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CSE Institute Policy Paper
Analysis of H.R. 295 - End Banking for Human Traffickers Act of 2019

A recently reintroduced piece of legislation, H.R. 295, “End Banking for Human Traffickers Act of 2019” has been drafted to further address human trafficking in the United States. This legislation has the potential to curb sexual exploitation by using a collaborative approach to target traffickers through the monitoring of financial transactions.

I. Legislative History

The legislation was originally introduced as H.R. 2219 in April 2017 by Rep. Ed Royce (R-CA), Chairman of the House Foreign Affairs Committee, with a companion bill in the Senate, S. 952, introduced by Sen. Elizabeth Warren (D-MA).¹ The bill passed the House by a vote of 405–2 in April of 2018. When the legislation moved into the Senate for consideration, Sen. Marco Rubio (R-FL) signed on as a co-sponsor; however, despite bipartisan support, the bill was never voted on by the Senate that session and therefore died in Congress.²

¹ <https://www.govtrack.us/congress/bills/115/hr2219>

² *Id.*

In 2019, Representative Bill Keating (D-MA) and Representative Brian Fitzpatrick (R-PA) reintroduced the legislation. The 2019 version is identical to the 2017-2018 version.

The bill proposes that federal banking regulators work with law enforcement and financial institutions to combat human trafficking. In an article published by *Cape Code Today* earlier this year, Representative Bill Keating, the bill’s primary sponsor, said, “With so many complex security and law enforcement challenges in human trafficking cases, one of the most straightforward ways to find traffickers is to follow the money.... By providing financial institutions and regulators with the resources and tools to better detect and prevent human trafficking, we will be opening another avenue for law enforcement to hold perpetrators [responsible].”³

The impetus for this bill is the idea that many traffickers have abandoned a cash-only system in the pursuit of sophisticated banking; therefore, banks, money transfers, and credit cards are all used by traffickers to further advance their business and exploit their victims. Removing the trafficker’s access to a banking system could theoretically hinder their illicit activity.

II. Substantive Provisions of H.R. 295

According to legislators, this bill aims to further combat human trafficking with a focus on the financial industry⁴. Human trafficking generates billions of dollars in illegal revenue annually⁵. This legislation, if enacted, would interfere with traffickers’ access to financial funds and banking institutions. Additionally, the bill mandates collaboration between law enforcement

³ <https://www.capecodtoday.com/article/2019/01/11/244243-Keating-Fitzpatrick-Lead-Effort-Against-Human-Traffickers>

⁴ <https://www.capecodtoday.com/article/2019/01/11/244243-Keating-Fitzpatrick-Lead-Effort-Against-Human-Traffickers>

⁵ <https://www.humanrightsfirst.org/resource/human-trafficking-numbers>

and financial institutions to better identify and report suspected human traffickers so that they can be prosecuted to the fullest extent of the law.⁶

To begin, H.R. 295 proposes several additions to the Trafficking Victims Protection Act of 2000 (TVPA)⁷. First, it would amend Section 108(b), which sets the minimum standards a government must meet in the of elimination of trafficking, to include an additional factor that, if fulfilled, indicates a government’s “serious and sustained efforts to eliminate human trafficking.”⁸ These factors are analyzed in the State Department’s annual Trafficking in Persons (TIP) Report. The new factor considers whether the government is taking steps to develop a framework to prevent financial transactions with proceeds derived from human trafficking, or whether that framework is already in effect and functioning appropriately.

In the initial authorization of the TVPA, the President had a duty to establish an Interagency Task Force to Monitor and Combat Trafficking, which included carrying out activities such as “[collecting and organizing] data, including significant research and resource information on domestic and international trafficking.” H.R. 295 proposes a set of key additions to expand this task force in order to expose potential instances of money laundering. The first being an amendment to Section 105(b) of the TVPA, which will increase the role of financial industry in combating human trafficking by adding the Secretary of the Treasury to the list of top government officials on the President’s Interagency Task Force to Monitor and Combat Trafficking⁹. Historically, the Secretary of Treasury is “the principal economic advisor to the President”, playing a paramount role in analyzing policy from a fiduciary perspective¹⁰. This

⁶ <https://www.govtrack.us/congress/bills/115/hr2219>

⁷ United States of America: Victims of Trafficking and Violence Protection Act of 2000 [United States of America], Public Law 106-386 [H.R. 3244], 28 October 2000

⁸ TVPA of 2000, 22 U.S.C.

⁹ <https://www.govtrack.us/congress/bills/115/hr2219/summary>

¹⁰ <https://home.treasury.gov/about/history/prior-secretaries>

amendment would broaden the scope of the Secretary of Treasury’s responsibilities to perform activities such as “examining procedures that would improve the capabilities of anti-money laundering and enhancing training”¹¹.

H.R. 295 also proposes amending 105(d)(7) of the TVPA, which would further expand the Interagency Task Force by including the Committee on Banking, Housing, and Urban Affairs. This amendment reflects that the government understands how organized and widespread human trafficking is. The crime touches nearly every regulatory sector of the government, so an expansion of the Task Force is now necessary.

Lastly, there is a proposal to amend Section 312 of Title 31 (Anti-Money Laundering) of the United States Code. The amendment would direct the Office of Terrorism and Financial Intelligence to include in its responsibilities “combating illicit financing relating to severe forms of trafficking in persons”¹². This is important because it statutorily holds more institutions accountable in human trafficking violations.

III. Conclusion

This bill effectively broadens the responsibilities of key government officials and agencies related to the financial and banking industry, including the Secretary of the Treasury, the Office of Terrorism and Financial Intelligence, with respect to combatting human trafficking in the United States and responding to human trafficking in foreign countries. If passed, this bill would provide the government with more tools to hold human traffickers accountable and disrupt the industry.

¹¹ <https://www.congress.gov/bill/115th-congress/house-bill/2219/text?r=4>

¹²<https://www.govtrack.us/congress/bills/115/hr2219/summary>

Economically suffocating a trafficker could effectively curtail their business. Because collaboration focused on anti-money laundering policies has the potential to become a vital tool to combat commercial sexual exploitation and human trafficking, the CSE Institute supports a partnership between federal banking regulators and law enforcement. Pennsylvania Representative Brian Fitzpatrick was also quoted in *Cape Cod Today* stating that, “[the] bill would further increase collaboration between law enforcement and experts in financial crimes by adding financial intelligence and regulatory officers to the President's Interagency Task Force to Monitor and Combat Trafficking in Persons and require the Task Force to develop recommendations for Congress,”¹³ which would further develop an anti-trafficking resource .

The only critique the CSE Institute has of the bill is the lack of context in which financial institutions would foster “intelligence”. The bill has potential to be fruitful, but it is not plainly clear how the expansion of the Interagency Task Forces will operate and share trafficking related banking information. Will there be special algorithms financial institutions will utilize to track unusual banking habits that could register as ‘trafficking’? Who is to say what credit card history or banking history federal banking regulators will report to law enforcement? Clear language about how the government will “follow the money” would be preferred. However, Section 2(b) of the bill only requires that the Financial Institutions Examination Council, in consultation with the Secretary of the Treasury, victims trafficking, advocates of people at risk, the private sector, and law enforcement agencies, meet within 180 days after the enactment of the Act. They would commence to:

“review and enhance training and examinations procedures to improve the capabilities of anti-money laundering and countering the financing of terrorism programs to detect financial transactions relating to severe forms of trafficking in persons; review and enhance procedures for referring potential cases relating to severe forms of trafficking in

¹³ <https://www.capecodtoday.com/article/2019/01/11/244243-Keating-Fitzpatrick-Lead-Effort-Against-Human-Traffickers>

persons to the appropriate law enforcement agency; and determine, as appropriate, whether requirements for financial institutions are sufficient to detect and deter money laundering relating to severe forms of trafficking in persons.”¹⁴

Thus, this bill merely fosters the conference of expert intelligence to join forces in changing trafficking operations, rather than legislatively changing trafficking operations on its face. It is up to this taskforce to recognize and enhance how our government will 1) identify trafficking operations in the banking industry and then 2) renounce their access to financial funds and banking institutions This bill mirrors the philosophic values of the CSE Institute and has the potential to significantly aid in the fight against commercial sexual exploitation.

¹⁴ H.R.295 - End Banking for Human Traffickers Act of 2019. www.congress.gov/bill/116th-congress/house-bill/295/all-info