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# THE TIME TO ACT WAS YESTERDAY: LOCAL REFORMS TO CONFRONT THE TRAGEDY OF FOR-PROFIT SEXUAL EXPLOITATION AND PROVIDE VICTIM ASSISTANCE

## ABSTRACT

*Contrary to popular belief, the passage of the Thirteenth Amendment did not abolish slavery. Sex trafficking is a form of modern day slavery, and it thrives in America. Fueled by American consumers, sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. The Trafficking Victims Protection Act of 2000, movies like Taken and The Equalizer, and the establishment of America's first gender-specific Girls Court in Hawai'i in 2004, have all brought sex trafficking to light.*

*As the recently realized trafficking epidemic continues to gain attention, both traffickers and their victims are being arrested at higher rates than ever before. This progress has left many states, and will soon leave Iowa, with a surplus of young women in their corrections systems who need trauma-informed, gender-specific therapy.*

*Accordingly, this Note gives a brief primer on the state of sex trafficking and sex-trafficking laws in America. It then recommends Iowa-specific solutions by resolving the deficiencies in Iowa's sex-trafficking code, proposing improvements to its substructure, and outlining the requisite steps and component parts necessary for the successful implementation of Iowa's own Girls Court.*

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*“The undeniable truth is that Trafficking is in Iowa just as it is in every other state in our country; it is in our small towns and our big cities; our children and young women and men are suffering unimaginable cruelties even as we sit here today talking about it.”<sup>1</sup>*

## I. INTRODUCTION

Slavery predates the first human record and remains a global crisis today.<sup>2</sup> Also known as trafficking, an estimated 35.8 million modern day slaves<sup>3</sup> are currently being marketed for “forced labor, sexual exploitation, organs, international matchmaking and the mail-order bride industry, child

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1. *Protecting the Victim: Hearing on Human Trafficking in the United States Before the U.S. Comm. on the Judiciary*, 114th Cong. (2015) [hereinafter *Hearing on Human Trafficking in the United States*] (statement of Michael Ferjak, Senior Criminal Investigator, Iowa Dept. of Justice, Director, Human Trafficking Enforcement and Prosecution Initiative).

2. See Steven Mintz, *Myths and Misconceptions: Slavery and the Slave Trade*, THE GILDER LEHRMAN INST. OF AM. HIST., <http://www.gilderlehrman.org/history-by-era/origins-slavery/resources/myths-and-misconceptions-slavery-and-slave-trade> (last visited Nov. 30, 2015).

3. *Findings*, THE GLOBAL SLAVERY INDEX, <http://www.globallslaveryindex.org/findings/> (last visited Nov. 30, 2015).

pornography, illegal adoptions, camel jockeying, and forced begging.”<sup>4</sup> Disturbingly, trafficking and its by-products leave few with unclean hands.<sup>5</sup>

Americans are no exception.<sup>6</sup> Sex trafficking—a unique form of trafficking involving sexual exploitation—thrives because of American consumers. Estimates indicate that “14,500 to 17,500 foreign nationals [are] trafficked into the [United States] each year,” and 100,000 to 300,000 American children go missing each year who are at risk of being sex trafficked.<sup>7</sup> Girls are deceived into sex trafficking at an average age of 12–14,” and many of these girls are deceived into this horrific world after suffering sexual abuse at home.<sup>8</sup> For the pimps who prey on these girls, sex trafficking provides their means of living; the Department of State estimates pimps make approximately \$21,800 per year per victim of sexual exploitation.<sup>9</sup>

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4. Ellen L. Buckwalter et al., *Modern Day Slavery in Our Own Backyard*, 12 WM. & MARY J. WOMEN & L. 403, 406 (2006) (citations omitted); see also John Kerry, U.S. Secretary of State, Remarks at the Release of the 2014 Trafficking in Persons Report (June 20, 2014), <http://www.state.gov/secretary/remarks/2014/06/228083.htm> (“If the cries of those who are enslaved around the world today were an earthquake, then the tremors would be felt in every single nation on the continent on every continent simultaneously.”).

5. See, e.g., *A Day in Your Life: Touched by Modern Slavery*, U.S. DEPT. OF STATE (June 20, 2014), <http://www.state.gov/j/tip/rls/fs/2014/233738.htm> (showing that American consumers, for instance, unconsciously contribute to human trafficking by wearing clothing produced by garment factories that subject their workers to forced labor, physical and sexual abuse, purchasing electronics from Asian factories sustained by persons sold or deceived into working long hours without pay due to violent threats, and sleeping on cotton sheets containing cotton harvested by forced laborers in Central Asia and Africa).

6. See, e.g., Leif Coorlim & Dana Ford, *Sex Trafficking: The New American Slavery*, CNN (July 21, 2015), <http://www.cnn.com/2015/07/20/us/sex-trafficking/>; Steve Hargreaves, *I Was a Modern-Day Slave in America*, CNN MONEY (Nov. 25, 2013), <http://money.cnn.com/2013/11/21/news/economy/human-trafficking-slave/>; Nicholas Kristof, *Slavery Isn't a Thing of the Past*, Opinion, N.Y. TIMES (Nov. 6, 2013), [http://www.nytimes.com/2013/11/07/opinion/slavery-isnt-a-thing-of-the-past.html?\\_r=0](http://www.nytimes.com/2013/11/07/opinion/slavery-isnt-a-thing-of-the-past.html?_r=0).

7. Suzanne Leonard Harrison et al., AM. MED. WOMEN'S ASS'N, Position Paper on the Sex Trafficking of Women and Girls in the United States 2 (2014) (citations omitted), [https://www.amwa-doc.org/wp-content/uploads/2013/12/AMWA-Position-Paper-on-Human-Sex-Trafficking\\_May-20141.pdf](https://www.amwa-doc.org/wp-content/uploads/2013/12/AMWA-Position-Paper-on-Human-Sex-Trafficking_May-20141.pdf).

8. *Id.* (citing LINDA A. SMITH, SAMANTHA HEALY VARDAMAN & MELISSA A. SNOW, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED CHILDREN (2009)).

9. OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPT. OF STATE, THE ECONOMICS OF FORCED LABOR 1 (2014), <http://www.state.gov/documents/>

This Note addresses the American sex-trafficking crisis. It provides a brief primer on sex trafficking and sex-trafficking laws.<sup>10</sup> It then examines Girls Courts—alternative, therapeutic courts fashioned to better accommodate victims of sex trafficking and sexual exploitation—and their constitutionality.<sup>11</sup> After considering the make-up of already existing Girls Courts and Iowa law, this Note sets forth recommendations for Iowa’s sex-trafficking code, a supporting infrastructure for its sex-trafficking provisions, and a Girls Court.<sup>12</sup>

## II. DEFINING THE SITUATION: THE CURRENT STATE OF MODERN DAY SLAVERY AND EFFORTS TO PROSECUTE IT

### A. *Sex Trafficking Defined*

Sex trafficking is a form of human trafficking. As defined by the Trafficking Victims Protection Act of 2000, it is the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”<sup>13</sup> A commercial sex act is “any sex act on account of which anything of value is given to or received by any person.”<sup>14</sup>

Geographically speaking, there are two paths to becoming a victim of sexual exploitation in America: One path begins in a foreign country, where a pimp lures the victim into the United States on false pretenses; the other path begins at home, where a pimp may lure a U.S. minor away from a traumatic home life.<sup>15</sup> Recent Eleventh, Second, and Third Circuit Court of Appeals cases demonstrate the former. In *United States v. Cortes-Meza*, for instance, the Eleventh Circuit upheld sentences for two pimps who pled guilty to operating a forced prostitution ring.<sup>16</sup> The defendants enticed poor, young women into fleeing the rural areas of Mexico and forced the women to prostitute away their “traveling expenses” upon arrival in the United States.<sup>17</sup> The victims were held against their will, verbally and physically

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organization/228263.pdf.

10. See *infra* Parts II–III.

11. See *infra* Part IV.

12. See *infra* Part V.

13. 22 U.S.C. § 7102(9) (2012).

14. See *id.* § 7102(3).

15. See *The Prostitution of Children*, U.S. DEPT. OF JUST., <http://www.justice.gov/criminal-ceos/prostitution-children> (last updated June 3, 2015).

16. *United States v. Cortes-Meza*, 411 F. App’x 284, 285, 295 (11th Cir. 2011).

17. *Id.* at 286.

abused, and controlled by defendants with a “combination of smuggling debts, romantic ties, psychological manipulation, false promises, threats, and occasional violence.”<sup>18</sup> One victim testified that she was forced to have sex with approximately 30–35 clients per night, every night, and in spite of the pain, she would be beaten if she refused to work the following day.<sup>19</sup> This particular ring operated in Atlanta, Georgia.<sup>20</sup>

Likewise, the Second Circuit upheld similar sentences for pimps who smuggled Mexican women into New York.<sup>21</sup> The defendants forced the women to engage in commercial sex acts “nearly every day” using “violence, manipulation, and threats of physical restriction” to control them.<sup>22</sup> The Third Circuit upheld a sentence for a defendant who coerced young, naïve, and impoverished girls from Mexico to the defendant’s brothel in New Jersey, where they were raped, beaten, and forced to prostitute.<sup>23</sup>

The facts of a recent California Court of Appeals case demonstrate the latter path—the path commencing on domestic soil.<sup>24</sup> In *In re M.V.*, the court summarized the victim’s history of sexual exploitation;<sup>25</sup> her experiences are representative of a whole class of minors who are at high risk for sexual exploitation in America.<sup>26</sup> The court found M.V. was likely sexually abused as early as age 7; both M.V. and her mother had a history of substance abuse; M.V. was hospitalized at age 14 for mental health issues, including depression, ADHD, and bipolar disorder; she resided in several foster homes; and at 15-years-old, she “met a guy” who introduced her to prostitution.<sup>27</sup>

Unlike young women lured into the country and controlled by their enticer, victims in the latter group are more likely to have experience with several pimps.<sup>28</sup> L.G. was forced into prostitution at age 12.<sup>29</sup> Her first pimp,

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18. *Id.*

19. *Id.* at 289.

20. *Id.* at 286–87.

21. *United States v. Carreto*, 583 F.3d 152, 154–55, 160 (2d Cir. 2009).

22. *Id.*

23. *United States v. Jimenez-Calderon*, 183 F. App’x 274, 276–78 (3d Cir. 2006).

24. *See In re M.V.*, 171 Cal. Rptr. 3d 519, 525–28 (2014), *review denied* (Aug. 13, 2014).

25. *Id.* at 526.

26. *See The Prostitution of Children*, *supra* note 15.

27. *In re M.V.*, 171 Cal. Rptr. 3d at 525–28.

28. *See e.g., People v. L.G.*, 972 N.Y.S.2d 418, 420–21 (Crim. Ct. 2013).

29. *Id.* at 420.

a man in his thirties that the court refers to as “A,” enticed her away from her foster home and kept her in a house with six other minors.<sup>30</sup> There, L.G. learned the rules of “A”’s “game” and began prostituting for “A” at the “‘track’ on Pennsylvania Avenue in Brooklyn.”<sup>31</sup> “A” severely beat the other girls for merely speaking with other men.<sup>32</sup> L.G. then began working for a pimp named ‘B’; L.G. remembered “B” as being nice the first day, but thereafter, she was forced to prostitute from 7:00 p.m. to 8:00 a.m. each day.<sup>33</sup> At 13-years-old, L.G. started working for “C,” a pimp who retained all her profits in exchange for L.G. being provided her own room.<sup>34</sup> Six months later, L.G. met “D,” who took her to New Jersey, Washington, D.C., and finally Florida, where she attempted to leave “the life” and was returned to foster care.<sup>35</sup> There, L.G. was introduced to her last pimp, “E,” by a friend in Coney Island.<sup>36</sup> L.G. was 14-years-old at this point and “E” was about 30-years-old.<sup>37</sup> “E” was extremely violent and would beat his girls with belts, irons, and other objects; he once beat L.G. so severely about the face that she could not leave the house for two weeks.<sup>38</sup> L.G. was finally able to escape “E” and “the life” at 18-years-old.<sup>39</sup>

As this Note later emphasizes, sex trafficking is hardly confined to large coastal cities. Brittany, a young Iowan recently rescued from trafficking, was recruited at a Cedar Rapids grocery store.<sup>40</sup> Her soon-to-be pimp enticed her with a modeling job that would never be; she was 14-years-old at the time.<sup>41</sup> A documentary, *Any Kid, Anywhere: Sex Trafficking Survivor Stories*, recounts the story of three Iowa girls who were sex trafficked.<sup>42</sup> Likewise, a couple in Clive, Iowa were recently arrested for the

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30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.* Like “A,” “B” also intimidated L.G. and other girls working for him with threats of violence. *Id.*

34. *Id.* at 420–21.

35. *Id.* at 421.

36. *Id.*

37. *Id.*

38. *Id.* “E” was worried L.G.’s wounds would attract attention from the police. *Id.*

39. *Id.* at 422.

40. Danielle Ferguson, *Mother of Human Trafficking Survivor Shares Her Story*, IOWA STATE DAILY (Mar. 4, 2015), [http://www.iowastatedaily.com/news/student\\_life/article\\_8c844546-c16b-11e4-a141-ab4c6d2acab9.html](http://www.iowastatedaily.com/news/student_life/article_8c844546-c16b-11e4-a141-ab4c6d2acab9.html).

41. *Id.*

42. Bridget Garrity, *Documentary Examines Human Trafficking in Iowa*, DES

alleged kidnapping, sexual abuse, torture, and trafficking of another Iowa woman.<sup>43</sup> In fact, Iowa has seen sex-trafficking cases since approximately 2005.<sup>44</sup>

The stories of these victims are common. According to the State Department, sex-trafficking prosecutions in 2013 involved

defendants who lured adults and children through false promises, advertised the victims online, inflicted beatings, and threatened the victims with guns to compel them into commercial sex; defendants who compelled their victims using addictive drugs to coerce them to engage in prostitution . . . [and defendants] who [exerted] control over the victims' children to compel the victims to engage in commercial sex acts . . . .<sup>45</sup>

Sex trafficking is modern-day slavery.<sup>46</sup>

#### B. U.S. Efforts to Combat Human Trafficking, Generally

The U.S. government dedicates significant resources to human trafficking.<sup>47</sup> The FBI, Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement Homeland Security Investigations (ICE HSI), and the Department of State's (DOS) Diplomatic Security Service (DSS) Human Trafficking Unit all investigate human trafficking.<sup>48</sup> Likewise, the DOJ's U.S. Attorney's Offices (USAO), as well as its Civil

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MOINES REGISTER (Jan. 20, 2015), <http://www.desmoinesregister.com/story/news/2015/01/21/human-trafficking-iowa-examined-film/22071957/>.

43. Stephanie Moore, *Expert Weighs in on Clive Couple's Kidnapping, Sexual Abuse Case*, WHOTV (Jan. 9, 2015), <http://whotv.com/2015/01/09/expert-weighs-in-on-clive-couples-kidnapping-sexual-abuse-case/>.

44. *Id.*

45. UNITED STATES DEPT. OF STATE, TRAFFICKING IN PERSONS REPORT COUNTRY NARRATIVES: T–Z AND SPECIAL CASE 399 (2014), <http://www.state.gov/documents/organization/226849.pdf> [hereinafter TRAFFICKING IN PERSONS REPORT].

46. See *What is Modern Slavery*, U.S. DEPT. OF STATE, <http://www.state.gov/j/tip/what/> (last visited Nov. 30, 2015).

47. See, e.g., Office of Pub. Affairs, *Attorney General Lynch Announces \$44 Million in Grant Funding to Combat Human Trafficking and Support Survivors*, U.S. DEPT. OF JUST. (Sept. 24, 2015), <http://www.justice.gov/opa/pr/attorney-general-lynch-announces-44-million-grant-funding-combat-human-trafficking-and-federal-government-efforts-to-combat-human-trafficking>, U.S. DEPT. OF HEALTH & HUMAN SERVS. (Sep. 27, 2012), <http://www.acf.hhs.gov/programs/orr/resource/federal-government-efforts-to-combat-human-trafficking>.

48. TRAFFICKING IN PERSONS REPORT, *supra* note 45, at 398.

Rights Division's Human Trafficking Prosecution Unit (HTPU), and the Criminal Division's Child Exploitation and Obscenity Section (CEOS), are all involved in the prosecution of trafficking offenses.<sup>49</sup>

Of those resources, a significant amount are dedicated to sex trafficking.<sup>50</sup> Sex-trafficking cases represent the majority of human-trafficking indictments.<sup>51</sup> Of the cases prosecuted in fiscal year 2013, the USAO, the HTPU, and the CEOS of the DOJ charged 253 defendants with human trafficking; 222 of those defendants were involved in sex trafficking.<sup>52</sup> The DOJ's Civil Rights Division, in coordination with Attorney Generals, initiated 71 human-trafficking prosecutions; 53 of those cases were predominately sex-trafficking cases.<sup>53</sup> Likewise, a majority of the over 100 state human-trafficking cases prosecuted were sex-trafficking cases.<sup>54</sup>

While the federal government dedicates significant resources to fighting trafficking, the 2014 Trafficking in Persons Report still recommends the United States work toward facilitating victim identification, increasing funding for agencies that provide victim services,<sup>55</sup> strengthening interagency coordination, enacting safe harbor laws, and providing enhanced training for law enforcement, criminal and juvenile justice officials, family court officials, health care professionals, social service, child welfare entities, emergency call operators, and first responders.<sup>56</sup>

The efforts of the U.S. government show that the prosecution of human and sex trafficking is making its way to the forefront of national concern.<sup>57</sup> This is further demonstrated by the federal and state legislation in place to prosecute pimps and assist sex-trafficking victims.<sup>58</sup>

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49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* The other 31 cases dealt predominately with labor trafficking. *Id.*

53. *Id.*

54. *Id.* at 399.

55. Current funding exists to help victims of sex trafficking in the form of medical, dental, substance abuse and mental health treatment, shelter and transportation assistance, translation services, legal assistance and immigration assistance, employment services, and other assistance. *See id.* at 399–400.

56. *Id.* at 397–98.

57. *See id.* at 398–99.

58. *See id.* at 398–401.

### III. THE EVOLUTION OF SEX-TRAFFICKING LAWS IN THE UNITED STATES: THE FIGHT AGAINST SEX TRAFFICKING BECOMES STATUTORY

#### *A. Heightened Awareness Resulted in an Onslaught of Federal Legislation*

Before the enactment of modern sex-trafficking statutes, traffickers had to be prosecuted under old anti-slavery statutes.<sup>59</sup> The foundation for modern sex-trafficking prosecution, the Trafficking Victims Protection Act (TVPA), was not passed until 2000.<sup>60</sup> The TVPA established several methods of prosecuting traffickers, preventing human trafficking, and protecting its victims.<sup>61</sup> It established the Office to Monitor and Combat Trafficking in Persons, which publishes a Trafficking in Persons (TIP) report to Congress each year, and the Interagency Task Force to Monitor and Combat Trafficking, which assists in the implementation of the TVPA.<sup>62</sup>

Congress has reauthorized the TVPA four times. The TVPA was first reauthorized in 2003 and some of the reauthorization's highlights included: a new federal civil rights cause of action for trafficking victims to sue their traffickers, the addition of trafficking to the crimes that can be charged under the Racketeering Influenced and Corrupt Organization Act (RICO),<sup>63</sup> further protection for trafficking victims against deportation, and the requirement that the Attorney General report the federal government's progress on trafficking to Congress annually.<sup>64</sup> It was next reauthorized in 2005: this reauthorization created a pilot program for sheltering minor trafficking survivors, created grant programs to assist law enforcement in fighting trafficking, and created additional means to combat international

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59. *See, e.g.*, The Mann Act, 18 U.S.C. §§ 2421–2424 (2012). This Act criminalizes the transportation of minors and the coercion of adults to travel across state lines or to foreign countries for the purposes of engaging in commercial sex. *Id.*; *see also* 18 U.S.C. § 1581 (2012). These laws are “rooted in the prohibition against slavery and involuntary servitude guaranteed by the Thirteenth Amendment to the United States Constitution.” *Human Trafficking Protection Unit (HTPU)*, U.S. DEPT. OF JUST., <http://www.justice.gov/crt/human-trafficking-prosecution-unit-htpu> (last updated Nov. 20, 2015).

60. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (codified as amended at 18 U.S.C. § 1591 (2012), 22 U.S.C. § 7101 (2012), 42 U.S.C. § 14044 (2012)).

61. *See id.* §§ 106–107, 112.

62. *See id.* § 105.

63. 18 U.S.C. §§ 1961(1), 1962.

64. *See generally* Pub. L. No. 108-193, 117 Stat. 2875 (2003).

trafficking.<sup>65</sup>

The TVPA Reauthorization Act of 2008 promulgated new systems for government accumulation of trafficking data, enacted new prevention strategies, enhanced criminal penalties for traffickers and their co-conspirators, and lowered the standard of proof and knowledge requirements necessary to convict a trafficker.<sup>66</sup> The most recent reauthorization of the TVPA was accomplished as an amendment to the Violence Against Women Reauthorization Act of 2013.<sup>67</sup> It established programs to ensure U.S. citizens do not purchase products produced by trafficking victims,<sup>68</sup> as well as emergency response provisions that will help U.S. agents quickly respond to areas where people are particularly susceptible to being trafficked.<sup>69</sup> Finally, it criminalized the confiscation of victims' identity documents, which is a means of coercion for traffickers.<sup>70</sup>

In the midst of TVPA reauthorizations, Congress passed the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003.<sup>71</sup> The PROTECT Act established enhanced penalties for sex traffickers of minors and child pornography,<sup>72</sup> and it established the Amber Alert System and other methods of alerting the public to missing, exploited, and abducted children.<sup>73</sup> The PROTECT Act also abdicated the previous statute of limitations for these crimes that prevented prosecution when the victim turned 25.<sup>74</sup> More recently, Congress passed the National Defense Authorization Act for Fiscal Year 2013.<sup>75</sup> The Act was aimed at limiting human trafficking associated with government contractors.<sup>76</sup> Sections 1701–1708 give government agencies the ability to terminate any contract or grant with any organization or individual that

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65. *See generally* Pub. L. No. 109-164, 119 Stat. 3558 (2006).

66. *See generally* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (2008).

67. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (2013).

68. *Id.* § 1202.

69. *Id.*

70. *See id.* § 1211.

71. PROTECT Act, Pub. L. No. 108-21, 117 Stat. 650 (2003).

72. *Id.* §§ 105, 401, 501–13.

73. *Id.* §§ 301–23.

74. *See id.* § 202.

75. Pub. L. No. 112-239, §§ 1701–1708, 126 Stat. 1632, 2092–2098 (2013).

76. *See id.*

engages in trafficking.<sup>77</sup>

B. *The States Follow in Congress's Footsteps*

As this appreciable body of federal legislation illustrates, sex and human trafficking is a concern that has gained significant political attention.<sup>78</sup> This is true at the state level as well. Washington and Texas were the first states to implement sex-trafficking laws, doing so in 2003.<sup>79</sup> Since then, all 50 states and the District of Columbia have enacted sex-trafficking statutes.<sup>80</sup>

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77. *See id.*

78. *See, e.g.,* Kerry, *supra* note 4.

79. TEX. PENAL CODE ANN. §§ 20A.01, 20A.02 (West 2015); WASH. REV. CODE ANN. § 9A.40.100 (West 2015).

80. ALA. CODE §§ 13A-6-152, 13A-6-153 (West 2015); ALASKA STAT. ANN. §§ 11.66.110–11.66.135 (West 2015); ARIZ. REV. STAT. ANN. § 13-1307 (West 2015); ARK. CODE ANN. §§ 5-18-102–5-18-103 (West 2015); CAL. PENAL CODE § 236.1 (West 2015); COLO. REV. STAT. ANN. §§ 18-3-501–18-3-502, 18-3-504 (West 2015); CONN. GEN. STAT. ANN. §§ 53a-192, 53a-192a (West 2015); DEL. CODE ANN. tit. 11, § 787 (West 2015); D.C. CODE ANN. §§ 22-1831, 22-1833, 22-1834 (West 2015); FLA. STAT. ANN. § 787.06 (West 2015); GA. CODE ANN. § 16-5-46 (West 2015); HAW. REV. STAT. ANN. §§ 712-1201–712-1203 (West 2015); IDAHO CODE ANN. § 18-8602 (West 2015); 720 ILL. COMP. STAT. ANN. 5/10-9 (West 2015); IND. CODE ANN. § 35-42-3.5-1 (West 2015); IOWA CODE §§ 710A.1, .2 (2015); KAN. STAT. ANN. § 21-5426 (West 2015); KY. REV. STAT. ANN. §§ 529.010, 529.100, .110 (West 2015); LA. STAT. ANN. § 14:46.2 (2015); ME. STAT. tit. 17-A, §§ 852, 853 (2015); MD. CODE ANN., CRIM. LAW § 11-303 (West 2015); MASS. GEN. LAWS ANN. ch. 265, § 50 (West 2015); MICH. COMP. LAWS ANN. § 750.462b (2015); MINN. STAT. ANN. §§ 609.321, 609.322 (West 2015); MISS. CODE ANN. §§ 97-3-54.1–97-3-54.4 (West 2015); MO. ANN. STAT. §§ 566.200, .209 (West 2015); MONT. CODE ANN. § 45-5-702 (West 2015); NEB. REV. STAT. ANN. §§ 28-830, 28-831 (West 2015); NEV. REV. STAT. ANN. § 201.300 (West 2015); N.H. REV. STAT. ANN. § 633:7 (West 2015); N.J. STAT. ANN. §§ 2C:13-8, 2C:13-9 (West 2015); N.M. STAT. ANN. § 30-52-1 (West 2015); N.Y. SOC. SERV. LAW § 483-aa (West 2015); N.Y. PENAL LAW §§ 230.34–230.36 (West 2015); N.C. GEN. STAT. ANN. §§ 14-43.10, .11, .13 (West 2015); N.D. CENT. CODE ANN. § 12.1-41-02, 12.1-41-04 (West 2015); OHIO REV. CODE ANN. §§ 2905.31, 2905.32 (West 2015); OKLA. STAT. ANN. tit. 21, §§ 748, 866 (West 2015); OR. REV. STAT. ANN. § 163.266 (West 2015); 18 PA. STAT. AND CONS. STAT. ANN. §§ 3001, 3011 (West 2015); 11 R.I. GEN. LAWS ANN. §§ 11-67-1–11-67-3 (West 2015); S.C. CODE ANN. §§ 16-3-2010, 16-3-2020 (2015); S.D. CODIFIED LAWS §§ 22-49-1–22-49-3 (2015); TENN. CODE ANN. § 39-13-309 (West 2015); TEX. PENAL CODE ANN. § 20A.01 (West 2015); UTAH CODE ANN. §§ 76-5-308–76-5-310 (West 2015); VT. STAT. ANN. tit. 13, §§ 2651–2653 (West 2015); VA. CODE ANN. §§ 18.2-48, 18.2-356 (West 2015); WASH. REV. CODE ANN. § 9A.40.100 (West 2015); W. VA. CODE ANN. § 61-2-17 (West 2015); WIS. STAT. ANN. § 940.302 (West 2015); WYO. STAT. ANN. §§ 6-2-702–6-2-705 (West 2015).

This progress has not gone unnoticed. In 2011, the Polaris Project, a nonprofit based out of Washington D.C., started publishing an annual rating of all 50 states and the District of Columbia.<sup>81</sup> These ratings are the only of their kind, and they are considered authoritative in the trafficking field—Polaris is a well-respected, highly influential leader among trafficking-related nonprofits.<sup>82</sup>

Polaris identified 10 categories of laws it deemed fundamental to combatting human trafficking, and it gave each state a tier rating (1 being the highest, 4 being the lowest) based on their implementation of those laws; these laws included:

- (1) sex trafficking;
- (2) labor trafficking;
- (3a) asset forfeiture for trafficking offenses,
- (3b) investigative tools such as including human trafficking in the state racketeering statute or authorization of interception of communications during investigations into trafficking;
- (4a) training for law enforcement,
- (4b) development of a task force;
- (5) lower burden of proof for the prosecution of child sex trafficking offenses;
- (6) posting information about a human trafficking hotline;
- (7) providing safe harbor to minor victims of trafficking;
- (8) victim assistance plans or services;
- (9) a civil remedy for human trafficking victims;
- and (10) vacating convictions.<sup>83</sup>

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81. *State Laws & Issue Briefs*, POLARIS PROJECT, <https://polarisproject.org/state-laws-issue-briefs> (last visited Nov. 30, 2015); *see generally* POLARIS PROJECT, A LOOK BACK: BUILDING A HUMAN TRAFFICKING LEGAL FRAMEWORK (2014), <https://polarisproject.org/sites/default/files/2014-Look-Back.pdf> [hereinafter, POLARIS, A LOOK BACK].

82. *See, e.g., 2014 State Ratings on Human Trafficking Laws*, POLARIS PROJECT (Sept. 2014), <http://www.polarisproject.org/resources/2014-state-ratings-human-trafficking-laws>; *Theory of Change*, POLARIS PROJECT, <https://polarisproject.org/theory-change> (last visited Nov. 30, 2015) (noting Polaris provides client services through advisory services, policy advocacy as a central hub of human-trafficking legislative expertise, and their operation as a national human-trafficking hotline); *see also* Polaris, CHARITY NAVIGATOR, <http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=12434#.VkNcBaPnabh> (last visited Nov. 30, 2015) (noting Polaris received an overall score of 97.27 by Charity Navigator, which was the highest rating among trafficking and civil rights nonprofits).

83. POLARIS, A LOOK BACK, *supra* note 81, at 2. While these 10 categories made up the standard against which states were judged from 2011–2014, Polaris has admitted this system was not free from flaws: these ratings did not measure the impact of state laws, and after 2011, “new information and ideas have emerged that cannot be meaningfully incorporated” into the original rubric, such as vacating conviction laws. *Id.* at 3–4. For this reason, Polaris announced it would retire its state ratings system after

According to Polaris, this rating process serves two purposes: “it provides recommendations to state policymakers and advocates for the establishment of a basic legal response at the state level and also provides a way for states to track their progress in building that response.”<sup>84</sup> These ratings showed significant improvement in sex-trafficking legislation at the state level.<sup>85</sup> In 2011, only 11 states qualified for a Tier 1 rating.<sup>86</sup> That number increased to 21 in 2012, 32 in 2013, and 39 in 2014.<sup>87</sup>

Notwithstanding the progress made in the area of basic sex-trafficking legislation, there is still legislation to be passed. Specifically, according to Polaris, states need to devote additional attention to laws regarding the “posting of human trafficking hotline information, safe harbor . . . , victim assistance, access to civil damages, and vacating convictions.”<sup>88</sup> For this reason, Polaris released a separate rating based upon the “10 categories of laws that are critical to a basic framework that combats human trafficking, punishes traffickers, and supports survivors.”<sup>89</sup> According to this rating, only 12 states are Tier 1, and Iowa is not one of them.<sup>90</sup> Legislation is not the only way to combat sex trafficking, however, as illustrated by some states’ adoption of a so-called “Girls Court.”<sup>91</sup>

#### IV. THE IMPLEMENTATION OF GIRLS COURTS

Girls Courts are specialty courts, born for the same reason as existing drug and family violence and mental health specialty courts.<sup>92</sup> Specialty

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2014. *Id.* at 4.

84. *Id.* at 2–3.

85. *Id.* at 3.

86. *Id.*

87. *Id.*

88. *Id.*

89. 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, POLARIS PROJECT, <http://www.polarisproject.org/sites/default/files/2014-State-Ratings.pdf> (last visited Nov. 30, 2015).

90. *Id.*

91. *See infra* Part IV.

92. *See, e.g.*, CHILDREN AT RISK, JUVENILE SPECIALTY COURTS: AN EXAMINATION OF REHABILITATIVE JUSTICE IN TEXAS AND ACROSS THE NATION 26–30 (2014), <http://childrenatrisk.org/wp-content/uploads/2013/05/Juvenile-Specialty-Courts-2014-web.pdf> (describing various forms of specialty courts). “Girls’ courts identify victims of sex trafficking who have been charged with juvenile offenses and provide them with intensive services to facilitate their recovery from their traumatic experiences.” *Id.* at 28 (citing Judge Glenn Devlin, Presiding Judge 313th District Court, Remarks at

courts are different from adversarial courts in that they utilize a team approach<sup>93</sup> and atypical court models.<sup>94</sup> While specialty courts have been around for decades, Girls Courts are new; in fact, the “modern” Girls Court originated in a Hawaiian courtroom in September 2004.<sup>95</sup>

The birth of Girls Courts is the result of a fundamental change in thinking about the way prostitutes and other victims of sexual exploitation should be viewed.<sup>96</sup> Texas, for instance, implemented its Girls Courts when probation officers noticed that girls in their drug court were presenting gender specific issues inappropriate for that court model.<sup>97</sup> One case in particular, *In re B.W.*, was instrumental in motivating this shift.<sup>98</sup> In that case, the Texas Supreme Court found that a minor cannot legally consent to sex, and the Texas Legislature “did not intend to ‘transform a child victim of adult sexual exploitation into a juvenile offender.’”<sup>99</sup> In response, Judge Angela Ellis suggested developing a Girls Court to offer “supervision and therapeutic” services to address the cases in which juvenile court and Child Protective Services overlap.<sup>100</sup>

Florida implemented its Girls Courts after a similar shift in thinking. Dr. Lawanda Ravoira, President and CEO of the Delores Barr Weaver Policy Center in Jacksonville, Florida, stated that their “Girls Court is a wise investment. By reducing recidivism and commitment to costly residential commitment facilities, Girls Court is a cost effective intervention to

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CHILDREN AT RISK Houston Continuing Legal Education Seminar Innovations in Juvenile Justice: Juvenile Specialty Courts (June 13, 2013)).

93. Nicole Kozdron, Note, *Midwestern Juvenile Drug Courts: Analysis & Recommendations*, 84 IND. L.J. 373, 374 (2009) (“The hallmark of drug courts is a team approach . . .”).

94. CHILDREN AT RISK, *supra* note 92, at 20–21. “Specialty courts generally operate under one of three different models:” (1) “pre-adjudication;” (2) “post-adjudication;” and (3) a “combination.” *Id.*

95. *About Us*, HAWAII GIRLS CT., [www.girlscourt.org/aboutus.html](http://www.girlscourt.org/aboutus.html) (last visited Nov. 30, 2015) [hereinafter *About Hawai‘i Girls Court*].

96. See Patricia Leigh Brown, *A Court’s All-Hands Approach Aids Girls Most at Risk*, N.Y. TIMES (Jan. 28, 2014), [http://www.nytimes.com/2014/01/29/us/a-courts-all-hands-approach-aids-girls-most-at-risk.html?\\_r=0](http://www.nytimes.com/2014/01/29/us/a-courts-all-hands-approach-aids-girls-most-at-risk.html?_r=0).

97. AM. LEADERSHIP FORUM, ALF FORGED CONNECTIONS TO HELP CREATE THE HARRIS COUNTY GIRL COURT AND DECRIMINALIZE GIRLS WHO ARE VICTIMS OF CHILD SEXUAL ABUSE 1, <http://www.alfhouston.com/clientuploads/Collaborations/GIRLS%20Court.pdf> [hereinafter HARRIS COUNTY GIRL COURT].

98. *See id.*

99. *Id.* (quoting *In re B.W.*, 313 S.W.3d 818, 819 (Tex. 2010)).

100. *Id.*

effectively meet the mental health and multiple social needs of girls and young women in our community.”<sup>101</sup>

#### A. *The Need for Girls Courts*

Like other specialty courts, Girls Courts were established to address several unique challenges that victims of sex trafficking present:

- Drug addiction: victims are often provided drugs by their pimps and consequently use drugs and alcohol as a coping mechanism;
- Distrust of law enforcement and medical personnel: pimps often teach victims to distrust service providers;
- Flight risk: victims often run away to be with their pimps;
- Trauma: victims have often experienced violence, sexual and emotional abuse, and isolation;
- Preexisting trauma: victims may come from dysfunctional homes;
- Pimp-loyalty: victims bond with their trafficker and consequently downplay their trauma to please them; and
- Denial: victims do not identify as victims.<sup>102</sup>

There are a handful of Girls Courts active at this time, including: a Hawai'i Girls Court;<sup>103</sup> four California Girls Courts;<sup>104</sup> three Texas Girls Courts;<sup>105</sup> two Florida Girls Courts;<sup>106</sup> and a New York Human Trafficking

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101. Press Release, Delores Barr Weaver Policy Center, Policy Center Partners to Launch Jacksonville Based Girl Court (June 5, 2014) (quoting Dr. Lawanda Ravoira), <https://www.seethegirl.org/policy-center-partners-launch-jacksonville-based-girls-court/> [hereinafter Delores Barr Weaver Policy Center].

102. CHILDREN AT RISK, *supra* note 92, at 98.

103. *About Hawai'i Girls Court*, *supra* note 95.

104. Thomas Carroll, *Gender and Juvenile Justice: New Courts, Programs Address Needs of Girls*, NAT'L CTR. FOR YOUTH LAW, <http://youthlaw.org/publication/gender-and-juvenile-justice-new-courts-programs-address-needs-of-girls/> (last visited Nov. 30, 2015).

105. See CHILDREN AT RISK, *supra* note 92, at 97–111; *Texas Specialty Courts*, OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION (Nov. 2, 2015), [http://gov.texas.gov/files/cjd/Specialty\\_Courts\\_By\\_County\\_November\\_2015.pdf](http://gov.texas.gov/files/cjd/Specialty_Courts_By_County_November_2015.pdf).

106. Meredith Rutland, *Girls Court Aims to Support Young Women With Services, Not Sentences*, FLA. TIMES-UNION (Sep. 17, 2014), <http://jacksonville.com/news/metro/2014-09-17/story/girls-court-aims-support-young-women-services-not-sentences>.

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Intervention Initiative, which is a network of statewide human-trafficking courts.<sup>107</sup>

Each court is unique and varies in its structure, the way it receives and advocates for funding, identifies participants, addresses gender sensitivity, collaborates with law enforcement and community service providers, requires parental participation, provides services, houses participants, and guides them to graduation. Each of these courts provides a foundation upon which an Iowa Girls Court could build; as such, their essential components will be examined in turn.

### B. Funding

Like any other specialty court, funding is step zero. Funding for existing Girls Courts often came in the form of grants or donations. Hawai'i's Girls Court, for example, started as a pilot program and currently runs on donations from the Hawai'i Office of Youth Services, which has been funding the court since March 2005.<sup>108</sup> While the court has yet to receive permanent funding, it has kept its doors open with donations from Friends of Family Specialty Courts.<sup>109</sup>

Pilot programs appear to go hand-in-hand with the receipt of funding. For example, California was able to establish the Compton STAR Court pilot program in 2012, following the receipt of an annual \$350,000 federal grant.<sup>110</sup> But funding is not always so broad. In fact, the STAR Court received a separate federal grant, which enabled the Probation Department to handpick a team to participate in the Girls Court.<sup>111</sup>

Michigan recently started step zero in an effort to provide the first Midwestern Girls Court. Genesee County Circuit Judge David Newblatt submitted an application for a \$100,000 grant through the State Court

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107. William K. Rashbaum, *With Special Courts, State Aims to Steer Women Away From Sex Trade*, N.Y. TIMES (Sep. 25, 2013), <http://www.nytimes.com/2013/09/26/nyregion/special-courts-for-human-trafficking-and-prostitution-cases-are-planned-in-new-york.html>.

108. *About Hawai'i Girls Court*, *supra* note 95.

109. Jaimie Kim, *Guidance for Girls*, MIDWEEK (Sept. 16, 2014), <http://www.midweek.com/Hawaii-girls-court/>.

110. Christina Villacorte, *Prostitution in Los Angeles: Court Gives Girls in Sex Trade a Second Chance*, L.A. DAILY NEWS (May 18, 2014), <http://www.dailynews.com/social-affairs/20140518/prostitution-in-los-angeles-court-gives-girls-in-sex-trade-a-second-chance> (noting the federal grant was set to expire at the end of 2014).

111. *Id.*

Administrative Office, which handles applications for innovative court programs.<sup>112</sup> The push for a Michigan Girls Court, and the grant application, came about one year after the formation of a Genesee County human-trafficking task force was created.<sup>113</sup> The task force supports the creation of a Girls Court, but funding, as always, remains step zero.

### *C. Girls Court Structure*

Determining a Girls Court's structure closely follows step zero. In the context of Girls Courts, structure means two things: the literal organization of Girls Courts (the court model), and the relation Girls Courts have to each other.<sup>114</sup> When it comes to literal organization, early Girls Courts were without a model.<sup>115</sup> Leaders forming Texas's Harris County Girls Court only had drug and mental health court models from which to base a Girls Court, so their model had to be created from scratch.<sup>116</sup> Florida's Girls Courts, on the other hand, were created a decade after the first Girls Courts, so its leaders stated they were able to consider the "lessons learned" from both the Hawai'i and California Girls Courts.<sup>117</sup>

However, determining its Girls Court's literal organization was not the most difficult part in creating Texas's model. Leaders stated the most difficult part of the process was learning from the victims before molding a court; the girls were highly resistant to treatment, and understanding the correct approach was difficult since each girl needed individualized treatment due to the complexity of the population and their variation in "drivers and . . . needs."<sup>118</sup>

Regardless of the exact composition, Girls Courts still resemble the

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112. Blake Thorne, 'Girls Court' in the Works for Genesee County to Fight Sex Trafficking, *First in the State*, MLIVE (July 17, 2014), [http://www.mlive.com/news/flint/index.ssf/2014/07/to\\_fight\\_sex\\_trafficking\\_girls.html](http://www.mlive.com/news/flint/index.ssf/2014/07/to_fight_sex_trafficking_girls.html).

113. *Id.*; see also *Local Advocates for Women and Girls Recognized*, THE BURTON VIEW (June 18, 2015), [http://burtonview.mihomepaper.com/news/2015-06-18/News/Local\\_advocates\\_for\\_women\\_and\\_girls\\_recognized.html](http://burtonview.mihomepaper.com/news/2015-06-18/News/Local_advocates_for_women_and_girls_recognized.html) (indicating that a Genesee County Girls Court recently came to fruition).

114. See CHILDREN AT RISK, *supra* note 92, at 20–21; HARRIS COUNTY GIRL COURT, *supra* note 97, at 2; Delores Barr Weaver Policy Center, *supra* note 101.

115. See, e.g., HARRIS COUNTY GIRL COURT, *supra* note 97, at 2.

116. *Id.*

117. Delores Barr Weaver Policy Center, *supra* note 101.

118. HARRIS COUNTY GIRL COURT, *supra* note 97, at 2–3 (internal quotations omitted).

basic resolution models—pre-adjudication, post-adjudication, and combination—of specialty courts.<sup>119</sup> In the Girls Court context, a pre-adjudication specialty court evaluates a victim before a plea is entered, and if the probation officer or prosecutor identifies the victim as one who may benefit from specialty court, the victim will be eligible to complete the specialty court program and have the charges dropped.<sup>120</sup> A juvenile that does not successfully complete the specialty court program may have the charges adjudicated in a traditional adult or juvenile court setting.<sup>121</sup>

Texas's Dallas County court is a pre-adjudication–diversion Girls Court; it accepts victims of sex trafficking and those at “high risk” of becoming victims.<sup>122</sup> Successful participants avoid charges upon completion; unsuccessful participants face their original charges and proceed to court.<sup>123</sup>

Post-adjudication specialty courts, on the other hand, enter the picture after a victim is found guilty or delinquent or accepts a plea and the court determines specialty court is the best way for the defendant or delinquent to serve the sentence.<sup>124</sup> If the participant is successful, the records may be sealed; if the participant is unsuccessful, the participant will face further repercussions.<sup>125</sup> Combination specialty courts are a mixture of the pre- and post-adjudication models.<sup>126</sup>

Texas's Bexar County Court is post-adjudication; probation officers, the Rape Crisis Center, and therapists in residential facilities recommend participants.<sup>127</sup> As a post-adjudication model, the court only provides services to victims who have been sexually exploited, not victims who are at risk for sexual exploitation.<sup>128</sup> Upon graduation, its participants may have their records sealed.<sup>129</sup>

The Alameda County Girls Court is another example of the post-

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119. *Id.* at 1 (noting that for juvenile Girls Courts, these models are pre-delinquency, post-delinquency, and combination).

120. CHILDREN AT RISK, *supra* note 92, at 20.

121. *Id.*

122. *Id.* at 100–01.

123. *Id.* at 28, 103.

124. *Id.* at 20.

125. *Id.*

126. *Id.* at 21.

127. *Id.* at 105.

128. *Id.* at 107.

129. *Id.* at 111.

adjudication model, accepting participants who were convicted of prostitution offenses.<sup>130</sup> For those victims, the Alameda County Girls Court is an alternative to detainment and an opportunity to have the charges against them dropped upon successful completion.<sup>131</sup> This is similar to New York, where the Human Trafficking Intervention Initiative tasked judges, defense attorneys, and prosecutors with identifying defendants charged with a prostitution-related offense who are victims in need of services.<sup>132</sup> Upon identifying these victims, “appropriate connections [are] made,” and participants who complete a prescribed number of sessions with service providers have their cases dismissed.<sup>133</sup>

The second type of structure pertains to Girls Courts’ relation to each other. Each Girls Court discussed in this Note is independent—with the exception of New York. New York announced the launch of their statewide Human Trafficking Intervention Initiative in September 2013.<sup>134</sup> It jump-started this Initiative with three pilot programs in Queens, Midtown Manhattan, and Nassau County,<sup>135</sup> and it maintained consistency among these pilots by having each case heard by the same judge.<sup>136</sup>

New York State Chief Judge Jonathan Lippman described the Initiative as a statewide “system of courts” in “urban, suburban, and rural areas” through New York that will “provide linkages to services that will assist [victims] in pursuing productive lives rather than sending them right back into the grip of their abusers.”<sup>137</sup> New York decided a statewide initiative was necessary because, as Chief Judge Lippman pointed out, trafficking is a systemic problem requiring a systemic response; that response, he noted, had to be more than an effort by one particular judge or

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130. Carroll, *supra* note 104.

131. *Id.*

132. Chief Judge Jonathan Lippman, *Announcement of New York’s Human Trafficking Intervention Initiative*, CTR. FOR COURT INNOVATION (Sept. 25, 2013), <http://www.courtinnovation.org/research/announcement-new-yorks-human-trafficking-intervention-initiative>.

133. Sadhbh Walshe, *New Court Helps New York’s Human Trafficking Victims*, ALJAZEERA AM. (Oct. 31, 2013), <http://america.aljazeera.com/articles/2013/10/31/new-court-systemhelpsvictimsofhumantraffickinginnewyork.html>.

134. Chief Judge Lippman, *supra* note 132.

135. *Id.*

136. SARAH SCHWEIG ET AL., CENTER FOR COURT INNOVATION: PROSTITUTION DIVERSION PROGRAMS 9 (2012), [http://www.courtinnovation.org/sites/default/files/documents/CI\\_Prostitution%207.5.12%20PDF.pdf](http://www.courtinnovation.org/sites/default/files/documents/CI_Prostitution%207.5.12%20PDF.pdf).

137. Chief Judge Lippman, *supra* note 132.

jurisdiction.<sup>138</sup>

#### D. Participant Identification

Each court has to identify potential participants, and how courts do that may depend on what gender-specific trauma the court is trying to remedy.<sup>139</sup> For example, California's Compton STAR Court pilot program focuses on *commercially* sexually exploited girls; thus, it identifies participants based on their prostitution or prostitution-related charges.<sup>140</sup> This is similar to Texas's Harris County Court, which focuses on "girls who are actively engaged in or at risk of becoming involved in prostitution/human trafficking."<sup>141</sup> The same is true for Texas's other two Girls Courts that work to identify "high risk" girls in an effort to prevent them from succumbing to a life of prostitution and victims of sex trafficking in an effort to help them recover from sexual exploitation.<sup>142</sup>

According to Texas's Dallas County Girls Court, a "high risk" offender is one who has committed a "Conduct Indicating Need for Supervision" offense, or had misdemeanor charges and:

- "Four or more instances of running away from home in a twelve-month period; or
- One or more residential stay at the Letot Center"<sup>143</sup>—a facility that provides "crisis intervention, emergency shelter, programming, and counseling for runaway youth"<sup>144</sup>—or
- "A family which fails to participate in any aftercare or non-residential services, and does not follow through with recommendations."<sup>145</sup>

In addition to the initial risk criteria, the offender must have been

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138. *Id.*

139. *See, e.g.,* Villacorte, *supra* note 110.

140. *Id.*

141. HARRIS COUNTY GIRL COURT, *supra* note 97.

142. CHILDREN AT RISK, *supra* note 92, at 28.

143. *Id.* at 101.

144. *Letot Center*, DALLAS COUNTY JUVENILE DEP'T, <http://www.dallascounty.org/departments/juvenile/letot.php> (last visited Nov. 30, 2015).

145. CHILDREN AT RISK, *supra* note 92, at 101 (citing Dr. Terry Smith, Executive Director, Dallas County Juvenile Probation Department, Youth First: Specialty Courts at the 4th Annual North Texas Children's Summit (May 9, 2013)).

victimized in one of the following ways: acted as a prostitute, worked in a strip club, been sexually photographed for sharing with others, received or was promised anything of value for some sexual activity, or has been or is in a sexual relationship with an adult described as a significant other.<sup>146</sup>

But Texas's Dallas County Court is distinguishable from other Texas Girls Courts in that it partners with the Letot Center in an effort to identify victims; due to this relationship, the Dallas County team holds session at the Letot Center.<sup>147</sup> Dallas County's victim identification is similarly aided by its partnership with the High Risk Victims and Trafficking Unit of the Dallas Police Department.<sup>148</sup> Formed in 2005, the unit is responsible for searching for teen prostitutes and runaways.<sup>149</sup> Once a girl is located, the unit reassures her that she is not at fault, that officers are part of the largest "gang" in the world who want to find and protect her, and that she can leave that life with the help of the Letot Center and more than 90 community-based services.<sup>150</sup> The proper training of police officers and the dedication of a unit have contributed tremendously to the identification of victims in Dallas.<sup>151</sup> In fact, the unit alone processes 250–300 high risk victims a year.<sup>152</sup>

Selecting participants is only the first step in obtaining actual participation. As a pre-adjudication program, for instance, any offender meeting Dallas County's criteria and flagged for participation, or her guardian, can choose whether to participate in the court.<sup>153</sup> In an effort to facilitate that choice, an attorney from the public defender's office contacts potential participants and answers any questions they may have regarding their legal rights before they accept their Girls Court invitation.<sup>154</sup>

Florida's Girls Court identifies participants by their criminal history and whether they have either run away, become pregnant, become a victim of human trafficking, or become a victim of sexual abuse.<sup>155</sup> Probation

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146. *Id.*

147. *Id.* at 100–01; *see also The Friends of Letot*, LETOT CTR., <http://letotgirlscenter.org> (last visited Nov. 30, 2015).

148. *The Problem*, LETOT CTR., <http://letotgirlscenter.org/letot-girls-center/the-problem/> (last visited Nov. 30, 2015).

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

153. CHILDREN AT RISK, *supra* note 92, at 102.

154. *Id.*

155. Rutland, *supra* note 106.

officers recommend the flagged girls to participate in the court, and once recommended, the girl chooses if she wants to continue in juvenile court or participate in Girls Court.<sup>156</sup>

Preexisting dockets affect courts' identification procedures as well. For example, because Queens had a specialty drug, mental health, and domestic violence docket at the time of its Intervention Court implementation, it identified potential participants via a coordinator who would screen drug and mental health court defendants for trauma and referral to the court.<sup>157</sup>

#### E. Gender Make-up

Girls Court exists to address the gender-specific needs of young women, and for this reason, some Girls Courts are female-only.<sup>158</sup> Each team member of Hawai'i's Girls Court<sup>159</sup> and California's Orange County Girls Court is female.<sup>160</sup> Likewise, males cannot even be present in Texas's Harris County Court due to the participants frequently having been abused by males.<sup>161</sup>

Texas's Bexar County Court is distinguishable from every other existing Girls Court because it accepts both male and female victims.<sup>162</sup> For that reason, males are not only allowed on the court team, but their presence is encouraged so that male participants have role models and female participants can observe positive male role models.<sup>163</sup>

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156. *Id.*

157. Katie Crank, *Community Courts, Specialized Dockets, and Other Approaches to Address Sex Trafficking*, in A GUIDE TO HUMAN TRAFFICKING FOR STATE COURTS 37, 43 (2014), [http://www.htcourts.org/wp-content/uploads/00\\_EntireGuide\\_140726\\_v02.pdf](http://www.htcourts.org/wp-content/uploads/00_EntireGuide_140726_v02.pdf).

158. *See infra* Part IV.K (suggesting that for Girls Courts to afford victims equal protection of the law, they should be prepared to offer gender-specific services to both male and female victims).

159. *Home*, HAWAII GIRLS CT., [www.girlscourt.org/index.html](http://www.girlscourt.org/index.html) (last visited Nov. 30, 2015).

160. Carroll, *supra* note 104.

161. CHILDREN AT RISK, *supra* note 92, at 100 (citing Interview with GIRLS Court team, Harris County Juvenile Court System & Harris County Juvenile Probation Department, in Houston, Texas (June 27, 2013)) ("This rule was implemented to ensure that participants feel safe and free to discuss any relevant issues during review hearings and all other GIRLS Court activities.").

162. *Id.* at 107.

163. *Id.* at 108.

*F. Parties*

For the purposes of this Part, there are two types of parties: those involved in the formation of Girls Courts and those involved thereafter. Some Girls Courts employ a significant number of experts in the beginning to help them to create their court model.<sup>164</sup> The team involved in forming Texas's Harris County Girls Court, for instance, included: American Leadership Forum Senior Fellows; attorneys; the Assistant Deputy Director and Deputy Director of the Health Services Division of the Harris County Juvenile Probation Department; the TRIAD Director of the Houston County Protective Services; and Angela Ellis, Associate Judge of the 315th District Court.<sup>165</sup>

Which leaders participate in the implementation of a Girls Court may depend on which community-service providers are already involved in this field. For example, New York's Queens pilot program was created, in part, by preexisting service providers like Girls Educational & Mentoring Services (GEMS), the Sexual Assault and Violence Intervention Program, and the New York Asian Women's Center.<sup>166</sup>

Creating Florida's Girls Courts was a collaborative effort of the Delores Barr Weaver Policy Center, Family Support Services, and Circuit Judge David Gooding.<sup>167</sup> Florida's pilot was made possible due to the donated time and resources of the State Attorney's office, Public Defender's office, Department of Juvenile Justice, System of Care, and other nonprofits.<sup>168</sup>

Who participates in Girls Courts postconception varies, but each court consists of predictable parties. The Hawai'i Girls Court team is comprised of a judge, probation officer, program coordinator, and therapist.<sup>169</sup> Texas's Bexar County team includes the judge, district attorney, defense attorney, probation officer, Rape Crisis center therapist, Mission Road center therapist, gang probation officers, who conduct the initial participant interview, the gang probation supervisor to act as a positive male mentor, and the parents or guardians.<sup>170</sup> In addition to the participation of attorneys

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164. *See, e.g.*, HARRIS COUNTY GIRL COURT, *supra* note 97, at 2.

165. *Id.*

166. SCHWEIG ET AL., *supra* note 136, at 10.

167. Delores Barr Weaver Policy Center, *supra* note 101.

168. *Id.*

169. *Home*, HAWAI'I GIRLS CT., *supra* note 159.

170. CHILDREN AT RISK, *supra* note 92, at 108.

and court personnel in California's Orange County Girls Court, representatives from the Health Care Agency, the Social Services Agency, the Probation Department, and the Orange County Department of Education participate in the court.<sup>171</sup>

California's Alameda County team is comprised of the court, an attorney from the Public Defender's Office, the District Attorney, a representative from Social Services, and officers from the Probation Department.<sup>172</sup> Texas's Harris County Girls Court team members include the judge, District Attorney, defense attorney, guardian ad litem, court clinician, therapist, probation officer, educational specialist, and Child Protective Services.<sup>173</sup>

Community involvement is common. California's Compton STAR team partners with legal advocates from nonprofit organizations, group homes, the Department of Children and Family Services, and the Public Defender's Office to provide services for participants, including: placement in a group home, gang intervention programs, education, job training, and family reunification services.<sup>174</sup> Texas's Dallas County court team includes a Functional Family representative, a Big Brothers Big Sisters representative (who partnered with the Girls Court to mentor girls for at least one year), an AIM Truancy Solutions representative who utilizes GPS monitoring to keep at risk girls in school, and Letot Center therapists.<sup>175</sup>

### G. Parental Participation

Girls Courts that require parental participation are a minority.<sup>176</sup> Hawai'i's Girls Court is in this minority: it requires parents of participants to attend a parent group following each court session; this group focuses on "parenting skills, conflict-resolution skills, and informational sessions" concerning additional services available for their daughters or family.<sup>177</sup> Consequently, both individual participants and their families receive mental

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171. *Collaborative Courts*, SUPERIOR COURT OF CAL. CTY. OF ORANGE, <http://www.occourts.org/directory/collaborative-courts/> (last visited Nov. 30, 2015).

172. *Juvenile*, ALAMEDA CTY. PUB. DEF., <http://www.co.alameda.ca.us/defender/services/juvenile.htm> (last visited Nov. 14, 2015).

173. CHILDREN AT RISK, *supra* note 92, at 99.

174. Villacorte, *supra* note 110.

175. CHILDREN AT RISK, *supra* note 92, at 101.

176. *See, e.g., id.* at 97–111.

177. *About Hawai'i Girls Court*, *supra* note 95.

health services from the court.<sup>178</sup>

Like the Hawai'i Girls Court, Texas's Bexar County court requires, via court-order, parental participation in the Parent Project, a 10-week program to promote parent participation.<sup>179</sup> Consequently, the Bexar County court's phases include expectations for both the participants and their parents or guardians.<sup>180</sup>

#### H. *Services Provided*

Girls Courts are most important for the services they provide. Participants in California's Mateo County Girls Court receive family, drug, and alcohol counseling, rape and sexual-trauma counseling, talks from SAGE (an organization for survivors of sex trafficking), and anger-management classes.<sup>181</sup> In California's Compton STAR Court, a lawyer from Alliance for Children's Rights assists girls in securing benefits through extended foster care, and a child advocate from Saving Innocence visits the girls weekly to support them in job and internship applications, work etiquette, school enrollment, financial responsibility, and tasks like setting up doctor's appointments.<sup>182</sup>

Texas's Dallas County Court provides services such as a Girls Group, Hope Group, and Parent Group for support, substance-abuse treatment, and other mental health services.<sup>183</sup> Texas's Bexar County court provides mental health care, substance abuse treatment, and individual and family counseling to victims.<sup>184</sup>

Services to be provided to participants in New York's Human Trafficking Initiative include legal services; social services; vocational and educational services; domestic violence and sexual-assault services; and substance abuse and mental health treatment.<sup>185</sup> Support services provided by Florida's Girls Courts include counseling, mentors, and possibly parenting classes in addition to probation.<sup>186</sup>

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178. *See id.*

179. CHILDREN AT RISK, *supra* note 92, at 108.

180. *See id.* at 108–09; *see also infra* Part IV.J.

181. Carroll, *supra* note 104.

182. Villacorte, *supra* note 110.

183. CHILDREN AT RISK, *supra* note 92, at 103.

184. *Id.* at 108.

185. Lippman, *supra* note 132.

186. Rutland, *supra* note 106.

Providing services and departing from traditional court models is what makes Girls Courts personal and successful. Brooke Brady, a Florida assistant state attorney, noted that Florida's Girls Courts are different than regular juvenile courts in that "officials get a chance to talk with each girl about schoolwork, their home life and their hobbies."<sup>187</sup> Likewise, some states find Girls Courts are most successful if participants receive housing.

### I. Housing

A minority of states provide or require housing for Girls Court participants. Texas's Harris County Girls Court is in that minority. It decided that instead of "warehousing" participants in detention, the Girls Court would provide intensive supervision, therapeutic services, and a safe place for girls to receive those services and take shelter from their pimps.<sup>188</sup>

Participants in California's San Mateo County Girls Court, on the other hand, are housed at the Margaret Kemp Girls Camp, a minimum-security facility, for at least 180 days before they can transition to a phase-two residential program.<sup>189</sup> Texas's previously mentioned Letot Center is distinguishable from the Margaret Kemp Girls Camp; the Letot Center is a voluntary safe house, not a minimum-security facility.<sup>190</sup> Therefore, Texas's identification and placement of participants at the Letot Center is more similar to the practices of California's Compton STAR program, which provides placement for girls into group homes.<sup>191</sup>

In addition to the Letot Center, Texas boasts a safe house for victims of sex trafficking known as Freedom Place.<sup>192</sup> Operated by the nonprofit Arrow Child & Family Ministries, Freedom Place is a "restricted residential program" with a 30-girl capacity.<sup>193</sup> It opened its doors in 2012.<sup>194</sup> Freedom Place houses girls referred by the Girls Court on 110 acres of wooded land north of Houston.<sup>195</sup> Girls residing at Freedom Place are between the ages

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187. *Id.*

188. HARRIS COUNTY GIRL COURT, *supra* note 97.

189. Carroll, *supra* note 104.

190. CHILDREN AT RISK, *supra* note 92, at 100-01.

191. Villacorte, *supra* note 110.

192. Anita Hassan, *Girls Victimized by Sex Trafficking Find Healing at Freedom Place*, CHRON (June 1, 2012), <http://www.chron.com/news/houston-texas/article/Hope-for-teens-victimized-by-sex-trafficking-3603604.php>.

193. *Id.*

194. *Id.*

195. *Id.*

of 10 and 18 and will spend anywhere from 6 to 18 months receiving counseling and therapy.<sup>196</sup> The land includes a lake, a ropes course, a basketball court, a swimming pool, stables with six horses, and two dogs.<sup>197</sup> Housing for victims may be more prevalent than noted, however, since housing often functions as a safe place for victims to escape their pimps.<sup>198</sup> Therefore, the existence and location of housing is sometimes unknown.

#### *J. Pathway to Graduation*

Each Girls Court conducts “court” differently. Before “court” even begins in Bexar County, Texas, the participant must sign a contract with the District Attorney, probation officer, judge, and defense counsel that binds them to certain responsibilities, instructions, and restrictions.<sup>199</sup> Florida participants begin “court” by immediately meeting with the prosecutor, a public defender, and representatives from various organizations that will provide support services.<sup>200</sup>

Once court begins, each state has a different schedule. Hawai‘i’s Girls Court convenes every five weeks, but participants meet more frequently for group sessions concerning “teen pregnancy prevention, domestic violence prevention and intervention, healing from trauma, substance abuse issues and problems, HIV/AIDS and STD prevention, and escaping sexual exploitation.”<sup>201</sup> In addition to attending the required counseling and court dates, the Hawai‘i team requires the girls and their families to engage in quarterly community service projects as a means to help them connect positively with each other and feel that they can make a difference by giving back.<sup>202</sup> Similarly, Texas’s Harris County Girls Court requires participants to attend review hearings every four to six weeks, meet with their probation officer weekly, and contact their defense attorney and guardian ad litem frequently.<sup>203</sup>

California’s Santa Clara County Girls Court, on the other hand, follows

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196. *Id.*

197. *Id.*

198. *See id.*

199. CHILDREN AT RISK, *supra* note 92, at 107.

200. Rutland, *supra* note 106.

201. *About Hawai‘i Girls Court*, *supra* note 95.

202. *Id.*

203. CHILDREN AT RISK, *supra* note 92, at 100.

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a three-phase program.<sup>204</sup> This “phase” structure is common. Once admitted to Texas’s Dallas County Court, for instance, participants must spend at least 30 days in each “level” of their program.<sup>205</sup> The levels are detailed as follows:

- Level one requires the participant to appear in court weekly, maintain a 7:00 PM curfew, and pass checks on her curfew and school attendance with a 75 percent compliance rate;
- Level two requires the participant to appear in court bi-weekly, maintain a 7:00 PM curfew, and pass curfew and school attendance checks less frequently with an 85 percent compliance rate;
- Level three requires the participant to appear in court monthly, maintain an 8:00 PM curfew, and pass one monthly check on her curfew and school attendance with a 95 percent compliance rate; and
- Level four requires the participant to attend court once for graduation, maintain an 8:30 PM curfew, and withstand curfew and school attendance checks once monthly with a 95 percent compliance rate.<sup>206</sup>

Dallas County Court graduates then receive postgraduation care in the form of group counseling, leadership development through a Girls Counsel, and contact with their therapist and probation officer.<sup>207</sup>

Like Texas’s other Girls Courts, the Bexar County Court has phases; unlike other Texas Girls Courts, participants can only progress to the next phase upon asking, not upon court approval, which the court thought critical, as sex-trafficking victims and victims of sexual exploitation come from situations where they lack control.<sup>208</sup> In addition, the court motivates participants by allowing them to earn incentives or suffer sanctions; incentives like gift cards or fun outings with the probation officer are available for participants who progress, while sanctions like essay assignments and increased supervision are dealt to those participants who fail to follow program rules.<sup>209</sup> The Bexar County court program is

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204. Carroll, *supra* note 104 (stating that this court focuses on drug rehabilitation as opposed to sexual trauma).

205. CHILDREN AT RISK, *supra* note 92, at 102.

206. *Id.*

207. *Id.* at 103.

208. *Id.* at 109.

209. *Id.*

comprised of three phases:

- Phase one, the identification and understanding phase, lasts 60 days and includes 6:00 PM curfew checks, school attendance, counseling, emotion identification, and parental expectations such as identifying negative sources and influences and identifying effective parenting strategies;
- Phase two, the engagement and commitment phase, lasts 90 days and includes 8:00 PM curfew checks, violent and safe relationship distinctions, therapy, communication skills, and parental expectations such as promoting effective communication, implementing structure and child supervision, and drug intervention strategy; and
- Phase three, the maintenance/wraparound services and support phase, lasts 120 days and includes 9:00 PM curfew checks, age-appropriate life skills, educational and career goals, self-respect therapy, and parental expectations such as child support, appropriate dating rules, and family unity.<sup>210</sup>

Participants become eligible for graduation after completing all three phases, but they remain on probation until the court team is certain the participant is stable enough to have probation terminated.<sup>211</sup>

#### *K. Satisfaction of Equal Protection*

A discussion of Girls Courts' fundamental components would not be complete without a discussion of their constitutionality since many Girls Courts currently close their doors to male participation.<sup>212</sup> Indeed, both the Fifth and Fourteenth Amendments demand equal protection of the laws,<sup>213</sup> and equal protection of the laws requires that state-provided programs be available to everyone equally.<sup>214</sup> While the constitutionality of Girls Courts has not been challenged, a Girls Court forbidding male participation may be unconstitutional.

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210. *Id.* at 110.

211. *Id.* at 111.

212. *See id.* at 107.

213. *See generally* U.S. CONST. amend. V (“No person shall be . . . deprived of life, liberty, or property, without due process of law . . . .”); U.S. CONST. amend. XIV (“No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

214. *See, e.g.,* *Douglas v. California*, 372 U.S. 353, 357 (1963).

This is because gender discrimination, even if beneficial to women, is subject to heightened<sup>215</sup> constitutional scrutiny.<sup>216</sup> Overcoming a presumption that a gender classification is invalid requires a showing that the classification serves “important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives.”<sup>217</sup>

Correctional programs prohibiting participation by one sex have failed to overcome this presumption.<sup>218</sup> In *Sassman v. Brown*, for instance, the U.S. District Court for the Eastern District of California held that the California Department of Corrections’ exclusion of men from an Alternative Custody Program (ACP) violated the Equal Protection Clause of the Fourteenth Amendment.<sup>219</sup>

California’s ACP program was created for female inmates who were primary caregivers of dependent children immediately prior to incarceration; primary caregiver status meant these female inmates could participate in ACP.<sup>220</sup> A male applied for the program in an attempt to finish his sentence in his home, was denied, and he sued thereafter.<sup>221</sup>

The district court’s analysis is telling. At the outset, in response to plaintiff’s Equal Protection claim, the State (the plaintiff sued the Governor of California and the Secretary of the California Department of Corrections, in their official capacities) argued that the plaintiff was not similarly situated to “inmates that have been applying for and approved to participate in the ACP,” i.e., female inmates.<sup>222</sup> The State asserted the plaintiff was not similarly situated to female inmates for several reasons, including the fact that his children live at home with their mother, he never alleged that he was the primary caregiver, he cited no evidence showing he needs treatment and services such as substance abuse, parenting and life-skills counseling, and he

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215. *United States v. Virginia*, 518 U.S. 515, 533 (1996).

216. *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 723 (1982).

217. *Virginia*, 518 U.S. at 524. “The justification must be genuine, not hypothesized or invented *post hoc* in response to litigation. And it must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females.” *Id.* at 533.

218. *See, e.g., Sassman v. Brown*, 73 F. Supp. 3d 1241, 1248–51 (E.D. Cal. 2014).

219. *Id.* at 1251.

220. *Id.* at 1244.

221. *Id.* at 1246.

222. *Id.* at 1248.

never experienced physical or sexual abuse.<sup>223</sup> The court stated the State's arguments "miss the point" because female ACP applicants are not required to make any of those showings; moreover, excluding males because females are "more likely" to be primary caregivers and suffer from abuse is inconsistent with Supreme Court precedent that "*courts should not rely on generalities.*"<sup>224</sup> While *Sassman* is not a Supreme Court decision, it is illustrative of the hostility Girls Courts may receive if they exclude males based on the generalization that victims of sexual exploitation are predominately female.

In addition, the court distinguished *Woods v. Horton*—a California case that upheld an inmate-mother alternative sentencing program as consistent with Equal Protection<sup>225</sup>—because the court in that case interpreted the California Constitution and concerned a statute for pregnant inmates and inmates with small children, not *all* female inmates.<sup>226</sup> Regardless of the fact that the State asserted the statute was concerned with the characteristics of the typical female inmate, the court held it was not substantially related to an important government interest because the goals of family reunification and community reintegration were not served by *excluding* male prisoners.<sup>227</sup> This analysis demonstrates that, regardless of the characteristics of typical female victims of sexual exploitation and regardless of the gender-specific goals of Girls Courts, Girls Courts may nevertheless violate Equal Protection because excluding males does not substantially further their goals.<sup>228</sup> The *Sassman* court ultimately denied injunctive relief to the plaintiff, however, as he had not shown the requisite likelihood of irreparable harm.<sup>229</sup>

The Supreme Judicial Court of Maine considered a similar issue in 2012.<sup>230</sup> In *State v. Mosher*, the defendant appealed his conviction for domestic violence assault on sentencing grounds: he asserted forcing him to participate in a certified batterers' intervention program violated the Equal Protection Clause of the Fourteenth Amendment as similar educational

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223. *Id.* at 1248–49.

224. *Id.* (emphasis added).

225. *Woods v. Horton*, 84 Cal. Rptr. 3d 332, 350 (Cal. Dist. Ct. App. 2008).

226. *Sassman*, 73 F. Supp. 3d at 1250.

227. *Id.* at 1251.

228. *See id.*

229. *Id.* at 1252.

230. *State v. Mosher*, 58 A.3d 1070, 1072 (Me. 2012).

programs are not available for women.<sup>231</sup>

The Supreme Judicial Court of Maine ultimately remanded the case to develop the record as to whether single-gender programs are substantially related to achieving an important governmental objective.<sup>232</sup> In this way, the *Mosher* Court confirmed the threshold issue Girls Courts will face: is the exclusion of males from Girls Courts (which focus on the trauma suffered from sexual exploitation) and prostitution diversion dockets (which focus on identifying juveniles and adults at risk for sexual exploitation) really substantially related to achieving an important governmental objective?<sup>233</sup>

The answer to that question falls outside the purview of this Note, but the solution necessary to avoid an Equal Protection challenge does not: Girls Courts must be gender-neutral. To accomplish gender-neutrality—and thus constitutionality—Girls Courts could respond in one of two ways: either welcome male participation like Texas’s Bexar County Court,<sup>234</sup> or develop a separate Boys Court providing equivalent therapeutic and educational benefits. Gender-neutrality is not only constitutionally fundamental,<sup>235</sup> but it also assures that *all* victims of sexual exploitation and *all* juveniles at risk for sexual exploitation receive the support they need from our government.

#### L. Conclusion

In conclusion, New York Chief Judge Lippman had it correct when he said trafficking was a systemic problem requiring a systemic solution.<sup>236</sup> While it is certainly encouraging to see states like Hawai‘i, California, Texas, New York, Florida, and Michigan implement creative, innovative, and fruitful solutions to the recently realized trafficking epidemic, other states should step up.<sup>237</sup>

Theodore Roosevelt once said, “In any moment of decision, the best thing you can do is the right thing. The worst thing you can do is nothing.”<sup>238</sup> Existing Girls Courts vary significantly, but all Girls Courts share one

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231. *Id.* at 1071–72.

232. *Id.* at 1074.

233. *See id.*

234. CHILDREN AT RISK, *supra* note 92, at 107.

235. *See* United States v. Virginia, 518 U.S. 515, 531–33 (1996).

236. Lippman, *supra* note 132.

237. *See supra* Part IV.A–J.

238. *See* 148 CONG. REC. E2083 (daily ed. Nov. 15, 2002) (statement of Hon. Gil Gutknecht).

characteristic: they are the right response to an epidemic soon to upset the judicial system.

Admittedly, implementing a newly minted specialty court model is intimidating and unnerving for state courts.<sup>239</sup> Community leaders must bear in mind, however, that it was just 25 years ago that the first drug court was implemented in Miami-Dade County, Florida, after justice professionals were “[t]ired of the same faces and the same cases repeatedly appearing before the court.”<sup>240</sup> The first drug court was successful, and by June 30, 2012, 2,734 drug courts were operating in all 50 states.<sup>241</sup>

This is because specialty court models work. For instance, participants in drug courts have an 80 percent higher treatment graduation rate.<sup>242</sup> Conservative estimates indicate that drug courts reduce crime as much as 35 percent as compared to alternatives.<sup>243</sup> Drug courts’ effect on crime is long lasting, with one study finding it to last over 14 years, and drug courts save money—an average of \$4,000–12,000 per participant—in the form of “reduced prison costs, reduced revolving-door arrests and trials, and reduced victimization.”<sup>244</sup>

Early studies show Girls Courts work too. A study comparing the Hawai‘i Girls Court to the Hawai‘i State System found the Girls Court has 88 percent fewer violations of law, 98 percent fewer status offenders, 89 percent fewer runaways, 68 percent fewer runaway days, 75 percent fewer shelter admissions, and 57 percent fewer detention home admissions compared to traditional court.<sup>245</sup> As of 2013, 23 participants had attended Texas’s Harris County Girls Court and 64 percent were successful.<sup>246</sup> Twenty-seven girls had participated in Texas’s Dallas County court.<sup>247</sup> Four

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239. See, e.g., HARRIS COUNTY GIRL COURT, *supra* note 97, at 2–3 (discussing the challenges Harris County, Texas faced in creating its Girls Court).

240. *History*, NAT’L ASS’N OF DRUG COURT PROFS., <http://www.nadcp.org/learn/what-are-drug-courts/drug-court-history> (last visited Nov. 30, 2015).

241. *Id.*

242. NAT’L ASS’N OF DRUG COURT PROF’LS THE FACTS ON DRUGS AND CRIME IN AMERICA, 3, <http://www.nadcp.org/sites/default/files/nadcp/Facts%20on%20Drug%20Courts%20.pdf> (last visited Nov. 30, 2015).

243. *Id.* at 2.

244. *Id.* at 3.

245. *Hawai‘i Girls Court*, PASTE & TAPE, <http://pasteandtape.com/project/Hawaii-girls-court/> (last visited Nov. 30, 2015).

246. CHILDREN AT RISK, *supra* note 92, at 100.

247. *Id.* at 103.

girls were currently in the Dallas County program, and nine girls had graduated successfully.<sup>248</sup> As such, the rest of this Note discusses Iowa's current sex-trafficking legislation, proposals to improve its infrastructure, and suggestions for implementing an Iowa Girls Court.

#### V. PROPOSALS FOR IOWA

According to John A. Martin, of the Center for Public Policies, “[T]here is vast disparity between the substantial attention directed at trafficking concerns by international, federal, state, executive and legislative branch entities, and the lack of systematic and comprehensive attention paid to human-trafficking-related issues by the state courts.”<sup>249</sup> According to the National Association for Court Management’s *Guide to Addressing Human Trafficking in the State Courts*—which was published to provide meaningful assistance to states lacking extensive experience adjudicating trafficking crimes<sup>250</sup>—state courts, even those located in states with trafficking laws, are still more likely to charge traffickers under long-standing “state laws addressing prostitution, pimping, or pandering.”<sup>251</sup> For this reason—and because federal-trafficking statutes may not always be utilized—Iowa should have a comprehensive state-trafficking code to prosecute traffickers.

In addition to enacting a comprehensive trafficking code and implementing infrastructure to support the enforcement of that code, Iowa should join its sister states in establishing a Girls Court. Legislation to prosecute traffickers only solves half the problem; a therapy-centered court is necessary to rebuild the lives of trafficking victims—and victims of sexual exploitation generally—and reintegrate them into society.<sup>252</sup> Accordingly, this Note’s proposal for Iowa law begins with a brief primer on our current legislation and its deficiencies, offers additional suggestions for trafficking-specific support systems,<sup>253</sup> and ends with recommendations for how to begin implementing an Iowa Girls Court.<sup>254</sup>

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248. *Id.*

249. John A. Martin, *Addressing Human Trafficking in the State Courts: Background and Approach*, in *A GUIDE TO HUMAN TRAFFICKING FOR STATE COURTS*, *supra* note 157, at 11.

250. *Id.* at 6–7.

251. *Id.* at 11.

252. *See supra* Parts IV.H–J.

253. *See infra* Part V.A–B.

254. *See infra* Part V.C.

*A. Current and Ideal Legislation*

As previously mentioned, Iowa can enhance its arsenal of sex-trafficking statutes. Iowa's need for improvement is demonstrated in part by its Polaris ranking: As of 2014, Iowa graded Tier 2 on the Polaris scale; regrettably for Iowa, it is behind 39 other states that received a Tier 1 rating in 2014.<sup>255</sup>

Even more disappointing is Iowa's Tier 4 rating from Polaris's new Victims' Assistance Laws evaluation, mentioned previously.<sup>256</sup> Iowa shares a Tier 4 grade with 12 states, putting Iowa behind 12 Tier 1 states, 17 Tier 2 states, and 9 Tier 3 states, including Washington, D.C., in terms of victims' assistance.<sup>257</sup>

Iowa's Tier 2 rating is a result of its sex- and labor-trafficking statutes,<sup>258</sup> asset-forfeiture statutes,<sup>259</sup> law-enforcement-training statutes,<sup>260</sup> its statutes not requiring force, fraud, or coercion for minor victims of sex trafficking,<sup>261</sup> its safe harbor statute,<sup>262</sup> and its victim-assistance statutes.<sup>263</sup> Iowa lacks several important statutes, however, including statutes addressing investigative tools, a human-trafficking task force, the posting of a trafficking hotline, civil remedies, and vacating convictions.<sup>264</sup> The lack of these statutes also contributed to Iowa's Tier 4 victims' assistance ranking.<sup>265</sup>

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255. 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 1. To receive a Tier 1 rating, a state must earn 7 out of 12 on Polaris' scale; in 2014, Iowa received 6.5 points. *Id.* at 2–3.

256. *Id.* at 4.

257. *Id.*

258. Iowa Code § 710A.1–A.2 (2015); *see also* 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

259. Iowa Code § 809A.3–A.4 (2015); 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

260. Iowa Code § 80B.11; 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

261. Iowa Code §§ 710A.1(4)(a)(2), .2A; 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

262. Iowa Code § 725.1; 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

263. Iowa Code §§ 710A.5, 915.95; 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 3.

264. POLARIS, IOWA STATE REPORT STATE RATINGS 2014 1 (2014) [hereinafter IOWA STATE REPORT].

265. 2014 STATE RATINGS ON HUMAN TRAFFICKING LAWS, *supra* note 89, at 5 (considering the posting of a human-trafficking hotline, safe harbor laws, victims-

But Polaris does not measure every legislative effort of states.<sup>266</sup> In 2014, for instance, Iowa passed SF 2311,<sup>267</sup> which amended Iowa law enforcement's annual reporting requirement to include "data regarding academy resources devoted to training relating to human trafficking,"<sup>268</sup> established a human-trafficking victim surcharge to be assessed and added to a human-trafficking victim fund if a trafficker is found guilty,<sup>269</sup> authorized the interception of "wire, oral, or electronic communications" for felony human-trafficking offenses,<sup>270</sup> added communication by "mail, telephone, internet, or any social media . . . text messages, instant messages, and electronic mail" to methods of sexual enticement of a minor,<sup>271</sup> criminalized the solicitation of a prostitute under the age of 18,<sup>272</sup> criminalized sharing earnings from a prostitute under the age of 18,<sup>273</sup> criminalized the furnishing of a room or placed to be used for prostitution of a prostitute under the age of 18,<sup>274</sup> and extended the statute of limitations for sexual acts with a person under the age of eighteen to 10 years.<sup>275</sup>

Iowa has taken other actions to combat trafficking as well. For example, Attorney General of Iowa, Tom Miller, created the Human Trafficking Enforcement and Prosecution Initiative in 2012.<sup>276</sup> Michael Ferjak, Senior Criminal Investigator with the Department of Justice, leads the initiative.<sup>277</sup> His partners include the Iowa State Patrol, the Iowa Department of Public Safety, the Chrysalis Foundation, Braking Traffik, the Network Against Human Trafficking, Teens Against Human Trafficking, Youth Shelter Services, Youth Emergency Shelter Services, Central Iowa Services Network, Achieving Maximum Potential, the Lutheran Church of Hope and Plymouth Congregational Church Trafficking Task Force, and the

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assistance laws, access to civil damages, and vacating convictions laws, to determine states' Victims' Assistance rating).

266. See POLARIS, A LOOK BACK, *supra* note 81, at 2–4.

267. S.F. 2311, 85th Gen. Assemb., Reg. Sess. (Iowa 2014).

268. Iowa Code § 80B.10.

269. *Id.* § 911.2A(1); see also *id.* § 602.8108(6).

270. *Id.* § 808B.3(6).

271. *Id.* § 710.10(7).

272. *Id.* § 725.2(2).

273. *Id.*

274. *Id.*

275. *Id.* § 802.2B.

276. *Hearing on Human Trafficking in the United States*, *supra* note 1.

277. See *id.*

Junior League of Iowa.<sup>278</sup> The initiative has been instrumental in bringing change to Iowa, including training the Iowa State Patrol and the Division of Criminal Investigation in roadside interdiction.<sup>279</sup>

Members of the Human Trafficking Enforcement and Prosecution Initiative have sought out other knowledgeable organizations for their expertise, trained over 18,000 Iowans on trafficking awareness, and made it a mandatory requirement for all Iowa persons receiving a commercial driver's license to complete the Truckers Against Trafficking educational and awareness training and be given a "wallet card bearing the National Human Trafficking Resource Center's 24-hour Hotline number for reporting suspicious activity."<sup>280</sup> This Hotline number has also been posted at Iowa's truck stops and rest areas.<sup>281</sup>

Iowa has certainly seen a significant improvement in sex-trafficking legislation in the last decade,<sup>282</sup> but additional legislation is necessary.<sup>283</sup> To determine the content of such legislation, Iowa should look to Polaris's Model Provisions of Comprehensive State Legislation to Combat Human Trafficking.<sup>284</sup>

Polaris's Model Provisions are comprehensive examples of ideal legislation for states; comparing Polaris's Model Provisions with the Iowa Code reveals several significant statutory deficiencies Iowa should strive to remedy—many of which were outlined above:

- "Non-Defenses to Human Trafficking";<sup>285</sup>

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278. *Id.*

279. *Id.*

280. *Id.*

281. *Id.*

282. Iowa's general human-trafficking statutes, Iowa Code Sections 710A.1 and 710A.2, were passed in 2006. Iowa's most significant improvement came with the trafficking legislation passed by S.F. 2311 in just 2014.

283. *See generally* IOWA STATE REPORT, *supra* note 264.

284. POLARIS PROJECT, MODEL PROVISIONS OF COMPREHENSIVE STATE LEGISLATION TO COMBAT HUMAN TRAFFICKING (2010) [hereinafter MODEL PROVISIONS].

285. *Id.* at 6. Iowa has no statute specifically on this point, though the use of defenses in sex-trafficking cases are generally addressed in Iowa Code Section 710A.3, which provides defenses to victims who performed acts "under compulsion by another's threat of serious injury." *See* Iowa Code § 710A.3.

- “Sentencing Enhancements”;<sup>286</sup>
- “Victim Immunity From Prosecution”;<sup>287</sup>
- “Protection of Victims”;<sup>288</sup>
- “Appropriate Implementation for Child Victims”;<sup>289</sup>
- “Civil Cause[s] of Action” for victims of trafficking;<sup>290</sup>
- “Human Trafficking Hotline”;<sup>291</sup>
- “Data Collection and Dissemination”;<sup>292</sup>
- “Training”;<sup>293</sup>
- “Grants”;<sup>294</sup>
- “Role of Non-Governmental Organizations”;<sup>295</sup> and
- “Restitution.”<sup>296</sup>

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286. MODEL PROVISIONS, *supra* note 284, at 9. This may be an ideal amendment to Iowa Code Section 901A.2. *See* IOWA CODE § 901A.2.

287. MODEL PROVISIONS, *supra* note 284, at 7. This could amend Iowa Code Section 725.1 or 710A. *See* IOWA CODE §§ 725.1, 710A. While Iowa Code Section 725.1(c) vacates prostitution convictions for minors, victims cannot have their convictions vacated unless they are free from other criminal convictions for a period of two years. IOWA CODE § 725.1(c). Since victims of sexual exploitation often struggle to fully separate from “the life” for months or even years, this should be removed. *See, e.g.*, *People v. L.G.*, 972 N.Y.S.2d 418, 420–21 (Crim. Ct. 2013). Likewise, the ability to vacate a prostitution conviction should be extended to adult victims.

288. MODEL PROVISIONS, *supra* note 284, at 15.

289. *Id.* While Polaris’s Model Provision is an improvement in that it is specific to victims of human trafficking, Iowa Code Sections 915.35–.38 address this concern fairly comprehensively. *See* IOWA CODE §§ 915.35–.38.

290. MODEL PROVISIONS, *supra* note 284, at 13–14.

291. *Id.* at 18.

292. *Id.* at 11. Iowa Code Section 80B.10 addresses this insofar as the data of law enforcement agencies efforts concern, but Polaris’s provision could be added for additional specificity. *See* IOWA CODE § 80B.10.

293. MODEL PROVISIONS, *supra* note 284, at 11. This could amend Iowa Code Section 80B.11. *See* IOWA CODE § 80B.11.

294. MODEL PROVISIONS, *supra* note 284, at 12.

295. *Id.*

296. *Id.* at 7–8. Iowa may already have this. Iowa Code Section 915.100 provides Iowa victims with restitution, and Iowa Code Section 915.51 states that victims of human trafficking have the same rights as other victims, but it does not specify the restitution provided by Iowa Code Section 915.100 as such a right. *See* IOWA CODE §§ 915.51, .100.

The aforementioned statutes would improve Iowa law at its weakest points. The referenced statutes are not all the provisions recommended by Polaris, however, and Iowa could further improve by considering additional statutory implementation upon the enactment of the proceeding laws.

### B. *Other Supporting Infrastructure*

Implementing the perfect sex-trafficking code will not solve the problem unless we learn how to harness its power. Accordingly, Iowa should refer to the National Association for Court Management's (NACM) *Guide to Addressing Human Trafficking in the State Courts* for further assistance in implementing broader policies and learning how to better utilize its newly minted trafficking statutes.<sup>297</sup>

At the outset, Iowa's agencies should collaborate: for this, the NACM suggests that states should appoint multiple leaders that can work across multiple systems and establish long-term directions.<sup>298</sup> Likewise, Iowa should establish consistent policies regarding the prosecution of traffickers and the sexually exploited, creating a decisionmaking structure among the previously mentioned multi-system leaders to inform them on the duties of all system partners, and establishing consistent and transparent decisionmaking practices across organizations.<sup>299</sup>

In addition to realizing a transparent, multi-agency communication system, Iowa should dedicate a financial infrastructure to manage the traffickers and victims this epidemic has produced. This infrastructure should include stable resources for providing services, flexibility to change budgets as needed in light of changes in the victim population, and long-term financing that permits multi-system planning.<sup>300</sup> Iowa should also construct

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Moreover, Iowa Code Section 915.95 designates a fund for victims of human trafficking, which receives all moneys remitted from the assessment of a district court's human trafficking surcharge per Iowa Code Section 911.2A as provided in Iowa Code Section 602.8108, but such a fund is not the equivalent to victim-specific restitution. *See id.* §§ 911.2A, 915.95. The ambiguity of Iowa's restitution statutes could be resolved by amending Iowa Code Section 910.2, which defines restitution types, to include a specific sexual exploitation provision. *See id.* § 910.2. A similar action may improve Iowa Code Section 910.1, defining restitution. *See id.* § 910.1.

297. *See generally* A GUIDE TO HUMAN TRAFFICKING FOR STATE COURTS, *supra* note 157.

298. *See id.* at 30.

299. *See id.*

300. *See id.* at 29.

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new technology systems, such as: a system for determining the identities of victims and traffickers; a management information system able to exchange case and identity information between local, state, and federal agencies; assessment and treatment tools tailored for victims of trafficking and sexual exploitation; and a management information system that shares definitions, standards, and guidelines across agencies and treatment providers.<sup>301</sup>

However, having the preceding personnel, financial, and technological infrastructure is only the first step. Iowa should also have the following resources on hand for victims: safe housing; transportation assistance to medical services, counseling, the court, and other programs; medical care, mental health treatment, and substance abuse treatment; options for both short- and long-term care; life skills and vocational training; and the ability to obtain new social security numbers for victims.<sup>302</sup> Indeed, the NACM heavily emphasizes the importance of providing services for victims;<sup>303</sup> with that in mind, Iowa should establish a Girls Court to ensure victims receive the services they so desperately require.

### C. Implementation of an Iowa Girls Court

John A. Martin, of the Center for Public Policies said, “now is the right time for addressing human trafficking in the state courts systematically and comprehensively.”<sup>304</sup> In this regard, punishing traffickers is only half the battle; the solution to the trafficking crisis cannot be realized unless states help victims reclaim their lives through trauma-informed therapy and gender-specific services.<sup>305</sup> Consequently, this Part outlines the steps Iowa should take to implement a Girls Court; it does so by providing a brief overview of the necessary working-parts for a successful Girls Court, and in that regard, it should be considered in conjunction with the specific examples set forth in Part IV of this Note and the guides currently available.

At the outset, it should be noted that an Iowa Girls Court proposal was created in April 2014.<sup>306</sup> This proposal failed to gain traction, but it included and advocated for several of the key Girls Court services discussed in this

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301. *See id.*

302. *Id.*

303. *Id.*

304. *Id.* at 13.

305. *See supra* Part IV.

306. Polk County Girls Court Too Good to Lose Proposal 1 (April 2014) (on file with author).

Note.<sup>307</sup> While an Iowa Girls Court should be crafted similarly to the other Girls Courts discussed in this article—with sex-trafficking victims in mind—this Author envisions a much broader court due to the recent loss of Iowa’s female-oriented juvenile home.<sup>308</sup>

Indeed, Iowa’s main source for gender-specific female services was extinguished with the closing of the Iowa Juvenile Home in Toledo in 2014.<sup>309</sup> A Girls Court can be a means of providing gender-specific services once again to one of Iowa’s most vulnerable populations—female juveniles at a risk of being sexually exploited or with a history of sexual abuse—that it has struggled to adequately serve since the juvenile home’s closing.<sup>310</sup>

While the main reason Iowa should implement a Girls Court is to provide victim services and close the post-Toledo disparity in gender-specific state intervention, the societal benefits of establishing an Iowa Girls Court should provide additional motivation for its implementation as well.<sup>311</sup> Like drug courts, Girls Courts benefit the community economically through cost-savings associated with the reduced adjudication of repeat offenders.<sup>312</sup> Likewise, Girls Courts may reduce Child in Need of Assistance cases and the incidents of teen pregnancy, drug trafficking, theft, and other petty offenses that young victims will undoubtedly commit during a lifetime of prostitution and other criminal ventures if not rehabilitated at a young age.<sup>313</sup>

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307. *See generally id.* The court called for “therapeutic modalities and approaches (based on relational theories) that address issues such as healing from physical, sexual, and emotional abuse, family conflict, substance abuse, depression, suicidal ideation and attempts, and self-harm behaviors.” *Id.* at 2. The proposal asserted that “[g]eneric services developed to meet the needs of all, are not as effective as female responsive programming specific to young women . . . . The lack of a secure treatment program for young women (Iowa Juvenile Home) and the scarcity of other female responsive programs make Girls Court imperative.” *Id.* at 1.

308. *See* Clark Kauffman, *Iowa Juvenile Home’s Closure Creates Gender Disparity*, DES MOINES REGISTER (July 19, 2014), <http://www.desmoinesregister.com/story/news/investigations/2014/07/20/iowa-juvenile-home-closure-creates-gender-disparity/12904839/>.

309. *Id.*

310. *Id.* (“The closing of the Iowa Juvenile Home earlier this year has created a gender-biased system of justice that is unfair to girls who are now being placed in adult court or sent to out-of-state care facilities, state court officials charge.”).

311. *See, e.g., Hawai’i Girls Court, supra* note 245 (noting the decrease in crime recidivism, runaways, and shelter admissions).

312. *See* Polk County Girls Court Too Good to Lose Proposal, *supra* note 306.

313. *See id.*; Carroll, *supra* note 104.

A potential Iowa Girls Court should, broadly speaking, begin with individual assessments of juvenile victims and proceed with court monitoring and the conferring of the requisite gender-specific, trauma-informed victim services.<sup>314</sup> The goal should be reducing the justice system's use of incarceration for prostitution-related offenses and, as recognized by Judge Fernando Camacho of Queens, New York, giving "prostitutes [or the sexually exploited or trafficked] an opportunity to get out of 'the life.'"<sup>315</sup>

During step zero, Iowa's constituents should advocate for funding tailored to those objectives and design a combination court model in furtherance of those goals.<sup>316</sup> A combination court model is the ideal model for Iowa because it allows Iowa to provide treatment to both (a) juveniles who may be delinquent due to a nonsexual offense, but who are at a high risk for being sexually exploited or delinquent of a sexual offense and (b) delinquent juveniles whose record indicates their need for trauma-informed therapy and the vacating of their juvenile records.<sup>317</sup>

After receiving funding and creating a court model, leaders should be trained on victim identification.<sup>318</sup> Advocates know, for example, that victims of sexual exploitation, especially juveniles, do not just surface on the prostitution docket; these victims can manifest in a variety of court cases, like child protection cases, drug cases, and theft cases.<sup>319</sup> In addition, Iowa should strive to facilitate victim participation like New York's courts.<sup>320</sup>

In New York, the Bronx Community Solutions group partners with nonprofit Sanctuary for Families to identify victims and facilitate victim participation.<sup>321</sup> A resource coordinator from Bronx Community Solutions sits in the courtroom to flag potential participants, and a caseworker conducts a needs assessment to identify services the victim needs.<sup>322</sup> A Sanctuary for Families counselor then delivers follow-up counseling and connections to further services.<sup>323</sup> Sarah Dolan, an advocate counselor with

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314. See SCHWEIG ET AL., *supra* note 136, at 3, 7.

315. *Id.* at 3 (quoting Judge Fernando Camacho).

316. See *supra* Parts IV.B–IV.C.

317. See CHILDREN AT RISK, *supra* note 92, at 21.

318. See *supra* Part IV.D.

319. Martin, *supra* note 249, at 11.

320. See SCHWEIG ET AL., *supra* note 136, at 7–10; Lippman, *supra* note 132; Rashbaum, *supra* note 107.

321. SCHWEIG ET AL., *supra* note 136.

322. *Id.*

323. *Id.*

Sanctuary for Families, believes “that having an intermediary between the client and the court ensures that clients with histories of victimization do not feel further threatened by the justice system.”<sup>324</sup> Dolan stated, “The clients have an advocate . . . throughout the entire process. That we are located right in the court is critical.”<sup>325</sup>

Fortunately, Iowa does not have to reinvent every part of the wheel during this journey; for example, the Wilmington Girls Court model demonstrates how Iowa can accomplish these steps by modifying its existing dockets.<sup>326</sup> First, as a means of implementing the aforementioned identification practices, Wilmington court stakeholders were instructed to look at related-arrest histories, modify existing screening forms to include issues such as prostitution and victimization, and reach out to service providers in the community to have them modify their forms.<sup>327</sup> Next, court stakeholders, staff, and judges had to undergo training on the overlap between prostitution, trafficking, assault, and trauma, and how to engage women whom have prostitution histories in the community.<sup>328</sup> Likewise, a Women’s Services Coordinator position was created to facilitate identification of victims in the Queens project among all specialty dockets.<sup>329</sup>

To assist in individualization, the pilot Girls Court in Midtown developed an individual assessment that focused on “criminogenic needs as well as past and/or current victimization” of girls that helps the judge make the most informed decision possible regarding “alternative sanction[s]” or services to provide.<sup>330</sup> Iowa should develop similar individual assessment forms.

In addition to considering other states’ implementation methods identified in this Part and Part IV, Iowa should seek advice from the Center for Court Innovation, as New York did in building its pilot programs.<sup>331</sup> The Center considers itself a “unique public-private partnership that promotes new thinking about how the justice system can solve difficult problems like

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324. *Id.*

325. *Id.*

326. *See* Crank, *supra* note 157.

327. *Id.*

328. *Id.*

329. *Id.* at 44.

330. *Id.* at 39–40.

331. SCHWEIG ET AL., *supra* note 136, at i.

addiction, quality-of-life crime, domestic violence, and child neglect.”<sup>332</sup>

Now a national organization, the Center states it “disseminates the lessons learned from its experiments in New York, helping court reformers across the country launch their own problem-solving innovations.”<sup>333</sup> It does so by conducting research, authoring books, facilitating discussions with leading academics and practitioners, providing hands-on technical assistance, and advising innovators nationwide.<sup>334</sup> While the *Guide to Addressing Human Trafficking in the State Courts* was mentioned previously, the brief citation to it in this Note should not serve as any state’s substitution for viewing the entire *Guide*. The *Guide* consists of eleven chapters, and it is set out to be a comprehensive resource for identifying traffickers and victims in court cases, processing cases involving trafficking, and accessing links to additional resources that can assist courts in trafficking cases.<sup>335</sup>

The focus of Iowa’s Girls Court, like so many others, should be services; in that regard, it should consider the Services to Access Resources and Safety’s (STARS) counseling categories.<sup>336</sup> The STARS program, a court-based program developed by staff at New York’s Midtown Community Court, considers the following several topics imperative in their counseling group with victims:

- Orientation, Stereotypes, and Group Rules: the counselors lay the ground rules during the first session and broaches the stereotypes society has about prostitution;<sup>337</sup>
- “Safety”;<sup>338</sup>
- “Trauma and Affect Regulation/Relaxation”: a “psycho-educational overview” of trauma, its triggers, and relaxation techniques to overcome it;<sup>339</sup>

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332. *Id.*

333. *Id.*

334. *Id.*

335. Press Release, Human Trafficking and the State Courts Collaborative, Human Trafficking and the State Courts Collaborative Releases the National Association for Court Management (NACM) Guide to Addressing Human Trafficking in the State Courts (Aug. 6, 2014), [http://www.courtinnovation.org/sites/default/files/documents/HT\\_Guide\\_Announcement.pdf](http://www.courtinnovation.org/sites/default/files/documents/HT_Guide_Announcement.pdf).

336. SCHWEIG ET AL., *supra* note 136, at 4–5.

337. *Id.* at 5.

338. *Id.*

339. *Id.*

- “Arts Education”: victims engage in creative outlets;<sup>340</sup>
- “Feeling Identification”: victims learn to identify and discuss different internal and external feelings;<sup>341</sup>
- “Legal Issues”: attorneys explain victims’ legal rights and the consequences of their criminal activities;<sup>342</sup>
- “Financial Literacy”: victims receive financial counseling and learn to become economically self-sufficient;<sup>343</sup>
- “Cognitive Restructuring”: victims learn new ways of thinking and explore their thoughts and feelings;<sup>344</sup> and
- “Healthy Relationships and Setting Boundaries”: victims learn about boundaries in existing relationships in their lives and explore types of relationships.<sup>345</sup>

Iowa should keep consistency in mind. This was an important consideration for the leaders establishing New York’s Girls Courts.<sup>346</sup> According to Maria Almonte, project director of the Bronx Community Solutions that worked to establish New York’s STARS model, having each prostitution case heard before the same judge “provides consistency for individuals with otherwise tumultuous lives, aids them in accessing services, and helps ensure accountability.”<sup>347</sup>

Responding to noncompliance is crucial in Girls Courts as well; in Girls Courts, the judges’ response to noncompliance is “tailored to the goal of reducing the use of incarceration” and includes responses like graduated sanctions to encourage compliance.<sup>348</sup> A graduated sanction may be in the form of an increase in court visits or the frequency of services.<sup>349</sup>

The final consideration for Iowa is the means by which success should be measured. The progress and successfulness of a Girls Court should not

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340. *Id.*

341. *Id.*

342. *Id.*

343. *Id.*

344. *Id.*

345. *Id.*

346. *Id.* at 9.

347. *Id.* (quoting Maria Almonte, Project Director, Bronx Community Solutions).

348. Crank, *supra* note 157, at 40.

349. *Id.*

just be measured through recidivism, but a number of factors, including: protection orders against traffickers, pimps, and sexual abusers; shelter; and self-proclamations to leave “the life.”<sup>350</sup>

## VI. CONCLUSION

According to the Human Trafficking and the State Courts Collaborative, “Establishing an appropriate state court role in addressing the numerous and complicated forms of modern-day slavery will be one of the most difficult challenges confronting state courts in the coming decade.”<sup>351</sup> Iowa can be proactive in facing this difficult challenge.<sup>352</sup>

The most significant hurdle to reducing trafficking and sexual exploitation in Iowa is ignorance.<sup>353</sup> Many do not realize that sex trafficking has infiltrated Iowa, because sex trafficking is portrayed as a foreign grandiose enterprise in movies like *Taken*.<sup>354</sup> While that enterprise certainly exists, Iowans cannot forget that the definition of sex trafficking includes simply the “obtaining of a person for the purposes of a commercial sex act.”<sup>355</sup> Young boys and girls are obtained in Iowa for commercial sex acts with increasing frequency, notwithstanding that trafficking in Iowa may not be instigated by an organized trafficking ring, but by an abusive family friend; that the exploitation does not take place in discrete underground brothels, but local motels; and that these girls are not advertised as “sex slaves” in an underground market, but as prostitutes on websites like Backpage.<sup>356</sup> While our Iowa scenery may change the mode and manner by which victims are trafficked and exploited, it does not change the horror that

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350. See SCHWEIG ET AL., *supra* note 136, at 7.

351. HUMAN TRAFFICKING AND THE STATE COURTS COLLABORATIVE, <http://www.htcourts.org> (last visited July 11, 2015).

352. See *supra* Part V.

353. Garrity, *supra* note 42 (quoting Michael Ferjak and Capt. Curt Henderson) (“The biggest challenge is in shifting public thinking about human trafficking’ . . . 75 percent of law enforcement do not believe human trafficking occurs in their jurisdiction. And yet, when [Michael Ferjak, leader of the Iowa Attorney General’s Human Trafficking Enforcement and Prosecution Initiative] reviewed prostitution arrests in 2013 with the alleged ‘prostitute’ listed at or about age 18 years of age, many of the cases had all the hallmarks of trafficking. . . . ‘Community members think that because they no longer see girls walking the streets, the problem has been solved. The truth is, it’s grown a hundred fold. It just has a new face.’” (quoting Michael Ferjak)).

354. TAKEN (EuropaCorp 2009).

355. 22 U.S.C. § 7102(10) (2012).

356. See Ferguson, *supra* note 40; Garrity, *supra* note 42.

trafficking inflicts on its victims and communities.

Indeed, sitting at the intersection of I-80 and I-35 places Iowa in a unique position to intercept traffickers and their victims as they travel through the Midwest.<sup>357</sup> While this position means Iowa has an opportunity to rescue girls from “the life,” it also means that Iowa police, legislators, and courts may become overwhelmed if the proper infrastructure is not put in place to address the traffickers and victims soon to flood into our corrections system.<sup>358</sup>

It would be unwise for Iowa to carry on without contemplating this unavoidable scene on our horizon. This is because once *all* Iowa law enforcement become trained to intercept trafficking and identify prostitutes as victims, Iowa will likely have more female juveniles before its courts than manageable (or at least, this has been the experience of other courts in states with additional trafficking and prostitution arrests).<sup>359</sup>

What will be most regrettable, though, is not that the ensuing condition on Iowa’s corrections system was preventable, but that Iowa courts will be without the means to effectively acquit these victims of prostitution due to its lack of victims’ assistance laws. Likewise, Iowa’s inability to provide these victims the trauma-informed services they so require due to the lack of a Girls Court means these girls will effectively be discharged, by Iowa’s hands, back into the harrowing world from which it first attempted to rescue them.<sup>360</sup>

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357. See Danielle Ferguson, *Humans for Sale: The Issue of Sex Trafficking*, IOWA STATE DAILY (June 20, 2013), [http://www.iowastatedaily.com/news/article\\_cb685b4a-b8ed-11e2-a7e5-0019bb2963f4.html](http://www.iowastatedaily.com/news/article_cb685b4a-b8ed-11e2-a7e5-0019bb2963f4.html).

358. See *id.*; Garrity, *supra* note 42.

359. See SCHWEIG ET AL., *supra* note 136, at 1–3.

360. See *Hearing on Human Trafficking in the United States*, *supra* note 1 (“As I listened to [a survivor of human trafficking] I soon realized that like so many other officers, I have likely met many other trafficking victims in my career but did not recognize them at the time and did not help them in the way they needed to be helped. I now know my failure caused them to continue living in a hell I can never fully comprehend and it steels my resolve to do all that is possible so that no officer ever lets it happen again to any victim.”).

This is, quite simply, not something Iowa can allow. This is, however, something Iowa is in the position to prevent.

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\* B.S., Drake University, 2013; J.D. Candidate, Drake University Law School, 2016. The Author would like to thank Chief Magistrate Celeste Bremer, Judge Colin Witt, and Judge Susan Cox for their practical and insightful commentary on the implementation of a Girls Court in Iowa; Professor Danielle Shelton for her help sharpening the form and structure of this Note; Professor Deslie Billich for lending her expertise from an international perspective; and Lori Rinehart for sharing her experience with assistance programs for juveniles.