

THE TIME TO ACT WAS YESTERDAY: LOCAL REFORMS TO CONFRONT THE
TRAGEDY OF FOR-PROFIT SEXUAL EXPLOITATION AND PROVIDE VICTIM
ASSISTANCE

“The undeniable truth is that trafficking is in Iowa just as it is in every other state in our country; it is in our small towns and our big cities; our children and young women and men are suffering unimaginable cruelties even as we sit here today talking about it.”¹

ABSTRACT

Contrary to popular belief, the passage of the Thirteenth Amendment did not abolish slavery. Sex trafficking is a form of modern day slavery, and it currently thrives in America. Fueled by American consumers, sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. It has been brought to light by the passage of the Trafficking Victims Protection Act of 2000, movies like Taken and The Equalizer, and the establishment of America’s first gender-specific Girls Court in Hawaii in 2004.

As our recently-realized trafficking epidemic continues to gain attention, both traffickers and their victims are being arrested at higher rates than ever before. This progress has left many states, and will soon leave Iowa, with a surplus of young women in their corrections systems who need trauma-informed, gender-specific therapy.

Accordingly, this Note gives a brief-primer on the state of sex-trafficking and sex-trafficking laws in America. It then recommends Iowa-specific solutions to prepare Iowa for this impending situation by resolving the deficiencies in Iowa’s sex trafficking code, proposing improvements to its substructure, and outlining both the requisite steps and component parts necessary for the successful implementation of Iowa’s own Girls Court.

¹ *Protecting the Victim: Hearing on Human Trafficking in the United States*

Before the Comm. on the Judiciary, 114th Cong. (2015) (statement of Michael

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Trafficking Enforcement and Prosecution Initiative) (on file with author).

TABLE OF CONTENTS

I. INTRODUCTION

Slavery predates the first human record and remains a global crisis today.²

Also known as trafficking, an estimated 35.8 million modern day slaves are currently being marketed for “forced labor, sexual exploitation, organs, international matchmaking and the mail order bride industry, child pornography,

² Steven Mintz, *Myths and Misconceptions: Slavery and the Slave Trade*,

THE GILDER LEHRMAN INSTITUTE OF AMERICAN HISTORY,

<http://www.gilderlehrman.org/history-by-era/origins-slavery/resources/myths->

[and-misconceptions-slavery-and-slave-trade](http://www.gilderlehrman.org/history-by-era/origins-slavery/resources/myths-and-misconceptions-slavery-and-slave-trade) (last visited July 11, 2015).

illegal adoptions, camel jockeying, and forced begging.”³ Disturbingly, trafficking and its by-products leave few with unclean hands.⁴

³ Ellen L. Buckwalter et al., *Modern Day Slavery in our own Backyard*, 12 WM. & MARY J. WOMEN & L. 403, 406 (2006); *Findings*, THE GLOBAL SLAVERY INDEX, <http://www.globalslaveryindex.org/findings/> (last visited July 11, 2015); *see also Remarks at the Release of the 2014 Trafficking in Persons Report*, UNITED STATES DEPT. OF STATE (June 20, 2014), <http://www.state.gov/secretary/remarks/2014/06/228083.htm> (Secretary John Kerry, “If the cries of those who are enslaved around the world today were an earthquake, then the tremors would be felt in every single nation on the continent on every continent simultaneously.”).

⁴ *See, e.g., A Day in Your Life: Touched by Modern Slavery*, U.S. DEPT. OF STATE (June 20, 2014), <http://www.state.gov/j/tip/rls/fs/2014/233738.htm> (American consumers, for instance, unconsciously contribute to human trafficking by wearing clothing produced by garment factories that subject their workers to

Americans are no exception. Sex trafficking—a unique form of trafficking involving sexual exploitation—thrives in America’s backyard and because of American consumers. Estimates indicate that 14,500–17,500 foreign nationals are trafficked *into* the United States each year, and 100,000–300,000 American children go missing each year who are at risk of being sex trafficked.⁵ The average age of entry into sex trafficking for girls is 12–14 years of age, and many of these girls are deceived into sex trafficking after suffering sexual abuse at home.⁶ For the

forced labor, physical, and sexual abuse, purchasing electronics from Asian factories sustained by persons sold or deceived into working long hours without pay due to violent threats, and sleeping on cotton sheets containing cotton harvested by forced labored in Central Asia and Africa.).

⁵ SUZANNE LEONARD HARRISON, ET AL., POSITION PAPER ON THE SEX TRAFFICKING OF WOMEN AND GIRLS IN THE UNITED STATES 2 (American Medical Women’s Association 2014).

⁶ *Id.*

pimps who prey on these girls, sex trafficking provides their means of living; the Department of State estimates pimps make approximately \$21,800 per year per victim of sexual exploitation.⁷

This Note addresses the American sex trafficking crisis. It provides a brief primer on the state of sex trafficking and sex trafficking laws in the United States. It next examines Girls Courts—alternative, therapeutic courts fashioned to better accommodate victims of sex trafficking and sexual exploitation—and their constitutionality. After considering the make-up of already existing Girls Courts and the state of Iowa law, this Note sets forth recommendations for Iowa’s sex trafficking code, a supporting infrastructure for its sex-trafficking provisions, and a Girls Court.

⁷ UNITED STATES DEPT. OF STATE, THE ECONOMICS OF FORCED LABOR (Office to Monitor and Combat Trafficking in Persons ed. 2014), *available at* <http://www.state.gov/documents/organization/228263.pdf>.

II. DEFINING THE SITUATION: THE CURRENT STATE OF MODERN DAY

SLAVERY AND EFFORTS TO PROSECUTE IT

A. *Sex Trafficking Defined*

Sex trafficking is a form of human trafficking. As defined by the Trafficking Victims Protection Act of 2000, it is the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”⁸ A commercial sex act is “any sex act on account of which anything of value is given to or received by any person.”⁹

Geographically speaking, there are two paths to becoming a victim of sexual exploitation in America: One path begins in a foreign country, where a pimp lures the victim into the U.S. on false pretenses; the other path begins at home, where a pimp may lure a U.S. minor away from a traumatic home life. Recent Eleventh, Second, and Third Circuit cases demonstrate the former. In *United States v. Cortes-*

⁸ 22 U.S.C. § 7102(9) (2000).

⁹ *See id.* § 7102(3).

Meza, for instance, the Eleventh Circuit upheld sentences for two pimps who pled guilty to operating a forced prostitution ring.¹⁰ The defendants enticed poor, young women into fleeing the rural areas of Mexico and forced the women to prostitute away their “traveling expenses” upon arrival in the U.S.¹¹ The victims were held against their will, verbally and physically abused, and controlled by defendants with a “combination of smuggling debts, romantic ties, psychological manipulation, false promises, threats, and occasional violence”¹² One victim testified that she was forced to have sex with approximately 30–35 clients per night, every night, and in spite of the pain, she would be beaten if she refused to work the following day.¹³ This particular ring operated in Atlanta, Georgia.¹⁴

¹⁰ United States v. Cortes-Meza, 411 F. App’x 284, 295 (11th Cir. 2011).

¹¹ *Id.* at 286.

¹² *Id.*

¹³ *Id.* at 289.

¹⁴ *Id.* at 286–87.

Likewise, the Second Circuit upheld similar sentences for pimps who smuggled young, poor, and uneducated Mexican women into New York.¹⁵ The defendants forced the women to engage in commercial sex acts “nearly every day” using “violence, manipulation, and threats of physical restriction” to control them.¹⁶ The Third Circuit upheld a sentence for a defendant who coerced young, naïve, and impoverished girls from Mexico to be raped, beaten, and forced to prostitute in defendants’ brothel.¹⁷ This brothel was located in New Jersey.¹⁸

The facts of a recent California Court of Appeals case demonstrate the latter path—the path commencing on domestic soil. In *In re M.V.*, the victim’s history of

¹⁵ United States v. Carreto, 583 F.3d 152, 154–55 (2d Cir. 2009).

¹⁶ *Id.*

¹⁷ United States v. Jimenez-Calderon, 183 F. App’x 274, 276–77 (3d Cir. 2006).

¹⁸ *Id.* at 276.

sexual exploitation is summarized,¹⁹ and her experiences are representative of the experiences of a whole class of minors who are at high risk for sexual exploitation in America: the court found M.V. was likely sexually abused as early as age 7; both M.V. and her mother had a history of substance abuse; M.V. was hospitalized at age 14 for mental health issues, including depression, ADHD, and bipolar disorder; she resided in several foster homes; and at 15-years-old she “met a guy” who introduced her to prostitution.²⁰

Unlike young women lured into the country and controlled by their enticer, victims in the latter group are more likely to have experience with several pimps. L.G. was forced into prostitution at age 12.²¹ Her first pimp, a man in his thirties

¹⁹ *In re M.V.*, 171 Cal. Rptr. 3d 519, 526 (2014), *review denied* (Aug. 13, 2014).

²⁰ *Id.* at 525–28.

²¹ *People v. L.G.*, 972 N.Y.S.2d 418, 420 (Crim. Ct. 2013).

the court refers to as “A,” enticed her away from her foster home and kept her in a house with six other minors.²² There, L.G. learned the rules of “A’s” “game” and began prostituting for “A” at “the track” on Pennsylvania Avenue in Brooklyn.²³ “A” severely beat the other girls for merely speaking with other men.²⁴ At the “encouragement of some girls” at the track, L.G. started work for “B”; L.G. remembered “B” as being nice the first day, but thereafter she was forced to prostitute from 7:00 p.m. to 8:00 a.m. each day.²⁵ At 13-years-old, L.G. started working for “C,” a pimp who retained all her profits in exchange for her own room.²⁶ Six months later, L.G. met “D,” who took her to New Jersey, Washington, D.C., and finally Florida, where she attempted to leave “the life” and was returned

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

to foster care.²⁷ There, L.G. was introduced to her last pimp, “E,” by a friend in Coney Island.²⁸ L.G. was 14-years-old at this point and “E” was about 30-years-old.²⁹ “E” was extremely violent and would beat his girls with belts, irons, and other objects; he once beat L.G. so severely about the face that she could not leave the house for two weeks.³⁰ L.G. was finally able to escape “E” and “the life” at 18-years-old.³¹

As this Note later emphasizes, sex trafficking is hardly confined to large coastal cities. A Cedar Rapids Hy-Vee was the place of “recruitment” for Brittany,

²⁷ *Id.* at 421.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 422.

a young Iowan recently rescued from trafficking.³² Her soon-to-be pimp enticed her with a modeling job that would never be; she was 14 years old at the time.³³ A documentary, “Any Kid, Anywhere: Sex Trafficking Survivor Stories,” recounts the story of three Iowa Girls who were sex-trafficked.³⁴ Likewise, a couple in Clive, Iowa, were recently arrested for the alleged kidnapping, sexual abuse, torture, and

³² Danielle Ferguson, *Mother of Human Trafficking Survivor Shares her Story*, IOWA STATE DAILY (Mar. 4, 2015),

http://www.iowastatedaily.com/news/student_life/article_8c844546-c16b-11e4-a141-ab4c6d2acab9.html.

³³ *Id.*

³⁴ Bridget Garrity, *Documentary Examines Human Trafficking in Iowa*, DES MOINES REGISTER (Jan. 20, 2015),

<http://www.desmoinesregister.com/story/news/2015/01/21/human-trafficking-iowa-examined-film/22071957/>.

trafficking of another Iowa woman.³⁵ In fact, Iowa has been seeing sex trafficking cases since approximately 2005.³⁶

The stories of these victims are not uncommon. According to the U.S. Dept. of State, sex trafficking prosecutions in 2013 involved defendants who “lured adults and children through false promises, advertised the victims online, inflicted beatings, and threatened the victims with guns to compel them into commercial sex . . . [prosecutions also involved] defendants who compelled their victims using addictive drugs to coerce them to engage in prostitution . . . and control over the

³⁵ Stephanie Moore, *Expert Weighs in on Clive Couple’s Kidnapping, Sexual Abuse Case*, WHO TV (Jan. 9, 2015), <http://whotv.com/2015/01/09/expert-weighs-in-on-clive-couples-kidnapping-sexual-abuse-case/>.

³⁶ *Id.*

victims' children to compel the victims to engage in commercial sex acts . . .³⁷ Sex trafficking truly embodies all that is modern day slavery.

B. *United States' Efforts to Combat Human Trafficking, Generally*

The U.S. government dedicates significant resources to human trafficking. The Federal Bureau of Investigation, Dept. of Homeland Security, U.S. Immigration and Customs Enforcement, Homeland Security Investigations, and the Dept. of State's Diplomatic Security Service Human Trafficking Unit all investigate human trafficking.³⁸ Likewise, the Dept. of Justice's U.S. Attorney's Offices, the Civil Rights Division's Human Trafficking Prosecution Unit, and the

³⁷ UNITED STATES DEPT. OF STATE, TRAFFICKING IN PERSONS REPORT COUNTRY NARRATIVES: T-Z AND SPECIAL CASE 399 (Office to Monitor and Combat Trafficking in Persons ed. 2014), *available at* <http://www.state.gov/documents/organization/226849.pdf>.

³⁸ *Id.* at 398.

Criminal Division's Child Exploitation and Obscenity Section are all involved in the prosecution of trafficking offenses.³⁹

Of those resources, a significant amount is dedicated to sex trafficking. Sex trafficking cases represent majority of human trafficking indictments.⁴⁰ Of the cases prosecuted in fiscal year 2013, the U.S. Attorney's Office, the Human Trafficking Prosecution Unit of the U.S. Dept. of Justice, and the Child Exploitation and Obscenity Section of the U.S. Dept. of Justice charged 253 defendants with human trafficking; 222 of those defendants were involved in sex trafficking.⁴¹ The Dept. of Justice's Civil Rights Division, in coordination with Attorney Generals, initiated 71 human trafficking prosecutions; 53 of those cases were predominately

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

sex trafficking cases.⁴² Likewise, a majority of the 100 state human trafficking cases prosecuted were sex trafficking cases.⁴³

While the federal government dedicates significant resources to fighting trafficking, the 2014 Trafficking in Persons Report still recommends the U.S. work towards providing increased screening to facilitate victim identification, increased funding for agencies to provide victim services,⁴⁴ strengthened interagency coordination, enhanced law enforcement training, safe harbor laws, and enhanced training for criminal and juvenile justice officials, family court officials, health care

⁴² *Id.*

⁴³ *Id.* at 399.

⁴⁴ Current funding exists to help victims of sex trafficking in the form of medical, dental, substance abuse and mental health treatment, shelter and transportation assistance, translation services, legal assistance and immigration assistance, employment services, and other assistance. *See id.* at 399–400.

professionals, social service, child welfare entities, emergency call operators, and first responders.⁴⁵

The efforts of the U.S. government show that the prosecution of human and sex trafficking is making its way to the forefront of national concern. This is further demonstrated by the federal and state legislation in place to prosecute pimps and assist sex trafficking victims.

III. THE EVOLUTION OF SEX TRAFFICKING LAWS IN THE UNITED STATES:

THE FIGHT AGAINST SEX TRAFFICKING BECOMES STATUTORY

A. *Heightened Awareness Resulted in an Onslaught of Federal Legislation*

Before the enactment of modern sex trafficking statutes, traffickers had to be prosecuted under old anti-slavery statutes.⁴⁶ The foundation for modern sex-

⁴⁵ *Id.* at 397–98.

⁴⁶ *See, e.g.*, The Mann Act, 18 U.S.C. §§ 2421–2424 (1910) (as amended in 1978 and 1986, this Act criminalizes the transportation of minors and the coercion

trafficking prosecution, the Trafficking Victims Protection Act (“TVPA”), was not passed until just 2000.⁴⁷ The TVPA established several methods of prosecuting traffickers, preventing human trafficking, and protecting its victims.⁴⁸ It established the Office to Monitor and Combat Trafficking in Persons, which publishes a Trafficking in Persons (“TIP”) report to Congress each year, and the Interagency Task Force to Monitor and Combat Trafficking, which assists in the implementation of the TVPA.⁴⁹

The TVPA has been reauthorized four times. The TVPA was first reauthorized in 2003 and some of its highlights included: a new federal civil rights

of adults to travel across state lines or to foreign countries for the purposes of engaging commercial sex.); *see also id.* § 1581 et. seq.

⁴⁷ Pub. L. No. 106–386, 114 Stat. 1464 (2000) (codified at 18 U.S.C. § 1591 et seq., 22 U.S.C. § 7101 et. seq., 42 U.S.C. § 14044 et seq.).

⁴⁸ *See generally id.*

⁴⁹ *See generally id.*

cause of action for trafficking victims to sue their traffickers, the addition of trafficking as a crime that can be charged under the Racketeering Influenced and Corrupt Organization Act (“RICO”)⁵⁰, the addition of further protection for trafficking victims against deportation, and the requirement that the Attorney General report the federal government’s progress on trafficking to Congress annually.⁵¹ It was next reauthorized in 2005: this reauthorization created a pilot program for sheltering minor trafficking survivors, created grant programs to assist law enforcement in fighting trafficking, and created additional means to combat international trafficking.⁵²

The TVPA Reauthorization Act of 2008 promulgated new systems for government accumulation of trafficking data and enacted new prevention strategies while enhancing criminal penalties for traffickers and their coconspirators and

⁵⁰ 18 U.S.C. §§ 1961–1968 (1970).

⁵¹ Pub. L. No. 108–193, 117 Stat. 2875 (2003).

⁵² Pub. L. No. 109–164, 119 Stat. 3558 (2006).

lowering both the standard of proof and knowledge requirements necessary to convict a trafficker.⁵³ The most recent reauthorization of the TVPA was accomplished as an amendment to the Violence Against Women Reauthorization Act of 2013.⁵⁴ It established programs to ensure U.S. citizens do not purchase products produced by trafficking victims, it established emergency response provisions that will help U.S. agents quickly respond to areas where people are particularly susceptible to being trafficked, and it criminalized the confiscation of victims' identity documents, which is a means of coercion for traffickers.⁵⁵

In the midst of TVPA reauthorizations, Congress passed the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (“PROTECT”) Act of 2003.⁵⁶ The PROTECT Act established enhanced penalties

⁵³ Pub. L. No. 110–457, 122 Stat. 5044 (2008).

⁵⁴ Pub. L. No. 113–4, 127 Stat. 54 (2013).

⁵⁵ *See generally id.*

⁵⁶ Pub. L. No. 108–21, 117 Stat. 650 (2003).

for sex traffickers of minors and child pornography, it established the Amber Alert System and other methods of alerting the public to missing, exploited, and abducted children, and it also abdicated the previous statute of limitations for these crimes, which prevented prosecution when the victim turned 25.⁵⁷ More recently, Congress passed the National Defense Authorization Act for Fiscal Year 2013.⁵⁸ The Act was aimed at limiting human trafficking associated with government contractors.⁵⁹ Sections 1701–1708 give government agencies the ability to terminate any contract or grant with any organization or individual that engages in trafficking.⁶⁰

B. *The States Follow in Congress' Footsteps*

As this appreciable body of federal legislation illustrates, sex and human trafficking is a concern that has gained significant political attention. This is true at

⁵⁷ *See generally id.*

⁵⁸ Pub. L. No. 112-239, §§ 1701–1708, 126 Stat. 1632, 1648 (2013).

⁵⁹ *See generally id.*

⁶⁰ *See generally id.*

the state level, as well. Washington and Texas were the first states to implement sex trafficking laws in 2003.⁶¹ Since then, all 50 states and the District of Columbia have enacted sex-trafficking statutes.⁶²

⁶¹ TEX. PENAL CODE ANN. §§ 20A.01, 20A.02 (2003); WASH. REV. CODE § 9A.40.100 (2003).

⁶² ALA. CODE §§ 13A-6-152, 13A-6-153 (2010); ALASKA STAT. §§ 11.66.110–11.66.135 (2006); ARIZ. REV. STAT. ANN. § 13-1307 (2005); ARK. CODE ANN. §§ 5-18-102, 5-18-103 (2005); CAL. PENAL CODE § 236.1 (2005); COLO. REV. STAT. §§ 18-3-501, 18-3-502, 18-3-504 (2006); CONN. GEN. STAT. §§ 53a-192, 53a-192(a) (2006); DEL. CODE ANN. tit. 11, § 787 (2007); D.C. CODE §§ 22-1831, 22-1833 (2010); FLA. STAT. § 787.06 (2004); GA. CODE ANN. § 16-5-46 (2006); HAW. REV. STAT. §§ 712-1201, 712-1202 (2008); IDAHO CODE ANN. § 18-8602 (2006); ch. 720 ILL. COMP. STAT. 5/10-9 (2005); IND. CODE § 35-42-3.5-1 (2006); IOWA CODE §§ 710A.1, 710A.2 (2006); KAN. STAT. ANN. § 21-5426 (2005); KY. REV. STAT. ANN. §§ 529.010, 529.100, 529.110 (2007); LA. REV.

STAT. ANN. § 14:46.2 (2005); ME. REV. STAT. tit. 17-A, §§ 852, 853 (2008); MD. CODE ANN. CRIM. LAW § 11-303 (2007); MASS. GEN. LAWS ch. 265, § 50 (2011); MICH. COMP. LAWS § 750.462j (2006); MINN. STAT. §§ 609.321, 609.322 (2006); MISS. CODE ANN. §§ 97-3-54.1–97-3-54.4 (2006); MO. REV. STAT. §§ 566.200, 566.209 (2004); MONT. CODE ANN. §§ 45-5-305, 45-5-306 (2007); NEB. REV. STAT. §§ 28-830, 28-831 (2006); NEV. REV. STAT. § 201.300 (2005); N.H. REV. STAT. ANN. § 633:7 (2009); N.J. STAT. ANN. §§ 2C:13-8, 2C:13-9 (2005); N.M. STAT. ANN. § 30-52-1 (2008); N.Y. SOC. SERV. LAW § 483-aa (McKinney 2007), N.Y. PENAL LAW §§ 230.34, 230.36 (McKinney 2007); N.C. GEN. STAT. §§ 14-43.10, 14-43.11, 14.43.13 (2006); N.D. CENT. CODE §§ 12.1-40-01, 12.1-40-02 (2009); OHIO REV. CODE ANN. §§ 2905.31, 2905.32 (2010); OKLA. STAT. tit. 21, §§ 748, 866 (2008); OR. REV. STAT. § 163.266 (2007); tit. No. 18 PA. CONS. STAT. §§ 3001, 3011 (2006); R.I. GEN. LAWS §§ 11-67-1–11-67-3 (2007); S.C. CODE ANN. §§ 16-3-2010, 16-3-2020 (2006); S.D. CODIFIED LAWS § 22-49-1–22-49-3 (2011); TENN. CODE ANN. § 39-13-309 (2008); UTAH CODE ANN. §§ 76-5-308–

This progress has not gone unnoticed. In 2011, the Polaris Project, a nonprofit based out of Washington D.C., started publishing an annual rating of all 50 states and the District of Columbia.⁶³ These ratings are the only of their kind, and they are considered authoritative in the trafficking field as Polaris is a well-respected, highly influential leader among trafficking-related nonprofits.⁶⁴

76-5-310 (2008); VT. STAT. ANN. tit. 33, §§ 2651–2653 (2009); VA. CODE ANN. §§ 18.2-48, 18.2-356 (2009); W. VA. CODE § 61-2-17 (2012); WIS. STAT. § 940.302 (2008); WYO. STATE. ANN. §§ 6-2-702–6-2-705 (2013).

⁶³ POLARIS, A LOOK BACK: BUILDING A HUMAN TRAFFICKING LEGAL FRAMEWORK 1, *available at* <http://www.polarisproject.org/storage/2014SRM-capstone-report.pdf>.

⁶⁴ *See, e.g., What We Do*, POLARIS, <http://www.polarisproject.org/what-we-do> (last visited July 11, 2015) (Polaris provides client services through their offices in Washington, D.C. and New Jersey, advisory services, policy advocacy as a “central hub of human trafficking legislative expertise,” and they operate as a 24-

Polaris identified ten categories of laws it deemed fundamental to combatting human trafficking, and it gave each state a tier rating (1 being the highest, 4 being the lowest) based on their implementation of those laws; these laws included:

(1) sex trafficking; (2) labor trafficking; (3a) asset forfeiture for trafficking offenses, (3b) investigative tools such as including human trafficking in the state racketeering statute or authorization of interception of communications during investigations into trafficking; (4a) training for law enforcement, (4b) development of a task force; (5) lower burden of proof for the prosecution of child sex trafficking offenses; (6) posting information about a human trafficking hotline; (7) providing safe harbor to minor victims of trafficking; (8) victim assistance plans or services; (9) a civil remedy for human trafficking victims; and (10) vacating convictions.⁶⁵

hour national human trafficking hotline); *see also* Polaris, CHARITY NAVIGATOR, <http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=12434#>. VQSBV0KLMZM (last visited July 11, 2015) (Polaris received an overall score of 97.27 by Charity Navigator, which was the highest rating among trafficking and civil rights nonprofits).

⁶⁵ POLARIS, *supra* note 63, at 2. While these ten categories made up the standard against which states were judged from 2011 - 2014, Polaris has admitted

According to Polaris, this rating process served two purposes: “it provid[ed] recommendations to state policymakers and advocates for the establishment of a basic legal response at the state level and also provid[ed] a way for states to track their progress in building a response.”⁶⁶ These ratings show the significant improvement in sex trafficking legislation at the state level. In 2011, only eleven

this system was not free from flaws: these ratings did not measure the impact of state laws, and after 2011, new ideas emerged that could not be meaningfully incorporated into the original rubric, such as vacating conviction laws. *Id.* at 3–4. For this reason, Polaris has announced it will retire its state ratings system after 2014. *Id.* at 4.

⁶⁶ *Id.* at 2–3.

states qualified for a Tier 1 rating.⁶⁷ The number increased to 21 in 2012, 32 in 2013, and 39 in 2014.⁶⁸

Notwithstanding the progress made in the area of basic sex trafficking legislation, there is still legislation to be passed. Specifically, according to Polaris, states need to devote additional attention to laws regarding the “posting of human trafficking hotline information, safe harbor . . . victim assistance, access to civil damages, and vacating convictions.”⁶⁹ For this reason, Polaris released a separate rating based upon the “absence of laws that assist and protect” trafficking victims.⁷⁰ According to this rating, only 12 states are Tier 1, and Iowa is not one of them.

⁶⁷ *Id.* at 3.

⁶⁸ *Id.* at 3.

⁶⁹ *Id.* at 3.

⁷⁰ *2014 State Ratings on Human Trafficking Laws*, POLARIS, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws#statereports> (last visited July 11, 2015).

Legislation is not the only way to combat sex trafficking, however, as illustrated by some states adoption of a so-called “Girls Court.”

IV. THE IMPLEMENTATION OF GIRLS COURTS

Girls Courts are specialty courts, born for the same reason as existing drug, mental health, and family and violence specialty courts.⁷¹ Specialty courts are different from adversarial courts in that they utilize a team approach⁷² and atypical court models.⁷³ While specialty courts have been around for decades, Girls Courts

⁷¹ See, e.g., CHILDREN AT RISK, JUVENILE SPECIALTY COURTS: AN EXAMINATION OF REHABILITATIVE JUSTICE IN TEXAS AND ACROSS THE NATION 26–30 (Children at Risk Research & Prod. Team et al. eds., 2014).

⁷² Nicole Kozdron, *Midwestern Juvenile Drug Courts: Analysis & Recommendations*, 84 Ind. L. J. 373, 374 (2009).

⁷³ CHILDREN AT RISK, *supra* note 71, at 20.

are new; in fact, the “modern” Girls Court originated in a Hawaiian Courtroom in just September 2004.⁷⁴

The birth of Girls Courts is the result of a fundamental change in thinking about the way we should view prostitutes and other victims of sexual exploitation. Texas, for instance, implemented their Girls Courts when probation officers noticed that girls in their drug court were presenting gender specific issues inappropriate for that court model.⁷⁵ One case in particular, the “B.W. case,” was instrumental in

⁷⁴ *About Us*, HAWAI‘I GIRLS CT., www.girlscourt.org/aboutus.html (last visited July 11, 2015).

⁷⁵ ALF, ALF FORGED CONNECTIONS TO HELP CREATE THE HARRIS COUNTY GIRL COURT AND DECRIMINALIZE GIRLS WHO ARE VICTIMS OF CHILD SEXUAL ABUSE 1, *available at* <http://www.alfhouston.com/clientuploads/Collaborations/GIRLS%20Court.pdf> [hereinafter *Harris County GIRL Court*].

motivating this shift.⁷⁶ In that case, the Texas Supreme Court found that a minor cannot legally consent to sex, and the Texas Legislature “did not intend to transform a child victim of adult sexual exploitation into a juvenile offender.”⁷⁷ In response, Judge Angela Ellis suggested developing a Girls Court to offer supervision and therapeutic services to address the cases in which juvenile court and Child Protective Services overlap.⁷⁸

Florida implemented its Girls Courts after a similar shift in thinking. Dr. Lawanda Ravoira, President and CEO of the Delores Barr Weaver Policy Center, stated that their “Girls Court is a wise investment. By reducing recidivism and commitment to costly residential commitment facilities, Girls Court is a cost

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

effective intervention to effectively meet the mental health and multiple social needs of girls and young women in our community.”⁷⁹

A. *The Need for Girls Courts*

Like other specialty courts, Girls Courts were established to address several unique challenges that victims of sex trafficking present:

- drug addiction: victims are often provided drugs by their pimps and consequently use drugs and alcohol as a coping mechanism;
- distrust of law enforcement and medical personnel: pimps often teach victims to distrust service providers;
- flight risk: victims often run away to be with their pimps;

⁷⁹ Press Release, Delores Barr Weaver Policy Center, Policy Center Partners to Launch Jacksonville Based Girl Court (June 5, 2014), <https://www.seethegirl.org/policy-center-partners-launch-jacksonville-based-girls-court/> [hereinafter Delores Barr Weaver Policy Center].

- trauma: victims have often experienced violence, sexual and emotional abuse, and isolation;
- pre-existing trauma: victims may come from dysfunctional homes;
- pimp-loyalty: victims bond with their trafficker and consequently downplay their trauma to please them; and
- denial: victims do not identify as victims.⁸⁰

There are a handful of Girls Courts active at this time, including: a Hawaii Girls Court, four California Girls Courts, three Texas Girls Courts, two Florida Girls Courts, and a New York Human Trafficking Intervention Initiative, which is a network of statewide human trafficking courts.

Each court is unique and varies in its structure, the way it receives and advocates for funding, identifies participants, addresses gender sensitivity, collaborates with law enforcement and community service providers, requires parental participation, provides services, houses participants, and guides them to

⁸⁰ CHILDREN AT RISK, *supra* note 71, at 98.

graduation. Each of these courts provides a foundation upon which an Iowa Girls Court could build; as such, their essential components will be examined in turn.

B. *Funding*

Like any other specialty court, funding is step zero. Funding for existing Girls Courts often came in the form of grants or donations. Hawaii's Girls Court, for example, started as a pilot program and currently runs on donations from the Hawaii Office of Youth Services, which has been funding the court since March of 2005.⁸¹ While the court has yet to receive permanent funding, it has kept its doors open with donations from Friends of Family Specialty Courts.⁸²

In fact, pilot programs appear to go hand-in-hand with the receipt of funding. For example, California was able to establish the Compton STAR pilot

⁸¹ *About Us, supra* note 74.

⁸² Jaimie Kim, *Guidance for Girls*, MIDWEEK (Sept. 16, 2014), <http://www.midweek.com/hawaii-girls-court/>.

program in 2012 following the receipt of an annual \$350,000 federal grant.⁸³ But funding is not always so broad. In fact, California's Compton STAR pilot actually received a separate federal grant the purpose of which enabled the Probation Department to handpick a team to participate in the Girls Court.⁸⁴

Michigan recently started step zero in an effort to provide the first Midwestern Girls Court. Genesee County Circuit Judge David Newblatt submitted an application a \$100,000 grant through the State Court Administrative Office,

⁸³ Christina Villacorte, *Prostitution in Los Angeles: Court Gives Girls in Sex Trade a Second Chance*, LOS ANGELES DAILY NEWS (May 18, 2014), <http://www.dailynews.com/social-affairs/20140518/prostitution-in-los-angeles-court-gives-girls-in-sex-trade-a-second-chance> (the federal grant was set to expire at the end of 2014).

⁸⁴ *Id.*

which handles applications for innovative court programs.⁸⁵ The push for a Michigan Girls Court and the grant application came about one year after the formation of a Genesee County human trafficking task force was created.⁸⁶

C. *Girls Court Structure*

Determining a Girls Courts' structure closely follows step zero. In the context of Girls Courts, structure means two things: the literal organization of Girls Courts or the court "model," and the relation Girls Courts have to each other. When

⁸⁵ Blake Thorne, *'Girls Court' in the Works for Genesee County to Fight Sex Trafficking, First in the State*, MLIVE (July 17, 2014), http://www.mlive.com/news/flint/index.ssf/2014/07/to_fight_sex_trafficking_girls.html.

⁸⁶ *Id.*; see also *Local Advocates for Women and Girls Recognized*, THE BURTON VIEW (June 18, 2015), http://burtonview.mihomepaper.com/news/2015-06-18/News/Local_advocates_for_women_and_girls_recognized.html (indicating that a Genesee County Girls Court did recently come to fruition).

it comes to literal organization, Girls Courts are without a “model.” Leaders forming Texas’ Harris County Girls Court only had drug and mental health court models from which to base a Girls Court,⁸⁷ so their model had to be effectively created from scratch.⁸⁸ Florida’s Girls Courts, on the other hand, were created a decade after the first Girls Courts, so its leaders stated they were able to consider the “lessons learned” from both the Hawaii and California Girls Courts.⁸⁹

Determining its Girls Courts literal organization was not the most difficult part in creating Texas’s model, however. Leaders stated the process was more difficult due to the fact that they had to learn from the victims before molding a court, helping the girls was difficult as they were highly resistant to treatment, and understanding the correct approach was difficult since each girl needed

⁸⁷ *Harris County GIRL Court, supra* note 75, at 2.

⁸⁸ *Id.*

⁸⁹ Delores Barr Weaver Policy Center, *supra* note 79.

individualized treatment due to the complexity of the population and their variation in “drivers and [] needs.”⁹⁰

Regardless of the exact composition of each model, Girls Courts still resemble the basic resolution models—pre-adjudication, post-adjudication, and combination—of specialty courts.⁹¹ In the Girls Court context, a pre-adjudication specialty court evaluates a victim before a plea is entered, and if the probation officer or prosecutor identifies the victim as one who may benefit from specialty court, s/he will be eligible to complete specialty court and have the charges against him or her dropped.⁹² An unsuccessful victim may have his or her charges adjudicated in a traditional adult or juvenile court setting.⁹³

⁹⁰ *Harris County GIRL Court, supra* note 75, at 2–3.

⁹¹ For juvenile Girls Courts, these models are pre-delinquency, post-delinquency, and combination.

⁹² CHILDREN AT RISK, *supra* note 71, at 20.

⁹³ *Id.*

Texas's Dallas County court is pre-adjudication diversion Girls Court; it accepts victims of sex trafficking and those at "high risk" of becoming victims.⁹⁴ Successful participants avoid charges upon completion; unsuccessful participants may face their original charges and proceed to court.⁹⁵

Post-adjudication specialty courts, on the other hand, enter the picture after a victim is found guilty or delinquent or accepts a plea and the court decides that specialty court is the best way for the defendant or delinquent to serve his or her sentence.⁹⁶ If the participant is successful, his or her record may be sealed; if the participant is unsuccessful, he or she will face further repercussions.⁹⁷ Combination specialty courts are a mixture.⁹⁸

⁹⁴ *Id.* at 100–02.

⁹⁵ *Id.* at 28, 103.

⁹⁶ *Id.* at 20.

⁹⁷ *Id.*

⁹⁸ *Id.* at 21.

Texas's Bexar County court is post-adjudication; probation officers, the Rape Crisis Center, and therapists in residential facilities recommend participants.⁹⁹

As a post-adjudication model, the court only provides services to victims who have been sexually exploited, not victims who are at risk for sexual exploitation.¹⁰⁰ Upon graduation, its participants may have their records sealed.¹⁰¹

The Alameda County Girls Court also accepts participants who were adjudicated of prostitution offenses.¹⁰² For those victims, Girls Court is an alternative to detainment and an opportunity to have the charges against them

⁹⁹ *Id.* at 105.

¹⁰⁰ *Id.* at 107.

¹⁰¹ *Id.* at 111.

¹⁰² Thomas Carroll, *Gender and Juvenile Justice: New Courts, Programs Address Needs of Girls*, NATIONAL CENTER FOR YOUTH LAW, <http://youthlaw.org/publication/gender-and-juvenile-justice-new-courts-programs-address-needs-of-girls/> (last visited July 11, 2015).

dropped upon successful completion.¹⁰³ This is similar to New York, who at the time of their Human Trafficking Intervention Initiative Announcement planned to accept victims referred to its courts who had been charged with a prostitution-related offense and found a victim in need of services by the judge, defense attorney, and prosecutor.¹⁰⁴ Participants completing a prescribed number of sessions with service providers would then have their cases dismissed.¹⁰⁵

¹⁰³ *Id.*

¹⁰⁴ Chief Judge Jonathan Lippman, *Announcement of New York's Human Trafficking Intervention Initiative*, CENTER FOR COURT INNOVATION (Sept. 25, 2013), <http://www.courtinnovation.org/research/announcement-new-yorks-human-trafficking-intervention-initiative>.

¹⁰⁵ Sadhbh Walshe, *New Court Helps New York's Human Trafficking Victims*, ALJAZEERA AMERICA (Oct. 31, 2013), <http://america.aljazeera.com/articles/2013/10/31/new-court-systemhelpsvictimsofhumantraffickinginnewyork.html>.

The second type of structure pertains to Girls Courts' relation to each other. Each Girls Court discussed in the Note is independent with the exception of New York. New York announced the launch of their *statewide* Human Trafficking Intervention Initiative in September 2013.¹⁰⁶ It jumpstarted this Initiative with three pilot programs in Queens, midtown Manhattan, and Nassau County,¹⁰⁷ and it maintained consistency among these pilots by having each case heard by the same judge.¹⁰⁸

New York State Chief Judge Jonathan Lippman described the Initiative as a statewide “system of courts” in “urban, suburban, and rural areas” through New

¹⁰⁶ Chief Judge Lippman, *supra* note 104.

¹⁰⁷ *Id.*

¹⁰⁸ SARAH SCHWEIG ET AL., PROSTITUTION DIVERSION PROGRAMS 9 (Center for Court Innovation 2012), *available at* http://www.courtinnovation.org/sites/default/files/documents/CI_Prostitution%207.5.12%20PDF.pdf.

York that will “provide linkages to services that will assist [victims] in pursuing productive lives rather than sending them right back into the grip of their abusers.”¹⁰⁹ New York decided a statewide initiative was necessary because, as Chief Judge Lippman pointed out, trafficking is a systematic problem requiring a systematic response; that response, he noted, had to be more than an effort by one particular judge or jurisdiction.¹¹⁰

D. *Participant Identification*

Each court has to identify potential participants, and how courts do that often depends on what gender-specific trauma the court is trying to remedy. For example, California’s Compton STAR pilot focuses on *commercially* sexually exploited girls; thus, it identifies participants based on their prostitution or prostitution-related charges.¹¹¹ This is similar to Texas’ Harris County court, which

¹⁰⁹ Chief Judge Lippman, *supra* note 104.

¹¹⁰ *Id.*

¹¹¹ Villacorte, *supra* note 83.

focuses on “girls who are actively engaged in or at risk of becoming involved in prostitution/human trafficking.”¹¹² The same is true for Texas’ other two Girls Courts, who work to identify “high risk” girls in an effort to prevent them from succumbing to a life of prostitution and victims of sex trafficking in an effort to help them recover from sexual exploitation.¹¹³

According to Texas’s Dallas County court, a “high risk” offender is one who has committed a “Conduct Indicating Need for Supervision” offense or had misdemeanor charges *and* four or more run away attempts in the previous year *or* one or more nights at the Letot Center¹¹⁴ *or* a family which does not participate in aftercare or non-residential services.¹¹⁵ In addition to the initial risk criteria, the offender must have been victimized in one of the following ways: acted as a

¹¹² *Harris County GIRL Court, supra* note 75.

¹¹³ CHILDREN AT RISK, *supra* note 71, at 28.

¹¹⁴ *See infra* Part III.I.

¹¹⁵ CHILDREN AT RISK, *supra* note 71, at 101.

prostitute, worked in a strip club, been sexually photographed for sharing with others, received or was promised anything of value for some sexual activity, or has been or is in a sexual relationship with an adult described as a significant other.¹¹⁶

But Texas's Dallas County court is distinguishable from other Texas Girls Court in that it partners with the Letot Center, an emergency shelter for juveniles, in an effort to identify victims; due to this relationship, the Dallas County team holds session at the Letot Center.¹¹⁷ Dallas County's victim identification is similarly aided by its partnership with the High Risk Victims and Trafficking Unit of the Dallas Police Department.¹¹⁸ Formed in 2005, the Unit is responsible for

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 100-01; *see also* LETOT CENTER, <http://letotgirlscenter.org> (last visited July 11, 2015).

¹¹⁸ *The Problem*, LETOT CENTER, <http://letotgirlscenter.org/problem.htm> (last visited July 11, 2015).

searching for teen prostitutes and runaways.¹¹⁹ Once a girl is located, the Unit reassures her that she is not at fault, that officers are part of the largest “gang” in the world who want to find and protect her, and she can leave the life with the help of the Letot Center and more than 90 community-based services.¹²⁰ The proper training of police officers and the dedication of a Unit have contributed tremendously to the identification of victims in Dallas.¹²¹ In fact, the Unit alone process 250–300 high risk victims a year.¹²²

Choosing participants is only the first step in obtaining actual participation. As a pre-adjudication program, for instance, any offender meeting Dallas County’s criteria and flagged for participation (or her guardian) can choose whether or not to

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

participate in the court.¹²³ In an effort to facilitate that choice, an attorney from the public defender's office contacts potential participants and answers any questions they may have regarding their legal rights before they accept their Girls Court invitation.¹²⁴

Florida's Girls Court identifies participants by their criminal history and whether they have either runaway, gotten pregnant, become a victim of human trafficking, or become a victim of sexual abuse.¹²⁵ Probation officers recommend

¹²³ CHILDREN AT RISK, *supra* note 71, at 102.

¹²⁴ *Id.*

¹²⁵ Meredith Rutland, *Girls Court Aims to Support Young Women with Services, not Sentences*, THE FLORIDA TIMES-UNION (Sept. 17, 2014), <http://jacksonville.com/news/metro/2014-09-17/story/girls-court-aims-support-young-women-services-not-sentences>.

the flagged girls to participate in the court, and once recommended, the girl chooses if she wants to continue in juvenile court or participate in Girls Court.¹²⁶

Pre-existing dockets affect courts' identification procedures as well. Due to the fact that Queens had a specialty drug, mental health, and domestic violence docket at the time of their Intervention Court implementation, for example, it identified potential participants via a coordinator who would screen drug and mental health court defendants for trauma and referral to the court.¹²⁷

E. *Gender Make-up*

¹²⁶ *Id.*

¹²⁷ WILLIAM J. BRUNSON ET AL., A GUIDE TO HUMAN TRAFFICKING FOR STATE COURTS 43 (Human Trafficking and the State Courts Collaborative 2014), available at <http://www.htcourts.org/guide-chapter1.htm>.

Girls Court exist to address the gender-specific needs of young women, and for this reason, some Girls Courts are female-only.¹²⁸ Each team member of Hawaii's Girls Court¹²⁹ and California's Orange County Girls Court are female.¹³⁰ Likewise, males cannot even be present in Texas's Harris County court due to the abuse frequently suffered by victims of sex trafficking.¹³¹

¹²⁸ See *infra* Part III.K (suggesting that for Girls Courts to afford victims equal protection of the law, they should be prepared to offer gender-specific services to both male and female victims).

¹²⁹ Home, HAWAI'I GIRLS CT., www.girlscourt.org/index.html (last visited July 11, 2015).

¹³⁰ Collaborative Courts, THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, <http://www.occourts.org/directory/collaborative-courts/> (last visited July 11, 2015); Carroll, *supra* note 102.

¹³¹ CHILDREN AT RISK, *supra* note 71, at 100.

Texas' Bexar County court is distinguishable from every other existing Girls Court because it accepts both male and female victims.¹³² For that reason, males are not only allowed on the court team, but their presence is encouraged so that male participants have role models and female participants can observe positive male role models.¹³³

F. *Parties*

For the purposes of this section, there are two types of parties: those involved in the formation of Girls Courts and those involved thereafter. Some Girls Courts employ a significant number of experts in the beginning to help them to create their court model. The team involved in forming Texas' Harris County Girls court, for instance, included American Leadership Forum Senior Fellows, attorneys, the Assistant Deputy Director and Deputy Director of the Health Services Division of the Harris County Juvenile Probation Department, the TRIAD Director

¹³² *Id.* at 107.

¹³³ *Id.* at 108.

of the Houston County Protective Services, and Angela Ellis, Associate Judge of the 315th District Court.¹³⁴

Which leaders participate in the implementation of a Girls Court may depend on which community service providers are already involved in this field. For example, New York's Queens pilot program model was created, in part, by preexisting service providers like Girls Educational & Mentoring Services (GEMS), the Sexual Assault and Violence Intervention Program, and the New York Asian Women's Center.¹³⁵

Creating Florida's Girls Courts was a collaborative effort of the Delores Barr Weaver Policy Center, Family Support Services, and Circuit Judge David Gooding.¹³⁶ Florida's pilot was made possible due to the donated time and

¹³⁴ *Harris County GIRL Court, supra* note 75, at 2.

¹³⁵ SCHWEIG ET AL., *supra* note 108, at 10.

¹³⁶ Delores Barr Weaver Policy Center, *supra* note 79.

resources of the State Attorney's office, Public Defender's office, Department of Juvenile Justice, System of Care, and other nonprofits.¹³⁷

Who participates in Girls Courts post-conception varies, but each court consists of predictable parties. The Hawaii's Girls Court team is comprised of a judge, probation officer, program coordinator, and therapist.¹³⁸ Texas's Bexar County team includes the judge, district attorney, defense attorney, probation officer, Rape Crisis center therapist, Mission Road center therapist, gang probation officers who conduct the initial participant interview, the gang probation supervisor to act as a positive male mentor, and the parents or guardians.¹³⁹ In addition to the participation of attorneys and court personnel in California's Orange County Girls Court, representatives from the Health Care Agency, the Social Services Agency,

¹³⁷ *Id.*

¹³⁸ *Home, supra* note 129.

¹³⁹ CHILDREN AT RISK, *supra* note 71, at 108.

the probation department, and the Orange County Department of Education participate in the court.¹⁴⁰

California's Alameda County team is comprised of the court, an attorney from the Public Defenders Office, the District Attorney, a representative from Social Services, and officers from the probation department.¹⁴¹ Texas' Harris County Girls Court team members include the judge, District Attorney, defense attorney, guardian ad litem, court clinician, therapist, probation officer, educational specialist, and Child Protective Services.¹⁴²

Community involvement is common. California's Compton STAR team partners with legal advocates from nonprofit organizations, group homes, the

¹⁴⁰ *Collaborative Courts*, *supra* note 130.

¹⁴¹ *Juvenile*, ALAMEDA COUNTY PUBLIC DEFENDER, <http://www.co.alameda.ca.us/defender/services/juvenile.htm> (last visited July 11, 2015).

¹⁴² CHILDREN AT RISK, *supra* note 71, at 99.

Department of Children and Family Services, and the Public Defender’s Office to provide services for participants, including: placement in a group home, gang intervention programs, education, job training, and family reunification services.¹⁴³

Texas’s Dallas County court team includes a Functional Family representative, a Big Brothers Big Sisters representative (who partnered with the Girls Court to mentor girls for at least one year), an AIM Truancy Solutions representative who utilizes GPS monitoring to keep at risk girls in school, and the Letot Center therapists.¹⁴⁴

G. Parental Participation

Girls Courts that require parental participation are a minority. Hawaii’s Girls Court is in the minority: it requires parents of participants to attend a parent group following each court session; this group focuses on “parenting skills, conflict resolution skills, and informational sessions” concerning additional services

¹⁴³ Villacorte, *supra* note 83.

¹⁴⁴ CHILDREN AT RISK, *supra* note 71, at 101.

available for their daughters or family.¹⁴⁵ Consequently, both individual participants and their families receive mental health services from the court.¹⁴⁶

Like the Hawaii Girls Court, Texas' Bexar County court requires, via court-order, parental participation in the Parent Project, a ten-week program to promote parent participation.¹⁴⁷ Consequently, the Bexar County court's phases include expectations for both the participants and their parents or guardians.¹⁴⁸

H. *Services Provided*

Girls Courts are most important for the services they provide. Participants in California's Mateo County Girls Court receive family, drug, and alcohol counseling, rape and sexual trauma counseling, talks from SAGE, an organization

¹⁴⁵ *About Us*, *supra* note 74.

¹⁴⁶ *Id.*

¹⁴⁷ CHILDREN AT RISK, *supra* note 71, at 108.

¹⁴⁸ *Id.* at 109; *see also infra* Part III. J.

for survivors of sex trafficking, and anger management classes while enrolled.¹⁴⁹

In California's Compton STAR pilot, a lawyer from Alliance for Children's Rights assists girls in securing benefits through extended foster care, and a child advocate from Saving Innocence visits the girls weekly to support them in job and internship applications, work etiquette, school enrollment, financial responsibility, and tasks like setting up doctor's appointments.¹⁵⁰

Texas's Dallas County court provides services such as a Girls Group, Hope Group, and Parent Group for support, substance abuse treatment, and other mental health services.¹⁵¹ Texas's Bexar County court provides mental health care, substance abuse treatment, and individual and family counseling to victims.¹⁵²

¹⁴⁹ Carroll, *supra* note 102.

¹⁵⁰ Villacorte, *supra* note 83.

¹⁵¹ CHILDREN AT RISK, *supra* note 71, at 103.

¹⁵² *Id.* at 108.

Services to be provided to participants in New York’s Human Trafficking Initiative were set to include legal services, social services, vocational and educational services, domestic violence and sexual assault services, and substance abuse and mental health treatment.¹⁵³ Support services provided by Florida’s Girls Courts include counseling, mentors, and possibly parenting classes in addition to probation.¹⁵⁴

Providing services and departing from traditional court models is what makes Girls Courts personal and successful. For example, Brooke Brady, assistant state attorney, noted that Florida’s Girls Courts are different than regular juvenile courts in that “officials get a chance to talk with each girl about schoolwork, their home life and their hobbies.”¹⁵⁵ Likewise, some states find Girls Courts are most successful if participants receiving housing.

¹⁵³ Chief Judge Lippman, *supra* note 104.

¹⁵⁴ Rutland, *supra* note 125.

¹⁵⁵ *Id.*

I. *Housing*

States providing or requiring housing for Girls Court participants are a minority. For example, Texas’s Harris County Girls Court decided that instead of “warehousing” participants in detention, the Girls Court would provide intensive supervision, therapeutic services, and a safe place for girls to receive those services and take shelter from their pimps.¹⁵⁶

Participants in California’s San Mateo County court, on the other hand, are housed at the Margaret Kemp Camp for girls, a minimum-security facility, for at least 180 days before they can transition out to a phase two residential program.¹⁵⁷

Texas’s previously mentioned Letot Center is distinguishable from the Margaret Kemp Camp for girls as the Letot Center is a voluntary safe house, not a minimum-security facility.¹⁵⁸ Therefore, Texas’ identification and placement of participants

¹⁵⁶ *Harris County GIRL Court*, *supra* note 75.

¹⁵⁷ Carroll, *supra* note 102.

¹⁵⁸ CHILDREN AT RISK, *supra* note 71, at 100–01.

at the Letot Center is more similar to the practices of California’s Compton STAR program, which provides placement for girls into group homes.¹⁵⁹

In addition to the Letot Center, Texas boasts a “safe house” for victims of sex trafficking known as Freedom Place.¹⁶⁰ Operated by the nonprofit Arrow Child & Family Ministries, Freedom Place is a “restricted residential program” with a 30-girl capacity that opened its doors in 2012.¹⁶¹ Freedom Place houses girls referred by the Girls Court on 110 acres of wooded land north of Houston.¹⁶² Girls residing at Freedom Place are between the ages of 10 and 18 and will spend anywhere from

¹⁵⁹ Villacorte, *supra* note 83.

¹⁶⁰ Anita Hassan, *Girls Victimized by Sex Trafficking Find Healing at Freedom Place*, CHRON (June 1, 2012), <http://www.chron.com/news/houston-texas/article/Hope-for-teens-victimized-by-sex-trafficking-3603604.php>.

¹⁶¹ *Id.*

¹⁶² *Id.*

six to 18 months there receiving counseling and therapy under supervision.¹⁶³ The land includes a lake, a ropes course, a basketball court, a swimming pool, stables with six horses, and two dogs.¹⁶⁴ Housing for victims may be more prevalent than noted, however, since housing often functions as a safe place for victims to escape their pimps; accordingly, the existence and location of housing is sometimes unknown.

J. *Pathway to Graduation*

Each Girls Court conducts “court” differently. Before “court” even begins in Bexar County Texas, the participant must sign a contract with the District Attorney, probation officer, judge, and defense counsel that binds them to certain responsibilities, instructions, and restrictions.¹⁶⁵ Florida participants begin “court”

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ CHILDREN AT RISK, *supra* note 71, at 107.

by immediately meeting with the prosecutor, a public defender, and representatives from various organizations that will provide support services.¹⁶⁶

Once “court” begins, each state has a different schedule. Hawaii’s Girls Court convenes every five weeks, but participants meet more frequently for group sessions concerning “teen pregnancy prevention, domestic violence prevention and intervention, healing from trauma, substance abuse issues and problems, HIV/AIDS and STD prevention, and escaping sexual exploitation.”¹⁶⁷ In addition to attending the required counseling and court dates, the Hawaii team requires the girls and their families to engage in quarterly community service projects as a means to help them connect positively with each other and feel that they can make a difference by giving back.¹⁶⁸ Similarly, Texas’s Harris County Girls Court requires participants to attend review hearings every four to six weeks, meet with

¹⁶⁶ Rutland, *supra* note 125.

¹⁶⁷ *About Us*, *supra* note 74.

¹⁶⁸ *Id.*

their probation officer weekly, and contact their defense attorney and guardian ad litem frequently.¹⁶⁹

California's Santa Clara County Girls Court, on the other hand, follows a three-phase program.¹⁷⁰ This "phrase" structure is common. Once admitted to Texas' Dallas County Court, for instance, participants must spend at least 30 days in each "level" of their program; the levels are detailed as follows:

- Level one requires the participant to appear in court weekly, maintain a 7:00 PM curfew, and pass checks on her curfew and school attendance with a 75 percent compliance;

¹⁶⁹ Judge Michael Schneider, Presiding Judge 315th District Court, Address at CHILDREN AT RISK Houston Continuing Legal Education Seminar Innovations in Juvenile Justice: Juvenile Specialty Courts (June 13, 2013); CHILDREN AT RISK, *supra* note 71, at 100.

¹⁷⁰ Carroll, *supra* note 102 (this court focuses on drug rehabilitation as opposed to sexual trauma).

- Level two requires the participant to appear in court bi-weekly, maintain a 7:00 PM curfew, and pass curfew and school attendance checks less frequently with an 85 percent compliance;
- Level three requires the participant to appear in court monthly, maintain an 8:00 PM curfew, and pass one monthly check on her curfew and school attendance with a 95 percent compliance; and
- Level four requires the participant to attend court once for graduation, maintain an 8:30 PM curfew, and withstand curfew and school attendance checks once monthly with a 95 percent compliance.¹⁷¹

Dallas County Court graduates then receive post-graduation care in the form of group counseling, leadership development through a Girls Counsel, and contact with their therapist and probation officer.¹⁷²

¹⁷¹ CHILDREN AT RISK, *supra* note 71, at 102.

¹⁷² *Id.* at 103.

Like Texas's other Girls Courts, the Bexar County court has phases; unlike other Texas Girls Courts, participants can only progress to the next phase upon asking, not upon court approval, which the court thought critical as sex-trafficking victims and victims of sexual exploitation come from situations where they lack control.¹⁷³ In addition, the court motivates participants by allowing them to earn incentives or suffer sanctions; incentives like gift cards or fun outings with the probation officer are available for participants who progress, while sanctions like essay assignments and increased supervision are dealt to those participants who fail to follow program rules.¹⁷⁴ The Bexar County court program is comprised of three phases:

- Phase one, the identification and understanding phase, lasts 60 days and includes 6:00 PM curfew checks, school attendance, counseling, emotion

¹⁷³ *Id.* at 109.

¹⁷⁴ *Id.*

identification, and parental expectations such as identifying negative sources and influences and identifying effective parenting strategies;

- Phase two, the engagement and commitment phase, lasts 90 days and includes 8:00 PM curfew checks, violent and safe relationship distinctions, therapy, communication skills, and parental expectations such as promoting effective communication, implementing structure and child supervision, and drug intervention strategy; and
- Phase three, the maintenance/wraparound services and support phase, lasts 120 days and includes 9:00 PM curfew checks, age-appropriate life skills, educational and career goals, self-respect therapy, and parental expectations such as child support, appropriate dating rules, and family unity.¹⁷⁵

¹⁷⁵ *Id.* at 110.

Participants become eligible for graduation after completing all three phases, but they remain on probation until the court team is certain the participant is stable enough to have probation terminated.¹⁷⁶

K. *Satisfaction of Equal Protection*

A discussion of Girls Court’s fundamental components would not be complete without a discussion of their constitutionality since many Girls Courts currently close their doors to male participation. Indeed, both the Fifth and Fourteenth Amendments demand Equal Protection of the laws,¹⁷⁷ and Equal Protection of the laws requires that state-provided programs be available to

¹⁷⁶ *Id.* at 111.

¹⁷⁷ *See generally* U.S. Const. amend. V (“No personal shall be . . . deprived of life, liberty, or property, without due process of law”); U.S. Const. amend. XIV (“No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

everyone equally.¹⁷⁸ While the constitutionality of Girls Courts has not been challenged, a Girls Court forbidding male participation may be unconstitutional.

This is because gender discrimination, even if beneficial to women, is subject to heightened¹⁷⁹ constitutional scrutiny.¹⁸⁰ Overcoming a presumption that a gender classification is invalid requires a showing that the classification serves an “important governmental objective and that the discriminatory means employed are substantially related to the achievement of those objectives.”¹⁸¹

Correctional programs prohibiting participation by one sex have failed to overcome this presumption. In *Sassman v. Brown*, for instance, the U.S. District Court for the Eastern District of California held that the California Department of

¹⁷⁸ *Douglas v. California*, 372 U.S. 353, 355–58 (1963).

¹⁷⁹ *United States v. Virginia*, 518 U.S. 515, 531 (1996).

¹⁸⁰ *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 723 (1982).

¹⁸¹ *Virginia*, 518 U.S. at 524.

Corrections' exclusion of men from an Alternative Custody Program ("ACP") violated the Equal Protection Clause of the Fourteenth Amendment.¹⁸²

California's ACP program was created for female inmates who were primary caregivers of dependent children immediately prior to incarceration; primary caregiver status meant these female inmates could participate in ACP's voluntary alternative custody program.¹⁸³ A male applied for the program in an attempt to finish his sentence in his home and he was denied, suing thereafter.¹⁸⁴

The analysis undertaken by the District Court is telling. At the outset, in response to plaintiff's Equal Protection claim, the defendant argued that the plaintiff was not similarly situated to "inmates that have been applying for and approved to participate in the ACP."¹⁸⁵ The defendant asserted the plaintiff was not

¹⁸² *Sassman v. Brown*, 2014 WL 5242591 (Oct. 14, 2014).

¹⁸³ *Id.* at *1.

¹⁸⁴ *Id.* at *3.

¹⁸⁵ *Id.* at *5.

similarly situated to female inmates for several reasons, including the fact that his children live at home with their mother, that he never alleged that he was the primary caregiver, that he cited no evidence showing he needs treatment and services such as substance abuse, parenting and life skills counseling, and that he never experienced physical or sexual abuse.¹⁸⁶ The court stated defendant's argument "miss[ed] the point" because female ACP applicants were not required to make any of those showings, and excluding males because females are "more likely" to be primary caregivers and suffer from abuse is inconsistent with Supreme Court precedent that *courts should not rely on generalities*.¹⁸⁷ While *Sassman* is not a Supreme Court decision, it is illustrative of the hostility Girls Courts may receive if they exclude males based on the generalization that victims of sexual exploitation are predominately female.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* (emphasis added).

In addition, the court distinguished *Woods v. Horton*¹⁸⁸—a California case that upheld an inmate-mother alternative sentencing program as consistent with Equal Protection—because that case interpreted the California Constitution and concerned a statute for pregnant inmates and inmates with small children, not *all* female inmates.¹⁸⁹ Regardless of the fact that the Department of Corrections asserted the statute was concerned with the characteristics of the typical female inmate, the court held it was not substantially related to an important government interest because the goals of family reunification and community reintegration were not served by *excluding* male prisoners.¹⁹⁰ This analysis demonstrates that, regardless of the characteristics of typical female victims of sexual exploitation and regardless of the gender-specific goals of Girls Courts, Girls Courts may nevertheless violate Equal Protection because excluding males does not

¹⁸⁸ *Id.* at *6.

¹⁸⁹ *Id.* at *6–7.

¹⁹⁰ *Id.* at *8.

substantially further their goals. The *Sassman* court ultimately denied injunctive relief to plaintiff, however, as he had not shown the requisite likelihood of irreparable harm.¹⁹¹

The Supreme Judicial Court of Maine considered a similar issue in 2012.¹⁹²

In the case of *State v. Mosher*, the defendant appealed his judgment conviction for domestic violence assault on sentencing grounds: that the requirement that he participate in a certified batterers' intervention program violated the Equal Protection clause of the Fourteenth Amendment as similar educational programs are not available for women.¹⁹³

The Supreme Judicial Court of Maine ultimately remanded the case to develop the record as to whether single-gender programs are substantially related

¹⁹¹ *Id.* at *9.

¹⁹² *State v. Mosher*, 58 A.3d 1070 (Maine 2012).

¹⁹³ *Id.* at 1071.

to achieving an important governmental objective.¹⁹⁴ In this way, the *Mosher* Court confirms the threshold issue Girls Courts will face: is the exclusion of males from Girls Courts—which focus on the trauma suffered from sexual exploitation—and prostitution diversion dockets—which focus on identifying juveniles and adults at risk for sexual exploitation—really substantially related to achieving an important governmental objective?

The answer to that question falls outside the purview of this Note, but the solution necessary to avoid an Equal Protection challenge does not: Girls Courts must be gender-neutral. To accomplish gender-neutrality—and thus constitutionality—Girls Courts could respond in one of two ways: either welcome male participation like Texas’s Bexar County Court, or develop a separate Boy’s Court providing equivalent therapeutic and educational benefits. Gender-neutrality is not only fundamental constitutionally, but it also assures that *all* victims of sexual

¹⁹⁴ *Id.* at 1074.

exploitation and *all* juveniles at risk for sexual exploitation receive the support they need from our government.

L. *Conclusion*

In conclusion, New York Chief Judge Lippman had it correct when he said trafficking was a systematic problem requiring a systematic solution.¹⁹⁵ While it is certainly encouraging to see states like Hawaii, California, Texas, New York, Florida, and Michigan implement creative, innovative, and fruitful solutions to our recently-realized trafficking epidemic, other states should step up.

Theodore Roosevelt once said, “In any moment of decision, the best thing you can do is the right thing. The worst thing you can do is nothing.” Existing Girls Courts vary significantly, but all Girls Courts share one characteristic: they are the right response to an epidemic soon to upset our judicial system.

¹⁹⁵ Chief Judge Lippman, *supra* note 104.

Admittedly, implementing a newly-minted specialty court model is intimidating and unnerving for state courts. Community leaders must bear in mind, however, that it was just 25 years ago that the first Drug Court was implemented in Miami-Dade County, Florida, after justice professionals were “[t]ired of the same faces and the same cases repeatedly appearing before the court.”¹⁹⁶ The first Drug Court was successful, and by June 30, 2012, 2,734 Drug Courts were operating all 50 states.¹⁹⁷

This is because specialty court models work. For instance, clients in Drug Courts have an 80 percent higher treatment graduation rate, conservative estimates indicate that Drug Courts reduce crime as much as 35 percent as compared to alternatives, Drug Courts’ effect on crime is long lasting with one study finding it

¹⁹⁶ *History*, NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS, <http://www.nadcp.org/learn/what-are-drug-courts/drug-court-history> (last visited July 11, 2015).

¹⁹⁷ *Id.*

to last over 14 years, and Drug Courts save money—an average of \$4,000–\$12,000 per client—in the form of “reduced prison costs, reduced revolving-door arrests and trials, and reduced victimization.”¹⁹⁸

Early studies show Girls Courts work too. A study comparing the Hawaii Girls Court to the Hawaii State System found the Girls Court has 88 percent fewer violations, 98 percent fewer status offenders, 89 percent fewer runaways, 68 percent fewer runaway days, 75 percent fewer shelter admissions, and 57 percent fewer detention home admissions compared to traditional court.¹⁹⁹ As of 2013, 27 participants had attended Texas’s Harris County Girls Court and 64 percent were

¹⁹⁸ *The Facts on Drugs and Crime in America*, NATL ASS. OF DRUG CT.

PROF’LS,

<http://www.nadcp.org/sites/default/files/nadcp/Facts%20on%20Drug%20Courts%20.pdf> (last visited July 11, 2015).

¹⁹⁹ *Hawaii Girls Court*, PASTE & TAPE (last visited July 11, 2015), <http://pasteandtape.com/project/hawaii-girls-court/>.

successful.²⁰⁰ Twenty-seven girls had participated in Texas' Dallas County court.²⁰¹

Four girls were currently in the Dallas County program, and nine girls had graduated successfully.²⁰² As such, the rest of this Note discusses Iowa's current sex-trafficking legislation, proposals to improve it its infrastructure, and suggestions for implementing an Iowa Girls Court.

V. PROPOSALS FOR IOWA

According to John A. Martin, Center for Public Policies, "There is vast disparity between the substantial attention directed at trafficking concerns by international, federal, state, executive and legislative branch entities, and the lack of systematic and comprehensive attention paid to human trafficking-related issues by the state courts."²⁰³ According to the National Association for Court

²⁰⁰ Judge Michael Schneider, *supra* note 169.

²⁰¹ CHILDREN AT RISK, *supra* note 71, at 103.

²⁰² *Id.*

²⁰³ BRUNSON ET AL., *supra* note 127, at 11.

Management Guide to Addressing Human Trafficking in the State Courts—which was published to provide meaningful assistance to states lacking extensive experience adjudicating trafficking crimes—state courts, even those located in states with trafficking laws, are still more likely to charge traffickers under long-standing state codes, like prostitution, pimping, or pandering.²⁰⁴ For this reason—and because federal trafficking statutes may not always be utilized—Iowa should have a comprehensive state trafficking code at the ready to prosecute traffickers.

In addition to realizing a comprehensive trafficking code and implementing infrastructure to support the enforcement of that code, Iowa should join its sister states in establishing a Girls Court. Legislation to prosecute traffickers only solves half the problem; a therapy-centered court is necessary to rebuild the lives of trafficking victims—and victims of sexual exploitation generally—and reintegrate them into society. Accordingly, this Note’s proposal for Iowa law begins with a brief primer on our current legislation and its deficiencies, additional suggestions

²⁰⁴ *Id.*

for trafficking-specific support systems, and ends with recommendations for how to begin implementing an Iowa Girls Court.

A. Current and Ideal Legislation

As previously mentioned, Iowa can enhance its arsenal of sex-trafficking statutes. Its need for improvement is demonstrated, in part, by its Polaris ranking.

As of 2014, Iowa graded Tier 2 on the Polaris scale; regrettably for Iowa, it is behind 39 other states that received a Tier 1 rating in 2014.²⁰⁵

Even more disappointing is Iowa's Tier 4 rating from Polaris' new Victims' Assistance Laws evaluation, mentioned previously.²⁰⁶ Iowa shares a Tier 4 grade

²⁰⁵ 2014 State Ratings on Human Trafficking Laws, *supra* note 70 (to receive a Tier 1 rating, a state must earn 7 out of 10 on Polaris' scale; in 2014, Iowa received 6.5 points).

²⁰⁶ *Id.*

with 12 states, putting Iowa behind 12 Tier 1 states, 17 Tier 2 states, and 9 Tier 3 states, including Washington, D.C., in terms of victims' assistance.²⁰⁷

Iowa's Tier 2 rating is a result of its sex and labor trafficking statutes,²⁰⁸ asset forfeiture statutes,²⁰⁹ rule regarding training for law enforcement,²¹⁰ statutes regarding no requirement of force, fraud, or coercion for minor victims of sex trafficking,²¹¹ safe harbor statute,²¹² and victim assistance statutes.²¹³ Iowa lacks several important statutes, however, including statutes addressing investigative tools, a human trafficking task force, the posting of a trafficking hotline, civil

²⁰⁷ *Id.*

²⁰⁸ IOWA CODE §§ 710A.1 (2006), 710A.2 (2006).

²⁰⁹ IOWA CODE §§ 809A.3 (1996), 809A.4 (1996).

²¹⁰ IOWA CODE § 80B.11 (1967), *amended by* S.F. 2219 (2006).

²¹¹ IOWA CODE §§ 710A.1(4)(a)(2) (2006), 710A.2A (2012).

²¹² IOWA CODE § 725.1 (1976), *amended by* S.F. 2311 (2014).

²¹³ IOWA CODE §§ 915.95 (2014), 710A.5 (2006).

remedies, and vacating convictions.²¹⁴ The lack of these statutes contributed to Iowa's Tier 4 victims' assistance ranking.²¹⁵

But Polaris does not measure every legislative effort of states. In 2014, for instance, Iowa passed Senate File 2311,²¹⁶ which amended Iowa law enforcement's annual reporting requirement to include "data regarding academy resources devoted to training relating to human trafficking,"²¹⁷ established a human

²¹⁴ POLARIS, IOWA STATE REPORT STATE RATINGS 2014 1, *available at* http://www.polarisproject.org/storage/documents/2014_State_Reports/Iowa_State_Report.pdf [hereinafter IOWA STATE REPORT].

²¹⁵ *2014 State Ratings on Human Trafficking Laws, supra* note 70 (to determine states' Victims' Assistance ranking, Polaris considered the posting of a human trafficking hotline, safe harbor laws, victims assistance laws, access to civil damages, and vacating convictions laws.).

²¹⁶ S.F. 2311, 85th Gen. Assemb., Reg. Sess. (Iowa 2014).

²¹⁷ IOWA CODE § 80B.10 (1967), *amended by* S.F. 2311 (2014).

trafficking victim surcharge to be assessed and added to a human trafficking victim fund if a trafficker is found guilty,²¹⁸ authorized the interception of “wire, oral, or electronic communications” for felony human trafficking offenses,²¹⁹ added communication by “mail, telephone, internet, or any social media . . . text messages, instant messages, and electronic mail” to methods of sexual enticement of a minor,²²⁰ criminalized the solicitation of a prostitute under the age of eighteen,²²¹ criminalized sharing earnings from a prostitute under the age of eighteen,²²² criminalized the furnishing of a room or placed to be used for prostitution of a

²¹⁸ IOWA CODE § 911.2A (2014); *see also* IOWA CODE § 602.8108 (1983), *amended by* S.F. 2311 (2014).

²¹⁹ IOWA CODE § 808B.3 (1989), *amended by* S.F. 2311 (2014).

²²⁰ IOWA CODE § 710.10 (1985), *amended by* S.F. 2311 (2014).

²²¹ IOWA CODE § 725.2 (1976), *amended by* S.F. 2311 (2014).

²²² *Id.*

prostitute under the age of eighteen,²²³ and extended the statute of limitations for sexual acts with a person under the age of eighteen to ten years.²²⁴

Iowa has taken other actions to combat trafficking as well. For example, Iowa Attorney General Tom Miller created the Human Trafficking Enforcement and Prosecution Initiative in 2012.²²⁵ Michael Ferjak, Senior Criminal Investigator with the Dept. of Justice, leads the Initiative.²²⁶ His partners include the Iowa State Patrol, the Iowa Dept. of Public Safety, the Chrysalis Foundation, Braking Traffik, the Network Against Human Trafficking, Teens Against Human Trafficking, Youth Shelter Services, Youth Emergency Shelter Services, Central Iowa Services Network, Achieving Maximum Potential, the Lutheran Church of Hope and Plymouth Congregational Church Trafficking Task Force, and the Junior League of

²²³ *Id.*

²²⁴ IOWA CODE § 802.2B (2014).

²²⁵ *Hearing on Human Trafficking in the United States, supra* note 1.

²²⁶ *Id.*

Iowa.²²⁷ The Initiative has been instrumental in bringing change to Iowa, including training the Iowa State Patrol and the Division of Criminal Investigation in roadside interdiction.²²⁸

Members of the Initiative have sought out other knowledgeable organizations for their expertise, trained over 18,000 Iowans on trafficking awareness, and made it a mandatory requirement for all Iowa persons receiving a commercial driver's license to complete the Truckers Against Trafficking educational and awareness training and receive a wallet bearing the National Human Trafficking Resource Center's 24-hour Hotline number for reporting suspicious activity.²²⁹ This Hotline has been posted at Iowa's truck stops.²³⁰

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

Iowa has certainly seen a significant improvement in sex trafficking legislation in the last decade,²³¹ but additional legislation is necessary.²³² To determine the content of such legislation, Iowa should look to Polaris's Model Provisions of Comprehensive State Legislation to Combat Human Trafficking.²³³

Polaris's Model Provisions are comprehensive examples of ideal legislation for states; comparing Polaris's Model Provisions with the Iowa Code reveals

²³¹ Iowa's general human trafficking statutes, IOWA CODE §§ 710A.1 and 710A.2, were just passed in 2006. Iowa's most significant improvement came with the trafficking legislation passed by S.F. 2311 in just 2014.

²³² *See generally* IOWA STATE REPORT, *supra* note 214.

²³³ POLARIS, MODEL PROVISIONS OF COMPREHENSIVE STATE LEGISLATION TO COMBAT HUMAN TRAFFICKING (3d ed. 2010), *available at* http://www.polarisproject.org/storage/documents/Final_Comprehensive_ModelLaw__8_2010.pdf [hereinafter MODEL PROVISIONS].

several significant statutory deficiencies Iowa should strive to remedy—many of which were outlined above:

- “Non-Defenses to Human Trafficking” statute;²³⁴
- “Sentencing Enhancements” provision;²³⁵
- “Victim Immunity From Prosecution” statute;²³⁶

²³⁴ *Id.* at 6. Iowa has no statute specifically on this point, though the use of defenses in sex trafficking cases are generally addressed in Iowa Code Section 710A.3, which provides defenses to victims who performed acts under “compulsion by another’s threat of serious injury.” *See* IOWA CODE § 710A.3 (2006).

²³⁵ MODEL PROVISIONS, *supra* note 225, at 9. This may be an ideal amendment to Iowa Code Section 901A.2.

²³⁶ *Id.* at 7. This could amend Iowa Code Section 725.1 or 710A. While Iowa Code Section 725.1(c) vacates prostitution convictions for minors, victims cannot have their convictions vacated unless they are free from other criminal convictions for a period of two years. Since victims of sexual exploitation often struggle to fully

- “Protection of Victims” statute;²³⁷
- “Appropriate Implementation for Child Victims” statute;²³⁸
- “Civil Cause[s] of Action” state for victims of trafficking;²³⁹
- “Human Trafficking Hotline” statute;²⁴⁰

separate from “the life” for months or even years, this should be removed.

Likewise, the ability to vacate a prostitution conviction should be extended to adult victims.

²³⁷ *Id.* at 15.

²³⁸ While Polaris’s Model Provision is an improvement in that it is specific to victims of human trafficking, Iowa Code Sections 915.35–915.38 address this concern fairly comprehensively.

²³⁹ MODEL PROVISIONS, *supra* note 233, at 13–14.

²⁴⁰ *Id.* at 18.

- “Data Collection and Dissemination” statute;²⁴¹
- “Training” statute;²⁴²
- “Grants” statute;²⁴³
- “Role of Non-Governmental Organizations” statute; and²⁴⁴
- “Restitution” statute.²⁴⁵

²⁴¹ *Id.* at 11. Iowa Code Section 80B.10 addresses this insofar as the data of law enforcement agencies efforts concern, but Polaris’s provision could be added for additional specificity.

²⁴² *Id.* This could amend Iowa Code Section 80B.10.

²⁴³ *Id.* at 12.

²⁴⁴ *Id.*

²⁴⁵ *Id.* at 7–8. Iowa may already have this. Iowa Code Section 915.100 provides Iowa victims with restitution, and Iowa Code Section 915.51 states that victims of human trafficking have the same rights as other victims, but it does not specify the restitution provided by Iowa Code Section 915.100 as such a right. Moreover, Iowa

The aforementioned statutes would improve Iowa law at its weakest points; the referenced statutes are not all the provisions recommended by Polaris, however, and Iowa could further improve by considering additional statutory implementation upon the enactment of the proceeding laws.

B. *Other Supporting Infrastructure*

Implementing the perfect sex-trafficking code will not solve the problem unless we learn how to harness its power. Accordingly, Iowa should refer to the

Code Section 915.95 designates a fund for victims of human trafficking, which receives all moneys remitted from the assessment of a district court's human trafficking surcharge per Iowa Code 911.2A as provided in Iowa Code 602.8108, but such a fund is not the equivalent to victim-specific restitution. The ambiguity of Iowa's restitution statutes could be resolved by amending Iowa Code Section 910.2, which defines restitution types, to include a specific sexual exploitation provision. A similar action may improve Iowa Code Section 910.1, defining restitution.

National Association for Court Management *Guide to Addressing Human Trafficking in the State Courts* for further assistance in implementing broader policies and learning how to better utilize their newly-minted trafficking statutes.²⁴⁶

At the outset, Iowa's agencies should collaborate: for this, the *Guide* suggests that state should appoint multiple leaders that can work across multiple systems and establish long-term directions.²⁴⁷ Likewise, Iowa should establish consistent policies regarding trafficking prosecution and the prosecution of the sexually exploited, a decision-making structure at the previously mentioned multi-system leadership level that is informed on the duties of all system partners, and policies for consistent and transparent decision-making practices across organizations.²⁴⁸

²⁴⁶ See generally BRUNSON ET AL., *supra* note 127.

²⁴⁷ *Id.* at 30.

²⁴⁸ *Id.*

In addition to realizing a transparent, multi-agency communication system, Iowa should have a dedicated financial infrastructure to manage the additional traffickers and victims this epidemic has produced, including: stable resources for providing services; flexibility to change budgets as needed in light of changes in the victim population; and long-term financing that permits multi-system planning.²⁴⁹ Iowa should also construct new technologies systems, such as: a system for determining the identities of victims and traffickers; a management information system able to exchange case and identity information between local, state, and federal agencies; assessment and treatment tools tailored for trafficking victims and victims of sexual exploitation; and a management information system that shares definitions, standards, and guidelines across agencies and treatment providers.²⁵⁰

²⁴⁹ *Id.* at 29.

²⁵⁰ *Id.*

Having the preceding personnel, financial, and technological infrastructure is only the first step, however. Iowa should also have the following resources on hand for victims: safe housing; transportation assistance to medical services, counseling, the court, and other programs; medical care, mental health treatment, and substance abuse treatment; options for both short and long term care; life skills and vocational training; and the ability to obtain new social security numbers for victims.²⁵¹ Indeed, the *Guide* heavily emphasizes the importance of providing services for victims; with that in mind, Iowa should seriously consider establishing a Girls Court as a means of ensuring victims receive the services they so desperately require.

C. *Implementation of an Iowa Girls Court*

John A. Martin, Center for Public Policies said, “[n]ow is the right time for addressing human trafficking in the state courts systematically and

²⁵¹ *Id.*

comprehensively.”²⁵² In this regard, punishing traffickers is only half the battle; the solution to our trafficking crisis can hardly be realized unless states help victims reclaim their lives through trauma-informed therapy and gender-specific services. Consequently, this Section outlines the steps Iowa should take to implement a Girls Court; it does so by providing a brief overview of the necessary working-parts for a successful Girls Court, and in that regard, it should be considered in conjunction with the specific examples set forth in Section IV and the guides currently available.

At the outset, it should be noted that an Iowa Girls Court proposal was created in April 2014. The previous proposal failed to gain traction, but it included and advocated for several of the key Girls Court services discussed in this Note.²⁵³

²⁵² *Id.* at 13.

²⁵³ Polk County Girls Court Too Good to Lose Proposal (April 2014) (on file with author). The court called for “therapeutic modalities and approaches (based on relational theories) that address issues such as healing from physical, sexual and emotional abuse, family conflict, substance abuse, depression suicidal

While an Iowa Girls Court should certainly be crafted similarly to the other Girls Courts discussed in this article—with sex-trafficking victims in mind—this Author envisions a court much broader than that due to our recent loss of a female-oriented juvenile home.

Indeed, Iowa’s main source for gender-specific female services was extinguished with the closing of the Iowa Juvenile Home in Toledo in 2014.²⁵⁴ A

ideation and attempts and self-harm behaviors.” The proposal asserted that “[g]eneric services developed to meet the needs of all are not as effective as female responsive programming specific to young women (Iowa Juvenile Home) and the scarcity of other female responsive programs makes Girls Court[s] imperative.” As of August 2015, a new Girls Court proposal was being discussed.

²⁵⁴ Clark Kauffman, *Iowa Juvenile Home’s Closure Creates Gender Disparity*, DES MOINES REGISTER (July 19, 2014), <http://www.desmoinesregister.com/story/news/investigations/2014/07/20/iowa-juvenile-home-closure-creates-gender-disparity/12904839/>.

Girls Court can be a means of providing gender-specific services once again to one of our most vulnerable populations—female juveniles at a risk of being sexually exploited or with a history of sexual abuse—that Iowa has failed to adequately serve since Toledo’s closing.²⁵⁵

While the main reason Iowa should implement a Girls Court is to provide victim services and close the post-Toledo disparity in gender-specific State intervention, the societal benefits of establishing an Iowa Girls Court should provide additional motivation for its implementation, as well. Like drug courts, Girls Courts benefit the community economically through the cost-savings associated with the reduced adjudication of repeat offenders in the future. Likewise, Girls Courts may reduce Child in Need of Assistance cases and the incidents of teen pregnancy, drug trafficking, theft, and other petty offenses young victims will

²⁵⁵ *Id.* (“The closing of the Iowa Juvenile Home earlier this year has created a gender-biased system of justice that is unfair to girls who are now being placed in adult court or sent to out-of-state care facilities, state court officials charge.”).

undoubtedly commit during a lifetime of prostitution and other criminal ventures if not rehabilitated at a young age.

A potential Iowa Girls Court should, broadly speaking, begin with individual assessments of juvenile victims and proceed with court monitoring and the conferring of the requisite gender-specific, trauma-informed victim services.²⁵⁶

The goal should be reducing the justice system's use of incarceration for prostitution-related offenses and, as recognized by Judge Fernando Camacho of Queens, New York, giving "prostitutes [or the sexually exploited or trafficked] an opportunity to get out of 'the life.'"²⁵⁷

During step zero, Iowa's constituents should advocate for funding tailored to those objectives and design a combination court model in furtherance of those goals. A combination court model is the ideal model for Iowa because it allows Iowa to provide treatment to both (a) juveniles who may be delinquent due to a

²⁵⁶ SCHWEIG ET AL., *supra* note 108, at 3, 7.

²⁵⁷ *Id.*

nonsexual offense, but who are at a high risk for being sexually exploited or delinquent of a sexual offense and (b) delinquent juveniles whose record indicates their need for trauma-informed therapy and the vacating of their juvenile records.

After funding is received and Iowa constituents create a court model, leaders should be trained on victim identification. We know, for example, that victims of sexual exploitation, especially juveniles, do not just surface on the prostitution docket; these victims can manifest in a variety of court cases, like child protection cases, drug cases, and theft cases.²⁵⁸ In addition, Iowa should strive to facilitate victim participation like New York's courts.

In New York, the Bronx Community Solutions group partnered with nonprofit Sanctuary for Families to identify victims and facilitate victim participation.²⁵⁹ A resource coordinator from Bronx Community Solutions sits in the courtroom to flag potential participants, and a caseworker conducts a needs

²⁵⁸ BRUNSON ET AL., *supra* note 127, at 11.

²⁵⁹ SCHWEIG ET AL., *supra* note 108.

assessment to identify services the victim needs.²⁶⁰ An advocate from Sanctuary for Families then provides follow-up counseling and links to additional services.²⁶¹ Sarah Dolan, advocate with Sanctuary for Families, stated that “having an intermediary between the client and the court ensures that clients with histories of victimization do not feel further threatened by the justice system. The clients have an advocate . . . through out the entire process. That we are located right in the court is critical.”²⁶²

Fortunately, Iowa does not have to reinvent every part of the wheel during this journey; for example, the Wilmington Girls Court model demonstrates how Iowa can accomplish these steps by modifying its existing dockets: first, as a means of implementing the aforementioned identification practices, Wilmington court stakeholders were instructed to look at related arrest histories, modify existing

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

screening forms to include issues such as prostitution and victimization, and reach out to service providers in the community to have them modify their forms; next, court stakeholders, staff, and judges had to undergo training on the “overlap” between prostitution, trafficking, assault, and trauma and how to engage women whom have prostitution histories in the community.²⁶³ Likewise, a “Women’s Services Coordinator” position was created to facilitate identification of victims in the Queens project among all specialty dockets.²⁶⁴

To assist in individualization, the pilot Girls Court in Midtown developed an individual assessment that focused on “criminogenic needs as well as past and/or current victimization” of girls that helps the judge make the most informed decision possible regarding “alternative sanctions” or services to provide.²⁶⁵ Iowa should develop similar individual assessment forms.

²⁶³ BRUNSON ET AL., *supra* note 127, at 41–42.

²⁶⁴ *Id.* at 44.

²⁶⁵ *Id.* at 39.

In addition to considering other states' implementation methods in this section and Section IV, Iowa should seek advice from the Center for Court Innovation, as New York did in building its pilot programs.²⁶⁶ The Center considers itself a “unique public-private partnership that promotes new thinking about how the justice system can solve the difficult problems like addiction, quality-of-life crimes, domestic violence, and child neglect.”²⁶⁷

Now a national organization, the Center states it “disseminates the lessons learned from its experiments in New York, helping court reformers across the country launch their own problem solving innovations.”²⁶⁸ It does so by conducting research, authoring books, facilitating discussions with leading academics and practitioners, providing “hands-on” technical assistance, and advising innovators

²⁶⁶ SCHWEIG ET AL., *supra* note 108, at 1.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

nationwide.²⁶⁹ While the *Guide to Addressing Human Trafficking in the State Courts* was mentioned previously, my brief citation to it in this Note should not serve as any states' substitution for viewing the entire *Guide*. The *Guide* consists of eleven chapters, and it is set out to be a comprehensive resource for identifying traffickers and victims in court cases, processing cases involving trafficking, and accessing links to additional resources that can assist courts in trafficking cases.²⁷⁰

The focus of Iowa's Girls Court, like so many others, should be services; in that regard, it should consider STARS' counseling categories. The STARS

²⁶⁹ *Id.*

²⁷⁰ Press Release, Human Trafficking and the State Courts Collaborative, Human Trafficking and the State Courts Collaborative Releases the National Association for Court Management (NACM) Guide to Addressing Human Trafficking in the State Courts (August 6, 2014), http://www.courtinnovation.org/sites/default/files/documents/HT_Guide_Announcement.pdf.

program, a court-based program developed by staff at New York's Midtown Court, considers the following several topics imperative in their counseling group with victims:

- Orientation, Stereotypes, and Group Rules: the counselors lay the ground rules during the first session and broaches the stereotypes society has about prostitution;
- Safety;
- Trauma and Affect Regulation/Relaxation: a “psycho-educational overview” of trauma, its triggers, and relaxation techniques to overcome it;
- Arts Education: victims engage in creative outlets;
- Feeling Identification: victims learn to identify and discuss different internal and external feelings;
- Legal Issues: attorneys explain victims' legal rights and the consequences of their criminal activities;

- Financial Literacy: victims receive financial counseling and learn to become economically self-sufficient;
- Cognitive Restructuring: victims learn new ways of thinking and explore their thoughts and feelings; and
- Healthy Relationships; and
- Setting Boundaries: victims learn about boundaries in existing relationships in their lives.²⁷¹

Iowa should keep consistency in mind. Indeed, this was an important consideration for the leaders establishing New York's Girls Courts.²⁷² According to Maria Almonte, project director of Bronx Community Solutions that worked to establish New York's STARS model, having each prostitution case heard before

²⁷¹ SCHWEIG ET AL., *supra* note 108, at 5.

²⁷² *Id.* at 9.

the same judge “provides consistency for individuals with otherwise tumultuous lives, aids them in accessing services, and helps ensure accountability.”²⁷³

Responding to noncompliance is crucial in Girls Courts as well; in Girls Courts, the judges’ response to noncompliance is “tailored to the goal of reducing the use of incarceration” and includes responses like graduated sanctions to encourage compliance.²⁷⁴ A graduated sanction may be in the form of an increase in court visits or the frequency of services.²⁷⁵

The final consideration for Iowa is the means in which success should be measured. Indeed, the progress and successfulness of a Girls Court should not just be measured through recidivism, but a number of factors, including: protection

²⁷³ *Id.*

²⁷⁴ BRUNSON ET AL., *supra* note 127, at 40.

²⁷⁵ *Id.*

orders against traffickers, pimps, and sexual abusers, shelter, and self-proclamations to leave “the life.”²⁷⁶

VI. CONCLUSION

According to the Human Trafficking and the State Courts Collaborative, “establishing an appropriate state court role in addressing the numerous and complicated forms of modern day slavery will be one of the most difficult challenges confronting state courts in the coming decade.”²⁷⁷ Iowa can be proactive in facing this difficult challenge.

The most significant hurdle to reducing trafficking and sexual exploitation in Iowa is ignorance.²⁷⁸ Many do not realize that sex trafficking has infiltrated Iowa

²⁷⁶ SCHWEIG ET AL., *supra* note 108, at 7.

²⁷⁷ *Home*, HUMAN TRAFFICKING AND THE STATE COURTS COLLABORATIVE, <http://www.htcourts.org> (last visited July 11, 2015).

²⁷⁸ Bridget Garrity, *supra* note 34 (“The biggest challenge is in shifting public thinking about human trafficking . . . 75 percent of law enforcement do not

because sex trafficking is portrayed as a foreign grandiose enterprise in movies like *Taken*. While that enterprise certainly exists, we cannot forget that the definition of sex trafficking is simply “the obtaining of a person for the purposes of a commercial sex act.” Young boys and girls are obtained in Iowa for commercial sex acts with increasing frequency, notwithstanding that trafficking in Iowa may not be instigated by an organized trafficking ring, but by an abusive family friend; notwithstanding that the exploitation does not take place in discrete underground brothels, but local motels; and notwithstanding that these girls are not advertised as

believe human trafficking occurs in their jurisdiction. And yet, when [Michael Ferjak, leader of the Iowa Attorney General’s Human Trafficking Enforcement and Prosecution Initiative] reviewed prostitution arrests in 2013 with the alleged ‘prostitute’ listed at or about age 18 years of age, many of the cases had all the hallmarks of trafficking . . . [c]ommunity members think that because they no longer see girls walking the streets, the problem has been solved. The truth is, it’s grown a hundred fold. It just has a new face.”).

“sex slaves” in an underground market, but as prostitutes on websites like Backpage. While our Iowa scenery may change the mode and manner by which victims are trafficked and exploited, it does not change the horror that trafficking inflicts on its victims and communities.

Indeed, sitting at the intersection of I-80 and I-35 places Iowa in a unique position to intercept traffickers and their victims as they travel through the Midwest. While this position means Iowa has an opportunity to rescue girls from “the life,” it also means that Iowa police, legislators, and courts may become overwhelmed if the proper infrastructure is not put in place to address the traffickers and victims soon to flood into our corrections system.

It would be unwise for Iowa to carry on without contemplating this unavoidable scene on our horizon. This is because once *all* Iowa law enforcement become trained to intercept trafficking and identify prostitutes as victims, Iowa will likely have more female juveniles before its courts than manageable (or at least, this has been the experience of other courts in states with additional trafficking and prostitution arrests).

What will be most regrettable, though, is not that the ensuing condition on our corrections system was preventable, but that Iowa courts will be without the means to effectively acquit these victims of prostitution—due to our lack of victims assistance laws—and without the means to provide these victims the trauma-informed services they so require—due to our lack of a Girls Court—which means that these girls will effectively be discharged, at Iowa’s hands, back into the harrowing world from which we first attempted to rescue them.²⁷⁹

²⁷⁹ *Hearing on Human Trafficking in the United States*, *supra* note 1 (“As I listened to [a survivor of human trafficking] I soon realized that like so many other officers, I have likely met many other trafficking victims in my career but did not recognize them at the time and did not help them in the way they needed to be helped. I now know my failure caused them to continue living in a hell I can never fully comprehend and it steels my resolve to do all that is possible so that no officer ever lets it happen again to any victim.”).

This is, quite simply, not something Iowa can allow. This is, however, something Iowa is in the position to prevent.

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* B.S., Drake University, 2013; J.D. Candidate, Drake University Law School, 2016. The author would like to thank Chief Magistrate Celeste Bremer, Judge Colin Witt, and Judge Susan Cox for their practical and insightful commentary on the implementation of a Girls Court in Iowa; Professor Danielle Shelton for her help sharpening the form and structure of this Note; Professor Deslie Billich for lending her expertise from an international perspective; and Lori Rinehart for sharing her experience with assistance programs for juveniles.