

MAINE STATE LEGISLATURE

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**A REPORT TO THE
123rd LEGISLATURE
FIRST REGULAR SESSION**

**Final Report
of the
HUMAN TRAFFICKING TASK FORCE**

December 2006

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Executive Summary

Resolve 2005, Chapter 200 established the Human Trafficking Task Force. The Task Force of 12 members met on October 31 and on November 9, 16 and 29, 2006. Task Force members reviewed information from international and national organizations working to combat human trafficking, studied federal and state laws and legislative proposals, discussed the range of social, economic and educational programs serving victims of human trafficking and ideas for improving coordination of services, reviewed information designed to increase public awareness and considered legislation to more closely regulate travel agencies that advertise or arrange for travel for commercial sexual purposes and international matchmaking organizations. Resolve 2005, Chapter 200, requires the Task Force to submit a report, with findings and recommendations and suggested legislation, to the 123rd Legislature.

The Task Force recommends that legislation be passed to prohibit human trafficking under Maine law, to provide certain protections for victims of human trafficking, to prohibit travel agencies from advertising or arranging for travel for commercial sexual purposes, requiring international matchmaking and marriage organizations to provide information about access to the client's and customer's criminal, marital and other official records, and directing the Attorney General to work with a broad group of interested parties to develop training for law enforcement and community organizations, develop outreach and public awareness campaigns, and work on data collection, victim/witness laws, coordination of services, and federal victim services programs. The working group must include representatives of the Department of Health and Human Services, the Department of Labor, the Department of Public Safety and other groups and agencies interested in human trafficking. The recommendation includes a directive to the Attorney General to report to the Legislature by January 15, 2008. A more complete outline of the recommendations of the Task Force follows. The text of recommended legislation from the Task Force is included in Appendix E.

A. Criminalize human trafficking

The Task Force recommends enacting a law criminalizing human trafficking in Title 17-A, chapter 9-A. This will require legislation to:

- Define human trafficking to include using force, fraud or coercion for the purposes of sexual and labor exploitation (coercion is implied and need not be proven if the victim is a minor involved in the commercial sex trade).
- Include document violations/manipulation (including purported documents) as forms of coercion.
- Make human trafficking crimes Class B (10 years/\$20,000), with enhancement to Class A (30years/\$50,000) if victim is a minor forced through bodily injury or psychological coercion or threats to engage in a commercial sex act or if victim dies in the course of human trafficking.
- Authorize the court to order forfeiture of monetary, personal property and real estate assets acquired as a result of human trafficking, enacting Title 15, section 5821, subsection 9.

- Give the human trafficking victim rights, restitution, damages and compensation through criminal restitution law and the victims' compensation fund.
 - **Restitution.** Under Title 17-A, section 1322 amend the definition of "financial or economic loss" to include pay or wages unfairly or illegally withheld from the victim by the offender.
 - **Victims' Compensation Fund.** Amend the Victims' Compensation Fund law, Title 5, section 3360, subsection 6, definition of "personal injury" to include psychological injury to a victim of human trafficking without the need for proof of threat of bodily injury.

B. Prohibit commercial sex travel business

The Task Force recommends prohibiting travel agencies operating within Maine from advertising or arranging for travel for commercial sexual purposes. This will require amending Title 10 chapter 202-B to broaden it to "prohibited practices," retaining credit card practices and adding the prohibition on advertising or arranging for travel for commercial sexual purposes.

C. Provide notice of access to information in commercial international matchmaking

The Task Force recommends requiring commercial international matchmaking or marriage organizations operating within Maine to inform clients overseas who may be matched with a customer in the US and customers in the US of the right to information on the customer's and client's criminal, marital, protection from abuse and other official records. This will require enacting Title 10, chapter 202-E to define international matchmaking or marriage organizations and require them to provide written notice to all customers and clients in their native languages of the availability of information on marital and criminal records, and protection from abuse/harassment orders and other judicial proceedings regarding the person with whom they may be matched. This will require designating a violation a civil violation, enforceable by the Attorney General, with a penalty of up to \$1000 per violation and injunctive relief.

D. Working group on human trafficking, reporting January 15, 2008

The Task Force recommends directing the Attorney General to convene a working group, consisting of representatives of the Department of Health and Human Services, the Department of Labor and the Department of Public Safety and law enforcement, the Maine Institute for Public Safety Innovation, interested parties, other state agencies and service providers including health care, domestic violence and sexual assault advocates and other social service providers to:

- Develop training for law enforcement and community organizations,
- Develop outreach and public awareness campaigns, including victims' services and special visa status for victims who are undocumented immigrants,
- Work on options and initiatives for data collection, the need for victim/witness laws, coordination of services, and coordination of state and federal victim service programs for benefits, programs and licenses, and
- Report to the Legislature 1/15/08.

I. INTRODUCTION

Legislative History

An Act to Provide for Victims of Trafficking, LD 1296, was submitted to the 122nd Legislature by Representative Lisa Marrache´. The bill, which was printed as a concept draft, proposed to amend the criminal laws to prohibit trafficking from other countries, to provide protections for the children, women and men who are victims of trafficking, to prohibit using a victim’s alleged consent as a defense and to hold responsible a landowner or employer who knows or should have known that trafficking was occurring on the premises. The bill proposed to establish a task force to determine the nature and extent of trafficking in Maine and to make recommendations for legislative, policy and programmatic initiatives. LD 1296 was heard and worked in the Joint Standing Committee on the Judiciary and passed as Resolve 2005, Chapter 200.

Resolve 2005, Chapter 200

Resolve 2005, Chapter 200 established the Human Trafficking Task Force. The Task Force of 12 members met on October 31 and on November 9, 16 and 29, 2006. Task Force members reviewed information from international and national organizations working to combat human trafficking, studied federal and state laws and legislative proposals, discussed the range of social, economic and educational programs serving victims of human trafficking and ideas for improving coordination of services, reviewed information designed to increase public awareness and considered legislation to more closely regulate travel agencies that advertise or arrange for travel for commercial sexual purposes and international matchmaking organizations. Resolve 2005, Chapter 200, requires the Task Force to submit a report, with findings and recommendations and suggested legislation, to the 123rd Legislature. A summary of the legislation recommended by the Task Force is included in the recommendations section of this report. The full text of the recommended legislation is included in Appendix E.

II. BACKGROUND INFORMATION

What is human trafficking?

Human trafficking is modern day slavery in which the victims, men, women and children, are subjected to labor or sexual exploitation through force, fraud or coercion. The United States Department of State defines human trafficking as “all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons; within national or across international borders; through force, coercion, fraud or deception; to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor or other debt bondage.” The impact of human trafficking is enormous. It deprives people of human rights and freedoms, subjecting them to physical and emotional abuse, threats, rape and death. It creates global health risks and contributes to the growth of organized crime.¹

¹ “Human Trafficking Into and Within the United States,” by Dr. Heather Clawson, July 24, 2006, pg. 1.

Elements of the Federal Crime of Human Trafficking²

Action of trafficker regarding the victim	Means - by force, fraud, coercion or deception	Purpose
Recruit	Cause or threaten serious harm	Commercial sex act
Harbor	Physically restrain	Labor or services
Transport	Hold in debt bondage	Debt bondage
Provide	Threaten deportation, arrest or abuse of legal system	Peonage
Obtain	Withhold legal documents	Slavery
Attempt or conspire to do any of the above actions	Provision or withholding of drugs or alcohol for an addicted person	Involuntary servitude

The federal Trafficking Victims Protection Act of 2000, PL 106-386, (TVPA) and Trafficking Victims Protection Reauthorization Act of 2005, PL 109-164, (TVPRA) define severe forms of trafficking, separating labor trafficking and sexual trafficking. Together they are referred to as the TVPA. These laws provide a comprehensive federal approach to address the challenge of human trafficking by punishing offenders and increasing the protections and services provided for victims.³

- The TVPA prohibits forced labor and labor trafficking, which is defined as the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.⁴
- The TVPA prohibits and defines sexual trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person who performs the sex act is under the age of 18 years.⁵
- The TVPA criminalizes the destruction, concealment, and possession of another person's actual or purported passport and other travel documents for the purposes of coercion into or holding the person in human trafficking.⁶
- The TVPA designates certain offenses as violations of the Racketeering Influenced and Corrupt Organization statute (RICO).
- The TVPA provides for mandatory restitution to the human trafficking victim from the offender. This restitution is in the full amount of the victim's losses, which are defined to include medical and psychological care, physical and occupational therapy and rehabilitation, child care, transportation, temporary housing, attorney's fees and costs,

² Derived in part from "Human Trafficking and Modern Day Slavery in Ohio," by Kathleen YS Davis, Polaris Project Coordinator, pg 12, February 2006.

³ "Distinctions Between Human Smuggling and Human Trafficking," United States Department of State, Human Smuggling and Trafficking Center, January 1, 2005.

⁴ 18 United States Code section 1589 and 1590.

⁵ 18 United States Code section 1591.

⁶ 18 United States Code section 1592.

other economic losses suffered by the victim and lost income, calculated according to federal Fair Labor Standards Act or by reference to gross income to the offender or value to the offender of the victim's services or labor.⁷

- The TVPA provides stiff penalties, adding life imprisonment for violations that result in death to the victim and those that involve kidnapping or sexual abuse of the victim.
- The TVPA authorizes the victim to sue the offender in federal courts, allows temporary visa status to victims who are not legal residents of the United States and their families, and authorizes the federal Department of Health and Human Services to certify victims' and their families for services.
- The TVPA provides funding for law enforcement training and community education initiatives.



Hari – Hari answered an ad in his home country of India for welders for jobs in the United States that paid \$10 per hour. He paid the \$2500 application fee. Enroute to the US he was given a contract to work for six months at \$3 per hour and told to sign or he would be sent home. Hari signed the contract and when he arrived in the US his passport and travel documents were taken by the employer. He was paid \$3 per hour, housed in a group apartment and denied outside contacts. *Hari is a human trafficking victim. Hari's case involves fraud, coercion, isolation and labor exploitation. Depending on the details of his travel documents and his arrival in the US, Hari may have been smuggled.*

Several states have enacted comprehensive laws prohibiting human trafficking and providing protections for victims.⁸ They have included in their comprehensive human trafficking legislation prohibitions on involuntary servitude, prohibiting travel agencies' arranging for travel for sexual purposes and regulation of for-profit international matchmaking organizations. They have done this in order to prevent victimization in situations that are virtual first cousins to human trafficking.⁹

- The victim of involuntary servitude may be identical to a human trafficking victim, the forced labor of services situation may be identical. What's missing is the element of recruiting, enticing, or transporting the victim. The defendant may be only part of a long chain of in the crime of human trafficking. Criminalizing involuntary servitude helps to break the human trafficking chain and stop victimization.
- Travel agencies that facilitate sex tourism contribute to the victimization of men and women, adults and children. States laws have prohibited travel agencies in their jurisdictions from advertising or furnishing travel, transportation or vacation services for commercial sexual purposes.

⁷ 18 United States Code section 1593.

⁸ "Fact Sheet on State Anti-Trafficking Laws from National Institute on State Policy on Trafficking of Women and Girls, A Program of the Center for Women Policy Studies," August, 2006, and "State Laws Regarding Human Trafficking," Jane Orbeton, September 21, 2006, Appendix D.

⁹ "Resource Guide for State Legislators; Model Provisions for State Anti-Trafficking Laws," National Institute for State Policy on Trafficking of Women and Girls, The Center for Women and Policy Studies, pgs 13-16, July, 2005.

- Servile marriages, particularly those arranged by for-profit international matchmaking organizations, provide opportunities for victimization of unwary women, sometimes resulting in domestic violence and even murder. Recruits (brides) may be recruited under false pretenses and may be subjected to physical, psychological, sexual and economic abuse by the clients (grooms) who have brought them to the US. The recruits may be kept isolated, threatened with deportation and have their travel documents wrongfully withheld from them. States laws have required international matchmaking organizations to provide information to the foreign recruit in the recruit's native language. This information could be about how to access public information or it could be about the actual criminal records, martial history and protection from abuse and harassment court orders regarding the US resident client. In addition, some states have required that the international matchmaking organization provide information to the foreign recruit regarding human rights, immigration, emergency assistance and resources and immigration procedures for victims of domestic violence.

How does human trafficking work?

Human trafficking victims may be from another country, often from situations of extreme poverty, economic hardship and political instability or they may be from the United States. They may be forced or coerced into their work by persons who hold power over them or who hold them as captives. They may intend to enter the particular occupation but be misled about working conditions or pay. They may work in agricultural, construction and factory settings, in landscaping businesses, hotels, restaurants, or as housekeepers, prostitutes or in the sex industry or pornography trade. They may be employed as street beggars. They may enter the country legally or illegally and they may work in legal or illegal trades and occupations. They may be US citizens, longtime state residents, new residents or migrant workers with or without proper documentation.¹⁰

Common Work Sites of Trafficked Workers¹¹

- Commercial sex trade, pornography, exotic dancing
- Hotel housekeeping and restaurant work
- Construction work
- Domestic work and child care
- Landscaping and agricultural work
- Factory work

¹⁰ Freedom Network USA, <http://www.freedomnetwork.usa.org>, July 27, 2006.

¹¹ "Human Trafficking and Modern Day Slavery in Ohio," above, pg. 10.



Sonia – Sonia was invited by family friends to work as a housekeeper in the United States for \$100/week. Her employer obtained fraudulent travel documents for her and she entered the US. Upon arriving at the home Sonia worked as a housekeeper without pay, was kept in isolation, not allowed to speak to anyone, was told that if she did she would be turned over to Immigration and deported, and was made to sleep in the windowless basement. *Sonia was smuggled into the US and is a human trafficking victim. Sonia's case involves fraud, coercion, isolation and labor exploitation.*

The victims of human trafficking have a lot in common – they are tricked, forced, or coerced (except that a minor in the commercial sex trade need not have been tricked, forced or coerced), they are being exploited through their work. They may work for very low wages or to pay off a “debt” to the employer that never decreases in amount. Often they are deprived of basic human liberties and they are kept isolated, deprived of outside contacts, and threatened by the human trafficker with deportation or jail if they have any outside contacts, speak to the police or try to contact their families. These techniques are used to coerce a victim with limited English language abilities, no social friends and no legal travel documents in his or her possession feels trapped. And that is just what the human trafficker is counting on to keep the victim in the working for the trafficker.

How big a problem is human trafficking?

The United States Department of State report entitled “Trafficking in Persons Report, June 2006” cites United Nations International Trade Organization estimates that at any one time across the world 12.3 million people are working in forced labor, bonded labor, forced child labor and sexual servitude and that other estimates run from 4 million to 27 million.¹² Federal estimates place the number of victims trafficked in the United States at 17,500 to 18,500 annually.¹³

The Center for Women Policy Studies estimates that between 600,000 and 800,000 persons are trafficked internationally each year, 80% of the victims being women and children.¹⁴ Leslie Wolfe, President of the Center for Women Policy Studies, noted in a speech the lack of good data on the number of trafficking victims and cited the number of women trafficked into the US each year as possibly between 15,000 and 100,000.¹⁵

The “Trafficking in Persons Report, June, 2006” details the progress of the federal government in investigating and prosecuting human trafficking cases and protecting victims of human trafficking.¹⁶

- One hundred sixteen individuals were charged federally with human trafficking offenses during 2005, almost double the number in 2004.

¹² “Trafficking in Persons Report, June 2006” United States Department of State, page 6.

¹³ See note 3 above.

¹⁴ “Spotlight,” Center for Women Policy Studies, <http://www.centerwomenpolicy.org>, November 27, 2006.

¹⁵ “Fighting the War on Trafficking of Women and Girls: The Role of State Legislatures,” Testimony of Leslie R. Wolfe, President of the Center for Women Policy Studies,

¹⁶ “Trafficking in Persons Report, June 2006,” above, page 53.

- One thousand victims of human trafficking were certified by the federal Department of Health and Human Services as of May 2006, enabling them to access a broad range of services and benefits designed to address recovery from abuse and trauma and integration into society.
- Six hundred sixteen T-visas were issued by the Department of Homeland Security in federal fiscal year 2005 to enable human trafficking victims to temporarily remain in the United States and pursue visa status for longer residency. Another five hundred seventy-three T-visas were issued to members of the families of victims of human trafficking.

Who are the victims of human trafficking?

The State Department estimates that women and children are more than half of all human trafficking victims and that many victims are emotionally and physically abused and very poor. The Center for Women Policy Studies estimates that 80% of the victims are women and children.¹⁷

- The victim may have been kidnapped and placed into labor or sexual exploitation.
- The victim may have been defrauded, forced by threats or violence or coerced.
- The victim may have entered into the employment relationship willingly, only later to learn that the work or pay was not what he or she bargained for.
- The victim's job as a nanny or model may have been replaced by work as a prostitute, or work in the commercial sex trade may have deteriorated to slavery-like conditions with beatings and rapes.¹⁸
- The victim's pay may have been diverted to pay off a debt to the employer.
- The victim may lack the means and confidence to break free from the trafficker. This may be done through intimidation, isolation, confiscation or destruction of passports or travel documents and threats of reporting to the police or immigration authorities for deportation.



Bea – Bea, who ran away from home at age 14, is now 15. Friends on the street introduced her to Mike, who offered friendship and a place to stay. Mike beat Bea and forced her into sex with his friends, then forced her into prostitution on the street. Mike does not allow Bea to have friends or speak with neighbors or her family. *Bea is a victim of human trafficking. Bea's case involves beatings and force and, more importantly, Bea is a minor working in the commercial sex trade.*

How does human trafficking differ from smuggling?

Smuggling always involves facilitating the illegal entry of a person from one country into another country in violation of the laws of one or both countries. The person smuggled may know of his or her illegal entry status or may not. The person smuggled may be transported clandestinely or may travel openly but with false documents. Once in the destination country the person smuggled is free to move about and work as he or she wishes, although sometimes the payment over time of a fee to the smuggler may lengthen the business relationship between the 2 persons.

¹⁷ See note 15 above.

¹⁸ See note 3 above.

There are two keys to distinguishing smuggling from human trafficking. (1) Human trafficking requires the use of force, fraud, coercion or deception to steer the adult victim into labor or sexual exploitation. An exception to this occurs with a child victim who works in the commercial sex trade, when the elements of force, fraud, coercion or deception are implied and need not be present. (2) Human trafficking does not require illegal entry into the country or even movement of the victim between cities.

Is it Human Trafficking or Smuggling?¹⁹

Human trafficking	Smuggling
Trafficking may be international, interstate or local. Movement of the victim is not required.	Smuggling is international. It occurs at borders, with illegal entry or the smuggled person is living in the country.
The person trafficked is considered a victim, is exploited in labor or sexual exploitation.	The person smuggled is free of smuggler, with the exception of payment of a debt to pay the smuggler's fee.
The victim is subject to force, fraud, coercion or deception (this is implied if the victim is a minor employed in commercial sex trade).	The person smuggled has arranged or paid to be smuggled into country. No force, fraud, coercion or deception used against the smuggled person.

III. HUMAN TRAFFICKING IN MAINE

Prevalence of human trafficking in Maine

Federal and state prosecutors, law enforcement, community service providers and state agencies are all at a loss to quantify the problem of human trafficking in Maine. All have experience working with victims of crimes who perhaps could have qualified as victims of human trafficking, but no prosecutions had taken place in Maine prior to the meetings of the Task Force. The Immigrant Legal Advocacy Project presented to the Task Force information that could lead to a finding that human trafficking is occurring in Maine. Clients of the project have included persons forced into domestic servitude under coercion, being held in isolation, and working with no or low pay, by the persons who brought them to Maine.

The facts of two border violation cases, particularly when reviewed in the 20-20 vision of hindsight, hint at but do not clearly indicate human trafficking. Without more detailed information about the relationships between the smugglers and the persons smuggled and the reasons the persons were being smuggled into the US it is not possible to judge whether human trafficking was taking place. The Task Force emphasizes that it does not have evidence that these illustrative cases were human trafficking cases. Rather the cases are offered because their facts raise questions of smuggling and human trafficking, the relationships between the 2 crimes and their prevalence in Maine.

¹⁹ See note 3 above.

- A man from Hartland was convicted of smuggling three illegal aliens into the state via boat on East Grand Lake and was sentenced to six months in prison, with two years probation and a \$1000 fine. At the time of apprehension, the man told border patrol agents that he had agreed to bring three people across the border from Canada. Of the three illegal aliens, one was a Canadian man and two were Malaysian women, ages 17 and 19. The minor woman was turned over to the custody of the Department of Homeland Security US Immigration and Customs Enforcement (ICE). The two adults plead guilty to concealment of facts about re-entry, were sentenced to 15 days in jail or time served and were turned over to ICE officials. One of the adults told border patrol agents that she and the minor woman had contacted the Canadian man who had agreed to help them find work in the US and they had met the man in Miramichi, New Brunswick and boarded the boat there for the US.
- A woman from St. Stephen, New Brunswick, was arrested in August 2005 for attempted smuggling of three illegal aliens and still awaits trial. The one minor illegal alien was turned over to the custody of ICE officials. The two adult illegal aliens each pleaded guilty to attempting to enter the country by making false statements to border patrol agents. They were ordered to spend four days in county jail, given credit for time served and turned over to ICE for deportation.

IV. RECOMMENDATIONS

The Task Force recommends that legislation be passed to prohibit human trafficking under Maine law, to provide certain protections for victims of human trafficking, to prohibit travel agencies from advertising or arranging for travel for commercial sexual purposes, requiring international matchmaking and marriage organizations to provide information about access to the client's and customer's criminal, marital and other official records, and directing the Attorney General to work with a broad group of interested parties to develop training for law enforcement and community organizations, to develop outreach and public awareness campaigns, and to work on data collection, victim/witness laws, coordination of services, and federal victim services programs. The working group must include representatives of the Department of Health and Human Services, the Department of Labor, the Department of Public Safety and other groups and agencies interested in human trafficking. The recommendation includes a directive to the Attorney General to report to the Legislature by January 15, 2008. A more complete outline of the recommendations of the Task Force follows. The text of recommended legislation from the Task Force is included in Appendix E.

A. Criminalize human trafficking

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- Define human trafficking to include using force, fraud or coercion for the purposes of sexual and labor exploitation (coercion is implied and need not be proven if the victim is a minor involved in the commercial sex trade).

- Include document violations/manipulation (including purported documents) as forms of coercion.
- Make human trafficking crimes Class B (10 years/\$20,000), with enhancement to Class A (30years/\$50,000) if victim is a minor forced through bodily injury or psychological coercion or threats to engage in a commercial sex act or if the victim dies in the course of human trafficking.
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D. Working group on human trafficking, reporting January 15, 2008

The Task Force recommends directing the Attorney General to convene a working group, consisting of representatives of the Department of Health and Human Services, the Department of Labor and the Department of Public Safety and law enforcement, the Maine Institute for Public Safety Innovation, interested parties, other state agencies and service providers including health care, domestic violence and sexual assault advocates and other social service providers to:

- Develop training for law enforcement and community organizations,

- Develop outreach and public awareness campaigns, including victims' services and special visa status for victims who are undocumented immigrants,
- Work on options and initiatives for data collection, the need for victim/witness laws, coordination of services, and coordination of state and federal victim service programs for benefits, programs and licenses, and
- Report to the Legislature 1/15/08.

APPENDIX A

Authorizing Legislation, Resolves 2005, Chapter 200



RESOLVES

Second Regular Session of the 122nd

CHAPTER 200 H.P. 893 - L.D. 1296

Resolve, To Create the Human Trafficking Task Force

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Human Trafficking Task Force is necessary to propose appropriate criminal statutes and to develop methods for a coordinated approach to assisting victims of human trafficking; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Task force established. Resolved: That the Human Trafficking Task Force, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of 12 members appointed as follows:

1. One member of the Senate, appointed by the President of the Senate;
2. One member of the House of Representatives, appointed by the Speaker of the House;
3. The Attorney General, or the Attorney General's designee;
4. The Commissioner of Health and Human Services, or the commissioner's designee;
5. The Commissioner of Public Safety, or the commissioner's designee;
6. The Commissioner of Labor, or the commissioner's designee;
7. A representative of health care providers, appointed by the President of the Senate;
8. A representative of local law enforcement, appointed by the Speaker of the House;
9. A representative of social service agencies, appointed by the President of the Senate;

10. A representative of advocates for refugee and immigrant women, men and children, appointed by the Speaker of the House;

11. A representative of providers of services and support for survivors of domestic violence, appointed by the President of the Senate; and

12. A representative of providers of services and support for survivors of sexual assault, appointed by the Speaker of the House; and be it further

Sec. 3. Chairs. Resolved: That the Senate member is the Senate chair of the task force and the House member is the House chair of the task force; and be it further

Sec. 4. Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members and notification by the Executive Director of the Legislative Council that sufficient funding has been received, the chairs shall call and convene the first meeting of the task force; and be it further

Sec. 5. Duties. Resolved: That the task force shall study human trafficking and make recommendations to combat the trafficking of human beings across state borders and into the State for sexual and labor exploitation. The task force shall:

1. Review human trafficking laws and legislation in other jurisdictions;
2. Recommend proposed statutory language that criminalizes the trafficking of women, men and children into the State from other countries. The proposed language must: protect from prosecution the women, men and children who have been trafficked into this State; prohibit the trafficker's assertion of the victim's consent as a defense; and hold responsible a landowner or employer who knew or should have known that trafficking was occurring on the premises over which the landowner or employer exerted control;
3. Identify available federal, state and local programs that provide services to victims of trafficking that include, but are not limited to, health care, human services, housing, education assistance, job training preparation, interpreting services, English as a second language classes and immigration services;
4. Collect research and information on trafficking victims and evaluate state and local government approaches to increasing public awareness of the trafficking in persons;
5. Review antitrafficking legislation considered and enacted in other states such as Hawaii, Washington and Texas, including legislation designed to regulate "bride trafficking" and "international matchmaking organizations";
6. Work with prosecutors and law enforcement officials to develop methodologies for data collection and strategies to reduce barriers faced by victims of trafficking who might seek assistance; and
7. Make recommendations on methods to provide a coordinated system of support to persons who are victims of trafficking; and be it further

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the task force; and be it further

Sec. 7. Compensation. Resolved: That the legislative members of the task force are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force; and be it further

Sec. 8. Report. Resolved: That, no later than November 30, 2006, the task force shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 123rd Legislature. The task force is authorized to introduce legislation related to its report to the First Regular Session of the 123rd Legislature at the time of submission of the report; and be it further

Sec. 9. Extension. Resolved: That, if the task force requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

Sec. 10. Task force budget. Resolved: That the task force shall seek outside funds to fully fund all costs of the task force. If sufficient outside funding has not been received by September 15, 2006 to fully fund all costs of the task force, no meetings are authorized and no expenses of any kind may be incurred or reimbursed. Contributions to support the work of the task force may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. The certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of the funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of the funds. The Executive Director of the Legislative Council shall administer any funds received by the task force. The Executive Director of the Legislative Council shall notify the chairs of the task force when sufficient funding has been received. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for its approval. The task force may not incur expenses that would result in the task force's exceeding its approved budget; and be it further

Sec. 11. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Provides an Other Special Revenue Funds allocation to the Legislature in the event outside funding is received for the Human Trafficking Task Force.

OTHER SPECIAL REVENUE

FUNDS 2005-06 2006-07

Personal Services \$0 \$440

All Other \$0 \$2,400

OTHER SPECIAL REVENUE
FUNDS TOTAL \$0 \$2,840

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective April 28, 2006.

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About the 2nd Regular & 2nd Special Session Laws Of Maine



*Office of the Revisor of Statutes
State House, Room 108
Augusta, Maine 04333*

[Contact the Office of the Revisor of Statutes](#)

APPENDIX B

Membership list, Human Trafficking Task Force



Human Trafficking Task Force

Resolve 2005, Chapter 200

Tuesday, December 12, 2006

Appointment(s) by the President

Sen. Bill Diamond - Chair

261 Windham Center Rd.
Windham, ME 04062
207 892-8941

Senate Member

J. Elizabeth Mitchell

465 Congress Street
6th Floor
Portland, ME 04101
207 775-7010

Representing Health Care Providers

Deborah Shepherd

Family Violence Project
P.O. Box 304
Augusta, ME 04332-0304
207 623-8637

Representing Service Providers of Survivors of Domestic Violence

Catherine J. Stakeman DSW, MSW

5 Pine Street
Brunswick, ME 04011
207 622-7592

Representing Social Service Agencies

Appointment(s) by the Speaker

Rep. Marilyn E. Canavan - Chair

28 May Street
Waterville, ME 04901
207 872-6221

House Member

Laurent Gilbert Sr.

Maine Institute for Public Safety Innovation
University of Maine at Augusta 46 University Drive
Augusta, ME 04330
207 621-3068

Representing Local Law Enforcement

Juan Perez-Febles Director

Div. of Migrant & Immigrant Services
Dept. of Labor 185 Lancaster Street
Portland, ME 04161

Representing Advocates for Refugees & Immigrants

Elizabeth Ward Saxl

984 Prescott Road
Manchester, ME 04351

Representing Service Providers of Survivors of Sexual Assault

Attorney General

William R. Stokes

Office of Attorney General
6 State House Station
Augusta, ME 04333
207 626-8571

Designee

Commissioner, Department of Health & Human Services

Noel Bonam Director
Office of Immigrant & Multicultural Services
11 SHS
Augusta, ME 04333-0011
207 287-4272

Designee

Commissioner, Department of Labor

Vanessa Santarelli
Office of the Commissioner
Dept. of Labor 19 Union Street
Augusta, ME 04330
207 287-3055

Designee

Commissioner, Department of Public Safety

Lt. Jackie Theriault
106 Hogan Rd
Bangor, ME 04401
207 624-7097

Or Designee

Staff:

Jane Orbeton 287-1670
OPLA

APPENDIX C

Meeting Notes

Human Trafficking Task Force Meeting Notes, October 31, 2006

1. Present at the first meeting of the Human Trafficking Task Force were members Diamond, Canavan, Gilbert, Perez-Febles, Santarelli, Stakeman, Shepherd, Mitchell, Theriault, Stokes and Donna Strickler for Sue Hall Dreher. Member Noel Bonam was unable to attend. Jane Orbeton, Office of Policy and Legal Analysis, attended as staff.
2. The co-chairs Bill Diamond and Marilyn Canavan introduced themselves and welcomed members to the task force. Task Force members introduced themselves.
3. Task Force member Larry Gilbert and Sarah Walton, assistant professor of criminal justice at UMA, discussed human trafficking with the Task Force. They provided a definition and distinguished human trafficking from smuggling. Sarah and Larry provided model laws for the Task Force to review. Task Force members identified as issues: the need for training and awareness, no state prosecutions in past years, the involvement of migrant and immigrant workers and more general labor and child labor exploitation, the connection to mom and pop operations and to organized crime and illegal drugs, the involvement of discrimination, our history of punishing and deporting the victim rather than treating the victim as exploited and as a valuable witness and person, the need for innovative ways to reach out to trafficked workers, and the trafficking technique of withholding a worker's documents from them.
4. Task Force members offered the following suggestions: education and collaborative approaches to providing services for victims with existing resources, training for law enforcement and public education for the general public, the need for centralized information and good data on trafficking situations, victims and prosecutions, the civil rights approach of designated officers in each police department and reporting to the Attorney General's Office, what happens to the victim during prosecution, trial and after trial, possible mandatory training for law enforcement on human trafficking, building effective collaboration between law enforcement and social service providers in our communities, and possible costs to service providers.
5. Task Force members asked for the following information:
 - model legislation (Jane),
 - the visa status of the Ukrainian woman victim that Sarah mentioned (Sarah),
 - trafficking reports from Ohio, Minnesota and Connecticut (Jane),
 - ideas for imposing civil penalties and asset forfeiture (Jane),
 - invitation to the US Attorney's Office to attend the next meeting and comment on model laws and other state laws and human trafficking in Maine (Jane),
 - whether other states have standardized complaint forms regarding human trafficking, the costs of trafficking prosecutions and services to the victims before and after trial (Jane),
 - whether other states saw an increase in prosecutions after passing new laws and the costs to the states (Jane),
 - recent developments and any costs from the Asian spa prosecutions in Rhode Island (Larry),
 - copies of the NY Times article on child labor (Jane, from Elizabeth), and

- copies of the Public Affairs article on human trafficking (Jane, from Deborah).

*****Child Labor Forum December 5 in Bangor*****

Future Meetings of the Human Trafficking Task Force

Thursday, November 9, 10am to 3pm, Room 209, Cross State Office Building (usual location)

Thursday, November 16, 10am to 3pm, Room 202, Cross State Office Building (new location)

Wednesday, November 29, 10am to 3pm, Room 209, Cross State Office Building (usual location)

**Human Trafficking Task Force
Meeting Notes, November 9, 2006**

1. Present at the second meeting of the Human Trafficking Task Force were members Bonam, Gilbert, Perez-Febles, Santarelli, Stakeman, Shepherd, Mitchell, Theriault, Stokes and Canavan. Members Diamond and Dreher were unable to attend. Jane Orbeton, Office of Policy and Legal Analysis, attended as staff.
2. The chair Marilyn Canavan welcomed members to the Task Force. Task Force members introduced themselves. Member Noel Bonam introduced himself. Member Larry Gilbert introduced visitors who attended the meeting, one with experience in human trafficking in Albania and one with law enforcement experience in Korea. The Task Force viewed the Channel 13 report from November 3 on the work of the Task Force and human trafficking in Maine and the US.
3. Task Force members reviewed information requested at the 1st meeting. This information included the following topics: reports from other states' task forces, other states' laws and experience with prosecutions and victims' services, complaint forms and data collection, options for civil penalties and asset forfeiture and model laws. Larry read to the group information on mail order bride agencies operating out of Bangor and Winterport.
4. Task Force members discussed additional information needed for the 3rd meeting.
 - Noel will get more information on the Human Trafficking Working Group.
 - Jackie will find out when the Department of Justice survey on human trafficking in the states will be made public. The web address is http://www.irj.neu.edu/projects/criminal_justice/.
 - Jane will contact the Center for Women's Policy Studies to find out what additional information and recent studies they have and what assistance they can provide to states.
 - Bill Stokes will send Jane information on the statewide victim/witness advocate organization.
 - All Task Force members will consider the question of who might be included in working groups/consortia on human trafficking, specifically with regard to education, outreach, and victim services. Task Force members will send names to Jane for compilation for the next meeting.
 - All Task Force members will review state laws and model laws. Jane will send the chart on state and model laws for review prior to the next meeting. Members are encouraged to expand the Word table to add other legal issues that they wish included for Task Force consideration.
 - Jane will search out human trafficking information and educational materials to see what is already available and from what sources.

*****Child Labor Forum December 5 in Bangor*****

Future Meetings of the Human Trafficking Task Force

Thursday, November 16, 10am to 3pm, Room 202, Cross State Office Building (new location)

Wednesday, November 29, 10am to 3pm, Room 209, Cross State Office Building (usual location)

**Human Trafficking Task Force
Meeting Notes, November 16, 2006**

1. Present at the third meeting of the Human Trafficking Task Force were members Gilbert, Perez-Febles, Santarelli, Stakeman, Mitchell, Theriault, Stokes, Canavan and Diamond. Members Dreher, Bonam and Sherherd were unable to attend. Jane Orbeton, Office of Policy and Legal Analysis, attended as staff.
2. The chairs Bill Diamond and Marilyn Canavan welcomed members to the Task Force. Task Force members introduced themselves.
3. The Task Force received information on the federal perspective on human trafficking from Halsey Frank, Esq., Assistant US Attorney and Heather Putnam, Victim Witness Coordinator, US Attorney's Office. The presenters provided handouts on human smuggling and trafficking, services for victims of trafficking crimes and the model state anti-trafficking laws approved by the Department of Justice and spoke of the need to plan for and coordinate services for victims. The presenters were asked for information on prosecutions for crimes related to human trafficking in Maine and other states in the region (ie. involuntary servitude, concealing illegal aliens, smuggling of persons or Mann Act violations).
4. Task Force members received information on the immigrant perspective on human trafficking from Beth Stickney, Esq., Immigrant Legal Advocacy Project, Portland. The presenter spoke in favor of state anti-trafficking laws to increase the options for prosecutions and make continued presence and access for services easier for victims, the weakness of state labor laws in addressing labor exploitation cases, and the use of U and T-visas for victims.
5. Task Force members reviewed information requested at the 2nd meeting. This information included the following topics: information of human trafficking being distributed by other states, the Department of Justice survey on human trafficking, the results of which will not be released until May, information from the Center for Women's Policy Studies, lists of service providers in the State and a list of victim witness advocacy organizations.
6. Task Force members reviewed a list of options for legislative recommendations from the Task Force. Task Force members favored comprehensive legislation that is not overly complex, leaving some issues for later legislation. They favored criminalizing sexual and labor trafficking, with document manipulation as a form of coercion. Human and sexual trafficking would be Class B crimes, except they would be Class A if the victim is a minor or the victim dies in the course of exploitation. They favored using or cross referencing to current criminal restitution and victim rights and compensation laws. They favored directing the AG to work with a broadly representative group on training, coordination of services, public awareness and outreach and data collection with a report to the Legislature in 2008. They favored requiring that prospective spouse information be made available to prospective mail-order brides and prohibiting travel business for commercial sexual purposes.

*****Child Labor Forum December 5 in Bangor*****

Final Meeting of the Human Trafficking Task Force

Wednesday, November 29, 10am to 3pm, Room 209, Cross State Office Building (usual location)

Meeting Notes Human Trafficking Task Force, November 29, 2006
Jane Orbeton, OPLA, November 30, 2006

1. Attendance:

Present were members Rep. Canavan, Stakeman, Shepherd, Gilbert, Bonam, Perez-Febles, Santarelli, Theriault, Stokes, Mitchell. Members Sen. Diamond and Dreher were excused. Jane Orbeton, Office of Policy and Legal Analysis, attended as staff.

2. New information:

Regarding information requested at Meeting #3 Jane reported that the DHHS working group on human trafficking is informal and does not duplicate the work of the Task Force. Jane also reported that Heather Putnam, Victim Witness Coordinator in the US Attorney's Office, is still trying to get from the US Department of Justice information on prosecutions for human trafficking and related federal offenses in the northeastern states. Any information received prior to the finalization of the report will be included in the report. Noel Bonam distributed information from Project Rescue and Restore, the federal anti-human trafficking initiative, from the US Department of Health and Human Services. Information is available in English, Spanish, Chinese, Russian and Polish. Information is available that is designed specifically for health care providers, law enforcement, the public and social service organizations. The website is www.acf.hhs.gov/trafficking.

3. Decisions at the meeting:

Task Force members discussed their recommendations for legislation. In addition to the decisions summarized below, Task Force members agreed to have their report include mention of the federal law prohibiting destruction and withholding of another person's travel documents. Task Force members agreed to include document destruction/withholding as a form of coercion, not as a separate offense.

4. Recommendations for legislation:

A. Criminalize human trafficking

Enact a law criminalizing human trafficking in Title 17-A, chapter 9.

- Define human trafficking to include using force, fraud or coercion for the purposes of sexual and labor exploitation (coercion is implied and need not be proven if the victim is a minor involved in the commercial sex trade).
- Include document violations/manipulation (including purported documents) as forms of coercion.
- Make human trafficking crimes Class B (10 years/\$20,000), with enhancement to Class A (30years/\$50,000) if victim is a minor forced through bodily injury or psychological coercion or threats to engage in a commercial sex act or if victim is a minor in labor exploitation or if the victim dies in the course of human trafficking.
- Authorize court to order forfeiture of assets acquired as a result of human trafficking.
- Give the human trafficking victim rights, restitution, damages and compensation thru criminal restitution law and victims' compensation fund.
 - **Restitution.** Under Title 17-A, section 1322 amend the definition of "financial or economic loss" to include pay or wages unfairly or illegally withheld from the victim by the offender.

- **Victims' Compensation Fund.** Amend the Victims' Compensation Fund law, Title 5, section 3360, subsection 6, definition of "personal injury" to include psychological injury to a victim of human trafficking without the need for proof of threat of bodily injury.

B. Prohibit commercial sex travel business

Prohibit travel agencies operating within Maine from advertising or arranging for travel for commercial sexual purposes. Amend Title 10 chapter 202-B to broaden it to "prohibited practices," retaining credit card practices and adding the prohibition on advertising or arranging for travel for commercial sexual purposes.

C. Provide notice of access to information in commercial international matchmaking

Require commercial international matchmaking or marriage organizations operating within Maine to inform clients overseas who may be matched with a customer in the US and customers in the US of the right to information on the customer's and client's criminal, marital, protection from abuse and other official records. Enact Title 10, chapter 202-E to define international matchmaking or marriage organizations and require them to provide written notice to all customers and clients in their native languages of the availability of information on marital and criminal records, and protection from abuse/harassment orders and other judicial proceedings regarding the person with whom they may be matched. Make a violation a civil violation, enforceable by the Attorney General, with a penalty of up to \$1000 per violation. AG may seek injunctive relief.

D. Working group on human trafficking, reporting January 15, 2008

Direct the Attorney General to convene a working group, consisting of representatives of the Department of Health and Human Services, the Department of Labor and the Department of Public Safety and law enforcement, the Maine Institute for Public Safety Innovation, interested parties, other state agencies and service providers including health care, domestic violence and sexual assault advocates and other social service providers to:

- Develop training for law enforcement and community organizations,
- Develop outreach and public awareness campaigns, including victims' services and special visa status for victims who are undocumented immigrants,
- Work on options and initiatives for data collection, the need for victim/witness laws, coordination of services, and coordination of state and federal victim service programs for benefits, programs and licenses, and
- Report to the Legislature 1/15/08.

APPENDIX D

State Laws Regarding Human Trafficking



State Laws Regarding Human Trafficking (HT)

Jane Orbeton, OPLA, September 21, 2006

State	Description (Human trafficking = HT) (Sex trafficking = ST)	Date
Alaska	1 st degree HT is Class A felony. 2 nd degree HT is Class B felony. Prohibits procurement from countries listed as Tier 3 in State Department trafficking report. 2 nd degree promotion of prostitution includes person who sells, offers, advertises, promotes or facilitates travel that includes commercial sexual conduct as an enticement for travel.	2006
		2006
Arizona	ST of a minor under age 15 is 1 st degree felony. Attempted ST of a minor is 2 nd degree felony. Establishes as new Class 2 felonies: ST and trafficking of persons for forced labor or services; and new Class 4 felony: unlawfully obtaining labor or services. Court is required to order victim restitution.	2005
Arkansas	Trafficking in persons for involuntary servitude, peonage, debt bondage, slavery, marriage, adoption or sexual conduct is Class A felony. Benefiting financially from trafficking is Class A felony.	2005
California	HT for forced labor or services is felony, punishable by 3, 4 or 5 years in prison, or for HT of a minor by 4, 6 or 8 years.	2005
Colorado	Trafficking in adults (16 and over) is a Class 2 felony. Trafficking in minors under age 16 is a Class 3 felony. Trafficking defined as sells, exchanges, barter or leases an adult or receives money or other consideration or thing of value for a person.	2006
Connecticut	Trafficking in a person is a Class B felony. Trafficking victim may bring a civil suit to recover penalties, actual damages and statutory damages. Funds a training program for law enforcement and community organizations.	2006
Florida	ST is a 1 st degree felony for parents, legal guardians or others with custody of a minor who sell, transfer custody, or offer to sell or transfer custody of the minor for the purpose of ST or prostitution. Establishes as 2 nd degree felonies: obtaining forced labor and anyone who participates in ST or HT for the purposes of forced labor or prostitution. Establishes as 1 st degree felony ST that results in death or involves a person under age 14. Extends definition of forced labor or services to the use of fraud or coercion, isolation, certain debt services, and destruction, concealing, removing, confiscating or withholding of identification documents. Establishes as 2 nd degree felony knowingly benefiting from HT. Establishes civil cause of action that allows recovery of triple the profit gained from trafficking. Redefines racketeering for RICO to include HT. Authorizes statewide prosecutions on HT.	2004
		2006
Georgia	Establishes felonies for trafficking in persons for labor or sexual servitude, punishable if involving as adult by 1-20 years in prison and if involving a minor by 10-20 years. Allows prosecutions of corporations for trafficking.	2007
Hawaii	Allows persons (recruits) using international matchmaking organizations (IMO's) access to criminal history and marriage information, including protection from abuse orders, of prospective spouse. Requires IMO's to notify recruits of this information in recruit's native language. Punishment is up to \$500 fine and 30 days in prison. Class C felony includes knowingly sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in prostitution. Authorizes suspension/revocation of travel agency registration.	2004, 2007
		2004
Idaho	HT is a felony, punishable by up to 25 years in prison. Requires report by Idaho AG by 7/1/07 on witness and victim laws. Allows court ordered restitution to trafficking victims and payment for mental and physical rehabilitation of the victim.	2006
Illinois	New felonies: involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services. Requires court to order restitution to the victim and forfeiture of assets obtained as a result of servitude or trafficking offenses.	2006
Indiana	ST of a minor is Class A felony. Promoting HT is Class B felony. HT is Class C felony. Requires court to order victim restitution, provides protection to victims, allows some cases to be considered domestic violence cases and some racketeering activity. Requires sentencing study of HT. Requires establishing law enforcement training standards.	2006
Iowa	HT of adults and minors established as felonies. Requires development of HT training standards. Provides for HT victims' rights.	2006

	Requires notice of HT investigating to Iowa AG, further notice to US Dept. of Justice, opening way to some state and federal benefits and visa status for victim.	
Kansas	Trafficking is level 2 felony, level 1 if aggravated trafficking (involves kidnapping or attempted kidnapping, sexual gratification of defendant or another person, death of victim, person is under age 18).	2005
Louisiana	HT is a crime, punishable by fine of up to \$10,000 and 10 years in prison. Maximum punishment if HT for commercial sexual activity is \$15,000 and 20 years in prison. HT of a minor punishable by fine of up to \$25,000 and 5 to 25 years in prison.	2005
Michigan	HT for forced labor or services and financially benefiting from HT are felonies, up to 10 years in prison. Enhanced penalties if HT involves kidnapping or attempt to kidnap, criminal sexual conduct, attempt to commit sexual conduct, injury or death to victim.	2006
Minnesota	Establishes as felonies: labor trafficking, sex trafficking, unlawful conduct with respect to documents in furtherance of labor or sexual trafficking. Labor trafficking punishable by up to 15 years in prison and \$30,000 fine. ST punishable by up to 15 or 20 years in prison. Document offense punishable by up to 5 years in prison and \$10,000 fine.	2005
Mississippi	HT for forced labor or services, including financial or other benefit, is a felony, punishable by up to 20 years in prison. Trafficking of a minor for commercial sexual activity is punishable by up to 30 years in prison. Document offenses in furtherance of HT are punishable by up to 5 years in prison.	2006
Missouri	ST of a minor is a Class A felony. Abusing an individual thru forced labor and trafficking for forced labor or sexual exploitation are Class B felonies. Misuse of documents for HT is Class D felony. Court required to order restitution to victim. TVPAAA rights to victims. Requires international matchmaking organizations (IMO's) to provide information to potential recruits in recruit's native language about availability of criminal history and marriage history information and to provide notice about human rights, immigration, emergency and legal aid. Failure to provide information and providing incomplete and inaccurate information are Class D felonies. Class C felony includes knowingly sell or offer to sell travel services that include or facilitate travel for the purposes of engaging in prostitution. Authorizes revocation of articles of incorporation and freezing bank and deposit assets.	2005
		2005
		2006
New Jersey	HT for engaging in sexual activity or providing labor or services is a 1 st degree felony, maximum penalty 20 years without parole or up to life in prison with parole after 20 years. Court must order restitution to victim and may order forfeiture of assets related to the trafficking violation. Assistance to victim.	2005
South Carolina	HT for forced labor or services is a felony, punishable by up to 15 years in prison.	2006
Texas	Trafficking or transporting minors under age 14 or trafficking that results in the death of the victim are 1 st degree felonies, 5 to 99 years in prison. Other HT is 2 nd degree felony, 2 to 20 years in prison. International matchmaking organizations (IMO's) must provide information to recruits in recruit's native language about criminal history and marriage history of IMO clients. IMO must pay for translation costs. Civil penalty to the IMO of up to \$20,000 per violation.	2003
		2003
Virginia	Class 5 felony includes threatening reporting of illegal immigration status for the purposes of extorting money.	
Washington	Class A felonies include 1 st and 2 nd degree ST or labor trafficking. Sentence up to 14 years in prison for 1 st degree. Up to 9 years in prison for 2 nd degree. Degree depends on age, kidnapping, death of victim, severity of charge. Victims may sue for damages and costs of suit. Court may levy a civil fine of up to \$250,000. International matchmaking organizations (IMO's) must provide information to foreign women (potential recruits) about the availability of criminal and personal history background information on clients and must provide information upon request. Class C felony includes knowingly sell or offer to sell travel services that include or facilitate travel for the purpose of prostitution. Prohibits sellers of travel from promoting or advertising travel services for the purpose of engaging in a commercial sex act.	2003
		2002 and 2003
		2006

APPENDIX E

Task Force Legislation



Human Trafficking Task Force Legislation-2

1. *Enact involuntary servitude and human trafficking crimes in Title 17-A, Chapter 9-A.*

Sec. A-1. 17-A MRSA, chapter 9-A is enacted to read:

CHAPTER 9-A **INVOLUNTARY SERVITUDE AND HUMAN TRAFFICKING OFFENSES**

§221. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. “Commercial sexual activity” means a sex act, sexual contact or sexual touching as defined in section 251, or sexually-explicit performance for which anything of value is given to, promised to or received by a person.

2. “Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of the debtor’s personal services or those of a person under the debtor’s control as security for debt if the value of those services as reasonably assessed is not applied toward the payment of the debt or the length and nature of the services are not limited and defined.

3. “Force, fraud or coercion” means, but is not limited to, the following:

A. Causing or threatening to cause bodily injury to a person;

B. Physically restraining or threatening to physically restrain a person;

C. Abusing or threatening to abuse the law or legal process;

D. Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or other actual or purported government identification document of another person, without the legal right to do so;

E. Using extortion, as described in section 355, subsection 2, including but not limited to using a scheme, plan or pattern intended to cause a person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

F. Causing or threatening to cause financial harm including but not limited to through credit extortion, intentional or knowing violation of the Consumer Credit Code or an unfair employment agreement as described in Title 26, section 629.

4. "Forced labor or services" means labor or services, including but not limited to debt bondage, commercial sexual activity, sexual exploitation of a minor and production of pornography, that are performed or provided by another person and are obtained or maintained by the use of force, fraud or coercion.

5. "Human trafficking offenses" means offenses under sections 223 to 225.

6. "Pornography" means any written or printed material, picture, photograph, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that:

A. To the average individual, applying contemporary community standards and considered as a whole, appeals to the prurient interest;

B. Depicts or describes, in a patently offensive manner, ultimate sexual acts, excretory functions, masturbation or lewd exhibition of the genitals; and

C. Considered as a whole, lacks serious literary, artistic, political or scientific value.

7. "Sexually-explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires of or appeal to the prurient interests of the audience.

8. "Sexual exploitation of a minor" has the same meaning as described in section 282.

9. "Victim" means a person subjected to the practices prohibited in sections 222 to 225.

§222. Involuntary servitude

1. A person is guilty of involuntary servitude if the person:

A. Intentionally or knowingly subjects another person to forced labor or services; or

B. Intentionally or knowingly benefits financially from or receives anything of value from participating in involuntary servitude.

2. Involuntary servitude is a Class B crime.

§223. Human trafficking

1. A person is guilty of human trafficking if the person:

A. Intentionally or knowingly recruits, entices, harbors, transports, provides or obtains by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or

B. Intentionally or knowingly benefits financially or receives anything of value from participating in a human trafficking offense.

2. Human trafficking is a Class B crime.

§224. Human trafficking of a minor

1. A person is guilty of human trafficking of a minor if the person intentionally or knowingly recruits, entices, harbors, transports, provides or obtains by any means, a minor, intending or knowing that the minor will be subjected to commercial sexual activity, sexual exploitation of a minor or the production of pornography.

2. Human trafficking of a minor is a Class B crime.

§225. Aggravated human trafficking

1. A person is guilty of aggravated human trafficking if the person:

A. Commits human trafficking and the victim of human trafficking dies in the course or as a result of human trafficking; or

B. Commits human trafficking and the victim of human trafficking is a minor.

2. Aggravated human trafficking is a Class A crime.

§226. Inapplicable defenses

1. The following defenses are not defenses to prosecutions under sections 222 to 225:

A. A victim's sexual history or history of commercial sexual activity;

B. A victim's connection by blood or marriage to the defendant or to anyone else involved in the involuntary servitude or human trafficking;

C. Consent of the victim or another person on behalf of the victim to commercial sexual activity;

D. Age of consent to sex or legal age for marriage; and

E. Mistake as to the age of the victim.

2. Enact asset forfeiture in Title 15, section 5821, subsection 9.

Sec. B-1. 15 MRSA §5821, subsection 9 is enacted to read:

9. Assets in involuntary servitude and human trafficking offenses. All assets, including money instruments, personal property and real property used or intended for use in or traceable to involuntary servitude or a human trafficking offense under Title 17-A, chapter 9-A.

3. For the purposes of securing restitution for the victim of involuntary servitude or human trafficking amend definition of "financial or economic loss" in Title 17-A, section 1322 to include pay or wages unfairly or illegally withheld from the victim by the offender.

Sec. C-1. 17-A MRSA §1322, subsection 3, paragraph F is amended to read:

F. "Work loss" means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of involuntary servitude or a human trafficking offense under chapter 9-A, "work loss" includes pay or wages unfairly or illegally withheld from the victim by the offender, as defined by rules adopted by the Department of Labor.

Sec. C-2. 26 MRSA §637 is enacted to read:

§637. Rulemaking

By January 1, 2008, the Department of Labor shall adopt rules to define "work loss" under Title 17-A, section 1322, subsection 3, paragraph F, for victims of involuntary servitude or human trafficking offenses under Title 17-A, chapter 9-A, who are eligible for restitution. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

4. For the purposes of securing access to the Victims' Compensation Fund for victims of human trafficking, amend the definition of "personal injury" in Title 5, section 3360, subsection 6 to include psychological injury to a victim of human trafficking without the need for proof of threat of bodily injury.

Sec. D-1. 5 MRSA §3360, subsection 3 is amended to read:

3. Crime. "Crime" means one of the following:

- A. Offenses against the person as described in Title 17-A, chapter 9;
- B. Sexual assaults as described in Title 17-A, chapter 11;
- C. Kidnapping and criminal restraint as described in Title 17-A, chapter 13;

- D. Robbery as described in Title 17-A, chapter 27;
- E. Operating under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as described in Title 29-A, section 2411;
- F. An act of terrorism, as defined in United States Code, Title 18, Section 2331, committed outside of the United States against a resident of this State;
- G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; or
- H. Sexual exploitation of a minor as described in Title 17-A, chapter 12; or
- I. Involuntary servitude or a human trafficking offense as described in Title 17-A, chapter 9-A.

Sec. D-2. 5 MRSA §3360, subsection 6 is amended to read:

6. Personal injury. "Personal injury" means bodily injury as defined in Title 17-A, section 2, subsection 5 or psychological injury incurred by a victim who has sustained the threat of bodily injury. A victim of involuntary servitude or a human trafficking offense under Title 17-A, chapter 9-A is deemed to have suffered personal injury.

5. Prohibit travel agencies from advertising or selling travel for commercial sexual purposes, by amending Title 10, chapter 202-B.

Sec. E-1. Title 10, chapter 202-B is amended to read:

CHAPTER 202-B
PROHIBITED PRACTICES INVOLVING PROVIDERS OF TRAVEL SERVICES

10 § 1141. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Credit card.** "Credit card" has the same meaning as "accepted credit card," as defined in Title 9-A, section 8-103, subsection 1, paragraph A.
- 2. Credit card issuer.** "Credit card issuer" has the same meaning as "card issuer," as defined in Title 9-A, section 8-103, subsection 1, paragraph D.
- 3. Provider of travel services.** "Provider of travel services" means a person, firm or corporation engaged in the business of furnishing travel, transportation or vacation services.

3-A. Travel for commercial sexual purposes. “Travel for commercial sexual purposes” means travel, transportation or vacation services provided for the purposes of enabling the customer to engage in prostitution or engage a prostitute as defined in Title 17-A, section 851.

4. Travel agent. "Travel agent" means a person, firm, corporation, partnership or association, other than a common carrier as defined in Title 12, section 6001, subsection 8 or employee of a common carrier, that:

A. Is an officially appointed agent of a common carrier or is a member of a cruise lines association who operates exclusively as an agent for cruise lines in the sale of cruise travel products or services; and

B. As a legal agent for a provider of travel services:

- (1) Sells or offers for sale travel, transportation or vacation arrangements;
- (2) Negotiates for travel, transportation or vacation services; or
- (3) Professes to be by solicitation, advertisement or other means a seller, contractor or arranger for travel, transportation or vacation services.

10 § 1142. Prohibited credit card practice

When a travel agent furnishes travel services to a consumer and the consumer uses a credit card to obtain credit in the transaction, the provider of travel services for which the travel agent is an agent may not as the result of the use of the credit card impose a surcharge on or reduce commissions paid to the travel agent. This prohibition does not apply if the provider of travel services is the issuer of the credit card used in the transaction.

§1143. Remedies

Any person injured as a result of a violation of section 1142 may seek damages and an injunction in a civil action. Any person likely to be injured by a violation of section 1142 may seek an injunction in a civil action. The court may award reasonable attorney's fees to the plaintiff.

§1144. Prohibited travel for commercial sexual purposes

A provider of travel services or travel agent may not advertise or furnish travel, transportation or vacation services for commercial sexual purposes.

6. Require international matchmaking organizations to give notice of public information regarding martial, criminal and other court records, by enacting Title 10, chapter 202-E.

Sec. F-1. Title 10, Chapter 202-E is enacted to read:

CHAPTER 202-E

REQUIREMENTS FOR INTERNATIONAL MATCHMAKING ORGANIZATIONS

§1151. Requirements for international matchmaking organizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “International matchmaking organization” means a person that is located in the State, or that provides services to clients who are residents of the State, on a for profit basis, the purpose of which is meeting, dating, matrimony or matchmaking or social referral services involving citizens of a foreign country who are not residing in the United States by the exchange of names and personal information, the selection of photographs or a social environment in a country other than the United States. International matchmaking organization does not include a traditional matchmaking organization of a religious nature that operates in compliance with the laws of the country of the foreign recruits and the laws of the United States and any organization that does not charge a fee to any party for the service provided.

B. “Client” means a person who is a resident of this State who contracts with an international matchmaking organization for its services.

C. “Recruit” means a person who is a noncitizen, nonresident who is listed by an international matchmaking organization for the purposes of meeting, dating, matrimonial or social referral services with a client.

2. Requirements. Prior to or at the time of providing written information to a client or a recruit and prior to the date of any actual meeting of the client and recruit, the international matchmaking organization shall provide written notice to the client and recruit, in the native languages of both the client and the recruit, of the right to certain public information about the other person. The written notice must provide information on how to access public information regarding criminal and marital history and protection from abuse or harassment and other court records and judicial proceedings in the jurisdiction of the client or recruit.

3. Violation; enforcement. A violation of this section is a civil violation for which a fine of not more than \$1000 per violation may be adjudged. The Attorney General may enforce the requirements of this section, including through a petition for injunctive relief.

7. Direct Attorney General to convene a working group and report by January 15, 2008.

Sec. G-1. Attorney General’s working group on human trafficking; report. The Attorney General shall convene a working group on human trafficking consisting of representatives of the following: The Department of Health and Human Services, the Department of Labor, the Department of Public Safety, the Maine Institute for Public Safety Innovation, law

enforcement, immigrant legal services, interested parties, other state agencies and service providers, including but not limited to health care, domestic violence and sexual assault advocates and other social service providers. The working group shall develop training for law enforcement and community organizations; develop outreach and public awareness campaigns, including victims' services and special visa status for victims who are undocumented immigrants; work on options and initiatives for data collection, the need for victim/witness laws, coordination of services, and coordination of state and federal victim services programs for benefits, programs and licenses; and report to the Second Regular Session of the 123rd Legislature by January 15, 2008.

8. Provide an effective date of January 1, 2008 for all provisions of the Human Trafficking Task Force bill.

Sec. H-1. Effective dates. The provisions of this Act take effect January 1, 2008, except that Sections C-2 and G-1 take effect 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

SUMMARY

This bill contains the recommendations of the Human Trafficking Task Force. The bill proposed to do the following:

1. Enact a law criminalizing involuntary servitude and human trafficking, making them Class B offenses, with enhancement to Class A in certain circumstances, and specifying certain defenses that do not apply to involuntary servitude or human trafficking offenses;
2. Authorize the court to order forfeiture of assets acquired as a result of human trafficking;
3. Gives the human trafficking victim rights, restitution, damages and compensation thru criminal restitution law and victims' compensation fund and require rulemaking by the Department of Labor for the purposes of victim restitution;
4. Prohibit travel agencies operating within Maine from advertising or arranging for travel for commercial sexual purposes;
5. Require commercial international matchmaking or marriage organizations operating within Maine to inform recruits and clients of the right to information on the other person's criminal, marital, protection from abuse, harassment and other official records;
6. Direct the Attorney General to convene a broad working group to develop training for law enforcement and community organizations and outreach and public awareness campaigns, work on options and initiatives for data collection, the need for victim/witness laws, coordination of services, and coordination of state and federal victim service programs for benefits, programs and licenses, and report to the Legislature 1/15/08; and
7. Provide an effective date of January 1, 2008 except that the provisions enacting Attorney General's working group on human trafficking and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.