



SECTION 1

Year in Review

The year 2016 marked the Colorado Human Trafficking Council's (CHTC) second full year of activity. An example of the Council's impact in its first year was the passage of House Bill 16-1224.⁴ In the 2015 CHTC Report, the Council recommended that the human trafficking of minors for sexual servitude and commercial sexual exploitation of a minor be added to Colorado's definition of child abuse when such conduct is committed by a third party. It also recommended a mandated child welfare response in all suspected, high-risk, and identified cases of juvenile sex trafficking. While reflecting only a portion of the Council's recommendations on Safe Harbor legislation, House Bill 16-1224 makes the changes to the state's child abuse laws recommended by the Council to prompt a Department of Human Services (DHS) response to human trafficking, even when the alleged perpetrator is not related to the minor (a summary of HB 16-1224 can be found on p. 24). Building upon this positive development, the Council undertook several concrete activities in 2016 to strengthen the anti-trafficking field statewide.

[2016 Council Mandate Priorities](#)

To lend structure and clear purpose to its 2016 activities, Council members participated in a full-day annual retreat as part of its January meeting. In anticipation of the retreat, CHTC staff administered an online survey to elicit feedback from members regarding what they believed were the successes and challenges in 2015 and to indicate their priorities for 2016 based on the legislative mandates outlined in House Bill 14-1273 — the legislation that gave rise to the

⁴ While the Council does not draft or promote state legislation, it nonetheless draws from its collective expertise to inform law makers and others on promising anti-trafficking policy and practices through its annual recommendations.

Council and its legal duties. Through the online survey, members indicated the following five mandates as their top preferences:

1. Standards and Certification
2. Data Collection
3. Training Standards and Curricula
4. Best Practices
5. (Equal votes for fifth place) Public Awareness and Statutory Changes

During retreat discussions, the Council considered which of the selected mandates needed to be addressed through the formation of a task force and which should be undertaken by the full Council during its regular monthly meetings. The Council also took stock of those activities it identified in the *2015 CHTC Annual Report* as unfinished business. Through a series of votes, Council members opted to form the following three task forces to focus on specific activities in 2016:

Standards and Certification Task Force: As a task force going into its second full year of work, SCTF prioritized the development of standards for two sectors: community-based victim advocates and mental/behavioral health treatment providers. The standards developed apply only to community-based victim advocates and mental/behavioral health professionals who want to specialize in serving human trafficking survivors. SCTF also developed a set of recommendations for implementation and oversight of the standards and a certification process for these two sectors.

Task Force Co-Chairs: Debi Grebenik and Sterling Harris

Training Standards and Curricula Task Force: As a newly formed task force, TTF set out to identify concrete professional and community audiences for each of the categories outlined in the mandate. Its goal was to develop human trafficking training curricula for at least two professional sectors in 2016.

Task Force Co-Chairs: Daniel Steele and Katie Kurtz

Data and Research Task Force: As a task force entering its second year of work, the task force prioritized data collection and an analysis of Colorado prosecution activities.

Task Force Co-Chairs: Claude d'Estrée and Amanda Finger

Beyond the work of the task forces, the Council determined that there were issues of great import that warranted attention from its members. The Council was concerned that if these issues were relegated to a task force, some members might be excluded from conversations on subjects in which all or most members have a vested interest. Consequently, the Council set aside a portion of its monthly agenda to address the following topics:

- The impact of recent human trafficking-related federal legislation on Colorado;
- The development of a Colorado-specific public awareness campaign on human trafficking; and
- How to address charges and convictions that human trafficking survivors carry as a direct result of their trafficking experience.

Between February and August, the Council reserved a portion of its agenda to address each topic in turn. What follows is a summary of those discussions, including a description of Council member votes when appropriate, and recommendations pertaining to the topics above.⁵

Impact of New Federal Human Trafficking Laws on Colorado

For many years the Trafficking Victim Protection Act was the central piece of federal legislation on human trafficking. In 2014 and 2015, however, two federal laws addressing human trafficking were passed. On September 29, 2014, the Preventing Sex Trafficking and Strengthening Families Act, or Public Law 113-183, was signed into law. The purpose of P.L. 113-183 was to take the necessary actions to protect and prevent children and youth in the care of the state/county Departments of Human Services from becoming victims of sex trafficking and to make enhancements to the child welfare systems to help improve outcomes for youth in DHS care.⁶ P.L. 113-183 outlined requirements of state and county child welfare systems to adopt policies on identifying, documenting, and determining services for victims of

⁵ At its October 23, 2015, meeting, the Council voted to publish in its annual report all votes in which any single minority vote reached a 25% threshold among those present. As such, tables reflecting the Council's vote on the preferred audience for a Colorado public awareness campaign and a series of votes on legal protections for human trafficking survivors in the criminal justice system are included in this report. Council votes in which the minority does not reach 25% may be accessed in the meeting minutes located on the CHTC website: <https://sites.google.com/a/state.co.us/cdps-prod/home/human-trafficking-council/meetings>.

⁶ Murray, Jeanne. (2015). *Policy Brief: Preventing Sex Trafficking & Strengthening Families Act of 2014*. Chicago, IL: Loyola University, Center for the Human Rights of Children. Retrieved on November 2, 2016, from <http://www.luc.edu/media/lucedu/chrc/pdfs/Preventing%20Sex%20Trafficking%20Policy%20Brief%20Final%20Draft%205.6.pdf>.

sex trafficking or those who are at risk of becoming a sex trafficking victim, reporting instances of sex trafficking, and locating and responding to runaway foster youth (see Table 1). A year later, on May 29, 2015, a separate piece of federal legislation, the Justice for Victims of Trafficking Act, or Public Law 114-22, was signed into law. The JVT Act expands the federal definition of sex trafficking, strengthens benefits for human trafficking survivors, and mandates states to take concrete actions to ensure a coordinated response to child trafficking, especially trafficking of children into the commercial sex industry.

While these federal laws do not require specific action on the part of the Council, several Council members were directly involved with developing and implementing a Colorado state response. As such, Council members felt it was important to inform themselves and the public on how these recent changes in federal law will impact Colorado.

Rules, Tools, Trails, and Guidance

At the March 2016 Council meeting, Ms. Lorendia Schmidt, the Child Abuse Prevention and Treatment Act (CAPTA) Administrator with the Colorado Department of Human Services (CDHS), Division of Child Welfare, Office for Children, Youth and Families, provided an overview of Colorado's efforts to meet federal requirements as outlined in P.L. 113-183 and P.L. 114-22, in addition to new state requirements.⁷ Representatives of Colorado's Human Services Directors Association (CHSDA) and CDHS formed the Collaborative State-County Response to Human Trafficking Task Group, which represents state/county child welfare divisions as well as expertise from the anti-trafficking field. This task group has been charged with assisting CDHS's Office of Children, Youth and Families in developing rules, tools, and guidance for compliance with these new laws. Its goal has been to establish a common understanding of the federal and state requirements and to develop a coordinated response across the state, a particularly important undertaking considering the autonomy counties have to carry out child welfare policy in Colorado. The task group has strong Council representation with several Council members and the Program Manager for the CHTC participating.

Since its formation, the Collaborative State-County Response to Human Trafficking Task Group has met on a monthly basis to interpret the federal and state requirements, and to make

⁷ State requirements are outlined in HB15-1078, a law requiring departments of human services to report missing children in its care within 24 hours, and HB 16-1224, which expands the definition of child abuse to include sex trafficking, even when the perpetrator is a third party.

recommendations to CDHS about the various avenues available to come into compliance. Ms. Schmidt indicated that some of the federal provisions will be incorporated into Child Welfare *Volume Seven rules*—e.g., the administrative rules governing child welfare contained in the Code of Colorado Regulations. Other provisions will take the form of *guidance* to improve practice when it comes to screening youth for human trafficking and adequately responding to meet trafficked youth’s unique needs. Some of the screening and reporting requirements necessitate enhancements to the Colorado Department of Human Services database, *Trails*, which is used to monitor youth within its system for child abuse and neglect. Similarly, the task group has also identified certain *tools* necessary to implement federal and state law, such as an at-risk screening tool to identify children and youth who are victims of sex trafficking or who may be at risk.

Public Law 113-183: Preventing Sex Trafficking and Strengthening Families Act

P.L. 113-183 is the first federal bill to “address the intersection of child welfare and child trafficking.”⁸ In particular, Sections 101 through 104 of the law have required significant action on the part of state child welfare agencies to address human trafficking. Colorado is one of a handful of states to have taken early and comprehensive steps to meet the legal requirements. Ms. Schmidt provided an overview of the task group’s concrete actions:

- **Section 101—Identify, Document and Determine Services:** The task group suggested guidelines for identifying, documenting, and determining services, including a uniform screening tool to be used statewide and the implementation of trauma, emotional, and physical health assessment instruments. A screening tool that helps child welfare workers identify youth in their care who demonstrate high-risk behaviors associated with vulnerability to human trafficking has already been approved (see Appendix 5). While Colorado was not required to include high risk behaviors related to labor trafficking as part of the screening tool, task group members believed it was vital to adopt this promising practice of screening for all forms of child trafficking. A documentation function is being added to *Trails* and should be available in fall of 2016.

⁸ Murray, Jeanne. (2015). *Policy Brief: Preventing Sex Trafficking & Strengthening Families Act of 2014*. Chicago, IL: Loyola University, Center for the Human Rights of Children. Retrieved on November 28, 2016, from <http://www.luc.edu/media/lucedu/chrc/pdfs/Preventing%20Sex%20Trafficking%20Policy%20Brief%20Final%20Draft%205.6.pdf>.

- **Section 102—Report Instances of Sex Trafficking:** The task group is developing new rules and guidance to ensure that child welfare officials cross-report suspected and identified cases of sex trafficking to law enforcement within 24 hours and report in a timely manner to the U.S. Department of Health and Human Services on total numbers of victims.
- **Section 103—Include Child Sex Trafficking Data in the Adoption and Foster Care Analysis and Reporting System (AFCARS):** The goal of this measure is to help the field gain a better sense of the prevalence of sex trafficking in the child welfare system. Colorado efforts are pending the issuance of a federal final rule.
- **Section 104—Locate and Respond to Children Who Run Away from Foster Care:** This aspect of the law has been met due to the passage of Colorado House Bill 15-1078, a law outlining requirements similar to those in P.L. 113-183. As a result, the task group has already worked to incorporate these requirements into Volume 7.000.2 and 7.303.4 rules for reporting youth who have run away or disengaged from foster care to law enforcement and National Center for Missing and Exploited Children (NCMEC) within 24 hours.

Year One (By October 2015)	Year Two (By October 2016)	Year Three (By October 2017)
<ul style="list-style-type: none"> ▪ Develop policies and procedures for identifying, documenting, and serving child sex trafficking victims and those at risk ▪ Implement specific protocols related to children missing from care. 	<ul style="list-style-type: none"> ▪ Implement policies from year one ▪ Report missing children to the NCMEC/area law enforcement ▪ Report incidents of sex trafficking to law enforcement within 24-hours 	<ul style="list-style-type: none"> ▪ Report total number of children/youth who are sex trafficking victims to the federal government

Public Law 114-22: Justice for Victims of Trafficking Act

Ms. Schmidt and CHTC staff members Maria Trujillo and Catherine Bowman also provided an overview of Public Law 114-22 during the March 2016 Council meeting. Similar to P.L. 133-183, P.L. 114-22 contains obligations for states, namely in the areas of identification, assessment, and data tracking of all reports involving children known or suspected to be victims of sex trafficking, and in the training of child welfare workers about identifying,

assessing, and providing comprehensive services for children. An online Human Trafficking 101 training has been available to DHS employees since 2015, and an in-person, facilitated training program developed by the Capacity Building Center for States (CBCS) is being adapted to the Colorado context for child welfare workers, supervisors, administrators, and foster parents. The CBCS-designed training is a comprehensive program developed to build the capacity of child welfare professionals in identifying and serving survivors of child sex trafficking. It will launch in fall of 2016. Moreover, the law requires child sex trafficking to be added as a form of child abuse and neglect and sexual abuse under state laws; this mandate was fulfilled by Colorado House Bill 16-1224 (see Appendix 3).

In addition to containing child welfare provisions, P.L. 114-22 expands the federal definition of sex trafficking to include: 1) the act of *patronizing or soliciting* victims of trafficking, 2) *the production of child pornography*, 3) the *advertising* for sexual activity, or otherwise financially benefiting from such advertising, when it is known that the individual involved was a minor or victim of force, fraud, and coercion, and 4) knowingly *transporting* any individual with the intent that such individual engage in prostitution or in any criminal sexual activity.⁹ P.L. 114-22 also extends the rights of human trafficking survivors, including increased compensation and restitution, and the establishment of a domestic trafficking victim fund. P.L. 114-22 creates a National Strategy to Combat Human Trafficking; each district of the United States Attorney's Office, including the Colorado District, is tasked with developing a district-specific plan in consultation with state and local officials.

The law also establishes several human trafficking training requirements, including training for federal criminal investigators on strategies to combat the demand side of sex trafficking, and training for overseas State Department personnel and Transportation Security Administration (TSA) employees on how to detect human trafficking. While P.L. 114-22 primarily addresses sex trafficking, it does direct Department of Justice task forces with jurisdiction to investigate child labor. Finally, P.L. 114-22 brings about new funding opportunities to serve trafficking

⁹ 18 U.S.C. § 1591 and 22 U.S.C. § 7102(10) address the patronizing or soliciting of child sex traffickers. 18 U.S.C. § 242(f) adds the act of producing child pornography to the definition of sex trafficking. 18 U.S.C. § 1591(a) adds the offense of knowingly advertising a person's sexual services when one is the victim of force, fraud, and coercion. 18 U.S.C. § 2421 amends the criminal code to impose fine/prison time of up to 10 years for anyone who knowingly transports any individual with the intent that such individual engage in prostitution or in any criminal sexual activity.

survivors; Council staff will track and include any JVTA-related federal funding announcements in its monthly online newsletter.

Public Awareness

Public Opinion on Human Trafficking

At the April, May, and September meetings, the Council considered the development of a Colorado-specific human trafficking public awareness campaign. Dr. Dana Wittmer, Colorado College Assistant Professor of Political Science presented findings from a research report titled *Identifying Effective Counter-Trafficking Programs and Policies in the United States: Legislative, Legal, and Public Opinion Strategies that Work* to the Council. Her research was carried out in collaboration with two well-known anti-trafficking researchers, Dr. Vanessa Bouche and Dr. Amy Farrell. Their research activities were funded by the U.S. Department of Justice.

While their research broadly addressed effective counter-trafficking programs and practices at the state level, Dr. Wittmer primarily discussed results of their nationally representative public opinion survey of 2,000 individuals in the United States conducted in the spring of 2014. As stated in the report, “[t]he first goal of the survey was to track what the public knows, thinks and feels about human trafficking. The second goal was to identify factors that may cause people to change the way they think and engage with the issue.”¹⁰ The purpose of her presentation was to educate Council members about potential gaps in public knowledge and identify approaches to public education that may be most effective for a future Colorado public awareness campaign. She noted several key findings from the survey:

- Overall, the U.S. public has a keen understanding of the fact that human trafficking is slavery, but many hold incorrect beliefs about the crime, e.g., that victims are almost always female, that human trafficking always involves threats or acts of physical violence, that it involves mostly illegal immigrants, etc.
- Concern among the public about human trafficking is strong. Nonetheless, women reported more concern and indicated that human trafficking should be a greater government priority than men did. Similarly, racial minorities reported that it should be a higher government priority than did Caucasian respondents.

¹⁰ Bouche, Vanessa, Farrell, Amy, and Wittmer, Dana. (2016). *Identifying Effective Counter-Trafficking Programs and Policies in the United States: Legislative, Legal, and Public Opinion Strategies that Work* (p. iii). Retrieved on January 28, 2016, from <https://www.ncjrs.gov/pdffiles1/nij/grants/249670.pdf>.

- The U.S. public believes that sex trafficking is a more significant problem than labor trafficking. Respondents believe that human trafficking happens in the United States and within their states, but not in a person's own community.
- Survey respondents cited television news as their top source of information on human trafficking, followed by newspapers, movies, and the internet.
- Interestingly, sex-related behaviors affect human trafficking beliefs. Those survey respondents who had consumed pornography in the last year reported more knowledge of the issue but less concern. Likewise, those who had visited adult entertainment venues within the last year reported lower levels of concern about human trafficking than those who had not, and believed human trafficking should be less of a government priority.
- Based on a series of experiments conducted by Dr. Wittmer and her colleagues, they found that public service announcements (PSAs) with a clear call to action were more effective than those without one.¹¹

Overall, Dr. Wittmer recommended education-oriented public awareness campaigns that seek to overcome the common misconceptions she noted. She suggested that targeted campaigns may be necessary to increase concern among key groups, such as Caucasian males. Dr. Wittmer believed that states like Colorado may want to make efforts to draw connections for the public between how individual attitudes and sexual behavior can help or hinder efforts to prevent and combat human trafficking.

National, State, and Local Human Trafficking Public Awareness Campaigns

CHTC staff members Maria Trujillo, Brendan Davidson, and Catherine Bowman provided an overview of national, state, and local public awareness campaigns. The goal of their presentation was to highlight the strengths and weaknesses of well-known or particularly successful campaigns nationwide in light of the Council's mandate to develop an implementation plan for a statewide public awareness campaign. They reviewed dozens of campaigns and carried out informational interviews with several of the creators of campaigns featured in their presentation. Their main observations were:

¹¹ Ibid, pg. 45.

- Survivor input and consultation throughout the campaign; survivors are uniquely positioned to craft messaging that will help potential victims recognize their own victimization without re-traumatizing them¹²
- Inclusion of all types of human trafficking and victim profiles in order to give the public a sense of the crime's scope and many possible forms and the people it can affect
- Clear and concise messaging that references one call to action and/or hotline number to avoid confusion and a dilution of the message
- Availability of public awareness tools in multiple languages, and, when possible, the tailoring of messages by specific geographical contexts, e.g., the use of appropriate foreign languages for immigrant communities, etc.
- Leveraging of in-kind and other cost-effective funding measures; in various instances, marketing and advertising firms donated their time and some media companies provided free advertising space
- Taking care to avoid sensationalized imagery and disempowering depictions of human trafficking survivors
- Use of social media and other electronic media to reach a wide audience, including youth
- A well-developed plan for monitoring and evaluating the impact of the public awareness campaign, such as measuring before-and-after calls to the hotline number listed, traffic to the campaign's website, and pre-and-post surveys gauging the public's understanding of human trafficking, etc.

Planning a Colorado Public Awareness Campaign

At the May 2016 meeting, Council members considered the steps involved in developing a public awareness campaign. Based on guidance provided by Polaris¹³, Ms. Trujillo outlined the basic components involved in formulating a public awareness campaign:

1. Research the issue.

¹² A survivor-driven campaign was recommended by the United States Advisory Council in its first Annual Report released in October 2016. The U.S. Advisory Council on Human Trafficking is composed of survivor leaders who bring their knowledge and experience to advise and provide recommendations on federal anti-trafficking policies to the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF). Its 2016 report can be accessed at <http://www.state.gov/documents/organization/263434.pdf>.

¹³ Polaris, National Human Trafficking Hotline. (2014). Human Trafficking Public Outreach Campaigns: Effectively Reaching Your Audience. (Online Training). Retrieved on November 9, 2016, at <https://traffickingresourcecenter.org/resources/human-trafficking-public-outreach-campaigns>

2. Establish goals, e.g., determine whether the campaign should address broad social change or be campaign specific.
3. Identify the target audience.
4. Develop the message for the identified audience.
5. Develop the campaign message.
 - Keep in mind language considerations based on the population you want to reach and the demographics of an area.
 - Avoid inappropriate images. Don't sensationalize or misrepresent the issue.
 - Campaign messaging should be victim-centered, informative, and empowering.
6. Assess campaign success. There should be a way to track the outcomes of a campaign.¹⁴

With insights gained from the April and May meetings, Council members reflected on potential campaign strategies.¹⁵ Some members noted that a broad public awareness campaign is an appropriate first step before engaging in more targeted campaigns, since the public at large is not as educated on human trafficking as members might assume. Another member underscored the importance of avoiding sensationalized images that might serve to disempower victims in the minds of the public and limit understanding of the many forms human trafficking can take and the range of people the crime can affect.

After careful consideration of public awareness campaign options, the Council cast a series of votes in May and September that will guide its next steps. A clear majority voted to focus on both sex and labor trafficking as part of a Colorado public awareness effort. Furthermore, the Council opted for a campaign-specific approach over a broad social change tactic, and voted in favor of an initial campaign to focus on the general public in lieu of a targeted population. (See below for the breakdown of members' votes).

¹⁴ Ibid.

¹⁵ One member submitted results from a Colorado-specific survey on the topic of public awareness. For more information, see Laboratory to Combat Human Trafficking. (2013). *Colorado Project to Comprehensively Combat Human Trafficking National Survey Report and Statewide Data Report*. Denver, CO: Laboratory to Combat Human Trafficking. Retrieved on November 8, 2016, at <http://lcht.hotpressplatform.com/resultsandfindings/statereport>.

Preferred Audience of the Colorado Public Awareness Campaign?		
General Public (13)	Target Population (6)	Abstain (2)
Tom Acker Jill Brogdon Mari Dennis Debi Grebenik Sterling Harris Alexis King Robert Lung Don Moseley Sara Nadelman Jo-Anne O'Neil Raana Simmons Linda Weinerman Martin Zaffaroni	Lester Bacani Amanda Finger Pat Medige Cara Morlan Dan Steele Robert Werthwein	Lawrence Hilton Angela Lytle

The Council also voted to craft a campaign with a specific call to action over a broad educational effort. With these general parameters set, the Council will revisit this topic in 2017 and decide whether it is necessary to form a task force or small working group in order to move forward with plans to develop a Colorado public awareness campaign.

Protection from Criminal Liability for Crimes Committed as a Direct Result of Human Trafficking Victimization

In 2015, the Council considered whether or not the General Assembly should enact legislation granting immunity to child victims of commercial sexual exploitation for offenses related to that exploitation and creating other legal protections.¹⁶ The topic was rigorously debated among Council members. The majority of the Council voted on a comprehensive set of recommendations for protecting child victims of commercial sexual exploitation that included an immunity provision for the charge of prostitution. (For a full discussion of this process and a summary of Council member votes on this topic, see the *2015 Colorado Human Trafficking Council Report*, pp. 29–45.) What was left unfinished, however, was a broader discussion about whether there should be protections from criminal liability for adult and minor trafficking victims of sex and labor trafficking who are arrested, prosecuted, or convicted for crimes *other* than prostitution, which were directly related to their human trafficking experience.

The Council’s discussion of protections from criminal liability for human trafficking survivors has not occurred in a vacuum. In 2013, the American Bar Association and the National Conference of Commissioners on Uniform State Laws adopted policies encouraging states to

¹⁶ C.R.S. § 18-3-505(4)(a)-4(a.5).

enact affirmative defense provisions, vacatur laws, and other legal protections from criminal liability for victims of human trafficking.¹⁷

Similarly, in February 2016, U.S. State Department Ambassador-at-Large to Monitor and Combat Human Trafficking Susan Coppedge spoke at the National Association of Attorneys General in Washington D.C. in support of vacatur laws for trafficking victims convicted of nonviolent crimes as a direct result of their victimization. According to Coppedge, expungement and vacatur laws are needed because often:

[V]ictims who are forced to commit a crime are mistaken for criminals by law enforcement and judicial officials. Many victims of both sex and labor trafficking, both here in the U.S. and around the world, remain undetected among those who have committed crimes because they fear coming forward and law enforcement lacks of [sic] proper victim screening and identification measures.¹⁸

Ms. Coppedge cited the many consequences that criminal arrests and convictions of trafficking survivors can have, including the inability to pursue educational and professional goals, secure safe housing, or obtain loans and other aid.

Nonetheless, there exist significant challenges in enacting such measures. A fundamental question state law makers must address is which forms of protection are the most appropriate and effective to protect human trafficking survivors from criminal liability. Moreover, leaders must consider whether and how such laws might limit law enforcement's and prosecutors' ability to enforce the law and seek justice on behalf of all crime victims. Finally, since such laws in other states like New York, California, and Illinois are relatively new, it may be too soon to fully evaluate their outcomes, including any unintended consequences.

¹⁷ See American Bar Association. (2013). *Resolution to Prohibit the Prosecution of Victims of Trafficking for Crimes Arising from their Trafficking, Resolution for Affirmative Defense for Victims of Trafficking, and Resolution for Vacating of Convictions for Victims of Trafficking*. Retrieved on October 7, 2016, from http://www.americanbar.org/groups/human_rights/projects/task_force_human_trafficking/aba-policies.html. See also National Conference of Commissioners on Uniform State Laws. (2013). *Uniform Act on Prevention of and Remedies for Human Trafficking*. Retrieved on October 7, 2016, from http://www.uniformlaws.org/shared/docs/Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking/2013AM_UPRHT_As%20approved.pdf.

¹⁸ Coppedge, Susan. (2016). Stop Criminalizing the Victims. *The CNN Freedom Project: Ending Modern Slavery*. Retrieved on October 6, 2016, from <http://edition.cnn.com/2016/03/17/opinions/coppedge-freedom-project-new-lives/index.html>.

Colorado has several existing laws that provide some form of protection for human trafficking survivors arrested or convicted for crimes committed as a direct result of their trafficking. Colorado has a longstanding duress defense preventing a person from criminal liability for conduct in which a person engaged in the illegal conduct at the direction of another person.¹⁹ In 2002, Colorado enacted pretrial diversion and deferred sentencing provisions for defendants charged with a range of offenses, but excluding many serious sexual offenses.²⁰ Diversion refers to diverting defendants out of the criminal justice system by having them complete a rehabilitative program rather than incarceration. Criminal charges are typically dropped when defendants successfully complete the diversion program, thereby preventing them from having a conviction on their record. In 2012, the General Assembly enacted House Bill 12-1151 allowing a defendant to petition the court to expunge prostitution-related juvenile delinquency records when the petitioner can show by a preponderance of the evidence that he or she was a victim of human trafficking at the time the offense occurred.²¹ Similarly, the passage of Senate Bill 14-206 provided an avenue for adult survivors of human trafficking to petition the court to seal criminal conviction records for prostitution and prostitution-related offenses when the petitioner establishes by a preponderance of evidence that, at the time of the offense, he or she had been trafficked by another person.²² In 2015, the state enacted an affirmative defense law allowing survivors of human trafficking to assert an affirmative defense against the charge of prostitution if they can show by a preponderance of evidence that, at the time of the offense, they were a victim of human trafficking.

Council Discussion of Legal Protections for Human Trafficking Survivors

With the national conversations and existing Colorado law in mind, the Council convened two panels to explore member views on whether Colorado law makers should consider protection from criminal liability for survivors of human trafficking and, if so, what forms of protection.

Sex Trafficking

In order to give a well-balanced representation of the issues, the Council hosted two panels on legal considerations for survivors of sex trafficking. Members of the panels included sex

¹⁹ C.R.S. § 18-1-708.

²⁰ C.R.S. § 18-1.3-101 addresses pretrial diversion and § 18-1.3-102 addresses deferred sentencing.

²¹ C.R.S. § 19-1-306(5)(d) provides the possibility for expungement for juvenile delinquency records for human trafficking survivors for the offenses of: prostitution (§18-7-201), soliciting for prostitution (§ 18-7-202), keeping a place of prostitution (§ 18-7-204), and public indecency (§ 18-7-301).

²² C.R.S. § 24-72-706.

trafficking survivors, representatives of law enforcement and prosecution, and social service providers. During these panels and Council follow-up discussion, the following key points were made:

- Survivors who addressed the Council explained that victims are often forced to commit crimes as a means of survival. The cost and legal red tape prevent too many survivors from seeking to seal or expunge a criminal record. They also observed that while diversion programs can be successful and indeed were so for one panelist, they simply do not exist in all jurisdictions and their success is uneven. They also insisted that survivors may lack the resources and wherewithal to participate in diversion programs or to take the necessary steps to fight a criminal charge once filed.
- Law enforcement representatives discussed the need and value in having some form of legal protections from criminal liability, but noted that for crimes ranging from serious offenses like sexual assault to lesser offenses like burglary involving another victim, the right of the other victims seeking justice should be upheld.
- Members representing the prosecution perspective maintained that they make considerable effort, and are indeed so charged, to ensure that human trafficking victims do not face criminal charges when they commit crimes as a direct result of their trafficking. They endorsed diversion as an effective legal protection and also suggested that the Council consider sealing and expungement provisions. Nonetheless, they cautioned against blanket immunity, especially for minors. They reasoned that it might cause traffickers to target youth knowing they would not face criminal liability for engaging in criminal activities, a point one Council member challenged on the grounds that if all trafficking victims were granted immunity traffickers would not be able to target minors.
- Social service providers pointed out that diversion and affirmative and duress defense remedies potentially run counter to a victim-centered approach and place a significant burden on the human trafficking survivor to prove his or her own innocence. They urged the Council to consider more proactive versus reactive legal remedies. They also pointed out the difference in the sealing process (for adults) and the expungement procedure (for minors), namely, that sealing is only a partial remedy and allows certain

entities, such as government employers, to access someone’s entire record—even convictions that have been sealed.

Having heard and fully discussed legal remedies for sex trafficking survivors, the Council cast a series of votes to finalize its recommendations. A clear majority of Council members recommended some form of legal protection for both adult (19 votes in favor, two against and three abstentions) and minor (21 in favor, two against and one abstention) survivors of sex trafficking arrested or convicted for crimes as a direct result of their human trafficking experience. But with respect to what form the legal protections should take and for which crimes, the Council was unable to reach a clear consensus. Specifically, the Council was asked to vote separately on what form of legal protection it recommends for adults versus minors, with the options of immunity, diversion, affirmative defense, and abstention. Council members could select multiple remedies. Furthermore, Council members were asked to indicate for which crimes they recommended each form of legal protection, with the options of: all crimes, nonviolent crimes, victimless crimes, none, or abstention. The results of those votes follow.

Votes on Legal Protections from Criminal Liability for Minor Sex Trafficking Victims

What form of legal protections from criminal liability does the Council want to recommend (for minors)? <i>(multiple selections possible)</i>			
Blanket Immunity (15)	Diversion (deferred sentence or deferred prosecution) (14)	Affirmative Defense (12)	Abstain (4)
Tom Acker Jill Brogdon Maureen Cain Claude d’Estrée Debi Grebenik Sterling Harris Lynn Johnson Angela Lytle Saida Montoya Don Moseley Jo-Ann O’Neil Raana Simmons Daniel Steele Linda Weinerman Martin Zaffaroni	Tom Acker Jill Brogdon Maureen Cain Mari Dennis Matt Dodson Debi Grebenik Lynn Johnson Alexis King Angela Lytle Saida Montoya Cara Morlan Don Moseley Jo-Ann O’Neil Daniel Steele	Tom Acker Mari Dennis Matt Dodson Debi Grebenik Sterling Harris Alexis King Angela Lytle Saida Montoya Cara Morlan Don Moseley Jo-Ann O’Neil Tammy Schneiderman	Janet Drake Amanda Finger Robert Lung Sara Nadelman

For what crimes? Blanket immunity for minors <i>(only one selection possible)</i>				
All Crimes (8)	Nonviolent Crimes (2)	Victimless Crimes (7)	None (2)	Abstain (5)
Tom Acker Jill Brogdon Claude d'Estrée Debi Grebenik Sterling Harris Lynn Johnson Jo-Ann O'Neil Linda Weinerman	Saida Montoya Raana Simmons	Maureen Cain Mari Dennis Matt Dodson Angela Lytle Don Moseley Daniel Steele Martin Zaffaroni	Alexis King Cara Morlan	Janet Drake Amanda Finger Robert Lung Sara Nadelman Tammy Schneiderman

For what crimes? Diversion for minors <i>(only one selection possible)</i>				
All crimes (12)	Nonviolent Crimes (2)	Victimless Crimes (4)	None (0)	Abstain (6)
Tom Acker Jill Brogdon Maureen Cain Debi Grebenik Sterling Harris Lynn Johnson Alexis King Saida Montoya Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weinerman	Cara Morlan Daniel Steele	Mari Dennis Matt Dodson Angela Lytle Martin Zaffaroni		Claude d'Estrée Janet Drake Amanda Finger Robert Lung Sara Nadelman Tammy Schneiderman

For what crimes? Affirmative defense for minors <i>(only one selection possible)</i>				
All crimes (13)	Nonviolent Crimes (1)	Victimless Crimes (2)	None (0)	Abstain (8)
Tom Acker Jill Brogdon Mari Dennis Matt Dodson Debi Grebenik Sterling Harris Lynn Johnson Alexis King Angela Lytle Saida Montoya Don Moseley Jo-Ann O'Neil Linda Weinerman	Daniel Steele	Cara Morlan Martin Zaffaroni		Maureen Cain Claude d'Estrée Janet Drake Amanda Finger Robert Lung Sara Nadelman Raana Simmons Tammy Schneiderman

Votes on Legal Protections from Criminal Liability for Adult Sex Trafficking Victims

What form of legal protections from criminal liability does the Council want to recommend (for adults)? <i>(multiple selections possible)</i>			
Immunity (9)	Diversion (deferred sentence or deferred prosecution) (14)	Affirmative Defense (12)	Abstain (6)
Maureen Cain Claude d'Estrée Debi Grebenik Sterling Harris Lynn Johnson Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weinerman	Tom Acker Jill Brogdon Maureen Cain Mari Dennis Matt Dodson Debi Grebenik Lynn Johnson Alexis King Angela Lytle Cara Morlan Don Moseley Jo-Ann O'Neil Daniel Steele Martin Zaffaroni	Tom Acker Jill Brogdon Mari Dennis Matt Dodson Sterling Harris Lynn Johnson Alexis King Angela Lytle Cara Morlan Don Moseley Daniel Steele Martin Zaffaroni	Janet Drake Amanda Finger Robert Lung Sara Nadelman Saida Montoya Tammy Schneiderman

For what crimes? Blanket immunity for adults <i>(only one selection possible)</i>				
All Crimes (6)	Nonviolent Crimes (1)	Victimless Crimes (7)	None (3)	Abstain (7)
Tom Acker Maureen Cain Claude d'Estrée Debi Grebenik Jo-Ann O'Neil Linda Weinerman	Raana Simmons	Mari Dennis Matt Dodson Sterling Harris Lynn Johnson Don Moseley Daniel Steele Martin Zaffaroni	Alexis King Angela Lytle Cara Morlan	Jill Brogdon Janet Drake Amanda Finger Robert Lung Saida Montoya Sara Nadelman Tammy Schneiderman

For what crimes? Diversion for adults <i>(only one selection possible)</i>				
All Crimes (9)	Nonviolent Crimes (2)	Victimless Crimes (6)	None (0)	Abstain (7)
Tom Acker Jill Brogdon Maureen Cain Sterling Harris Lynn Johnson Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weinerman	Angela Lytle Daniel Steele	Mari Dennis Matt Dodson Debi Grebenik Alexis King Cara Morlan Martin Zaffaroni		Janet Drake Claude d'Estrée Amanda Finger Robert Lung Saida Montoya Sara Nadelman Tammy Schneiderman

For what crimes? Affirmative defense for adults (<i>only one selection possible</i>)				
All Crimes (10)	Nonviolent Crimes (2)	Victimless Crimes (2)	None (1)	Abstain (9)
Tom Acker Jill Brogdon Mari Dennis Matt Dodson Debi Grebenik Sterling Harris Lynn Johnson Alexis King Don Moseley Linda Weirnerman	Daniel Steele Martin Zaffaroni	Angela Lytle Cara Morlan	Jo-Ann O'Neil	Maureen Cain Janet Drake Claude d'Estrée Amanda Finger Robert Lung Saida Montoya Sara Nadelman Raana Simmons Tammy Schneiderman

Labor Trafficking

At its July 2016 meeting, the Council considered legal remedies for labor trafficking survivors arrested or convicted for crimes directly resulting from their trafficking experience. Ms. Jenna Novak, Program Specialist with the National Human Trafficking Hotline (NHTH), provided a national overview of labor trafficking and addressed the types of relief being considered for this population in other states. She commented that of labor trafficking calls received by the NHTH, most related to domestic work, agriculture, traveling sales crews, and restaurant/food service. It was noted that there is a distinct lack of services and housing options for labor trafficking survivors and that labor traffickers enjoy greater impunity, since labor trafficking prosecutions lag behind sex trafficking prosecutions across the country. This trend mimics the situation in Colorado, given its minimal labor trafficking prosecutions at either the federal or state level. The crimes most often associated with labor trafficking victims include vagrancy, trespassing, disorderly conduct, larceny/theft, drug offenses, Medicaid fraud, and panhandling. As with sex trafficking, vacatur remedies represent a practical solution; at least eight states recently passed measures that account for labor trafficking victims in their vacatur laws.

Similar to its panel for sex trafficking, the Council hosted a labor trafficking panel, which included a labor trafficking survivor, and representatives from law enforcement, social services, and community and advocacy groups. During the panel and Council follow-up discussion, participants expressed the following observations:

- A labor trafficking survivor described the fear and shame he felt when he was no longer in the U.S. legally, a situation directly attributable to his decision to flee his traffickers.

He urged the Council to keep in mind that trafficking survivors often face impossible choices and have no intention of breaking U.S. laws.

- A law enforcement representative acknowledged that given his training and experience, he had successfully detected situations in which people have committed criminal activity under duress. But he conceded that without proper training of law enforcement, these individuals could be unfairly criminalized. Notwithstanding, he expressed reservations about legislating blanket immunity for labor trafficking survivors.
- A community anti-trafficking leader and activist explained that for many temporary migrant workers in Colorado, their experiences are largely hidden, and he noted the inherent coercion of many temporary migrant labor programs. Since temporary migrant worker visas are sponsored by employers, many labor abuses go unreported out of fear of retaliation and/or deportation. The mere act of leaving one's employer results in violation of immigration laws.
- Community advocates and service providers reaffirmed the position of the American Bar Association and Ambassador Susan Coppedge, insisting that communities rely too heavily on the criminal justice system to solve societal ills and that most remedies continue to rely heavily on punitive approaches. A blanket immunity approach was supported, especially for labor trafficking survivors who may lack the funds, language skills, and/or knowledge of U.S. systems to seal their records after the fact.

Council members voted overwhelmingly in favor of some form of protection for minor labor trafficking victims who commit crimes as a direct result of their labor trafficking experience. Members also voted in favor of some form of protection for adult labor trafficking victims. Similar to the sex trafficking discussion and vote, Council members did not reach consensus with on the form of protections that should be available for labor trafficking survivors. Below is the summary of votes pertaining to the form of protection from criminal liability for labor trafficking survivors and the crimes for which protection should be offered.

Votes on Legal Protections from Criminal Liability for Minor Labor Trafficking Victims

What form of legal protection from criminal liability does the Council want to recommend (for minors)? <i>(multiple selections possible)</i>			
Blanket Immunity (12)	Diversion (deferred sentence or deferred prosecution) (13)	Affirmative Defense (11)	Abstain (4)
Lester Bacani Jill Brogdon Mari Dennis Matt Dodson Amanda Finger Debi Grebenik Sterling Harris Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weirnerman Martin Zaffaroni	Tom Acker Mari Dennis Matt Dodson Debi Grebenik Alexis King Robert Lung Don Moseley Jo-Ann O'Neil Raana Simmons Dan Steele Linda Weirnerman Robert Werthwein Martin Zaffaroni	Mari Dennis Matt Dodson Debi Grebenik Sterling Harris Alexis King Judge Robert Lung Cara Morlan Don Moseley Jo-Ann O'Neil Dan Steele Martin Zaffaroni	Lawrence Hilton Angela Lytle Pat Medige Sara Nadelman

For what crimes? Immunity for minors <i>(only one selection possible)</i>				
All Crimes (8)	Nonviolent Crimes (3)	Victimless Crimes (3)	None (3)	Abstain (5)
Lester Bacani Jill Brogdon Amanda Finger Debi Grebenik Don Moseley Jo-Ann O'Neil Linda Weirnerman Robert Werthwein	Tom Acker Matt Dodson Raana Simmons	Mari Dennis Sterling Harris Martin Zaffaroni	Alexis King Cara Morlan Dan Steele	Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman

For what crimes? Diversion for minors <i>(only one selection possible)</i>				
All Crimes (10)	Nonviolent Crimes (4)	Victimless Crimes (3)	None (0)	Abstain (5)
Tom Acker Lester Bacani Jill Brogdon Mari Dennis Amanda Finger Sterling Harris Don Moseley Jo-Ann O'Neil Linda Weirnerman Robert Werthwein	Matt Dodson Alexis King Raana Simmons Martin Zaffaroni	Debi Grebenik Cara Morlan Dan Steele		Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman

For what crimes? Affirmative defense for minors (<i>only one selection possible</i>)				
All Crimes (10)	Nonviolent Crimes (1)	Victimless Crimes (3)	None (2)	Abstain (6)
Lester Bacani Jill Brogdon Mari Dennis Amanda Finger Sterling Harris Don Moseley Jo-Ann O'Neil Linda Weirnerman Robert Werthwein Martin Zaffaroni	Matt Dodson	Debi Grebenik Cara Morlan Dan Steele	Tom Acker Alexis King	Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman Raana Simmons

Votes on Legal Protections from Criminal Liability for Adult Labor Trafficking Victims

What form of legal protections from criminal liability does the Council want to recommend (for adults)? (<i>multiple selections possible</i>)			
Immunity (9)	Diversion (deferred sentence or deferred prosecution) (13)	Affirmative Defense (12)	Abstain (4)
Lester Bacani Mari Dennis Amanda Finger Debi Grebenik Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weirnerman Martin Zaffaroni	Tom Acker Jill Brogdon Mari Dennis Matt Dodson Debi Grebenik Alexis King Robert Lung Don Moseley Jo-Ann O'Neil Raana Simmons Linda Weirnerman Robert Werthwein Martin Zaffaroni	Jill Brogdon Matt Dodson Mari Dennis Debi Grebenik Sterling Harris Robert Lung Cara Morlan Don Moseley Jo-Ann O'Neil Dan Steele Robert Werthwein Martin Zaffaroni	Lawrence Hilton Angela Lytle Pat Medige Sara Nadelman

For what crimes? Blanket immunity for adults (<i>only one selection possible</i>)				
All Crimes (4)	Nonviolent Crimes (6)	Victimless Crimes (4)	None (3)	Abstain (5)
Lester Bacani Jill Brogdon Amanda Finger Jo-Ann O'Neil	Tom Acker Matt Dodson Don Moseley Raana Simmons Linda Weirnerman Robert Werthwein	Mari Dennis Debi Grebenik Sterling Harris Martin Zaffaroni	Alexis King Cara Morlan Dan Steele	Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman

For what crimes? Diversion for adults (<i>only one selection possible</i>)				
All Crimes (8)	Nonviolent Crimes (5)	Victimless Crimes (2)	None (2)	Abstain (5)
Tom Acker Lester Bacani Mari Dennis Amanda Finger Sterling Harris Don Moseley Jo-Ann O'Neil Linda Weinerman	Jill Brogdon Matt Dodson Debi Grebenik Alexis King Raana Simmons	Robert Werthwein Martin Zaffaroni	Cara Morlan Dan Steele	Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman

For what crimes? Affirmative defense for adults (<i>only one selection possible</i>)				
All Crimes (10)	Nonviolent Crimes (2)	Victimless Crimes (2)	None (2)	Abstain (6)
Lester Bacani Jill Brogdon Mari Dennis Matt Dodson Amanda Finger Sterling Harris Debi Grebenik Don Moseley Jo-Ann O'Neil Linda Weinerman	Robert Werthwein Martin Zaffaroni	Cara Morlan Dan Steele	Tom Acker Alexis King	Lawrence Hilton Robert Lung Angela Lytle Pat Medige Sara Nadelman Raana Simmons

Overall, the results signal that Colorado is in step with national anti-trafficking leaders and other states in its acknowledgement of the need for protections from criminal liability for human trafficking victims. The votes also reflect that a one size fits all approach is not tenable. Statutory changes will likely need to allow flexibility in determining the appropriate legal protection for survivors according to each person’s unique situation.

Colorado’s 2016 Legislative Activities

Colorado law makers passed four laws in 2016 that have a direct bearing on the issue of human trafficking. The new laws strengthen the state’s victim-centered approach to the crime. They also seek to better coordinate the counter-trafficking efforts of departments of human services, law enforcement, and administrative agencies in order to improve the state’s response to victims and populations, particularly vulnerable to trafficking. The four pieces of legislation are summarized below:

Senate Bill 16-110 concerns the privacy of child victims of crime. Specifically, it limits the use of the name of child victims of human trafficking (both sex and labor) and prostitution-related crimes by criminal justice agencies and custodians of criminal records.

House Bill 16-1033 makes minor adjustments to the Colorado Human Trafficking Council (CHTC), namely by adding a representative from the Judicial Branch to its membership.

House Bill 16-1224 expands the definition of child abuse to include a child subjected to human trafficking of a minor for sexual servitude and victims of commercial sexual exploitation of children (CSEC). It also mandates an institutional response from county and state departments of human services when a “child has been a victim of intrafamilial, institutional or third-party abuse or neglect in which he or she has been subjected to human trafficking of a minor for sexual servitude...or commercial sexual exploitation of a child.”²³ In particular, county and state departments of human services shall:

- when necessary and appropriate, immediately offer social services to the child who is the subject of the report and to his or her family;
- notify the local law enforcement agency if they reasonably suspect that a child is a victim of human trafficking;
- confer with law enforcement before conducting such an interview if a county elects to interview an alleged third-party perpetrator of sex trafficking;
- implement a uniform screening tool that includes questions intended to identify children who are victims of human trafficking of a minor for sexual servitude or CSEC.

House Bill 16-1320 eliminates loopholes in existing Massage Therapy Practice Act and aligns administrative actions related to massage therapy oversight with criminal investigations and actions. Importantly, it shifts the massage therapy licensing from businesses to individuals so that operators with ill intent cannot evade the law by registering as a new business as soon as their former business is shut down. It also provides discretion to the Department of Regulatory Affairs (DORA) to deny a massage therapy license to an applicant who “is not competent, trustworthy or of good moral character” or who has a criminal record involving human trafficking.²⁴ Similarly, it allows DORA discretion to determine that a practice is no longer

²³ C.R.S. § 19-3-308(4)(c).

²⁴ C.R.S. § 12-35.5-107(7)-(8).

exempt from massage therapy licensing if there is a “continued pattern of criminal behavior with arrests, complaints regarding sexual misconduct, or criminal intent that is related to human trafficking.”²⁵ DORA may also take disciplinary action against a massage therapy license holder who has pled guilty or no contest or received a deferred sentence for a crime related to the practice of massage therapy, or for unlawful sexual behavior, including prostitution-related offenses or human trafficking-related offenses. The bill also criminalizes persons who know or abet the unlicensed practice of massage therapy. It likewise allows city, county, city and county, or other political subdivisions to inspect most massage businesses upon complaint of illegal activities and to ensure that the practice is properly licensed to perform massage therapy.

Anti-Trafficking Activities Across the State

Aside from Council and legislative progress, several governmental and law enforcement anti-trafficking groups across the state were active in their efforts to raise awareness and combat the crime of human trafficking. For example, the 17th Judicial District formed an anti-trafficking taskforce and multidisciplinary team (MDT). Law enforcement personnel in northern Colorado formed a collaborative working group to pool resources and increase their investigation of human trafficking in the region. Similarly, the Roaring Fork Valley hosted community awareness events and a two-day prosecutor/law enforcement training. Additionally, the Colorado Attorney General’s Office hosted a seminar on labor trafficking to kick off a more concerted effort to enhance awareness, investigation, and prosecution of labor trafficking statewide.

Non-governmental and community groups also carried out a number of successful anti-trafficking efforts. The Colorado Project, an initiative of the Laboratory to Combat Human Trafficking, launched its Action Plan campaign to identify and address gaps in local community counter-trafficking efforts. The Human Trafficking Task Force of Southern Colorado organized its 9th Annual Symposium. Researchers, students, and government officials gathered at the University of Denver’s Human Trafficking Center to discuss advances in methods to measure the crime of human trafficking. Kristina Kangaspunta, the United Nations Office on Drugs and Crime Chief of the Global Report on Trafficking in Persons Unit, was the keynote speaker.

²⁵ C.R.S. § 12-35.5-110(2).

Overall, stakeholders across Colorado continued to exhibit a strong and sustained commitment to the issue of human trafficking.