

An Evaluation of the Trafficking Victims Protection Reauthorization Act of 2011

On June 29th, Senator Patrick Leahy, cosponsored by Sen. Boxer, Sen. Scott Brown, Sen. Cardin, Sen. Cochran, Sen. Feinstein, Sen. Gillibrand, Sen. Kerry, Sen. Rubio, Sen. Wyden introduced senate bill 1301, known as the Trafficking Victims Protection Reauthorization Act of 2011, in order to extend the work that the United States has done to fight trafficking in the world. This bill provides many valuable amendments to better protect international victims, but it is still a long way from adequately protecting those victims who are U.S. citizens and residents.

We applaud the efforts this bill takes to further end human trafficking abroad. The giving of technical assistance, training, and money to help those nations dedicated to fighting and abolishing trafficking is needed. But since the Renewal Forum's heart and passion is dedicated to preventing trafficking in the United States, we lack the expertise to comment on those sections. Instead these comments will relate to how S. 1301 fails to protect U.S. citizens and permanent resident aliens who make up over 80% of sex trafficking victims in the United States.¹

One of the fundamental problems is that the TVPA authorizes funds for the Department of Health and Human Services but at the moment the money does not reach victims that are legal permanent residents or U.S. citizens. The Congressional Research services outlines the problem this way: "There is confusion over whether U.S. citizens, as well as noncitizens, are eligible for services under all the anti-trafficking grant programs, and whether Congress has provided funding for programs that target U.S. citizen and LPR victims."² The 2008 Attorney General's annual report stated that "the funds provided under the TVPA by the federal government for direct services to victims are dedicated to assist non-U.S. citizen victims and may not currently be used to assist U.S. citizen victims."³ Furthermore HHS currently requires certification in order to be eligible for trafficking victim programs from HHS, the Department of Labor and the Legal Service Corporation. This certification process is only open to noncitizen trafficking victims that need immigration status. DOJ and HHS could interpret the statutes differently and give citizen victims the right to these funds, but they have decided to exclude victims from this money. Congress should undertake clear and adequate steps to remove this ambiguity and ensure that U.S. citizens have at least the same right and access to funding as international victims. This is particularly important when this bill would provide millions more dollars to HHS to help provide services to trafficking victims.

The new bill does have some provisions that are directed at ending domestic trafficking, particularly minor sex trafficking, but the Renewal Forum feels that these measures fall short and could be better used in order to provide for domestic victims. The bill, in section 231, outlines that it will provide between \$1.5 million and \$2 million to up to four eligible entities for up to 4

¹ DOJ Bureau of Justice Statistics *Most Suspected Incidents of Human Trafficking Involved Allegations of Prostitution of an Adult or Child*, April 28, 2011

<http://www.ojp.usdoj.gov/newsroom/pressreleases/2011/BJIS11093.htm>

² Congressional Research Service, *Trafficking in Persons: U.S. Policy and Issues for Congress*, Dec. 23, 2010, p. 31

³ DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons: FY2008*, p. 9.

years. At least two thirds of this money is to be used for providing care and services to minor victims of sex trafficking. While this sort of large scale grant funding is needed in order to set up and empower organizations this sort of grant making is not a sustainable way to affect a nationwide problem. Only having four grants, one of which must go to a state with less than five million people, will have a very small impact and just barely provide services to the large number of potential victims. Additionally, once this money runs out to these larger organizations it is unclear how they will continue to provide services to victims. Instead or in addition, the Renewal Forum would see this eight million dollars a year go to the organizations across the United States that are currently helping victims. This could be done on a per capita basis where an organization, upon finding and providing services to a victim would be able to apply to Health and Human services to continue to help those victims.

Section 103 of the bill expands on the government's role in partnering and promoting collaboration and cooperation through the world which applies to both foreign governments and civil society, then section 105a(d) enables the Secretary of State to authorize a fund to meet the unexpected, urgent needs in prevention of trafficking in persons, protection of victims, and prosecution of trafficking offenders, but only to foreign governments.⁴ It is unclear why the language shifted to exclude civil societies from being eligible to receive this money as civil society is often the direct service provider during emergency situations.

The Renewal Forum also applauds the inclusion of the former Child Protection Compact bill in order to promote countries who are already doing a good job to protect children. To do a better job we would like to see a similar action provided for State governments who have taken initiatives to protect their children and need federal help.

Section 403 establishes appointment of child advocates for unaccompanied minors. This is extremely important so that children do not become lost in the system and have someone that is representing the child; however there is no reason that this program should be limited to unaccompanied minors. The majority of US children that are found being trafficked are runaways and throwaway children who no longer have a parent or guardian that is concerned about their well being. While they do not need the immigration help that an unaccompanied minor needs, they do need someone advocating on their behalf. This is particularly pertinent when a child is found outside of their state of residence and it is unclear where the child should end up.

These changes to the bill would improve the relief of victims within the United States without costing any more than what is currently being given. It is important that the United States continues to fight trafficking on an international level, but when the majority of victims in the United States are U.S. citizens it makes no sense to limit victim services to only international victims.

⁴ Page 9 of the S. bill 1301