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# Human Trafficking Legislation Across the States: The Determinants of Comprehensiveness

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# **Human Trafficking Legislation Across the States: The Determinants of Comprehensiveness**

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## **Abstract**

To date, 40 U.S. states have passed human trafficking legislation; however, the comprehensiveness and stringency of the legislation significantly varies from state to state, and there remains significant ambiguity as to why this is the case. This study examines a number of factors that may impact the comprehensiveness of human trafficking legislation at the state level, focusing on the gender makeup of the legislature, the partisan makeup of the legislature, and policy diffusion based on geographic proximity. To test these hypotheses, we develop a comprehensive data set, including a uniquely designed dependent variable measuring legislative comprehensiveness for each state. We find evidence that bi-partisanship, increased numbers of female legislators, and geographic diffusion all positively impact legislative comprehensiveness--findings that will assist activists as they continue to develop a strategic plan for passing comprehensive human trafficking legislation in all 50 states.

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## **I. Human Trafficking and Legislative Comprehensiveness**

To date, over forty states have passed some type of human trafficking legislation, which may be a critical step towards eradicating human trafficking in the United States. The important thing to recognize, however, is that this legislation takes many forms; across the states there is significant variation in the comprehensiveness of anti-trafficking legislation. Although there are multiple ways to operationalize this variation, we categorize human trafficking legislation along three lines. First, a state can pass legislation promoting *State Investment*, which includes such things as victim assistance, creation of a human trafficking task force, mandatory training for police officers, or commissioned reports. Second, legislation can include *Civil Penalties*, which pertain to issues of restitution, asset forfeiture, civil action, and affirmative defense. Third, human trafficking legislation can *Criminalize* human trafficking, delineating maximum sentences for different subgroups (e.g. minors and adults) and different types of crimes (e.g. labor versus sex trafficking). When devising legislation a state can choose to make provisions in the law for only a fraction of one of these categories, such as creating a task force, or they can embrace parts of all of each of the categories of criminalization, civil penalties, and state investment. This choice is not without consequence. The more comprehensive a state's legislation, the more likely that state will be successful in the fight against human trafficking, for no other reason than they are taking a strong stance against it. However, as consequential as legislative comprehensiveness may be, we have little to no understanding of its determinants. This paper seeks to fill this void, asking what state-level factors contribute to comprehensive human trafficking legislation.

Although there are numerous ways to conceptualize this issue, we argue that the most consequential factors are the gender makeup of the legislature, the partisan makeup of the legislature, and policy diffusion based on geographic proximity. The following three sections will delve into these factors in turn, discussing 1) the theoretical reasons we expect them to play a significant role, and 2) qualitative evidence that supports our expectations.

## **II. Theoretical Considerations**

It has been well documented that female politicians feel as if they must be surrogate representatives, legislating on behalf of women throughout the country (Carroll 2002). Consequently, there appear to be distinct differences between the policy priorities of male and

female legislators, with females more likely to introduce women's issue bills (Saint-Germain 1989; Bratton and Haynie 1999; Carroll 2001; Boles 2001; Swers 2002; Thomas and Welch 1991, 2001; Poggione 2004; Reingold 1992; Barnello and Bratton 2007). For example, female legislators are more likely to propose legislation that promotes equality, improves the status of women, supports social welfare programs, promotes children and families, or pertains to issues of health care (Gerrity, Osborn, and Mendez 2007; Saint-Germain 1989, Bratton 2002).

There are several reasons why we should expect this link between descriptive representation and substantive representation.<sup>2</sup> In particular, Mansbridge (1999) argues, "descriptive representation enhances the substantive representation of interests by improving the quality of deliberation...in contexts of uncrystallized, not fully articulated, interests" (1999: 628). Shared historical discrimination and life experiences are essential for understanding this argument. In situations where ambiguous or non-delineated policy areas are being discussed, a politician will be likely to impute her own experiences into the decision-making process. Mansbridge explains that good examples of these uncrystallized policy areas are sexual harassment and violence against women (1999: 207), and we posit that human trafficking also falls well within this category because of its nascence as a public policy issue. In these types of uncrystallized issue areas, constituents will greatly benefit from descriptive representation because the deliberation occurring between politicians in the legislature will be enhanced with gender diversity. Although increased deliberation is positive in and of itself, we also expect that in these issue areas, female legislators will be more likely to push for pro-woman policies and initiatives. As Mansbridge explains, "particularly on issues that are uncrystallized or that many legislators have not fully thought through, the personal quality of being oneself a member of an affected group gives the legislator a certain moral force in making an argument or asking for a favorable vote on an issue important to the group" (1999: 648).

Although the operationalization of 'women's-issues' has not been standardized, the underlying sentiment is that women are more likely to focus on issues that will disproportionately benefit female constituents or that typically fall within the stereotypical feminine domain. This is why

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<sup>2</sup> By substantive representation we mean that female representative *act for* their female constituents. Specifically, substantive representation pertains to policy outputs and policy priorities.

we see legislation pertaining to health care, education, family wellness, women's rights, and social welfare all fall within the overall domain of 'women's-issues.' We argue that human trafficking is another policy issue that fits aptly within this women's issue framework. First, it has implications for women's rights, health care, and families. Second, the majority of trafficking victims are women and girls for the purpose of commercial sexual exploitation, and thus, female legislators are therefore likely to feel it is their obligation to advocate on behalf of trafficking victims. Third, human trafficking is seen as a social welfare and human rights issue, so we would expect women to more likely to sponsor and/or support such legislation.

Thus far, our qualitative evidence supports the idea that women are more likely than their male counterparts to take on human trafficking legislation. One female representative recounted her story about the initial fight for human trafficking legislation in the House, saying that at first the only other person that would get behind it was "her sister." This sentiment was reiterated when we interviewed one of her a male colleagues. He explained that, "women are more sensitive to women's issues, children's issues, and social issues." Moreover, he went onto explain how gender can even trump partisan attachment, citing the fact that Republican women were more likely to get behind the legislation than Republican men. He attributed this to the fact that "Republican women have broader life experiences." This quotation directly ties back to the notion of uncrystallized interests proposed by Mansbridge, for it is the 'broader' life experiences of women that make descriptive representation advantageous for female constituents. Moreover, we found that geography did not have any discernable impact on the willingness of legislators to point out gender differences in the propensity to get involved with trafficking legislation. For example, one female legislator in Kentucky explained that as a mother and female, she feels a special responsibility to take a stance on issues that impact women and children, and a male legislator from New York described that female legislators were more passionate and more willing to support human trafficking bills. Taken as a whole, our qualitative evidence points to the importance of female legislators for comprehensive human trafficking legislation. Taking both the literature and our interviews into consideration, we generate our first hypothesis.

***Descriptive Representation Hypothesis:*** The greater percentage of women in the House and Senate, the more likely a state is to have comprehensive human trafficking legislation.

In addition to gender, we also think that partisanship plays a distinctive role in influencing what types of human trafficking legislation a state will adopt. In particular, we anticipate that Republicans and Democrats will both ‘get behind’ human trafficking legislation, but will do so for different reasons. Well-established facts throughout the Political Science literature, as well as conventional wisdom, tell us that Democrats and Republicans diverge significantly on issues of social welfare and culture, and this partisan division is only growing stronger over time (Brewer 2005; Layman, Carsey, Horowitz 2006). Specifically, Democrats are more likely to support social welfare, whereas the Republican Party has been less willing and eager to use federal money on such programs. Thus, we expect that Democrats will be more willing to support human trafficking legislation that provides service to victims and/or allocates money for state-run programs. In other words, we expect Democrats to be more supportive of state investment strategies. Another important partisan difference pertains to crime prevention and penalization, with those in the Republican Party known as “law and order conservatives,” and those in the Democrat party pinned as “soft on crime liberals” (Gibbs and Bankhead 2001). From the Willie Horton advertisement framing the Democratic Dukakis as dangerous, to the Republican driven three strikes rule in California, there has been a clear distinction drawn between how each party handles criminalization. Thus, for the case of human trafficking, we would expect that Republicans would be more likely to promote human trafficking legislation that increased the minimum and maximum penalties for traffickers. In other words, we expect Republicans to be more supportive of criminalization strategies.

Our qualitative evidence seems to support many of these propositions. Specifically, one male legislator from Texas explained that Democrats are more likely to see human trafficking as a human rights issue, whereas Republicans are more likely to see it as pertinent to crime and morality. Although it was not discussed in great detail, this distinction between morality and human rights is quite curious. For him, morality was equated with the “anti-sex” platform of the Republican Party, and human rights pertained to a willingness to provide assistance to victims of human trafficking. If this is a valid distinction, it might help explain why Republicans are focused on criminalization and Democrats on state investment. The language of one female legislator exemplifies this point: “Republicans want to enhance penalties and criminalization, and Democrats are more focused on the social justice aspects of the issue.” Interestingly, she also

explicated how Democrats are more likely than Republicans to frame human trafficking as “modern day slavery,” a distinction that points to the partisan divergence on human rights. Taken together, these interviews from Texas illustrate that Democrats and Republican may support human trafficking legislation for different reasons, but in the end they come together as a non-partisan force.

In fact, the notions of consensus and compromise repeatedly appeared in our interviews. As one Kentucky legislator explained, “networking and building consensus was the key behind the success in getting the bill passed.” And a legislator from New York declared “people that normally would be on opposite sides of the issue” came together for a “broad-based coalition.” Since both parties want human trafficking legislation, albeit for different reasons, there have to be concessions made in order to create passable bills. For example, Democrats have to be willing to accept strict criminalization if they want victim assistance, and Republicans have to accept victim assistance if they desire criminalization. As one Ohio legislator explained, “Democrats wouldn’t be as strong about throwing people in jail if they committed a crime, but this is a bipartisan issue.” These interviews point to the fact that the most comprehensive legislation may be that which is sponsored by both Republicans *and* Democrats. These considerations concerning party, policy preference, and legislative strategy lead to our third hypothesis, which is broken into three components.

***Party-Neutrality Hypothesis:*** a) The greater percentage of Democrats in the House and Senate, the more likely a state is to have state investment; b) The greater percentage of Democrats in the House and Senate, the less likely a state is to have criminalization; c) The percentage of Democrats in the House and Senate will have no impact of overall legislative comprehensiveness.

In addition to gender and party, we also think that diffusion may play a large role in determining the comprehensiveness of a state’s anti-trafficking legislation. Justice Louis Brandeis (1932) noted, near the beginning of governmental experimentation within the Great Depression, that one of the virtues of American federalism was the possibility of states serving as laboratories of democracy, trying new and innovative policies that could later be adopted elsewhere if successful. And Jack Walker (1969) purported that, whether due to experimentation and learning or due to intergovernmental competition, innovative policies and practices diffuse across states

from entrepreneurial leaders to later adopters. Scholars of policy diffusion tend to define a policy innovation as the adoption of a new policy by a government, regardless of whether or not that innovation has already been tried by others (Mintrom 1997a; Walker 1969). The spread of innovations in which current adoptions are a function of prior adoptions elsewhere is then referred to as diffusion. And diffusion is thought to occur in different policy areas through such mechanisms as competition among governments, the imitation of one another's practices, or learning about policy success (Shipan and Volden 2008). In the case of human trafficking, we expect that as one state begins to adopt and test legislation, other neighboring states will follow closely behind.

There are several reasons to expect this diffusion. First, as human trafficking increasingly becomes a 'hot' issue in the media, states do not want to appear legislatively stunted. And importantly, this pressure becomes all the more potent if neighboring states have already passed some type of legislation to combat the issue. As one legislator from Kentucky explained, human trafficking was put on the agenda because "other states were adopting at great speed, so it became necessary not to fall behind." Second, in addition to the power of competition, there is a great deal of learning taking place. This learning can take operate through a variety of mechanisms, from informal discussions between legislators to more formal conferences. For example, a legislator from Kentucky explained that she attends the National Council of State Legislators every year (NCSL), and the literature disseminated through this council made her aware of the legislation passed by other states. These conferences present "a good opportunity to talk to legislators about hot topics." Legislators can learn about what other states are prioritizing, how other states craft their legislation, and how other legislators strategize. As one legislator asserted, "Networking is important. You can talk to other states and then bring those ideas back to your state." This brings us to the third and final hypothesis.

***Policy Diffusion Hypothesis:*** The higher the proportion of neighboring states that passed human trafficking criminalization legislation, the more likely a state is to have comprehensive human trafficking legislation.



### III. Empirical Approach

#### **Dependent Variables**

This research is designed to address the broad question of what factors impact the passage of comprehensive human trafficking legislation in the states. In order to answer this broad question, it was first necessary to break down the legislation into its component parts. We created three different categories that could be included in state human trafficking legislation: State Investment, Civil Penalties, and Criminalization. State investment has four possible components, each of which became its own separate dependent variable: *Victim Assistance, Task Force, Training, and Reports*. We analyzed the human trafficking legislation in every state, and each category received a 1 if the legislation made specifications for that area. We then created a dummy variable called *State Investment Dummy*, which codes a 1 if the state made any of the four provisions above.<sup>3</sup>

The second category is civil penalties, which has four aspects. Similar to the model for state investment, each of these also became its own separate dependent variable: *Restitution, Asset Forfeiture, Civil Action, and Affirmative Defense*. Each of these variables took on a value of 1 if the law made specific provisions for it. Similar to the state investment variables, we created a *Civil Penalties Dummy*, which took on a value of 1 if the state made provisions in the law for any of the above four civil courses of action.<sup>4</sup>

The third aspect of the law was criminalization. Given the vastly different criminal codes in every state, we looked up what the minimum and maximum penalties were for the felony convictions in the law, and coded accordingly for each state. These dependent variables are *Maximum Sentence Trafficking Minor* and *Maximum Sentence Trafficking Adult*, which are the maximum number of years in prison a trafficker could receive if convicted of the felony

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<sup>3</sup> We also created a sliding scale for the state investment category that ranged from 0 if a state did not make any state investment, to 4 if a state made all the possible state investments in human trafficking. We used this sliding scale state investment variable to conduct an ordered probit model, and the results were significant, but similar enough to the logit model that we did not include it in the paper.

<sup>4</sup> We also created a sliding scale for the civil penalties category that ranged from 0 to 4. We used this variable to conduct an ordered probit model, but the results were not significant so we simply used the logit model with the dummy variable instead.

(bearing in mind that it is very rare to receive the maximum).<sup>5</sup> We also created a dummy variable, *Criminalize Dummy*, for whether or not a state criminalized human trafficking at all in a certain year. After breaking the laws into sub-components, we were able to determine the overall comprehensiveness of the legislation. In order to do this, we simply created a sliding scale variable that ranges from 0 to 3 (0=did not adopt anything, 3=adopted state investment, civil penalties, and criminalization). This variable is called *Legislative Comprehensiveness*.

### **Independent Variables**

As noted, we hypothesize that partisanship, gender, and policy diffusion will all play a significant role in determining what types of anti-trafficking legislation will be passed. In order to capture the impact of partisanship, we include the *Percentage of Democrats in the House* and *Percentage of Democrats in the Senate*. We expect that the coefficients for each of these variables will be positive in the state investment and civil penalties models, negative in the criminalization model, and neutral in the comprehensiveness model. The impact of gender is captured by our second set of independent variables, the *Percentage of Women in the House* and *Percentage of Women in the Senate*. We expect these coefficients to be positive in the state investment, civil penalties, criminalization, and comprehensiveness models. Lastly, in order to capture the impact of policy diffusion, we created a variable *Neighboring States* that codes for the proportion of neighboring states that passed human trafficking criminalization legislation. Similar to the gender variables, we expect this variable to be positive across all of the models.

### **Control Variables**

In addition to the main independent variables, it is essential to control for other state-level factors that may influence the adoption of anti-trafficking legislation. First, following the lead of Fellowes, Gray, and Lowery (2006), we recognize that the economic situation of the state may play a role in determining what types of policies they adopt. Specifically, states with stronger economies may have greater flexibility to focus on post-materialist concerns (2006:35). Thus, we control for whether a state has a *Surplus*, which is revenue minus expenditures. We expect those

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<sup>5</sup> We coded for the following sentences: Minimum Sex Trafficking Minor, Maximum Sex Trafficking Minor, Minimum Sex Trafficking Adult, Maximum Sex Trafficking Adult, Minimum Labor Trafficking Minor, Maximum Labor Trafficking Minor, Minimum Labor Trafficking Adult, Maximum Labor Trafficking Adult. For the sake of parsimony, and because many of the results were very similar, we used only models for Maximum Sex Trafficking Minor and Maximum Sex Trafficking Adult.

states with higher surpluses to focus more attention on human trafficking legislation and be willing to allocate their resources towards the issue.

Moreover, qualitative evidence gathered through our interviews points to the fact that states with high percentages of illegal immigrants may be less willing to pass anti-trafficking legislation for a variety of different reasons. First, in states like Texas, the fear among some interest group activists was that human trafficking would be likened to smuggling and that a human trafficking bill would be used as “an excuse to go after economic refugees.” A very different reason is the concern among some legislators that human trafficking legislation would be used to assist illegal immigrants. For example, a female representative from Ohio recounted a story where one member of her committee declared, “You mean you are going to use state money to protect illegal immigrants.” For these reasons, we include a control for *Illegal Immigrants per capita*.

The third control variable that we use is *Violent Crime per capita*, which we expect to be negative across all models for two reasons. First, those with lower violent crime rates might be more proactive in recognizing human trafficking within the state, and second, be able to direct more particularized time and attention to combating this problem. We also control for the *Population* in a state. For the victim assistance and criminalization models we expect this variable to be positive because these states may have more resources (bureaucratic, monetary, human) that they are able to direct towards human trafficking. However, the impact of population in the civil penalties model is rather exploratory. Lastly, we include a variable that captures whether a legislature is *Professional or Part-Time*, which is a scale ranging from one for the most professionalized legislature to five for most part-time legislature. This scale captures the amount of time legislators spend on the job, the amount they are compensated, and the size of their staff. We expect the coefficients for this variable to be negative; the more professionalized a legislature, the more time and resources they have to devote to human trafficking legislation.

All of our dependent variables in the first two tables are binary, so we used logit models to test our hypotheses. Each observation in the dataset is a state in a year, ranging from 2003 to 2008. All 50 states are included in our dataset, which means there are 300 observations total. In Table 3, Models 1 and 2 have continuous dependent variables that measure maximum prison sentences,

therefore we used OLS regression. Model 4 in Table 2 is the legislative comprehensiveness model with a sliding scale ranging from 0 to 3; thus, we ran an ordered probit model to test legislative comprehensiveness.

## **IV. Results**

### **State Investment**

Model 1 of Table 1 tests the factors most likely to contribute to states' adoption of legislation that makes provisions to use state funding to assist victims of human trafficking. The two variables that carry significant weight in predicting victim assistance are the percentage of females in the House of Representatives, and the proportion of neighboring states that adopted human trafficking legislation. In fact, when the percentage of females in the House is set at its mean of 23 percent, the predicted probability of passing human trafficking legislation that includes assistance for victims is only 2 percent, *ceteris paribus*; however, when the percentage of females in the House is increased to 43 percent (which is the highest percentage in any state—Maryland in 2005), the predicted probability of providing for victim assistance jumps to 17 percent.

The other significant variable, proportion of neighboring states to adopt human trafficking legislation, is highly significant across all models of state investment, civil penalties, and criminalization. It is instructive to take a moment to discuss the reasons why this is the case. First, this variable serves also as a proxy for the temporal aspect of the model. As the years passed from 2003 to 2008, more and more states adopted legislation, which means a larger portion of the country was covered with the legislation, and more neighboring states were covered. Thus, this variable picks up the variance across time and the notion that, as time passes, states are more likely to adopt human trafficking legislation. Second, it means that pressure to pass human trafficking legislation becomes greater as more states adopt. State legislators are generally aware what their colleagues in other states are doing. Indeed, one female state senator from Kentucky that sponsored the human trafficking legislation in that state said that she attends the National Council of State Legislators conference every year, she tries to attend the Southern conference—which she prefers because she likes to learn about what the surrounding states are prioritizing—and she specifically learned from NCSL literature that other states were moving

forward on the issue of human trafficking. This made her more determined to get a law on the books in Kentucky.

Models 2-4 show the key variables in passing legislation to create a state human trafficking task force, training programs on human trafficking, and reports on the human trafficking situation in the state, respectively. The results with respect to female legislators in the House and Senate are highly significant and extremely instructive. In Models 2 and 4, as there are more females in the both the House and Senate, there is an increased likelihood of creating a human trafficking task force and commissioned reports on human trafficking. Specifically, when the percent of women in both the House and Senate is set at their maximum [43 percent and 47 percent—e.g. Arizona 2008—respectively], the predicted probability of human task force creation is an astounding 74 percent, versus only 2 percent when set at their means. Likewise, the predicted probability of commissioned reports is 81 percent when women are set at their maximum, versus only 6 percent likelihood when set at their means. This is a very significant result and one worth dwelling on for a moment. Women legislators have been known to be more collaborative in general (Rosenthal 1998), and this characteristic is only amplified when dealing with a subject such as human trafficking, which female legislators call an “emotional” issue that “strikes at the soul.” One female representative from Ohio said it is analogous to when one of her female colleagues introduced breastfeeding legislation, at which their male colleagues “scoffed,” but which the female legislators understood to be a big problem. Likewise, she said that while most people remain skeptical that the issue of human trafficking is a problem, females are more believing. Thus, their generally collaborative style, coupled with the nature of the issues of human trafficking, makes the creation of a human trafficking task force and regular reporting on the issue significantly more likely as women comprise a larger portion of the legislature.<sup>6</sup>

Across all the models on state investment in Table 1, there are inconsistent results with respect to the direction and significance of Democrats in the House and Senate. In Models 1-5, as the percentage of Democrats increases, the likelihood of passing legislation that invests state resources into the issue of human trafficking decreases (though it is significant only for reports).

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<sup>6</sup> Model 3 shows a significant effect that the more females in the Senate, the less likely to mandate training programs in the law, and Model 1 maintains a similar effect for victim assistance, though it is not significant. It is unclear why this is the case, and it should be explored in greater detail in future work.

In contrast, as the proportion of Democrats in the House increases, the likelihood of passing legislation that makes a state investment in human trafficking increases, and significantly so for the creation of task forces, training programs, and reporting. We hypothesized that it would be positive in both chambers. Indeed, interviews across a number of states provide anecdotal evidence that suggests that Democrats were pushing more than Republicans for state investment in the issue of human trafficking. A representative from Ohio said Democrats are more “compassionate”, a senator from Kentucky said Republicans “weren’t interested,” and an assemblyman from New York said Senate Republicans made the “services” aspect of the bill a “contentious” issue. On the other hand, the multi-faceted nature of human trafficking legislative needs means there are aspects of the issue that members of both major political parties and both genders can get behind. A number of interviewees, from legislators to lobbyists on the bill, mentioned the fact that Republicans wanted to enhance penalties and criminalize, while Democrats wanted “social justice.” In other words, this is not a partisan issue, and the multi-faceted nature of the issue makes it one that is ideologically palatable to support. We believe that the mixed results with respect to partisanship in the House and Senate support his point.

### **Civil Penalties**

The civil penalties models do not yield the same significant results as the state investment models with respect to female legislators and Democrats. The coefficients are inconsistently positive and negative for the percentage of females in the House and Senate, and inconsistently significant. The results are equally inconsistent both in terms of directionality and significance level for the percentage of Democrats in the House and Senate. Although much qualitative evidence suggested that women and Democrats favor civil penalties and restitution over criminal penalties, some interviewees stated that women and Democrats have a history of being very harsh if the victim is a child. This could be the reason for the inconsistent results with respect to civil penalties.

One interesting contrast between the State Investment models and Civil Penalties models is the difference in the illegal immigrant population per capita. In the state investment models, the coefficients for this variable are negative across the board (though not always significant), while they are positive across the board for civil penalties. Why might this be the case? If it is

perceived that illegal immigrants are the victims of the crime, perhaps states would be less willing to invest their resources to assist these victims (per the quote from an Ohio legislator). Instead, the state may prefer to give these victims access to the courts to recover damages from the criminal trafficker so they are less needy of the state's resources. Given the statistical significance of the illegal immigrant population per capita for restitution and asset forfeiture, it seems this may, indeed, be the rationale for a number of states.

### **Criminalization**

While criminalization Models 1 and 2 in Table 3 do not yield very significant results, it is worth noting specifically that the models mostly show negative coefficients for the percentage of Democrats in the House and Senate. These coefficients are in the predicted direction, and indicate that, as the qualitative evidence suggests, Democrats are less likely to adopt harsh criminalization legislation. Model 3 in Table 3 is the criminalization dummy model for whether or not a state passed any criminalization legislation. Percent Democrats in the Senate is significant in the negative direction, meaning that states that criminalized human trafficking tended to have less Democrats and more Republicans in the Senate. This is not surprising given the criminal aspect of the legislation, however these results actually comport with the results from the models of State Investment and Civil Penalties in Tables 1 and 2, where Democrats in the Senate are less supportive, even when we would expect them to be more supportive. On the other hand, Democrats in the House are very supportive of all of the different types of human trafficking legislation. This indicates not only that the issue of human trafficking is bipartisan, but also that a bicameral legislature is effective in moving forward strong legislation. So far, it appears that bipartisanship, coupled with bicameralism, produces the most comprehensive human trafficking legislation.

### **Legislative Comprehensiveness**

The final model on Table 3 was the primary motivation for this research, and the results for our variables of interest are very significant. First, the legislative comprehensiveness model indicates that states with majority Republicans in the Senate adopt the most comprehensive

legislation.<sup>7</sup> On the other hand, states with majority Democrats in the House adopt the most comprehensive human trafficking legislation. Indeed, based on this model, we can conclude that human trafficking legislation has strongly benefited from both bipartisanship and bicameralism. While Democrats may have wanted state investments and civil penalties, Republicans may have wanted tough criminal penalties. Through the bargaining process within and between the two chambers, the most comprehensive legislation was passed.

Furthermore, the legislative comprehensiveness model shows that as the majority of females in both the House and the Senate increases, the most comprehensive human trafficking legislation is passed. Among the legislators interviewed, even male legislators stated that the women in their chamber seemed to care more about the issue. A male Democratic representative from Texas said that women were “more sensitive” to the issue, and that Republican females were more likely to get behind the issue than Republican men. Also, a male representative from New York said that he “definitely noticed greater passion for the issue” among his female colleagues. Finally, the neighboring states variable continues to be highly significant. This means that both the temporal and spatial aspect of the legislation is significant. As more states adopt legislation over time, other states tend to pass more comprehensive legislation. In other words, states are most likely learning from their neighbors, and late adopters are crafting more comprehensive legislation that earlier states.

## **V. Discussion**

### **Legislative Comprehensiveness**

It can be argued that any and all human trafficking legislation is a step in the right direction. That being said, it is important to recognize that there is a large variation in the comprehensiveness of anti-trafficking legislation across the states. The intent of this analysis was to better understand the state-level factors contributing to comprehensive anti-trafficking legislation.

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<sup>7</sup> All of the cut points in this ordered probit model are statistically different from zero. In addition, we calculated two other test statistics to determine if cut point 2 is statistically different from cut point 1, and if cut point 3 is statistically different from cut point 2. Indeed, the test statistic for the former was 5.35, and for the latter was 6.43. These test statistics are very significant, and show that states that adopted no trafficking legislation, and those that adopted only partial or full are all statistically different from one another, placing even greater confidence in the results of this model.



Overall, we find support for our hypotheses that gender, party, and diffusion all play a significant role in shaping the overall comprehensiveness of a state's legislation. First, we find that as the percentage of women in the House and Senate increase, the more likely a state is to have comprehensive legislation. This not only confirms our suspicions that human trafficking was framed as a 'woman's issue,' but also it lends further proof to the line of research showing that female legislators behave in a manner that is distinct from their male counterparts. As noted below, many future questions are borne out of these gender-based findings.

Second, it appears as if bi-partisanship equates with more comprehensive legislation. There are usually dramatic partisan divides based on the fact that Democrats are more concerned with social welfare issues, and Republicans with crime and order. And importantly, these issue-divides typically prevent bi-partisanship from taking place. Human trafficking, however, is a rare example where both parties have come together in support of a single cause. Since both parties want to see bills get passed, there has to be compromise and concessions; Democrats have to be willing to accept strict criminalization if they want victim assistance, and Republicans have to accept victim assistance if they desire criminalization. Taken as a whole, this bi-partisanship equates with more expansive anti-trafficking legislation.

Third, this paper finds extremely significant support for the power of diffusion. As noted previously, the substantive implications of this are that states are learning from their neighbors, and late adopters are crafting more comprehensive legislation than earlier states. This finding presents an optimistic view for the future of human trafficking legislation. As states continue to expand their legislation, across state investment, civil penalties, and criminalization, there will be an increased probability that other states will follow suite. Whether resulting from 'peer-pressure,' learning, or most probably both, the findings of this paper predict that we are likely to see a ripple effect of legislative comprehensiveness.

### **Future Direction**

Although this paper presents a concrete picture of the determinants of comprehensive human trafficking legislation, there are a myriad of questions that still remain unanswered. We will conclude by presenting two future directions for this project.

First, we are interested in the implications of human trafficking being framed as a ‘woman’s issue’. As noted earlier, there appear to be distinct differences between the policy priorities of male and female legislators, with females more likely to introduce “women’s issue” bills. On the surface, this link between descriptive representation and substantive representation is a positive thing; the more women that are elected to public office, the more legislation relevant to, and beneficial for, women will be passed. However, this assumed relationship between an increase in female legislators and an increase in substantive policy outputs for women may be detrimental in the long-term. Most importantly, we argue that labeling issues as ‘women’s issues’ exonerates male legislators and male publics from taking responsibility on these issues. In other words, the term “women’s issues,” becomes synonymous with “not men’s issues”, thus deeming men irrelevant in the equation.

That being said, men are *not* irrelevant in many issues that have been branded as “women’s issues.” As this paper made clear, female legislators are more interested in, and involved with, human trafficking legislation; there is a significant relationship between the proportion of female legislators and the comprehensiveness of human trafficking legislation. However, how has human trafficking become a ‘woman’s issue’ bill, and what are the implications of framing it in such a manner? Although women are most often seen as the victims of trafficking, and men the perpetrators, the story is just not that simple. First, there are a significant amount of boys who fall victim to trafficking. In fact, the policy entrepreneur in Texas initially became interested in the issue of trafficking after being told the story of a young male victim. And although this type of trafficking is quite common, male legislators were shocked when she recounted the story of this young man. Second, although the underlying power dynamics need to be explored in greater detail, some reports have indicated that the majority of traffickers are women (United Nations 2009). Thus, the overall gender dynamics of the trafficking issue are much more fluid than is usually assumed. Why then has this issue fallen into the domain of female legislators, and more importantly, what are the consequences of this categorization?

The second area that we will explore is the effectiveness of human trafficking legislation. Not only will we attempt to determine whether this type of legislation has a discernable effect on

human trafficking within the states, but also we will take up the question of whether the legislation is meant to be effective in the first place. Specifically, we will ask whether legislators propose human trafficking bills because they seek substantive changes, or whether they propose such bills as a symbolic act meant to appease their constituents and/or interest groups. Although we would like to assume that all legislation is meant to have a tangible impact, it may be the case that these bills are introduced solely to make a statement. In order to address this issue, we combine qualitative and quantitative data. Specifically, we will use 1) interview transcripts, 2) a survey sent out to every legislative sponsor, and 3) data on local- and state-level arrests and convictions for human trafficking.

Table 1: State Investment

	<b>Model 1</b> <b><u>Victim</u></b> <b><u>Assistance</u></b>	<b>Model 2</b> <b><u>Task Forces</u></b>	<b>Model 3</b> <b><u>Training</u></b>	<b>Model 4</b> <b><u>Reports</u></b>	<b>Model 5</b> <b><u>State</u></b> <b><u>Investment</u></b> <b><u>Dummy</u></b>
Percent Democrats in the Senate	-3.79 (2.78)	-4.14 (2.53)	-5.68 (3.96)	-5.70*** (2.26)	-2.61 (1.99)
Percent Democrats in the House	3.87 (2.93)	5.89** (2.87)	8.54** (4.32)	6.14*** (2.48)	2.39 (2.10)
Percent Females in the Senate	-5.51 (3.78)	5.31** (2.81)	-9.14* (5.14)	7.60*** (2.64)	5.47** (2.36)
Percent Females in the House	11.99** (4.87)	18.38*** (4.75)	28.10*** (8.24)	11.56*** (3.79)	11.63*** (3.32)
Surplus	.00 (.00)	.00 (.00)	.00 (.00)	.00 (.00)	.00 (.00)
Illegal Population	-34.26 (34.12)	5.89 (29.30)	-153.69*** (58.30)	-19.34 (23.83)	-26.26 (20.06)
Violent Crime	-75.81 (167.61)	-949.62*** (253.09)	-161.94 (221.77)	-560.68*** (172.57)	-426.03*** (134.20)
Population	8.33e (7.03e)	5.50e (5.26e)	2.74e** (1.14e)	1.32 (5.17)	1.00e** (134.20)
Neighboring States	4.14*** (.83)	1.96*** (.67)	5.47*** (1.39)	2.15*** (.60)	2.93*** (.56)
Professionalized Legislature	-.52 (.36)	-.52* (.32)	.15 (.47)	-.26 (.28)	-.27 (.24)
Constant	=4.43* (2.36)	-5.32*** (2.08)	-12.44*** (3.89)	-4.69*** (1.82)	-4.39*** (1.57)
<b>Log Likelihood</b>	-64.19	-72.24	-38.04	-88.90	-109.43
<b>N</b>	276	276	276	276	276

Robust standard errors in parentheses, clustered by state-year.

\*\*\* $p < 0.01$ , \*\* $p < 0.05$ , \* $p < .10$

**Table 2: Civil Penalties**

	<b><u>Model 1</u></b> <b><u>Restitution</u></b>	<b><u>Model 2</u></b> <b><u>Asset</u></b> <b><u>Forfeiture</u></b>	<b><u>Model 3</u></b> <b><u>Civil Action</u></b>	<b><u>Model 4</u></b> <b><u>Affirmative</u></b> <b><u>Defense</u></b>	<b><u>Model 5</u></b> <b><u>Civil Penalties</u></b> <b><u>Dummy</u></b>
Percent Democrats in the Senate	-2.85 (2.28)	-8.39** (4.11)	-1.64 (3.07)	-5.84 (4.83)	-5.37*** (2.07)
Percent Democrats in the House	-.19 (2.32)	13.42*** (4.62)	4.41 (3.54)	5.06 (4.26)	3.53* (2.15)
Percent Females in the Senate	8.20*** (3.22)	2.71 (6.39)	6.10 (4.23)	-24.28** (8.42)	2.27 (2.73)
Percent Females in the House	-7.27* (4.15)	-14.89** (7.40)	.62 (5.51)	15.45* (8.43)	.05 (3.4)
Surplus	.00 (.00)	.00 (.00)	-.00 (.00)	.00 (.00)	.00 (.00)
Illegal Population	46.87** (23.27)	147.12*** (48.40)	12.22 (32.53)	51.74 (68.13)	40.78** (21.36)
Violent Crime	-165.98 (149.22)	-774.58** (385.77)	-274.35 (217.96)	-69.80 (319.65)	-146.06 (133.99)
Population	-5.25e (4.92e)	-3.76 (1.66)**	1.02e (7.16e)	-9.94e (1.21e)	=3.14e (4.75e)
Neighboring States	3.04*** (.61)	2.26** (1.09)	4.01*** (1.07)	4.62*** (1.59)	3.59*** (.59)
Professionalized Legislature	-.66** (.30)	-2.10*** (.78)	-.04 (.42)	-1.20* (.68)	-.70*** (.28)
Constant	.25 (1.84)	4.08 (3.69)	-7.71*** (3.06)	-1.37 (4.64)	-.51 (1.68)
<b>Log Likelihood</b>	-84.40	-33.73	-48.60	-27.80	-99.95
<b>N</b>	276	276	276	276	276

Robust standard errors in parentheses, clustered by state-year.

\*\*\* $p < 0.01$ , \*\* $p < 0.05$ , \* $p < .10$

**Table 3: Criminalization and Comprehensiveness**

	<b>Model 1</b> <b>Max. Sentence</b> <b>Trafficking</b> <b>Minor</b>	<b>Model 2</b> <b>Max. Sentence</b> <b>Trafficking</b> <b>Adult</b>	<b>Model 3</b> <b>Criminalize</b> <b>Dummy</b>	<b>Model 4</b> <b>Legislative</b> <b>Comprehensiveness</b>
Percent Democrats in the Senate	6.7 (14.11)	-2.74 (10.64)	-3.67** (1.92)	<b>-2.05**</b> <b>(.93)</b>
Percent Democrats in the House	-10.45 (14.19)	-2.70 (10.71)	2.69 (1.97)	<b>1.70**</b> <b>(.98)</b>
Percent Females in the Senate	9.01 (19.05)	8.22 (14.34)	5.36** (2.43)	<b>2.54***</b> <b>(1.09)</b>
Percent Females in the House	20.95 (21.18)	10.91 (15.98)	3.75 (2.96)	<b>3.60***</b> <b>(1.42)</b>
Surplus	-.00** (.00)	-.00 (.00)	.00 (.00)	<b>0.00</b> <b>(.00)</b>
Illegal Population	-11.49 (143.85)	2.63 (108.55)	-.14 (18.59)	<b>-3.66</b> <b>(8.70)</b>
Violent Crime	1561.29* (833.44)	453.62 (628.96)	128.50 (109.90)	<b>-60.25</b> <b>(54.10)</b>
Population	6.89e* (3.86e)	1.95e (2.91e)	7.51e (4.74e)	<b>4.59e**</b> <b>(2.15e)</b>
Neighboring States	19.96*** (3.99)	12.64*** (3.01)	4.37*** (.54)	<b>2.27***</b> <b>(.24)</b>
Professionalized Legislature	3.05* (1.84)	.97 (1.39)	-.09 (.24)	<b>-.14</b> <b>(.11)</b>
Constant	-22.44** (11.05)	-6.38 (8.34)	-4.53*** (1.49)	
<b>Log Likelihood</b>			-119.16	
<b>Cutpoint1</b>				1.88* (.71)
<b>Cutpoint2</b>				2.52* (.71)
<b>Cutpoint3</b>				3.15* (.71)
<b>N</b>	207	207	276	276

Robust standard errors in parentheses, clustered by state-year.

\*\*\* $p < 0.01$ , \*\* $p < 0.05$ , \* $p < .10$

**Table 4: State Investment Summary**

<b>State</b>	<b>Year</b>	<b>Victim Assistance</b>	<b>Task Force</b>	<b>Training</b>	<b>Reports</b>	<b>Total</b>
Alaska	2006	No	No	No	No	0
Arizona	2005	No	No	No	No	0
Arkansas	2005	No	No	No	No	0
California	2005	Yes (2006)	Yes	No	No	2
Colorado	2005	No	Yes	No	Yes	2
Connecticut	2007	Yes	Yes	Yes	Yes	4
Delaware	2007	No	No	No	Yes	1
Florida	2007	Yes	No	No	No	1
Georgia	2007	No	No	No	No	0
Hawaii	2007	Yes	Yes	No	Yes	3
Idaho	2005	No	Yes	No	Yes	2
Illinois	2005	No	No	No	No	0
Indiana	2006	Yes	No	Yes	Yes	3
Iowa	2006	Yes	Yes	Yes	Yes	4
Kansas	2005	No	No	No	No	0
Kentucky	2007	No	No	No	No	0
Louisiana	2005	No	No	No	No	0
Maine	2006	No	Yes	No	Yes	2
Maryland	2007	No	No	No	No	0
Michigan	2006	No	No	No	No	0
Minnesota	2005	No	Yes	No	Yes	2
Mississippi	2006	No	No	No	No	0
Missouri	2004	Yes	No	No	No	1
Montana	2007	No	No	No	No	0
Nebraska	2006	No	No	No	Yes	1
Nevada	2007	No	No	No	No	0
New Hampshire	2007	No	Yes	No	Yes	2
New Jersey	2005	Yes	No	No	No	1
New Mexico	2008	Yes	Yes	No	Yes	3
New York	2007	Yes	Yes	Yes	Yes	4
North Carolina	2007	Yes	No	Yes	No	2
Oklahoma	2008	Yes	No	No	No	1
Oregon	2007	No	No	No	No	0
Pennsylvania	2006	No	No	No	No	0
Rhode Island	2007	No	No	No	No	0
South Carolina	2006	No	No	No	No	0
Tennessee	2007	No	No	No	No	0
Texas	2007	No	No	No	Yes	1
Utah	2008	No	No	No	No	0
Virginia	2007	No	Yes	No	Yes	2
Washington	2003	No	Yes	No	Yes	2
Wisconsin	2008	Yes	No	No	No	1

**Table 5: Civil Penalty Summary**

<b>State</b>	<b>Year</b>	<b>Restitution</b>	<b>Asset Forfeiture</b>	<b>Civil Action</b>	<b>Affirmative Defense</b>	<b>Total</b>
Alaska	2006	No	No	No	No	0
Arizona	2005	Yes	No	No	No	1
Arkansas	2005	No	No	No	No	0
California	2005	Yes	No	Yes	No	2
Colorado	2006	No	No	No	No	0
Connecticut	2006	No	No	Yes	No	1
Delaware	2007	Yes	No	No	No	1
Florida	2004	No	No	Yes	No	1
Georgia	2007	No	No	No	No	0
Hawaii	2007	No	No	No	No	0
Idaho	2006	Yes	No	No	No	1
Illinois	2005	Yes	Yes	No	No	2
Indiana	2006	Yes	No	No	No	1
Iowa	2006	No	No	No	Yes	1
Kansas	2005	No	No	No	No	0
Kentucky	2007	No	No	Yes	No	1
Louisiana	2005	No	No	No	No	0
Maine	2008	Yes	Yes	Yes	No	3
Maryland	2007	No	No	No	No	0
Michigan	2006	No	No	No	No	0
Minnesota	2005	No	No	No	No	0
Mississippi	2006	No	No	No	No	0
Missouri	2004	Yes	No	No	No	1
Montana	2007	No	No	No	No	0
Nebraska	2006	No	No	No	No	0
Nevada	2007	No	Yes	Yes	No	2
New Hampshire	2007	No	No	No	No	0
New Jersey	2005	Yes	Yes	No	No	2
New Mexico	2008	Yes	No	No	Yes	2
New York	2007	No	No	No	Yes	1
North Carolina	2007	No	No	No	No	0
Oklahoma	2008	Yes	No	Yes	Yes	3
Oregon	2007	Yes	No	Yes	No	2
Pennsylvania	2006	Yes	Yes	No	No	2
Rhode Island	2007	Yes	Yes	No	No	2
South Carolina	2006	No	No	No	No	0
Tennessee	2007	Yes	No	No	No	1
Texas	2003	No	No	No	No	0
Utah	2008	No	No	No	No	0
Virginia	2007	No	No	No	No	0
Washington	2003	No	No	No	No	0
Wisconsin	2008	Yes	No	Yes	Yes	3



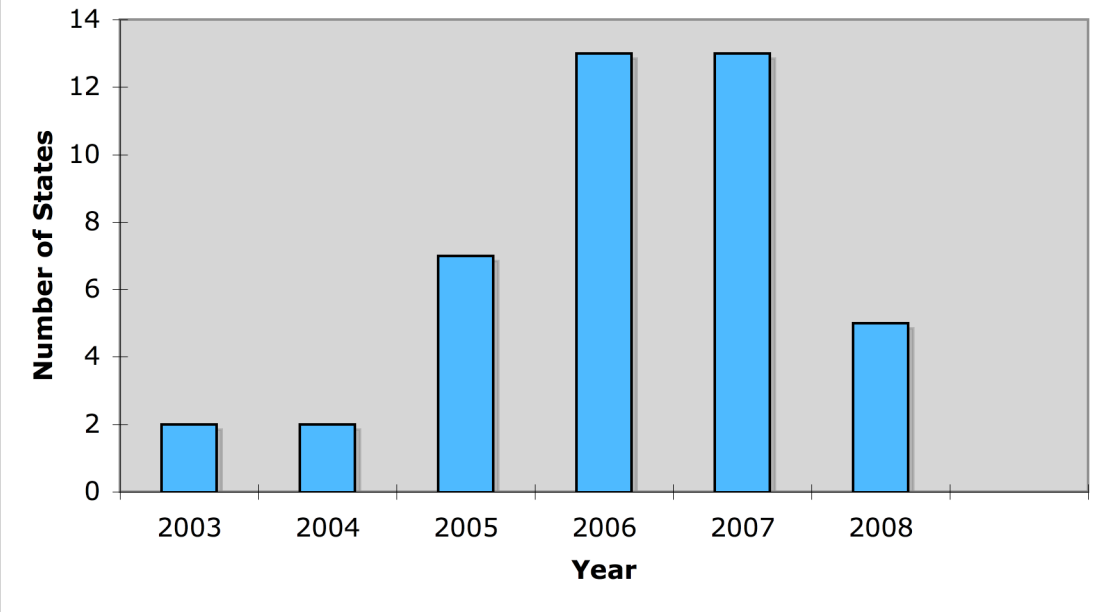
**Table 6: Criminalization Summary**

<b>State</b>	<b>Year</b>	<b>Minimum Sex</b>	<b>Maximum Sex</b>	<b>Minimum Labor</b>	<b>Maximum Labor</b>	<b>Increased for Minor</b>
Alaska	2006	1	20	1	20	No
Arizona	2005					
Arkansas	2005	5	20	5	20	No
California	2005	3	8	3	8	Yes
Colorado	2005	4	24	4	24	No (Less)
Connecticut	2007	1	20	1	20	No
Delaware	2007	1	100	1	25	Yes (Sex)
Florida	2007	0	30	0	30	Yes
Georgia	2007	1	20	1	20	Yes
Hawaii	2007	0	0	0	0	--
Idaho	2005	0	25	0	25	No
Illinois	2005	1	30	1	30	Yes
Indiana	2006	2	30	2	10	Yes
Iowa	2006	0	25	0	25	Yes
Kansas	2005	9	23	9	23	Yes
Kentucky	2007	1	20	1	20	Yes
Louisiana	2005	0	25	0	25	Yes
Maine	2006	0	0	0	0	--
Maryland	2007	0	25	0	25	Yes
Michigan	2006					
Minnesota	2005	0	20	0	15	Yes (Sex)
Mississippi	2006	0	30	0	20	Yes (Sex)
Missouri	2004	0	30	0	15	Yes (Sex)
Montana	2007	0	100	0	100	No
Nebraska	2006	0	50	0	50	Yes
Nevada	2007	0	20	0	10	No
New Hampshire	2007	0	0	0	0	--
New Jersey	2005	0	20	0	20	No
New Mexico	2008	2	100	2	100	Yes
New York	2007	15	100	0	7	No
North Carolina	2007					
Oklahoma	2008	5	100	5	100	Yes
Oregon	2007	0	10	0	10	No
Pennsylvania	2007	0	20	0	20	No
Rhode Island	2006	0	40	0	40	Yes
South Carolina	2006	0	15	0	15	No
Tennessee	2007	3	30	3	30	No
Texas	2007	2	99	2	99	Yes
Utah	2008	1	100	1	100	No
Virginia	2007	0	0	0	0	--
Washington	2003	1	14	1	14	No
Wisconsin	2008	1	40	1	25	Yes (Sex)

**Table 7: Overall Score for Human Trafficking Legislative Comprehensiveness**

<b>State</b>	<b>Civil Penalty Score</b>	<b>State Investment Score</b>	<b>Criminalization</b>	<b>Total Score</b>
Connecticut	1	4	1	6
Iowa	1	4	1	6
New Mexico	2	3	1	6
New York	1	4	1	6
New York	1	4	1	6
California	2	2	1	5
Indiana	1	3	1	5
Maine	3	2	0	5
Oklahoma	3	1	1	5
Wisconsin	3	1	1	5
Idaho	1	2	1	4
New Jersey	2	1	1	4
Colorado	0	2	1	3
Delaware	1	1	1	3
Florida	1	1	1	3
Hawaii	0	3	0	3
Illinois	2	0	1	3
Minnesota	0	2	1	3
Missouri	1	1	1	3
Nevada	2	0	1	3
North Carolina	0	2	1	3
Oregon	2	0	1	3
Pennsylvania	2	0	1	3
Rhode Island	2	0	1	3
Washington	0	2	1	3
Arizona	1	0	1	2
Kentucky	1	0	1	2
Nebraska	0	1	1	2
New Hampshire	0	2	0	2
Tennessee	1	0	1	2
Texas	0	1	1	2
Virginia	0	2	0	2
Alaska	0	0	1	1
Arkansas	0	0	1	1
Georgia	0	0	1	1
Kansas	0	0	1	1
Louisiana	0	0	1	1
Maryland	0	0	1	1
Michigan	0	0	1	1
Mississippi	0	0	1	1
Montana	0	0	1	1
South Carolina	0	0	1	1
Utah	0	0	1	1

**Number of States Adopting Human Trafficking  
Legislation from 2003-2008**



**States with no law by 2008:**

Alabama  
Massachusetts  
North Dakota  
Ohio  
South Dakota  
Vermont  
Wyoming  
West Virginia

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