AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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113TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 113–447
Part 1

STOP EXPLOITATION THROUGH TRAFFICKING ACT OF 2014

MAY 13, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 3610]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3610) to stop exploitation through trafficking, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The Amendment

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Exploitation Through Trafficking Act of 2014".

SEC. 2. SAFE HARBOR INCENTIVES.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(c), by striking "where feasible" and all that follows, and inserting the following: "where feasible, to an application—

"(1) for hiring and rehiring additional career law enforcement officers that involves a non-Federal contribution exceeding the 25 percent minimum under subsection (g); or

"(2) from an applicant in a State that has in effect a law that—

"(A) treats a minor who has engaged in, or has attempted to engage in, a commercial sex act as a victim of a severe form of trafficking in persons;

"(B) discourages the charging or prosecution of an individual described in subparagraph (A) for a prostitution or sex trafficking offense, based on the conduct described in subparagraph (A); or

"(C) encourages the diversion of an individual described in subparagraph (A) to appropriate service providers, including child welfare services, victim treatment programs, child advocacy centers, rape crisis centers, or other social services."; and

(2) in section 1709, by inserting at the end the following:

"(5) 'commercial sex act' has the meaning given the term in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102).

"(6) 'minor' means an individual who has not attained the age of 18 years.

"(7) 'severe form of trafficking in persons' has the meaning given the term in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102).".

SEC. 3. REPORT ON RESTITUTION PAID IN CONNECTION WITH CERTAIN TRAFFICKING OFFENSES.

Section 105(d)(7)(Q) of the Victims of Trafficking Protection Act of 2000 (22 U.S.C. 7103(d)(7)(Q)) is amended—

(1) by inserting after "1590," the following: "1591,";

(2) by striking "and 1594" and inserting "1594, 2251, 2251A, 2421, 2422, and 2423";

(3) in clause (iv), by striking "and" at the end;

(4) in clause (v), by striking "and" at the end; and

(5) by inserting after clause (v) the following:

"(vi) the number of individuals required by a court order to pay restitution in connection with a violation of each offense under title 18, United States Code, the amount of restitution required to be paid under each such order, and the amount of restitution actually paid pursuant to each such order; and

"(vii) the age, gender, race, country of origin, country of citizenship, and description of the role in the offense of individuals convicted under each offense; and".

SEC. 4. NATIONAL HUMAN TRAFFICKING HOTLINE.

Section 107(b)(2) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105(b)(2)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) NATIONAL HUMAN TRAFFICKING HOTLINE.—Beginning in fiscal year 2017 and each fiscal year thereafter, of amounts made available for grants under this paragraph, the Secretary of Health and Human Services shall make grants for a national communication system to assist victims of severe forms of trafficking in persons in communicating with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to victims of severe forms of trafficking in persons.".

SEC. 5. JOB CORPS ELIGIBILITY.

Section 144(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2884(3)) is amended by adding at the end the following:

"(F) A victim of a severe form of trafficking in persons (as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102)). Notwithstanding paragraph (2), an individual described in this subparagraph shall not be required to demonstrate eligibility under such paragraph.".

SEC. 6. CLARIFICATION OF AUTHORITY OF THE UNITED STATES MARSHALS SERVICE.

Section 566(e)(1) of title 28, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (C), the following:

"(D) assist State, local, and other Federal law enforcement agencies, upon the request of such an agency, in locating and recovering missing children.".

Purpose and Summary

H.R. 3610, as reported by the substitute amendment, is intended to encourage the states, by giving them preference in their applications for Community Oriented Police Services grants, to pass safe harbor statutes for victims of minor sex trafficking. H.R. 3610, as amended, also helps to fight the scourge of minor sex trafficking by requiring additional reporting to Congress on restitution orders in these cases, codifying a national human trafficking hotline to help victims get assistance, and making it easier for victims to leave a life of trafficking through the Job Corps program.

Background and Need for the Legislation

Starting with the Trafficking Victims Protection Act of 2000, Congress has legislated that juveniles who are involved in commercial sexual crimes are to be considered the *victims* of these crimes, rather than criminals themselves. For example, 18 U.S.C. § 1591 criminalizes the knowing sex trafficking of any person under the age of 18, without any need to prove that force, fraud, or coercion was involved.

Despite growing recognition of the seriousness and pervasiveness of the crime of minor sex trafficking, a majority of the states still have statutes on the books that criminalize minor prostitution. These statutes are in conflict with the states' statutory rape and child abuse statutes, which support the idea that a minor is incapable of consenting to sex. A Dallas police sergeant has captured this problem: "If a 45-year-old man had sex with a 14-year-old girl and no money changed hands, she was likely to get counseling and he was likely to get jail time for statutory rape. . . . [But i]f the same man left $80 on the table after having sex with her, she would probably be locked up for prostitution and he would probably go home with a [de minimis monetary] fine as a john." [1]

A number of states, however, have passed laws in recent years that either decriminalize minor prostitution or help to ensure that these victims are provided access to the services and support necessary to recover from their trauma. In 2008, New York enacted the Safe Harbor for Exploited Children Act, which recognized that children engaged in prostitution are not criminals or delinquents, but rather victims of a brutal form of child sex trafficking and abuse who need specialized services. This law has led to the passage of similar "safe harbor" bills in other states. Illinois, Massachusetts, Minnesota, Ohio, Vermont, North Carolina, and Washington have safe harbor provisions that provide either immunity or diversion for children engaged in prostitution and establish services or plans for services. Connecticut, Michigan, and Tennessee

[1] Ian Urbina, *Running in the Shadows: For Runaways, Sex Buys Survival,* N.Y. Times, Oct. 27, 2009.

have passed laws that protect minors from prosecution. In Florida, children who have been sexually exploited are categorized as children in need of services. In addition, the Texas Supreme Court ruled in 2010 that children involved in prostitution are victims rather than criminals.[2]

The states that continue to criminalize minor prostitution do so in a number of ways. Victims of child sexual exploitation—even though these children are too young to consent to sexual activity with adults—may at times be labeled as child prostitutes or juvenile delinquents and treated as criminals rather than being labeled and treated as victims. These children could then be placed in juvenile detention facilities with juveniles who have committed serious crimes instead of in environments where they can receive needed social and protective services.[3] As Shared Hope International observes, "while this sometimes is viewed as the only option available to arresting officers, it is a practice that pulls the victim deeper into the juvenile justice system, re-victimizes [the young person], and hinders access to service."[4] A 2009 study conducted by Shared Hope International suggests that, in 9 out of 10 U.S. cities evaluated with respect to prostitution and other forms of commercial sexual exploitation of minors, these victims had been placed in juvenile detention centers instead of being directed to needed services.[5]

While a majority of the states still criminalize child prostitution, a number have nonetheless started adopting specialized courts aimed at diverting at-risk youth (particularly girls at risk of prostitution) from the criminal justice system and providing them with specialized services. For example, there are "Girls Courts" in California and Hawaii that use a collaborative approach focusing on treatment and services rather than punishment.[6] The STOP ("Stop Turning Out Child Prostitutes") program in Las Vegas, Nevada provides for the arrest and detention of children involved in minor sex trafficking for a period of time, but with the intent of holding a victim long enough to secure needed services while breaking the bond with their traffickers, which is what often leads these minors to return to prostitution.[7] The safe harbor concept is relatively new, and thus the states are experimenting with the best approach to balancing decriminalization of minor prostitution with the need to help victims leave their traffickers and obtain treatment and services.

Hearings

The Committee on the Judiciary held no hearings on H.R. 3610.

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[2] *In Matter of B.W.,* 313 S.W.3d 818 (Texas 2010).

[3] Smith, Vardaman, and Snow, "The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children," Loyola University Chicago, Center for the Human Rights of Children and the International Organization for Adolescents (IOFA), *Building Child Welfare Response to Child Trafficking,* 2011, p. v-vi.

[4] Heather J. Clawson et al., *Study of HHS Programs Serving Human Trafficking Victims,* U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, December 2009, p. iv.

[5] *Id.*

[6] "Courts Take a Kinder Look at Victims of Child Sex Trafficking," NPR, March 1, 2014. *See also* Patricia Leigh Brown, "A Court's All-Hands Approach Aids Girls Most at Risk," The New York Times, January 28, 2014; State of Hawaii, Hawaii Girls Court, http://www.girlscourt.org/
.

[7] Darren Geist, *Finding Safe Harbor: Protection, Prosecution, and State Strategies to Address Prostituted Minors,* Legislation and Policy Brief: Vol. 4: Iss. 2, Article 3.

Committee Consideration

On April 30, 2014, the Committee met in open session and ordered the bill H.R. 3610 favorably reported, with an amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 3610.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3610, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 13, 2014.

Hon. BOB GOODLATTE, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3610, the "Stop Exploitation Through Trafficking Act of 2014."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Rafferty, who can be reached at 226–2820.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 3610—Stop Exploitation Through Trafficking Act of 2014.

As ordered reported by the House Committee on the Judiciary on April 30, 2014.

H.R. 3610 would make several changes to laws related to human trafficking:

- Section 2 would allow the Attorney General to apply preferential treatment when making some public safety grants to states that have adopted certain laws related to trafficking victims, but would not change the funding level for those grants.
- Section 3 would require the Interagency Task Force to Monitor and Combat Trafficking to expand its reporting on certain trafficking-related crimes. CBO expects the provision would have little effect on the workload of the task force.
- Section 4 would require the Department of Health and Human Services (HHS) to provide funding for a national hotline for trafficking victims. Under current law, HHS already provides a multiyear grant that partially funds the National Human Trafficking Resource Center.
- Section 5 would make trafficking victims eligible to participate in the Job Corps if they meet the age and income requirements, but would not change total funding for the Job Corps program.

CBO estimates that enacting the legislation would have no significant effect on discretionary spending and would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3610 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is David Rafferty. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 3610 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

No provision of H.R. 3610 directs a specific rule making within the meaning of 5 U.S.C. § 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3610 aims to

protect and support minors exploited through commercial sex trafficking by encouraging states to enact safe harbor legislation, establishing a "National Human Trafficking Hotline," requiring the Justice Department to report on restitution in trafficking cases, and ensuring these victims are eligible to enroll in the Job Corps.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3610 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Section 1. Short Title. This section cites the short title of the bill as the "Stop Exploitation Through Trafficking Act of 2014."

Section 2. Safe Harbor Incentives. This section provides the states with additional incentives to pass safe harbor laws by giving those with such laws additional priority for Community Oriented Police Services (COPS) grants, instead of the Byrne JAG penalty included in the bill as introduced. Rather than prescribing exactly what form the state safe harbor laws must take, this section allows flexibility by providing additional priority to states that treat minors engaged in commercial sex acts as victims, discourage the charging or prosecution of such minors, or encourage the diversion of such minors to appropriate service providers instead of prosecution.

Section 3. Report on Restitution Paid In Connection With Certain Trafficking Offenses. This section amends an existing human trafficking report, codified at 22 U.S.C. § 7103(d)(7), to require the Justice Department to report to Congress on the number and amount of restitution orders for convictions of specified Federal trafficking offenses, and expands the crimes for which other reporting is required to include 18 U.S.C. 1591 (sex trafficking by force, fraud, or coercion or with a minor); 2251 (sexual exploitation of children); 2251A (selling and buying of children); 2421 (transportation with intent that the victim engage in criminal sexual activity); 2422 (coercion or enticement); and 2423 (transportation of minors). This section also requires the Justice Department to collect and report information regarding the demographics of convicted defendants, including age, race, gender, country of origin, country of citizenship, and role in the offense (e.g., purchaser or trafficker).

Section 4. National Human Trafficking Hotline. This section codifies a national human trafficking hotline as part of the Trafficking Victims Protection Act (TVPA) grant codified at 22 U.S.C. § 7105(b)(2).

Section 5. Job Corps Eligibility. This section provides that victims of a severe form of trafficking, including minor sex trafficking victims, are eligible for participating in the Job Corps and do not need to establish income eligibility in order to participate.

Section 6. Clarification of Authority of the United States Marshals Service. The National Center for Missing and Exploited Children has estimated that one of every seven endangered runaways

reported to the Center are likely victims of minor sex trafficking.[8] This section helps to address that problem by providing the U.S. Marshals Service the discretionary authority to support other state, local, or Federal law enforcement agencies that are investigating a missing child case, upon request, where a crime of violence has occurred or factors elevating risk to the child have been identified. This provision does not expand the Marshals Service's jurisdiction to investigate violations of Federal criminal law. Rather, the Marshals Service would be able to contribute its unique specialty of locating missing persons to any agency or department that is the lead in a missing child case, when requested by that agency.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

* * * * * * *

TITLE I—JUSTICE SYSTEM IMPROVEMENT

* * * * * * *

PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; "COPS ON THE BEAT"

SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

(a) * * *

* * * * * * *

(c) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General may give preferential consideration, [where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (g).] *where feasible, to an application—*

(1) for hiring and rehiring additional career law enforcement officers that involves a non-Federal contribution exceeding the 25 percent minimum under subsection (g); or

(2) from an applicant in a State that has in effect a law that—

(A) treats a minor who has engaged in, or has attempted to engage in, a commercial sex act as a victim of a severe form of trafficking in persons;

[8] *Oversight Hearing: The State of Efforts to Stop Human Trafficking,* H. Subcomm. on Commerce, Justice, Science, and Related Agencies of the H. Comm. on Appropriations, 113th Congress (statement of John Ryan, CEO, National Center for Missing and Exploited Children).

(B) discourages the charging or prosecution of an individual described in subparagraph (A) for a prostitution or sex trafficking offense, based on the conduct described in subparagraph (A); or

(C) encourages the diversion of an individual described in subparagraph (A) to appropriate service providers, including child welfare services, victim treatment programs, child advocacy centers, rape crisis centers, or other social services.

* * * * * * *

SEC. 1709. DEFINITIONS.

In this part—

(1) * * *

* * * * * * *

(5) "commercial sex act" has the meaning given the term in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102).

(6) "minor" means an individual who has not attained the age of 18 years.

(7) "severe form of trafficking in persons" has the meaning given the term in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102).

* * * * * * *

VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000

* * * * * * *

DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

* * * * * * *

SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

(a) * * *

* * * * * * *

(d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities:

(1) * * *

* * * * * * *

(7) Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, a report on Federal agencies that are implementing any provision of this division, or any amendment made by this division, which shall include, at a minimum, information on—

(A) * * *

* * * * * * *

(Q) the activities undertaken by Federal agencies in cooperation with State, tribal, and local law enforcement officials to identify, investigate, and prosecute offenses under sections 1581, 1583, 1584, 1589, 1590, *1591,* 1592, ⟦and 1594⟧ *1594, 2251, 2251A, 2421, 2422, and 2423* of title 18, United States Code, or equivalent State offenses, including, in each fiscal year—

(i) * * *

* * * * * * *

(iv) the number of victims granted continued presence in the United States under section 107(c)(3); ⟦and⟧

(v) the number of victims granted a visa or otherwise provided status under subparagraph (T)(i) or (U)(i) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); ⟦and⟧

(vi) the number of individuals required by a court order to pay restitution in connection with a violation of each offense under title 18, United States Code, the amount of restitution required to be paid under each such order, and the amount of restitution actually paid pursuant to each such order; and

(vii) the age, gender, race, country of origin, country of citizenship, and description of the role in the offense of individuals convicted under each offense; and

* * * * * * *

SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) * * *

(b) VICTIMS IN THE UNITED STATES.—

(1) * * *

(2) GRANTS.—

(A) * * *

(B) NATIONAL HUMAN TRAFFICKING HOTLINE.—Beginning in fiscal year 2017 and each fiscal year thereafter, of amounts made available for grants under this paragraph, the Secretary of Health and Human Services shall make grants for a national communication system to assist victims of severe forms of trafficking in persons in communicating with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to victims of severe forms of trafficking in persons.

⟦(B)⟧ *(C)* ALLOCATION OF GRANT FUNDS.—Of amounts made available for grants under this paragraph, there shall be set aside—

(i) * * *

* * * * * * *

⟦(C)⟧ *(D)* LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this paragraph may not

exceed 75 percent of the total costs of the projects described in the application submitted.

* * * * * * *

SECTION 144 OF THE WORKFORCE INVESTMENT ACT OF 1998

SEC. 144. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) * * *

* * * * * * *

(3) an individual who is one or more of the following:

(A) * * *

* * * * * * *

(F) A victim of a severe form of trafficking in persons (as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7102)). Notwithstanding paragraph (2), an individual described in this subparagraph shall not be required to demonstrate eligibility under such paragraph.

SECTION 566 OF TITLE 28, UNITED STATES CODE

§ 566. Powers and duties

(a) * * *

* * * * * * *

(e)(1) The United States Marshals Service is authorized to—

(A) * * *

(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General; **[**and**]**

(C) issue administrative subpoenas in accordance with section 3486 of title 18, solely for the purpose of investigating unregistered sex offenders (as defined in such section 3486)**[**.**]***; and*

(D) assist State, local, and other Federal law enforcement agencies, upon the request of such an agency, in locating and recovering missing children.

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