

Human Trafficking Legal Framework

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Review: Federal Law

Trafficking Victims Protection Act (TVPA)- passed in 2000

- Sex Trafficking- when commercial sex act is induced by **force, fraud, or coercion**, or in which the person induced to perform such an act has not attained **18 years of age**
- Labor Trafficking- 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.



OHIO'S LEGISLATIVE EFFORTS



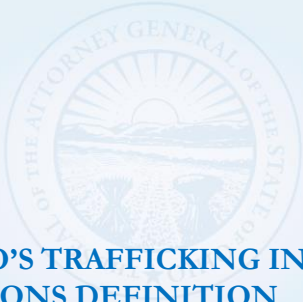
Review- Ohio Legislative Efforts

- '07-'08 : Two state-level human trafficking bills fail
- Jan. '09- HB 280 finally passes
- 2011: First Stand Alone Trafficking Offense
- 2012: Safe Harbor Law
- 2014: The End Demand Act



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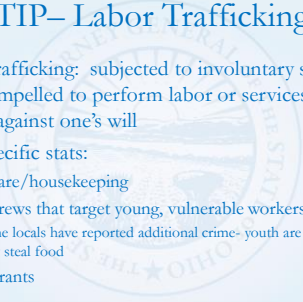
OHIO'S TRAFFICKING IN PERSONS DEFINITION



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TIP- Labor Trafficking

- Labor Trafficking: subjected to involuntary servitude- being compelled to perform labor or services for another against one's will
- Ohio-specific stats:
 - Childcare/housekeeping
 - Sales crews that target young, vulnerable workers
 - Some locals have reported additional crime- youth are not paid, so they steal food
 - Restaurants



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TIP- Sex Trafficking

Covers three different types of commercial sexual activity:

- Sex for hire
 - Sexual activity for a thing of value (broader than just cash exchanging hands)
 - Drug use often seen- introduced by trafficker or intensified by trafficker
 - Minors can also be trafficked by parent or family member, or first trafficked by family member before going to a pimp



TIP - Sex Trafficking

- Engage in a performance that is obscene, sexually oriented, or nudity oriented
- Defined by ORC 2929.01(DDD): “any performance that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity”
- Consider: pornography, webcam sex, strip club



TIP - Sex Trafficking

- Be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented
- Defined by ORC 2929.01(CCC): material that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity
- Consider pornography



TIP- Tiered System

- Tiered system of proof depending upon vulnerability of victim
 - Adults
 - Minors aged 16 and 17 years old
 - Minors under 16
 - Those with developmental disabilities



TIP- Tiered System

- Adults: must prove that victim was “compelled” to engage in commercial sexual activity
 - Victim’s will was overcome by force, fear, duress, intimidation, or fraud



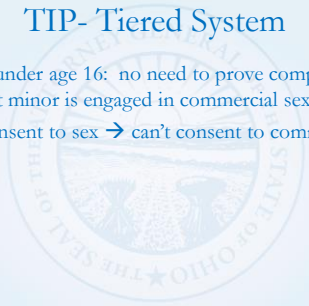
TIP- Tiered System

- Minors aged 16 and 17 years old: must prove that victim was “compelled” to engage in commercial sexual activity unless alleged trafficker is in a “position of authority” over the victim
 - Parent, guardian, someone acting in loco parentis
 - Teacher
 - Coach
 - Etc.



TIP- Tiered System

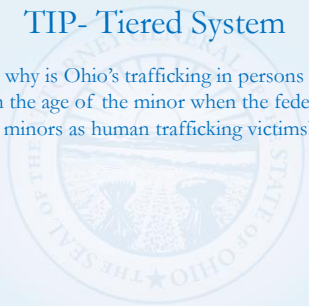
- Minors under age 16: no need to prove compulsion, only that minor is engaged in commercial sex act
- Can't consent to sex → can't consent to commercial sex



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TIP- Tiered System

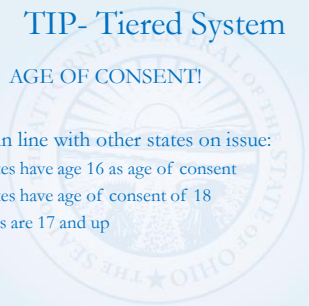
- Debate: why is Ohio's trafficking in persons law tiered based on the age of the minor when the federal law treats all minors as human trafficking victims?



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TIP- Tiered System

- Answer: AGE OF CONSENT!
- Ohio is in line with other states on issue:
 - 31 states have age 16 as age of consent
 - 11 states have age of consent of 18
 - 9 states are 17 and up



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TIP- Tiered System

- Those with a developmental disability: no need to prove that victim was compelled to engage in commercial sexual activity
- Person whose ability to resist or consent to an act is **substantially impaired** because of a mental or physical condition or because of advanced age
- Traffickers often target vulnerable individuals to traffic



OHIO SEX ADVERTISING LAWS



Unlawful Advertising of Massage

- Targets massage parlors that are fronts for illegal sexual activity and another outlet for sex traffickers
- New law prohibits advertising massage with the suggestion or promise of sexual activity
- 1st degree misdemeanor



Commercial Sexual Exploitation of a Minor

- Designed to target ads that traffickers take out to advertise victims on websites
- New law prohibits knowingly purchasing or obtaining advertisement space for an advertisement for sexual activity for hire that includes the depiction of a minor
- 3rd degree felony



OHIO'S LAWS AGAINST PURCHASING SEX



Soliciting

- Applies to soliciting another person to engaging in sexual activity for hire
- Tiered penalties based on victim vulnerability:
 - Adult: 3rd degree misdemeanor
 - Minor aged 16 or 17 years old: 5th degree felony
 - Minor under age 16: 3rd degree felony
 - Person with DD: 3rd degree felony



Soliciting

- Definition of DD same as in TIP statute
 - Person whose ability to resist or consent to an act is **substantially impaired** because of a mental or physical condition or because of advanced age
- Applies when the offender “knows or has reasonable cause to believe” that the other person is developmentally disabled



OHIO'S LAWS PROTECTING VICTIMS



Victim Protections

- Makes it easier to terminate parental rights when parents traffic their children
- CCTV for victims under 16 if judge determines one of the following:
 - Victim is unable to communicate about the alleged offense because of extreme fear or severe trauma
 - There is substantial likelihood that victim will suffer “serious emotional trauma” from testifying
 - Victim is at hospital for care and treatment for injury (physical, mental, or emotional) suffered by alleged offense



Victim Protections

- Court can sentence a human trafficking victim to intervention in lieu of conviction if the victimization was a factor leading the offender's criminal behavior
 - Some ineligibility factors court would need to consider
- Expungement- victim can have prostitution-related charges expunged if she can show that she was a human trafficking victim
 - CATCH Court created document template



Victim Protections

- Prohibits disclosure of police reports that are “highly likely” to identify minor arrestees who are also abuse victims (includes human trafficking victims)
- Exceptions: those who “need to know”- prosecutors, LE, DYS, probation officer, PCSA, parent, attorney, anyone under court order



Questions?