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Checking Out Indefinitely: Supporting Survivors of Sex Trafficking Alongside Training and Education for Lodging Employees

Alyssa M. Grzesiak

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CHECKING OUT INDEFINITELY: SUPPORTING SURVIVORS
OF SEX TRAFFICKING ALONGSIDE TRAINING AND
EDUCATION FOR LODGING EMPLOYEES

ABSTRACT

There are roughly five million victims of sex trafficking in the United States. Over the course of a decade, over 3,500 instances of human trafficking involved a hotel or motel. Traffickers are relying on unaware lodging establishment employees, as well as complicit employees and managers, to successfully carry out their crimes. Despite the vital role the lodging industry plays in human trafficking, only seven states have implemented mandatory training for hotel and motel employees. This Note posits that the implementation of mandatory training and education programs for employees of lodging establishments could increase awareness and responsiveness to human trafficking, thus increasing reporting of and ultimately resulting in a decrease in future instances and victims of human trafficking. This Note further argues that beyond this recently implemented legislation, Virginia needs to allocate resources to support survivors to combat falling into patterns of homelessness, continued prostitution, and substance addiction and dependence.

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INTRODUCTION

Hotels and motels are one of the most prominent scenes for human trafficking.¹ In one Polaris survey, seventy-five percent of survivors of human trafficking reported having contact with a lodging establishment at some instance during their trafficking experience.² Oftentimes, victims of sex trafficking are forced to perform commercial sex acts for strangers at the lodging establishment in exchange for money for their traffickers.³

In 2020, the Eastern District of Virginia charged a sex trafficking case involving a total of eleven defendants.⁴ The defendants were members of, or otherwise connected to, the MS-13 gang.⁵ The victim was a thirteen-year-old runaway who was beaten several times with a baseball bat as initiation to the gang.⁶ Following her initiation, the victim was then repeatedly sold to other MS-13 members and customers for sex.⁷ This is one of countless horror stories that are told by survivors of sex trafficking, and this is likely not the only victim having suffered at the hands of these traffickers.

According to the National Human Trafficking Hotline, in 2020, Virginia saw seventy-seven sex trafficking cases, five of which were based out of a lodging establishment.⁸ This is a drastic decrease from previous years.⁹ In 2019, there were 132 cases of sex trafficking, with seventeen based out of a lodging establishment.¹⁰ Similarly, there

1. POLARIS, ON-RAMPS, INTERSECTIONS, AND EXIT ROUTES: A ROADMAP FOR SYSTEMS AND INDUSTRIES TO PREVENT AND DISRUPT HUMAN TRAFFICKING 16 (July 2018) [hereinafter POLARIS HOTELS & MOTELS REPORT], <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Hotels-and-Motels.pdf> [<https://perma.cc/R466-L3AC>].

2. *Id.* (stating that out of 100 participants in a survey, 80 were involved in commercial sex occurring at a lodging establishment, 69 stayed at a lodging establishment during travel and seven were trafficked by a lodging establishment or lodging establishment's subcontractor). This Note uses the term "lodging establishments" to collectively refer to hotels and motels.

3. *See, e.g.*, A.D. v. Wyndham Hotels & Resorts, Inc., No. 4:19CV120, 2020 U.S. Dist. LEXIS 250670 at *18 (E.D. Va. Sept. 21, 2020).

4. KYLEIGH FEEHS & ALYSSA CURRIER WHEELER, HUM. TRAFFICKING INST., 2020 FEDERAL HUMAN TRAFFICKING REPORT 73 (2021).

5. Press Release, U.S. Dep't of Justice, MS-13 Members and Associates Arrested for Sex Trafficking a Minor (Aug. 5, 2020), <https://www.justice.gov/usao-edva/pr/ms-13-members-and-associates-arrested-sex-trafficking-minor> [<https://perma.cc/6TGM-Z5DG>].

6. *Id.*

7. *Id.*

8. *Virginia*, NAT'L HUM. TRAFFICKING HOTLINE [hereinafter NAT'L HUM. TRAFFICKING HOTLINE], <https://humantraffickinghotline.org/state/virginia> [<https://perma.cc/T65U-99ZG>].

9. *See id.*

10. *Id.*

were 144 sex trafficking cases in 2018, with twenty-one based out of a lodging establishment.¹¹

One potential reason for the decrease in survivors reporting their trafficking in 2020 is the COVID-19 pandemic.¹² The 2021 Trafficking in Persons (TIP) Report, in a message from Acting Director of the Office to Monitor and Combat Trafficking in Persons Kari Johnstone, states: “The concurrence of the increased number of individuals at risk, traffickers’ ability to capitalize on competing crises, and the diversion of resources to pandemic response efforts has resulted in an ideal environment for human trafficking to flourish and evolve.”¹³ Due to the unfortunate conditions created by the pandemic, it is likely that far more instances of sex trafficking occurred than were reported.¹⁴

Countless federal human trafficking cases refer to the use of lodging establishments in sex trafficking crimes.¹⁵ In 2016, out of 5,591 cases of sex trafficking reported to the National Human Trafficking Hotline, 7.7 percent of cases occurred at a lodging establishment.¹⁶ In *United States v. Warren*, the police received a tip that an underage girl was being trafficked out of a room in a Motel 6 in South Carolina.¹⁷

This prevalence is not only in federal cases, as there are clear instances of human trafficking with respect to lodging establishments in Virginia.¹⁸ In *Lambert v. Commonwealth*, the Defendant took advantage of a destitute, underage girl, J.C., by keeping her under the influence of drugs in his hotel room, sending her to have sex for

11. *Id.*

12. *Impact of the COVID-19 Pandemic on Trafficking in Persons*, UNITED NATIONS OFF. ON DRUGS & CRIME 1 (2021) [hereinafter UNITED NATIONS OFF. ON DRUGS & CRIME].

13. See U.S. DEP’T OF STATE, 2021 TRAFFICKING IN PERSONS REPORT, <https://www.state.gov/reports/2021-trafficking-in-persons-report> [<https://perma.cc/HX88-HY7N>] (last visited Nov. 18, 2022).

14. See Bryanna Basilio, Mia Marks, Brittney Miller, Amanda Sifontes, Victoria Vargas & Emely Zuluaga, *A Hidden Crisis of the Pandemic: Violence Against Women Hasn’t Stopped. Neither Have the Women-Led Organizations Combating the Problem*, NPR (May 13, 2021), <https://www.wuft.org/news/2021/05/13/a-hidden-crisis-of-the-pandemic-violence-against-women-hasnt-stopped-neither-have-the-women-led-organizations-combating-the-problem> [<https://perma.cc/BMV9-VT36>] (discussing the effects of COVID-19 on potential victims of trafficking).

15. See, e.g., *United States v. Warren*, 774 Fed. Appx. 778, 779 (4th Cir. 2019).

16. *National Human Trafficking Hotline Data Report*, NAT’L HUM. TRAFFICKING HOTLINE (2016), <https://humantraffickinghotline.org/sites/default/files/2016%20National%20Report.pdf> [<https://perma.cc/MQ4W-9Y9K>] (last visited Nov. 18, 2022).

17. *Warren*, 774 Fed. Appx. at 779.

18. See *Lambert v. Commonwealth*, 833 S.E.2d 468, 472 (Va. App. 2019); see also *Carr v. Commonwealth*, 816 S.E.2d 591, 594–95 (2018).

money, then keeping the money for himself.¹⁹ J.C. testified that Lambert “moved among several hotels” during the several weeks he trafficked her.²⁰ J.C. never left the hotel or specifically sought help due to her fear of her trafficker because he was a general in the Bloods gang.²¹ Police found J.C. and her trafficker staying at a Super 8 motel in Chesterfield, Virginia.²²

In *Carr v. Commonwealth*, R.S. was sex trafficked out of multiple motels, which included a stay lasting “[q]uite a few days” at the Red Roof Inn in Virginia Beach where she was found.²³ One of her traffickers forced R.S. to post online prostitution advertisements and engage in sex work, then he took all of the money.²⁴ R.S. attempted to leave her traffickers, but unwillingly continued to engage in prostitution due to threats of violence and fear for her life.²⁵

In *A.D. v. Wyndham Hotels & Resorts*, A.D. was a victim of sex trafficking occurring out of Super 8 and Days Inn establishments in Hampton, Virginia.²⁶ A.D. was subjected to “extreme physical violence,” and was forced by her traffickers to perform commercial sex acts, sometimes up to fourteen times per night, in exchange for money.²⁷ All of the money from the sex trafficking was collected by the traffickers, with none going to A.D.²⁸ A.D. is currently bringing a civil lawsuit against Wyndham Hotel and Resorts, the parent company of Super 8 Hampton and Days Inn Hampton, for “failing to adequately implement protocols and procedures to reduce the foreseeable risk of sex trafficking.”²⁹ A.D.’s case is discussed further in Section II.B as an example of lodging establishments being held accountable for their role in the sex trafficking industry.³⁰

19. *See Lambert*, 70 Va. App. at 472.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Carr*, 816 S.E.2d at 594.

24. *Id.*

25. *Id.* at 594–95.

26. *A.D. v. Wyndham Hotels & Resorts, Inc.*, No. 4:19CV120, 2020 U.S. Dist. LEXIS 250670 (E.D. Va. Sept. 21, 2020), at *18–19.

27. *Id.* at *18.

28. *See id.* (“[A.D.] was forced to sexually service strangers (an average of seven and up to fourteen a night) in exchange for money, and to provide the money to her sex traffickers.”).

29. *See id.* at *21. Specifically, A.D. is arguing negligence to establish her third-party liability claim against Wyndham Hotel and Resorts (“A.D.’s allegations regarding the Days Inn and Super 8 include allegations of negligence. A.D. alleges that the Days Inn and Super 8 *should have known* that A.D. was being sex trafficked based on various indications and clues.” (emphasis in original)). *Id.* at *13.

30. *See infra* Section II.B.

Federally, the Trafficking Victims Protection Act (TVPA) was introduced in 2000 to combat human trafficking by pursuing adequate penalties for traffickers and protecting victims of human trafficking.³¹ Sex trafficking cases accounted for ninety-two percent of new federal human trafficking prosecutions in 2021.³² This Note, however, focuses on the need for legislation in Virginia and the urgent need for resources to support survivors of sex trafficking. Preventative legislation in Virginia, specifically the implementation of mandatory training and educational programs for employees of lodging establishments, would increase awareness and responsiveness to human trafficking, with the two goals of: (1) increasing the number of reports regarding sex trafficking, and (2) significantly decreasing future occurrences and victims of sex trafficking.³³ Further, creating resources, such as shelters, for survivors would further the goal of saving the survivor from the cycle of prostitution, homelessness, and drug dependence.³⁴ Part I defines human trafficking, discusses the vulnerable populations most affected by human trafficking, briefly examines the existing federal human trafficking legislation, explores existing data from the six states that have mandatory training legislation in place, and considers the enforcement of the existing mandatory training and education legislation.³⁵ Part II analyzes Virginia's sex trafficking statistics, highlights the lack of accountability taken by lodging establishments, explains why mandatory training and education legislation is necessary, addresses the amendment currently proposed by Virginia legislature, and posits how to further support survivors of human trafficking.³⁶ The Conclusion summarizes the vast problems presented by human trafficking, particularly sex trafficking, and recommends that Virginia, in

31. Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101(a) (2000) (“The purposes of this chapter are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”).

32. See LINDSEY LANE, ANGELA GRAY, ALICEN RODOLPH & BRITTANY FERRIGNO, HUM. TRAFFICKING INST., 2021 FEDERAL HUMAN TRAFFICKING REPORT 34 (2022) [hereinafter LANE ET AL.].

33. *Public Awareness & Training*, U.S. DEP'T OF STATE, <https://www.state.gov/humantrafficking-public-awareness-training> [<https://perma.cc/T637-LLQE>] (last visited Nov. 18, 2022) (advocating for human trafficking awareness training and its importance in preventing human trafficking).

34. See *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States* 41 (2014), <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/FederalHumanTraffickingStrategicPlan.pdf> [<https://perma.cc/JC6R-Z8AL>] (drawing attention to the need for resources and services for victims of trafficking).

35. See *infra* Part I.

36. See *infra* Sections II.A–C.

addition to adopting legislation mandating training and education for all employees of lodging establishments, provide greater support for survivors of sex trafficking.³⁷

I. BACKGROUND

A. *What Is Human Trafficking?*

The TVPA defines human trafficking 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.”³⁸ There are two major categories of human trafficking in the United States.³⁹ First, there is sex trafficking, where an adult or minor is made to participate in a commercial sex act against their will through “force, fraud, or coercion.”⁴⁰ A commercial sex act is defined as “any sex act on account of which anything of value is given to or received by any person.”⁴¹ The second is labor trafficking, often referred to as modern-day slavery because the trafficker forces an individual to perform labor or services.⁴² Just like sex trafficking, labor trafficking is accomplished “through the use of force, fraud or coercion.”⁴³

Traffickers are those who “aim to profit from the exploitation of their victims” through the sex or labor acts that their victims are forced to perform.⁴⁴ “The presence of force, fraud or coercion indicates that the victim has not consented of his or her own free will.”⁴⁵

37. *See infra* Conclusion.

38. 22 U.S.C. § 7102(11)(B).

39. *Id.* § 7102.

40. *Id.* § 7102(12) (“The term ‘sex trafficking’ means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act”). “All commercial sex involving a minor is legally considered human trafficking.” *Recognizing Human Trafficking*, POLARIS, [https://perma.cc/VTH2-UV2C](https://polarisproject.org/sex-trafficking) (last visited Nov. 18, 2022).

41. 22 U.S.C. § 7102(4); *Fact Sheet: Human Trafficking*, ADMIN. FOR CHILD. & FAMILIES, OFF. ON TRAFFICKING IN PERSONS, <https://www.acf.hhs.gov/otip/fact-sheet/resource/fshumantrafficking> [<https://perma.cc/963Y-9XGB>] (last visited Nov. 18, 2022).

42. *Labor Trafficking*, NAT’L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/type-trafficking/labor-trafficking> [<https://perma.cc/B5H6-4F4F>] (last visited Nov. 18, 2022).

43. *Id.* Two common examples of labor trafficking are fieldhands forced to work by threats of violence and factory workers forced to work “in inhumane conditions with little to no pay.” *Id.*

44. *About Human Trafficking*, U.S. DEP’T OF STATE, <https://www.state.gov/humantrafficking-about-human-trafficking> [<https://perma.cc/5SZU-QYTT>] (last visited Nov. 18, 2022).

45. *Labor Trafficking*, *supra* note 42.

Traffickers prey on vulnerable individuals.⁴⁶ In fact, it is a common misconception that traffickers kidnap victims off the street; rather, “traffickers often use subtle forms of psychological or emotional manipulation to recruit victims” into sex trafficking.⁴⁷ Thus, the majority of victims have some variety of vulnerability, such as substance dependence or homelessness.⁴⁸ In 2021, the top three victim vulnerabilities in new criminal sex trafficking cases were being a runaway, being in the foster care system, and being a prior trafficking victim, respectively.⁴⁹

B. Vulnerable Populations Affected by Human Trafficking

Being a victim of human trafficking is an inherently vulnerable characteristic.⁵⁰ However, most victims also experience other vulnerable traits.⁵¹ There are many intersectional factors that make an individual vulnerable to exploitation, including socioeconomic background, sexual orientation, substance addictions, and unstable housing or runaway status.⁵²

Women, specifically juveniles, are one subgroup of population vulnerable to sex trafficking.⁵³ Juvenile females are the most likely victims in sex trafficking prosecutions.⁵⁴ Of the 1,499 federal sex trafficking prosecutions in 2020, females under the age of eighteen accounted for fifty percent of the victims,⁵⁵ while adult women made up forty-four percent.⁵⁶ In the twenty years since the TVPA’s enactment, fifty-seven percent of victims in federal sex trafficking cases were children.⁵⁷ Of the 400 juvenile victims in the 2020 active criminal sex trafficking cases, eighty-nine percent were between fourteen

46. LANE ET AL., *supra* note 32, at 36.

47. *Id.*

48. *Id.*

49. *Id.* at 36–37 (“In 2021, the top victim vulnerabilities in new cases were having run away from home (64%, 28), being in the foster care system (25%, 11), having been previously trafficked (18%, 8), substance use disorder (11%, 5) . . .”).

50. *Id.*

51. *Id.*

52. Emma Ecker, *Knowing What to Look For: Global Vulnerabilities to Human Trafficking*, HUM. TRAFFICKING INST. (Jan. 18, 2022), <https://traffickinginstitute.org/knowing-what-to-look-for-global-vulnerabilities-to-human-trafficking> [http://perma.cc/7BTV-ZLNB].

53. See FEEHS & CURRIER WHEELER, *supra* note 4, at 5.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.* at 27 (“Based on the 4,712 victims named in criminal cases from 2000 through 2020 whose age was known,” 2,671 victims were children).

and seventeen years old.⁵⁸ One possible explanation for this is that it is often considered to be easier to prosecute cases where the victim is a minor because the prosecution is not required to prove force, fraud, or coercion in these cases.⁵⁹

There are various pre-existing vulnerabilities that victims of sex trafficking may possess.⁶⁰ The leading pre-existing vulnerabilities in 2021 were runaway status, being in the foster care system, being a prior trafficking victim, and substance dependence, respectively.⁶¹ The pre-existing vulnerabilities faced by victims of sex trafficking are also correlated to gender and age.⁶² For example, the most cited vulnerabilities of juvenile females in 2020 were “having run away from home (78%, 28) and being in the foster care system (31%, 11)”⁶³ while adult women most frequently experienced “substance use dependency (63%, 5) and undocumented immigration status (25%, 2).”⁶⁴

Traffickers prey on vulnerable individuals.⁶⁵ Most traffickers do not abduct random victims off the street; rather, they take note of a potential victim’s vulnerabilities and take advantage of victims whose vulnerabilities will make them easier for the traffickers to exploit.⁶⁶ Such vulnerabilities range from substance dependence to immigration status to age and gender, perhaps highlighting why victims of sex trafficking come from such diverse backgrounds.⁶⁷

C. Federal Human Trafficking Legislation

Perhaps the most significant federal legislation that the United States has authorized and implemented is the TVPA.⁶⁸ The TVPA

58. *Id.* at 33 (showing that these statistics are based on the 400 juvenile victims whose exact ages were known).

59. *Human Trafficking Prosecution Unit (HTPU)*, U.S. DEP’T OF JUST., <https://www.justice.gov/crt/human-trafficking-prosecution-unit-htpu> [<https://perma.cc/TV6S-QXAR>] (last visited Nov. 18, 2022) (“[B]ecause of the vulnerability of minors, where minors are offered for commercial sex the statutes do not require proof of force, fraud, or coercion.”) The relevant statutes under which this would be prosecuted are 18 U.S.C. § 2423 and 18 U.S.C. § 1591. *Id.*

60. LANE ET AL., *supra* note 32, at 36–37.

61. *Id.*

62. *Id.* at 26–27.

63. *Id.* (showing that these statistics are based on 36 new minor female victims in 2021). These are the same top pre-existing vulnerabilities of juvenile female victims as 2020. FEEHS & CURRIER WHEELER, *supra* note 4, at 30.

64. LANE ET AL., *supra* note 32, at 26 (showing that these statistics are based on eight new adult female victims in 2021). These are the same top pre-existing vulnerabilities of adult female victims as 2020. FEEHS & CURRIER WHEELER, *supra* note 4, at 30.

65. LANE ET AL., *supra* note 32, at 36.

66. *Id.*

67. *See Myths, Facts, and Statistics*, POLARIS, <https://polarisproject.org/myths-facts-and-statistics> [<https://perma.cc/A86F-S5HQ>] (last visited Nov. 18, 2022).

68. 22 U.S.C. §§ 7101–7114.

laid the foundation for combatting human trafficking through the “3 P’s” approach: “protection, prevention, and prosecution.”⁶⁹ For example, the TVPA created the T visa, which prevents a victim of human trafficking from being immediately deported from the United States.⁷⁰

The TVPA enhanced the prosecution of traffickers by creating new criminal provisions prohibiting human trafficking, criminalizing attempted trafficking, requiring traffickers to pay restitution to their victims, and increasing penalties for crimes related to human trafficking.⁷¹ Finally, the TVPA boosted prevention through methods such as establishing the Office to Monitor and Combat Trafficking in Persons and an Interagency Task Force to Monitor and Combat Trafficking (PITF).⁷² The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 went on to “establish[] a grant program for state and local law enforcement agencies to combat trafficking” and expanded reporting requirements.⁷³

In 2015, Congress passed the Justice for Victims of Trafficking Act (JVTA).⁷⁴ Among many tools to combat human trafficking, JVTA amended 18 U.S.C. § 1594 “to direct any assets forfeited in a human trafficking case to be used to satisfy a victim restitution order.”⁷⁵ This provision was key, as restitution funds are often essential for victims of trafficking to recover from the abuse and exploitation, and only forty-four percent of restitution requests were being granted in sex trafficking cases.⁷⁶ Now more than ever before, survivors of sex

69. See *Key Legislation*, U.S. DEP’T OF JUST., <https://www.justice.gov/humantrafficking/key-legislation> [<https://perma.cc/A4SW-ES6A>] (last visited Nov. 18, 2022).

70. *Id.* See also *Victims of Human Trafficking: T Nonimmigrant Status*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-human-trafficking-t-nonimmigrant-status> [<https://perma.cc/U9T4-AAN7>] (last visited Nov. 18, 2022) (finding that “T nonimmigration status is a temporary immigration benefit that enables [victims of human trafficking] to remain in the United States for an initial period of up to 4 years if they have complied with any reasonable request for assistance from law enforcement in the detection, investigation, or prosecution of human trafficking or qualify for an exemption or exception.”).

71. *Key Legislation*, *supra* note 69.

72. *Id.*

73. *Id.*

74. *Justice for Victims of Trafficking Act of 2015*, CONGRESS.GOV (Apr. 29, 2015), <https://www.congress.gov/bill/114th-congress/senate-bill/178> [<http://perma.cc/FP8D-F5XB>].

75. *Key Legislation*, *supra* note 69. The provision was amended to state that the victim would receive “the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act.” 18 U.S.C. § 1593.

76. Stephanie Francis Ward, *Despite Mandatory Restitution Law, Courts Rarely Award Trafficking Victims Lost Wages, Study Finds*, AM. BAR. ASS’N J. (Sept. 30, 2014), https://www.abajournal.com/news/article/courts_rarely_awarded_sex_trafficking_victims_compensation_study_finds [<https://perma.cc/LRM7-PUJP>] (“According to Reuters, defense lawyers often argue that victims of sex trafficking don’t deserve restitution, because the work is illegal.”).

trafficking are filing lawsuits against their traffickers and against the lodging establishments from which they were trafficked.⁷⁷

D. States with Mandatory Training and Education Legislation for Employees of Lodging Establishments

Six states have precautionary legislation in place to combat human trafficking in the lodging industry: California,⁷⁸ Connecticut,⁷⁹ Illinois,⁸⁰ Florida,⁸¹ Minnesota,⁸² and New Jersey.⁸³ Most recently, in 2022, Virginia became the seventh state to implement such legislation.⁸⁴ These states that have already implemented their mandatory training and education legislation have seen vastly different trends in the number of sex trafficking cases reported through the National Human Trafficking Hotline; however, most states have seen a general uphill trend in reporting of sex trafficking cases.⁸⁵

In 2013, New Jersey was the first state to implement preventative legislation.⁸⁶ New Jersey mandates that lodging establishment owners, operators and staff attend “a one-time training course on the handling and response procedures of suspected human trafficking activities.”⁸⁷ A refresher course is also required after no more than two years.⁸⁸ From 2016 to 2019, the number of sex trafficking cases reported each year were 153, 127, 175, and 207, respectively, illustrating a general increase in reporting since the statute went into effect.⁸⁹

Connecticut demands that the operator of a lodging establishment provide training each time a new employee is hired.⁹⁰ This training highlights how to recognize both potential trafficking victims and the behaviors generally characteristic with traffickers.⁹¹ Under this

77. FEEHS & CURRIER WHEELER, *supra* note 4, at 55.

78. CAL. GOV'T CODE § 12950.3 (Deering 2019).

79. CONN. GEN. STAT. § 44-5 (2016).

80. 820 ILL. COMP. STAT. ANN. 95/15 (LexisNexis 2019).

81. FLA. STAT. ANN. § 509.096 (LexisNexis 2020).

82. MINN. STAT. § 157.177 (2018).

83. N.J. STAT. § 2C:13-12 (2013).

84. VA. CODE ANN. § 35.1-15.1 (2023).

85. *Hotline Statistics*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/states> [<https://perma.cc/ZB69-HHTE>] (last visited Nov. 18, 2022).

86. *See* N.J. STAT. § 2C:13-12.

87. *Id.* § 2C:13-12(b)(1).

88. *Id.* § 2C:13-12(a).

89. *New Jersey*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/state/new-jersey> [<https://perma.cc/3AY9-DABM>] (last visited Nov. 18, 2022).

90. CONN. GEN. STAT. § 44-5.

91. *Id.*

statute, each lodging establishment operator must verify that each employee actually received the mandatory training.⁹² In Connecticut, the number of reported cases jumped from forty reports in 2015 to fifty-nine reports in 2017, just one year after the statute was passed.⁹³

Minnesota implemented its Sex Trafficking Prevention Training statute in 2018.⁹⁴ This statute necessitates that each employee in a lodging establishment receive annual training regarding awareness, identification, and appropriate responses to human trafficking.⁹⁵ Specifically, the statute states that the training course must instruct on, at a minimum:

- (1) what sex trafficking is in order to raise awareness of it;
- (2) how to recognize potential victims of sex trafficking;
- (3) how to identify activities commonly associated with sex trafficking; and
- (4) effective responses to trafficking situations including, but not limited to, how to report suspected sex trafficking to proper law enforcement officials.⁹⁶

There was a dramatic increase in sex trafficking cases in Minnesota from 2017 (sixty-three) to 2018 (ninety-two).⁹⁷

California requires “human trafficking awareness training and education” every two years, with new employees receiving training within six months of employment.⁹⁸ This section applies only to hotels and motels; bed and breakfasts appear to be excluded.⁹⁹ This statute highlights the requisite training, including but not limited to: how to identify at-risk individuals, the role that they as an employee of a lodging establishment play in reporting and responding to trafficking, and contact information for the National Human Trafficking Hotline and local law enforcement.¹⁰⁰ California saw a

92. *Id.*

93. *Connecticut*, NAT'L HUM. TRAFFICKING HOTLINE [hereinafter *Connecticut Statistics*], <https://humantraffickinghotline.org/state/connecticut> [<https://perma.cc/QM7U-NUKT>] (last visited Nov. 18, 2022).

94. MINN. STAT. § 157.177 (2018).

95. *Id.* § 157.177(2)(a).

96. *Id.* § 157.177(2)(c)(1)–(4).

97. *Minnesota*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/state/minnesota> [<https://perma.cc/86EV-LRZN>] (last visited Nov. 18, 2022). From 2016 to 2020, the number of sex trafficking cases reported in Minnesota each year was 53, 63, 92, 81, and 66, respectively. *Id.*

98. CAL. GOV'T CODE § 12950.3(b). *Id.*

99. *Id.* § 12950.3(a).

100. *Id.* § 12950.3(c)(2), (4), (5). The training must include:

- (1) The definition of human trafficking and commercial exploitation of children.
- (2) Guidance on how to identify individuals who are most at risk for

dramatic increase in cases from 2017 to 2019, with a high of 1,655 sex trafficking cases reported in 2018.¹⁰¹

Also in 2019 (effective in 2020), Illinois passed the Lodging Services Human Trafficking Recognition Training Act.¹⁰² This Act requires that the required employees of a lodging establishment participate in a training program regarding combatting human trafficking.¹⁰³ The program must, at minimum, define human trafficking, instruct on how to identify at-risk individuals, distinguish sex and labor trafficking, and clearly educate employees on how they should report and respond to potential instances of human trafficking.¹⁰⁴ Illinois requires any employee of a “lodging establishment, restaurant, or truck stop” to complete the above training within six months for a new employee and a refresher course every two years.¹⁰⁵

In 2020 Florida put its Human Trafficking Awareness Training and Policies into effect.¹⁰⁶ The Florida law requires all public lodging establishments to provide annual training to employees who “perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check in or check out.”¹⁰⁷ The law also mandates the posting of “human trafficking public awareness” signage in locations accessible to employees.¹⁰⁸

human trafficking. (3) The difference between labor and sex trafficking specific to the hotel sector. (4) Guidance on the role of hospitality employees in reporting and responding to this issue. (5) The contact information of appropriate agencies, including, but not limited to, the National Human Trafficking Hotline toll-free telephone number . . . and the telephone numbers of the appropriate local law enforcement agencies.

Id. § 12950.3(c).

101. *California*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/state/california> [<https://perma.cc/2KW5-WT4T>] (last visited Nov. 18, 2022). From 2016 to 2020, the number of sex trafficking cases reported each year was 1,071, 1,037, 1,232, 1,124, and 1,025, respectively. *Id.*

102. 820 ILL. COMP. STAT. ANN. 95/1.

103. *Id.* 95/10.

104. *Id.* 95/15:

(1) a definition of human trafficking and commercial exploitation of children; (2) guidance on how to identify individuals who are most at risk for human trafficking; (3) the difference between human trafficking for purposes of labor and for purposes of sex as the trafficking relates to lodging establishments; and (4) guidance on the role of lodging establishment employees in reporting and responding to instances of human trafficking.

105. *Id.* 95/10.

106. FLA. STAT. ANN. § 509.096.

107. *Id.* § 509.096(1)(a).

108. *Id.* § 509.096(c). The sign is to read, in at least English and Spanish,

If you or someone you know is being forced to engage in an activity and cannot leave; whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the National Human Trafficking Resource Center at 888-373-7888 or text INFO or HELP

Similar to the statutes of the previously discussed states, Florida requires that the training for employees of a lodging establishment include, at minimum, a definition of human trafficking, the distinction between sex trafficking and labor trafficking, how to identify at-risk victims of human trafficking, and instruction for employees on how to report and respond to potential instances of human trafficking.¹⁰⁹ Florida's statute goes a step further than the other five laws previously mentioned, as it includes the imposition of "an administrative fine of \$2,000 per day on a public lodging establishment that is not in compliance" with the mandatory training protocols.¹¹⁰

While these are the only six states with mandatory training and education legislation currently in place, several states mandate signage being posted in lodging establishments.¹¹¹ These states are Georgia, Hawaii, Louisiana, Maine, New Mexico, New York, North Carolina, South Carolina, and West Virginia, along with the above-mentioned six states with active mandatory training protocols.¹¹² While lodging establishments posting signage is a step in the right direction, mandatory training and education would likely be a more effective means of protecting victims of sex trafficking because employees would be more informed on the warning signs and how to identify potential victims of sex trafficking because of their more hands-on training.¹¹³

Most states experienced a drop in reporting between 2019 and 2020.¹¹⁴ A potential explanation for the decline in reporting is the COVID-19 pandemic.¹¹⁵ This is likely because of the environment created by the pandemic, including isolation of victims and greater difficulty identifying victims.¹¹⁶

to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.

109. *Id.* § 509.096(2)(a)–(c).

110. *Id.* § 509.096(3).

111. KAREN WIGLE WEISS, ECPAT USA, UNPACKING HUMAN TRAFFICKING VOL. 3: A SURVEY OF LAWS IN THE UNITED STATES TARGETING HUMAN TRAFFICKING IN THE HOSPITALITY INDUSTRY 8–10 (2021), <https://static1.squarespace.com/static/594970e91b631b3571be12e2/t/5ffc7ede346f087732b78155/1610383086565/FINAL+-+Unpacking+Human+Trafficking+Vol+3.pdf> [<https://perma.cc/5UCZ-BH9P>].

112. *Id.*

113. *See, e.g.*, CAL. GOV'T CODE § 12950.3(b)(1) (stating that the operator of a lodging establishment is to provide employees with "at least 20 minutes of classroom or other effective interactive training and education" regarding the identification and reporting of an instance of human trafficking).

114. *See States*, NAT'L HUM. TRAFFICKING HOTLINE, *supra* note 85.

115. UNITED NATIONS OFF. ON DRUGS & CRIME, *supra* note 12, at 1.

116. *Id.* at 2.

E. Lack of Enforcement of Existing Mandatory Training and Education Legislation

In order to increase awareness and reporting of sex trafficking, the states that have mandatory training and education legislation in place must also incorporate a strategy for enforcement of such legislation. New Jersey, Minnesota, California, and Florida have included enforcement provisions in their statutes.¹¹⁷

New Jersey's statute is enforced by the Department of Community Affairs, a power afforded to the Department by the State's Hotel and Multiple Dwelling Law.¹¹⁸ Record of proper completion of the training course by mandated lodging establishment employees is required for the "issuance, maintenance, or renewal of any license, permit, certificate, or approval required, permitted to be granted, or issued to" the lodging establishment.¹¹⁹ These records are to include the employee names and completion dates of the training requirements.¹²⁰

Per Minnesota's statute, an order will be issued to the operator of a lodging establishment who is in non-compliance with this statute, compelling compliance within six months.¹²¹

Under California's statute, if an employer fails to provide such training to covered employees, the Department of Fair Employment and Housing (DFEH) can seek an order requiring them to comply with the law.¹²²

Under the Florida statute, lodging establishments are required to keep a signed and dated record for each employee that has received the required training, subject to inspection by the Department of Business and Professional Regulation (DBPR).¹²³ Failure to comply with the statute results in a fine of \$2,000 per day for any lodging establishment in non-compliance.¹²⁴

Connecticut and Illinois do not have an enforcement mechanism detailed in their statutes.¹²⁵ Further, research into the enforcements

117. N.J. STAT. § 2C:13-12(b)(2); MINN. STAT. § 157.177(5); CAL. GOV'T CODE § 12950.3(g); FLA. STAT. ANN. § 509.096(3).

118. N.J. STAT. § 2C:13-12(b)(2).

119. *Id.* § 2C:13-12(b)(1).

120. *Human Trafficking*, STATE OF N.J. DEP'T OF CMTY. AFFAIRS, <https://www.nj.gov/dca/divisions/codes/resources/humantrafficking.html> [<https://perma.cc/QR3M-W5S5>] (last visited Nov. 18, 2022).

121. MINN. STAT. § 157.177(5).

122. CAL. GOV'T CODE § 12950.3(g).

123. *Compliance Checklist*, FLA. REST. & LODGING ASS'N, <https://frla.org/human-trafficking> [<https://perma.cc/WG9N-U5VM>] (last visited Nov. 18, 2022).

124. *Id.*

125. *See* CONN. GEN. STAT. § 44-5; 820 ILL. COMP. STAT. ANN. 95/1-95/15.

of each of the statutes discussed above turned up a lack of enforcement of the imposed regulations.¹²⁶ For these regulations to be effective in combatting human trafficking, state legislature must ensure that enforcement is feasible and occurring.¹²⁷

II. ANALYSIS

According to the 2020 Federal Human Trafficking Report, published the year of the 20th anniversary of the enactment of the TVPA, “the number of human trafficking convictions each year has steadily increased . . . since 2000.”¹²⁸ While there are more survivors of sex trafficking bringing lawsuits against the lodging establishments where they were trafficked, further steps need to be taken to hold lodging establishments accountable for their role in the trafficking industry.¹²⁹ Mandatory training and education legislation for the lodging industry would likely increase awareness and decrease instances of sex trafficking.¹³⁰ However, legislation alone is not enough. With an increased number of convictions of traffickers, we must continue to support survivors of sex trafficking in order to fully achieve justice.¹³¹

A. Virginia’s Human Trafficking Statistics

In 2020, the Eastern District of Virginia ranked third in new criminal defendants in human trafficking cases with thirteen new federal defendants and was tied for ninth in active federal defendants with twenty-seven.¹³² In 2021, Virginia neither ranked in the top five districts with new cases nor the top ten districts for new defendants.¹³³ It is important to note that “the number of human trafficking prosecutions within a particular judicial district does not

126. See, e.g., Meghan Friedmann, *CT Law Designed to Educate About Human Trafficking Not Being Enforced, Advocates Say*, NEW HAVEN REG. (Oct. 11, 2021), <https://www.nhregister.com/news/article/CT-law-designed-to-educate-about-human-16520350.php> [<https://perma.cc/G2GX-DZ4P>].

127. See *id.*

128. FEEHS & CURRIER WHEELER, *supra* note 4, at 3.

129. See *id.* at 55; Emily Adams & Shubhra Mashelkar, *Human Trafficking Lawsuits and the Hotel Industry*, HOTEL BUS. (Aug. 11, 2020), <https://www.hotelbusiness.com/human-trafficking-lawsuits-and-the-hotel-industry> [<https://perma.cc/V6KF-FCPC>].

130. See LANE ET AL., *supra* note 32, at 62.

131. See *infra* Section II.E.

132. FEEHS & CURRIER WHEELER, *supra* note 4, at 77.

133. LANE ET AL., *supra* note 32, at 70, 76.

represent the *prevalence* of human trafficking within that district, but instead highlights federal efforts to prosecute traffickers within a specific jurisdiction.”¹³⁴

While Virginia just passed mandatory training and education legislation,¹³⁵ there has been a Sex Trafficking Response Coordinator that exists within the Department of Criminal Justice Services.¹³⁶ The role of the Sex Trafficking Response Coordinator includes, but is not limited to, establishing a statewide plan to identify victims of and respond to trafficking and promoting “strategies for the education, training, and awareness of sex trafficking[,] and for the reduction of demand for commercial sex.”¹³⁷ The Virginia Code outlines a potential repercussion for someone who engages in sex trafficking.¹³⁸

Virginia has seen the same gradual uphill trend in the number of reported sex trafficking cases since 2016 that has been seen nationally.¹³⁹ However, Virginia has not experienced the drastic increase in reports as seen in the six states with preventative legislation currently in place.¹⁴⁰ From 2016 to 2020, the number of sex trafficking cases reported each year in Virginia was 108, 113, 144, 132, and 77, respectively.¹⁴¹

Each of the six states that have already implemented mandatory training and education legislation have seen varying results in their annual reports of sex trafficking cases.¹⁴² Most of these statutes have only been in place for a couple of years, with New Jersey having the longest-standing statute, just shy of ten years being implemented.¹⁴³ One national trend is that there was a drop in reported cases of sex trafficking from 2019 to 2020, a potential

134. FEEHS & CURRIER WHEELER, *supra* note 4, at 76.

135. See VA. CODE ANN. § 35.1-15.1 (as of February 16, 2022, Virginia’s HB258, requiring lodging establishment employees to participate in human trafficking awareness training, was referred to the Committee on the Judiciary in the Senate).

136. VA. CODE ANN. § 9.1-116.5 (the Department of Criminal Justice Services is a state agency).

137. *Id.* § 9.1-116.5(A)(1), (5). The Coordinator is also required to compile a publicly available annual summary and list of recommendations “to address sex trafficking within the Commonwealth,” to be delivered to the Governor and the General Assembly. *Id.* § 9.1-116.5(C).

138. *Id.* § 18.2-355(1) (A person is guilty of sex trafficking if they “[f]or purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes”) An individual violating this subdivision is subject to a Class 4 felony charge. *Id.*

139. NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 8.

140. See, e.g., *Connecticut Statistics*, *supra* note 93.

141. NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 8.

142. NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 85.

143. N.J. STAT. § 2C:13-12.

reason for which is the COVID-19 pandemic.¹⁴⁴ As evidenced by this trend, there is likely not one singular factor to point to for the rise and fall in reported cases of sex trafficking in a given year.¹⁴⁵ The number of victims and survivors of sex trafficking are often under-represented by these statistics, as cases are presumed to be under-reported.¹⁴⁶ One of the reasons for this under-reporting is the difficulty local authorities have in identifying trafficking cases,¹⁴⁷ an issue that would likely be improved by the readiness of lodging establishment employees in states with mandatory training and education legislation. Finally, while a useful analytical tool, it is important to remember that an increase or decrease in reported cases is not indicative of the prevalence of sex trafficking in a given state, but of a state's efforts to identify and prosecute these cases.¹⁴⁸

B. Lack of Accountability for Lodging Establishments

Per the Federal Human Trafficking Report, “80% (43) of new cases involving a completed sex act occurred at a hotel.”¹⁴⁹ In a recent case out of the Eastern District of Virginia, survivor A.D. is bringing a civil lawsuit against Wyndham Hotels & Resorts—the parent company—after she was frequently and repeatedly sex trafficked while residing in the Super 8 Hampton and Days Inn Hampton hotels.¹⁵⁰ A.D. contends that she suffered not only severe physical violence at the hand of her traffickers and their clients, but also emotional and psychological trauma, and financial injury.¹⁵¹ A.D. was forced by her traffickers to perform commercial sex acts for an average of seven customers per night; the money that A.D.

144. UNITED NATIONS OFF. ON DRUGS & CRIME, *supra* note 12, at 1.

145. *Human Trafficking Trends in 2020*, POLARIS (2021), <https://polarisproject.org/wp-content/uploads/2022/01/Human-Trafficking-Trends-in-2020-by-Polaris.pdf> [https://perma.cc/JWJ4-3DWH].

146. *Gaps in Reporting Human Trafficking Incidents Result in Significant Undercounting*, NAT'L INST. OF JUST. (Aug. 4, 2020), <https://nij.ojp.gov/topics/articles/gaps-reporting-human-trafficking-incidents-result-significant-undercounting> [https://perma.cc/V5RP-CZN6].

147. *Id.*

148. *See* LANE ET AL., *supra* note 32, at 116.

149. *Id.* at 47. In new 2021 cases, locally owned establishments, Motel 6, Quality Inn, Super 8 Motel, Red Roof Inn, and Marriott were the leading lodging establishments where commercial sex acts occurred. *Id.*

150. *A.D. v. Wyndham Hotels & Resorts, Inc.*, No. 4:19CV120, 2020 U.S. Dist. LEXIS 250670, at *18–19 (E.D. Va. Sept. 21, 2020).

151. *Id.* at *18–19.

received for these sexual services was forfeited to her traffickers.¹⁵² On at least one occasion, A.D. was forced to entertain fourteen clients of her sex trafficking in one night.¹⁵³

In the most recent court appearance, the District Court held that A.D. sufficiently alleged each element of third-party liability.¹⁵⁴ Under this third-party theory of liability, A.D. may be entitled to relief by Wyndham Hotels and Resorts.¹⁵⁵

In 2008, the TVPA was amended to criminalize those who financially benefit from forced labor in an attempt to facilitate corporate liability.¹⁵⁶ Similarly, the TVPA created an avenue for survivors to sue corporate entities as a means of financial recovery.¹⁵⁷ As a result, survivors “may recover damages not only from their traffickers, but also from third parties who knowingly benefit from the trafficking.”¹⁵⁸

Minnesota’s statute includes an immunity subsection which states that so long as the operator or employee of the lodging establishment is acting “in good faith,” they may not be held liable “in any civil action for reporting suspected sex trafficking activities.”¹⁵⁹ California’s statute includes a subsection that states that “[t]he lack of reporting of a human trafficking case . . . by an employee of that establishment” alone is not enough for a victim to impose liability on “any employer or employee of that establishment.”¹⁶⁰ The California statute fails, however, to define what is enough to impose liability on the employee or the lodging establishment, if not the failure to report witnessing a potential trafficking case alone.¹⁶¹

In 2021, seventeen out of eighty-three new civil lawsuits for sex trafficking, or twenty percent of the actions, were brought against lodging establishments.¹⁶² TVPRA provides the backbone for victims of human trafficking suing the lodging industry.¹⁶³ In 2021, lodging

152. *Id.* at *18 (“[A.D.] was forced to sexually service strangers (an average of seven and up to fourteen a night) in exchange for money, and to provide the money to her sex traffickers.”).

153. *Id.*

154. *Id.* at *21.

155. *Id.*

156. LANE ET AL., *supra* note 32, at 20.

157. *Id.* at 21.

158. *Id.*

159. MINN. STAT. § 157.177(4).

160. CAL. GOV’T CODE § 12950.3(e).

161. *See id.* § 12950.3(e).

162. LANE ET AL., *supra* note 32, at 21.

163. Debra Cassens Weiss, *In Growing Trend, Suits Seek to Hold Motel Operators Liable for Human Trafficking*, AM. BAR ASS’N J. (Feb. 25, 2021), <https://www.abajournal.com/news/article/case-seeking-to-hold-motel-operators-liable-for-human-trafficking-is>

establishments were the most common location for commercial sex acts to occur, comprising eighty percent of new sex trafficking cases.¹⁶⁴ Because the lodging industry is such a hotspot for sex trafficking, it is imperative that employees of lodging establishments are adequately able to identify potential victims of sex trafficking and are confident in their ability to contact the proper local authorities and agencies to resolve the potential trafficking situation.¹⁶⁵

C. Why Mandatory Training and Education Legislation for the Lodging Industry Is Necessary

Perhaps best put by Sheila Hayre of Quinnipiac University School of Law in Connecticut, discussing Connecticut's training and education legislation, "[i]t's not just identifying the signs of trafficking generally, but it's also helping folks on the front lines who encounter victims think about intervention and what they can do to prevent [human trafficking]."¹⁶⁶ In 2021, only three percent of sex trafficking case referrals to law enforcement came from a lodging establishment employee.¹⁶⁷ Twenty-two percent of case referrals came from victims directly contacting law enforcement.¹⁶⁸ These statistics highlight the necessity for training and education for employees of lodging establishments to identify warning signs of human trafficking and for lodging establishments to have signage containing contact information for hotlines such as the National Human Trafficking Hotline number.¹⁶⁹

-part-of-growing-trend [https://perma.cc/HR89-3V6F] ("A 2003 reauthorization of the law allows civil suits against anyone who 'knowingly benefits, financially or by receiving anything of value' from participating in a trafficking venture, if they knew or should have known that the venture violated the law.").

164. LANE ET AL., *supra* note 32, at 47. Out of fifty-four new criminal sex trafficking cases filed in 2021, commercial sex acts occurred at a lodging establishment in forty-three cases. *Id.*

165. *See id.*

166. Amanda Robert, *State Laws Provide for Civil Actions and Other Creative Remedies for Trafficking Survivors*, AM. BAR. ASS'N J. (Feb. 1, 2020), <https://www.abajournal.com/magazine/article/states-offer-creative-remedies-for-trafficking-survivors> [https://perma.cc/2HRY-3GFH].

167. LANE ET AL., *supra* note 32, at 62. There were sixty-nine referrals made in 2021. *Id.*

168. *Id.*

169. *Id.* "Based on 69 instances of referrals made in new 2021 sex trafficking cases" twenty-two percent were made directly by the victim, fourteen percent were made through a family member, sixteen percent were made through a human trafficking task force, and three percent came from a human trafficking hotline contact. *Id.*

In A.D.'s case, A.D. offered several instances in which the lodging establishments “knew or should have known” that there was a sex trafficking operation occurring.¹⁷⁰ The evidence presented by A.D. against the Super 8 included her trafficker paying employees “to remain quiet regarding his operation there”; seven to fourteen men, often “repeat customers,” entered the establishment daily through the front entrance; on the limited occasions when employees saw A.D., she had serious physical injuries; and there were numerous occasions during which her trafficker loudly assaulted A.D., which would easily have been heard by passers-by, especially establishment employees.¹⁷¹ A.D. provided similar evidence against the Days Inn Hampton, including injuries so severe that they were “noticeable to the public” and direct contact between A.D.'s trafficker and the lodging establishment's employees.¹⁷²

If the employees of either lodging establishment had received the proposed mandatory training, they would have had vital information and skills that could have saved A.D. much physical and emotional suffering.¹⁷³ For example, the employees could have been more prepared to recognize the activities typically carried out by traffickers and even to identify A.D. as a potential victim of sex trafficking.¹⁷⁴ Employees could have also been properly informed on how to effectively contact and report the sex trafficking situation to the appropriate law enforcement agents and the National Human Trafficking Hotline.¹⁷⁵ Finally, “human trafficking public awareness” signage could have been posted in areas accessible to employees—as well as passers-by and other guests at the lodging establishment—to ensure that all information, particularly the contact information for the National Human Trafficking Hotline and local law enforcement office, were readily available.¹⁷⁶

170. *A.D. v. Wyndham Hotels & Resorts, Inc.*, No. 4:19CV120, 2020 U.S. Dist. LEXIS 250670, at *16–18 (E.D. Va. Sept. 21, 2020).

171. *Id.* at *16–17. As for A.D.'s physical injuries, Super 8 employees described seeing A.D. with “‘prominent and obvious injuries,’ including a broken nose and numerous lacerations to the face and lips, as well as ‘a sunken face, and [a] withdrawn demeanor’ . . .” *Id.* at *17.

172. *Id.* at *17. A.D. also noted that both lodging establishments received “‘oral or written complaints’ regarding activity that was suspected to be sex trafficking or prostitution,” which went unacted upon by employees. *Id.*

173. *Id.* at *20–21. While the training and education legislation may not deter complicit employees, it is likely to increase awareness and reporting under most circumstances.

174. *See* CONN. GEN. STAT. § 44-5; *see also* A.D., 2020 U.S. Dist. LEXIS 250670, at *20–21.

175. *See* MINN. STAT. § 157.177(2)(c)(4); *see also* CAL. GOV'T CODE § 12950.3(c)(5); 820 ILL. COMP. STAT. ANN. 95/15(a)(4), (b)(4).

176. *See* FLA. STAT. ANN. § 509.096(c).

D. Currently Proposed Virginia Legislation

As of February 15, 2022, Virginia's House Bill 258 (HB258) was unanimously passed (100–0) in the House.¹⁷⁷ This bill has two parts: one, to amend and reenact Virginia Code section 9.1-102, and two, to include the addition of Virginia Code section 35.1-15.1.¹⁷⁸

The amendment to Virginia Code section 9.1-102 includes the addition of subsection 65, which requires the Virginia Department of Criminal Justice Services to “[d]evelop an online course to train hotel proprietors and their employees to recognize and report instances of suspected human trafficking.”¹⁷⁹

The newly drafted Virginia Code section 35.1-15.1 has two parts.¹⁸⁰ Subsection A of the bill mandates that each lodging establishment employee participate in a training course provided or approved by the Virginia Department of Criminal Justice.¹⁸¹ The Bill allows the option of either an online or in-person training course.¹⁸² Subsection B of the bill requires that employees comply with the training requirement by receiving the training within six months of their start date and completing a refresher course at least once every two years thereafter.¹⁸³

However, section 35.1-15.1 is not lacking in shortcomings, with two major deficiencies that stand out to a proponent of training and education legislation.¹⁸⁴ First, section 35.1-15.1 fails to include a

177. *Virginia HB258*, TRACKBILL, <https://trackbill.com/bill/virginia-house-bill-258-hotels-human-trafficking-training/2185135> [<https://perma.cc/R4KE-U34J>] (last visited Nov. 18, 2022).

178. *Id.*

179. VA. CODE ANN. § 9.1-102(65). What is now subsection 66 (previously subsection 65) remains unchanged, stating that the Department has the power and duty to “[p]erform such other acts as may be necessary or convenient for the effective performance of its duties.” *Id.* § 9.1-102(66).

180. VA. CODE ANN. § 35.1-15.1.

181. *Id.* § 35.1-15.1(B):

Every hotel proprietor shall require its employees to complete a training course on recognizing and reporting instances of suspected human trafficking. Such training course shall be an online course provided by the Department of Criminal Justice Services . . . pursuant to § 9.1-102 or an alternative online or in-person training course approved by the Department of Criminal Justice Services.

182. *Id.*

183. *Id.* § 35.1-15.1(C):

Each hotel employee shall complete the required training course described in subsection B within six months of being employed by a hotel and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed the required training course, for as long as he is employed by a hotel.

184. *Id.* § 35.1-15.1(B)–(C).

provision detailing the repercussions for a proprietor or employee's failure to comply with the mandatory training requirement.¹⁸⁵ Section 35.1-15.1 also lacks guidance on precisely what should be included in the training courses required by lodging establishments.¹⁸⁶

E. Supporting Survivors of Trafficking

Survivors of sex trafficking often have no home or support system, no resources, and no financial security, outside of what is provided by their trafficker.¹⁸⁷ As a result, eighty percent of victims of sex trafficking, having nowhere else to go, end up back on the street.¹⁸⁸ Some victims, if given the option, go back to their traffickers.¹⁸⁹ Others fall into the cycle of prostitution, homelessness, and drug dependence.¹⁹⁰ In 2018, Beth Messick helped to establish Jasmine Road, a program which provides shelter to survivors for up to two years.¹⁹¹ Jasmine Road was the first shelter of its type in the state of North Carolina, and Messick has received over 150 applications since the organization's founding.¹⁹² The goal of the shelter is to aid survivors in breaking the cycle of prostitution, homelessness, and drug dependence.¹⁹³

A very well-known organization in the survivor community is Refuge for Women, which provides programs for emergency housing, long-term housing, and a transitional living program.¹⁹⁴ The Emergency Housing Program is a shelter service that survivors can take advantage of for up to ninety days and obtain medical care, therapy,

185. *Id.* § 35.1-15.1(B); *see, cf.*, FLA. STAT. ANN. § 509.096(3) (stating that a lodging establishment failing to comply with the training requirement will be subject to a fine of \$2,000 per day).

186. *See* VA. CODE ANN. § 35.1-15.1 (B); *see, cf.*, FLA. STAT. ANN. § 509.096(2)(a)–(c) (outlining what must be included in the human trafficking awareness training required by lodging establishment employees).

187. Kathy Laughlin, *Jasmine Road's Beth Messick Helps Women Get Off The Streets, By 'Loving Them Back To Life'*, GREENVILLE NEWS (June 3, 2021, 7:01 AM), <https://www.greenvilleonline.com/story/money/business/2021/06/03/beth-messick-jasmine-road-helping-women-human-trafficking-sexual-abuse/7504154002> [<https://perma.cc/57FC-M3QK>].

188. *Ending Human Trafficking One Woman at a Time*, REFUGE FOR WOMEN, <https://refugeforwomen.org> [<https://perma.cc/Y6UY-AN4W>] (last visited Nov. 18, 2022).

189. Laughlin, *supra* note 187.

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. ANNUAL REPORT 2021, REFUGE FOR WOMEN 4–7 (2021) [hereinafter REFUGE FOR WOMEN 2021 ANNUAL REPORT], https://refugeforwomen.org/wp-content/uploads/2022/02/2021_Annual_Report.pdf [<https://perma.cc/EDV5-4HVZ>].

and treatment for substance dependence.¹⁹⁵ The Long Term Program Home provides not only shelter, but also restorative care and healing through weekly counseling sessions to survivors.¹⁹⁶ Finally, the Transitional Program Home provides opportunities for survivors to gain support regarding financial literacy, job security, and substance dependence.¹⁹⁷ Survivors who benefit from these programs tend to go on to thrive in their future lives and endeavors.¹⁹⁸ Fifty-eight percent of the survivors who participate in the Refuge for Women long-term programs pursue jobs other than sex work, and seventy percent maintain their sobriety.¹⁹⁹

Finding resources for survivors of sex trafficking in Virginia requires more than a quick Google search.²⁰⁰ The two most prominent resources are the Samaritan House, “the leading resource in Hampton Roads currently equipped to provide comprehensive support services and housing for survivors of all forms of human trafficking in the region,” and the Hampton Roads Human Trafficking Task Force.²⁰¹ Since the creation of the task force in 2017, over 125 survivors have benefitted from support services and housing.²⁰² The Samaritan House currently has twelve emergency shelters where survivors can reside for 30 to 140 days, and assists survivors in finding and securing permanent housing.²⁰³

While organizations like Refuge for Women and Safe Horizon²⁰⁴ exist, over half of the states in our country have one or no shelters established to offer safe harbor or potential for recovery.²⁰⁵ One of the greatest barriers faced by survivors of sex trafficking is lack of

195. *Id.* at 5.

196. *Id.* at 6.

197. *Id.* at 7.

198. *See, e.g.*, REFUGE FOR WOMEN 2021 ANNUAL REPORT, *supra* note 194, at 7.

199. *Id.* at 9. Additionally, “90% of the women who participated in [Refuge for Women’s] transitional program with whom we remain in contact go on to a life of stability and sobriety.” *Id.*

200. Web Search for Resources for Sex Trafficking Victims in Virginia, GOOGLE, <https://www.google.com/search?q=resources+for+sexual+trafficking+victims+virginia> [<https://perma.cc/CJ6C-XGV2>] (last visited Nov. 18, 2022).

201. *Hidden in Plain Sight*, SAMARITAN HOUSE, <https://samaritanhouseva.org/hidden-in-plain-sight> [<https://perma.cc/LR2S-THXK>] (last visited Nov. 18, 2022).

202. *Id.*

203. *Housing Options*, SAMARITAN HOUSE, <https://samaritanhouseva.org/#housingoptionsection> [<https://perma.cc/DSD8-GPKC>] (last visited Nov. 18, 2022).

204. *Moving Victims of Violence from Crisis to Confidence*, SAFE HORIZON, <https://www.safehorizon.org> [<https://perma.cc/WHF3-9YVK>] (last visited Nov. 18, 2022) (Safe Horizon is a victim assistance organization that supports victims of domestic violence, human trafficking, sexual assault, etc.).

205. REFUGE FOR WOMEN, *supra* note 188 (“Twelve states have only one house offering safety and recovery” and “[s]ixteen states have no recovery housing at all.”).

emergency shelter because “the need for housing and emergency shelter far exceeds the options available.”²⁰⁶ For the legislation that states put in place to have the positive impact that the legislature intended, resources and funds must be allocated to serve the target population: the survivors of human trafficking.²⁰⁷ Most urgently, the resource that is needed is emergency shelters and other resources to help survivors break out of the cycle of prostitution, homelessness, and substance dependence.²⁰⁸

CONCLUSION

Mandatory training and education legislation for the lodging industry is necessary to increase awareness of sex trafficking in lodging establishments and decrease occurrences of sex trafficking.²⁰⁹ While most states have seen a decrease in reporting from 2019 to 2020, most likely due to the COVID-19 pandemic, the states with mandatory training and education legislation in place have seen a general increase in reporting of sex trafficking cases since the statutes went into effect.²¹⁰ Victims of human trafficking are selected by traffickers based on certain vulnerabilities.²¹¹ The vulnerabilities considered by traffickers when selecting their victims often include being a substance-dependent individual, a runaway, or an undocumented immigrant.²¹² Status as a minor is also a vulnerability preyed upon by traffickers, evidenced by over half of the victims in federal sex trafficking cases over the past twenty years being children under the age of eighteen.²¹³

For all the victims who are subjected to sex trafficking out of, or in connection with, a lodging establishment,²¹⁴ few survivors have

206. *More than Four Walls: The Anti-Trafficking Housing Landscape and the Reality of Finding Shelter*, POLARIS (Nov. 7, 2018) [hereinafter *More than Four Walls*], <https://polarisproject.org/blog/2018/11/more-than-four-walls-the-anti-trafficking-housing-landscape-and-the-reality-of-finding-shelter> [https://perma.cc/8LE3-THVU].

207. POLARIS, *supra* note 145, at 2–3.

208. *More than Four Walls*, *supra* note 206.

209. See LANE ET AL., *supra* note 32, at 62.

210. UNITED NATIONS OFF. ON DRUGS & CRIME, *supra* note 12, at 1; NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 85.

211. LANE ET AL., *supra* note 32, at 36 (“Traffickers recruit victims in a variety of ways, often uniquely tailoring their tactics to prey upon a victim’s vulnerabilities.”).

212. *Id.* at 37.

213. FEEHS & CURRIER WHEELER, *supra* note 4, at 27 (“Based on the 4,712 victims named in criminal cases from 2000 through 2020 whose age was known,” 2,671 victims were children).

214. POLARIS HOTELS & MOTELS REPORT, *supra* note 1, at 16 (In a survey of 100 survivors of human trafficking, 80 reported having performed commercial sex acts at a

successfully filed suit against their traffickers.²¹⁵ Fortunately, there has been an increase in survivors of sex trafficking suing the lodging establishments that failed to help them when they were being trafficked or were complicit in the trafficking.²¹⁶

One of these brave survivors bringing suit is A.D., who is suing the establishments complicit in her trafficking for their lack of training and education measures that would have increased the likelihood that a victim of human trafficking would be noticed.²¹⁷ A.D. survived life-threatening violence, both physical and mental, at the hand of her traffickers.²¹⁸ It is because of survivors like A.D. and the thousands of others who were victimized in lodging establishments that we must hold the lodging industry accountable for the role that they play in trafficking.

The aforementioned states enacted mandatory training and education legislation to aid victims of and combat future instances of sex trafficking.²¹⁹ Mandating training for lodging establishment employees is one way in which the industry can accept responsibility and combat sex trafficking, supporting a global movement.²²⁰ Virginia's new legislation, § 35.1-15.1, does mandate a human trafficking education training course for lodging establishment employees.²²¹ However, the bill pales in comparison to some of the other statutes that include sufficient guidance on what to include in the training and how to enforce the mandatory training.²²² The most notable shortcomings in the Virginia statute are that it (1) fails to address consequences for the proprietor of a lodging establishment who fails to comply with the statute, and (2) lacks guidance on what specifically should be covered by the mandated training courses.²²³

lodging establishment, 69 reported staying at a lodging establishment during travel, and 20 survivors were housed at a lodging establishment during their trafficking). *Id.*

215. REBEKAH R. CAREY, FEDERAL HUMAN TRAFFICKING CIVIL LITIGATION: 2020 DATA UPDATE, HUM. TRAFFICKING LEGAL CTR. 10, https://www.htlegalcenter.org/wp-content/uploads/Federal-Human-Trafficking-Civil-Litigation-Data-Update-2020_FINAL.pdf [<https://perma.cc/F584-WB44>] (last visited Nov. 18, 2022).

216. *See* LANE ET AL., *supra* note 32, at 47.

217. A.D. v. Wyndham Hotels & Resorts, Inc., No. 4:19CV120, 2020 U.S. Dist. LEXIS 250670 at *13 (E.D. Va. Sept. 21, 2020).

218. *Id.* at *18–19.

219. *Human Trafficking Training for Hotels*, TRALIAN, <https://www.traliant.com/human-trafficking-training-for-hotels> [<https://perma.cc/JT2Y-QTKQ>] (last visited Nov. 18, 2022) (“Combating human trafficking is a priority for the hotel industry, with active support from companies, organizations and lawmakers.”).

220. *Id.*

221. VA. CODE ANN. § 35.1-15.1(B).

222. *See, e.g.*, FLA. STAT. ANN. § 509.096(2), (3).

223. VA. CODE ANN. § 35.1-15.1.

Perhaps most importantly, states need to allocate resources to support survivors of sex trafficking. Emergency shelters are one of the most sought-after resources for survivors of sex trafficking, and one of the least readily available to them.²²⁴ Virginia is one of the few states that has emergency shelters available for survivors to utilize.²²⁵ While the availability of any shelter at all is invaluable, other resources such as substance abuse counseling, employment support, and guidance finding permanent housing should also be available.²²⁶ Sex trafficking leaves survivors with physical and psychological injuries that do not heal without significant support to rebuild their lives.²²⁷

There are approximately five million victims of sex trafficking in the world right now—five million people who have lost the lives that they knew, lost their freedom, and lost their hope.²²⁸ By not only adopting appropriate training and education legislation, but also providing survivors with proper resources, they can begin to rebuild the lives that were stolen from them.

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224. *More than Four Walls*, *supra* note 206.

225. SAMARITAN HOUSE, *supra* note 203.

226. REFUGE FOR WOMEN 2021 ANNUAL REPORT, *supra* note 194, at 7.

227. Laughlin, *supra* note 187.

228. See *Human Trafficking Statistics & Facts*, SAFE HORIZON, <https://www.safehorizon.org/get-informed/human-trafficking-statistics-facts/#definition> [https://perma.cc/TQT2-TATA] (last visited Nov. 18, 2022).

* Alyssa M. Grzesiak is a 2023 JD Candidate at William & Mary Law School and a 2022–23 Douglass Fellow with the Human Trafficking Institute. She obtained her Bachelor of Science in Linguistics and Psychology from William & Mary in 2020. The author would like to thank her parents, her friends, and her mentors at the Henrico Commonwealth's Attorney's Office and the Human Trafficking Institute. Without their constant support and encouragement through unexpected legislation changes and looming deadlines, this publication would not have been possible. The author hopes that this Note will inspire legislation that implements adequate training and education measures, as well as further supports survivors of human trafficking with resources and opportunities.