

HF 452’s Undue Burden on Non-citizen Asian Women Victims of Sex Trafficking

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Abstract:

Iowa passed House File (HF) 452 in the spring of 2021. HF 452 increased civil penalties for masseurs and massage parlors that fail to present massage licensure upon request from law enforcement and also expanded the definition of human trafficking to include providing or facilitating fraudulent licensure in Iowa. While the legislature’s intent behind the bill was to curb the spread of human trafficking in the state, the reality was that it based its approach on stereotypes about human trafficking, massage parlors, and undocumented Asian women immigrants that have little factual basis, especially in Iowa. This Note presents an overview of the current landscape of human trafficking laws at the federal level and in Iowa, including city ordinances, Iowa statutes, and Iowa caselaw. It then argues that Iowa should repeal HF 452 as federal immigration relief for trafficking victims is insufficient, increased law enforcement oversight is increased control for traffickers, and victims of human trafficking, in particular those without immigration status in this country, may not wish for intervention in the first place.

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I. INTRODUCTION

In March 2021, a shooter murdered eight people, six of them Asian women, across three massage parlors in Atlanta, Georgia.¹ All three of the massage parlors were Asian-owned.² The shooter, Robert Aaron Long, regularly patronized two of the massage parlors, and claimed that because of his sex addiction,³ he needed to eliminate the temptation that came with the businesses' presence in the community.⁴ Even after police investigation, there was no evidence that any of the employees of the massage parlors were sex workers or that the parlors were involved in a sex trafficking operation.⁵ The massage parlors were, however, the focus of regular police surveillance and “stings” prior to the shooting.⁶

The Georgia shooting followed a different incident involving massage parlors and suggestions of sex trafficking. In February 2019, Florida police arrested and charged Robert Kraft, owner of the New England Patriots, with

¹ Jessica Contrera et al., *Atlanta Spa Killings Lead to Questions About Sex Work and Exploitation*, THE WASH. POST (Mar. 19, 2021, 7:00 AM), <https://www.washingtonpost.com/dc-md-v/2021/03/19/asian-massage-business-women-atlanta> [https://perma.cc/3SM7-GSDU].

² Jamison Liang, *Atlanta Asian Massage Parlor Murders are a Warning to the Anti-trafficking Sector*, OPEN DEMOCRACY (Mar. 29, 2021, 10:50 AM), <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/atlanta-asian-massage-parlor-murders-are-warning-anti-trafficking-sector> [https://perma.cc/8ZP7-YWSP].

³ *Id.*

⁴ Contrera et al., *supra* note 1.

⁵ Liang, *supra* note 2.

⁶ Contrera et al., *supra* note 1 (detailing that police conducted seven undercover stings at one spa and that another spa was under investigation).

two counts of soliciting prostitution while visiting an Asian-owned massage spa.⁷ Police originally stated that they, together with the FBI, were investigating a human trafficking ring.⁸ In January 2021, the case came to a close with prosecutors dropping the charges against Kraft, but four Chinese American women pleading guilty to soliciting another to commit prostitution, deriving support from the proceeds of prostitution, maintaining a house of prostitution, and renting space for prostitution.⁹ The police never found evidence of human trafficking and prosecutors brought no charges for human trafficking.¹⁰

In November 2021, as this Note was being written, a similar incident occurred in Ankeny, Iowa.¹¹ After community members made several complaints, police investigated two massage parlors, each of which is run by Asian Americans and has an Asian-sounding name.¹² The complaints led to searches and, as the police sergeant stated, the police “began [their] own investigation, and through the use of . . . undercover personnel, [were] able to go into these places and establish probable cause for a charge.”¹³ Police arrested three women, charging two with prostitution and one with conspiracy.¹⁴ They brought no charges of human trafficking and made no other arrests.¹⁵ The City of Ankeny, however, listed the names of the three women on its website: Genzhen You, Giuzhong Jii, and Jingmei Zou.¹⁶

⁷ Merrit Kennedy & Vanessa Romo, *Florida Police: Robert Kraft, Owner, of Patriots, to Face Solicitation Charges*, NPR (Feb. 22, 2019, 12:58 AM), <https://www.npr.org/2019/02/22/697035517/florida-police-robert-kraft-owner-of-patriots-to-face-solicitation-charges> [https://perma.cc/74SG-84PC].

⁸ Liang, *supra* note 2.

⁹ Elizabeth Nolan Brown, *Florida Masseuse Ordered to Pay \$31,573 After ‘Soliciting’ Robert Kraft to ‘Commit Prostitution’*, REASON (Dec. 2, 2020, 4:06 PM), <https://reason.com/2020/12/02/florida-masseuse-ordered-to-pay-31573-after-soliciting-robert-kraft-to-commit-prostitution> [https://perma.cc/329Z-T5L2]; Liang, *supra* note 2 (also adding that the women paid \$45,000 in fines as part of their plea bargains).

¹⁰ Liang, *supra* note 2.

¹¹ *3 Charged in Investigation at 2 Ankeny Massage Parlors*, KCCI (Nov. 18, 2021, 6:25 PM), <https://www.kcci.com/article/3-charged-in-investigation-at-2-ankeny-iowa-massage-parlors/38291886> [https://perma.cc/UG8M-23J5] (providing basic details on the case).

¹² *Police: 3 Arrested After Ankeny Massage Parlor Complaints*, WE ARE IOWA (Nov. 18, 2021, 6:22 PM), <https://www.weareiowa.com/article/news/crime/ankeny-police-arrest-3-after-massage-parlor-complaints-healthy-green-spa-massage/524-349a2f2b-6664-48cd-a867-857d35006432> [https://perma.cc/G45V-B3KM] (listing the massage parlors as Green Spa Massage and Healthy Massage).

¹³ *Id.* (quoting Sergeant Corey Schneden).

¹⁴ *Id.* (stating that the conspiracy charge is related to the prostitution charges).

¹⁵ *3 Charged in Investigation at 2 Ankeny Massage Parlors*, *supra* note 11.

¹⁶ *3 Arrests Made by Ankeny Police After Multiple Complaints at Local Massage Parlors*, CITY OF ANKENY (Nov. 18, 2021, 12:04 PM), <https://www.ankenyiowa.gov/Home/Components/News/News/1487/16> [https://perma.cc/4ZUL-PB96].

Ankeny police also deemed the investigation important enough to also involve the Mid Iowa Narcotics Enforcement task force, Des Moines Police Department, Department of Homeland Security, and the State of Iowa Intelligence Bureau.¹⁷

These three incidents show the implicit association of massage parlors with illicit activity—such as prostitution or sex trafficking—and the perceived need to curb crime stemming from these businesses. This Note addresses the underlying assumptions behind laws that focus on exactly this area: human trafficking, massage parlors, and licensing law. Part II of this Note defines human trafficking and compiles data on both human trafficking and massage therapist licensure in Iowa. In this first section, this Note offers a unique compilation of these numbers, as no source to date addresses them together. In addition, Part II provides an overview of federal anti-trafficking statutes: 18 U.S.C. §§ 1581, 1584, 1589, 1590; and the Trafficking Victims Protection Act (TVPA) of 2000 and its reauthorizations. This Note then focuses on anti-trafficking statutes in Iowa and, in particular, analyzes Iowa House File (HF) 452, which proposed amendments to Iowa Code Sections 152, 157, and 710A related to massage parlor and human trafficking and was passed in 2021. This Note also offers an overview of human trafficking in Iowa state and federal caselaw.

Part III of this Note shifts focus to the effect of HF 452 on the victims of human trafficking at massage parlors: largely non-citizen Asian women. While HF 452 purports to alleviate the burden on victims of sex trafficking connected with massage parlors, approaching this area from the perspective of immigration makes a key issue abundantly clear: by expanding the power of police to inspect premises and request government-issued licensure, this law forces victims without citizenship further into the shadows to avoid initiation of removal proceedings. In that way, it has the opposite of its intended effect of curtailing human trafficking in the state. For those non-citizen women who end up charged with immigration offenses, HF 452 does not make them safer in the state, but more likely to be deported. It also gives traffickers a way to control them by threatening interactions with police and the judicial system and may discount the wishes of the victims themselves. Based on its disparate impact on the non-citizen Asian female community in Iowa and its negative impact on human trafficking victims overall, Iowa should repeal HF 452.

II. BACKGROUND

In the Background section, this Note offers a comprehensive overview of human trafficking from both a statistical and legal standpoint. It analyzes data on human trafficking at the national and state level and connects this data with federal and Iowa's human trafficking statutes. In this way, it provides

¹⁷ 3 *Charged in Investigation at 2 Ankeny Massage Parlors*, *supra* note 11.

contexts for and sets up the analysis of HF 452 in the next section. To begin, this Note offers a definition of human trafficking, followed by an overview of human trafficking and massage parlors and licensure in Iowa.

A. Human Trafficking Defined

Polaris, a nationwide nonprofit that works to identify and serve victims and survivors of human trafficking,¹⁸ defines human trafficking as “the business of stealing freedom for profit.”¹⁹ According to the Office to Monitor and Combat Trafficking in Persons, the division of the U.S. Department of State responsible for its “global efforts to combat human trafficking through the prosecution of traffickers, the protection of victims, and the prevention of human trafficking,”²⁰ human trafficking follows the Act-Means-Purpose model.²¹ A trafficker uses an act—recruiting, harboring, transporting, providing, or obtaining a person—through a means—force, fraud, or coercion—for the purpose of securing labor or services or a commercial sex act.²² Although force and fraud are more limited, coercion encompasses not just physical coercion but also “threats of force, debt manipulation, withholding of pay, confiscation of identity documents, psychological coercion, reputational harm, manipulation of the use of addictive substances, threats to other people, or other forms of coercion.”²³ Human trafficking generally falls into two categories: labor trafficking and sex trafficking.²⁴ “Signs that a person is being trafficked can include working excessively long hours, unexplained gifts, physical injury, substance abuse, running away from home, isolation from others, or being controlled or

¹⁸ *Human Trafficking*, POLARIS PROJECT, <https://polarisproject.org/human-trafficking> [<https://perma.cc/78VN-QXNH>].

¹⁹ *Id.*

²⁰ OFF. TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEP’T OF STATE, <https://www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/office-to-monitor-and-combat-trafficking-in-persons> [<https://perma.cc/MMJ5-KFUJ>].

²¹ OFF. TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEP’T OF STATE, UNDERSTANDING HUMAN TRAFFICKING: FACT SHEET (2022), <https://www.state.gov/what-is-trafficking-in-persons> [<https://perma.cc/EU9W-MKWN>] [hereinafter UNDERSTANDING HUMAN TRAFFICKING: FACT SHEET] (adding that “human trafficking,” “trafficking in persons,” and “modern slavery” are used interchangeably to refer to the same crime).

²² *Id.*

²³ *Id.*

²⁴ *Id.*; ALL. TO END SLAVERY & TRAFFICKING, A PRESIDENTIAL AGENDA FOR ABOLISHING MODERN SLAVERY AND HUMAN TRAFFICKING 8 (2017), https://endslaveryandtrafficking.org/wp-content/uploads/2017/01/TransitionReport_2017-01-19.pdf [<https://perma.cc/3ZFD-GT7P>].

closely monitored by another.”²⁵ The number of human trafficking victims in the United States increases each year.²⁶

However, human trafficking does not require that traffickers move a victim across a border or force any movement at all.²⁷ Consent cannot overcome a charge of human trafficking, as many victims initially consent to a job offer or to perform commercial sex, but are forced to continue working through force, fraud, or coercion.²⁸ Additionally, in instances of child trafficking, only an act and a purpose are required; force, fraud, or coercion is imputed based on the minority of the victim.²⁹ Iowa’s Office to Combat Human Trafficking,³⁰ a division of the Iowa Department of Public Safety, adds that frequently “human trafficking is accompanied by other types of crimes, such as fraud, financial crimes, identity theft crimes, drug offenses, and other vice offenses (e.g., pimping, pandering, or prostitution).”³¹ Human trafficking is not a crime committed only by individuals; governments also commit human trafficking offenses.³²

In the instance of illicit massage parlors or spas, the victims are usually involved in sex trafficking.³³ They are recruited from their home countries or transported to the United States specifically for the purpose of providing commercial sex acts.³⁴ Other times victims are recruited or transported after they have already arrived in the United States and may be particularly

²⁵ IOWA OFF. TO COMBAT HUMAN TRAFFICKING, ANNUAL REPORT 2020, at 6 (2020), <https://iowanaht.org/wp-content/uploads/2020-OCHT-Report.pdf> [<https://perma.cc/SRT9-7RMF>] [hereinafter IOWA ANNUAL REPORT 2020] (accessed through Iowa Network Against Human Trafficking and Slavery).

²⁶ John Tanagho, *New Illinois Legislation Combats Modern-Day Slavery: A Comparative Analysis of Illinois Anti-Trafficking Law with its Federal and State Counterparts*, 38 LOY. U. CHI. L.J. 895, 918 (2007).

²⁷ UNDERSTANDING HUMAN TRAFFICKING: FACT SHEET, *supra* note 21 (“Trafficking in persons is a crime of exploitation and coercion, and not movement.”).

²⁸ *Id.*

²⁹ *Id.*

³⁰ IOWA’S OFF. TO COMBAT HUMAN TRAFFICKING, IOWA.GOV, <https://dps.iowa.gov/divisions/intelligence/human-trafficking> [<https://perma.cc/G74F-QMVH>].

³¹ IOWA ANNUAL REPORT 2020, *supra* note 25, at 6 (asserting as well that many prosecutors bring charges under these crimes rather than human trafficking).

³² UNDERSTANDING HUMAN TRAFFICKING: FACT SHEET, *supra* note 21 (“From forced labor in local or national public work projects, military operations, and economically important sectors, or as part of government-funded projects or missions abroad, officials use their power to exploit their nationals.”).

³³ BRITTANY ANTHONY ET AL., POLARIS PROJECT, THE TYPOLOGY OF MODERN SLAVERY: DEFINING SEX AND LABOR TRAFFICKING IN THE UNITED STATES 12–13 (2017), <https://polarisproject.org/wp-content/uploads/2019/09/Polaris-Typology-of-Modern-Slavery-1.pdf> [<https://perma.cc/A84N-VGN9>].

³⁴ *Id.*

vulnerable due to language barriers, financial insecurity, and separation from family and support networks.³⁵ This recruiting or transporting usually occurs through coercion of victims and may include “extreme intimidation, threats of shame, isolation from the outside community, debt bondage, exploitation of communication barriers, and explicit as well as implied threats.”³⁶

Polaris explains that most massage parlors that serve as fronts for sex trafficking rings are sections of larger networks of many massage parlors nationwide, and that one trafficker often runs multiple massage parlors and may be a victim or survivor of trafficking themselves.³⁷ Additionally, sex trafficking in massage parlors affects a specific population: “The victims are most often Asian women, of diverse ethnicities and nationalities, including Korean, Thai, Chinese, and ethnically Korean-Chinese citizens. Victims may have come to the U.S. on valid visas, fraudulent visas, or may be undocumented.”³⁸ Federal law and Iowa statutes define human trafficking as well, and each is discussed in turn in the subsections below after analysis from the narrow context of human trafficking’s presence in Iowa.

B. Human Trafficking in Iowa

Because no centralized database for human trafficking statistics exists in Iowa, local organizations provide only piecemeal information.³⁹ The Iowa Victim Service Line, a helpline open to “[a]nyone who has been affected by domestic violence, sexual violence, human trafficking, homicide and any other violent crime,”⁴⁰ reports that between July 2019 and June 2020 it received 120 calls related to human trafficking.⁴¹ A call could come from a victim, survivor, a family member, or friend, meaning this number of calls

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Polaris Project, *Fake Massage Businesses in the United States*, NAT’L HUM. TRAFFICKING RES. CTR. 2 (2011), <https://humantraffickinghotline.org/sites/default/files/Fake%20Massage%20Businesses%20AAG.pdf> [https://perma.cc/2C4N-CMES].

³⁹ *Iowa Human Trafficking Data*, UNIV. OF IOWA DEP’T OF MED., https://medicine.uiowa.edu/emergencymedicine/sites/medicine.uiowa.edu/emergencymedicine/files/wysiwyg_uploads/Iowa%20Human%20Trafficking%20Data.pdf [https://perma.cc/Y8RT-JCP2]; see also SARAH JOHNSON, IOWA DEP’T OF HUM. RTS., AN ANALYSIS OF HUMAN TRAFFICKING IN IOWA 4 (2016), https://humanrights.iowa.gov/sites/default/files/media/CJJP_January_2016_Task_Force_Report_%20Human%20Trafficking.pdf [https://perma.cc/5FKC-9AKG] (explaining that the lack of data may stem from the underground nature of the offense or reflect the actual prevalence in the state); Jennifer M. Chacón, *Tensions and Trade-offs: Protecting Trafficking Victims in the Era of Immigration Enforcement*, 158 U. PA. L. REV. 1609, 1630 (2010) (explaining that data at the state level is sparser than at the federal).

⁴⁰ IOWA VICTIM SERV. CALL CTR., <https://survivorshelpline.org> [https://perma.cc/4T55-XZTP].

⁴¹ *Id.*

may not necessarily depict the actual amount of human trafficking in the state currently because one call does not equate to one victim.⁴² The Iowa Victim Service Line also does not report on the citizenship status of callers.⁴³

Nationwide organizations like the National Human Trafficking Hotline (NHTH)⁴⁴ provide a more complete picture. The NHTH collects phone calls, texts, online chats, emails, and webforms on potential human trafficking offenses and compiles information on those that reference Iowa.⁴⁵ In 2019, the NHTH received 246 contacts—the most frequent from victims of trafficking (55 contacts) and community members (54 contacts)—and reported 98 human trafficking cases in the state.⁴⁶ Of those 98 cases, the NHTH identified 73 as sex trafficking (74%) and 12 of those sex trafficking cases as having a venue of “illicit massage/spa business” (16%).⁴⁷ “Illicit massage/spa business” was the most common venue.⁴⁸ Overall, Iowa ranked 17th of 50 states for number of cases, with 3.09 cases reported to the NHTH per 100,000 people.⁴⁹

The NHTH does not collect data on cases for citizens versus non-citizens. Instead, the NHTH breaks down its numbers into those involving foreign nationals and those involving a “US citizen/LPR” (Lawful Permanent Resident).⁵⁰ Under these categories, the NHTH identified 12 of the 98 human trafficking cases as involving foreign nationals (12%) and 12 cases as involving a “US citizen/LPR” (12%); the other 76% involved non-foreign nationals.⁵¹ No source breaks these categories down further, and the NHTH does not explicitly state that it collects data on immigration status for

⁴² *Id.*

⁴³ *Id.*

⁴⁴ NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org> [<https://perma.cc/GXF3-VUBX>].

⁴⁵ *Iowa*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/state/iowa> [<https://perma.cc/V5HG-98TP>] [hereinafter *Iowa*, NAT'L HUMAN TRAFFICKING HOTLINE] (The Polaris Project also runs the NHTH).

⁴⁶ *Id.*; see also *Hotline Statistics*, NAT'L HUM. TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/states> [<https://perma.cc/22Q4-HNS3>] (“A case can involve one or more potential victims of trafficking and can be reported to the hotline through one or more conversations via call, text, email, online report, or webchat. The use of the word case is not an indication of law enforcement involvement in the situation.”).

⁴⁷ *Iowa*, NAT'L HUM. TRAFFICKING HOTLINE, *supra* note 45.

⁴⁸ *Id.*

⁴⁹ *Human Trafficking Statistics by State*, WORLD POPULATION REV., <https://worldpopulationreview.com/state-rankings/human-trafficking-statistics-by-state> [<https://perma.cc/SC4E-8BFQ>].

⁵⁰ See *Iowa*, NAT'L HUM. TRAFFICKING HOTLINE, *supra* note 45. For the purposes of this Note, a U.S. citizen is distinct from an LPR, as discussed in the Analysis section.

⁵¹ *Id.*

every contact.⁵² However, the Iowa Attorney General reports that 17% of sex trafficking victims identified across the country were not U.S. citizens.⁵³ Polaris reports that “[m]ost victims of illicit massage businesses are women from the mid-thirties to late fifties from China and South Korea” and that only 3% are U.S. citizens.⁵⁴ Using this nationwide data as a guide, it is likely that significantly more than 12%— up to 97%— of victims of human trafficking involving massage parlors do not have American citizenship.⁵⁵

The NHTH did, however, track callers’ gender data and found 84 of the 98 calls were women (86%).⁵⁶ This percentage is somewhat higher than Polaris’ finding that 74% of “illicit massage, health, and beauty” trafficking victims were women.⁵⁷ Like the Iowa Victim Service Line, calls may come from victims of trafficking, community members, NGO representatives, government officials, or anyone else, and they may relate to current or past cases of human trafficking, requests for referrals, or simply to report a trafficking tip. Thus, the NHTH numbers also do not necessarily provide an accurate picture of the level of human trafficking in Iowa, as one call does not equate to one victim.⁵⁸ Also like the Iowa Victim Service Line, the NHTH does not state that it requires a gender identification for each contact.⁵⁹

The numbers published by the NHTH do not match the amount of attention human trafficking receives in the state. Iowa has a robust network of nonprofits dedicated to combating human trafficking that operate statewide. The Iowa Network Against Human Trafficking and Slavery, a statewide nonprofit itself, lists thirteen agencies across the state that offer shelter, food, clothing, transportation, counseling, and medical care to human trafficking victims⁶⁰ Many of these agencies address multiple issues in

⁵² *Id.*

⁵³ *Fighting Human Trafficking*, IOWA DEP’T OF JUST., OFF. OF THE ATT’Y GEN., <https://www.iowaattorneygeneral.gov/for-crime-victims/fighting-human-trafficking> [<https://perma.cc/9UU5-A265>].

⁵⁴ BRITTANY ANTHONY ET AL., *supra* note 33, at 13.

⁵⁵ *Id.* at 12.

⁵⁶ *Iowa*, NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 45.

⁵⁷ BRITTANY ANTHONY ET AL., *supra* note 33, at 12.

⁵⁸ *Iowa*, NAT’L HUM. TRAFFICKING HOTLINE, *supra* note 45.

⁵⁹ *Id.*

⁶⁰ *Iowa Network Against Human Trafficking and Slavery Anti-Trafficking Resource Directory*, IOWA NETWORK AGAINST HUM. TRAFFICKING & SLAVERY (Nov. 29, 2021), <https://iowanah.org/resources> [<https://perma.cc/BV99-UFC2>]. These agencies are: Braking Traffik out of Davenport, Chains Interrupted out of Cedar Rapids, Dorothy’s House out of Des Moines, Freedom House Ministries out of Pella, Friends of the Family out of Waverly, Garden Gate Ranch in Central Iowa, Iowa Homeless Youth Centers out of Des Moines, Lila Mae’s House out of Sioux City, NIAD Center for Human Development/Crisis Intervention Services out of Mason City, Safe At Home out of Des Moines, Set Free Dubuque, Wives of Refuge in Central Iowa, and Youth and Shelter Services.

addition to human trafficking, including homelessness, substance abuse, domestic violence, and also work with the victim's family.⁶¹ As of 2021, Governor Kim Reynolds is involved with the Iowa Network Against Human Trafficking and Slavery as an honorary board member and received an Outstanding Iowa Anti-Trafficking Service Award in 2018.⁶²

Likewise, neither the number of calls to the NHTH nor the number of nonprofits equates to the number of convictions for human trafficking or sex trafficking in massage parlors in the state. A tension exists between the magnitude of human trafficking as an issue and the response to it. Up to 2016, neither the Iowa Attorney General's Office in Des Moines nor the Office in Davenport had prosecuted a single case of human trafficking tied to massage parlors in the state.⁶³ A report by the Iowa Department of Human Rights indicated that between 2006 and 2014, there was one conviction for human trafficking statewide.⁶⁴ Furthermore, Iowa did not establish its central human trafficking office in the Department of Public Safety until 2016.⁶⁵ However, the Office to Combat Human Trafficking's 2020 Report contained four anecdotes of convictions for human trafficking at the federal level in the Southern District of Iowa: in May 2019 five defendants were indicted for sex trafficking minor victims; in August 2019 a defendant was sentenced to seven years' imprisonment for sex trafficking a female victim; in January 2020 a defendant was found guilty for sex trafficking three minor female victims; and in August 2020 a defendant was charged with sex trafficking seven adults and one minor victim.⁶⁶

Yet, *The Des Moines Register* features articles on human trafficking regularly, some with titles like "Concerns grow as massage parlors spread across Iowa"⁶⁷ and "We can no longer look away from modern slavery."⁶⁸

⁶¹ *Id.*

⁶² *Iowa Outstanding Anti-Trafficking Service Awards*, IOWA NETWORK AGAINST HUMAN TRAFFICKING AND SLAVERY, <http://iowanah.org/about-us/network-awards> [https://perma.cc/47TF-P936].

⁶³ Lee Rood, *Des Moines Identified as Top 100 Trafficking Site*, DES MOINES REG. (Nov. 16, 2016, 7:14 PM) [hereinafter Rood, *Des Moines Identified as Top 100 Trafficking Site*], <https://www.desmoinesregister.com/story/news/2016/11/16/des-moines-identified-top-100-human-trafficking-site/93952890> [https://perma.cc/6QGX-MAVP].

⁶⁴ JOHNSON, *supra* note 39, at 14.

⁶⁵ Rood, *Des Moines Identified as Top 100 Trafficking Site*, *supra* note 63.

⁶⁶ IOWA ANNUAL REPORT 2020, *supra* note 25, at 5.

⁶⁷ Lee Rood, *Concerns Grow as Massage Parlors Spread Across Iowa*, DES MOINES REG. (Nov. 16, 2016, 7:11 PM), <https://www.desmoinesregister.com/story/news/2016/11/16/concerns-grow-massage-parlors-spread-across-iowa/93291274> [https://perma.cc/E93P-BBXG].

⁶⁸ Melissa Crawford, *Letters: We can no Longer Look Away from Modern Slavery*, DES MOINES REG. (June 21, 2019, 5:24 PM), <https://www.desmoinesregister.com/story/opinion/readers/2019/06/14/letters-iowan-encourages-others-read-mueller-report/1431135001> [https://perma.cc/VP69-PXCF].

Likewise, Iowa participates in World Day Against Trafficking in Persons, and the Iowa Network Against Human Trafficking and Slavery offers outstanding anti-trafficking service awards annually.⁶⁹ Governor Reynolds designated January “Slavery and Human Trafficking Prevention and Awareness Month” in 2020.⁷⁰ In one three-part feature from 2019, a *Des Moines Register* reporter covered the lack of prosecutions in Iowa for sex trafficking at massage parlors,⁷¹ sending “Watchdog” reporters into three “Asian-themed” massage parlors in Des Moines,⁷² and also covered the man who alerted the police to a massage parlor next to his business in Urbandale in a dedicated article.⁷³ These articles referred to sex trafficking at massage parlors as “commonplace across Iowa,” called Iowa a “hotspot for trafficking” with “massage or reflexology parlors” proliferating, and even stated that “the businesses are flourishing, undeterred by law enforcement.”⁷⁴

However, aside from a disconnect between the prevalence of human trafficking in Iowa and the attention it receives as an issue in the state, the hidden nature of the crime also makes it difficult to track.⁷⁵ Because traffickers often use surveillance to coerce and force their victims into labor or commercial sex,⁷⁶ trafficking victims may be reluctant to cooperate with law enforcement, and even more reluctant to participate in sting operations.⁷⁷ Victims may not wish to confront their traffickers by testifying against them in court, and sympathetic prosecutors may bring charges under other crimes

⁶⁹ *Iowa Outstanding Anti-Trafficking Service Awards*, *supra* note 62.

⁷⁰ Press Release, Office of the Governor of Iowa, Gov. Reynolds to declare January “Slavery and Human Trafficking Prevention and Awareness Month” in Iowa (Jan. 16, 2020), [https://governor.iowa.gov/press-release/gov-reynolds-to-declare-january-%E2%80%9Cslavery-and-human-trafficking-prevention-and- \[https://perma.cc/AVC5-CLGZ\]](https://governor.iowa.gov/press-release/gov-reynolds-to-declare-january-%E2%80%9Cslavery-and-human-trafficking-prevention-and-) (“We must join together to prevent human trafficking and end this unspeakable crime in our state, nation, and around the world.”).

⁷¹ Lee Rood, *Iowa is a Hot Spot for Trafficking in the Illicit Massage Industry, but Prosecutions are Rare*, DES MOINES REG. (Mar. 26, 2019, 12:09 PM) [hereinafter Rood, *Iowa is a Hot Spot for Trafficking*], <https://www.desmoinesregister.com/story/news/2019/03/20/human-trafficking-iowa-massage-parlor-pimp-sex-crime-craigslist-prostitution-robert-kraft-patriots/3082329002> [https://perma.cc/XX3M-QWG9].

⁷² Lee Rood, *Watchdog Sent Customers into Three Des Moines Massage Parlors. Here’s What Happened.*, DES MOINES REG. (Mar. 26, 2019, 12:08 PM), <https://www.desmoinesregister.com/story/news/2019/03/20/human-trafficking-iowa-asian-massage-erotic-parlor-sex-crime-prostitution-craigslist-rubmaps-beaver/3170653002> [https://perma.cc/WS3Q-NUYR].

⁷³ Lee Rood, *Care about Human Trafficking? This Urbandale Man did Something About it*, DES MOINES REG. (Mar. 20, 2019, 2:00 PM), <https://www.desmoinesregister.com/story/news/2019/03/20/human-trafficking-urbandale-iowa-asian-massage-parlor-sex-crime-prostitution-laws-craigslist-rubmaps/3106675002> [https://perma.cc/775L-EVSY].

⁷⁴ Rood, *Iowa is a Hot Spot for Trafficking*, *supra* note 71.

⁷⁵ Tanagho, *supra* note 26, at 918–19.

⁷⁶ IOWA ANNUAL REPORT 2020, *supra* note 25, at 6.

⁷⁷ *Id.*

in order to hold the traffickers accountable, offer some retribution, and refrain from retraumatizing victims.⁷⁸ Statistics for such charges or convictions would not reflect the connection to human trafficking.⁷⁹ Similarly, victims whom traffickers bring to the U.S. most likely do not have citizenship status.⁸⁰ This Note will address that larger issue in the Analysis section.

As Iowa began to focus even more heavily on a connection between massage parlors/spas and human trafficking, it also placed additional emphasis on licensure for massage therapists as an inroad into reducing human trafficking. This shift in focus started with the Iowa Board of Massage Therapy. It also tied into increased oversight of massage parlor licensure by the Board.

C. Massage Parlors and Licensure in Iowa

The Iowa Board of Massage Therapy (the “Board”) governs licensure for massage therapists in the state.⁸¹ The Board “evaluates the qualifications of applicants for licensure and grants licenses to those who qualify.”⁸² It consists of seven members, four of whom are licensed to practice massage therapy in Iowa.⁸³ As an administrative agency of the state, it also publishes rules and regulations that have the force of law.⁸⁴ The Iowa Attorney General’s Office provides legal services to the Board.⁸⁵

Iowa Code Section 131 covers licensure of massage therapists.⁸⁶ Under Section 131, “massage” includes several subcategories: myotherapy, massotherapy, bodywork, bodywork therapy, hydrotherapy, superficial hot and cold applications, and vibration and topical applications.⁸⁷ To become certified by the Board, a massage therapist must complete an application packet and application form according to its instructions, pay the required fees, submit transcripts from a board-approved school, and supply proof of

⁷⁸ *Id.* (stating that charges of fraud, financial crimes, identity theft crimes, drug offenses, pimping, prostitution, and pandering are often charged in cases of human trafficking).

⁷⁹ BRITTANY ANTHONY ET AL., *supra* note 33, at 8.

⁸⁰ *Id.* at 21.

⁸¹ *Iowa Board of Massage Therapy—Home*, IOWA DEP’T OF PUB. HEALTH, <https://idph.iowa.gov/licensure/iowa-board-of-massage-therapy> [https://perma.cc/LSP5-Z5SN].

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Board of Massage Therapy—About Staff & Board*, IOWA DEP’T OF PUB. HEALTH, <https://idph.iowa.gov/Licensure/Iowa-Board-of-Massage-Therapy/About-Staff-and-Board> [https://perma.cc/DS76-W8VN].

⁸⁶ IOWA CODE § 131 (2021).

⁸⁷ *Id.*

passing any National Certification Board for Therapeutic Massage and Bodywork examination or the Massage and Bodywork Licensing Examination.⁸⁸ Licensed massage therapists must also renew their license biennially.⁸⁹

The Board establishes civil penalties for practicing massage therapy without a license.⁹⁰ The Board authorizes itself or its agents to “inspect any facility that advertises or offers the services of massage therapy” and to impose fines for practicing without a license or employing a massage therapist without a license, up to one thousand dollars per offense or ten thousand dollars for continued violations.⁹¹ The Board does not state outright that it collaborates with law enforcement and does not make any reference to requesting government-issued identification or citizenship status of its licensees.

The Board also does not control criminal penalties for lack of proper licensure by massage therapists in Iowa.⁹² The legal oversight of and criminal penalties for massage therapy arises from federal human trafficking statutes and state human trafficking statutes⁹³ Prior to Iowa’s state human trafficking statutes, city ordinances governed criminal penalties at the state level, and cities from Davenport to Iowa City to Des Moines to Ames each instituted their own ordinances to regulate massage parlors and massage therapist licensure.⁹⁴ This Note now discusses each of those sources of criminal penalties in turn.

⁸⁸ *Id.* § 131.2(2)–(6).

⁸⁹ *Id.* § 131.8(1).

⁹⁰ IOWA CODE § 152C.4 (2021).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *See* IOWA CODE § 710A (2021).

⁹⁴ *See, e.g.*, Kat Russell, *Cedar Rapids Massage Ordinance to Take Effect Jan. 1*, GAZETTE (Nov. 19, 2018, 7:46 PM), <https://www.thegazette.com/government-politics/cedar-rapids-massage-ordinance-to-take-effect-jan-1/> [<https://perma.cc/VMY9-3DJ6>]; Katie Ingle, *City Council to Address Sex Trafficking, Massage Parlors*, IOWA STATE DAILY (Apr. 17, 2019, 8:44 PM), https://www.iowastatedaily.com/news/ames-city-council-massage-parlors-sex-trafficking-laws-regulations/article_d6466cd6-5fc8-11e9-95b6-a35e31c5e472.html [<https://perma.cc/GA4E-XARG>]; *Des Moines OKs Massage Rules Aimed at Fighting Prostitution*, KCRG (Dec. 19, 2018, 10:28 AM), <https://www.kcrg.com/content/news/Des-Moines-OKs-massage-rules-aimed-at-fighting-prostitution-503136201.html> [<https://perma.cc/X6BB-NPEY>]; Robbie Sequeira, *City Council: Tentative Ordinance Calls for Massage Parlor Licensure and Owner Accountability*, AMES TRIB. (Apr. 17, 2019, 8:44 PM), <https://www.amestrib.com/news/20190417/city-council-tentative-ordinance-calls-for-massage-parlor-licensure-and-owner-accountability> [<https://perma.cc/8P8N-7DUM>] (stating twenty-three cities around Iowa passed ordinances aimed at massage parlors and human trafficking).

D. Federal Human Trafficking Statutes

The Constitution expressly prohibits few crimes.⁹⁵ However, it does forbid slavery, a category that human trafficking falls into.⁹⁶ Under the Thirteenth Amendment, “[n]either slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”⁹⁷ Congress has passed acts and updated the United States Code to carry out this mandate from the Thirteenth Amendment, in recognition that all people are created equal and are endowed by their creator with the right to liberty.⁹⁸ Although Congress passed the Thirteenth Amendment to abolish the institution of slavery at the time of the Civil War,⁹⁹ the Amendment includes “involuntary servitude” and subsequent code sections have expanded this category of crimes.¹⁰⁰ 18 U.S.C. § 77 contains four sections that highlight four specific categories of human trafficking: peonage, involuntary servitude, forced labor, and trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.¹⁰¹ Each section permits impositions of criminal penalties for violation.¹⁰²

1. Peonage, 18 U.S.C. § 1581

“[P]eonage [is] a condition in which the victim is coerced by threat of legal sanction to work off a debt to a master.”¹⁰³ The Supreme Court clarified in *Clyatt v. United States* that peonage differs from employment in that peonage is compulsory, and unlike involuntary servitude, is tied to paying off a fixed debt.¹⁰⁴ Likewise, peonage may begin after arrest on false charges or if a person inherits a credit that the debtor must pay back in service.¹⁰⁵ The Supreme Court has stated that the Thirteenth Amendment expressly forbids

⁹⁵ Edwin Meese III, *The Constitution and Crime*, HERITAGE FOUND. (Sept. 15, 2010), <https://www.heritage.org/the-constitution/commentary/the-constitution-and-crime> [<https://perma.cc/3K9G-DE6K>] (pointing out that the Constitution only makes piracy, counterfeiting, and treason federal crimes).

⁹⁶ *Fighting Human Trafficking*, IOWA DEP’T OF JUST., OFF. OF THE ATT’Y GEN., <https://www.iowaattorneygeneral.gov/for-crime-victims/fighting-human-trafficking> [<https://perma.cc/PF4D-KPEK>].

⁹⁷ U.S. CONST. amend. XIII.

⁹⁸ THE DECLARATION OF INDEPENDENCE (U.S. 1776).

⁹⁹ *United States v. Kozminski*, 487 U.S. 931, 942 (1988).

¹⁰⁰ 18 U.S.C. §§ 1581–1591.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Kozminski*, 487 U.S. at 943.

¹⁰⁴ *Clyatt v. United States*, 197 U.S. 207, 215 (1905).

¹⁰⁵ *Id.* at 222.

peonage “wherever the sovereignty of the United States extends.”¹⁰⁶ Under 18 U.S.C. § 1581, holding or returning a person to a condition of peonage, or arresting a person with intent to do the same, authorizes a punishment of twenty years’ imprisonment.¹⁰⁷ If the perpetrator kills the victim or their “violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill,” the statute permits up to life imprisonment.¹⁰⁸

2. Involuntary Servitude, 18 U.S.C. § 1584

Unlike peonage, the Thirteenth Amendment expressly forbids involuntary servitude.¹⁰⁹ 18 U.S.C. § 1584 provides that “[w]hoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term” is punishable by fine or up to twenty years’ imprisonment, or, if the involuntary servitude results in the death of the victim or “includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill,” life imprisonment.¹¹⁰ The Supreme Court addressed involuntary servitude in *United States v. Kozminski*.¹¹¹ In *Kozminski*, the Court defined involuntary servitude as when “the victim had no available choice but to work or be subject to legal sanction.”¹¹² Involuntary servitude encompasses “the compulsion of services by the use or threatened use of physical or legal coercion” as well.¹¹³ The Court found that holding two men of limited mental capacity in isolation on a dairy farm and forcing them to work without pay could qualify as involuntary servitude.¹¹⁴ Unlike peonage, involuntary servitude does not expire with the repayment of a fixed debt.

3. Forced Labor, 18 U.S.C. § 1589

The definition of forced labor in 18 U.S.C. § 1589 expands the definition of involuntary servitude in *Kozminski* to include relying on “means of serious harm or threats of serious harm to that person or another person,” “any scheme, plan, or pattern intended to cause the person to believe that, if that

¹⁰⁶ *Id.* at 218.

¹⁰⁷ 18 U.S.C. § 1581(a).

¹⁰⁸ *Id.*

¹⁰⁹ U.S. CONST. amend. XIII.

¹¹⁰ 18 U.S.C. § 1584.

¹¹¹ *United States v. Kozminski*, 487 U.S. 931, 931 (1988) (discussing the Thirteenth Amendment right to be free from involuntary servitude).

¹¹² *Id.* at 943.

¹¹³ *Id.* at 948.

¹¹⁴ *Id.* at 934–35, 953 (reversing and remanding for a decision under the “threatened use of physical or legal coercion” standard).

person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint,” along with

knowingly benefit[ing] financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of [forced] labor or services . . . knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means.¹¹⁵

Thus, forced labor includes not just compulsion through threats of physical or legal harm, but also making a victim believe serious harm is imminent or knowingly benefiting from the threat of serious harm. Forced labor can also include indirect coercion, by including threats to those close to the victim, and not just the victim directly. In *Nestlé USA, Inc. v. Doe*, the Supreme Court found that a company that knows or should know of child slavery in farms that it purchases products from violates the prohibition against forced labor.¹¹⁶ In addition, providing financial resources, “such as training, fertilizer, tools, and cash” qualified as aiding and abetting.¹¹⁷ The Court likewise held that Congress did not create a cause of action outside of the TVPA for victims of forced labor.¹¹⁸

4. Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor, 18 U.S.C. § 1590

18 U.S.C. § 1590 directly sets up the causes of action in the TVPA by linking peonage, involuntary servitude, and forced labor with trafficking.¹¹⁹ It authorizes penalties of twenty years for a violation of the statute, and up to life imprisonment for activities that result in death or include kidnapping or attempted kidnapping, sexual assault or attempted sexual assault, or an attempt to kill, and also penalizes obstructing or attempting to obstruct its enforcement.¹²⁰ The Supreme Court has not directly addressed this section.

¹¹⁵ 18 U.S.C. §§ 1589(a)(2)–(4), (b).

¹¹⁶ *Nestlé USA, Inc. v. Doe*, 141 S. Ct. 1931, 1935–36 (2021) (holding that although the actions qualified the petitioners had no relief in U.S. courts under the Alien Tort Statute).

¹¹⁷ *Id.* at 1935.

¹¹⁸ *Id.*

¹¹⁹ 18 U.S.C. § 1590.

¹²⁰ *Id.* § 1590(a)–(b).

5. U.S. Trafficking Victims Protection Act of 2000 and its Reauthorizations, 22 U.S.C. § 7107

The TVPA established human trafficking as a federal crime and had bipartisan support for its passage.¹²¹ In addition, “[t]he TVPA marked the first time Congress enacted one particular law that comprehensively criminalized human trafficking.”¹²² The Act 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.”¹²³ This definition mirrors the Act-Means-Purpose model from the Office to Monitor and Combat Trafficking in Persons, and expressly includes the other crimes in 18 U.S.C. §§ 1581, 1584, 1589, and 1590.¹²⁴ The TVPA specifically delineates sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act”¹²⁵ and includes both human trafficking and sex trafficking of a minor under eighteen years of age or sex trafficking that involves force, fraud, or coercion as severe forms of trafficking in persons.¹²⁶ The TVPA only contains an additional definition for “coercion” as “threats of serious harm to or physical restraint,” “any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint,” or “the abuse or threatened abuse of the legal process.”¹²⁷ It does not define force or fraud. It does, however, increase the penalties for traffickers significantly.¹²⁸

The TVPA also created “T nonimmigrant status”, also known as the “T visa”, which is available for up to 5,000 qualifying applicants a year.¹²⁹ To qualify for a T visa, a victim of a severe form of trafficking in persons must be physically present in the United States, comply “with any reasonable request for assistance in the Federal, State, or local investigation or

¹²¹ See *Policy & Legislation*, POLARIS PROJECT, <https://polarisproject.org/policy-and-legislation> [<https://perma.cc/UXS8-75XW>]; ALL TO END SLAVERY & TRAFFICKING, *supra* note 24, at 4, 8 (“The battle against TIP has been bipartisan, with champions driven by a shared moral and national security imperative.”).

¹²² Tanagho, *supra* note 26, at 899; see also Bo Cooper, *A New Approach to Protection and Law Enforcement Under the Victims of Trafficking and Violence Protection Act*, 51 EMORY L.J. 1041, 1049 (2002) (“The legislation provides the first definition under federal law of a victim of trafficking.”).

¹²³ Trafficking Victims Protection Act of 2000, § 102, 22 U.S.C. § 7102(11)(B) (2000).

¹²⁴ *Id.* § 7102(9) (meaning the standard set forth in Section 7106 of this title).

¹²⁵ *Id.* § 7102(11)(B)

¹²⁶ *Id.* § 7102(8).

¹²⁷ *Id.* § 7102(3).

¹²⁸ Tanagho, *supra* note 26, at 913 (citing 22 U.S.C. § 7101(a) (2000)).

¹²⁹ 8 U.S.C. § 1101(a)(15)(T)(i). This cap on T visas does not include derivative applicants such as spouses, sons, daughters, or parents of principle applicants.

prosecution of acts of trafficking or the investigation of a crime where acts of trafficking in persons are at least one central reason for the commission of that crime,” and demonstrate that they “would suffer extreme hardship involving unusual and severe harm upon removal” from the United States.¹³⁰ The TVPA contains an exception to the requirement of compliance with any reasonable request for assistance in an investigation for minors under the age of eighteen and for those who are unable to cooperate due to physical or emotional trauma.¹³¹ Importantly, if the trafficking victim is inadmissible to the United States, or ineligible for a visa due to activities caused by or incident to the trafficking, the Attorney General may waive the inadmissibility at her discretion.¹³²

In addition to providing temporary relief from deportation and permission to reside in the United States for a period of up to four years,¹³³ the T visa comes with additional benefits for the T visa holder. A T visa holder also receives authorization to work in the United States and may be referred to a nongovernmental organization for advice on available resources.¹³⁴ Likewise, the T visa holder becomes eligible for any benefits and services for refugees administered by state or federal agencies including Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) or health insurance through Medicaid.¹³⁵ A T visa holder may also apply for derivative T visa status for qualifying family members such as spouses, unmarried children under age twenty-one, parents, and unmarried siblings under age eighteen.¹³⁶

¹³⁰ *Id.* § 1101(a)(15)(T)(i)(I)–(IV).

¹³¹ See KIDS IN NEED OF DEFENSE, CHAPTER 7: T VISA RELIEF {107}, at 6 (Oct. 28, 2021), <https://supportkind.org/wp-content/uploads/2015/04/Chapter-7-T-Visa-Relief-107.pdf> [<https://perma.cc/67FE-LY34>].

¹³² 8 U.S.C. § 1101(a)(15)(T)(i)(B)(ii).

¹³³ See *Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERV. (Oct. 20, 2021), <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-human-trafficking-t-nonimmigrant-status/questions-and-answers-victims-of-human-trafficking-t-nonimmigrant-status> [<https://perma.cc/6QGD-F9YV>] [hereinafter *Questions and Answers*].

¹³⁴ Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7105(b) (2000). In Iowa, Lutheran Services in Iowa and the United States Committee for Refugees and Immigrants provide advice and support for trafficking victims. Prior to entering law school, the author of this Note worked as a case worker for LSI’s Trafficking Victim’s Assistance Program grant and managed a caseload of eighteen labor trafficking victims statewide.

¹³⁵ *Id.* § 7105(b)(1)(A); OFF. OF REFUGEE RESETTLEMENT, ADMIN. FOR CHILD. AND FAM., FACT SHEET, REFUGEE BENEFITS FOR ASYLEES 2 (2020), https://www.acf.hhs.gov/sites/default/files/documents/orr/orr_asylee_fact_sheet.pdf [<https://perma.cc/GK9P-4WVW>].

¹³⁶ *Victims of Human Trafficking: T Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERV. (Oct. 20, 2021) [hereinafter *Victims of Human Trafficking*], <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other->

For those who do not receive a T visa, the TVPA creates a second potential relief from deportation and temporary permission to reside in the United States through “continued presence.” A victim of trafficking may rely upon continued presence status to lawfully remain in the United States during the course of investigation into the trafficking: “Federal law enforcement officials may permit an alien individual’s continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking.”¹³⁷ Continued presence allows a victim of a severe form in trafficking to remain in the United States in order to serve as a witness in criminal proceedings against the trafficker.¹³⁸ “The express purpose of this authority is to ‘effectuate prosecution’.”¹³⁹ For this reason, a law enforcement official must request this status for a trafficking victim.¹⁴⁰

Continued presence is granted for a period of two years and the Center for Countering Human Trafficking may renew it for additional two-year increments while the recipient continues to cooperate with law enforcement.¹⁴¹ Like T visa holders, those with continued presence status receive work authorization, qualify for state and federal benefits programs to the same extent as refugees, and may apply for their status to also cover qualifying family members like spouses, unmarried children under age twenty-one, parents, and unmarried siblings under age eighteen.¹⁴²

The creation of immigration statuses and referrals to assistance programs for noncitizen trafficking victims demonstrates a commitment to address trafficking across national borders. The purposes section of the act lays out directly the goals of Congress in enacting the TVPA: “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.”¹⁴³ The findings section re-emphasizes this adherence to change for noncitizen and citizen trafficking

crimes/victims-of-human-trafficking-t-nonimmigrant-status [https://perma.cc/6QGD-F9YV].

¹³⁷ Trafficking Victims Protection Act of 2000, § 107, 22 U.S.C. § 7105(c)(3) (2000).

¹³⁸ Cooper, *supra* note 122, at 1048–49.

¹³⁹ *Id.* at 1052.

¹⁴⁰ *Id.*

¹⁴¹ CTR. FOR COUNTERING HUM. TRAFFICKING, CONTINUED PRESENCE: TEMPORARY IMMIGRATION DESIGNATION FOR VICTIMS OF HUMAN TRAFFICKING 1 [hereinafter CONTINUED PRESENCE], <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf> [https://perma.cc/C4Y8-K93K].

¹⁴² *Id.*

¹⁴³ Trafficking Victims Protection Act of 2000, § 101(a), 22 U.S.C. 7101 (2000); *see also* Aragon v. Che Ku, 277 F. Supp. 3d 1055, 1069 (D. Minn. 2017) (describing the tort suit of twelve current and former employees of five grocery store operators for violation of the TVPA).

victims alike.¹⁴⁴ The TVPA recognizes the disparate impact of anti-trafficking legislation on immigrants and explains that “[e]xisting laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.”¹⁴⁵ Similarly, the law states that “[v]ictims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.”¹⁴⁶ Each of these points connect with the overall goal of the TVPA to provide a comprehensive federal framework “to deter trafficking and bring traffickers to justice.”¹⁴⁷

Congress has reauthorized the TVPA five times, most recently in 2019.¹⁴⁸ Iowa’s human trafficking statutes, including city ordinances, Iowa Code Section 710A, and HF 452, supplement TVPA at the state level and share its goals of deterrence and justice. They also draw heavily from the framework established by the TVPA. In Iowa, this incorporation of federal law first happened at the local level in city ordinances.

E. Iowa Human Trafficking Statutes

At the state level, Iowa addresses human trafficking through city ordinances, state civil law—as discussed in the previous section on Iowa Code Section 152C—criminal law, and caselaw. Statutes provide more robust protection against human trafficking offenses in the state. These statutes go all the way down to the city level.

1. City Ordinances

After anti-trafficking groups sounded alarm bells over human trafficking concerns, several cities around Iowa responded with additions to their city ordinances on massage parlor licensure.¹⁴⁹ Cities across the state including Johnston, Des Moines, Urbandale, Coralville, Ames, Davenport, Cedar

¹⁴⁴ *E.g.*, § 22 U.S.C. 7101(b)(5) (“Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.”).

¹⁴⁵ *Id.* § 7101(b)(17).

¹⁴⁶ *Id.* § 7101(b)(19).

¹⁴⁷ *Id.* § 7101(b)(14).

¹⁴⁸ *Policy & Legislation*, *supra* note 121.

¹⁴⁹ *E.g.*, Russell, *supra* note 94; Ingle, *supra* note 94.

Rapids, and Iowa City¹⁵⁰ included new sections to their ordinances requiring that massage parlors display their licensure in order to allow police to screen the businesses, owners, and employees for “illegal activities which may include prostitution and/or human trafficking.”¹⁵¹ In Johnston, the first city to update its massage parlor ordinance, the new requirements set the fees for licensure and ordered that business owners provide the criminal history and a government-issued photo ID for the owner, manager, and any person employed or who may become employed there.¹⁵² In 2017, Johnston received an Outstanding Anti-Trafficking Service Award for being the first city in Iowa to pass a city ordinance that targeted massage parlors for regulation.¹⁵³

Other cities followed suit.¹⁵⁴ The Des Moines city ordinance allows “[t]he chief of police, or designee, [to] place in a highly noticeable location a placard stating, ‘Unsafe to Enter; Unlicensed Massage Therapy Must Cease and is subject to criminal and/or civil penalty per Des Moines Municipal Code section 30-454’” outside of a massage parlor that failed to follow licensure requirements.¹⁵⁵ The ordinance forbids removal of the sign by anyone but the chief of police or his designee or without their approval.¹⁵⁶ Unlike in Johnston, the Des Moines ordinance does not set a fee for licensure.¹⁵⁷ In Ames, the requirements are similar, and also require business owners to cooperate with police during active investigations.¹⁵⁸ Iowa City and Coralville passed similar ordinances, however, the Iowa City ordinance allows city officials and police officers to request employee data and documentation, and while it does not expressly require a license, the business must maintain data and documentation on employees.¹⁵⁹ In Cedar Rapids, the new ordinance requires that businesses obtain a city license in addition to state licensure.¹⁶⁰

¹⁵⁰ See *Des Moines OKs Massage Rules Aimed at Fighting Prostitution*, *supra* note 94; Sequeira, *supra* note 94 (stating twenty-three cities around Iowa passed ordinances aimed at massage parlors and human trafficking).

¹⁵¹ JOHNSTON, IOWA, CODE § 124.01 (2017).

¹⁵² *Id.* §124.05(4), (6).

¹⁵³ *Iowa Outstanding Anti-Trafficking Service Awards*, *supra* note 62.

¹⁵⁴ See, e.g., Hillary Ojeda, *What Happened to Iowa City's Massage Parlor Policy?*, IOWA CITY PRESS-CITIZEN (Dec. 20, 2018, 4:53 PM), <https://www.press-citizen.com/story/news/2018/12/20/what-happened-iowa-citys-massage-parlor-policy/2375411002/#:~:text=Iowa%20City's%20ordinance%20passed%20on,be%20forced%20to%20cease%20operation.&text=I%20the%20information%20isn't,an%20order%20to%20cease%20operation> [https://perma.cc/6XEQ-9UKD].

¹⁵⁵ DES MOINES, IOWA, CODE § 30-454(b) (2019).

¹⁵⁶ *Id.* § 30-454(c).

¹⁵⁷ *Des Moines OKs Massage Rules Aimed at Fighting Prostitution*, *supra* note 94.

¹⁵⁸ See AMES, IOWA, CODE § 11.9 (2019); Sequeira, *supra* note 94.

¹⁵⁹ Ojeda, *supra* note 154.

¹⁶⁰ See CEDAR RAPIDS, IOWA, CODE § 59.02 (2018); Russell, *supra* note 94.

These city ordinances aimed to prevent harm to the cities and the licensed massage businesses that operate there.¹⁶¹ The ordinances also fit into the framework of criminal human trafficking law at the state level in Iowa Code Section 710A. However, Section 710A took effect only sixteen years ago and provided modest changes to the Iowa Code.

2. Iowa Code Section 710A

Until 2003, no state in the United States had a state-level anti-trafficking statute.¹⁶² Iowa first codified Section 710A relatively swiftly after that in 2006.¹⁶³ This subsection introduced separate felony offenses for types of human trafficking that involved adults and types that involved victims under age eighteen.¹⁶⁴ Previously, a charge of human trafficking was implicitly contained within a charge of another crime.¹⁶⁵ Since the 2006 introduction of the section, under Section 710A, it is an affirmative defense to other crimes if “the defendant committed the violation under compulsion by another’s threat of serious injury, provided that the defendant reasonably believed that such injury was imminent.”¹⁶⁶ It is unclear if any defendants have used this affirmative defense, as in its 2020 Annual Report, the Office to Combat Human Trafficking admitted “[s]ince January of 2019, only two individuals have been charged under Iowa’s human trafficking statute (710A.2), with no convictions reported.”¹⁶⁷

3. HF 452

HF 452, explained in more detail below, introduced an Iowa-specific definition for human trafficking and created three new criminal offenses related to licensure and massage parlors punishable as simple

¹⁶¹ See, e.g., URBANDALE, IOWA, CODE § 118.01(B) (2018).

¹⁶² Tanagho, *supra* note 26, at 899.

¹⁶³ IOWA CODE ANN. § 710A (2021); see also Johnson, *supra* note 39 (providing background on Section 710A).

¹⁶⁴ IOWA CODE ANN. § 710A.2 (2021).

¹⁶⁵ See Johnson, *supra* note 39 (arguing that other crimes which may be related to human trafficking include Purchase or Sale of an Individual (Iowa Code § 710.11), Prostitution (Iowa Code § 725.1), Pimping (Iowa Code § 725.2), Pandering (Iowa Code § 725.3), Kidnapping 1st Degree (Iowa Code § 710.2), Kidnapping 2nd Degree (Iowa Code § 710.3), and Kidnapping 3rd Degree (Iowa Code § 710.4)); see also Tanagho, *supra* note 26 (analyzing Illinois’ anti-trafficking law).

¹⁶⁶ IOWA CODE ANN. § 710A.3 (2021).

¹⁶⁷ IOWA ANNUAL REPORT 2020, *supra* note 25, at 7; see also Chacón, *supra* note 39, at 1630 (asserting that “very few individuals have been prosecuted for violating state antitrafficking laws.”).

misdemeanors.¹⁶⁸ HF 452¹⁶⁹ amended Section 710A along with Sections 152 and 157 and had overwhelming support.¹⁷⁰ It applies in addition to the city ordinances already in place in Iowa.¹⁷¹ Representative Sue Cahill from Marshall County called it “very good bipartisan legislation that will benefit the people of Iowa.”¹⁷² The Iowa Catholic Conference supported the bill,¹⁷³ and the Iowa Network Against Human Trafficking and Slavery championed the bill with regular updates on the bill’s status posted to its blog.¹⁷⁴ The Iowa Chapter of the American Massage Therapy Association included information in its newsletter on the passage of the bill and stated that the organization sponsored the bill.¹⁷⁵ The bill received twenty-seven lobbyist declarations, with only one declaration against passing the bill into law.¹⁷⁶ Groups that submitted lobbyist declarations in support of the bill included the Iowa Cosmetology School Association, Iowa Police Chief Association, Iowa County Attorneys Association, and the Phyllis Schlafly Eagles of Iowa.¹⁷⁷

¹⁶⁸ H.F. 452, 89th Gen. Assemb. (Iowa 2021).

¹⁶⁹ *Id.*

¹⁷⁰ *Bill History for House File 452 - Status: Signed by Governor*, THE IOWA LEGISLATURE [hereinafter *Bill History for House File 452*], <https://www.legis.iowa.gov/legislation/billTracking/billHistory?ga=89&billName=HF452> [https://perma.cc/MJ9R-EEEJ].

¹⁷¹ Robert Campbell, *June 2021 Iowa AMTA Iowa Chapters Newsletter*, AM. MASSAGE THERAPY ASS’N (2021), <https://ia.wp.amtamassage.org/june-2021-amta-iowa-chapters-newsletter> [https://perma.cc/7GH9-VGJF].

¹⁷² Sue Cahill, *Common Ground was Lost This Session*, TIMES-REPUBLICAN (June 2, 2021), <https://www.timesrepublican.com/opinion/columnists/2021/06/common-ground-was-lost-this-session> [https://perma.cc/RXQ9-RRFR].

¹⁷³ *ICC Newsletter, May 2, 2021*, IOWA CATH. CONF. (May 2, 2021), <https://iowacatholicconference.org/icc-newsletter-may-2-2021> [https://perma.cc/RQK2-NJ9M].

¹⁷⁴ *E.g., Iowa 2021 Human Trafficking Legislative Update*, IOWA NETWORK AGAINST HUM. TRAFFICKING & SLAVERY (Apr. 30, 2021), <https://iowanah.org/2021-legislative-update-and-other-human-trafficking-news-and-training> [https://perma.cc/VJ9Z-3JP4]; George Belitos, *Governor Reynolds Signs HF 425 Addressing Elicit Massage Businesses and Sets New Penalties for Owners who Rent to Human Traffickers*, IOWA NETWORK AGAINST HUM. TRAFFICKING & SLAVERY (May 28, 2021), <https://iowanah.org/governor-signs-hf-425-iowa-man-pleads-guilty-to-sex-trafficking-six-victims-including-one-14-year-old> [https://perma.cc/37KA-Q5A2] (error in title of bill, writing HF 425 instead of HF 452, in original).

¹⁷⁵ Campbell, *supra* note 171.

¹⁷⁶ *Lobbyist Declarations*, IOWA LEGISLATURE, <https://www.legis.iowa.gov/lobbyist/reports/declarations?ga=89&ba=HF452> [https://perma.cc/4RTZ-F8TD].

¹⁷⁷ *Id.*

The bill began as Senate File (SF) 388,¹⁷⁸ and merged into HF 452 when the Iowa Senate moved to substitute HF 452 for SF 388.¹⁷⁹ HF 452 passed the Iowa House of Representatives unanimously with ninety-six votes in support, zero votes against, and four absent or not voting on March 8, 2021.¹⁸⁰ It passed the Iowa Senate on April 6, 2021 with forty-six votes in support, zero votes against, and four absent or not voting.¹⁸¹ After the Senate withdrew an amendment that failed to pass, the bill passed the Senate a second time on April 28, 2021, with forty-eight votes in support, zero votes against, and two absent or not voting.¹⁸² Governor Reynolds signed the bill into law on May 20, 2021.¹⁸³ The bill took effect on July 1, 2021.¹⁸⁴

Various Iowa legislators commented on the bill, expressing support, as it moved toward becoming law. In the discussion of the bill on the floor before the House vote, its sponsor, Representative Jones from Clay County, described the bill as a collaboration with victims' rights advocates and the City of Johnston Police Chief to remove human trafficking from the streets and to approach the issue at the state level.¹⁸⁵ Representative Bohannon from Johnson County called it "a really bipartisan effort" and "urged the body to support it."¹⁸⁶ Representatives Jones and Bohannon both highlighted the involvement of law enforcement in the creation and eventual enforcement of the bill and thanked other members of the Iowa House of Representatives that collaborated on the bill.¹⁸⁷ In the discussion of the bill before the Iowa Senate, Senator Zaun from Polk County stated that the bill "really clamps down on landowners" and "makes it a lot harder for you to try to run a

¹⁷⁸ *Bill History for House File 452*, *supra* note 170.

¹⁷⁹ *Id.*

¹⁸⁰ *Human Trafficking, Massage Therapy Enforcement Act: Hearing on HF 452 Before the H.*, 89th Gen. Assemb. (Iowa 2021), <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=h20210308043525760&dt=2021-03-08&offset=2235&bill=HF%20452&status=I> [<https://perma.cc/Q4DZ-8TRV>] [hereinafter *Hearing on HF 452 Before the H.*]; *Bill History for House File 452*, *supra* note 170.

¹⁸¹ *Human Trafficking, Massage Therapy Enforcement Act: Hearing on HF 452 Before S.* 89th Gen. Assemb. (Iowa 2021), <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20210406012724727&dt=2021-04-06&offset=221&bill=HF%20452&status=r> [<https://perma.cc/C2GJ-BHUZ>] [hereinafter *Hearing on HF 452 Before the S.*].

¹⁸² *Bill History for House File 452*, *supra* note 170 (attempting to remove the affirmative duty to fully cooperate with a police investigation). The House of Representatives later removed this section, and this section is not in the final, signed law.

¹⁸³ *Hearing on HF 452 Before the S.*, *supra* note 181.

¹⁸⁴ *Bill History for House File 452*, *supra* note 170.

¹⁸⁵ *Hearing on HF 452 Before the H.*, *supra* note 180 (statement of Rep. Jones of Clayton County).

¹⁸⁶ *Id.* (statement of Rep. Bohannon of Johnson County).

¹⁸⁷ *Id.*

business in terms of the licensing requirements.”¹⁸⁸ Senator Zaun also called it “a continuation of our war on human trafficking in Iowa.”¹⁸⁹ Both the Representatives and Senators emphasized that the bill would protect victims from prosecution by offering affirmative defenses.¹⁹⁰ None of the comments mentioned the specific population of victims or any connection to immigration status.

HF 452 defines human trafficking and creates three new human trafficking crimes punishable as serious misdemeanors, each related to government-issued identification and licensure. First, the bill includes a definition for human trafficking specific to Iowa and licensure, in addition to an Act-Means-Purpose definition that mirrors that TVPA.¹⁹¹ Under the bill, a person engages in human trafficking when the person

knowingly provid[es] or facilitat[es] the provision of a forged, altered, or fraudulent license . . . to another person, to force, coerce, entice, assist, facilitate, or permit the other person to perform labor or services . . . [or] by [k]nowingly forcing, coercing, enticing, assisting, facilitating, or permitting another person in possession of a . . . fraudulent license . . . to produce such license . . . to a peace officer upon request.¹⁹²

Unlike the TVPA, HF 452 recognizes directly the coercion involved in providing or facilitating the provision of a fraudulent license.¹⁹³ Also unlike the TVPA, HF 452 criminalizes fraudulent production—or presenting—of a license to a peace officer. HF 452 increases the severity of the crime from serious misdemeanor to Class “D” felony for human trafficking of a minor victim.¹⁹⁴ The bill also allows for a Class “D” felony charge for knowingly or having reason to know that “any part of a building, structure, boat, trailer, or other place offering shelter or seclusion” that they own, rent, or lease, is being used for human trafficking.¹⁹⁵

HF 452 also adds the following to three code sections, each related to licensing and advertising:

¹⁸⁸ *Hearing on HF 452 Before the S.*, *supra* note 181 (statement of Sen. Brad Zaun, Chairman, S. Comm. on Judiciary).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*; *Hearing on HF 452 Before the H.*, *supra* note 180.

¹⁹¹ This definition is found in IOWA CODE ANN. § 710A.2(1)–(7) (2021).

¹⁹² HF 452, 89th Gen. Assemb. (Iowa 2021); *see also* Holly M. Lyons, *Fiscal Note*, LEGIS. SERV. AGENCY 2 (Feb. 11, 2021), <https://www.legis.iowa.gov/docs/publications/FN/1212175.pdf> [<https://perma.cc/8DKR-26JA>] (providing a summary of HF 452).

¹⁹³ HF 452, 89th Gen. Assemb.

¹⁹⁴ IOWA CODE § 710A.2(7)(A) (2021).

¹⁹⁵ *Id.* § 710A.2(B)(1).

(1) Iowa Code [Section] 152C.5B — A person who is licensed or who purports to be licensed [is prohibited from refusing to present] a copy of the person’s valid license and government-issued identification to a peace officer immediately upon request; (2) Iowa Code [Section] 152C.5C — A person, in an announcement to the public, is prohibited from representing that another person is licensed as a massage therapist or a cosmetologist, when the person knows or has reason to know the other person is not licensed; and (3) Iowa Code [Section] 157.4B — A person is prohibited from falsely representing the person’s self as being licensed as a massage therapist or a cosmetologist.¹⁹⁶

Section 152C.5B most likely only applies to peace officer investigations of victims of trafficking because only peace officers request licensure. Section 152C.5C most likely applies to traffickers and includes announcements in print and the Internet; it may also apply to victims of trafficking who falsely represent themselves as licensed, since trafficking rings involve both traffickers and their victims and often rely on victims’ false licensure.¹⁹⁷ Finally, Section 157.4B applies to both traffickers and trafficking victims, potentially, as it disallows offering or implying the offering of services that violate state law.¹⁹⁸

In these new code sections, HF 452 introduces two new definitions: for “government-issued identification” and “peace officer.” In Sections 152C.5B, 152C.5C, 157.4B, and 710A, “government-issued identification” includes an unexpired United States state driver’s license, state identification card, passport, naturalization certificate, permanent resident card, or employment authorization document.¹⁹⁹ This exhaustive list does not include documents from outside of the United States and does not include documentation of citizenship status besides Lawful Permanent Resident or those statuses that provide an employment authorization document.²⁰⁰ In this way, it excludes those who rely on their driver’s license or state identification from their home country or are in the United States on a temporary basis such as students and guest workers. Under HF 452, a ‘peace officer’ is any

¹⁹⁶ Lyons, *supra* note 192, at 2; *see also* LEGIS. SERV. AGENCY, 2021 SUMMARY OF LEGISLATION IOWA GENERAL ASSEMBLY REGULAR SESSION, 174–75 (2021), <https://www.legis.iowa.gov/docs/publications/SOL/1224327.pdf#HF452> [<https://perma.cc/RQD2-CXC3>].

¹⁹⁷ IOWA CODE § 152C.5C(2)(b) (2021).

¹⁹⁸ *Id.* § 157.4B(2)(c).

¹⁹⁹ *E.g., Id.* § 152C.5B(1)(a)(1)–(6).

²⁰⁰ *See generally* Employment Authorization Document, U.S. CITIZENSHIP & IMMIGR. SERVS. (Apr. 5, 2018), <https://www.uscis.gov/green-card/green-card-processes-and-procedures/employment-authorization-document> [<https://perma.cc/Y7EU-ZUTF>] (including asylees, refugees, U visa holders, and Legal Permanent Residents).

sheriff, sheriff's deputy, city marshal, police officer, department of public safety officer, or special security officer.²⁰¹ Certain department of transportation officers and aviation authority employees also qualify as peace officers.²⁰² The new additions also authorize peace officers who believe that they have discovered a violation of licensing requirements under Sections 152 or 157 to make a referral "to the appropriate licensing board under the professional licensure division within the department of public health, and to the appropriate state or federal authorities."²⁰³ Here, the language does not specify further which agencies qualify as "appropriate" state or federal authorities. It also does not expressly disclaim immigration authorities.

Two sections of the bill allow for two affirmative defenses, and one includes restorative expenses for victims. For those who violate Section 710.A(2)(B), it is an affirmative defense if "the person notifies a law enforcement agency with jurisdiction and fully cooperates with any subsequent investigation."²⁰⁴ In other words, it is a defense if a victim works with police. It is similarly an affirmative defense "to a prosecution for a criminal violation of section 152C.5B, 152C.5C, 157.4A, 157.4B, 710A.2, 710A.2A, or 710A.2B, that the violation directly resulted from the defendant's status as a victim of any human trafficking crime under chapter 710A."²⁰⁵ Put another way, the statute protects against re-victimization of victims through prosecution.

For victims of human trafficking, HF 452 allows for payment of restorative expenses, which include "education, vocational training, medical health, mental health, transportation, housing, child care, or other projected costs that will aid in a victim's recovery."²⁰⁶ The court may consider the defendant's income and expenses as well as the value of the labor or services performed by the victim when setting the amount for restorative expenses.²⁰⁷ Payment of restorative expenses may not exceed three years and the calculation of the amount does not take into account the defendant's income or nor allow the defendant to discharge the debt in bankruptcy proceedings.²⁰⁸ Unlike the TVPA, HF 452 does not allow victims to qualify for state assistance programs, and instead, HF 452 requires a conviction for a victim to receive restorative expenses from a trafficker.

²⁰¹ *E.g.*, § 152C.5B(b)(1)–(6).

²⁰² *Id.*

²⁰³ IOWA CODE § 710A.7 (2021).

²⁰⁴ *Id.* § 710A.2B(2).

²⁰⁵ *Id.* § 710A.3.

²⁰⁶ *Id.* § 710A.4(1).

²⁰⁷ *Id.* § 710A.4(2).

²⁰⁸ *Id.* § 710A.4(2)–(4).

The fiscal note for the bill added additional information on the projected impact of HF 452 on the Iowa prison system and probation system.²⁰⁹ In the bill's fiscal note, the Iowa Legislative Services Agency stated that there had been zero convictions, zero prison admissions, and zero admissions to probation for violations of Section 710A in the last five years.²¹⁰ Yet, the Iowa Legislative Services Agency projected that HF 452 “will result in an increase in convictions in regard to the new licensure requirements as well as the expanded definition for human trafficking.”²¹¹ Because the law just took effect in July 2021, there is no data yet that speaks to the accuracy of these predictions.

F. *Iowa Case Law*

Iowa has a history of anti-trafficking case law that stretches all the way back to before Iowa became a state and to the Supreme Court of the Territory of Iowa's first case, *In re Ralph*.²¹² In *Ralph*, the court held that once a formerly enslaved man, Ralph, reached Iowa, a state where “slavery and involuntary servitude, other[] than [for] the punishment of crimes . . . is forever prohibited,” his master, Montgomery, could no longer claim him as his slave.²¹³ Because Montgomery allowed Ralph to enter Iowa, a free state, Montgomery surrendered his property rights over Ralph.²¹⁴ Thus, Ralph was able to successfully petition for habeas corpus in the Iowa courts.²¹⁵ The Supreme Court of the Territory punctuated this point by stating explicitly: “no man in this territory can be reduced to slavery” and that the laws of the state “should extend equal protection to men of all colors and conditions.”²¹⁶

And yet, in the almost 200 years since *Ralph*, few human trafficking cases have reached the Iowa Supreme Court,²¹⁷ and, for the same reason that no data exists on the fiscal impact of HF 452 due to its recency, no cases for violation of the updated Iowa Code sections have reached the Iowa Supreme

²⁰⁹ Lyons, *supra* note 192, at 2.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *In re Ralph*, 1 Morris 1, 1839 WL 2764, at *3 (Sup. Ct. Terr. of Iowa, July 1, 1839); *see also Early Civil Rights Cases*, IOWA JUD. BRANCH, <https://www.iowacourts.gov/for-the-public/educational-resources-and-services/iowa-courts-history/civil-rights/> [<https://perma.cc/JTW4-4BWS>]. The monument Shattering Silence outside of the Iowa Judicial Branch Building honors this case.

²¹³ *In re Ralph*, 1839 WL 2764, at *5.

²¹⁴ *Id.*

²¹⁵ *Id.* at *6.

²¹⁶ *Id.* at *5–6 (also stating that Ralph should “be permitted to go free while he remains under the protection of our laws”).

²¹⁷ *See Iowa Supreme Court Adjudicative Term to End June 30*, IOWA JUD. BRANCH, <https://www.iowacourts.gov/newsroom/news-releases/iowa-supreme-court-adjudicative-term-to-end-june-30-2021> [<https://perma.cc/9W3J-XLZ2>].

Court yet. In the 2020-2021 adjudicative term, the Iowa Supreme Court heard 121 cases, none involving human trafficking.²¹⁸ For this reason, statutes—like Iowa Code Sections 152, 154, and 710A— not caselaw serve almost exclusively as the source of law for human trafficking offenses in Iowa. However, the Iowa Supreme Court has heard two seminal cases concerning classifying practicing massage therapy without a license, city ordinances, and classification of the crime of human trafficking itself that build upon the statutory foundation of Iowa human trafficking laws.

In *MRM, Inc. v. City of Davenport*,²¹⁹ a Davenport massage parlor brought a challenge to the city ordinance regulating “massage establishments and massage services” and requiring that licensees submit to “physical examinations, restrictions against nudity, and 750 hours of instruction from a defined ‘accredited school.’”²²⁰ The plaintiffs challenged the ordinance on equal protection, due process, and First Amendment right of privacy grounds.²²¹ The Iowa Supreme Court found all three claims without merit and the city ordinance “not vulnerable to the constitutional challenges raised by plaintiffs.”²²² The Iowa Supreme Court based this holding on its determination that rational basis review applied and that the ordinance had a rational relation to regulation of massage parlors.²²³

In *Matter of Bo Li*,²²⁴ the Iowa Supreme Court returned to the issue of massage parlors and licensure after almost forty years. In *Bo Li*, the Iowa Supreme Court addressed whether the unlicensed practice of massage therapy qualifies as a serious misdemeanor under Iowa law.²²⁵ The case involved a police raid on a Dubuque massage parlor after neighbors reported prostitution.²²⁶ The police found no evidence of prostitution, but seized cash, cell phones, and other property from the business.²²⁷ The court found that practicing massage therapy without a license is not a serious misdemeanor in Iowa and ordered that the police return the cash immediately and the cell phones and other property at the conclusion of their investigation.²²⁸ The

²¹⁸ *See id.*

²¹⁹ *MRM, Inc. v. City of Davenport*, 290 N.W.2d 338 (Iowa 1980).

²²⁰ *Id.* at 340.

²²¹ *Id.* at 340.

²²² *Id.* at 341, 347–48.

²²³ *Id.* at 342, 348.

²²⁴ *Matter of Bo Li*, 911 N.W.2d 423 (Iowa 2018).

²²⁵ *Id.* at 423.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.* at 429, 431 (stating that otherwise “a friend without a license for massage therapy who exchanges a backrub for ten dollars would be committing a serious misdemeanor punishable by a one-year jail sentence.”).

Court reached this conclusion by looking at the text of Iowa Code Section 152C and finding that it created an unambiguous exception for crimes subject to civil penalties, like massage parlor licensure.²²⁹ In both cases, the Court did not take a stance on the implied connection between massage therapy and prostitution or human trafficking, even though in both instances the police found none.

Like the Iowa Supreme Court, the Iowa Court of Appeals rarely hears cases involving human trafficking. However, it has heard three such cases in the last decade. In *State v. Lopez-Cardenas*,²³⁰ the court of appeals mentions in passing that a police officer who detained a woman in her vehicle for close to an hour did not act on a hunch of human trafficking.²³¹ *State v. Miller*²³² involved a charge of human trafficking of which the trial jury found the defendant not guilty.²³³ The jury did convict the defendant of, and the court of appeals affirmed, a charge of solicitation.²³⁴ In *State v. Russell*,²³⁵ the defendant appealed a conviction for two charges of human trafficking of one fifteen- and one sixteen-year-old girl.²³⁶ The court of appeals affirmed the conviction and denied the defendant's claim of ineffective assistance of counsel for failing to challenge jury instructions on the human trafficking charge.²³⁷ Lastly, the Iowa Court of Appeals addressed the sufficiency of evidence of a serious mental impairment requiring an involuntary commitment of a nineteen-year-old girl in *In re J.K.*²³⁸ In that case, the court of appeals heard concerns by the mother of a nineteen-year-old that her much boyfriend may be trafficking her.²³⁹ In these cases, more than the two heard by the Iowa Supreme Court, human trafficking only appears tangentially, and is not addressed directly by the court.

²²⁹ *Id.* at 428 (“The language of section 147.86 is unambiguous: a person who violates a provision of subtitle 3 is guilty of a serious misdemeanor, ‘except where a specific penalty is otherwise provided.’”) (emphasis removed).

²³⁰ *State v. Lopez-Cardenas*, 908 N.W.2d 539 (Iowa Ct. App. 2017).

²³¹ *Id.* at 545.

²³² *State v. Miller*, 824 N.W.2d 562 (Iowa Ct. App. 2012).

²³³ *Id.* at 562.

²³⁴ *Id.* at 565.

²³⁵ *State v. Russell*, 781 N.W.2d 303 (Iowa Ct. App. 2010).

²³⁶ *Id.* at 303.

²³⁷ *Id.* at 307.

²³⁸ *In re J.K.*, 885 N.W.2d 218, 218–19 (Iowa Ct. App. 2016).

²³⁹ *Id.* at 222 (holding that the state failed to satisfy the serious emotional injury requirement for involuntary commitment).

G. Federal Case Law in Iowa

Iowa's two federal districts—Northern and Southern—offer equally sparse caselaw on human trafficking offenses.²⁴⁰ This could be because state and local law enforcement are usually the first to uncover trafficking operations and are more likely to collaborate with state rather than federal prosecutors or because federal prosecutors are less likely than state prosecutors to take on smaller trafficking cases.²⁴¹ Regardless, because HF 452 and Iowa Code Sections 152, 154, and 710A do not appear in any federal caselaw in the state, this Note will not analyze the impact of the legislation and new law in the federal courts. Instead, it turns to an analysis of the potential impact on Asian American women victims of human trafficking.

III. ANALYSIS

Although an extensive framework of statutes and caselaw support HF 452 and its expansion of the legal definition of human trafficking to include control over or confiscation of government-issued identification and false presentation of massage licensure, the law does more harm than its benefits justify. Viewed through its intersection with immigration law and the perspective of trafficking victims, HF 452 does not present a way to punish traffickers more harshly, but instead forces victims to navigate a hostile immigration system, to endure increased power for manipulation by traffickers and, in some cases, ignores the wishes of the victims themselves. For these reasons, and because the law impacts the noncitizen Asian female community disparately, Iowa should repeal HF 452.

A. Immigration Relief for Trafficking Victims is Insufficient

Sometimes, when police apprehend trafficking victims, they take them directly to immigration officials.²⁴² “[I]t is very likely that officials will place a survivor of severe human trafficking into removal proceedings without question.”²⁴³ Yet, to qualify for immigration relief, victims of human trafficking must meet the five important criteria discussed in the preceding subsection, each one creating an additional hurdle.²⁴⁴ The first two requirements relate to the crime and the actions of the traffickers. First, the victim must have been subjected to a severe form of trafficking.²⁴⁵ This requirement disqualifies those who were working voluntarily as sex workers,

²⁴⁰ Johnson, *supra* note 39, at 18.

²⁴¹ Tanagho, *supra* note 26, at 918.

²⁴² *Id.* at 954.

²⁴³ Shannon E. Clancy, Comment, *Immigration and Modern Slavery: How the Laws of One Fail to Provide Justice to the Victims of the Other*, 46 U. BALT. L. REV. 335, 344 (2017).

²⁴⁴ 8 U.S.C. § 1101(a)(15)(T)(i)(I)–(IV); *Victims of Human Trafficking*, *supra* note 136.

²⁴⁵ § 1101(a)(15)(T)(i)(I).

but not involuntarily as sex trafficking victims.²⁴⁶ Second, the victims must be physically present in the United States on account of trafficking.²⁴⁷ “The T visa applicant is not present ‘on account of’ the severe human trafficking if she: [e]scaped the traffickers before law enforcement became involved with the matter.”²⁴⁸ In addition, if too much time elapses between escape and application for the T visa, the victim may likewise fail to qualify as present in the United States on account of the severe human trafficking.²⁴⁹

The third, fourth, and fifth requirements relate to the victims themselves and the steps they must take or characteristics they must have to comply with the T visa requirements. To comply with any reasonable request for assistance in the investigation and prosecution of traffickers, the third requirement for a T visa, requires “(I) identification of a person or persons who have committed severe forms of trafficking in persons; (II) location and apprehension of such persons; [or] (III) testimony at proceedings against such persons.”²⁵⁰ Any of these options means that a victim must face their trafficker again, even after they have escaped, and victims are often reluctant to do so, sometimes due to the trauma bonds formed with the trafficker, in addition to fear of return to trafficking and reluctant to expose themselves to ridicule.²⁵¹ Next, “extreme hardship involving unusual and severe harm,” the fourth requirement, sets a high bar.²⁵² United States Citizenship and Immigration Services (USCIS) looks at particular factors to determine if the extreme hardship involving unusual and severe harm requirement is met including lack of availability of medical or psychological care in the victim’s home country, lack of availability of judicial remedies in the victim’s home country, likelihood of re-traumatization or re-victimization, or the presence of civil unrest or armed conflict in the victim’s home country.²⁵³ Finally, the T visa applicant must be admissible—eligible for a visa—to the United

²⁴⁶ KIDS IN NEED OF DEFENSE, *supra* note 131, at 2–3.

²⁴⁷ § 1101(a)(15)(T)(i)(II).

²⁴⁸ KIDS IN NEED OF DEFENSE, *supra* note 131, at 5.

²⁴⁹ *Id.* (stating that victims must have been “recently liberated.”).

²⁵⁰ 22 U.S.C. § 7105(b)(1)(E)(iii) (2000).

²⁵¹ ALL. TO END SLAVERY & TRAFFICKING, *supra* note 24, at 9 (“The victimization is often complex, as some victims form trauma bonds with their traffickers who force or trap them in prostitution.”).

²⁵² 8 U.S.C. § 1101(a)(15)(T)(i)(IV); KIDS IN NEED OF DEFENSE, *supra* note 131, at 7–8 (setting the bar at a higher point than the normal extreme hardship standard).

²⁵³ § 1101(a)(15)(T)(i)(IV); KIDS IN NEED OF DEFENSE, *supra* note 131, at 7–8 (listing additional factors that USCIS may consider).

States.²⁵⁴ Continued presence—the other form of protection from removal created by the TVPA—requires that applicants meet similar requirements.²⁵⁵

Yet, even for trafficking victims who manage to meet this standard, the immigration system itself may create an insurmountable barrier. To begin with, they may not know of or have access to an attorney, or even have sufficient funds to afford one. The restorative expenses allowed for victims to recover under Section 710A.4 do not explicitly include attorney fees or court costs, although perhaps these expenses may fall under “other projected costs that will aid in a victim’s recovery.”²⁵⁶ Most trafficking victims face court without an attorney.²⁵⁷ And, “[w]ithout the help of a lawyer, victims may face deportation before they can even begin to rebuild their lives or testify against their trafficker.”²⁵⁸

For victims who manage to secure an attorney, USCIS may issue 5,000 T visas a year.²⁵⁹ Unfortunately, USCIS has historically issued only 500–600 T visas annually.²⁶⁰ Thus, up to 90% of T visas go unissued, and do not roll over from year to year.²⁶¹ Because thousands of victims are trafficked within the United States each year,²⁶² this means that thousands go without legal status to remain in the United States, and the number only grows with time. Lastly, for those trafficking victims who secure a T visa or continued presence—with or without the help of an attorney—the visa only grants them immigration status for a maximum of four years.²⁶³

B. Increased Law Enforcement Oversight is Increased Control

Traffickers use their victims’ lack of citizenship as a means of control. This means applies to nearly all victims of trafficking at illicit massage parlors because, as Polaris reiterates, “[m]ost of the women trafficked into fake massage businesses are not U.S. citizens, and many do not have legal

²⁵⁴ *Questions and Answers*, *supra* note 133; KIDS IN NEED OF DEFENSE, *supra* note 131, at 8 (listing additional factors that USCIS may consider).

²⁵⁵ CONTINUED PRESENCE, *supra* note 141 (explaining requirements and steps to obtain Continued Presence).

²⁵⁶ See IOWA CODE § 710A.4(1) (2021).

²⁵⁷ Clancy, *supra* note 243, at 344.

²⁵⁸ REBECCA HARRIS & DANIELLA GONCALVES, BERNARD KOTEEN OFF. OF PUB. INT. ADVISING AT HARVARD L. SCH., *COMBATting HUMAN TRAFFICKING: A CAREER GUIDE FOR LAWYERS AND LAW STUDENTS* 12 (2017).

²⁵⁹ 8 U.S.C. § 1101(a)(15)(T)(n)(2); See *Questions and Answers*, *supra* note 133.

²⁶⁰ Stephen Wood, *The Intersection of Human Trafficking and Immigration*, BILL OF HEALTH (June 27, 2018), <https://blog.petrieflom.law.harvard.edu/2018/06/27/the-intersection-of-human-trafficking-and-immigration> [<https://perma.cc/2W5P-RPFA>].

²⁶¹ *Id.*

²⁶² Tanagho, *supra* note 26, at 896.

²⁶³ Clancy, *supra* note 243, at 345.

status.”²⁶⁴ Traffickers use both threats and promises to coerce their victims: they threaten to report their victims to immigration authorities if they do not comply and promise to secure immigration status for their victims if they do comply for a specific period of time or after earning a certain amount of money.²⁶⁵ This use of lack of citizenship against the victims compounds with the already-present fear and distrust of law enforcement and immigration authorities that non-citizens have.²⁶⁶ This fear arises from the same vulnerabilities that made the victims more susceptible to traffickers in the first place—isolation from their support networks, communication barriers, separation from the local community, unfamiliarity with their rights in the U.S., and debt.²⁶⁷ It may also apply indirectly through threats to the trafficking victim’s family.²⁶⁸

Similarly, bringing victims of human trafficking into the legal system can perpetuate systemic harm to them.²⁶⁹ Requiring victims to testify against their traffickers to receive support services—including restorative expenses—can retraumatize victims and make them even more vulnerable to traffickers in the future, who use this re-traumatization as a means for increased control.²⁷⁰ When police do not take a client-centered approach that empowers their client to choose whether to participate in prosecution, the police exercise control over the victims as well.²⁷¹ Police can sometimes take a forceful approach as the trafficking victims are often the only witnesses to the crime, and thus prosecution of traffickers depends on the victim’s cooperation and testimony.²⁷² But “a victim-centered approach to antitrafficking policy would

²⁶⁴ *Fake Massage Businesses in the United States*, *supra* note 38, at 3.

²⁶⁵ *Id.*

²⁶⁶ *Id.*; see also *Aragon v. Che Ku*, 277 F. Supp. 3d 1055, 1069 (D. Minn. 2017) (explaining that victims of sex trafficking already have a fear of law enforcement); *A Crackdown on Immigration puts Trafficking Victims in More Danger*, HUM. RTS. FIRST (May 25, 2017), <https://www.humanrightsfirst.org/blog/crackdown-immigration-puts-trafficking-victims-more-danger> [https://perma.cc/PV43-NKCJ] (“[The United States government] should avoid immigration practices that signal to victims that they should be fearful of law enforcement.”).

²⁶⁷ *Fake Massage Businesses in the United States*, *supra* note 38, at 2 (“[F]ake massage businesses control women through many means, including psychological abuse, threats, document confiscation, isolation . . . or capitalizing on language barriers . . .”); BRITTANY ANTHONY ET AL., *supra* note 33, at 13 (“Survivors are controlled through coercion, including extreme intimidation, threats of shame, isolation from the outside community, debt bondage, exploitation of communication barriers, and explicit as well as implied threats.”).

²⁶⁸ Wood, *supra* note 260.

²⁶⁹ HARRIS & GONCALVES, *supra* note 258, at 9; see also Tanagho, *supra* note 26, at 948 (“Trafficking victims often find it challenging to cooperate with investigations and prosecutions due to trauma . . .”).

²⁷⁰ HARRIS & GONCALVES, *supra* note 258, at 10.

²⁷¹ *Id.*

²⁷² Tanagho, *supra* note 26, at 957–58.

not contain a default requirement that victims of trafficking undergo the difficulties of participating in criminal prosecution.”²⁷³

Likewise, police can confuse or conflate trafficking victims and prostitutes, overlooking affirmative defenses and protections for trafficking victims and instead bringing criminal charges.²⁷⁴ Even worse, historically, police charge traffickers with minor immigration violations while the trafficking victims receive harsher punishments.²⁷⁵ Like trauma and the threat of deportation,²⁷⁶ a criminal charge also offers a means of control for traffickers.²⁷⁷ And even for those victims who manage to secure immigration status and conviction of their traffickers, a criminal charge for prostitution or solicitation can create another barrier to escaping the cycle of trafficking, as any criminal record “impacts their ability to find gainful employment, housing, public benefits, and other support systems.”²⁷⁸

Finally, in addition to increased control, increased police oversight increases the chances for trauma and shame for trafficking victims.²⁷⁹ The population most affected by trafficking at massage parlors—non-citizen Asian women—is already a vulnerable population.²⁸⁰ Victims may feel especially ashamed and traumatized by that shame because they already face additional marginalization on the basis of their gender, race, and nationality.²⁸¹ They may also worry about feeding into stereotypes that immigrants are criminal or terrorist.²⁸² Likewise, victims who worry about recognition in the community are less likely to participate in investigations of instances of human trafficking, leaving traffickers less likely to be identified or prosecuted. Traffickers often teach their victims to mistrust and fear police and government officials,²⁸³ and that fear can carry over to other members of the community as well.

²⁷³ Chacón, *supra* note 39, at 1626–27.

²⁷⁴ HARRIS & GONCALVES, *supra* note 258, at 9–10.

²⁷⁵ Tanagho, *supra* note 26, at 954–56 (“[M]ore often than not trafficking victims are the ones who are arrested and punished, while their many perpetrators operate with impunity or receive minor penalties.”).

²⁷⁶ See ALL. TO END SLAVERY & TRAFFICKING, *supra* note 24, at 12 (the co-chair of the United States Advisory Council on Human Trafficking sharing that the threat of deportation kept him working fifteen-hour days, seven days a week, for nineteen months with no pay).

²⁷⁷ HARRIS & GONCALVES, *supra* note 258, at 10.

²⁷⁸ ALL. TO END SLAVERY & TRAFFICKING, *supra* note 24, at 13.

²⁷⁹ *Fake Massage Businesses in the United States*, *supra* note 38, at 13.

²⁸⁰ ALL. TO END SLAVERY & TRAFFICKING, *supra* note 24, at 14.

²⁸¹ *Id.*

²⁸² Chacón, *supra* note 39, at 1631.

²⁸³ Tanagho, *supra* note 26, at 949.

C. Victims of Human Trafficking may not Wish for Intervention

A lasting solution to human trafficking, including in the particular industry of massage parlors, requires participation from human trafficking victims. To date, proposed solutions, including laws, rarely include input from victims.²⁸⁴ Yet, “[s]urvivors must be understood as key stakeholders for consultations and treated as leaders in the anti-trafficking movement with valuable insights and expertise.”²⁸⁵ Similarly, for many human trafficking victims, criminal charges and restitution fall low on their priority list. Instead, they may prefer to find stable housing or to reunite their family, and “trafficking itself often fades away to the ‘least important’ issue that a client faces.”²⁸⁶ Many trafficking victims wish to reconnect with family members that their traffickers have isolated them from, including children.²⁸⁷ For those victims who manage to escape from their traffickers before law enforcement intervention, they may instead need to address their basic needs: money, documentation, food, and shelter.²⁸⁸

Finally, trafficking victims may not want the specific mechanism of law enforcement intervention as the means of escape from trafficking. One researcher stated directly: “A law enforcement centered approach is inherently not ‘victim-centered’.”²⁸⁹ Laws that provide additional power for law enforcement, such as HF 452, give law enforcement the power to direct their interactions with victims and “prioritize[] criminal justice proceedings over the needs and rights of people who have been trafficked.”²⁹⁰ In some instances, this means harassment, use of excessive force, and abuse, which only compounds the trauma, shame, and fear of victims.²⁹¹

IV. CONCLUSION

This Note, admittedly, does not offer solutions to the undue burden that HF 452 places on noncitizen victims of human trafficking in Iowa, especially Asian women. It also does not raise any constitutional challenges nor set the stage for litigation. It does not attempt to apply precedent to the circumstances in Iowa, nor does it evaluate how the law has been applied so far; because the law only took effect a few months prior to this Note’s

²⁸⁴ ALL. TO END SLAVERY & TRAFFICKING, *supra* note 24, at 9, 16.

²⁸⁵ *Id.* at 16.

²⁸⁶ HARRIS & GONCALVES, *supra* note 258, at 23.

²⁸⁷ Wood, *supra* note 260.

²⁸⁸ *About Human Trafficking*, COAL. TO ABOLISH SLAVERY & TRAFFICKING, <https://www.castla.org/human-trafficking/> [perma.cc/8FHS-GME2].

²⁸⁹ MELISSA DITMORE, THE USE OF RAIDS TO FIGHT TRAFFICKING IN PERSONS 11 (2009), <https://sexworkersproject.org/downloads/swp-2009-raids-and-trafficking-report.pdf> [https://perma.cc/AZ8K-6YV4].

²⁹⁰ *Id.* at 56.

²⁹¹ *Id.*

writing, the data required to mount any sort of challenge does not yet exist. Furthermore, any solution that addresses the immigration consequences attached to state law would need to address that issue at the federal level. For now, this Note brings awareness to the issue and makes a case for repealing the law as one way to at least zero-out its effect on this population. It does so by relying on the data that does exist and promoting a compassionate and victim-centered approach to this issue. As HF 452 applies at the state level, finally, the most effective solution may be to simply do no more harm by not bringing noncitizen victims of human trafficking to the attention of federal immigration authorities and instead to repeal this law before any further harm befalls victims. In that way, it takes a victim-centered and progressive approach that may lead to lasting change.