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Policy Brief: Preventing Sex Trafficking and Strengthening Families

Jeanne Murray

Center for the Human Rights of Children at Loyola University Chicago

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POLICY BRIEF: PREVENTING SEX TRAFFICKING & STRENGTHENING FAMILIES ACT OF 2014

Policy Brief

Jeanne Murray, JD, MPP
Children's Rights Fellow, Center for the Human Rights of Children

The "Preventing Sex Trafficking and Strengthening Families Act of 2014," H.R. 4980 (Public Law 113-183), was passed with bipartisan support and signed into law by President Obama in September of 2014. It is the first federal child welfare bill to address the intersection of child welfare and child trafficking. For the purposes of this brief, we will focus on provisions of the Act pertaining to preventing and addressing the sex trafficking of children in foster care, contained in Title I of this Act. It is important, however, to also acknowledge that other provisions of the Act mandating improved permanency and services for foster children inherently provide protective factors against human trafficking. The following provides a brief overview of the requirements under the Act, and an analysis of the implications and potential outcomes under the Act for stakeholders.

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Center for the Human Rights of Children

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I. Overview: Identifying and Protecting Children and Youth at Risk of and Survivors of Sex Trafficking

Research suggests that system-involved youth, including foster children, are at an increased risk of sex trafficking.¹ Relatedly, run-away children are also at higher risk of human trafficking.² Therefore, the agencies tasked with protecting them, in this case the child welfare and foster care systems, are in a unique position to both identify children who are sex trafficked, and to improve efforts to protect children at risk of sex trafficking. This act amends the federal foster care program to respond to concerns about sex trafficking of children in foster care, and requires the following:

- States should implement policies and procedures to identify, document, screen, and determine appropriate services for children under the child welfare agency's care and supervision who are victims of, or at risk of, sex trafficking.
- States should improve opportunities and support permanency for children in foster care. A National Advisory Committee on the sex trafficking of children and youth is established in the U.S. to advise on policies to improve the nation's response to the sex trafficking of children and youth.



¹ See CRS Report R41979, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Frenandes-Alcantara, and Alison Siskin; Kate Walker, *Ending the Commercial Exploitation of Children: A Call for Multi-System Collaboration in California* (2013), available at http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf

² Id. See also http://www.ndaa.org/pdf/child_sexual_exploitation_update_volume_2_number_1_2005.pdf



- States should report to law enforcement and the U.S. Department of Health and Human Services (HHS) about youth who are at risk of or are victims of sex trafficking.

Section 101: States Developing policies and procedures to identify, document, screen, and determine appropriate services for children who are victims of, or at risk of, sex trafficking

- States may develop these policies and procedures for all young adults under 26 regardless of foster care involvement, but this is not required in order to be in compliance with the Act.³
- Policies and procedures (and relevant training) should be developed in consultation with State and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations experienced in working with at-risk children and youth.
- This should apply to any child or youth over whom the States agency has responsibility for placement, care or supervision, and where there is reasonable cause to believe that a child is or is at risk of being a sex trafficking victim.
- This change should occur within one year of enactment.

Section 102: Proposing new state and federal reporting requirements for children in agency care who are sex trafficking victims

- State child welfare agencies must report children identified as being a sex trafficking victim to law enforcement within 24 hours.⁴ This is effective within two years of enactment.

- State child welfare agencies must then report the numbers of children in their care, placement, or supervision who are identified as sex trafficking victims to the U.S. Department of Health and Human Services, who must report these numbers to Congress and make them publicly available.⁵ This is effective within three years of enactment.
- The Department of Health and Human Services must also report to Congress annually on the number of child victims and on children who have run away from foster care, including their risk of becoming sex trafficking victims. This includes characteristics, potential factors associated with children running away from foster care, information on children’s experiences while absent from care and trends in the number of children reported as runaways in each fiscal year; state efforts to provide services and placements, and state efforts to ensure children in foster care form and maintain long-lasting connections to caring adults.⁶ This is effective within four years of enactment.

Section 103: Including Sex Trafficking Data in the Adoption and Foster Care Analysis and Reporting System

- The data included in the Adoption and Foster Care Analysis and Reporting System should include the annual number of children in foster care who are identified as sex trafficking victims, including those who were victims before entering foster care

³ Id. at 4-6.

⁴ Id. at 7.

⁵ Id. at 7-8.

⁶ Id. at 9-10.



and those who were victims while in foster care.

Section 104: Locating and Responding to Children Who Run Away from Foster Care

- State child welfare agencies must develop and implement protocols to locate children who have run away or are missing from foster care, determine the child’s experiences while absent from care, screen the child for sex trafficking while away from care, and report this information to the Department of Health and Human Services.⁷ This is effective within one year of enactment.
- The Department of Health and Human Services must report this information, no later than 24 hours after receiving such information on missing or abducted children or youth, to law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigations (FBI) and to the National Center for Missing and Exploited Children. This is effective within two years of enactment.

Section 105: Increasing Information on Children in Foster Care to Prevent Sex Trafficking

- The Secretary of Health and Human Services must submit a written report to Congress that summarizes:
 - Information on children who run away from foster care and their risk of becoming sex trafficking victims, which includes: their characteristics, the potential factors associated with children running away from foster care, information on children's experiences while absent from care, and trends in

the number of children reported as runaways in each fiscal year;

- Information on State efforts to provide specialized services, foster family homes, child care institutions, or other forms of placement for children who are sex trafficking victims; and
- Information on State efforts to ensure that children in foster care form and maintain long-term connections to caring adults, even when a child in foster care must move to another foster home or when the child is placed under the supervision of a new caseworker.

Section 121: Establishment of a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States

- This subsection establishes a National Advisory Committee on the sex trafficking of children and youth in the U.S. to advise on policies to improve the nation’s response to the sex trafficking of children and youth.⁸
- The Committee will advise the Secretary and the Attorney General on practical and general policies concerning improvements to the Nation’s response to the sex trafficking of children and youth in the United States.
- The Committee will advise the Secretary and the Attorney General on practical and general policies concerning the cooperation of Federal, State, local, and tribal governments; child welfare agencies; social service providers; physical and mental health providers; victim service providers;

⁷ Id. at 10-11.

⁸ <http://www.ncsl.org/research/human-services/preventing-sex-trafficking-and-strengthening-families-act-of-2014.aspx>



State or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families; Federal, State, and local police; juvenile detention centers; runaway and homeless youth programs; schools; the gaming and entertainment industry; and businesses and organizations that provide services to youth on responding to sex trafficking, including the development and implementation of:

- Successful interventions with children and youth who are exposed to conditions that make them vulnerable to, or victims of, sex trafficking; and
- Recommendations for administrative or legislative changes necessary to use programs, properties, or other resources owned, operated, or funded by the Federal Government to provide safe housing for children and youth who are sex trafficking victims and provide support to entities that provide housing or other assistance to the victims.
- The Committee will terminate 5 years after the date of its establishment, but the Secretary shall continue to operate and update, as necessary, an Internet website displaying the State best practices, recommendations, and evaluation of State-by-State implementation of the Secretary's recommendations. Effective within two years of enactment.

II. Brief Analysis and Recommendations

Limited Resources to Assist in Implementation

The Preventing Sex Trafficking and Strengthening Families Act creates financial incentives for states to implement this bill by making the receipt of federal

funding under Title IV, Temporary Assistance for Needy Families (TANF), contingent upon implementation. Because no new funding is provided by the bill, states will need to use existing funds to implement the procedures outlined in the bill. This may provide challenges to state child welfare agencies, many of which are under-resourced, to implement the provisions of the bill in a timely and effective manner.

Recommendation: As part of the reporting requirements, states should assess and map existing resources as related to the act, and identify any gaps not adequately covered under existing funding. This information should also be shared with the National Advisory Committee formed under this Act.

Potential for Lack of Uniformity in Data Collection, Practices, and Policies

Most states currently do not have laws or policies in place to identify or to respond to child trafficking. The Act does not provide guidance as to best practices to implement uniform standards for these policies and procedures. It only states that other experts and stakeholders, including local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations experienced in dealing with at-risk children and youth should be consulted. There is some risk that each state, and in some states, counties, may create different identification tools and protocols, which may be inconsistent with each other. This could significantly impact national data collection on this issue. Similarly, while “appropriate services” will vary by client and state, depending on resources, again, there is little guidance as to what “appropriate services” mean, or guidance regarding promising practices.

The duties of the National Advisory Council created under this Act include developing best practices and



recommendations for states, and to advise the Department of Health and Human Services and the Attorney General on policies to improve the nation's response to sex trafficking. The Advisory Council, however, is required to be established within two years of the act, one year *after* the initial requirements for states to develop screening and identification methods, policies, and procedures to identify and respond to potential child sex trafficking cases in foster care.

Recommendation: Ensure the National Advisory Council includes research and data collection professionals, as well as multi-disciplinary subject matter experts to provide states guidance as soon as possible, and as frequently as necessary.

Limited Scope to Address All forms of Child Trafficking and Exploitation

The Act only addresses sex trafficking of children under state care. It is important to understand that sex trafficking is not the only form of human trafficking, and that there are documented cases of children who are victims of labor trafficking or both labor and sex trafficking. There is a tremendous missed opportunity to ignore child labor trafficking as states are developing tools, policies, and procedures to identify and respond to sex trafficking of children as part of the movement to combat all forms of human trafficking in the United States.

Recommendation: As resources allow, states should use their discretionary powers to also include child labor trafficking as a category when creating and implementing policies and procedures to identify, document, screen, and determine appropriate services for child trafficking victims.

Children Impacted

The Act does not distinguish between domestic or foreign national victims of sex trafficking. Therefore, it should be implied that states must apply the Act as related to *both* U.S. citizen and non-citizen children who are victims of or at risk of sex trafficking. Therefore, protocols and training should include provisions related to best practices related to non-U.S. citizen children, including referrals to competent immigration attorneys.

Additionally, while the language of the Act emphasizes children in foster care, the Act requires states to create procedures to identify, document, and serve victims of, or those at risk of, sex trafficking that must apply to *all* children in the care, placement, or supervision of the state child welfare agency.

Recommendation: all agencies tasked with implementing the Act should emphasize that screening, policies, protocols and services need to address both US citizen and non-US citizen child trafficking victims, and as relevant, highlight any distinctions in response needed to protect the rights and best interest of the child.

III. Conclusion

This Preventing Sex Trafficking and Strengthening Families Act of 2014 is the first bill of its kind to bring states' attention to the serious issue of sex trafficking as it pertains to vulnerable children and youth in the United States. Child welfare involved children and youth have distinct vulnerabilities that make them vulnerable to human trafficking. Thus, legislation that seeks to protect these children is a critical step in the right direction. Moving forward, policy makers and stakeholders should consider improvements to more holistically and effectively identify and respond to all forms child trafficking in the United States, including providing states more guidance on how to effectively implement the measures outlined in the bill.