

1-1-2014

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Recommended Citation

Sharon Falen, *Legislative Update: The House's Response to At-Risk Children Without a "Home"*, 34 CHILD. LEGAL RTS. J. 238 (2014).
Available at: <http://lawcommons.luc.edu/clrj/vol34/iss2/6>

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Legislative Update: The House's Response to At-Risk Children Without a 'Home'

By Sharon Falen

The average prostitute in the United States begins selling sex between the ages of twelve and fourteen. Regrettably, the pervasiveness of child prostitution and other forms of sex trafficking within this country remains a well-kept secret.

According to the National Center for Missing and Exploited Children, every year upwards of 100,000 children alone are sexually exploited (a domestic estimate that does not include those children exploited for labor trafficking purposes). Foster children especially are at risk of sex trafficking. In another study, the National Center for Missing and Exploited Children estimated that, of the children reported missing and likely sexually exploited, sixty percent are runaways from foster care or group homes. In some cases, foster children may become victims of sex trafficking in exchange for basic shelter or financial support. Additionally, foster children often do not have a stable home and thus often lack the support system necessary to oppose a trafficker's advances.

Professionals working with foster children need to be aware that traffickers target group homes and foster placements and, consequently, need to be armed with the requisite knowledge to effectively advocate for their young clients. Foster children are involved in the abuse and neglect court system and may get passed from home to home. "Pimps" and other traffickers prey on this potentially vulnerable population.

In response to the crisis of human trafficking, the federal government passed the Trafficking Victims Protection Act of 2000 ("TVPA"). The enactment of this federal legislation was a major step in recognizing the widespread problem of human trafficking. The TVPA legally defines "sex trafficking of a minor" essentially as recruiting, harboring, or transporting a minor who will be caused to engage in a commercial sex act. It is important to note that a trafficker need not force, deceive, or coerce a minor to be liable. The mere fact that the victim is a minor is enough to validate the crime of sex trafficking. The TVPA, however, did not specifically address foster children and their unique risks.

Fortunately, on December 20, 2013, the Ways and Means Committee of the House of Representatives released draft legislation H.R. 1732, commonly known as the Strengthening the Child Welfare Response to Human Trafficking Act of 2013 ("Act"). One of the main objectives of this pending legislation mandates the training of caseworkers to identify foster children who are victims of sex trafficking and to harness foster care youth with sufficient tools to become successful adults, free from commercial sexual exploitation.

The Act is meant to compliment the TVPA, which does not explicitly address the role of state child welfare agencies and intervention in matters concerning trafficked children, or commercially sexually exploited children ("CSEC"). Statutory provisions that provide this framework are necessary because child welfare agencies are of

paramount importance to CSEC, considering that the agencies' professionals maintain consistent personal relationships with foster care youth.

The Act would also impact child welfare legislation by amending Part E, Foster Care and Adoption Assistance, of Title IV of the Social Security Act to require foster care programs to make reasonable efforts when identifying victims of child trafficking and when recording the type of trafficking to which children in their care have been subjected. Finally, the Act seeks to amend the Child Abuse Prevention and Treatment Act to require some state grant money specified for child abuse or neglect prevention to fund services for CSEC, specifically.

Ultimately, the Act has five key, identifiable goals. The Act first and foremost directs the Department of Health and Human Services ("HHS") to develop and publish guidelines to assist child welfare agencies, as well as juvenile and family courts, in addressing and ultimately preventing sex trafficking of youth in foster care. This goal requires states to develop procedures for identifying CSEC and for determining appropriate services. Currently, there is no universal screening method to help identify CSEC and assist them in obtaining necessary services. Implementing an appropriate screening method would be significant because indicators of trafficking tend to be especially difficult to detect in foster care children, who may already display signs of abuse or neglect generally. Accordingly, the Act's first goal mandates that states provide training for caseworkers in identifying victims of child sex trafficking and those who are at risk of becoming victims. Upon doing so, states maintain the responsibility of reporting identified children to the National Crime Information Center at the Federal Bureau of Investigation and making this information on services available to the public.

The Act's second objective is to improve the quality of data collected on sex trafficked children. The Act mandates that HHS report to Congress information on children who run away from foster care and group homes as part of its annual report, and that state efforts provide trafficking-specific services to ensure foster children preserve connections with caring adults. This objective will specifically help ensure that these at-risk youth develop a support system to assist them in leaving a trafficking situation or to avoid trafficking altogether. Furthermore, states would be required to submit data on CSEC through the existing foster care data system. The practical implication of this would be to enable workers to use an existing system to avoid spending extra expenses or time, while making a significant impact on how CSEC are identified and supported within the foster care context.

The Act's tertiary goal is to ensure youth in foster care can lead "more normal lives" by mandating that states implement a "reasonable and prudent parent" standard that moves kids out of foster care more quickly. No longer would states be able to indicate long-term foster care, or "Another Planned Permanent Living Arrangement," as a stated goal for a child client. For children over the age of sixteen who already have this goal in place, states would document ongoing efforts for permanency and provide a basis for why other options are not in the client's best interest.

The final aim of the Act is to ensure that youth in foster care are overall better prepared to lead successful lives. Children aged fourteen years or older would select individuals to be part of the team that develops their case plan and would be encouraged

to participate in the plan themselves, offering them a sense of empowerment in their own lives. Furthermore, the law would require that children who have reached the age of fourteen leave foster care with a birth certificate, Social Security card, and bank account. This mandate would ensure that children leaving the system would have a better chance at success and be less likely to fall into a trafficker's false promise of financial stability.

The Strengthening the Child Welfare Response to Human Trafficking Act sets up specific and ambitious provisions to help safeguard at-risk foster youth from falling through the cracks and becoming representatives of child sex trafficking. The Act has received bipartisan support from representatives of sixteen states and is currently pending in the House of Representatives. The bill needs representatives to support its cause, or its potential for positive change in the lives of child trafficking victims will never be realized. It is important that professionals who care about this issue educate others and that they take action by writing to their state representatives to support the bill.

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What's your position on the Strengthening the Child Welfare Response to Human Trafficking Act, POPVOX, <https://www.popvox.com/bills/us/113/hr1732> (last visited Jan. 27, 2014).