

S. 2925 - “Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010”

Official Title: A bill to establish a grant program to benefit minor victims of sex trafficking, and for other purposes.

Overview: S. 2925 amends the Trafficking Victims Protection Reauthorization Act of 2005 by authorizing large block grants to create a comprehensive, victim-centered approach to addressing the sex trafficking of minors. The grants would be used both for law enforcement activities and for direct services to survivors in six regionally diverse locations within the United States. The grants would be awarded through an application process to locations that have a multi-disciplinary plan to combat the sex trafficking of minors. The requirements of such a plan are listed in detail below in the “Eligible Entity” section.

The bill requires improvements to the National Crime Information Center (NCIC) system. The NCIC system issued by federal, state and local law enforcement to track information about missing, exploited and runaway children. It also requires that state welfare agencies have procedures to require reporting of missing or abducted children to law enforcement for entry into NCIC.

Status: Senator Ron Wyden (D-OR) and Senator John Cornyn (R-TX) introduced the bill in December 2009.

In August, the Senate Judiciary Committee adopted the House bill, H.R. 5575, as a substitute and included amendments. The Senate passed this bill with amendments on December 9, 2010. It is co-sponsored by Franken (D-MN), Merkley (D-OR), Cantwell (D-WA), Schumer (D-NY), Durbin (D-IL) and Harkin (D-IA).

SEX TRAFFICKING BLOCK GRANTS

The U.S. Department of Justice’s Office of Justice Programs (OJP) is authorized to award six one-year block grants of \$2,000,000 to \$2,500,000 each to “eligible entities” in different regions of the United States to combat the sex trafficking of minors. At least 67% of the funds must be used for shelter and services to minor victims of sex trafficking through qualified NGOs, and at least 10% of each grant must be awarded to one or more qualified NGOs with annual revenues of less than \$750,000. At least one grant must be awarded to a state with a population of less than 5 million. Each grant may be renewed for two one-year periods. There is a graduated matching requirement wherein grantees must provide 25%, 40% and 50% of the funds in the first, second and third years, respectively.

Exclusions for Violation of Terms Any grantee that violates the grant terms through unauthorized spending will be ineligible for funds for two years. Any applicant who has violated the spending terms of any government grant program within the last five years is ineligible.

Restriction of Funds Funds awarded under this grant program must be used to combat interstate sex trafficking only.

Eligible Entity An “eligible entity” to apply for the block grants is a state or local government unit that: (1) has significant criminal activity involving the sex trafficking of minors; (2) has demonstrated cooperation between state and local law enforcement agencies, prosecutors, and social service providers in addressing sex trafficking of minors; (3) provides that, under the multidisciplinary plan, a minor victim of sex trafficking will not be required to collaborate with law enforcement in order to receive the services funded by the grant; and (4) has developed a multi-disciplinary plan to combat the sex trafficking of minors that includes:

- ✓ A shelter for minor victims of sex trafficking;
- ✓ Rehabilitative care to minor victims of sex trafficking;
- ✓ Specialized training for law enforcement officers and social service providers;
- ✓ Prevention, deterrence and prosecution of sex trafficking offenses;
- ✓ Cooperation agreements with organizations serving runaway and homeless youth; and
- ✓ Law enforcement protocols to screen all individuals arrested for prostitution for victimization through sex trafficking.

Allowed Uses of Grant Funds Grants may be used for the following purposes:

Victim Services

- ✓ Temporary or long-term shelter for minor victims of sex trafficking
- ✓ 24 hour emergency social services response to minor victims of sex trafficking
- ✓ Clothing and daily necessities for minor victims of sex trafficking
- ✓ Case management, substance abuse treatment, and mental health services for minor victims of sex trafficking
- ✓ Legal services for minor victims of sex trafficking

Law Enforcement

- ✓ Specialized training on sex trafficking
- ✓ Salaries for law enforcement officers (percentages of a salary paid for by grant funds shall be at least as high as the percentage of time dedicated to sex trafficking cases involving minors)
- ✓ Salaries for state and local prosecutors
- ✓ Investigation and trial expenses

Outreach and education programs

- ✓ Deterrence and prevention of sex trafficking of minors; and
- ✓ Treatment programs for those charged with solicitation of prostitution when treatment is an appropriate alternative to incarceration (which would not include those charged with solicitation of a minor).

Evaluation of grant funded programs. DOJ is directed to contract with an experienced academic or non-profit organization to conduct an annual evaluation of the programs' effectiveness. The Inspector General will conduct an audit of all grants in 2012 and 2013.

AUTHORIZATIONS

For fiscal years 2012 through 2014, the bill would authorize \$15 million each year to carry out the grant program. S. 2925 effectively replaces the previously inappropriate authorization in Section 204 of the Trafficking Victims Protection Reauthorization Act of 2005. This section authorized \$20 million a year to the Attorney General to bolster law enforcement efforts against domestic traffickers and commercial sex buyers; educate those charged with buying sex; and training law enforcement.

SUNSET PROVISION AND GAO REPORTING Effective 3 years after enactment of the law, section 204 of the Trafficking Victims Protection Reauthorization Act of 2005, as referenced in the section above on authorizations, will be restored to how it read before this law was enacted. The Government

Accountability Office (GAO) is required to conduct a study evaluating the impact of this legislation within 30 months after enactment.

PROVISIONS NOT RELATED TO BLOCK GRANTS

Reporting requirements The bill amends the Crime Control Act of 1990 (42 U.S.C. 5780) to require that state law enforcement agencies enter, when available, photographs into the database within 60 days of first entering a record of a missing or exploited child. Agencies are also required to notify the National Center for Missing and Exploited Children whenever a child is reported missing from a foster care family or childcare institution. An annual statistical summary is to be generated, comparing the number of reports received by the NCIC to the number of entries made to the database.

Model State Law The bill amends Section 225(b) of the Trafficking Victims Protection Reauthorization Act of 2008 to encourage the Attorney General to develop model state law language that would treat children exploited through prostitution as victims, not criminals.

Subpoena Authority. The bill amends 18 U.S.C. 3486 to give the U.S. Marshals Service power to issue administrative subpoenas while investigating unregistered sex offenders. This expanded authority will authorize marshals to issue such subpoenas without the oversight of a judge only in these limited cases.

Protective Orders The bill amends 18 U.S.C. 1514 to provide special protection for minor witnesses. The court can issue an emergency protective order to protect a child witness from harassment and intimidation as related to a federal criminal case. Anyone violating such a court order will be fined, or imprisoned for 5 years, or both.

Sentencing Guidelines The bill requires the U.S. Sentencing Commission to ensure an increase in penalties for:

1) Crimes related to the sexual abuse, sale or trafficking of children and 2) attempting to obstruct justice through the use or threat of violence against a person under 18.

Mandatory Minimums for Child Pornography Possession The bill amends 18 U.S.C. 2252(b)(2) and 2252A(b)(2) by including a mandatory minimum sentence for transporting, receiving or distributing pornography involving a child under the age of 12. Violation of these statutes requires imprisonment minimums of 1 to 3 years and not more than 20.

SENSE OF THE SENATE

This non-enforceable section of the bill encourages:

(1) the Department of Justice (DOJ) to enhance the NCIC database system, so that children under the age of 18 who are reported missing at least three times in one year are designated as endangered juveniles within the database. DOJ is encouraged to enhance the system to provide a visual cue, such as a color alert, to law enforcement encountering these victims, in order to assist them in immediately recognizing an endangered child and steering the child to appropriate care;

(2) That Byrne Grants, awarded under the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750, et seq.), be used to provide education, training, deterrence, and prevention regarding the sex trafficking of minors;

(3) States to treat minor victims of sex trafficking as victims, not criminals or juvenile offenders. This can be done by providing services to victims instead of charging them with a criminal offense

(presuming they are victims of sex trafficking), and strengthening criminal provisions that punish those who buy commercial sex from minors;

(4) states to amend statutes and regulations to open up crime victim compensation funds to victims of sex trafficking despite participation in prostitution activities; and provide exceptions to law enforcement reporting requirements regarding reporting victims of sex trafficking;

(5) That demand for commercial sex with sex trafficking victims must be deterred through consistent enforcement of criminal laws against purchasing commercial sex and states should strengthen criminal penalties for purchasing sex with minors.

Note: Terms used in this Bill. The bill consistently uses the term “minor victim of sex trafficking” which is defined as (1) someone under 18 who has been a victim of an offense in 18 U.S.C. 1591(a) or comparable state law and or (2) someone at least 18 and no older than 20 who was receiving services as a victim of sex trafficking on the day before his/her 18th birthday.