

Victim assistance must be included in a government response to human trafficking. Services such as counseling, housing, educational and vocational training, medical treatment, and legal assistance are needed for survivors to recover and thrive. States should also enact statutes that provide legal protection to victims of human trafficking.

At the federal level, services for trafficking victims come primarily from two agencies: the U.S. Department of Health and Human Services and the U.S. Department of Justice, both of which support programs for domestic and foreign national survivors. However, the federal government can only do so much, and it is important for states to not only play an active role in providing services, but also coordinate how services are provided to victims.

Access to Services

Ensuring access to services must be a priority for state governments. Forty-two states have ensured access by establishing specialized assistance for human trafficking victims or by authorizing access to existing services.

Many states have created human trafficking specific victim assistance programs. These programs often include access to financial assistance, medical and psychological treatment, housing assistance, and legal services. To coordinate the efforts of different agencies in the provision of services, many states have through statute or through the work of task forces developed state wide plans for the provision of services. Some states have gone so far as to create a state human trafficking coordinator to oversee these types of programs.

To help pay for assistance programs, states have created specific human trafficking victim assistance funds. The money for these funds is derived from a number of sources, including a portion of assets seized from convicted traffickers and from private donations. The Uniform Law Commission's Uniform Act on Prevention of and Remedies for Human Trafficking (Uniform Act), which provides guidance for state legislators, provides language, if adopted by the state, would authorize the state to create a grant program to fund service providers assisting human trafficking victims.

Foreign national victims, especially those that are undocumented, may require specific authorization to access services available in the state. States have created specific protocols to provide information to foreign nationals about immigration options available as well as protocols for state law enforcement officials to certify victims of human trafficking, which is necessary when a victim applies for immigration status. The Uniform Act recommends creating a protocol for state law enforcement to provide information about immigration relief for victims of trafficking.

The ability to access a state crime victim compensation fund varies from state to state. Human trafficking should be added to the list of qualifying crimes, if the state fund is only accessible to certain types of crime victims. If the state bars access to victims that were convicted of an offense related to the one he or she is basing their compensation claim on, this barrier must be addressed because victims of human trafficking are often forced to commit offenses by a trafficker. Additionally, states must ensure that victims have access to restitution following the conviction of a trafficker.

Information about the services available in a state must be provided to victims in order to ensure access. Many states mandate that law enforcement or state victim assistance coordinators provide information about services available to human trafficking victims.

Forms of Legal Assistance

Affirmative Defense

An affirmative defense provision allows a victim of human trafficking to introduce evidence of being a victim of trafficking as a defense to certain types of crimes. Immunity would protect a victim from being prosecuted for related crimes, typically prostitution-related offenses for victims of sex trafficking. Affirmative defense and/or immunity provisions demonstrate the recognition that trafficked people should not be held criminally liable for certain types of crimes that they were forced to commit by a trafficker. The Uniform Act provides language encouraging states to enact both affirmative defense statutes and to recognize that victims of human trafficking should not be held criminally liable for non-violent offenses.

Vacating Convictions

For human trafficking victims that have been convicted of a crime, a vacating convictions provision would provide a mechanism to have those convictions removed if the crime was committed as a result of the person being trafficked. Having convictions removed from a victim's record would ensure the victim has access to the social benefits that he or she needs, while allowing him or her to move on and rebuild their life. The Uniform Act For more information about vacating convictions, including model language, see the Polaris Issue Brief on Vacating Convictions.

Caseworker Privilege

Another important form of victim assistance is ensuring that victims are protected when seeking care and treatment. To that end, many states have enacted a human trafficking caseworker privilege that protects information shared by a victim with a caseworker during the course of treatment. In states where caseworker privilege has been enacted, victims can share their experiences with a caseworker without fear that the information will be used in court proceedings.

There are many different methods of providing assistance to victims of human trafficking. It is important for a state to continue to evaluate what is needed to best assist victims and to determine how it can best meet those needs.