

MINUTES
SENATE INTERIM CHILDREN AND YOUTH
Tuesday, June 26, 2012.

The Senate Interim Children and Youth Committee met on Tuesday, June 26, 2012 in Room 151 at 1:00 p.m., in the State Capitol, Little Rock, Arkansas.

Committee members present were: Senator Missy Irvin; Chair, Jack Crumbly; Vice Chair, David Burnett, Linda Chesterfield, Stephanie Flowers, Steve Harrelson, Jason Rapert and Robert Thompson. Other legislators present were Senator Jeremy Hutchinson; Representatives: Duncan Baird, John Burris, Ann Clemmer, Billy Gaskill, Clark Hall, Kim Hammer, Greg Leding, Fredrick J. Love, Buddy Lovell, Stephanie Malone, Loy Mauch, James McLean, Mike Patterson, and Randy Stewart.

Senator Missy Irvin called the meeting to order. Senator Irvin expressed her appreciation for the press conference kick off of the Summit on Trafficking that was held at 10:00 a.m. and extended her appreciation to Lieutenant Governor Mark Darr for his leadership and support on this issue as well as the Attorney General's office.

Review of Minutes from the Meetings of August 11-12, 2011 [Exhibit B1 and B2]

The minutes were approved as submitted.

Senator Irvin noted that the importance of the Summit is to understand Arkansas' laws dealing with human trafficking and to bring the issue into mainstream public attention.

Overview of Current Arkansas Law regarding Human Trafficking

Brent Gasper, Bureau of Legislative Research, Legislative Attorney

Mr. Gasper reviewed Act 2267 of 2005, the only human trafficking specific statute currently on the books. Subsection B states that a person commits the offense of trafficking of a person: if he or she recruits, harbors, transports or obtains a person for labor or services through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude, peonage, debt bondage, slavery, marriage, adoption or sexual conduct; or benefits financially or by receiving anything of value from participation in a venture under one of the listed activities. Section C of that statute classifies this offense as a felony which carries a sentencing range of 6-30 years and/or a fine of up to \$15,000. This legislation was passed in the 2005 Legislative Session by Representative Elliott, now Senator Elliott. He noted that there have been no reported cases prosecuted under this statute and it is unknown how it would be interpreted if a case were to proceed under the statute.

Senator Hutchinson asked what would constitute the elements of rape. Mr. Gasper said the most common component is forcible compulsion, certain types of coercion, or crossing age thresholds. Specifically, a person commits rape, if he or she engages in sexual intercourse or sexual activity with another person by forcible compulsion, or a person who is incapable of consent because he or she is physically helpless, mentally defective, mentally incapacitated, or who is less than 14 years of age. **Senator Hutchinson asked for a comparison of the charges that are typically filed for kidnapping, sexual abuse and rape to be presented at the next meeting.**

Mr. Bart Dickinson, Assistant Attorney General was recognized and said that in speaking with the Administrative Office of the Courts, this statute as it is currently written, has not been charged in felony information/documentation or appeared on a circuit docket. This is a charge that has not been accounted for

as far as trafficking of persons. Statute §5-27-305, Transportation of Minors for prohibitive sexual conduct, including transporting minors for prostitution is a Class A felony. Senator Rapert asked, what is the typical pattern of punishment that would fall under the Class A or Class Y felony.

Mr. Dickinson said the sentence for a Class Y felony is punishable by 10-40 years to life imprisonment, for rape and kidnapping. A Class Y felon would not be eligible for parole until after serving 70% of the sentence. If the victim is considered a child, within the last 3 or 4 years, the actual range of punishment was raised for rape to 25 years minimum; with a range of 25-40 years up to life.

Senator Irvin said because of the nature of human trafficking, it is an episode of crimes. We want to give prosecutors and law enforcement agencies the tools to go after human trafficking as a crime in and of itself.

Senator Burnett asked if a case had ever been prosecuted under this statute. Mr. Dickinson said the Administrative Office of the Courts advised that their records did not indicate that anyone trafficking (§5-11-108) a person, had ever been arrested on this count.

Senator Rapert said a large portion of the trafficking is done through technology by arranging transportation by using on-line services. If we attempt to use the current statute to expand it, we must define specifically the actions of someone using on-line technology, texting, cell phones, etc., for sex trafficking.

Senator Flowers asked about bordering state's statutes on human trafficking. Mr. Dickinson said he would submit that information to the BLR staff.

Future Plans for Arkansas Legislation regarding Human Trafficking

Representative David Meeks

Representative Meeks said his bill is drafted based on the model legislation created by the national organization known as the Polaris Project. Polaris Project is an organization fighting human trafficking. This bill is based on legislation from other states that have been successful in dealing with human trafficking. Everyone needs to review this bill, and he asked legislators to discuss this bill with local prosecutors and local police chiefs. This bill defines what we need to do to combat human trafficking in Arkansas.

Personal Perspective: Reality of Human Trafficking

Kathy Bryan

Ms. Bryan gave testimony of her personal experiences related to human trafficking. She described how she was lured into a life of forced prostitution and the abuse associated with that lifestyle. In particular, she noted the psychology of intimidation and threats of harm to family members and others, used to discourage escaping bondage. She applauded what this group is doing to bring attention to this issue.

National Perspectives: Human Trafficking

James Dold, Polaris Project, Policy Counsel

Mr. Dold said Polaris Project is an anti-human trafficking organization based in Washington, D. C. that directly serves victims of human trafficking. Offices are also located in New Jersey and Tokyo, Japan. Polaris Project offers comprehensive client services, including transitional housing, individual and group therapy and basic social work needs. The Polaris Project operates the National Human Trafficking Research Center and the National Hotline for the United States Department of Health and Human Service (DHHS). The hotline receives calls from all across the country referencing potential victims of human trafficking which enables them to notify law enforcement and connect victims with service providers. Since 2007 the hotline has fielded over 55,000 calls from across the country, identified over 6,000 potential victims of human trafficking, and sent over 2,000 tips to law enforcement, which has resulted in the successful arrest and prosecution of traffickers. The Polaris Project also engages in policy advocacy at the state and federal level.

Mr. Dold thanked Ms. Bryan for her testimony and said that unfortunately, Ms. Bryan's story is very similar to what is seen at the national hotline on a daily basis. Essentially, traffickers use methods of force, fraud, coercion and intimidation to compel young girls and women, young boys and men to engage in commercial sex and forced labor services. Also, in labor trafficking, especially with women and children that are held as domestic slaves, there are also elements of sexual abuse and rape, violence, threats and drug abuse. Specifically for Arkansas, there is a report detailing 69 calls from Arkansas in 2011. He noted that the United States Department of Justice has opened investigations into instances of human trafficking in all 50 states. Every year, Polaris Project publishes an annual state ratings map, rating states on how they are fighting human trafficking. According to the map, Arkansas is one of the 9 worst when it comes to comprehensive legislative laws to address this problem. The draft bill, based on the Polaris Project model, addresses things that are not currently included in Arkansas Law, including authorizing the use of asset forfeiture. Human trafficking is a \$32 billion a year industry. Additional tools are needed, such as allowing wire tapping. With regards to victim services and restitution, it is very important that we recognize that all of the state agencies should have input to create state specific laws.

Samantha Vardaman, Shared Hope International, Senior Director

Ms. Vardaman began with a particular issue, that of Domestic Minor Sex Trafficking which includes: prostitution, pornography, and sexual performance that use a U. S. citizen minor under 18 years old. She stated that research shows, this is the largest set of victims in America; approximately 100,000 minors every year. Shared Hopes designed the "Protected Innocence Initiative", which is a legislative framework that outlines 40 components of law that is critical to provide the necessary safety net, not only to prevent trafficking but also to respond to trafficking when it does happen. It is divided into 6 issue areas that capture the full constellation of legal issues that could be encountered with discussions about Domestic Minor Sex Trafficking:

1. We have to make sure there is a Domestic Minor Sex Trafficking Law
2. Criminal provisions addressing demand
3. Criminal provisions for traffickers
4. Criminal provisions for facilitators
5. Putting into place protective provisions for child victims
6. Criminal justice tools for investigation and prosecution

She noted that sex trafficking is not prostitution and that there is a need to get it out of the prostitution laws and move it over into the proper area. It is its own crime. Children should not be held accountable for a crime they were forced to commit. Those under 18 rarely have the mental capacity to say no. Ms. Bryan's story is representative of what happens to a minor.

Mr. Dold suggested one potential way to require restitution is to have mandatory fines against the perpetrator and have the fine go to court costs, investigative fees, and have all other assets seized to be available for victim restitution and any money left after a potential civil cause of action could go into a state fund specifically for victim services.

Senator Rapert asked, how many states have adopted some form of the model law? Mr. Dold said he would get the information to him.

Representative Hammer asked if there is any intent to expand the realm of mandated reporters on the hotline. Mr. Dold said that in New York City, they are considering putting the national hotline number on the back of taxi cabs, posting the number in privately owned bus stations and in a similar bill in California, posting the number on all light rail stations. Senator Rapert asked about the possibilities of expanding the penalties against mandated reporters. Mr. Dold said that was a possibility.

There being no further business, the meeting was adjourned.

