

HUMAN TRAFFICKING OF CHILDREN

PROTOCOL

MICHIGAN

DEPARTMENT OF HUMAN SERVICES

AUGUST 2013

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I. Introduction

Human trafficking is a form of modern-day slavery in which people profit from the control and exploitation of others. Victims of human trafficking include children involved in the sex trade, adults over the age of 18 who are forced, coerced or deceived into commercial sex acts, and children and adults compelled into different forms of labor or services against their will and who often receive little or no compensation. Human trafficking is one of the fastest growing crimes in the world, and it is the world's second largest criminal enterprise after drugs. UNICEF reports that as many as 2.8 million children run away each year in the United States. Within 48 hours of hitting the streets, one-third of these children could be recruited into the underground world of prostitution and pornography.

Victims of child trafficking are therefore a unique population requiring a highly specialized and coordinated response by child welfare professionals, including Children's Protective Services (CPS), foster care workers, law enforcement officers, schools, attorneys, and the courts. Recognizing this situation, the Michigan Department of Human Services (DHS) developed the present document as a protocol to guide professionals in assisting children who are victims of human trafficking.

The protocol focuses on the needs of victims, with the overriding intention of protecting the interests of children and maintaining their safety in the community. The protocol has the following goals:

1. Provide a coordinated investigative team approach while minimizing trauma to the victim.
2. Provide protection and the delivery of specialized services to the child victim and appropriate family members.
3. Provide cross-professional training to promote a better understanding of the unique nature and challenges of cases involving child sex trafficking and labor trafficking.
4. Provide alternatives for handling the case after the child has been identified as the victim of human trafficking.

For purposes of this protocol, "child" or "minor" is someone who is under 18 years old.

II. Definition of Child Sex Trafficking

If a minor has been recruited, enticed, harbored, transported, obtained, exploited, or maintained to engage in commercial sexual activity, a sexually explicit performance, or the production of pornography, then the minor is a victim of sex trafficking. MCL 750.462g. Traffickers often use force, threats, violence, false promises, manipulation, lies, or other physical and psychological methods to control the victim. Unlike adult victims, however, any sexually exploited child under 18 is considered a victim of sex trafficking, even if there is no force, fraud or coercion. Victims can be foreign nationals, U.S. citizens, males, females, family members, intimate partners, acquaintances, or strangers. Only one characteristic is generally consistent in the profile of trafficking victims. Traffickers often exploit victims by preying on their hopes to improve their lives or the lives of their families. Sometimes, traffickers kidnap victims and use physical force, violence or psychological stress to control them and force them into sexual exploitation. A vulnerability that the trafficker can exploit is the common thread among nearly all trafficking victims.

Sex trafficking victims have been identified in cities, suburbs and rural areas in all 50 states and Washington, D.C. They are often compelled to work or provide commercial sex against their will in legal and legitimate business settings as well as underground markets. Some victims are concealed in strip clubs, massage parlors, and homes while others are in plain view and may interact with members of the community.

The victims include children who are held captive to perform sexual acts and children who perform sexual acts while being filmed, perform sexual acts for a website, or perform commercial sex acts as prostitutes.

III. Definition of Labor Trafficking

Labor trafficking is the exploitation of a person for labor or services through force, fraud or coercion. Michigan law prohibits forced labor, labor or services that are coerced by causing or threatening to cause physical harm to another person, by physically restraining or threatening to physically restrain another person, and by abusing or threatening to abuse the law or legal process. It is also illegal to knowingly recruit, entice, harbor, transport, provide, or obtain a person for forced labor or services. MCL 750.462. Labor trafficking can include domestic servitude, forced labor in

restaurants or salons, or forced agricultural labor.

Coercion includes a threat to harm or physically restrain any person or the creation of any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in harm to or physical restraint against any person. It also includes the confiscation of documents without regard to whether the documents are fraudulent or fraudulently obtained; and the abuse or threatened abuse of the legal system, including threats of arrest or deportation without regard to whether the person being threatened is subject to arrest or deportation under the laws of this state or the United States. MCL 750.462j(6)(a).

Debt bondage includes the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. MCL 750.462i(6)(c).

Force is physical violence or actual physical restraint or confinement, but injury is not required. MCL 750.462i(6)(d).

Fraud includes a false or deceptive offer of employment or marriage. MCL 750.462j(6)(e).

IV. Indicators of Trafficking

Challenges to Identification

It is often difficult to determine whether a minor is a victim of labor or sex trafficking. The widespread lack of awareness and understanding of human trafficking means that victims are often not recognized by the people who encounter them and are treated as criminals rather than as victims of crimes.

Certain populations are especially vulnerable to trafficking. These include undocumented immigrants, runaway and homeless youth, victims of abuse and neglect, refugees fleeing social or political conflict or oppression, and impoverished groups and individuals. Even when intervention initially separates victims from traffickers, it is common for traffickers to attempt to find their

victims and regain control of them. The following factors may hinder determinations that minors are being trafficked:

- The victims may not identify themselves as victims.
- The victims may exhibit extreme distrust of and animosity toward authority figures.
- Victims may form a trauma-bond with their traffickers or pimps.
- Victims and perpetrators are often skilled at concealing their situations.
- The victims may use false identification documents or may not be in control of personal identification documents.
- Victims who are foreign nationals may fear deportation.
- Victims may fear harm or retribution because of debt-bondage.
- There is a general lack of understanding of trafficking.

First responders should be aware that it can be difficult to distinguish traffickers from victims because some victims “collaborate” to survive. When this happens, it further diminishes the minor’s willingness to cooperate with CPS and law enforcement and may result in the victim protecting the trafficker.

Professionals who deal with minors should be aware of a wide variety of facts about the situations of minors that might indicate the minors have been trafficked for sexual purposes or for their labor. When aware of such facts, investigators should, at least initially, treat the case as an investigation of possible trafficking. The details of a minor’s situation, behavior, and history that may indicate child sexual or labor trafficking include the following:

Indicators of Sex Trafficking

Sub-Culture

- Items purchased by traffickers that could establish a link between traffickers and victims, such as clothing provided by the trafficker that could demonstrate the minor is being actively prostituted.
- Cell phone usages or purchases link a victim to a trafficker. Chirps and walkie-talkies are popular in some enclaves.

- Gang signals.
- Language and terminology used by the minors' sub-culture.
- Information about locations which minors used as housing or as locations for commercial sexual exploitation.
- Names and nicknames of people with whom minors are familiar.
- Tattoos which are sometimes used to establish control or ownership over victims, particularly tattoos around the neck and wrist.
- Addresses or building descriptions, street locations, and other information associated with trafficking.

Living Conditions

- The minors work where they live.
- The minors' personal freedom or movement is restricted.
- The minors' addresses change frequently.
- The minors cannot identify their home addresses.
- The minors possess hotel keys.
- The minors frequently run away from home.
- The minors live with other *unrelated* youths, and the heads of the minors' households are *unrelated* adults.
- The minors receive gifts or clothing from unrelated youths or adults.
- The minors lack of personal space or share living space with multiple people.
- The minors return to an unsafe living situation despite intervention.

School Experiences

- The minors have significant, especially unexplained, gaps in school attendance.
- The minors display severe exhaustion during the school day.
- The minors do not participate in or show interest in after-school activities.
- The minors are not enrolled in school.

Adults in the Minor's Life

- The minors have much older boyfriends or girlfriends, “friends,” adults in the role of friend, or male or female authority figures.
- The minors do not live with their parent(s) or know the whereabouts of their parent(s).
- The minors receive money from unrelated adults in the minors' lives.

Medical/Physical Condition

- The minors have been treated frequently for symptoms of physical abuse.
- The minors lack an adequate medical history.
- The minors are malnourished.
- The minors show signs of physical and/or sexual abuse, including physical restraint, confinement, or injuries from actual torture.
- The minors have infections from unsanitary tattooing.
- The minors have dental injuries, including broken or missing teeth, and mouth and gum disease.
- The minors have bed bug bites.
- The minors have infections or mutilations caused by inappropriate but nominally medical treatment.
- The minors have contracted sexually transmitted diseases.
- The minors have reproductive problems caused by unsafe abortions.
- The minors have physical injuries related to sexual activity, such as pelvic pain and urinary tract infections.
- The minors have substance abuse problems.

Financial/Employment Coercion

- The minors have to work but do not indicate where they work.
- The minors have little or no access to earnings and no bank account.
- The minors have an unusually large amount of money on their persons.
- The minors are indebted to adults.

- The minors report working in a strip club, night club, bar, or massage parlor.
- The minors work excessively long or unusual hours.
- The minors are not allowed breaks or suffer under unusual restrictions at work.
- The minors were recruited through false promises concerning the nature and conditions of their work.
- The minors are not in control of their own identification documents.

Psychological Indicators

- Minors who are obviously troubled do not self-identify as victims of any abuses or problems.
- The minors tell inconsistent stories or stories lacking in significant details.
- The minor gives deceptive responses to questions.
- The minor avoids eye contact with responders.
- The minors have symptoms of post-traumatic stress, including anxiety, depression, addictions, panic attacks, phobias, paranoia or hyper-vigilance, or apathy.
- The minors have developmental delays, enuresis, or fecal incontinence.
- The minors experience cultural shock from finding themselves in strange countries or communities.
- The minors are not allowed or able to speak for themselves, especially when a third party insists on being present or translating.

Environmental Indicators

- Large amounts of cash and condoms are present where minors are found.
- The minors' environments contain sparsely furnished rooms with no, or few, personal possessions.
- Sex advertisements are found in the minors' living spaces.
- The minors' living spaces contain multiple televisions and pornographic movies.
- The minors' living spaces contain timers, which may be used to time sexual services.
- The minors' living spaces contain tinted windows, buzz-in entrances, video cameras, or other external security devices.

- There is unusual security within the minors' living spaces, such as barred or locked windows, locked doors, covert video security, or guards.

Indicators of Labor Trafficking

Common Work and Living Conditions

- The minors are not free to leave or come and go as they wish.
- The minors are unpaid, paid very little, or paid only through tips.
- The minors work excessively long and/or unusual hours.
- The minors are not allowed breaks or suffer under unusual restrictions at work.
- The minors owe large debts and are unable to pay them off.
- The minors were recruited through false promises concerning the nature and conditions of their work.
- High security measures exist in the work and/or living locations, such as opaque windows, boarded up windows, bars on windows, barbed wire, or security cameras.

Poor Mental Health or Abnormal Behavior

- The minor is fearful, anxious, depressed, submissive, or paranoid.
- The minor exhibits unusually fearful or anxious behavior when discussions mention law enforcement.
- The minors avoid eye contact.

Poor Physical Health

- The minors lack health care.
- The minors appear malnourished.
- The minors show signs of physical and/or sexual abuse, including physical restraint, confinement, or injuries from actual torture.

Lack of Control

- The minors have few or no personal possessions.

- The minors are not in control of their own money or have no financial records or bank accounts.
- The minors are not in control of their own identification documents, whether passports or other documents.
- The minors are not allowed or able to speak for themselves, especially when a third party insists on being present and translating.
- The minors claim to be just visiting and are unable to clarify where they are staying or provide an address.
- The minors lack knowledge of their whereabouts and/or do not know what city they are in.
- The minors have lost their sense of time.
- The minors have numerous inconsistencies in their stories.

V. Children’s Protective Services (CPS) and Law Enforcement Agencies

Referral and Joint Investigation

It is rare for child victims of human trafficking to identify themselves as being trafficked. More often than not, victims will present to the Department of Human Services or law enforcement due to another form of abuse, neglect, or abandonment. Within 24 hours, CPS must refer a case to a local law enforcement agency if the facts alleged indicate any of the following:

- A violation of MCL 750.136b (criminal child abuse). This statute prohibits a person from causing physical or serious mental harm to a minor. “Person” includes a parent, guardian or any other individual with custody of or authority over a minor.
- A violation of MCL 750.145c (child sexually abusive activity).
- A violation of MCL 750.520b to 750.520g (criminal sexual conduct).
- A child is the victim of “sexual abuse” or “sexual exploitation” even if the suspected “child abuse” or “child neglect” was not committed by “a person responsible for the child’s health or welfare.” MCL 722.623(6) and MCL 722.628 (3) (b) and (e).

A local law enforcement agency must make a verbal and written report to CPS Centralized Intake (855-444-3911) whenever a child sex trafficking victim or labor trafficking victim is found.

CPS must assign this complaint for investigation if the facts indicate that child abuse or child neglect was committed by a person responsible for the child's health or welfare. MCL 722.623(7). Other agencies will investigate if the child abuse or child neglect was not committed by a person responsible for the child's health or welfare.

In every trafficking case involving a child, CPS and a law enforcement agency must conduct a joint investigation of the allegations. MCL 722.628(4). Most importantly, law enforcement agencies and CPS must coordinate to minimize the number of times a victim is interviewed regarding the allegations. Throughout the case, CPS and law enforcement agencies should collaborate as appropriate and in accordance with law. Sharing of reports, investigatory tools and information is strongly encouraged to assist the investigation of the criminal matter and the child protection proceeding.

A successful investigation of a human trafficking allegation and a child protection proceeding must always center on the victim with the goal of a successful prosecution. This requires a joint investigation between law enforcement and CPS, but it also requires lending support to traumatized and confused victims to gain their confidence and lead them to safety from their trafficker. Once victims of human trafficking are removed from their traffickers, they often feel isolated in their new situations and need support. Law enforcement and CPS can assist victims by using an organized and joint investigation that reduces stressful encounters and by providing appropriate services to aid the victim.

Taking a Minor into Protective Custody

A law enforcement officer may take a minor into custody without a court order “[i]f there is reasonable cause to believe that a child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety . . .” MCL 712A.14a(1). The court may then place the minor with DHS for care and supervision.

Alternatively, either a CPS worker or law enforcement officer may obtain a court order granting protective custody of a minor if all of the following are true:

- (a) There is reasonable cause to believe that the child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety.
- (b) The circumstances warrant issuing an ex parte order pending the preliminary hearing.
- (c) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
- (d) No remedy other than protective custody is reasonably available to protect the child.
- (e) Continuing to reside in the home is contrary to the child's welfare." MCL 712A.14b(1).

A minor allegedly abused or neglected may be placed by the court with DHS in a licensed foster home, with a relative, or in a residential facility. MCL 712A.15(4). Whatever the placement setting, it should ensure the victim's safety and allow the victim to be interviewed in an appropriate setting. Where possible, the setting should be a child advocacy center.

Children under DHS care and supervision who are absent without leave from placement (AWOLP) are particularly vulnerable to victimization. Therefore, it is extremely important to follow DHS and local court policy governing AWOLP children and return absent children to placement as soon as possible. According to DHS policy, within 24 hours of notification that a child is absent, the foster care worker or local office designee must notify the court of jurisdiction, the parents (if appropriate), and the lawyer-guardian ad litem. The foster care worker must take the following action within 24 hours/one business day of notification: update the department's database with the required information; complete the DHS 3198A, send it to the court and police department, and retain a copy for the case file; and document confirmation of child being entered on LEIN.

VI. Addressing the Victim's Medical and Mental Health Needs

In instances involving sex trafficking, investigators must follow CPS policy on medical examinations for sexual abuse allegations, including obtaining a specialized examination within 72 hours of contact with the child. PSM 713-4, p. 2. The medical examination should be completed by a medical practitioner who specializes in medical examinations of child sexual abuse or a sexual assault nurse examiner. If a medical practitioner who specializes in sexual abuse medical examinations is not immediately available, the child may need to be examined in the nearest emergency department. It should be noted that examinations in the emergency department are discouraged and attempts should be made to find a specialized medical practitioner to perform the examination. If a parent or legal guardian refuses or is unavailable to consent to the examination, the investigators should seek a court order by filing a petition with the court for medical authorization.

In all cases, a victim should receive a comprehensive medical examination as soon as possible, and within 30 days of entry into care. The comprehensive medical examination should include a behavioral/mental health screening, which may reveal evidence of post-traumatic stress, including memory impairment, anxiety, depression, addictions, panic attacks, or phobias.

VII. Interviewing the Minor

All interviews of minor victims must comply with the Forensic Interviewing Protocol. MCL 722.628(4). Interviews should be jointly conducted between law enforcement and Children's Protective Services. If possible, interviews should take place at a children's advocacy center. A children's advocacy center may provide the following services: interviews, assessments, medical exams, trauma assessment, counseling and therapy, and court support. All services should be offered in a child-friendly, sensitive, and safe environment. It may take several continuing interviews to establish trust with a trafficking victim. In addition, it may take time to determine if a child has been trafficked at all due to the dynamics of the human trafficking investigation and the ability of the victim to disclose. Safety is imperative and paramount, a victim of human trafficking will not disclose if he or she does not feel safe. The perpetrator must not be given access to the victim. For these reasons, a multidisciplinary forensic interview at a children's advocacy center is strongly encouraged.

Victims of human trafficking are often embarrassed or ashamed by what they have done and the abuse they have endured. Interviewers must accordingly be careful to use statements that do not blame the victims. The child's cultural norms may make disclosure of abuse very difficult and the interviewer should be sensitive to cultural or religious differences. Interviewers should be aware that the child's parent or caregiver may be the child's trafficker and that the trafficker may deny that he or she is the child's parent or caregiver.

Rapport and trust are essential components of the forensic interview of a human trafficking victim. Victims may not tell the truth as they may have been told by their trafficker that law enforcement will punish them, not help them. Victims may repeatedly tell lies or relate a rehearsed story worked out with their trafficker. Victims often fear repercussions from their trafficker and may also fear being taken from their trafficker. If immigration is an issue, interviewers should not ask about it at the beginning of the interview and should proceed cautiously in this area.

An interpreter should be used if the victim does not speak fluent English. Interpreters should be independent, qualified, and reliable. The interpreter should have no connection with the trafficker, but the interpreter should understand trafficking. Children, adults, neighbors, or friends present at the scene should not be asked to interpret.

To enhance rapport and trust, interviewers should not conduct forensic interviews unless they understand the human trafficking sub-culture. See Section III.

VIII. Children's Protective Services (CPS)

CPS Investigation

CPS is required to be involved in a child sex trafficking or labor trafficking investigation if child abuse or neglect has been alleged against a person responsible for that child's health or welfare. The investigation should encompass all perpetrators of child abuse and neglect as well as all parties who are legally required to protect a child and fail to adequately protect that child.

Child abuse includes harm or threatened harm to a child's health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian or any other person responsible for the child's health or welfare. MCL 722.622(f).

- Sexual abuse means engaging in sexual contact or sexual penetration as defined in MCL 750.520a. MCL 722.622(w).
- Sexual exploitation includes allowing, permitting or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming or depicting of a child engaged in a listed sexual act as defined in MCL 750.145c. MCL 722.622(x).

Child neglect means harm or threatened harm to a child's health or welfare by a parent, legal guardian or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.
- Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk. MCL 722.622(j).

A person responsible for the child's health or welfare is a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or nonparent adult. MCL 722.622(u).

A nonparent adult is a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:

- (i) Has substantial and regular contact with the child.
- (ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.
- (iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree. MCL 722.622(t).

A child's trafficker is a "person responsible for the child's health or welfare" if the trafficker is a parent, legal guardian, person 18 years of age or older who resides for any length of time in the

same home in which the child resides, or a nonparent adult. If the trafficker is the nonparent adult, depending upon the facts of the case, CPS may find that a trafficker has committed child abuse. In that case, a child protection proceeding should be commenced against the nonparent adult in addition to any protection proceeding against a parent(s), legal guardian, or custodian that may be appropriate based on the facts of the particular situation.

Depending upon the facts of the case, CPS may find that a parent(s) or legal guardian has committed child neglect. To warrant such a finding, the parent(s) or legal guardian must have negligently failed to provide proper care for the victim, or negligently failed to intervene to eliminate the risk of the child being trafficked when the parent(s) or legal guardian was able to intervene and had or should have had knowledge of the risk.

Filing a Petition in Court

Following the investigation, CPS must assess the case and determine the appropriate category under MCL 722.628d(1). Because of the seriousness of human trafficking, in many cases CPS will file a petition in court and request that the child be placed under the care and supervision of DHS. CPS must file a petition in the following circumstances:

- A petition is required by statute under MCL 722.637 or MCL 722.638.
 - MCL 722.637 requires CPS to file a petition within 24 hours after it determines that a child was sexually abused, unless a parent or guardian (a) did not neglect or fail to protect the child, (b) does not have a documented pattern of neglect or failing to protect the child, and (c) the child is safe in the parent's or legal guardian's care.
 - MCL 722.638 requires CPS to file a petition if it determines that a child was subject to criminal sexual conduct (CSC) involving penetration, attempted penetration, or assault with intent to penetrate, or battering, torture or other severe physical abuse.
- The child is not safe and a petition requesting removal of the child or parent is necessary.
- CPS previously classified the case as Category II because of evidence of child abuse or neglect and high or intensive risk of future harm to the child, and the

child's family did not voluntarily participate in services (please see Michigan DHS CPS policy at <http://www.mfia.state.mi.us/olmweb/ex/PSM/PSM.pdf>).

- There is a violation, involving the child, of MCL 750.520g (assault with intent to commit CSC), MCL 750.145c (child sexually abusive activity or material), MCL 750.136b (first- or second-degree child abuse), MCL 722.628a(1)(c) (an attempt or conspiracy to commit felony criminal sexual conduct), or MCL 722.628d(1)(e) (a felony assault on the child).

While the investigation is ongoing, a plan for the safety of the child must be developed and implemented.

IX. Family Division of Circuit Court

The family division of circuit court may assume jurisdiction of a case involving child sex trafficking or labor trafficking. **Note that a minor's trafficker may only be a "respondent" to a petition filed in the family division of circuit court if he meets the definition in MCR 3.903(C)(10).** Therefore, if the trafficker is the minor's parent(s), legal guardian, legal custodian, or nonparent adult, a petition may be filed against the trafficker. The family division of circuit court may assume jurisdiction in the following circumstances:

Minor Has Run Away from Home or Court-Ordered Placement

If the minor is a runaway, and if the minor's parent or guardian has not been located or identified, the court may assume jurisdiction because the minor is without proper custody or guardianship. MCL 712A.2(b)(1).

If a minor is currently under the court's jurisdiction as a ward of the court because of child abuse or neglect and if the child is absent from his or her placement without legal permission (AWOLP), the minor may be subject to a petition for truancy. MCL 712A.2(a)(2)-(3). Similarly, minors who run away from their homes may be subject to a petition for the status offenses of home truancy or home incorrigibility. However, charging a minor with a status offense should be avoided if possible, especially if the child can be protected with a child protection proceeding.

Parental Neglect or Unfit Environment

If a parent or other person legally responsible for the care and maintenance of the minor neglects or refuses to provide proper or necessary support or care for the minor, the court may assume jurisdiction. MCL 712A.2(b)(1).

If the minor's home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in, the court may assume jurisdiction. MCL 712A.2(b)(2). These circumstances may apply to a number of child human trafficking cases. Placement may be the best option to ensure the safety of the child.

Unaccompanied Refugee Minor Program

If a child comes to the attention of DHS as an unaccompanied refugee minor (URM), DHS uses a specific procedure to file a petition alleging the child is without proper care and custody and attempts to contact parents and give notice as to the filing of the petition. The case goes forward as a case of neglect. The child is then placed under the supervision of DHS and committed to the Michigan Children's Institute on a temporary basis. See MCL 400.203(1)(c). Since many of these children may be victims of human trafficking, they are eligible for appropriate services to address that issue.

X. Victims Who Are Foreign Nationals

Victims of human trafficking who are foreign nationals pose unique challenges. Most such victims have undocumented legal status, but non-citizens who are legal permanent residents are also victims of trafficking. Victims who are foreign nationals are especially vulnerable and may be difficult to identify because of a language barrier, lack of documents, fraudulent documents, social isolation, or fear of deportation. These children in particular need legal advice. Most are unaware of the help available to them, including the fact that their traffickers can be prosecuted, that services are available to them from DHS, and that the Trafficking Victims Protection Act of 2002 offers immigration relief to foreign nationals who are victims of trafficking.

Once the victim has been removed from the unsafe environment, it is imperative to obtain legal advice on the child's status. It is often useful and sometimes necessary to consult an

immigration attorney or an advocate. A case worker may seek free legal assistance for victims of human trafficking or contact the Anti-Trafficking in Persons agency of the Department of Health and Human Services (DHHS-ATIP) at 202-205-4582. Foreign nationals need to be federally recognized as victims of human trafficking to be eligible for public services. Such recognition requires the filing of a federal form: the Assistance Request for Child Victims of Human Trafficking. The form can be accessed and completed online at www.acf.hhs.gov/trafficking/.

If the victim is in the United States without a parent or guardian, caseworkers should contact the Office of Refugee Resettlement at 202-260-5186 or urmprogram@acf.hhs.gov to determine if the minor can be reclassified as an unaccompanied refugee minor (URM). If so, DHS uses a specific procedure and file a petition alleging the child is without proper care and custody and attempts to contact parents and give notice as to the filing of the petition, but the case goes forward as a case of child neglect. The child is then placed under DHS supervision. Victims who are foreign nationals face irreparable harm to chances for future immigration relief if the victims are charged with a criminal offense. Such victims may also face irreparable harm to chances for future immigration relief if their applications for social services and other benefits are incorrectly filed. Thus, legal representation in regards to their immigration case should be obtained as soon as possible after identification.

Law enforcement should be involved in any potential human trafficking case. In the case of victims who are foreign nationals, it is imperative to involve immediately the Human Trafficking and Smuggling Unit of Immigration and Customs Enforcement (ICE) at 313-568-6049. Local police are often unfamiliar with how to manage cases with foreign national victims and assistance from ICE will be of the highest importance in following the appropriate steps. If professionals suspect that a child may be a victim of sex trafficking, they should follow CPS investigation policy for child safety and report to law enforcement.

To learn more about local resources for foreign or domestic trafficking victims, investigators and other professionals may contact the Polaris Project's National Human Trafficking Resource Center at 888-373-7888. The Polaris Project will be helpful in identifying attorneys for victims, treatment options, and other resources.

XI. Appropriate Placement and Treatment

The needs of survivors of trafficking are typically very complex and often require a multidisciplinary approach to address severe trauma, medical needs, immigration and other legal issues, safety concerns, shelter and other basic daily needs, and financial hardship. All child victims of human trafficking must be placed within a safe environment and receive specialized treatment and services. These may include responding to a child's emotional and behavioral instability (addressing trauma through intensive group and individual therapy), family therapy, and low staff-to-resident supervision ratios. The medical problems of the child must be assessed and treated as needed. The physical and mental stability of the child must be continuously assessed throughout the child's placement and treatment.

Strict confidentiality is necessary to prevent the trafficker from obtaining information on the child's whereabouts. Shelter staff, law enforcement agents, case workers, and others who are working with the child must adhere to laws governing confidentiality and privilege and screen individuals to whom they provide information about the victim. All necessary measures, such as minimizing the number of people directly in contact with the victim, should be taken to protect the privacy and identity of child victims to ensure the safety and security of the victim.

The following table lists agencies in Michigan that provide specialized placement and treatment services for child victims of sex trafficking. The table also lists agencies located in major metropolitan areas that provide shelter care.

Agency Name	Location	Phone	Area Served	Facility Type	Gender	Age	Other Restrictions
The Hope Project	Muskegon	(231) 747-8555	Statewide	Non-secure	Female	11 - 18	
Vista Maria School for Girls	Dearborn	(313) 271-3050	Statewide	Non-secure	Female	11 - 17	
Wedgewood Christian Services	Grand Rapids	(616) 942-2110	Statewide	Non-secure	Both	10 - 17	Abuse/neglect wards
Oakland County Children's Village	Pontiac	(248) 858-1150	Statewide	Shelter	Both	0 - 18	
Freedom House	Detroit	(313) 964-4320	Wayne	Shelter	Both	0 - 18	Foreign nationals
Alternatives for Girls	Detroit	(313) 361-4000	Wayne	Shelter	Female	12 - 14	
Arbor Circle: The Bridge	Grand Rapids	(616) 451-3001	Statewide	Shelter	Both	10 - 17	Stays up to 21 days
Catholic Family Services The ARK	Kalamazoo	(800) 873- TEEN	Allegan, Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph and Van Buren	Shelter	Both	10 - 17	Stays limited to 3 weeks per quarter
Family Youth Interventions	Mt. Clemens	(586) 465-1212	Statewide	Shelter	Both	10 - 17	Stays up to 21 days.
Gateway Community Services	Lansing	(517) 882-7217	Ingham	Shelter and transitional living	Both	12 - 17 17 - 20	

XII. Law Enforcement Alternatives

When encountering a victim of child trafficking, law enforcement agencies must determine whether to divert the child from formal delinquency proceedings, coordinate a child protection investigation with CPS, or initiate a juvenile delinquency proceeding against the child. Traffickers solicit children to engage in illegal acts like prostitution, selling or transporting drugs, and committing other crimes. Even though these are illegal acts, the victims are not guilty of a crime when they are enslaved and their freedom of choice is restricted. The involvement of child victims in criminal activities does not undermine their status as both a child and a victim or their related need for special protection. This protocol strongly prefers the initiation of a child protection proceeding when appropriate or for diversion from delinquency proceedings if a delinquency action is sought.

Although this protocol reflects DHS' policy of treating child human trafficking victims within the child protection system, law enforcement agencies may pursue juvenile delinquency proceedings, including secure detention, against a child human trafficking victim. The following information summarizes those proceedings. While law enforcement agencies must develop their own protocol(s) to handle child sex and labor trafficking cases when they arise, this protocol may provide a valuable starting point.

If a local law enforcement agency investigates a case involving child sex or labor trafficking, the agency may call the Michigan State Police at 517-241-8000 for assistance with the specialized nature of such investigations.

The following approaches are listed in order of preference. Specifically it is advised that a diversionary approach is pursued before initiating any delinquency proceedings.

Diversion

If a child comes to the attention of CPS through a delinquency proceeding, workers should follow placement recommendations as listed in this document. Although a person under age 17 may be charged with a criminal violation in a delinquency proceeding, this option is the least-preferred response to a human trafficking case. Delinquency actions may need to be initiated when there is an overriding need to maintain the safety of the victim or to provide treatment for the victim

when a child protection proceeding is not a viable alternative under the facts of the case. Pursuant to the Juvenile Diversion Act, a law enforcement official may, instead of filing a petition charging the minor with delinquency, make an agreement with the minor and the minor's parent, guardian, or custodian to refer the minor to a program that will assist the minor in resolving the problem that initiated the investigation. See MCL 722.823. If the youth's parent(s), legal guardian, or custodian is cooperative, the official should consider employing this statute to ensure the safety of the youth through voluntary placement in a residential facility tailored to provide appropriate care and treatment of the trafficking victim. If the youth cooperates and remains in the program, no delinquency charges will be filed, and the victim will not have a criminal record.

Material Witness Statute

When criminal charges are pending against a trafficker and a child victim of the trafficker is in a dangerous environment that compromises the child's safety and the integrity of the criminal proceeding, it may be necessary to detain the child. If so, officials should, if at all possible, initiate a child protection proceeding or pursue a delinquency petition. In some cases, the court may determine that the minor is a material witness in the pending criminal matter and that there is danger of losing the minor's testimony. In this case, the court may commit a person to a detention facility if the person cannot furnish bail. MCL 767.35. Detaining a minor as a material witness is extreme and should only be done in an emergency, in cases where a petition for neglect or delinquency is not viable. It is a last resort, a way to detain and protect a minor without charging the child with prostitution or another criminal act.

Detention

A child protection proceeding is always the preferred route to maintain the safety of the child. If the child protection proceeding is not possible given the facts of the case, law enforcement should pursue other avenues to protect the victim before considering detention due to a delinquency petition. Taking a minor into custody and charging the minor with prostitution or another delinquent offense is the least-preferred response. However, there may be no other method to ensure that the minor remains in custody and in a safe environment long enough to begin rehabilitation and the process of prosecuting the perpetrator for trafficking.

A law enforcement officer may arrest or maintain custody of a minor under 17 years old and submit a petition to juvenile court if the officer has reason to believe that because of the nature of the offense, the interest of the juvenile or the interest of the public would not be protected by release of the juvenile or if a parent, guardian, or legal custodian cannot be located or refuses to take custody of the minor. MCR 3.933(A)(3).

A court may order detention pending preliminary hearing and beyond if:

- There is a substantial likelihood that if the juvenile is released to the parent, guardian, or legal custodian, with or without conditions, the juvenile will fail to appear at the next court proceeding.
- The home conditions of the juvenile make detention necessary.
- The juvenile has run away from home.
- The juvenile has failed to remain in a detention facility or non-secure facility or other placement and is in violation of a court order.
- The juvenile has a record of unexcused failures to appear at juvenile court proceedings. MCL 712A.15(2)-(3); MCR 3.935(D)(1)(c)-(f).

A minor charged with a criminal offense may be detained in a detention facility, a residential facility, or a foster home. If a minor charged with a criminal offense is detained because his or her home conditions make detention necessary, the minor may not be detained in a secure facility. MCL 712A.15(4).

If a minor is charged with a status offense (truancy, incorrigibility, running away), the minor must not be placed in a secure facility unless he or she has willfully violated a court order and there is no less restrictive alternative to meet the minor's needs. MCL 712A.15(3).

Juvenile Delinquency Proceeding

Only if necessary to ensure a victim's separation from the trafficker should a juvenile delinquency proceeding be initiated. To initiate a delinquency proceeding, a law enforcement agency must allege a violation of a local, state, or federal law by a person under 17 years old at the time of the offense. MCL 712A.2(a)(1). The crime of prostitution may be committed only by a person 16 years old or older. MCL 750.448-750.449. An alternative charge to prostitution is the

charge of being a disorderly person. A person of any age may be charged with being a disorderly person, which is defined to include a person who engages in an illegal occupation or business, such as a common prostitute. MCL 750.167.

Any person may allege status offenses (running away, incorrigibility, truancy) by a person under 18 years old. MCL 712A.2(a)(2)-(4). The procedure for handling status offenses varies among each individual county court, so local court procedures and policies should be followed.

XIII. Conclusion

A victim of human trafficking has not chosen or consented to be enslaved. Children are especially vulnerable to human trafficking. This protocol seeks to provide guidance to those who encounter this type of victim. Child trafficking demands a specialized and coordinated response by child welfare professionals to ensure the safety of the victim, to pursue appropriate child protection proceedings, and to initiate criminal proceedings against traffickers. Although the availability of specialized resources varies throughout the state, this protocol is intended to assist county child welfare professionals to develop their local resources and to coordinate their response to these cases. Child safety must guide all efforts: child victims must be protected, physically and psychologically, from their traffickers and provided with placements and services specifically designed to address the trauma they have endured.