

## Report on Sexual Exploitation Provides Impetus for New Law in Minnesota, USA

The following is an excerpt from the report, [\*Safe Harbor: Fulfilling Minnesota's Promise to Protect Sexually Exploited Youth in Minnesota\*](#)(2013) by The Advocates for Human Rights.

In 2011, Minnesota passed the Safe Harbor for Sexually Exploited Youth Act (Safe Harbor 2011), laying the groundwork for a victim-centered response to sexually exploited children and those at risk of sexual exploitation. Safe Harbor 2011 defined prostituted children as the victims of sexual exploitation, ended reliance on delinquency proceedings as the sole systems response to meeting the needs of these crime victims, and called for the creation of a framework for implementation of the changes to the delinquency definition, which become effective on August 1, 2014.

Safe Harbor 2011 reflects a sea change in how sexually exploited youth are treated in Minnesota. In addition to identifying these children as victims, initial training efforts, followed by increasing and innovative law enforcement, are beginning to result in arrest, prosecution, and conviction of sex traffickers. The public campaign by the Women's Foundation of Minnesota, which reminds Minnesotans that "Minnesota Girls Are Not For Sale," increases the public's understanding that sex trafficking is not something that only happens in other countries, but is a crime and a human rights abuse suffered by girls (as well as boys, women, and men) in our own communities.

Safe Harbor 2011 mandated a stakeholder engagement process to envision a model for ensuring that Minnesota has an effective, systematic response to sexually exploited youth. That process has proven to be critical in propelling Minnesota's response to child sex trafficking forward, not only developing a comprehensive framework but also creating momentum for making the proposed changes a reality.

In spite of the strong protections enshrined in the law, Safe Harbor 2011 is limited. Its provisions apply only to children age 15 and under; sex trafficking victims ages 16 and 17 are not protected. Moreover, Safe Harbor 2011 does not provide the mechanisms or the funding to implement the changes to Minnesota's delinquency code when Safe Harbor goes into effect in 2014. Comprehensive supportive services and housing must be funded and implemented immediately so that they are available when Safe Harbor's changes to Minnesota's delinquency definition go into effect in 2014.

This report analyzes Safe Harbor 2011, including the Safe Harbor Working Group process and the comprehensive approach to Safe Harbor which it developed, entitled *No Wrong Door: A*

*Comprehensive Approach to Safe Harbor for Minnesota's Sexually Exploited Youth.*<sup>1</sup> In addition, this report examines Safe Harbor 2011 against international standards, federal laws, and emerging state practice related to the sexual exploitation of children to identify gaps that remain.

## **Summary Conclusions:**

### Core Principles of a Human Rights Approach to Child Sex Trafficking

- Prohibition of the prostitution of children, prosecution of traffickers and punishment with appropriate sanctions
- Protection of trafficked persons from prosecution without conditioning protection on cooperation
- Access by trafficked persons to legal counsel, witness protection, reparation, rehabilitation, and other protections.

### **HOW MINNESOTA COMPARES: PROHIBITION AGAINST SEX TRAFFICKING OF CHILDREN**

Prostitution of children in Minnesota is illegal. Minnesota law criminalizes sex trafficking, or the “receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.” Sex trafficking of a child under the age of 18 is punishable by up to 20 years in prison and a fine of up to \$50,000. Engaging in, hiring, or agreeing to hire a minor to engage in prostitution is a felony. Punishment differs depending on whether that minor is under the age of 13 years, 16 years, or 18 years, ranging from terms of imprisonment up to 20 years and fines up to \$40,000. Housing an unrelated minor engaged in prostitution is also a punishable offense.

**Minnesota meets human rights standards.**

### **HOW MINNESOTA COMPARES: CLASSIFICATION OF SEX TRAFFICKED PERSONS AS CRIME VICTIMS**

Although Minnesota's criminal code does make both the trafficking of persons under 18 and engaging in prostitution with a minor felonies, Safe Harbor 2011 fails to recognize all trafficked

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<sup>1</sup> MN Department of Public Safety, Office of Justice Programs, *No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota's Sexually Exploited Youth*, Jan. 2013.

persons under 18 as child victims. This is an inherent inconsistency. Children ages 16 and 17 still face either mandatory diversion, if qualified, or juvenile delinquency adjudication.

Changes made by Minnesota's 2011 Safe Harbor law create a diversion program, set to go into effect in 2014 for youth ages 16 and 17. The 2011 Safe Harbor diversion scheme fails to take into account, as directed by international guidelines, both sexually exploited juveniles' status as crime victims and their vulnerability to reentry into sexual exploitation. Under the 2011 Safe Harbor diversion scheme, qualifying sex trafficking victims ages 16 and 17 will be subject to mandatory diversion for their first prostitution offense but thereafter may be adjudicated delinquent. If the child fails to complete or fully comply with the diversion program, she may be referred back to juvenile court for delinquency adjudication.

Many 16- or 17-year-old victims, however, are ineligible for diversion in the first place, including victims who have prior delinquency adjudications for prostitution offenses; victims who have participated in or previously completed a diversion program for engaging in prostitution; victims who have previously been placed on probation without an adjudication or received a continuance under section 260B.198, subdivision 7, for engaging in prostitution; victims who have previously been found to be a child in need of protection or services for engaging in prostitution or have been found to be a sexually exploited youth as defined in section 260C.007, subdivision 31, clause (1), are not eligible for diversion.

**Minnesota fails to meet human rights standards.**

#### **HOW MINNESOTA COMPARES: ACCESS TO SERVICES FOR SEXUALLY EXPLOITED CHILDREN**

While Minnesota's Safe Harbor 2011 did not outline specific services for sex trafficked children, it did direct the state of Minnesota to engage stakeholders in creating a model for the law's implementation, including identifying needed services. The No Wrong Door model, which resulted from Minnesota's year-long stakeholder engagement process, identified the housing, supportive services, and staffing needed for child sex trafficking victims and those at risk of trafficking. Although the No Wrong Door model leaves many issues, such as provisions regarding confidentiality, to future implementation, it does lay the groundwork for meeting Minnesota's obligation to provide access to services for trafficked children.

**With funding for the No Wrong Door model of comprehensive services, Minnesota will meet human rights standards.**

**Update:**

Since the release of the report, [\*Safe Harbor: Fulfilling Minnesota's Promise to Protect Sexually Exploited Youth\*](#) the Minnesota Legislature passed legislation that better aligns with human rights principles and the recommendations made in The Advocates' report. The NO WRONG DOOR / Safe Harbor 2013 legislation amended the 2011 Safe Harbor Act to include all sexually exploited youth under 18, and appropriated much needed funding to build the system that will respond to sexually exploited youth in Minnesota. While we did not get the full appropriation we asked for, this landmark legislation is a significant step in protecting the human rights of sexually exploited youth in Minnesota.

To summarize, Safe Harbor 2013:

- Extends Safe Harbor provisions to ALL sexually exploited youth by removing the age distinction in Safe Harbor 2011;
- Secures funding for a statewide director of child sex trafficking prevention in the Minnesota Department of Health;
- Secures funding for six regional navigator positions to connect sexually exploited youth throughout the state with the shelter, support and services they need;
- Secures a \$700,000 training fund for law enforcement, prosecutors and others who encounter sexually exploited youth and an additional \$100,000 to compensate local law enforcement agencies for sending personnel to trainings; and
- Secures \$1 million for Safe Harbor housing and shelter.

In total, this is \$2.8 million dollars to build the system that will respond to sexually exploited youth in Minnesota.