

**Remarks of  
Assistant Attorney General Daniel J. Bryant  
U.S. Department of Justice Conference on Human Trafficking  
Tampa, Florida  
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**The Model State Law on Human Trafficking and the Rule of Law**

Good afternoon.

We have heard inspiring words and stories today. That's as it should be, because we are here to be inspired and equipped to meet one of the plain evils of our time.

If government is to serve well, it must protect from enemies without and within. Accordingly, government in the United States, at all levels—federal, state, and local—must strive to protect society from those who would do us harm: From terrorists abroad to white collar criminals at home... and from those who engage in human trafficking. This mandate to do justice drives our national commitment to punish wrongdoers and to care for their victims. And it grounds our resolve to succeed in our national and international campaign against human trafficking.

Government is to be guided in its pursuit of justice by a well-developed sense of the dignity of people—more precisely, the dignity and value of each and every individual. Government—or should I say, those privileged to serve in government—must share in the profound sense of offense, even outrage, at criminal conduct that assaults the dignity of individuals.

If government's central calling is justice, informed by a recognition of individual dignity, this calling has special force in relation to the most vulnerable, the least powerful, those most susceptible to exploitation.

And even as the idea of a government doing nothing to protect the vulnerable must be rejected, so government doing too little to protect the vulnerable is unacceptable. When human dignity is under assault and there is no response, we are all diminished. Likewise, when human dignity is under assault and there is a weak and ineffective response, we are all diminished.

The United States—at every level of government and throughout civil society—is called upon to act energetically and effectively against the blight of human trafficking.

It is with this sense of the absolute imperative of government responding effectively to the horror of human trafficking that we consider today the model state law.

This model law represents a significant, practical step to foster an effective, seamless partnership among federal, state, and local efforts to combat human trafficking across the

nation. We believe that the adoption by states of the model law will help accomplish our goal in three ways.

First, the model state law will help ensure that there are no legal gaps in the nation's efforts to combat trafficking. Currently, human trafficking is predominantly a federal crime. But even though trafficking is a Congressional and Administration priority—as demonstrated by the presence at this conference of the President and the Attorney General—it is self-evident that the federal government cannot do it alone; indeed, in many respects it cannot even do the principal part. As is reflected in the discussions at this conference, state and local law enforcement are more likely than their federal counterparts to encounter victims and to unearth trafficking cases by virtue of their local expertise, greater numbers and street-level presence. Put simply, states are increasingly on the front lines in combating trafficking.

Second, the model state law will promote a more effective national legal strategy to combat human trafficking. Federal experience has shown that prior to the Trafficking Victims Protection Act, criminal statutes did not adequately address the crime that we have come to recognize as trafficking. Likewise, current state statutes might not cover the range of activities that traffickers engage in, or may require prosecutors to prove elements of an offense that may be difficult to prove in the trafficking context.

States considering adopting anti-trafficking legislation are well advised to survey their existing criminal codes to determine whether they include prohibitions on involuntary servitude, kidnapping, or false imprisonment, for example, and whether these statutes have been brought to bear against traffickers. Such a survey is an important first step toward incorporating portions of the model anti-trafficking statute into existing law, and can also result in increased use of such statutes. Bundling of appropriate statutes into a slavery or trafficking chapter, as has been done in the federal criminal code, is also a helpful way to increase local and state prosecutors' familiarity and facility with these statutes and makes it more likely that such crimes will be recognized and charged.

For example, currently trafficking-like crimes may be codified in seemingly unrelated parts of a state code such as those dealing with kidnapping or prostitution. It can be unclear that the activities actually constitute trafficking-in-persons crimes and be charged as such. Furthermore, state criminal statutes may not correspond to the fact patterns of typical trafficking situations or provide sufficient penalties for the shocking circumstances encountered in such cases. Recent experience at the federal level indicates that a uniform approach reduces confusion and, importantly, undercharging.

Additionally, the model law will facilitate uniformity both among states and between the states and the federal government, thereby promoting greater coordination and reducing confusion on the part of both victims and law enforcement. In the case of victims, for example, the model law will minimize confusion for trafficking victims in state prosecutions when they seek the victim protections available through the Departments of Health and Human Services and the Department of Homeland Security. And in the case of law enforcement, under the 2003 reauthorization of the Trafficking Victims Protection

Act, state and local law enforcement can make representations to federal immigration authorities to allow trafficking victims to qualify for immigration protection. The model state law will help to ensure that state and local officials and their federal counterparts are on the same page and speaking the same language when these representations regarding trafficking victims are made.

Third, the model state law provides an example of what we have found at the federal level to be the most effective legislative approach to deal with trafficking. The model law is based on the federal government's experience, to date, in investigating and prosecuting such cases and substantially mirrors the federal Trafficking Victims Protection Act of 2000 and its 2003 reauthorization.

Let me describe some aspects of the model state law that we think merit particular attention. The law provides definitions of key terms, such as "labor," "services," and "trafficking victim" that focus on the coercive nature of the service, rather than on the movement or the immigration status of the victim. As such, it is a victim-friendly statute as well as a valuable prosecution tool.

The model law is comprehensive, dealing, for example, with the important relationship between labor and services. "Labor" covers work that would, but for the coercion, be otherwise legitimate and legal, while "services" incorporates activities that are not legitimate forms of work, such as prostitution.

The penalties increase according to the severity of the coercion used against the victim, the length of time the victim was held in illegal servitude, and the number of victims. The highest penalties provided are in connection with the use of physical force; lower penalties are provided for threats, document confiscation, and blackmail. The law also includes a section on sexual servitude of a minor that sets a standard of coercion for cases involving minors, similar to statutory rape laws. The model law thus allows for trafficking prosecutions in cases in which minors are kept in prostitution without the apparent use of any type of coercion. The model law rightly presumes that children cannot consent to be exploited sexually and that any use of a minor in sexual servitude is inherently coercive. The model law also includes a section that provides for mandatory restitution, allowing prosecutors to recover money that the victims deserve and can then use to assist them in their recovery.

Sections in the model law reflect federal experience around the country. For example, it specifies the crime of human trafficking "for the purpose of sexually-explicit performances." Federal experience has revealed that international traffickers are increasingly placing their victims into strip clubs rather than prostitution. Unlike prostitution, which they know is illegal, sexually explicit performances may be legal, absent any coercion. Inclusion of the provision regarding sexually explicit performances in the model law rightly recognizes that such activity can have an impact on victims similar to sexual abuse.

Finally, and we hope, helpfully, the model state law includes a section that would direct state law enforcement and social services agencies to collaborate and report back to their legislatures on how to improve victim-witness laws and social services laws to assist trafficking victims. The federal approach to trafficking is predicated on a victim-centered approach. A vital part of an effective response to the horror of trafficking is to ensure that those who are victimized will be treated as crime victims, not as persons who share responsibility for their terrible circumstances. The model law includes these provisions in an effort to encourage all states to adopt their own victim-centered approach to the crime of trafficking.

Those of us throughout the federal government with responsibilities for combating human trafficking applaud the outstanding efforts of a growing number of states and localities to develop more effective approaches to combat trafficking. Texas, Washington State, Missouri, Minnesota, and Florida have passed legislation, and a variety of other states and territories are on their way to doing so.

We hope that you will give the model law a good look. Actually, we hope you will use it to strengthen your own laws. Most of all, we hope it will make our combined, integrated effort to combat trafficking in persons more effective.

So what's the big deal about effective government? Being "somewhat effective" is, after all, "good enough for government," right?

No. Emphatically, no.

The difference between effective and ineffective government is the difference between justice being done... or not. It's the difference between victims being restored... or not.

We believe this model state law will help those of us in this room who are called to lead in the pursuit of justice to be more effective in that pursuit. And that makes all the difference in the world.

We look forward to working with you in the days ahead – with increasing effectiveness – in overcoming evil with good.

Thank you.