

ATEST NATIONAL CALL FOR UNIFORM LAW COMMISSIONERS

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Operator: Welcome to the ATEST national call for Uniform Law Commissioners. My name is John and I'll be your operator for today's call. At this time all participants are in a listen-only mode. Later we will conduct a question and answer session. Please note that the conference is being recorded.

And I would now like to turn the call over to your host, Meredith Owen. You may begin, Meredith.

Ms. Meredith Owen: Thank you so much, John. And thank you to everyone for taking the time to join the ATEST national call with the Uniform Law Commissioners today. We'll have a number of speakers, and as the operator mentioned, you'll be in listen-only mode. At the end of the presentation, that's when we will open it up for a question and answer session. The operator will prompt you to get into the queue to ask questions, and we will have plenty of time for Q&As at the end of the call. I'm Meredith Owen, policy associate for the Alliance To End Slavery and Trafficking, or ATEST.

ATEST is a coalition of US-based human rights organizations working to end modern day slavery and human trafficking in the US and around the world. We advocate for lasting solutions to prevent labor and sex trafficking, hold perpetrators accountable, ensure justice for victims, and empower survivors with tools for recovery. ATEST works on all facets of human trafficking, adults and children, for national and US citizens, domestic, international, labor, and sex trafficking.

And just to remind folks that this call will be recorded, so there will be an opportunity to hear it later on in an .mp3 version. There will be a link that will be sent out via email as follow up and posted on the ATEST website. If you're unable to hear all the call, or if you have colleagues or partners that would like to hear and listen in to what was discussed today. The ATEST website is endslaveryandtrafficking.org. That's e-n-d slaveryandtrafficking.o-r-g.

I'm going to go ahead and turn the call over to our first speaker, Stephanie Richard, the Policy and Legal Services Director for the Coalition to Abolish Slavery and Trafficking. Stephanie?

Ms. Stephanie Richard: Thanks, Meredith. And thanks to all the commissioners for joining this call today. On behalf of CAST and behalf of the Alliance to End Slavery and Trafficking, I just want to say that we're really excited to see the Uniform Law Commission take up the issue of modern day slavery. This has been an onerous two year process where advocates and commissioners have come to the table. We've reviewed line by line the legislation that you now have in front of you for a vote shortly. And I think on behalf of ATEST I can say that we are very happy with the results of this caucus. And as an organization that works in this field, serving survivors of modern day slavery every day, and as one of the largest service writers in the country for this population, I can tell you that I think this Uniform Law will make a significant difference in our work, and in the lives of survivors.

So, to start off the call, I just wanted to talk a little bit about the history of trafficking laws in the United States and the purpose of these laws, some issues in the past with the laws around trafficking, and how

we've worked over the years to correct it, and then launch into how the Uniform Law Commission model proposed law on trafficking really addresses the issues that we're seeing.

So, as we all know, human trafficking is a crime that's happening in our backyard, but for a very long time individuals thought that slavery in the United States had been eradicated, and they really thought that was a problem that only happens in some other countries. I know when I started working on this issue ten years ago, when I told people that I was a lawyer working on trafficking, people thought I helped the trafficking. And so we've come a long way, because now people are no longer surprised when I say that I work on human trafficking in the United States, and they recognize that there are men, women, and child victims in sex and labor trafficking here.

However, the laws in this country have needed to be changed and revised to match the definition of modern day slavery. So the Supreme Court, under a Federal law, made a decision with our thirteenth amendment, our involuntary servitude statute, that involuntary servitude required some kind of physical violence or physical restraint. Now, we know that in modern days, traffickers and slave victims not just use physical violence; chains and shackles, locking people in rooms, although we do see cases like that every day. But they do it through a type of psychological coercion and control. So the Trafficking Victims Protection Act of 2000, which is the first Federal law on trafficking, really worked to rectify that by creating new crimes that encompass this definition of modern day slavery, and taking what was called the Three P's approach. So that includes Protection for victims, Prosecution of traffickers, and Prevention around the world. And what this Federal law really recognized was that you cannot have effective [PH 00:05:41] prosecution of trafficking victims without effective protections in place. So that law was passed in 2000. And shortly thereafter, states started taking up and looking at this issue individually. So I think in 2004 I wrote a paper, actually, on state legislation and human trafficking. And at that time, only five states had passed any kind of specialized human trafficking legislation. And the focus of that paper really looked at how states were kind of taking a reactionary approach to the issue of modern day slavery, 'cause people were so surprised about this as an issue, and really just focusing on the criminal provisions of this law, and not necessarily taking a preventative or protection approach, which was really what was so groundbreaking in the Federal definition.

Now, about nine years later, all 50 states have passed criminal laws that specifically target the modern day form of slavery, which covers both labor and sex trafficking, and really looks at the multiple ways that individuals can be coerced and enslaved in the United States. However, more still needs to be done. And before I turn it over to James to kind of give more of a state overview on what happened, I did also just want to clarify the complexity of the trafficking crime. When I was at the Commissioner meeting last year, I heard a lot of confusion by the commissioners when looking at the definition section, about, "Is this overboard? Is this an issue?" But you have to remember that modern day slavery requires three components. And you have to have all three of those things to have that crime. And so the real purpose of our modern day slavery statutes are really to look at when someone's forced commercial sex or forced labor has been utilized for the benefit of the other. So you have to show the means, which is the way that someone's enslaved by someone else. Do they harbor? Do they obtain? Do they hold them, right? Then you have to show that they're actually being forced into commercial sex, or in the case of a minor, induced into commercial sex. Or they have to have some kind of force into forced labor. Meaning your will is overcome, and you are working for the benefit of someone else. And this is done through what we call coercion or different techniques of controlling that person. So again, I want to highlight that what we're dealing with is a particularly serious crime that deals with modern day slavery where someone's freedom and choice is taken over. And having [INDISCERNIBLE] from hundreds of victims every day, the psychological abuse, physical abuse is probably, outside of killing someone, the worst crime that can happen. And I can tell you that victims aren't just enslaved for a couple of years, I have had clients who have been enslaved for up to 30 years. And this is why we need more action at the state level on this issue.

Now I'm going to turn it over to James to give you an overview of what's going on with the states up to this point.

Mr. James Dold: Great. Thanks so much, Stephanie. And to the commissioners, thank you all so much for joining us on this ATEST national call. My name is James Dold, I serve as Senior Policy Council for the Washington DC based Polaris project. We do a number of different things for the anti-trafficking movement nationally. One of the chief things that we're known for is operating the National Human Trafficking Resource Center and the National Hotline for the US Department of Health and Human Services. This is the National Hotline that's recognized by the Federal Government as the hotline for people to call with tips regarding human trafficking, as well as for survivors or victims of trafficking to be able to call to get connected with resources. And since we started operating the hotline in December of 2007, we've fielded over 75,000 calls from across the nation, identified more than 9,000 potential victims of human trafficking, and sent over 3,000 tips to our law enforcement contacts at the local, state, and Federal levels which have resulted in the successful arrest and prosecution of traffickers. It's been an invaluable tool to not only help law enforcement crack down on trafficking, but also help get victims connected with the much needed resources and services that they need and deserve.

One of the other primary things that we do for the US is we operate a policy shop where we engage in policy advocacy at the state and Federal levels. Personally I've worked in more than half of the states and helped secure the passage of more than 40 anti-human trafficking laws across the nation. So it's a pretty good chance I've probably worked in many of your states with many of your legislators there. And so that's given us invaluable insight into a lot of what is currently in the ULC draft, and how that stacks up comparatively speaking to what the national trends have been and how the ULC draft reflects that. So we're very happy to be in full support of the act, and we think it's generally a good bill that is going to do a lot of good nationally as we continue to engage in legislative campaigns across the nation.

Regarding the general overview of human trafficking law in the United States at the state level, as Stephanie mentioned earlier this year, we were successful in leading a campaign in Wyoming to criminalize human trafficking in all 50 states and the District of Columbia. Those states vary a little bit in sort of how those laws are structured, which is one of the other benefits of the Uniform Act, is to create a little bit of uniformity. But as Stephanie mentioned earlier, there are certain key elements that we're looking for within these crimes that become standardized from state to state, that is also reflected in the Uniform draft.

We track on our state ratings map and individual state reports twelve key categories of laws that we've deemed necessary to create a basic legal framework to combat human trafficking. And all of those key provisions that we track and that most states have begun to enact and most states have enacted are included within the act. So I just want to highlight a couple of those from our 2012 state ratings map so you can get a general sense of what the Uniform Law Act has in it that also many states are beginning to move towards.

So, in addition to criminalizing sex and labor trafficking, many states have asset forfeiture laws or investigative tools for law enforcement. Investigative tools for law enforcement could include including human trafficking crimes within the state-specific racketeering or organized crime statutes. It could also include authorized one-party wiretapping for law enforcement investigations. And again here, more states, upwards of over 30, have enacted similar provisions that give law enforcement those additional tools.

Again, looking at the same sort of dynamics with training for law enforcement and other personnel who are likely to come into contact with victims of trafficking, as well as having some sort of Human

Trafficking Commission or Human Trafficking Task Force. Again, there's a strong minority of states that have moved in this direction, upwards of over 20 states.

Looking at protective provisions for children and making sure that services are in place, again, we have a strong contingent of states that have been moving in that direction, along with making sure that the individual state laws mirror what the Federal law has done by making sure that requirements of [PH] forge, fraud, and coercion are not required to prove the sex traffic is a minor. That's been an important component for many states that have sought to go after pimps and other individuals who are exploiting children, because it makes it easier by just having to prove that one induced a child to engage in a commercial sex act. And again, the overwhelming majority of states have provisions like that in place.

And then victim assistance provisions as well as making sure that victims have access to civil damages, again a strong majority of states have provisions like this in place as well. And then of course require – making sure that victims of human trafficking can have unjust convictions for prostitution related offenses removed from their record. Again, we're seeing a growing trend of states move in that direction as well.

And so I think when we take a step back and look at some of the trends that we've seen just over the last couple of years, and really the direction that many states are moving, it is really to embrace a more comprehensive, uniform act like what's included – all the provisions that are included in the Uniform Act right now. I think where the ULC draft is really going to help is really showing up on the back end of victim-centered and the victim protection provisions that are currently in place. As we mentioned, most states have some form of human trafficking law at this point and in this stage, but where many states are beginning to say, "Okay, now what do we need to do to create a truly comprehensive victim-centered approach?"

It's really following up on that back end to make sure that victims have access to crime victim compensation funds, that they're not deemed ineligible because they might have been engaged in an act of prostitution or some other form of illegal activity as a result of their trafficking situation. It's making sure that, when victims are identified and confirmed as victims of trafficking, that they have the ability to remove unjust convictions for crimes they were forced to commit from their record. It's making sure that there are other victim assistance provisions in place, that local law enforcement understand that. There are immigration remedies available for foreign national victims, and that they can supply them with I-914 law enforcement supplemental declaration forms which help the victims apply for [PH] T and use these applications.

And so it's all these provisions that we're still in the process of educating law enforcement, educating prosecutors. And with each of these provisions, looking at it from geographically diverse regions as well as politically diverse regions, all across the country there have been states that have embraced these types of provisions, some of the ones that I just highlighted that focus specifically on the victim-centered stuff: making sure that law enforcement are trained on the immigration provisions, making sure that there are victim assistance provisions in place. You know, we've passed those in states as liberal as Vermont, and then on the more conservative side in the South and places like Louisiana and Arkansas. And I can tell you from working in all three of those states that the general demeanor has always been the same, that regardless of whether I'm working with a Democrat or a Republican, a more conservative legislature or a more liberal legislature, everyone has begun to embrace these provisions as basic human rights provisions that are going to help us in the fight against human trafficking. And so that's been one of the really great things about working on the ULC draft, working on our legislative agenda across the country, that when you look and compare both of them, they're very much similar in scope to what many states have enacted. And there are things that have been embraced by both sides of the aisle. And really, that's one of the key things that I would really hammer home, is that having worked in those geographically and politically

diverse areas of the country, all of the provisions that are in the ULC draft have been embraced by states in those regions. And that's been one of the really important things that I think folks should remember as this bill is being debated on the floor and as it comes up for a final vote on July 11th, is that everything that is in this draft is something that has been vetted in various environments, both politically and geographically.

And so with that, I just wanted to go ahead and wrap up the overview that I supposed to give, that I went maybe a little bit too in depth of what I supposed to talk about. But I'm going to go ahead and turn it back over to Stephanie to talk about some of the definitions and walk through some of the more specific provisions of the Act.

Ms. Stephanie Richard: Thanks, James. So, we know that you as commissioners are probably very familiar with the provisions of the law as drafted and proposed to you. So we don't plan on going over each and every provision on the law. But if you have questions on specific provisions, please ask them at the end. We want to leave plenty of time for your questions, because we can hopefully add an exclusive human trafficking lens to the questions that you may have. But we do want to highlight how we heard the concerns of the commissioners and actually tried to modify, streamline, narrow the Uniform Law as much as possible, so that we have a law that's workable to combat the crime of human trafficking and provide services to the victims, but also something that we think will be accessible – we hope – to all the commissioners and in all the states. Because we do see the value in having uniform provisions in trafficking across the states.

So the first area that I think we heard a lot of concern about from the commissioners at the last annual meeting was around the Definition Section. And so again, I just want to highlight that we do have to take the definitions in context and recognize that these are used in the very particular crimes and provisions that are outlined for human trafficking survivors. So there are qualifying issues to each of these definitions when they're put in the criminal or civil context. However, we heard a specific concern around the definition of coercion being too broad, kind of encompassing too many things at the last meeting. And I think as a committee with advocates and with commissioners on the trafficking path, we worked and debated for a long time to really narrow that definition of coercion. So you'll see that right now, it is very streamlined and in the definition of coercion it includes force, deception, fraud, legal press and things that are very standard across all the state and in the Federal definition. And then two different standalone provisions that look at using a controlled substance to control someone, and also taking someone's documents. So these provisions are common standouts in different states around the country. And we felt like weren't necessarily covered in the definition of the force, fraud, deception, etc. And because we've seen these types of methods be used in so many trafficking cases, felt like it was important to include them. However, I do want to note that we took out some of the broader provisions that was someone with a susceptibility or particular vulnerability. And I can tell you among our advocates, that was very hotly debated as many feel that people in trafficking situations prey on people's vulnerabilities, and this sort of language was really important. But, given the concerns of the commissioners, we felt like the definition that we settled on addressed those concerns of trafficking survivors, but also was limited and narrower in scope.

The other streamline we made is that in the draft that you guys looked at initially, we had a separate crime of debt bondage in the Criminal Section. But to streamline the section, we included instead debt bondage as a form of coercion, and then a separate definition in the Definition Section of what that is. And that way we streamlined. We felt like the criminal provision still included this very important way of controlling individuals in trafficking, whether it be sex or labor trafficking.

So that's sort of, I felt like, the highlight in the Definition Section of where we made significant modifications after hearing the commissioner's comments at the annual meeting. So now I'm going to turn it back over to James to speak about Article II, the Criminal Penalty.

Mr. James Dold: Thanks, Stephanie. And I'm going to take a brief couple of minutes to highlight some of the significant provisions in here and talk through some of these. And again, if there's questions at the end, I'd be happy to answer to the best of my ability. The first section I wanted to highlight just sort of why there's a need to separate out the crime of trafficking from forced labor and sexual servitude crimes. And again, this gets to looking at the issue of how the Federal law is modeled. And when you look at the Federal statute, there are provisions in place that specifically criminalize forced labor, and then there's a separate provision that criminalized trafficking for forced labor, teenage slavery, all those things. And then there's even another separate section that just specifically criminalizes sex trafficking, and sex trafficking of minors. And when you look across the country, that's really the route that many states have also gone. And I think in many ways it's an attempt to keep the law clear and distinguishable from the different actors who might be charged with trafficking offenses.

So, under typical forced labor statutes or sexual servitude statutes you have particular actors that you're trying to get at. These are the individuals who are essentially holding people in states of involuntary servitude, if you will. That is, the individuals that are using force, fraud, or coercion, the elements that Stephanie talked about before, to actually compel someone to engage in commercial sex acts, into a sexually explicit performance, or into forced labor or services. So you have those particular types of actor, so that's one bucket of actors right there. The other bucket of actors are the individuals who have helped or who are helping facilitate the trafficking enterprise, right? So oftentimes there's – especially in some of the more recent cases across the country where we've seen the FBI, some local law enforcement task forces going after gangs and organized crime – what we're seeing is that there's multiple individuals who perform multiple different tasks for an entity, right? So you can have an individual who is just the driver, and their particular job is just to make sure that each of the women that are being held in a forced sexual servitude situation, that they make it to all the dates. And they keep them in line, they drive them from place to place, and that's sort of their function. And they have knowledge that that person is being held by force, fraud, or coercion to continue to engage in commercial sex acts. So you have individuals like that. Those are the people who are transporting. Then you might have individuals who are recruiting, right? They're creating fraudulent means to recruit different types of victims. You know, we've seen some instances where an individual will create a fraudulent advertisement in a newspaper for, you know, a makeup specialist or some other form of job, right? And that whole thing is just a ruse to get that person to come, and then when they come, there's been cases where individuals have been kidnapped at gunpoint and those types of things. But you have those individuals who are functioning as sort of recruiters. Recruiters can also take the form of individuals who are going to malls and paying compliments to young girls, or in places where young kids hang out and are convincing young girls to fall in love with them and to follow them and to go with them wherever they want. And then once those kids get there, you know, there might be another individual who begins to use that force, fraud, or coercion to compel that child into that situation. And sometimes there's crossover, right? So individuals could engage in both the recruiting tactics as well as engage in the direct force themselves. But again, the idea is that we wanted to make sure that we were casting a wide enough net that recognizes the complexities of the crime of human trafficking, that prosecutors and law enforcement would have all the tools necessary to target each individual that might play a role in a specific type of trafficking network.

And, you know, these networks – there's several types of networks that operate with relative frequency that we've been able to identify in each different type of category, right? So on the sex trafficking side, we have individuals who are engaged in regular domestic street control pimp prostitution. This is where you have one pimp – it could be one pimp – who is acting as a solo practitioner. He's going out there; he has a stable of young girls or young women who he's using force, fraud, or coercion against to compel

them into prostitution. Then you can have situations of illicit commercial front brothels, right? Regularly termed “Asian Massage Parlors,” or other types of brothels where individuals – it’s a little bit more organized, a little bit more complicated. But these individuals through an entire network of people are creating an environment where individuals are held in debt bondage, where they come over from other countries, typically from the Asian regions where they don’t speak the language, where they’re coming over in debt, they have to pay off a debt and they can’t get out of these situations. So that’s an entire – another sex trafficking network that operates. Then there’s something called Latino Residential Brothels that typically targets and victimizes young women of Latina descent, and usually coming up from South America. They’re brought to the United States and they’re held in this situation, usually in homes that are held in plain sight. And again, force, fraud, or coercion is being used against them. And that particular network caters only to Hispanic men.

And so there’s all these different types of networks that function. And in the mix of all that, then you also have – now these gangs, there’s been cases of both Blood and Crip gangs who have begun, almost kind of graduated in a sense, and are beginning to engage in domestic pimp control prostitution as well. And so there’s all these different dynamics to the crime of trafficking that can sometimes make it very complicated and really requires a lot of law enforcement tools. And the provisions that are currently in place for the forced labor, sexual servitude, and then the trafficking provisions all attempt to capture all of those potential actors and make sure that law enforcement have the tools they need to be able to bring down more complicated trafficking networks, as well as the individual traffickers who might just be operating on their own.

The next section I wanted to highlight real quickly are Section 6 and Section 7. And these sections really talk about going after those individuals who are creating the demand that help feed sex trafficking in the United States. And we definitely look at it from an economic-based model. When you have a demand for a particular type of service or activity, then all of a sudden this creates a black market for individuals to begin to engage in prostitution, or force people into prostitution. And so it’s really important that when you’re beginning to look at strong provisions that criminalize human trafficking, that you’re also thinking about the issue of demand and how that feeds in to sex trafficking. And so Sections 6 and 7 were meant to be compromise provisions that really get at this idea of needing to target demand and those demand actors who are facilitating trafficking, while at the same time trying to draw a healthy divide between not crossing over too much into state prostitution statutes.

I think it was very clear from a lot of the debates and the discussion of the task force that we wanted to specifically focus on human trafficking and human trafficking-related offenses, which is why it was so important to not have that discussion also bleed over into prostitution-related crimes. And so Sections 6 and 7 really represent, in my opinion, what is a healthy compromise between the two. Section 6 really talks about those jobs or those demand actors who are patronizing a victim of sexual servitude. This is where those individuals have knowledge that the person is actually being held by a pimp or by a trafficker, and are being compelled through force, fraud, or coercion to engage in commercial sex.

And so in those instances, Section 6 would specifically criminalize those individuals who are creating the demand and who are knowingly patronizing those victims of sex trafficking. Again, it makes it a very, very serious felony, as it should be, and making sure that those individuals will not go unpunished and that they will be looked at under the rubric of human trafficking because they’ve helped create the demand that facilitates trafficking in the first place. Section 7 is a bracketed provision. And again, this is getting at those johns who are creating the demand for commercial sex with minors. So, in other words, individuals who are going out and patronizing children for prostitution. And again, here the idea is, even if that individual doesn’t know that there is a third party pimp or controller there, that they are just as culpable for having that child in that exploitative situation, and again, they’re creating the demand that

feeds, allows for pimps to operate. And also, just recognizing the severity of johns who are essentially raping children for sexual gratification and then trying to pay that child as a result.

So again, these two sections, 6 and 7, represent a compromise of what was trying to be done to make sure that we did adequately address the demand provisions, and also address them with a high degree of severity, recognizing that, especially for Section 7, you are talking about child rape, you are talking about statutory rape, and that those people who are patronizing children in that way or having sex with children who are under the age of consent generally should be subject to very severe penalties. And again, those provisions really highlight that compromise that was made.

I want to talk real briefly about business liability. You know, these sections were drafted, again, against the backdrop of us wanting to make sure that we weren't creating onerous liability on businesses, and that they weren't being subject to unfair, unjust penalties, especially in the context of where a business did not have knowledge that trafficking might have been occurring. So a great example of that is, you know, the US DOJ last year prosecuted a trafficking ring that had brought laborers in from the Ukraine to clean Walmarts. Essentially they were cleaning crews that were cleaning Walmarts and Targets in the Philadelphia region. Now, those particular companies had just subcontracted out their employment to help clean their stores; they had no knowledge that forced labor was being used. And so in those instances, we wanted to make sure that we're protecting companies from any sort of liability, because clearly if somebody doesn't have knowledge, then they shouldn't be held liable in that sense. And so when you look at the Business Liability Section, it always talks about the businesses having knowledge of what's going on. And then also failing to take steps. So if a company knows that one of their agents or one of the directors are engaged in trafficking activities for the benefit of the company and then the company does not take steps to remedy that, and continues to benefit from either sex trafficking or labor trafficking, that's where criminal provisions could be had and the business could be held liable. Outside of the scope of that, though, we wanted to make it clear that we weren't trying to hold businesses liable for anything that happened without their knowledge, or where they had no idea of what was happening. So when you look at that section, I think it's really important to remember that, and that these aren't provisions that should be onerous on businesses in any way.

And on a personal note, I've had many, many run-ins working over the years with the Chamber of Commerce. And so we've definitely – in my own personal experience I've worked through a lot of these provisions that are very similar to these Business Liability Sections with the Chamber of Commerce. And so again, the thought was making sure that we're doing something that has been tried and tested in other states, and that we're not going to get pushback from the business community. And we're making sure that we're not creating any sort of onerous liability that really shouldn't be there and that's not fair for anybody.

And the last section I want to talk about is just the restitution provisions, and specifically in the context of labor and sex trafficking. And you know, I guess the best analogy that I can use is if folks think back to a chattel slavery and the Civil War, and the importance of making sure that individuals who were held in forced labor situations, that if they had been paid what they were due back then, sort of what kind of impact that would've had on our society and the makeup of America today. And I think the importance, when we start talking about modern day slavery, is making sure that when these crimes are committed, that victims are put back in the place that they should've been. And so the mandatory restitution provisions found within the act seek to make sure that those they've done to or held in forced labor situations or forced sexual servitude situations are required to be given – if they're in the labor situation, making sure that they are given the wages that they were promised, or those wages that were withheld, or what they were due under the Fair Labor and Minimum Wage Act under the Federal law. And then also the same thing for sex trafficking victims, making sure that for sex trafficking victims, that they would have been given the income that they would have earned had they been employed at the time, right? And

again, we can look at the minimum wage/hour laws, as guaranteed by the Federal Labor Act. And making sure that, for either sex or labor trafficking victims, that there isn't this situation where people have been held in trafficking situations for years on end and then end up leaving those situations with no recourse, with not being able to recoup the money that really should have been paid to them, and making sure that they're put in the best possible situation to not only escape and leave that situation, but again, to begin to rebuild their lives.

And so with that, and wrapping up Article 2, I'm going to go ahead and turn it back over to Stephanie to talk about some of the victim protection measures that are in place in the act. And if there are any questions regarding anything that I've just highlighted, I'll be happy to answer questions at the end. Thank you so much.

Ms. Stephanie Richard: Thanks. So now we're moving on to Article 3, and this section entails victim protection measures; I also think a lot of these provisions, as well as this prosecution. And so the first one is Section 14, and it deals with making sure that trafficking survivors also have the same protections under state rape shield laws. I can tell you from a personal note that in cases I've been involved with as the victims' attorney, we've worked in coordination with the prosecutors to assert these laws. And it would have been very helpful to have the provisions that the Uniform Law suggests. Because oftentimes reputations, evidence against individuals who have worked – especially in sex trafficking, but even in labor trafficking where there's been sexual assaults – is used against that person to discredit them. And I know from being part of lots of human trafficking prosecutions and also civil cases that usually the defendants really have no defense except for to say that the victim is lying and to attack their credibility. And having it clear that rape shield protections protect trafficking victims' cases, we think is very, very important. And we actually had a criminal law professor join the draft committee and kind of deal with some of the technical issues of, "How do we make this work with current state rape shield laws so we don't provide overlap or confusion in this area?" So we think that this provision is carefully drafted to address those concerns.

The next is Section 15. And I wanted to say that we on the committee feel strongly that Sections 15, 16, and 17 kind of all work together to resolve issues that we're seeing at the states, as they deal with different populations of victims. And we're very careful to have different standards for minors vs. adults. So if you look at Section 15, we know that minors in sex trafficking are held to a different standard than adults, because of the idea that minors who are under 18 cannot consent to sex, and therefore they can't consent to commercial sex either. But there is sort of this discrepancy in state laws where most state laws just have prostitution offense, and there is no age limit. So you see 11, 12, 13, 14 year olds commonly arrested for prostitution. Because I think we've come to the area where we understand that just because money exchanges hands doesn't make it less of a rape of a child, we have significant protections for children in the ULC. And other states are taking leadership on this and this follows that model. So basically Section 15 acknowledges that a child cannot consent to commercial sex, and if it's related to the trafficking there's specific immunity. Additionally, that provision also says that there are other crimes that a trafficker forces them to commit. There could be loitering, truancy, they're forced to steal. So these are nonviolent offenses, and if they're shown to be directly related to the trafficking, then that minor isn't criminally liable.

Then that goes into Section 16, where it looks – and so the provision is very careful in that it has to be directly related to the trafficking to have that immunity for prostitution and other related offenses. And this was actually the language that was passed by the American Bar Association as a resolution, and it was brought to the committee and it was adopted. Also there's a clear provision, separate from the provision that deals with prostitution and other related offenses for the trafficking, but a clear provision that says minors cannot be criminally liable to commercial sex. And that goes to that profession that a minor cannot consent to sex. And so, because money exchanges hands, there shouldn't be a different

standard. And we can just clarify; it's a lot of confusion now. It intersects with state laws around trafficking as well as the prostitution laws. And again, I think eleven states have gone in this direction at this point, so it's not something that's just being done in the Uniform Law.

The other thing that Section 15 makes clear is that minors who are identified as trafficked are referred to services. And again, Keeli will be talking about Article 4 in the next section and kind of highlight how that'll work, but we just want it to be clear. If these kids aren't identified, then nothing happens to help them.

So the next Section, 16, covers both adults and minors, and it's an affirmative defense: if the crime is directly related to the trafficking, what we've seen is that unfortunately trafficking isn't appropriately identified by our prosecutors or by our police, and so many adults and minors are still currently arrested for crimes their traffickers force them to commit. Having provided expert testimony for the defense, actually, as a victim's attorney who establishes arrest standard in cases for human trafficking survivors, I can tell you it's a very, very high standard. And it isn't exactly point-on when we deal with the trafficking cases, which is why we really need this additional affirmative defense. And again, this affirmative defense only covers prostitution crimes, as well as convictions for nonviolent offenses. So again, a pretty narrow scope, but one that we think is really needed given – with our identification assistance for trafficking victims.

And finally, Section 17 deals with vacating convictions. So, if no one identifies that person as a trafficking victim until after the criminal conviction, there is a pathway for survivors to vacate that conviction. And having CAST run the National Human Trafficking Survivor Network – and I think we have over 80 participants in that network now, it's for survivors only – I can tell you the number one that those individuals talk about is the need for vacating convictions. Because so many of them who are now starting their own organizations, who want to be lawyers, who are working at MSW, have these criminal convictions in their background. And although they're the most appropriate people to be serving trafficking survivors, they're barred from many of these jobs. And also other – my experience of other clients are, this is happening in areas as well. So having this ability to vacate a conviction based on the trafficking is very important.

And the last section I'm just going to briefly talk about is the access to a civil action for human trafficking survivors. So, I can tell you that the majority of human trafficking cases, even though they're being reported to law enforcement, are [PH] defined for prosecution on that because of the extremely high criminal standard where you have to show beyond a reasonable doubt. And, as I talked about before, a lot of times in trafficking cases, the only evidence that's available is the victim's word against the trafficker. And in those situations oftentimes a criminal can or cannot be established. However, this is why the civil action is so critical to so many human trafficking survivors. Having sat across the table from victims and having to tell them that law enforcement has declined their case has been really difficult. Because what they feel like is that they have not been believed, and that's exactly what their traffickers told them would happen. But, having the ability to talk about a civil action and how they can move forward and assert their rights in court, and have a court and a jury listen to what happened to them in that civil action has been really, really important. We also see the civil action as being a way of preventing human traffickings, because we know that they will never be enough resources to do all of the criminal prosecutions that are needed. And so in the section there is included punitive damages, which is seen as a way of preventing human trafficking as well.

So with that, that is kind of the review of Article 3. And I'm going to turn over to Keeli Sorenson from Safe Horizon, one of the other largest victim services providers for trafficking victims in the United States. Keeli?

Ms. Keeli Sorenson: Thank you, Stephanie. As Stephanie mentioned, my name is Keeli Sorenson and I'm the training and advocacy director for Safe Horizons Anti-Trafficking program, which provides social and legal services to adults and children, men and women, who have encountered any form of human trafficking.

So I just want to review a couple part of Article 4, which focuses on state coordination and begins with Section 19. Section 19 focuses on the establishment of state human trafficking councils. The final language in this section is representative of a compromise that was reached during the meetings. The advocates wanted to establish grant programs and specific data collection, and money for training. But the commissioners were very clear, and rightly so, that the states would have difficulty pushing for specific programs with money attached. So we're very pleased with the compromise we've reached. The final language in this section primarily directs states to create a diverse council made up of designees from the state, local, or tribal governing bodies that interact with the victims and perpetrators so they know what human trafficking looks like. It also asks state to involve non-governmental organizations that work or represent victims and survivors, as well as other organizations that would benefit the council. And so many states already have commissions like this in place, but we think that creating uniform language around this type of diverse council that's going to advise the state on how to deal with the different issues that come up around victim services or public awareness, is very key. And it's going to allow for that state to put the appropriate resources and services in place as they see various needs arise in their locales.

The baseline tasks of this council are also laid out in this section, and they include developing coordinated and comprehensive plans for victim services, annually collecting, evaluating, and publishing data on human trafficking, promoting public awareness about the crime and revenues for victims, and coordinating training for those government workers most likely to encounter victims. We are very pleased that these are the baseline tasks of this council, and think that this is going to go the distance for victims because we'll have so many various voices thinking about the prevention, thinking about the response, and what people really need once they've encountered this crime. And by addressing these needs, what also this allows victims to do is to be stable victim witnesses for various cases that might go forward. So for those interested in pursuing prosecutions, we always like to say that actually providing victims with what they need is really a key in being able to also go forward with that element of things. And so we think that this type of council is going to really push things forward.

So I also want to highlight for you Section 21, which describes victims' eligibility for services themselves. And we're excited about this provision because as a baseline it makes all human trafficking victims eligible for benefits or services available through the state, regardless of immigration status. This includes compensation under the state's crime victim's compensation fund or VOCA, as well as any additional resources deemed appropriate by the human trafficking council established under Section 19. So, depending on the state, immigrant victims of trafficking don't always have an easy time accessing these benefits which are actually incredibly critical for folks who don't have diverse options to support themselves financially. Whether it's because they don't have community or family to support them who are present in the US, or legal documents required to work. So we think that this uniform language will help states prioritize making these resources more accessible to an incredibly vulnerable group of people. This section also guarantees that all minors in commercial sexual services will be eligible for services and benefits, which for us is a no-brainer, but it isn't always set up that way through the states.

Finally, the section also says that as soon as a potential victim comes to the attention of a state or local agency elected by the human trafficking council, that agency will notify the state entity that's most appropriate that the individual will be eligible for services. We're confident that if the NGOs and the victims service providers who are members of this council – sorry – who are members of this council are

active in the way that we predict they will be active; these service eligibility plans will likely go to great lengths to meet the needs of very, very diverse victims.

The last point I just wanted to cover briefly is Section 22. This section stresses the importance of law enforcement providing support letters to victims of trafficking, which will help them in most cases in their immigration release. So for victims who decide to cooperate with law enforcement, who help them pursue cases and prosecutions, law enforcement has the opportunity to provide them with an I-914 B or other types of letters that help them with continued presence. And we just want to reiterate to state law enforcement that this is a critical, critical part of providing victims with what they need to stabilize. And at this point, we know that on a Federal level this happens quite regularly, but on a state level we've had a lot of hurdles and barriers to ensuring that victims get the kind of support letter they need from law enforcement. So having this in here is a wonderful relief to us, and hopefully it means that state law enforcement officers will become much more involved in that process and assist victims when they need it.

And that is my section. So I think I'm handing back off to Meredith, yeah?

Ms. Meredith Owen: This is Meredith Owen. Thank you guys again for calling in and listening in to the priorities and objectives and the nuances in the human trafficking field. And a lot of times they can get complicated. ATEST has drafted a letter of support for the most recent draft of the Uniform Act. The letter highlights the act's comprehensive approach to combatting human trafficking that we were discussing earlier in this call, and it reflects trends among US states, particularly with regard to a victim-centered approach and providing protection for victims and survivors of human trafficking. ATEST is currently in the process of obtaining signatures. And we often facilitate and coordinate the human trafficking movement, which is reflected in this letter. We're going to be submitting our letter to the commissioners once our final end process is complete. So that will be submitted over the next week and a half.

And with that, Operator, I'd like to turn it over to you to open it up for question and answer session.

Operator: Thank you. And I'll begin the question and answer session. If you do have a question, press 0, then 1 on your touchtone phone. Once again, that's 0, then 1 on your touchtone phone.

We do have a question from Brandon Schaffer. Please go ahead.

Mr. Brandon Schaffer: Yeah, hi. Thank you. I'm calling from Colorado; I appreciate all the work that you're doing on this. I have – I guess more of a process question. Are you anticipating, or do you expect any amendments to be offered to this Uniform Act while we are debating it in our final consideration?

Ms. Stephanie Richard: Hi, yes. This is Stephanie from CAST. Thank you for your question and thanks for listening in. There's a lot of great work to be done in Colorado on this issue. So I want to be clear that ATEST and those of us who are signing on to the ATEST letter that's circulating are asking that we support the ULC draft as recommended. We have heard that there could be amendments proposed around demand issue, and around some of the definition of coercion that I highlighted in the Definition Section and James highlighted in Sections 6 and 7. We as ATEST feel strongly that the two year process really gave us time to hammer out as advocates the provisions that were needed to be included in the draft law that is going to be presented at the conference. And so we think that, because this is such a complex law and it's an area that, quite frankly, not a lot of people are that familiar with and it covers criminal and civil and some immigration issues, that we wanted to make it as simple as possible for the commissioners to understand that many advocates worked in the field, and those who participated in the two year process

are very, very happy with the final outcome and think that it is a good working model that we can help push across the [INDISCERNIBLE].

Mr. Brandon Schaffer: Thank you. I guess as kind of a follow-on, I don't know, is there any way that we can get a description of what some of the anticipated amendments might be, with the description of what the flaws of those amendments might be?

Ms. Stephanie Richard: We have not seen, ATEST has not seen these amendments yet. So we would be happy to provide our comments if we're allowed the opportunity to see the amendments. But I'm assuming it's going to be a pretty short turnaround.

Mr. Brandon Schaffer: Okay. Thank you.

Operator: Once again, if there are any further questions press 0, then 1 on your touchtone phone. And we have a question from Martin Carr. Please go ahead.

Mr. Martin Carr: Hi, this is Marty Carr in California. You've mentioned, and I've noticed from reading over it, that there are a number of places in the draft act where we've got the phrase, something like "other nonviolent crimes" in brackets. And I notice, at least in the legislative note to Section 17, it states that a state should determine whether any other nonviolent offences, and in this context it means anything other than prostitution, ought to be included. I assume what the drafters are thinking about here are things like solicitation, loitering for purposes of prostitution, those sorts of crimes. Is there some thinking as to – am I right about that? Or are we thinking about a broader list of nonviolent crimes that ought to be included? And what ought we be doing to communicate that to the folks in the several states who are hopefully going to be trying to pass this act in the coming year?

Ms. Stephanie Richard: Very good question, and I'm glad a California constituent is on. So I don't know if you're aware, but CAST is based in Los Angeles, California. So I think the idea is that it would be broader than just – it would be broader, nonviolent offences. And usually states in their criminal code have a listing of that. So I actually have worked to draft language in California that sort of highlights some of those nonviolent crimes. I can go ahead and email that to you so you can just see an example of it at the state level. But again, I think our sense is that every state is going to have a somewhat different definition around those nonviolent offences. Why that language is there is it's to remind people that it's not just prostitution offences that individuals are forced to commit in terms of their trafficking especially, because there is a lot of labor trafficking and crimes that individuals in labor trafficking are forced to commit. As well as – what we're seeing is that individuals can be charged for – even if they have committed a prostitution related crime, often they're charged with something else because that's what's easier to prove. And we want to make sure that the protections were more broadly covered.

Mr. Martin Carr: Thanks very much. I'm wondering – and this is probably beyond the scope of this call, but what, if anything, we ought to do to help the various Uniform Law Commissioners who will hopefully be moving this in the states have a strong sense of what those nonviolent crimes ought to be? And hopefully we can come up with some support for the commissioners over the coming year so that they can get a broad list inserted into these bracket spots in the Uniform Act, rather than something that's overly narrow.

Ms. Stephanie Richard: Yeah. I'm not certain if we could include something like that in the comments now, but it is something I'm sure – especially because this is an ABA driven language, that we can work with them in the implementation stage to maybe flush that out more. I know as advocates, we want to see that fraud definition, so we'll be working with the act to make sure that that's the understanding. But if you have other – [OVERLAY]

Mr. Martin Carr: Great. Thank you very much.

Ms. Stephanie Richard: That would be great.

Operator: And we have no further questions at this time.

Ms. Meredith Owen: Well, thank you very much, everyone, for taking the time to join today. Your involvement and participation in this process is essential to combatting human trafficking. I will be – this is Meredith Owen – I will be sending out by follow up the written transcript and audio file of this call that you can feel free to share with your colleagues. I just want to thank everyone again for their participation, and I wish everyone a good day.

Operator: Thank you, ladies and gentlemen. This concludes today's call. Thank you for participating. You may all disconnect at this time.