement or corporate pressures cannot resolve. Connecticut's law regulates these types of establishments within their state.²³⁹ Having a law that reaches similar establishments in Indiana would be of great benefit, not only for prosecutorial purposes, but for greater (albeit forced) community engagement to train every hotel/motel worker along the highways and byways.²⁴⁰ Such laws will also create mandatory accountability for these smaller establishments and ensure their partnership in fighting human trafficking.²⁴¹

2. *Indiana Finally Has a Safe Harbor Amendment.*—For a long time, Indiana only provided harsher punishment for traffickers of minors without a full “safe harbor” provision for child victims.²⁴² However, in the summer of 2017, Indiana's law changed to provide within the definition of a “child in need of services” (CHINS) a safe harbor provision for victims of sex trafficking.²⁴³ Now, the CHINS statute defines “[a] child [as] a child in need of services if, before the child becomes eighteen (18) years of age: (1) the child is the victim of: (A) human or sexual trafficking (as defined in IC 31-9-2-133.1).”²⁴⁴ Looking at Indiana Code section 31-9-2-133.1, a victim of sexual trafficking is “a child who is recruited, harbored, transported, or engaged in: . . . (4) juvenile prostitution, as defined in IC 35-31.5-2-178.5.”²⁴⁵ According to Indiana Code section 35-31.5-2-178.45, “juvenile prostitution” is “an act by a person less than eighteen (18) years

233. E-mail from Abigail Kuzma, *supra* note 220.

234. *Id.*

235. Interview with Megan McGuire, *supra* note 43.

236. *Id.*

237. *Id.*

238. *Id.*

239. An Act Concerning Human Trafficking, Pub. Act. No. 16-71, § 5 (2016).

240. *Id.*

241. *Id.*

242. Emma Venard, *Human Trafficking in Legislature*, PURCHASED, (Jan. 27, 2015), <http://www.purchased.org/blog/2015/01/27/general/human-trafficking-in-legislature/> [<https://perma.cc/LWX7-PG3K>].

243. See IND. CODE ANN. § 31-34-1-3.5 (West 2017); *id.* § 31-9-2-133.1; *id.* § 35-31.5-2-178.45.

244. *Id.* § 31-34-1-3.5.

245. *Id.* § 31-9-2-133.1.

of age that would be a crime described [as prostitution] if committed by an individual at least eighteen (18) years of age.”²⁴⁶ Therefore, as of July 1, 2017, minors in Indiana who are caught selling sex no longer have to deal with the possibility of being prosecuted.²⁴⁷

This new law came from House Bill (HB) 1218 and Senate Bill (SB) 166. The safe harbor amendment within SB 166 was proposed by Senate Democrat Minority Leader Tim Lanane, D-Anderson, who wanted to “exclude any victim under the age of 18 from a prostitution conviction and would instead treat juvenile victims as children in need of services.”²⁴⁸ The new law functions as a safe harbor amendment and is supported by Delaware Circuit Judge Kimberly Dowling, who pointed out “most juvenile trafficking victims don’t realize they are victims because they have faced significant mental manipulation.”²⁴⁹ The point Judge Dowling makes is important because safe harbor laws mean a victim does not have to believe he or she is a victim for the government to prosecute a trafficker.²⁵⁰ Eliminating this barrier helps prosecutors in Indiana, since almost all victims of trafficking will deny they are trafficked.²⁵¹ Most minors being trafficked today are victimized through manipulation by their trafficker.²⁵² The child victim honestly believes his or her trafficker loves them or needs them.²⁵³ It is a psychological phenomenon called trauma bonding where the trafficker misuses fear, excitement, sexual feelings, and sexual physiology to entangle their victims.²⁵⁴ Thus, victims feel attached to their traffickers, and are unable to recognize their own victimization.²⁵⁵

Indiana’s safe harbor law will significantly benefit the state. Now, when a minor is in court for prostitution or a crime of sexual conduct, the juvenile judge will automatically assign them as a CHINS case.²⁵⁶ This means that the minor is put into either a group facility or foster care, and is given counseling treatment along with other recovery services.²⁵⁷ Additionally, this safe harbor law will give the government the ability to prosecute a sex trafficker without needing the

246. *Id.* § 35-31.5-2-178.45.

247. Kuzma, *supra* note 220; *see also* IND. CODE ANN. § 31-34-1-3.5; *id.* § 31-9-2-133.1; *id.* § 35-31.5-2-178.45.

248. Olivia Covington, *Bills dealing with sex crime punishments move to full Senate*, IND. LAW. (Feb. 8, 2017), <http://www.theindianalawyer.com/bills-dealing-with-sex-crime-punishments-move-to-full-senate/PARAMS/article/42752> [<https://perma.cc/9G49-C6X6>].

249. *Id.*

250. Interview with Megan McGuire, *supra* note 43.

251. *Id.*

252. *Id.*

253. *Id.*

254. Michael Samsel, *Trauma Bonding*, ABUSE & RELATIONSHIPS, https://www.abuseandrelationships.org/Content/Survivors/trauma_bonding.html [<https://perma.cc/6CUY-EX8R>] (last visited Feb. 8, 2017).

255. Interview with Megan McGuire, *supra* note 43.

256. *Id.*

257. *Id.*

testimony of the trafficked minor, that is, without the minor stating he or she is a victim of sex trafficking.²⁵⁸ Thus, not only do safe harbor provisions protect minors from criminal records, they also empower the government to prosecute without a cooperative victim, such as a victim suffering from trauma bonding.²⁵⁹

3. *Indiana Needs Tougher Punishments for Demand.*—Despite Indiana’s advancement, there remains a significant and glaring gap in Indiana’s human trafficking law in the area of punishments for demand.²⁶⁰ Shared Hope’s 2016 State Report Card on Indiana shows that Indiana’s weakest area in human trafficking legislation is in the area of “Criminal Provisions Addressing Demand.”²⁶¹ Indiana’s law addressing purchasers of sex from human trafficking victims in Indiana states that “[a] person who knowingly or intentionally pays to, offers to pay to, agrees to pay money or other property to, or benefits in some other manner another person for a human trafficking victim or an act performed by a human trafficking victim commits human trafficking, a Level 5 felony.”²⁶² According to Shared Hope’s 2016 Analysis and Recommendations for Indiana, two elements are at fault in this law.²⁶³ First, the law lacks provisions distinguishing “between or provid[ing] heightened penalties for buyers of commercial sex with a minor as opposed to buyers of commercial sex with an adult.”²⁶⁴ Also, the statute requires the buyer to “have knowledge that the victim was forced into prostitution.”²⁶⁵ Thus, to strengthen the prosecutorial element of this law, Shared Hope recommends removing the requirement that “the buyer have knowledge that the victim was forced into prostitution when the victim is a minor and provid[ing] a heightened penalty for these offenses.”²⁶⁶ Both recommendations mirror the amendments already made by Connecticut within their own law.

Additionally, Shared Hope looked at Indiana Code Annotated section 35-45-4-3 (Making an unlawful proposition) which “does not differentiate between buying sex with an adult and the buying of sex with a minor.”²⁶⁷ Shared Hope’s recommended amendment would refer cases of “patronizing a prostitute where the victim is under 18 to Ind. Code Ann. § 35-42-3.5-1 (Promotion of human trafficking; sexual trafficking of a minor; human trafficking).”²⁶⁸ This amendment means anyone who purchases sex from a minor is automatically deemed a human

258. *Id.*

259. *Id.*

260. *Id.*

261. SHARED HOPE INT’L, *supra* note 45.

262. OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 192, at 13; *see also* BURNS IND. CODE ANN. § 35-42-3.5-1.4 (2017).

263. SHARED HOPE INT’L, *supra* note 230, at 10.

264. *Id.*

265. *Id.*

266. *Id.*

267. *Id.* at 11; *see also* IND. CODE ANN. § 35-42-3 (West 2017).

268. SHARED HOPE INT’L, *supra* note 230, at 12.

trafficker.²⁶⁹ If such an amendment is made, not only could a sex purchaser or “john” be prosecuted for a harsher violation and punishment, but they would also be required to register as a sex offender if convicted.²⁷⁰ These are the same types of amendments that Connecticut has implemented this last year within their own law and these changes have helped improve Connecticut’s own Shared Hope International Report Card.²⁷¹ As noted above, Connecticut is now graded with a “B” by Shared Hope International, while Indiana remains at the “C” level.²⁷²

CONCLUSION

Situations like Gwen’s, where traffickers trap their victims in hotels or motels, are not unique to Connecticut.²⁷³ Gwen’s coercion into prostitution via a relationship with her trafficker is also common.²⁷⁴ Many of the problems with domestic sex trafficking are connected to the relationship between victims and their traffickers. There is often a pattern of abuse in a victim’s life that creates the phenomenon of trauma bonding.²⁷⁵

Additionally, human trafficking in the United States remains difficult to track.²⁷⁶ In recent years, the number of reported cases of human trafficking has risen.²⁷⁷ However, this rise in numbers is not a rise in the actual criminal act, but a rise in the awareness of the crime.²⁷⁸ Researchers point out that the reported cases only represent about twenty-five percent of actual trafficking cases.²⁷⁹ Therefore, if 150 cases are reported to an organization in a given year, the real number of actual trafficking victims would be closer to 600.²⁸⁰ This differential can be attributed to the ability traffickers have to hide their victims in hotels and motels along highways and byways.

Legislation addressing this insidious crime is still new and somewhat experimental amongst the states. Some, like Connecticut’s hotel and motel amendment, are completely untried. Therefore, states rely upon the research and recommendations of governmental and non-governmental organizations like Polaris Project and Shared Hope International to develop laws.²⁸¹ Researchers and advocates alike believe the only way to fully curb the human trafficking industry is to not only create laws that address the criminal act of trafficking, but to create

269. *Id.*

270. SHARED HOPE INT’L, *supra* note 45.

271. SHARED HOPE INT’L, *supra* note 41.

272. *See id.*; SHARED HOPE INT’L, *supra* note 45.

273. *See generally* Collins, *supra* note 1 (recounting Gwen’s story).

274. *Id.*

275. *See generally* Interview with Megan McGuire, *supra* note 43.

276. BELLES, *supra* note 28, at 25.

277. Interview with Megan McGuire, *supra* note 43.

278. *Id.*

279. *Id.*

280. *Id.*

281. *See* OFFICE OF THE INDIANA ATTORNEY GENERAL, *supra* note 29.

laws that are comprehensive.²⁸² Additionally, states need to create laws that are consistent in strength with other states.²⁸³ Therefore, the Uniform Law Commission created a uniform human trafficking law for all states to use as a model in developing their own state's anti-trafficking law.²⁸⁴

Last year, Connecticut made significant strides in developing their human trafficking law – both in its comprehension, addressing areas of law outside of simple criminalization, and in mirroring the standards set out by the Uniform Law Commission, Shared Hope, and Polaris.²⁸⁵ This Note set out to understand the significance and potential effectiveness of these amendments. In first looking at Connecticut's new amendments regulating hotels and motels, it examined where the ideas came from, what research it was based on, and if there are any potential legal issues that might arise out of this form of regulation. This Note continued by explaining the more established provision of a safe harbor law, and how it potentially protects the victim and helps increase the number of successful prosecutions against human trafficking. Then, the Note addressed the amendment to create a new felony level crime for those who purchase a sexual act with a trafficking victim who is a minor. This area of prosecution has been weak on a national level, and this Note analyzed the research on why harsher punishments for “johns” could be the most effective law in the fight against human trafficking.

Finally, this Note advocated for Indiana's adoption of similar amendments within its own law to address similar challenges to fighting domestic sex trafficking. Although the recent enactment of a safe harbor law was a step in the right direction, two gaps remain in the current Indiana law which weakens Indiana's ability to fight sex trafficking. Indiana must follow the more robust and aggressive legal path forged by Connecticut to stay vigilant against this insidious evil.

282. See BOUCHE ET AL., *supra* note 66.

283. See *id.*

284. *Id.*

285. Gilchrest & Walsh, *supra* note 35.