

**Texas Juvenile Probation Commission**  
**Alternatives to Juvenile Justice**  
**for Youth Involved in Prostitution**

**Report to the 82nd Legislature**  
**January 2011**

**Texas Juvenile Probation Commission**

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# Table of Contents

<b>Introduction .....</b>	<b>1</b>
Legislative Requirement.....	1
Background .....	1
<b>Current Practices.....</b>	<b>5</b>
Juvenile Probation Departments .....	5
Child Protective Services, Department of Family and Protective Services (DFPS) .....	6
Law Enforcement .....	7
Non-Governmental Organization / Non-Profit Provider .....	7
Diversion Related Issues .....	7
<b>Legislative Issues .....</b>	<b>9</b>
Model DMST Legislation .....	9
Legislative Action .....	11
<b>Identification of Victims and the Importance of Training .....</b>	<b>13</b>
Specialized Training for Identification.....	13
Increasing Public Awareness and Data Collection .....	14
Specialized Training to Provide Effective Services .....	15
A Home for Training Resources.....	15
Recommendations for Improvement in Training.....	15
<b>Provision of Services .....</b>	<b>16</b>
Coordination of Services .....	16
Community-Based Programs .....	16
Residential Services.....	17
Recommendations for Services.....	18
<b>Conclusion.....</b>	<b>18</b>
<b>Endnotes .....</b>	<b>19</b>
<b>Appendices .....</b>	<b>20</b>
Appendix A: Acronym Glossary .....	20
Appendix B: HB 4009 – 81(R), Section 4.....	21
Appendix C: Committee Members.....	22
Appendix D: State Report Card on Human Trafficking Legislation, Polaris Project.....	23
Appendix E: Family Code Chapter 261 .....	24
Appendix F: Family Code Chapter 264 .....	31
Appendix G: Penal Code Chapter 20A.....	33
Appendix H: Service Providers in Five Major Texas Cities for Victims of DMST by Location .....	35



# Introduction

## Legislative Requirement

The 81st Legislature passed House Bill 4009 (HB 4009, see Appendix B), authored by Representatives Weber and Thompson and sponsored by Senator Van de Putte, requiring the Texas Juvenile Probation Commission (TJPC) to prepare a report evaluating alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.<sup>1</sup> This report, which fulfills the legislative mandate, focuses on the issue of sex trafficking of domestic minors and explores ways to identify, divert and serve juveniles engaged in prostitution. While the report primarily concentrates on the Texas juvenile justice system and programs within the state, it also highlights best practices throughout the United States.

The Texas Juvenile Probation Commission, with the assistance of a committee composed of Legislative staff and staff from the Office of the Attorney General (OAG), the Texas Youth Commission (TYC), the Department of Family Protective Services (DFPS), law enforcement agencies, and non-governmental organizations (see Appendix C for a complete list of members and their affiliation) sought to answer the following questions:

- What is the extent of juvenile prostitution in Texas?
- How do existing Texas laws address juveniles accused of engaging in acts of prostitution?
- What services are available for juveniles involved in prostitution?
- What alternatives are available to divert these juveniles from the juvenile justice system?

This report addresses potential changes to statute that can divert juveniles accused of engaging in prostitution from the juvenile justice system, the need for enhanced detection and identification of juveniles engaging in prostitution and the need for comprehensive community-based and residential services to serve these juveniles.

## Background

Each year, an estimated 800,000 individuals are trafficked across international borders and are made to work in forced servitude. Due to the nature of the occupations that trafficked victims hold, they are often hidden in plain sight. In the United States, it is estimated that 14,500 to 18,500 individuals are trafficked into the country for forced servitude each year. Although the topic of human trafficking is often viewed as an immigration issue, in reality, thousands of U.S. citizens and legal residents are trafficked within the United States each year. The relevance of human trafficking in Texas cannot be understated since more than 20% of identified human trafficking victims nationwide have resided in or been trafficked through Texas.<sup>2</sup>

***Trafficking Victims' Protection Act (TVPA) created the first comprehensive federal law to address human trafficking. The act was reauthorized through the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, TVPRA of 2005, and the TVPRA of 2008.***

***Key provisions of TVPRA of 2003, 2005, 2008 include:***

- ***Authorization of \$500 million over four years to combat human trafficking.***
- ***Authorization of new programs to serve U.S. citizens as victims of domestic human trafficking, including a pilot program for sheltering minors.***
- ***Expansion of the crime of sex trafficking by removing the knowledge-of-age requirement in certain instances involving minors and lowers the standard of proof to "reckless disregard" of the use of force, fraud, or coercion to cause a person to engage in commercial sex.***

Source: Polaris Project

The issue of human trafficking received nationwide attention in 2000 with the passage of the Trafficking Victims Protection Act (TVPA), which criminalized trafficking at the federal level. The law's main objectives are prevention of human trafficking, protection for victims and prosecution of traffickers through newly created federal crimes. Human trafficking victims are defined by the federal government as any person:

- Under the age of 18 involved in a commercial sex act;
- Over the age of 18 involved in a commercial sex act through force, fraud or coercion;
- Anyone forced to perform labor and/or services in conditions of involuntary servitude through force, fraud or coercion.

***Studies indicate that 70% of DMST victims have experienced physical or sexual abuse in their homes.***

Source: Shared Hope International

Although nothing in the TVPA excludes domestic trafficking victims, enforcement efforts and funding for victim services has focused on international victims of trafficking. Domestic victims of human trafficking are most often involved in the commercial sex trade and are primarily girls under the age of 18. Juveniles involved in prostitution are designated as victims of domestic minor sex trafficking (DMST).

Estimates of domestic minors involved in sex trafficking range from 100,000 to 300,000 youth per year although the exact number of youth involved is not known. A 2001 University of Pennsylvania study estimated that nearly 300,000 children a year were at risk for becoming victims of DMST. This estimate was based on the unique characteristics found among victims of DMST which include runaway status, history of physical or sexual abuse, and/or substance abuse.<sup>3</sup>

Youth are led into involvement in sex trafficking primarily through the formation of a relationship with their trafficker. Studies indicate that 70% of DMST victims have experienced physical or sexual abuse in their homes.<sup>4</sup> In their attempts to escape abusive situations, many youth run away and become extremely vulnerable. The National Incidence Studies of Missing, Abducted, Runaway and Throwing Children (NISMAART) found that one out of every three runaway youth will be lured into prostitution within 48 hours of leaving home.<sup>5</sup> Researchers and advocacy groups have begun to better understand the premeditated steps that a trafficker takes to form a relationship with their victim.<sup>6</sup> The first phase of the

***One out of every three runaway youth will be lured into prostitution within 48 hours of leaving home.***

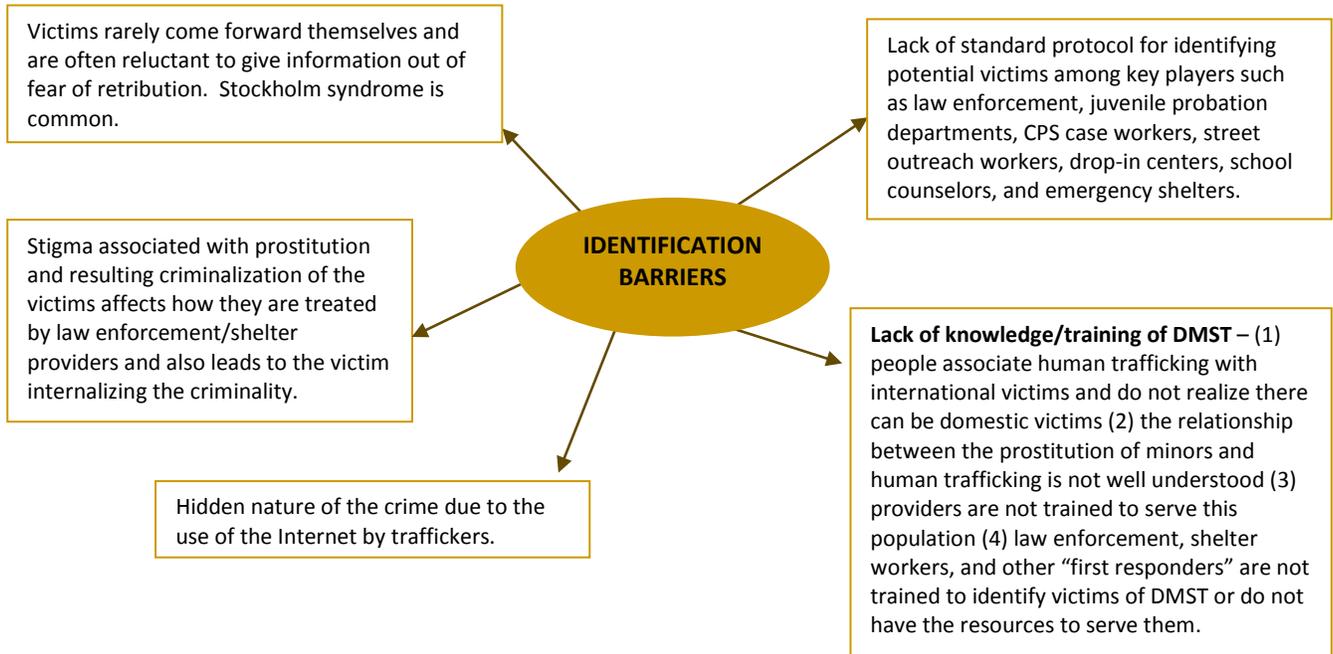
Source: National Incidence Studies of Missing, Abducted, Runaway and Throwing Children

relationship consists of actions that foster dependency on the trafficker and validates them as someone significant in the victim's life. In this stage the trafficker takes advantage of the vulnerability of the minor and appears to them as a loving figure. Particularly for youth with a history of abuse or rejection from their family, the importance of another

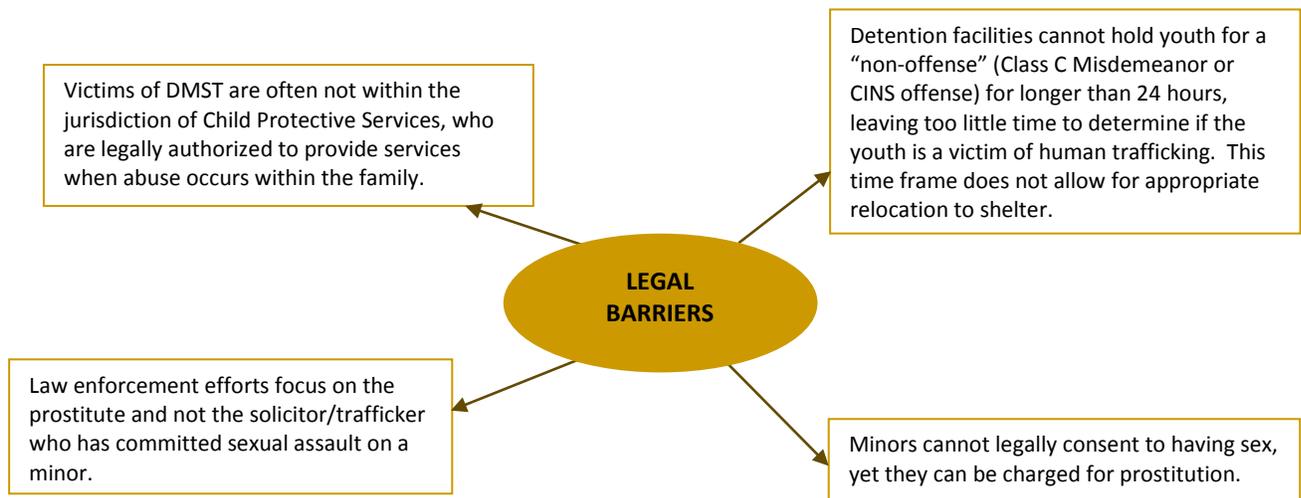
person's attention and affection translates to a meaningful relationship. Once trust is established, prostitution is brought up as a suggestion to earn money and the relationship begins to enter the second phase. The second phase consists of physical and verbal abuse, isolation, and the breaking of ties to the victim's family and community. Once involved in prostitution, a victim of commercial sexual exploitation is subjected to constant violence and severe trauma. The end result is a "trauma bond" between victim and trafficker that has been compared to a diagnosis known as Stockholm Syndrome in kidnapping cases.<sup>7</sup>

Since 1998, an organization known as Shared Hope International (SHI) has been actively involved in activities to combat human trafficking. In 2006, SHI aligned with 10 federally funded human trafficking task forces and local communities to assess DMST and the availability of services for victims. Three of the 10 study sites were located in Texas. In their assessments SHI found misidentification, criminalization of victims and the lack of appropriate shelters and services to be the primary barriers for DMST victims.<sup>8</sup>

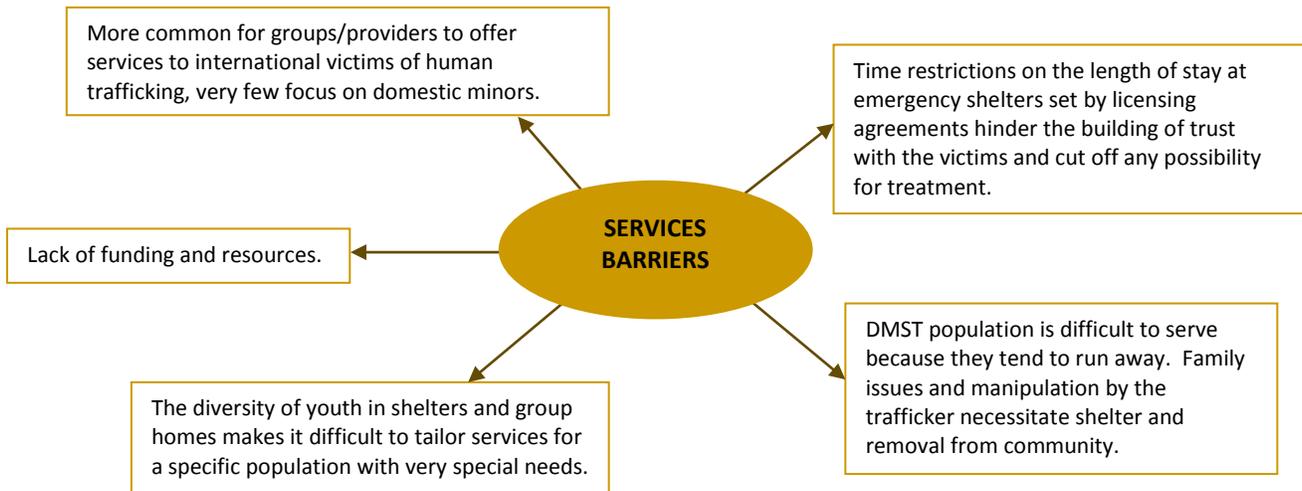
Misidentification of victims occurs for various reasons including the hidden nature of the crime, traffickers' use of mobility between cities, the difficulty in determining the real age of the victim, and the fact that victims rarely self-identify. Victims tend to be "throw away" youth that have few family or community ties. In addition, a major issue with misidentification is the lack of knowledge and training on the issue of DMST among law enforcement, service providers, and other "first responders."



Legal barriers exist which also affect victims of DMST. In Texas and throughout the nation, law enforcement efforts tend to focus on prosecuting the crimes committed by the victims of sex trafficking (prostitution, runaway) rather than crimes committed by the solicitor/trafficker (sexual assault of a minor). In Texas a youth can be charged with prostitution even though they cannot legally consent to sex until the age of 17. Furthermore, victims of DMST do not fall within the jurisdiction of DFPS Child Protective Services (CPS) unless a parent or caregiver either perpetrates or facilitates the trafficking creating a situation where victims have difficulty accessing services without involvement in the juvenile justice system.



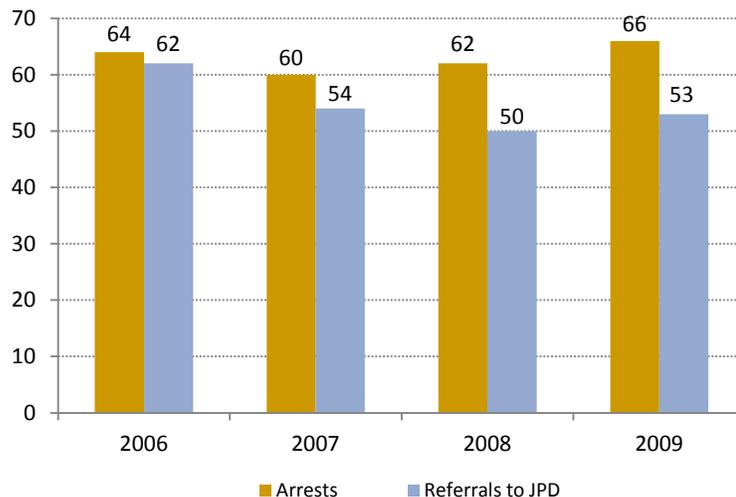
Moving beyond legal and identification barriers, the services that may be offered to DMST victims are insufficient to address their special needs. These needs include, but are not limited to, safe and secure housing, basic needs such as clothing, mental health treatment that specializes in sexually-based trauma, medical care, and education. Of particular importance to DMST victims is the need for long-term residential treatment and shelters, especially safe haven shelters which are currently unavailable. Safe haven shelters provide a secure location and programming specific to DMST victims.



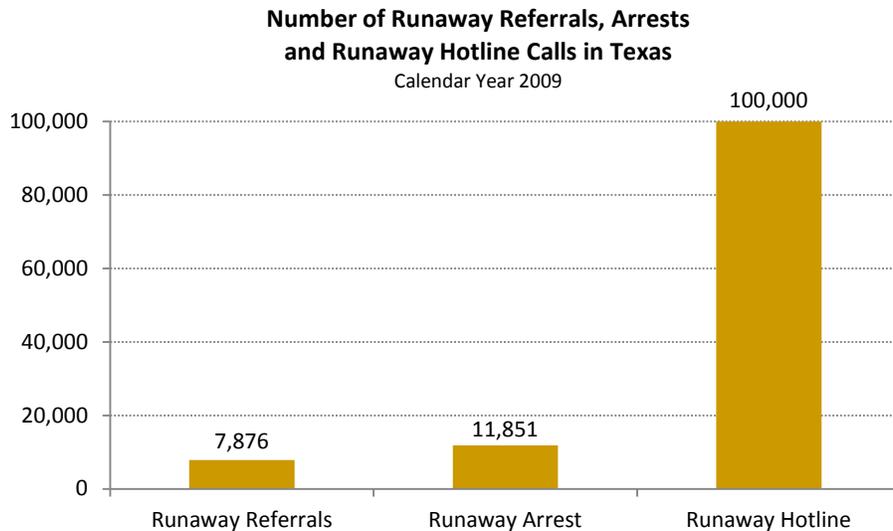
The growing body of research on the issue of DMST has spread awareness on the severity of the problem to state leaders across the nation. While Texas has been on the forefront of efforts to combat human trafficking in recent years as a result of having some of the longest running and most active Task Forces in the nation (see Appendix D), concerns over the criminalization of juvenile DMST victims led to the passage of HB 4009 and the mandate to study ways to divert youth engaging in prostitution from the juvenile justice system.

Entry into the juvenile justice system begins with an arrest and/or referral to a juvenile probation department. Between 2006 and 2009 an average of 63 youth per year were arrested for engaging in prostitution in Texas. During that same time period there was an average of 55 referrals each year for prostitution, with most referrals coming from the state’s large urban areas.<sup>9</sup> Youth referred to juvenile probation departments for prostitution are primarily female, 15 years of age and have at least one prior juvenile probation referral.

**Prostitution Arrests and Referrals to Juvenile Probation in Texas**  
Calendar Years 2006-2009



Although data do not currently exist to determine the number of juveniles at risk of or engaging in prostitution, studies conducted by SHI have found that juveniles engaging in prostitution may be identified using risk factors known to be prevalent in confirmed victims of trafficking. Identified risk factors include multiple runaways, running away for extended periods of time, and having a history of sexual abuse.<sup>10</sup> In order to better estimate the number of juveniles potentially involved in prostitution, runaway statistics were analyzed. The results differed significantly from the number of youth arrested and/or referred for prostitution. In 2009, close to 8,000 juveniles were referred to juvenile probation departments for running away while close to 12,000 were arrested. If only 25% of juveniles arrested for running away are involved in prostitution, as many as 3,000 juveniles in Texas could be victims of DMST. Juveniles engaged in prostitution are clearly not being arrested and/or referred to juvenile probation departments for the offense of prostitution.



## Current Practices

Research indicates that the vast majority of juveniles engaging in prostitution are rarely identified as victims of sex trafficking. For those juveniles who are arrested for prostitution or identified as domestic victims of sex trafficking, limited resources are currently available within the community. What services are available depends on how the juvenile comes to the attention of authorities. Below is a description of the jurisdiction, intake process and services available among entities likely to come into contact with youth engaged in prostitution.

### Juvenile Probation Departments

**Jurisdiction:** A juvenile between the ages of 10 and 16 who has allegedly committed any felony, misdemeanor or conduct in need of supervision (CINS) offense. Few juveniles engaged in prostitution are actually referred for the offense of prostitution.

**Process/Identification:** All juveniles formally referred to a juvenile probation department undergo intake which involves an interview with the juvenile and their parent or guardian, a mental health screening, and a risk assessment. There are currently no standardized statewide intake questions, interview techniques, or assessments aimed at identifying juveniles engaged in or at risk of engaging in prostitution. Juveniles referred for runaway or other CINS offenses may not be detained for more than 24 hours, so probation staff members rarely have the time necessary to determine if a juvenile not referred for prostitution is a victim of trafficking.

**Services:** Juveniles under the supervision of the juvenile probation department are eligible to participate in any available program or service. Juveniles under supervision include those being supervised prior to disposition as well as juveniles placed on deferred prosecution and probation supervision. Juveniles may also be placed in an emergency, non-secure, or secure residential setting. Typically, placement into a non-secure or secure residential facility is reserved for juveniles who have committed a felony or Class A or B misdemeanor offense, have been placed on probation and whose needs and/or prior history warrant removal from the home. Juveniles under the supervision of the juvenile probation department/juvenile court must comply with the conditions of their supervision or face increased sanction. A juvenile probation department may also compel a parent or guardian to participate in a program or service.

Juveniles identified as engaging in prostitution may be referred to a community-based program and/or be placed in a residential facility. Currently, few probation departments operate programs with curricula designed specifically to address the needs of human trafficking victims. Letot Center, a staff-secure facility operated by the Dallas County Juvenile Probation Department, has been recognized as an example of a facility providing services to juveniles who have been domestically trafficked.

### Child Protective Services, Department of Family and Protective Services (DFPS)

**Jurisdiction:** In Texas, the Child Protective Services (CPS) program area of the Texas Department of Family and Protective Services (DFPS) has statutory authority to investigate allegations of abuse and neglect committed by a person who is a parent or acts in the traditional role of caretaker of a child. DFPS may have a role with a child victim of Human Trafficking, if the facts of the victim's case bring the victim within the ambit of DFPS statutory authority. The DFPS investigatory role is limited to settings that are statutorily authorized by the Texas Family Code Sec. 261.301(a) and (c). A person responsible for a child's care, custody or welfare, including certain specified groups such as family or household members, is defined within Texas Family Code Sec. 261.001(5). Thus, a juvenile under the age of 18 may fall under the jurisdiction of Child Protective Services (CPS) if they are determined to be a victim of child abuse or neglect that has been perpetrated or facilitated by a parent or caretaker. The fact that a child is a victim of human trafficking does not, in and of itself, automatically lead to CPS intake and/or investigation.<sup>11</sup>

**Process/Identification:** All alleged child abuse and neglect is reported to the DFPS centralized intake system. This system serves as the "front door" for CPS. Reports of abuse/neglect are reviewed to determine if the allegation being reported meets the statutory definition and jurisdiction for CPS involvement. CPS accepts reports for investigation only when DFPS appears to be responsible under law and the child's apparent need for protection warrants an investigation. The centralized intake system does not include intake questions specifically focused on determining if a child is a victim of human trafficking, but focuses on determining if the specific facts and circumstances fall within DFPS jurisdiction of abuse or neglect. All CPS intakes are referred to law enforcement, and specific cases that do not meet the criteria for CPS involvement may be referred to law enforcement for further investigation.

**Services:** CPS provides community-based, family focused programs and services for children and their families which respect and work in the partnership with families. Federal and state laws mandate and it is the goal of CPS to keep children in the family whenever possible. When there are safety threats in the home, children may be placed outside their homes with a relative during the pendency of an investigation by CPS or when family based services are offered to the parents. If there is a court-ordered removal of a child, a child may be placed with a relative, or in a foster care setting or in a non-secure residential facility. CPS may take custody of a child only if there is a court-ordered removal. If this occurs, CPS continues to work with the family and federal and state laws mandate that the child must be placed in the least restrictive setting available. Placement of a child in a residential facility occurs only when the service level and the diagnoses of the child are such that residential treatment is necessary.

## Law Enforcement

**Jurisdiction:** Law enforcement may take a youth suspected of an offense, have run away, or engaged in other CINS conduct into custody. If the youth is suspected of an offense, the law enforcement officer may take the youth to the county juvenile probation department. For youth who are suspected victims of trafficking, law enforcement officers may contact CPS to determine if the case meets criteria for CPS involvement. Officers may also take suspected victims of trafficking to a shelter or community-based program.

## Non-Governmental Organization / Non-Profit Provider

**Jurisdiction:** Non-governmental organizations (NGOs) may provide services to any youth that meet the criteria for their program services. Youth may be referred from law enforcement, CPS, or juvenile probation departments. Some NGOs have an application process or set requirements that must be met for a youth to receive services, such as not having a criminal history or not being in CPS custody.

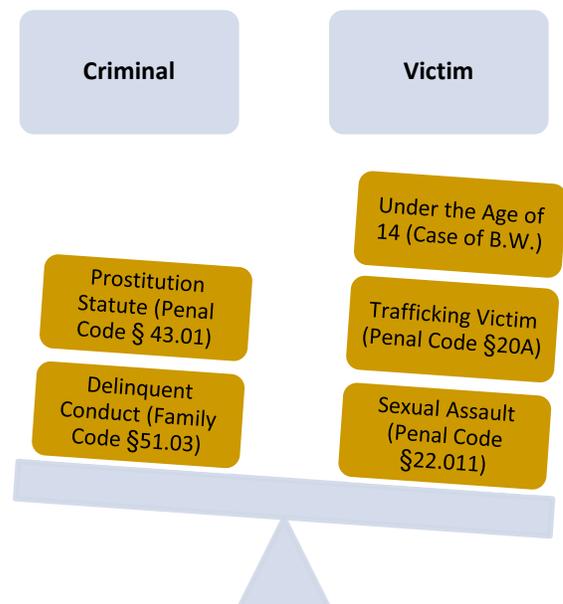
**Services:** The services that NGOs offer vary according to the community programs and shelter beds that are available to specific populations. Residential placement resources are very limited for domestic minor sex trafficking victims and many providers are not able to serve trafficking victims because of their multiple needs and tendency to run away. Youth who are accepted into emergency shelters may remain voluntarily for 14 days, with some requiring parental consent after 48 hours of the youth entering the shelter. A shelter stay may be extended up to 45 days if specific conditions are met and funding is available.

## Diversion Related Issues

Texas has a myriad of statutes by which a juvenile can be charged with engaging in prostitution or diverted from the justice system. As defined by the Texas Penal Code, charging a juvenile with prostitution violates the basic tenants of the state's human trafficking statute (see Appendix G). Those who are victims of human trafficking, someone under the age of 18 who is compelled to engage in prostitution by any means, may use this status as a defense to prosecution for prostitution.<sup>12</sup> If the defense is not used, charging a juvenile with prostitution would bring the juvenile under the purview of juvenile probation departments because the Texas Family Code orders them to oversee the supervision of a juvenile for conduct violating the penal laws of the state.<sup>13</sup>

Still, there is debate as to whether a juvenile's engagement in prostitution is a law violation at all. Section 22.011 of the Penal Code defines sexual assault as a sexual act taking place between an adult and child, which is defined as a person under the age of 17 years old. The only affirmative defense to this charge is if the adult is no more than three years older than the child and the child is at least 14 years old.<sup>14</sup> Because most prostitution cases do not meet both of these requirements, the child involved is legally considered a victim of sexual assault under this Penal Code definition.

### Juveniles Engaged in Prostitution: Criminal or Victim?



In the summer of 2010, the Texas Supreme Court provided some clarity on the issue, ruling in the Case of B.W. that juveniles under the age of 14 should not be prosecuted for engaging in acts of prostitution.<sup>15</sup> While Texas is currently considering amending the way in which juveniles accused of engaging in acts of prostitution are treated, current practices indicate where there are gaps in resources and services. The dissenting opinion of the court addresses the problems that will accompany diverting juveniles from the justice system, acknowledging that the services available to youth accused of engaging in prostitution are limited and often come from the juvenile justice arena.

When it comes to diverting youth accused of engaging in prostitution from the juvenile justice system, diversion can take many forms. Decriminalizing prostitution for juveniles, a popular alternative in many states, may pose problems if there is not an appropriate structure in place to provide services. Classifying juveniles as victims of abuse and/or neglect relies largely on social service agencies like DFPS to provide specialized services. For DFPS to provide services, significant changes to statute and additional funding would be required from the state. Juveniles who do enter the juvenile justice system may be diverted to non-adjudicated dispositions and receive programming and services on temporary or conditions of release caseloads. Still, this requires a juvenile to enter the justice system. To fully divert juveniles from the juvenile justice system, it is imperative that a referral and service network is in place to provide for these juveniles. Until a service network is in place, diversion may not be a sustainable goal.

The table below outlines the various means of diversion and the issues that arise with each diversion tactic.

### Diversion Options and Issues for Juveniles Engaging in Prostitution

Options	Decriminalize Prostitution for Juveniles	Classify Juveniles Involved in Prostitution as Victims of Abuse and/or Neglect	Define Diversion as a Non-Court Disposition and Seal Records at End of Supervision
Issues 	<ul style="list-style-type: none"> <li>• Law enforcement may be less likely to intervene in cases of suspected prostitution</li> <li>• Juvenile probation departments could no longer provide services as youth would no longer be referred and/or under their jurisdiction</li> <li>• Lack of referral system in place for other entities to provide services to DMST victims</li> <li>• Could create a market for underage prostitutes due to decriminalization of the trafficked person</li> <li>• Reaches only a small portion of juveniles engaged in prostitution because they are largely brought in for other offenses</li> <li>• Reduces the ability of law enforcement to monitor the severity of the problem</li> </ul>	<ul style="list-style-type: none"> <li>• Requires changes to CPS regulatory statutes [Family Code Sec. 261.001(5)] and will impact federal funding going to the agency</li> <li>• Federal and state laws mandate CPS keep youth with family and in least restrictive setting making residential placement of affected youth difficult</li> <li>• NGO residential capacity to serve domestic minor trafficking victims is limited or non-existent</li> <li>• No ability to compel services</li> </ul>	<ul style="list-style-type: none"> <li>• Juvenile criminalized despite being a victim of human trafficking</li> <li>• Juvenile would continue to have a criminal record after exiting the justice system unless sealed by the court</li> <li>• Raises the question of sealing the entire record of a juvenile or just those cases involving prostitution</li> <li>• Raises the question of allowing for the sealing of records for all victims of human trafficking, not only victims referred for prostitution</li> <li>• Reaches a small portion of juveniles engaged in prostitution because they are largely brought in for other offenses</li> </ul>

## Legislative Issues

Across the country, states have attempted to address the problem of DMST through legislative changes that provide services for juveniles, divert juveniles from the justice system, and increase penalties for traffickers and solicitors. While some states have made gains for DMST victims through small amendments to their statutes, New York, Washington, and Illinois have passed some of the most comprehensive DMST legislation in the nation. Connecticut has also passed a Safe Harbor Act hailed as a legislative victory by human trafficking advocates. By analyzing the legislative victories for DMST victims in other states, Texas can best explore its options for legislative action. The following section summarizes model legislation and provides legislative considerations for Texas. The OAG's Human Trafficking Prevention Task Force has submitted a report to the Legislature that includes recommendations for legislative changes. Recommendations by the Human Trafficking Prevention Task Force may overlap with the proposed legislative changes outlined below.

### Model DMST Legislation

#### New York's Safe Harbor for Exploited Children Act <sup>16</sup>

In 2008, New York passed its Safe Harbor for Exploited Children Act, which is often hailed as the standard for DMST legislation in the United States. The act diverts juveniles from the justice system by assuming that a person under the age of 18 who is accused of a prostitution offense is a trafficked person. Instead of continuing with a Juvenile Delinquent (JD) petition, the court may proceed with a Person In Need Of Supervision (PINS) petition but maintains the discretion to continue with a JD petition. The court may only proceed with a JD petition if it is discovered that the minor is not a human trafficking victim according to the federal definition, has previously been found guilty of committing the offense of prostitution, previously received a PINS petition, or is unwilling to participate in court ordered services. If the juvenile does not comply with the court's orders for treatment and services, the PINS petition can be changed to a JD petition.

The act, which became effective in April 2010, goes on to provide services for juveniles diverted from the justice system by requiring each local social service district to provide short-term safe housing for victims of DMST. Furthermore, each district must determine the needs of DMST victims in the area and include crisis intervention and community-based programming into its plan for services. For long-term care, the state turned to the Office of Children and Family Services (OCFS) who is required to contract with an agency that has experience working with victims of DMST. The act also provides a directive for law enforcement to receive training that prepares officers to identify victims and assist victims in locating available services.

#### Basic Objectives of Safe Harbor Laws

- ***Remove minor victims from the jurisdiction of the criminal and juvenile justice systems. This step must ensure that other legal mechanisms are in place for the state to take temporary protective custody of these children.***
- ***Provide victims with specialized services, in recognition of their status as victims of crime and of the unique trauma that child victims of sex trafficking endure. Three components of protection and recovery are particularly important.***
  - (1) Placement separately from other children who have not experienced commercial sexual exploitation.***
  - (2) Mentorship by survivors or professionals who are familiar with the special trauma associated with commercial sexual abuse.***
  - (3) Protocols that ensure immediate placement of these victims in appropriate locations, without undue questioning from untrained law enforcement officers or other officials.***
- ***Other important aspects include stiff penalties for traffickers, training of law enforcement and public awareness programs.***

Source: Polaris Project

### **Illinois' Safe Children Act<sup>17</sup>**

The 2010 Illinois Safe Children Act is unique in its emphasis of DMST juveniles as victims. The act alters the language used by Illinois statutes regarding prostitution, replacing the phrase "juvenile prostitute" with "minors engaged in prostitution" and "prostituted person," thereby removing the DMST victim's classification as a criminal. The Illinois statute prevents anyone under the age of 18 from being charged with the offense of prostitution and requires all juveniles thought to be engaging in acts of prostitution to be taken into temporary protective custody. Authorities may not place a juvenile in a jail or juvenile detention facility during temporary custody. While detaining a minor, authorities must notify the Illinois Department of Children and Family Services (DCFS) of the juvenile's potential involvement in prostitution. At that time, DCFS is required to launch an investigation into child abuse.

In addition to initiating an investigation of child abuse, Illinois also amended its statute to include human trafficking victims as "abused" under the Abused and Neglected Child Reporting Act and the Juvenile Court Act. It reads:

"any minor under 18 years of age whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual residing in the same home as the minor, or a paramour of the minor's parent: commits or allows to be committed against the minor one of the following crimes: involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services; or allows, encourages or requires a minor to commit any act of prostitution."

The Safe Children Act also increases the penalties for traffickers and solicitors, increasing the crime of solicitation of a minor from a misdemeanor to a low-level felony. The penalties for traffickers and solicitors are expanded to include vehicle impoundment fees that will create a source of revenue for services and restitution to juveniles involved in DMST.

### **Washington Safe Harbor Act<sup>18</sup>**

In 2010, Washington passed a Safe Harbor Act. The legislation requires prosecutors to divert all juveniles upon his or her first alleged offense of prostitution or prostitution loitering. When the bill goes into effect in July 2011, a juvenile engaging in prostitution will be declared a child in need of supervision and become eligible for services from the Washington Department of Social and Health Services (DSHS) which is required to provide the juvenile with treatments for victims of sexual abuse. If declared a child in need of supervision based on his or her involvement with commercial sexual abuse, the juvenile will also become eligible for benefits from the Crime Victim's Compensation fund. Additionally, half of the state's Prostitution Prevention and Intervention Account will be dedicated to providing shelters staffed with personnel trained to work with DMST victims. Subsequent prostitution offenses for juveniles receiving services will be prosecuted at the discretion of the prosecutor. In addition to diverting juveniles from the justice system, Washington's legislation also provides directives for law enforcement agencies to create and implement a set of model procedures specific to interactions with DMST victims.

### **Connecticut's Safe Harbor for Exploited Children<sup>19</sup>**

In 2010, Connecticut amended its law to change the age at which a person can be charged with prostitution. The law, which became effective in October 2010, will not allow a person under the age of 16 to be charged with prostitution. Until July 2012, those who are age 17 may still be charged. The statute, passed through Senate Bill (SB) 153, was also amended to close loopholes that prevented solicitors and traffickers from being charged for prostitution if engaging in the act with a person who cannot be charged with the crime of prostitution. The Connecticut statute change also increases the penalty for traffickers who promote the prostitution of someone under the age of 18 from a Class C Felony to a Class B Felony with a nine month mandatory minimum prison sentence.

While the Connecticut statute makes great strides to protect victims of DMST and increase penalties for traffickers, there were concerns over a lack of services for the juveniles diverted from the justice system. Connecticut Voices for Children, an advocacy group who testified on the bill during legislative hearings, proposed additional changes to the law that would make those involved in DMST eligible for “all protections and services provided to victims of human trafficking.”<sup>20</sup> If services are not provided to those juveniles who would otherwise be arrested for involvement in prostitution, such a legislative change could allow DMST victims to slip through the cracks.

## Legislation Action

### Increasing Penalties for Traffickers and Solicitors

There is a clear consensus throughout many of the states that have passed DMST legislation: the consequences for trafficking and soliciting minors should reflect the severity of the crime. Many states have passed legislation increasing the penalties for solicitors and traffickers to include minimum sentences and/or fines. Arizona and California created mandatory minimums for the imprisonment of those trafficking minors. Arizona creates a seven year minimum for all trafficking of children while California differentiates based on the age of the trafficked person. Nevada and Illinois are two of the states that use the forfeiture of vehicles and/or property to fund victim services or provide restitution to victims. New Mexico, Nebraska and Pennsylvania are three of the states who consider the traffickers and/or solicitors of minors to be sex offenders, with Pennsylvania requiring traffickers to register as a sex offender for 10 years.

Texas has made strides in the area of increasing penalties for solicitors and traffickers. In the regular session of the 81st Legislature, Rep. Senfronia Thompson and Sen. Leticia Van de Putte filed legislation raising the age at which a child is thought to be compelled into prostitution to 18 years old. The legislation also removed a defense of age for traffickers, making it a second degree felony regardless of whether or not the actor knew the age of the juvenile.<sup>21</sup> In the 80th Legislature, Rep. Jose Menendez filed HB 202, relating to the punishment for, and certain civil consequences of committing the offense of prostitution. The proposed legislation would have increased the penalty for soliciting the services of someone under 17 years old to a felony of the third degree and required those convicted of this offense to register as a sex offender.<sup>22</sup> Texas should consider seeking to increase the penalties for those promoting as well as those soliciting the services of minors engaged in prostitution.

#### *Polaris Project: Model Provisions of State Legislation to Combat Human Trafficking*

##### Prosecution

- *Definition of key terms included in human trafficking criminal provisions.*
- *Criminal liability of business entities*
- *Sentencing enhancements for human trafficking related offenses*
- *Asset forfeiture*
- *Victim immunity from prosecution*

##### Prevention

- *Creation of state task force for the prevention of human trafficking*
- *Data collection and dissemination*
- *Training*
- *Public awareness*
- *Enhance role of non-governmental organizations*

##### Protection

- *Investigative steps taken to identify victims and prosecute traffickers and solicitors*
- *Access to the state crime victims' compensation fund*
- *Develop a state plan to provide services to victims*

Source: Polaris Project

## **Clarifying the Definition of Human Trafficking**

To create a powerful tool against DMST, Texas should consider closely aligning its definition of human trafficking with the federal TVPA. TVPA originally declared human trafficking to be “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.” Subsequent reauthorizations of the act in 2005 and 2008 went on to remove a defense of age and the need to prove force, fraud, or coercion in sex trafficking cases. While the Texas statute already prevents a defense of age for the trafficking of victims under the age of 18, the state could go a step further and remove the need to prove force, fraud or coercion in sex trafficking cases. Additionally, the state should specifically declare those engaged in commercial sex acts to be victims of trafficking if under the age of 18. This would allow juveniles to navigate the judicial process as victims instead of offenders.

## **Require CPS to Investigate All Cases of DMST Reported by JPOs**

In Illinois, the Safe Children Act will allow juveniles engaging in acts of prostitution to be diverted from the juvenile justice or adult justice systems and receive services from the state’s department for family services. In many states, this diversion from the juvenile justice system occurs when juvenile probation offices or law enforcement initiates an investigation of the familial setting by the state’s family services department. With a significant infusion of resources and a shift from CPS’ traditional focus, Texas could require CPS to investigate all cases of sex trafficking involving a minor for abuse or neglect. These cases would be reported to CPS Statewide Intake by juvenile probation officers or law enforcement officials and would undergo the traditional intake process. Currently, human trafficking leads to abuse and neglect findings only where the child victim’s parent or other traditional caregiver has a role in the trafficking. However, some cases where the child’s activities are known of by parents could be considered cases of neglect and would meet the statutory definition in the Family Code.

In circumstances where juveniles are declared victims of abuse and/or neglect, CPS could assume the role of conservator and place juvenile victims into residential treatment centers. By requiring that all cases of DMST be investigated for abuse or neglect, some juveniles can be diverted from the juvenile justice system. While this approach may not reach all juveniles who are engaged in DMST, it would allow juveniles to receive services outside of the juvenile justice system. By requiring CPS to investigate all cases of DMST for abuse or neglect in the household, Texas has the opportunity to adopt a multi-lateral approach to DMST and promote cooperation between groups who are likely to encounter these victims. In addition to diverting some DMST cases from the juvenile justice system, increased communication between juvenile probation offices, law enforcement, and CPS, more investigations would allow the state to better collect data regarding DMST traffickers and victims. This could be the first in many steps to expand the definition of abuse and neglect in Texas to include maltreatment at the hands of a trafficker.

## **Sealing the Criminal Records of DMST Victims**

In addition to passing the nation’s first safe harbor bill, New York recently passed legislation to promote the long-term recovery of DMST victims. Realizing that a criminal record that includes prostitution-related offenses could hinder future employment opportunities, the New York State Assembly passed legislation allowing victims of human trafficking to clear their criminal record of certain acts related to crimes caused by human trafficking. The defendant, if having been found to be a victim of human trafficking, can have prostitution or prostitution loitering offenses vacated from his or her criminal record. The legislation’s sponsors expressed that this would “give victims of human trafficking a desperately needed second chance they deserve.” The motion to vacate the criminal record can be made after the person is no longer a victim of human trafficking or is receiving services for victims of human trafficking.<sup>23</sup>

Currently, Texas may seal juvenile records if two years have passed since the final action taken in that case, and the person has not committed another offense within that time. Usually, a person must petition the court for his or her juvenile records to be sealed, but Texas statute also allows the court to automatically seal records in cases where the juvenile undergoes mandated drug court treatment.<sup>24</sup> The court maintains the discretion to hold an additional hearing before sealing the juvenile record. If Texas continues to charge juveniles with the offense of prostitution, the New York law and drug court statute offer models by which Texas could ensure that juvenile victims of human trafficking receive services while removing the stigma of a prostitution charge from the juvenile’s criminal record.

### Considerations for Legislative Action

- Increase penalties for traffickers and solicitors of DMST.
- Align the Texas definition of human trafficking to TVPA, including a specific provision for minors engaged in human trafficking.
- Require CPS to investigate all cases of DMST for abuse and/or neglect in the household.
- Ensure that juveniles who are charged with acts of prostitution and are found to be victims of trafficking have their records sealed upon the completion of terms of supervision.

## Identification and the Importance of Training

The vast majority of juveniles engaging in prostitution are not arrested and/or referred to the juvenile probation system. Youth that do enter the juvenile justice system are typically referred for other offenses such as drug possession, theft or running away. It is essential that laws enforcement officers and “front line” staff be able to identify potential victims of DMST. Additionally, it is important that following the discovery of a juvenile’s involvement in DMST there are providers available to handle the unique needs of this population. It is for this reason that training – both for identifying and providing effective services – is important to the rehabilitation of DMST victims.

### Specialized Training for Identification

It is vital that law enforcement be trained to identify signs of minors involved in prostitution and ask questions that will lead to the arrest of those promoting the sexual exploitation of minors. Police officers play a crucial role as they are often not only the first point of contact for victims of exploitation, but are also key players in the arrest and prosecution of the trafficker. Specialized training helps officers to better identify victims and make successful cases against those victimizing young men and women. Washington and New York have mandated comprehensive training plans for their law enforcement officers, and Texas is not far behind. HB 4009 requires newly licensed officers to receive training on human trafficking, with human trafficking information and resources to be made available for those veteran officers who seek additional training. The legislation also requires the Texas Human Trafficking Prevention Task Force to examine all human trafficking protocols developed and implemented by law enforcement agencies across the state.

*The Innocence Lost Initiative was implemented in 2003 by the FBI and the Department of Justice in partnership with the National Center for Missing and Exploited Children. As part of the initiative the FBI identified 14 field offices located in areas with a high incidence of child prostitution and developed task forces bringing together state, local and federal law enforcement, prosecutors and victim service entities. Specialized training courses were developed and conducted in cities across the country. Two years after the launch of the initiative, Innocence Lost resulted in over 500 arrests, 67 convictions and approximately 200 child victims identified.*

Source: U.S. Department of Justice

Although training requirements will not go into effect until January 2011, many law enforcement departments have already started to train all officers in identifying human trafficking. Leading the way in these efforts is the Dallas Police Department's Child Exploitation/High Risk Victims and Trafficking Unit which developed an investigative tool to identify high risk victims by flagging all minors who have run away from home three or more times in one year, as well as any minors who are victims of sexual abuse or sexual exploitation. Officers in the Dallas Police Department are trained to notify the Child Exploitation Unit immediately upon coming across a potential case of DMST. The Exploitation Unit has provided training throughout the country on the unique interviewing skills and investigative techniques used in cases involving children who have been victimized through prostitution.

Training for juvenile probation officers, CPS workers, and other "first responders" is equally important. There are currently no standardized juvenile probation intake questions, interview techniques, or assessments focused on identifying potential victims of human trafficking. Some juvenile probation departments have human trafficking identification and awareness training for staff but the majority of departments do not offer this type of training.

### **Increasing Public Awareness and Data Collection**

While public awareness of DMST has grown considerably over the years, it is important that the public remain vigilant in identifying and reporting acts of commercial sexual exploitation that may involve minors. Houston Rescue and Restore Coalition, along with Catholic Charities of San Antonio and other advocacy groups across the state, have provided training in the identification of victims to various groups including law enforcement, health providers, and social service providers. In addition, national organizations such as SHI, the National Human Trafficking Resource Center, and the Polaris Project offer training and technical assistance on tools and strategies which aim to better identify victims of human trafficking and DMST. These trainings are directed not just at law enforcement, but every possible point of contact for DMST victims including social workers, juvenile probation officers, educators, school counselors, and medical staff. By creating an aware public, lawmakers, state agencies, and law enforcement will gain a better idea of how large the human trafficking problem is in Texas. In addition to creating public awareness of domestic minor sex trafficking, it is important that trainers inform the public on the best means of reporting this crime. By collecting the best data possible, be it through the national hotline or juvenile probation office intake, Texas can better address the DMST problem in the state. Over time, this data will help lawmakers to encourage funding for services and shelters and pass legislation that will address DMST related issues. At the local level, improved data collection will help law enforcement to target problem areas in a municipality, encourage schools to address the unique needs of students who may be at risk or are involved in DMST, and allow NGOs to better seek much-needed funding for addressing the unique needs of these juveniles.

#### ***Promising Interviewing Techniques in Working with Domestically Trafficked Minors***

- 1) Arrange multiple meetings with the victim in order to build trust. Having experienced interviewers or a survivor of sex trafficking either conduct or be present at the interview helps in gaining trust. Only upon establishing trust should a forensic interview be conducted.***
- 2) Use victim-centered approaches that place the safety and needs of the victim first.***
- 3) Interview in an environment such as a social service agency or office rather than an interview room used for suspects. Be cognizant of the crime when deciding where to conduct interviews.***
- 4) Gender dynamics must be accounted for and assessed.***
- 5) Weapons and uniforms are likely to trigger defense mechanisms and should not be worn while interviewing a potential victim.***
- 6) Use language that is relevant to the victim such as identifying the trafficker as a "boyfriend."***

Source: Shared Hope International

## Specialized Training to Provide Effective Services

Specialized, holistic programs for victims of DMST are viewed as the most effective means of reaching this population. In its national report, SHI found that few service providers in its subject cities were aware of the unique needs of DMST victims. By creating stability, encouraging consistency, and breaking the bond of trauma between trafficker and victim, law enforcement officials can pursue traffickers and solicitors to a greater degree. The report indicates that juvenile probation officers, the people most likely to provide services for victims arrested in Texas, are not adequately prepared to deal with the unique needs of DMST victims.

As residential treatment facilities for victims of DMST become available in the state, it is important that service providers receive adequate training on the issues affecting youth who are sexually exploited. In Washington, recent legislation allows providers specially trained to deal with the needs of DMST victims to receive funding from the Prostitution Prevention and Intervention Account. Further discussion on the training of service providers and model programs is included below in the section on provision of services.

## A Home for Training Resources

It is imperative that service providers, law enforcement, and legal advocates be made aware of the services available to victims of DMST. HB 4009 creates a Victims Assistance Program meant to assist juvenile and adult victims of human trafficking. The program will include a searchable database of programs available to human trafficking victims such as case management and health services. The program will help judges, prosecutors, and law enforcement personnel to become aware of resources such as the Crime Victims Compensation Fund, which can be used to provide supplemental services for victims of DMST and provide long-term support, even after they have aged out of the juvenile probation or DFPS systems. As the Victims Assistance Program becomes active, it should be expanded to include training resources for all levels of individuals encountering DMST victims. By including training for law enforcement and service providers, the Victims Assistance Program can reach rural and underserved areas of the state.

All state agencies, non-governmental organizations, law enforcement agencies, and other organizations providing services to human trafficking victims should be made aware of the Victim Assistance Program and be encouraged to include their services in the database. TJPC will encourage juvenile probation departments providing specialized services to include their information in the database. Additionally, TJPC will encourage juvenile probation departments to utilize the database once it becomes available for public use, thereby allowing departments to better connect juveniles with appropriate resources.

## Recommendations for Improvement in Training

- Promote training that will allow all law enforcement officers, juvenile probation officers, DFPS caseworkers, teachers, and medical professionals to incorporate DMST identification methods into daily practices.
- Improve data collection of identified DMST victims and encourage data sharing between entities involved in providing services when possible.
- Utilize and promote the Victims Assistance Program once it becomes active and include a network of trainers with knowledge specific to the issues of DMST victims in the database.

## Provision of Services

Youth who become victims of DMST are in need of a vast array of services ranging from the most basic, such as clothing, to very intensive medical and mental health treatment and long-term residential stays. Currently there is no coordinated or unified statewide response to provide services to DMST victims. Community-based programs and emergency shelter beds are available in most urban areas of the state though they are operated by many entities with differing missions and eligibility criteria. Rural areas of the state often do not have access to programs or services. The state has no safe haven shelter beds for DMST victims and no long-term residential facilities for youth outside of the juvenile probation or CPS systems. Implementation of the Victims Assistance Program will assist in the identification of programs and services for victims, however, increased capacity of community programs and the development of safe haven shelters and long-term residential facilities is essential in order to serve domestic victims of trafficking.

### Coordination of Services

The statewide effort in Georgia is a prime example of a unified and collaborative response that utilizes various organizations in combating the sex trafficking of minors. The Georgia Care Connection Office, out of the Governor's Office for Children and Families (GOCF), acts as the first and single point of contact for commercially sexually exploited girls ages 11-17. Youth are referred to Georgia Care Connection through various means, the most common being through law enforcement. At referral, Care Connection staff assesses the child and family's needs in terms of services and support and develops a single, comprehensive care plan that addresses these needs. Following the plan, Care Connection locates appropriate services and assists the family in accessing state, federal, and local funding for those services including access to medical treatment. Children found to be involved in sex trafficking may be placed into a residential facility where they stay approximately six to nine months. If no residential space is available, the child is placed on a waiting list and receives intensive in-home services by a licensed social worker. The Georgia Care Connection Office is funded through a variety of federal, state, and local sources including federal Temporary Assistance for Needy Families (TANF) funding.<sup>25</sup>

### Community-Based Programs

A nationally recognized model for a community-based program addressing the needs of DMST victims is My Life My Choice (MLMC) out of Boston. Since 2002, MLMC has trained over 2000 providers and served over 700 girls in a variety of settings including group homes, juvenile detention facilities, juvenile probation departments, schools, and child protective services offices.<sup>26</sup> The MLMC program is modeled for intervention and prevention and consists of three levels of programming that target youth at different levels of involvement in child sex trafficking. These levels include (1) all youth; (2) disproportionately at-risk youth (multiple runaways, history of sexual abuse, etc.); and (3) youth with a history of prostitution.

Another model program is the Standing Against Global Exploitation (SAGE) program. SAGE Project Inc. of San Francisco takes an innovative and multi-faceted approach in developing a variety of services and programs to meet the needs of adults and youth traumatized by commercial sexual exploitation. Programs and services for youth include three uniquely oriented programs and a residential shelter.

- The Life Skills program is an out of custody program in which youth participate for six to 14 months. Program staff provides individual case management on a weekly basis, referrals to substance abuse, sexual exploitation and/or family preservation services, and group counseling.
- The In-Custody program provides weekly assessments, counseling, and sessions addressing runaway prevention, trauma, and sexual exploitation.

- The Family Preservation Program focuses on improving family dynamics and supporting families in healing by providing counseling support services for girls living at home or where reunification is an option.

The SAGE Project also works in cooperation with the Edgewood Center for Children and Families to provide a residential shelter for sexually exploited youth. The Secure House for Girls houses up to 12 girls for a maximum of two years. In their provision of services SAGE is involved in a collaborative relationship between law enforcement, public health, social services, and private organizations.<sup>27</sup>

## Residential Services

Victims of DMST need both emergency shelter and long-term residential services. In Texas, the Letot Emergency Shelter, operated by Dallas County Juvenile Probation Department and licensed through DFPS, provides shelter and programming to victims of DMST. Letot is a staff-secure facility that serves runaway and other CINS offenders as well as Class B

***“The Dallas County Letot Shelter provides an array of services to juveniles including victims of DMST. 78% of the juveniles admitted into the facility in 2009 had experienced sexual abuse either from a parent, another youth, or through exploitation.”***

Source: Letot Center

misdemeanor offenders on a case-by-case basis. The Letot Center provides services that focus on the needs of minors charged with and engaging in prostitution. Through a close relationship with the Dallas Police Department and collaboration with the FBI, the juvenile department and juvenile court judges ensure thorough investigation of child exploitation cases and a disruption of the cycle of adolescent prostitution. In 2009, the Letot Center served over 2,287 youth and their families, 463 of whom were served in the emergency shelter. Seventy-eight percent of youth entering the Letot emergency shelter in 2009 had experienced sexual abuse or exploitation.<sup>28</sup>

A report prepared for the U.S. Department of Health and Human Services (HHS) in 2007 assessed how residential programs nationwide are addressing the needs of human trafficking victims, with a particular focus on DMST victims.<sup>29</sup> The study gathered information from staff in residential facilities, juvenile corrections facilities, runaway and homeless youth shelters/programs, child protective services, and law enforcement to identify best practices in the provision of services. Best practice recommendations include:

- Victims of DMST are most likely to benefit from stays in facilities designed for small, homogenous populations;
- In order to have sufficient time to address the trauma of victims and begin working on a treatment plan for recovery, a minimum stay of 18 months is recommended;
- Safety and security for both victims and staff is essential and can be achieved through close relationships with local law enforcement and ongoing training for staff;
- Staff should have extensive knowledge of the dynamics of trafficking and trafficking victims including the realities of sex trafficking, methods of recruitment, the physical and psychological impact of trauma, potential methods for exiting prostitution, and youth development programming; and
- In order to enhance collaboration and communication facilities should be connected to a network of service providers, law enforcement, juvenile courts, probation departments, schools, and child protective services.

***“Residential facilities need to be situated along a continuum of care that begins with prevention education and outreach to at-risk populations, teachers and school counselors, health and human services professionals, juvenile justice and child welfare systems personnel, parents and communities at large.”***

Source: Report to the Department of Health and Human Services, 2007

Community-based and residential services are not readily available to domestic minors who are victims of commercial sexual exploitation in Texas. This is due to a variety of legal and identification barriers that make it difficult for victims to receive services, as well as a lack of resources and specialization in the programs and services that do exist for DMST victims. There are a growing number of NGOs and advocacy groups in Texas that are spreading awareness of DMST and some do provide services (see Appendix H). However, long-term residential treatment is simply not available. Emergency shelters are the only option for domestic minors outside of the juvenile justice or CPS systems. Although some of these shelters do offer appropriate services for victims of trafficking, the length of stay set by licensing agreements is insufficient for a successful and permanent recovery. Within the juvenile justice system there is a lack of specialized programs and services in place that address the issue of sex trafficking. Probation departments need access to community-based programming designed specifically to assist victims and potential victims of trafficking.

## Recommendations for Services

- Create a network of providers to facilitate service delivery for victims of DMST. This network should include representatives from juvenile justice, child protective services, law enforcement, NGOs, runaway/homeless youth shelters, service providers, schools, and advocacy groups.
- Create an entity to function as a first and single point of contact for victims of human trafficking to organize service delivery and enhance collaboration among a network of providers.
- Assist juvenile probation departments in the implementation of community-based programs for victims and potential victims of sex trafficking.
- Increase the use of NGOs specializing in domestic minor sex trafficking as service providers.

## Conclusion

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Juveniles involved in prostitution are victims of a growing problem known as domestic minor sex trafficking. Enhanced by the use of the Internet, sex traffickers are increasingly turning to minors in what has become a disturbingly profitable business. Some victims enter the juvenile justice system on charges of prostitution, but considering the large number of estimated DMST victims and the small number of juveniles referred to probation departments for prostitution, many more are likely referred for other charges such as runaway, truancy, or drug offenses. Others never enter the juvenile justice system. All face challenges in receiving the services they need. If Texas is to divert sexually exploited youth from the juvenile justice system in a comprehensive manner, training on responding to and identifying DMST youth, collaboration across child serving agencies, law enforcement, and NGOs; and an expansion of services outside of the juvenile justice system must take place.

# Endnotes

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- <sup>1</sup> Randy Weber, "House Bill 4009," 2009. (Austin, Texas: 81st Legislature, 2009).
- <sup>2</sup> "Human Trafficking Facts" (Texas Association Against Sexual Assault, 2006). <http://www.taasa.org/trafficking/facts.php> (accessed December 10, 2010).
- <sup>3</sup> Richard J. Estes and Neil Alan Weiner, "The Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico," (Philadelphia: The University of Pennsylvania, 2001).
- <sup>4</sup> Shared Hope International, "The National Report on Domestic Minor Sex Trafficking," National Report, (Arlington, Virginia: 2009).
- <sup>5</sup> National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children, "Runaway/Throwaway Children: National Estimates and Characteristics," (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2002).
- <sup>6</sup> Shared Hope International, "The National Report on Domestic Minor Sex Trafficking," National Report, (Arlington, Virginia: 2009).
- <sup>7</sup> Alexandria Pribe and Cristen Suhr, "Hidden in Plain View," (Atlanta: Atlanta Women's Agenda, 2005).
- <sup>8</sup> Id.
- <sup>9</sup> Department of Public Safety, "Crime in Texas," 2005-2009. (Austin: 2005-2009).
- <sup>10</sup> Shared Hope International, "The National Report on Domestic Minor Sex Trafficking," National Report, (Arlington, Virginia: 2009).
- <sup>11</sup> Department of Family and Protective Services, "Child Protective Services and Human Trafficking." Internal Paper, (Austin, Texas: 2010).
- <sup>12</sup> "Texas Penal Code, Chapter 20A," Texas Statutes.
- <sup>13</sup> "Texas Family Code, §51.03." Texas Statutes.
- <sup>14</sup> "Texas Penal Code, §22.011." Texas Statutes.
- <sup>15</sup> *In the Matter of B.W.*, No. 08-1044 (Texas, 2010).
- <sup>16</sup> "Introduction to the Safe Harbor for Exploited Children Act" (Washington, DC: Polaris Project, 2008).
- <sup>17</sup> "HB 6462: Illinois' Safe Children Act- Summary" (Washington, DC: Polaris Project, May 2010).
- <sup>18</sup> "Final Bill Report: ESSB 6476" (Olympia, Washington: Washington State Legislature, April 2010).
- <sup>19</sup> State of Connecticut General Assembly, "File No. 469," (Hartford, Connecticut: 2010).
- <sup>20</sup> Connecticut Voices for Children, "Testimony Regarding S.B. 153." (Hartford, Connecticut: 2010).
- <sup>21</sup> Randy Weber, "House Bill 4009," 2009. (Austin, Texas: 81st Legislature, 2009).
- <sup>22</sup> Jose Menendez, "House Bill 202" (Austin, Texas: 80th Legislature, 2007).
- <sup>23</sup> New York State Assembly, "A07670 Memo," (Albany, New York: 2010).
- <sup>24</sup> "Texas Family Code, §58.003 (c-1)," Texas Statutes.
- <sup>25</sup> Governor's Office for Children and Families, "Fact Sheet," (Atlanta, Georgia: 2010).
- <sup>26</sup> "About the My Life My Choice Project" (My Life My Choice, 2001). <http://www.jri.org/mylife> (accessed December 3, 2010).
- <sup>27</sup> "About SAGE Services – Youth Programs" (The SAGE Project, Inc., 1995). [http://www.sagesf.org/html/about\\_services\\_youth.htm](http://www.sagesf.org/html/about_services_youth.htm) (accessed December 3, 2010).
- <sup>28</sup> Letot Center, "Program Summary." Internal Paper, (Dallas, Texas: 2010).
- <sup>29</sup> Heather Clawson and Lisa Goldblatt Grace, "Study of Human Trafficking Victims," National Report, (Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, Health and Human Service, 2007).

## Appendix A: Acronym Glossary

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CINS	Child in Need of Supervision (Texas)
CPS	Child Protective Services (Texas)
CSEC	Commercial Sexual Exploitation of Children
DCFS	Department of Children & Family Services (Illinois)
DFPS	Department of Family & Protective Services (Texas)
DMST	Domestic Minor Sex Trafficking
DPS	Department of Public Safety (Texas)
DOJ	Department of Justice (United States)
DSHS	Department of Social & Health Services (Washington)
FCAHT	Florida Coalition Against Human Trafficking (Florida)
FBI	Federal Bureau of Investigation (United States)
GOCF	Governor's Office for Children and Families (Georgia)
HB	House Bill
HHSC	Health and Human Services Commission (Texas)
HHS	Health and Human Services (United States)
JD	Juvenile Delinquent Petition (New York)
MLMC	My Life My Choice (DMST service provider)
NGO	Nongovernmental Organization
NISMART	National Incidence Studies of Missing, Abducted, Runaway & Throwaway Children (NGO)
OAG	Office of the Attorney General (Texas)
OCFS	Office of Children & Family Services (New York)
PINS	Person In Need of Supervision (New York)
SAGE	Standing Against Global Exploitation (NGO)
SB	Senate Bill
SHI	Shared Hope International (NGO)
TANF	Temporary Assistance for Needy Families (federal program)
TJPC	Texas Juvenile Probation Commission (Texas)
TVPA	Trafficking Victims Protection Act (federal legislation)
TYC	Texas Youth Commission (Texas)

## Appendix B: HB 4009 - 81(R) Section 4

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H.B. No. 4009

SECTION 4. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.056 to read as follows:

Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION. (a) The director shall establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution.

(b) The director shall determine the size of the committee. The committee must be composed of:

(1) members of the Texas Juvenile Probation Commission, the Texas Youth Commission, and other relevant state agencies as determined by the director;

(2) members of the legislature;

(3) members of nongovernmental organizations that provide programs and services to combat and prevent trafficking of persons as described by Section 20A.02, Penal Code, in this state, including the following with respect to that trafficking:

(A) programs to promote public awareness;

(B) programs to identify and provide services to victims;

(C) legal services; and

(D) community outreach and training programs; and

(4) other juvenile justice experts.

(c) Not later than January 1, 2011, the committee shall prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

(d) This section expires June 1, 2011.

## Appendix C: Alternatives to Juvenile Justice for Youth Involved in Prostitution Committee Members

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The Honorable Senfronia Thompson	Texas House of Representatives
Chara M <sup>c</sup> Michael	Representative Weber's Office
Servando Esparza	Senator Van de Putte's Office
Kaye Woodard-Hotz	Attorney General's Office, Crime Victim Services Division
Denise Donnelly	Attorney General's Office, Intergovernmental Relations Division
Erin Hodges	Attorney General's Office
David Riley	Bexar County Juvenile Probation Department
Chris Burchell	Texas ATIP / Bexar County Sheriff's Office
Melissa Moreno	Catholic Charities Anti-Trafficking Program, San Antonio
Blanca Denise Lance	Department of Family and Protective Services
Debra Emerson	Department of Family and Protective Services
Cathy Brock	Letot Center, Dallas County Juvenile Probation Department
Brooke Grona-Robb	Dallas District Attorney's Office
Mandi Kimball	Children at Risk, Houston
Alan Walters	Texas Youth Commission
Vicki Spriggs	Texas Juvenile Probation Commission
Linda Brooke	Texas Juvenile Probation Commission

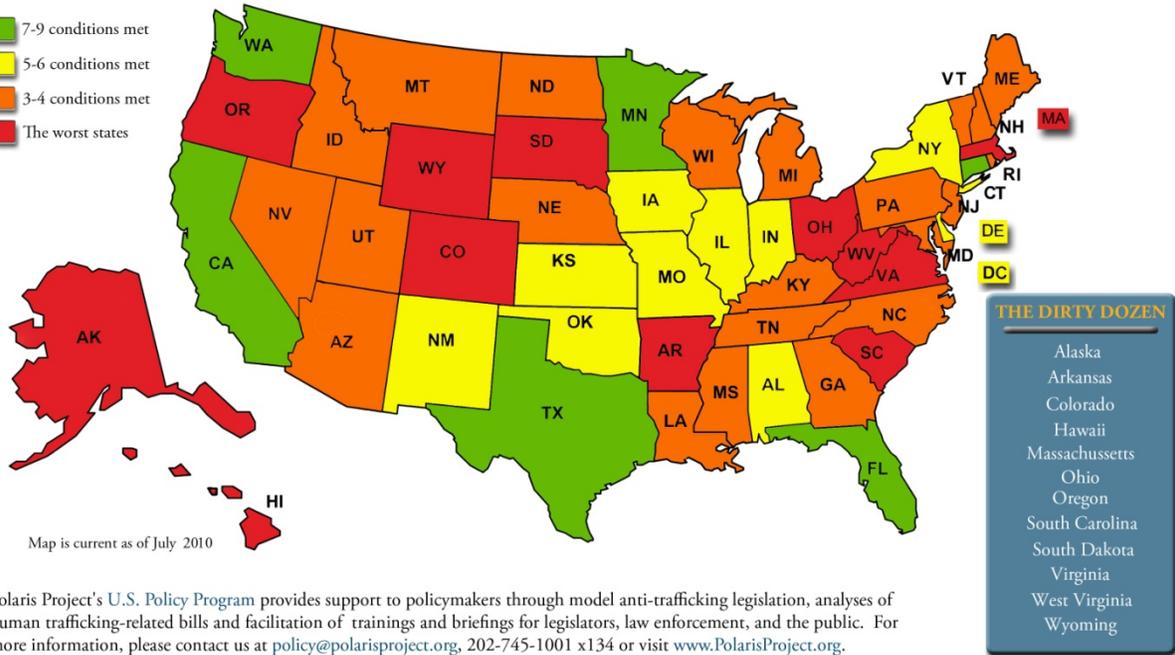
# Appendix D: State Report Card on Human Trafficking Legislation, Polaris Project

## HOW DOES YOUR STATE RATE ON HUMAN TRAFFICKING?



States are evaluated on the strength and inclusion of the following 10 statutes on: (1) Sex trafficking (2) Labor trafficking (3) Asset forfeiture for human trafficking crimes (4) Training on human trafficking for law enforcement (5) Human trafficking commission, task force, or advisory committee (6) Posting of a human trafficking hotline (7) Safe harbor (8) No requirement for force, fraud, or coercion for minors (9) Victim Assistance (10) Civil remedy

- 7-9 conditions met
- 5-6 conditions met
- 3-4 conditions met
- The worst states



Polaris Project's U.S. Policy Program provides support to policymakers through model anti-trafficking legislation, analyses of human trafficking-related bills and facilitation of trainings and briefings for legislators, law enforcement, and the public. For more information, please contact us at [policy@polarisproject.org](mailto:policy@polarisproject.org), 202-745-1001 x134 or visit [www.PolarisProject.org](http://www.PolarisProject.org).

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# Appendix E: Family Code Chapter 261

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## FAMILY CODE

### TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

#### SUBTITLE E. PROTECTION OF THE CHILD

#### CHAPTER 261. INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 261.001. DEFINITIONS. In this chapter:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; or

(K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code.

(2) "Department" means the Department of Family and Protective Services.

(3) "Designated agency" means the agency designated by the court as responsible for the protection of children.

(4) "Neglect" includes:

(A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions by a person:

(i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or

(C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

(A) a parent, guardian, managing or possessory conservator, or foster parent of the child;

(B) a member of the child's family or household as defined by Chapter 71;

(C) a person with whom the child's parent cohabits;

(D) school personnel or a volunteer at the child's school; or

(E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

(6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.

(7) "Board" means the Board of Protective and Regulatory Services.

(8) "Born addicted to alcohol or a controlled substance" means a child:

(A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and

(B) who, after birth as a result of the mother's use of the controlled substance or alcohol:

(i) experiences observable withdrawal from the alcohol or controlled substance;

(ii) exhibits observable or harmful effects in the child's physical appearance or

functioning; or

(iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 86, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(26), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 59, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 1.11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 3.32, eff. September 1, 2007.

Sec. 261.002. CENTRAL REGISTRY. (a) The department shall establish and maintain in Austin a central registry of reported cases of child abuse or neglect.

(b) The department may adopt rules necessary to carry out this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, and schools, and cooperation with other states in exchanging reports to effect a national registration system.

(c) The department may enter into agreements with other states to allow for the exchange of reports of child abuse and neglect in other states' central registry systems. The department shall use information obtained under this subsection in performing the background checks required under Section 42.056, Human Resources Code. The department shall cooperate with federal agencies and shall provide information and reports of child abuse and neglect to the appropriate federal agency that maintains the national registry for child abuse and neglect, if a national registry exists.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 1.12, eff. September 1, 2005.

Sec. 261.003. APPLICATION TO STUDENTS IN SCHOOL FOR DEAF OR SCHOOL FOR BLIND AND VISUALLY IMPAIRED. This chapter applies to the investigation of a report of abuse or neglect of a student, without regard to the age of the student, in the Texas School for the Deaf or the Texas School for the Blind and Visually Impaired.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 261.004. STATISTICS OF ABUSE AND NEGLECT OF CHILDREN. (a) The department shall prepare and disseminate statistics by county relating to the department's activities under this subtitle and include the information specified in Subsection (b) in an annual report available to the public.

(b) The department shall report the following information:

- (1) the number of initial phone calls received by the department alleging abuse and neglect;
- (2) the number of children reported to the department as having been abused and neglected;
- (3) the number of reports received by the department alleging abuse or neglect and assigned by the department for investigation;
- (4) of the children to whom Subdivision (2) applies:
  - (A) the number for whom the report was substantiated;
  - (B) the number for whom the report was unsubstantiated;
  - (C) the number for whom the report was determined to be false;
  - (D) the number who did not receive services from the department under a state or federal program;
  - (E) the number who received services, including preventative services, from the department under a state or federal program; and
  - (F) the number who were removed from the child's home during the preceding year;
- (5) the number of families in which the child was not removed, but the child or family received services from the department;
- (6) the number of children who died during the preceding year as a result of child abuse or neglect;
- (7) of the children to whom Subdivision (6) applies, the number who were in foster care at the time of death;
- (8) the number of child protective services workers responsible for report intake, assessment, or investigation;
- (9) the response time by the department with respect to conducting an initial investigation of a report of child abuse or neglect;
- (10) the response time by the department with respect to commencing services to families and children for whom an allegation of abuse or neglect has been made;
- (11) the number of children who were returned to their families or who received family preservation services and who, before the fifth anniversary of the date of return or receipt, were the victims of substantiated reports of child abuse or neglect, including abuse or neglect resulting in the death of the child;
- (12) the number of cases pursued by the department in each stage of the judicial process, including civil and criminal proceedings and the results of each proceeding; and
- (13) the number of children for whom a person was appointed by the court to represent the best interests of the child and the average number of out-of-court contacts between the person and the child.

(c) The department shall compile the information specified in Subsection (b) for the preceding year in a report to be submitted to the legislature and the general public not later than February 1 of each year.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 64, eff. Sept. 1, 1997.

#### SUBCHAPTER B. REPORT OF ABUSE OR NEGLECT; IMMUNITIES

Sec. 261.101. PERSONS REQUIRED TO REPORT; TIME TO REPORT. (a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001 or 261.401, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

- (1) as provided by Section 261.201; or
- (2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 87, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 162, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 575, Sec. 11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 65, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 6.29, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1150, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 21, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 5.003, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 949, Sec. 27, eff. September 1, 2005.

Sec. 261.102. MATTERS TO BE REPORTED. A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 88, eff. Sept. 1, 1995.

Sec. 261.103. REPORT MADE TO APPROPRIATE AGENCY. (a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

- (1) any local or state law enforcement agency;
- (2) the department;
- (3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
- (4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a)(3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 89, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1477, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 46, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 213, Sec. 1, eff. September 1, 2005.

Sec. 261.104. CONTENTS OF REPORT. The person making a report shall identify, if known:

- (1) the name and address of the child;
- (2) the name and address of the person responsible for the care, custody, or welfare of the child; and
- (3) any other pertinent information concerning the alleged or suspected abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 90, eff. Sept. 1, 1995.

Sec. 261.105. REFERRAL OF REPORT BY DEPARTMENT OR LAW ENFORCEMENT. (a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

(b) The department or designated agency shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.

(c-1) Notwithstanding Subsections (b) and (c), if a report under this section relates to a child with mental retardation receiving services in a state supported living center as defined by Section 531.002, Health and Safety Code, or the ICF-MR component of the Rio Grande State Center, the department shall proceed with the investigation of the report as provided by Section 261.404.

(d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the school district in which the employee is employed about the investigation.

(e) In cooperation with the department, the Texas Youth Commission by rule shall adopt guidelines for identifying a report made to the commission under Section 261.103(b) that is appropriate to refer to the department or a law enforcement agency for investigation. Guidelines adopted under this subsection must require the commission to consider the severity and immediacy of the alleged abuse or neglect of the child victim.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 66, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 25, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 374, Sec. 3, eff. June 18, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284, Sec. 4, eff. June 11, 2009.

# Appendix F: Family Code Chapter 264

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## FAMILY CODE

### TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

#### SUBTITLE E. PROTECTION OF THE CHILD

#### CHAPTER 264. CHILD WELFARE SERVICES

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 264.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of Family and Protective Services.
- (2) "Commission" means the Health and Human Services Commission.
- (3) "Executive commissioner" means the executive commissioner of the Health and Human Services

Commission.

(4) "Residential child-care facility" has the meaning assigned by Section 42.002, Human Resources Code.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 1.42, eff. September 1, 2005.

Sec. 264.002. DUTIES OF DEPARTMENT. (a) The department shall:

- (1) promote the enforcement of all laws for the protection of abused and neglected children; and
- (2) take the initiative in all matters involving the interests of children where adequate provision has

not already been made.

(b) The department shall give special attention to the dissemination of information through bulletins and visits, where practical, to all agencies operating under a provision of law affecting the welfare of children.

(c) Through the county child welfare boards, the department shall work in conjunction with the commissioners courts, juvenile boards, and all other officers and agencies involved in the protection of children. The department may use and allot funds for the establishment and maintenance of homes, schools, and institutions for the care, protection, education, and training of children in conjunction with a juvenile board, a county or city board, or any other agency.

(d) The department shall visit and study the conditions in state-supported eleemosynary institutions for children and shall make actions for the management and operation of the institutions that ensure that the children receive the best possible training in contemplation of their earliest discharge from the institutions.

(e) The department may not spend state funds to accomplish the purposes of this chapter unless the funds have been specifically appropriated for those purposes.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

## SUBCHAPTER C. CHILD AND FAMILY SERVICES

Sec. 264.201. SERVICES BY DEPARTMENT. (a) When the department provides services directly or by contract to an abused or neglected child and the child's family, the services shall be designed to:

- (1) prevent further abuse;
- (2) alleviate the effects of the abuse suffered;
- (3) prevent removal of the child from the home; and
- (4) provide reunification services when appropriate for the return of the child to the home.

(b) The department shall emphasize ameliorative services for sexually abused children.

(c) The department shall provide or contract for necessary services to an abused or neglected child and the child's family without regard to whether the child remains in or is removed from the family home. If parental rights have been terminated, services may be provided only to the child.

(d) The services may include in-home programs, parenting skills training, youth coping skills, and individual and family counseling.

(e) The department may not provide and a court may not order the department to provide supervision for visitation in a child custody matter unless the department is a petitioner or intervener in the underlying suit.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1999, 76th Leg., ch. 1150, Sec. 28, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 49, eff. Sept. 1, 1999.

Sec. 265.002. PREVENTION AND EARLY INTERVENTION SERVICES DIVISION. The department shall operate a division to provide services for children in at-risk situations and for the families of those children and to achieve the consolidation of prevention and early intervention services within the jurisdiction of a single agency in order to avoid fragmentation and duplication of services and to increase the accountability for the delivery and administration of these services. The division shall be called the prevention and early intervention services division and shall have the following duties:

- (1) to plan, develop, and administer a comprehensive and unified delivery system of prevention and early intervention services to children and their families in at-risk situations;
- (2) to improve the responsiveness of services for at-risk children and their families by facilitating greater coordination and flexibility in the use of funds by state and local service providers;
- (3) to provide greater accountability for prevention and early intervention services in order to demonstrate the impact or public benefit of a program by adopting outcome measures; and
- (4) to assist local communities in the coordination and development of prevention and early intervention services in order to maximize federal, state, and local resources.

Added by Acts 1999, 76th Leg., ch. 489, Sec. 2, eff. Sept. 1, 1999.

## Appendix G: Penal Code Chapter 20A

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### PENAL CODE

#### TITLE 5. OFFENSES AGAINST THE PERSON

#### CHAPTER 20A. TRAFFICKING OF PERSONS

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:

(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained;

(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:

- (i) government records;
- (ii) identifying information; or
- (iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:

- (i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;
- (ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or
- (iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

Added by Acts 2003, 78th Leg., ch. 641, Sec. 2, eff. Sept. 1, 2003.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 258, Sec. 16.01, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 849, Sec. 4, eff. June 15, 2007.

Sec. 20A.02. TRAFFICKING OF PERSONS.

(a) A person commits an offense if the person knowingly:

(1) traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or

(2) benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

Added by Acts 2003, 78th Leg., ch. 641, Sec. 2, eff. Sept. 1, 2003.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 258, Sec. 16.02, eff. September 1, 2007. Acts 2007, 80th Leg., R.S., Ch. 849, Sec. 5, eff. June 15, 2007. Acts 2009, 81st Leg., R.S., Ch. 1002, Sec. 7, eff. September 1, 2009.

## Appendix H: Service Providers\* in Five Major Texas Cities for Victims of DMST by Location

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\*A sample of service providers is listed, not all are represented.

### Dallas

- *Mosaic Family Services, Inc.* is the funded service provider lead for the North Texas Anti-Trafficking Task Force. Mosaic works to coordinate services for human trafficking victims. If the necessary service and/or shelter is not accessible, Mosaic takes responsibility in finding residential assistance and services for the victim. Mosaic caseworkers have received training on sex trafficking and on DMST in particular. Mosaic Family Services does not have a residential facility.
- *Promise House* is a crisis intervention program serving homeless, runaway and at-risk teens. Promise House provides crisis intervention, emergency shelter (capacity 16), case management, counseling services, education services, street outreach and advocacy. Promise House can provide shelter to juveniles for 48 hours before needing to obtain parental or guardian consent. Medical services are available but also require parental consent to access. Caseworkers have experience in working with victims of sexual abuse and/or exploitation. If the exploitation involves a family member, CPS is contacted. If a trafficker is identified, law enforcement is contacted.
- *Letot Center* is a staff-secure facility operated by the Dallas County Juvenile Probation Department. Letot works in conjunction with the Dallas Police Department Child Exploitation/High Risk Victims & Trafficking Unit to identify victims of DMST. Letot serves youth both in the community and in an emergency shelter.

### Fort Worth

- *All Church Home (ACH) Services* is involved in an MOU between the Fort Worth Police Department, CPS, juvenile probation, and other nonprofit organizations to alert each other when a trafficking victim is identified. ACH runs an emergency shelter and the Wedgwood residential program for youth ages 4 to 18 who are unable to live at home with their families. ACH provides therapeutic services and are licensed by DFPS. The emergency shelter is licensed for youth ages 10 to 17 with a capacity of 16 beds. In the future they would like to open a shelter specifically devoted to human trafficking. ACH also works in advocacy and promotes public awareness of human trafficking issues.
- *Lena Pope Home* helps families and children with mental health issues and those who are at-risk for problems such as drug abuse, violence or delinquent behavior. A variety of services and programs are offered including counseling, crisis intervention, education services, foster care and adoption services, and special services for the juvenile probation population. The Home receives its referrals from the community, schools, Texas Youth Commission, juvenile probation departments and CPS. Although domestic minor sex trafficking is not a primary focus, it does fall within the realm of the organization's mission.
- *Safe Haven* is the result of a merger of the Women's Haven and the Women's Shelter and provides programming and services for victims of domestic violence. Safe Haven offers a 24-hour hotline operated by volunteers along with two emergency shelters offering meals, clothing, transportation, personal care items, legal assistance, educational programming, and childcare. Victims are primarily referred to the Ft. Worth Police Department Human Trafficking Unit or Mosaic when an initial call is received. There are no eligibility limitations, but no long-term residential care

facilities are offered to minors. The main focus of Safe Haven is domestic violence victims, with no focus on DMST yet, but they do accept DMST victims into the shelter and eventually refer them out.

## San Antonio

- *Roy Maas' Youth Alternatives* operates an emergency shelter and long-term residential facility for boys and girls. The Bridge Emergency shelter serves youth ages 5 to 17 in stays of up to 30 days. Youth admitted to the shelter are interviewed and assessed to determine if the youth is a potential victim of DMST. Roy Maas also provides a counseling center. Juveniles are placed into residential treatment programs from either CPS or juvenile probation. These residential programs have a capacity of 80 youth. Juveniles in the residential program can eventually transfer to the voluntary Turning Point Independent Living program. Turning Point consists of four small facilities housing up to 20 youth at a time. The Turning Point may serve youth ages 17 and older and may stay until their 21<sup>st</sup> birthday.
- *Anti-Trafficking Program, Catholic Charities* is a member of the Bexar County Human Trafficking Task Force, one of the federally funded task forces on human trafficking, charged with forming a comprehensive network of responders to human trafficking. The Anti-Trafficking Program provides professional trainings to law enforcement and social service agencies who are most likely to be first responders to victims of human trafficking and conducting community education and public awareness on the issue of human trafficking.
- *Seton Home* is a licensed residential facility that provides shelter and support services for homeless pregnant teens and their children. Youth must be pregnant or parenting, between the ages of 12 and 17, homeless, in the custody of CPS or juvenile probation, or have been given consent for admission by a legal guardian. Services provided include education, counseling and therapy, life skills, residential living, career development/job training and on-site childcare. Although domestic minor sex trafficking is not a primary focus, it does fall within the realm of the organization's mission.

## Austin

- *Lifeworks* is a member of the Central Texas Coalition Against Human Trafficking. They provide street outreach, emergency shelter, transitional living facilities, and counseling. They have a total capacity of 88. Transitional living is available for youth ages 17 to 22, younger youth are served in the emergency shelter. Lifeworks supports a continuum of care as some youth go from the emergency shelter to transitional living. The Runaway Homeless Youth Act (RHY) provides federal HHS funding for programs/shelters for runaway youth. Lifeworks operates four RHY programs: emergency shelter, outreach, transitional living, and maternity group homes. Lifeworks has experience in working with victims of DMST and is ready to provide services, but a referral process is not in place.
- *SafePlace* specializes in providing services to victims of domestic violence and sexual assault. SafePlace provides community outreach, education and prevention programs, and training materials used by other shelters, law enforcement and advocates. Services include legal and medical consultation, an emergency shelter available for families, counseling and transitional programs. Expect Respect is a counseling and educational program for youth and adults on the prevention of dating violence, sexual assault/abuse, domestic violence and bullying. Although SafePlace specializes in providing services to adult victims of domestic violence and sexual assault, they are involved in a three year project with Lifeworks, an organization that has experience with DMST victims.

- *Austin Children’s Shelter* provides a shelter for children ages 0 to 17 in crisis who have experienced abuse, violence and neglect. Children and youth come to Austin Children’s Shelter through CPS, juvenile probation or Austin Travis County Integral Care. Services include a long-term residential care facility for youth ages 16 and older who are still in foster care and need placement longer than 90 days and a transitional living program for teens and young adults who choose to remain in foster care, are 16 to 21 years old and are enrolled in school or vocational training. Austin Children’s Shelter primarily provides services to children under the jurisdiction of CPS, which generally does not consider DMST victims.

## Houston

- *Covenant House* specializes in helping homeless children by providing residential programs, community services, and outreach efforts. Walk-in services are provided along with an emergency shelter (capacity 80) available 24 hours a day. Anonymous HIV and STD testing, counseling, and health education are also provided. The Rights of Passage program is a transitional living program for older youth that addresses the long-term needs of at-risk youth who first enter the emergency shelter. Once accepted, residents live in apartments at Covenant House for up to 18 months. During their stay residents have ongoing access to counseling services and educational and vocational programs. Although domestic minor sex trafficking is not a primary focus, it does fall within the realm of the organization’s mission.
- *Children at Risk* is a research and advocacy organization which provides information and education on public policy affecting children. In 2007, Children at Risk launched an education outreach campaign to improve and increase the identification human trafficking victims, in particular DMST victims. The organization has also worked in collaboration with Texas lawmakers in drafting legislation to better combat human trafficking.
- *Houston Rescue and Restore Coalition* is a non-profit organization dedicated to confronting human trafficking by educating the public, training professionals and empowering the community to take action. The organization identifies key professionals, such as law enforcement, health care providers, social workers, educators, and others in developing training programs specifically designed for these professionals. These programs focus on improving identification of human trafficking victims for professionals at various levels of contact.