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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Public Safety, and Urban
Affairs (SC-LPSUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (July/2012)

Registrations Against

- None.

Registrations for Information Only

- None.

March 9, 2012

EXECUTIVE SESSION HELD

Present: (5) Senators Wanggaard, Grothman, Lazich, Wirch
and King.

Absent: (0) None.

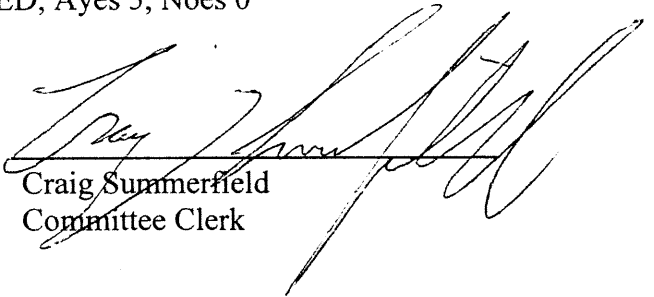
Excused: (0) None.

Moved by Senator Lazich, seconded by Senator Wirch that **Senate
Bill 536** be recommended for passage.

Ayes: (5) Senators Wanggaard, Grothman, Lazich,
Wirch and King.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 5, Noes 0



Craig Summerfield
Committee Clerk

Vote Record Committee on Labor, Public Safety, and Urban Affairs

Date: 3/9/12

Moved by: LAZICH

Seconded by: WIRCH

AB _____

SB 536

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrence

Committee Member

Senator Van Wanggaard, Chair

Aye No Absent Not Voting

Senator Glenn Grothman

Senator Mary Lazich

Senator Robert Wirch

Senator Jessica King

Totals:

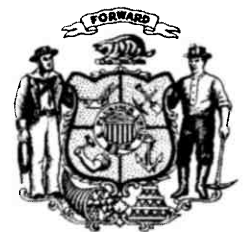
5-0 _____ _____

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE





Stephen R. Miller
Chief

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

One East Main Street, Suite 200
P. O. Box 2037
Madison, WI 53701-2037
www.legis.wisconsin.gov/lrb/

Legal Section: (608) 266-3561
Legal Fax: (608) 264-6948
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March 7, 2012

MEMORANDUM

To: Representative Amy Loudenbeck

From: Gordon M. Malaise, Senior Legislative Attorney

Subject: Termination of Parental Rights and 2011 AB 646



Under current law, the commission of certain serious felonies against one's own child is a grounds for involuntary termination of parental rights (TPR). 2011 Assembly Bill 646 expands that TPR ground to include the trafficking of any child.

You have inquired whether under the bill a conviction for child trafficking will automatically result in a TPR to the trafficker's children. Briefly, the answer is no, such a conviction will not result in an automatic TPR because: 1) under current law, a prosecutor is required to initiate a TPR proceeding only under certain circumstance, otherwise a prosecutor has the prosecutorial discretion whether or not to initiate a TPR proceeding; and 2) even if the juvenile court finds grounds to order a TPR, the juvenile court may still determine that a TPR is not in the best interests of the child and, accordingly, may dismiss the TPR petition.

Specifically, under current law, s. 48.417 (1) (d) does require a prosecutor to file a TPR petition if the parent has committed certain offenses, including child trafficking, but only if the offense resulted in great or substantial bodily harm to a child of the parent. Section 48.417 (2) then provides certain exceptions to this requirement so that even if a parent has committed child trafficking and that offense has resulted in great or substantial bodily harm to his or her own child, the prosecutor would not be required to file a TPR petition if: 1) the child is being cared for by a fit and willing relative; 2) the child's permanency plan indicates that a TPR is not in the best interests of the child; or 3) the agency has not been providing the services necessary for the safe return of the child to the home.

AB 646 does not affect s. 48.417, so even if the trafficking of any child were added to the TPR grounds, s. 48.417 still would not require the filing of a TPR petition unless the offense resulted in great or substantial bodily harm to a child of the parent and none of the mitigating circumstances specified in s. 48.417 (2) apply.

Moreover, a TPR proceeding is bifurcated into two parts: 1) the fact-finding hearing; and 2) the dispositional hearing. At the fact-finding hearing the court or jury determines whether grounds for

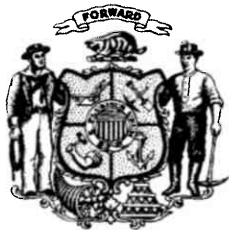
a TPR exist. If so, the court must find the parent unfit, but s. 48.427 (4) provides that a "finding of unfitness shall not preclude a dismissal of the petition under s. 48.427 (2)," which in turn provides that "the court may dismiss the petition if it finds that the evidence does not warrant the termination of parental rights." In determining whether the evidence warrants a TPR, s. 48.426 (2) provides that the best interests of the child shall be the prevailing factor and s. 48.426 (3) requires the court, in considering best interests, to consider the following factors: 1) the likelihood of the child's adoption; 2) the age and health of the child; 3) whether the child has substantial relationships with other family members and whether it would be harmful to the child to sever those relationships; 4) the wishes of the child; 5) the duration of the separation of the parent from the child; and 6) whether the child will be able to enter into a more stable and permanent family relationship as a result of the TPR.

So, under the bill, even if the court were to find that the parent has committed child trafficking and that therefore grounds for TPR exist, the court could still dismiss the TPR petition if it determines, in light of the factors specified in s. 48.426 (3), that TPR would not be in the best interests of the child.

I hope that his information is helpful to you. If you have any further questions, please do not hesitate to give me a call at 6-9738.



WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

J.B. VAN HOLLEN
ATTORNEY GENERAL

Kevin M. St. John
Deputy Attorney General

Steven P. Means
Executive Assistant

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/266-1221
TTY 1-800-947-3529

TO: Members of the Senate Labor, Public Safety, and Urban Affairs Committee

FR: Attorney General J.B. Van Hollen

DT: March 8, 2012

RE: Support for 2011 Senate Bill 536, relating to trafficking a child

Dear Senators:

Somewhere in Wisconsin is a 15 year old girl being sold for sex. The men selling this child lured her with alcohol and she stays with him constantly under fear of being battered or killed, of her family being beaten, of rejection, of arrest. Her captors control her life; she cannot escape. She is not alone. Modern day sex trafficking is not just an international problem; it is here in America, in Wisconsin, in the words of a 2008 report by the Office of Justice Assistance, hidden in plain sight.

Often, what kept these victims hidden was a misperception, held by many in the criminal justice and other communities. This child was seen not as a victim, but at best a troubled youth and often as the offender. Those selling her were pimps, not kidnappers. This was "only" prostitution, not the trafficking of human beings.

These perceptions are changing. Efforts are being made internationally, nationally, and locally, to improve our understanding of this crime and better equip government to address this problem, through the criminal justice system and elsewhere. As an example, the National Association of Attorneys General has made addressing human trafficking its signature initiative for the year. I am bringing that national initiative home, making human trafficking the main theme of my annual public safety summit.

Training law enforcement and prosecutors to recognize and respond to the crime is essential.

Having the right laws in place is also essential.

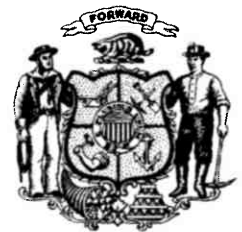
That is why I supported Wisconsin's human trafficking law when it was enacted 5 years ago and that is why I am so pleased to have worked with Representative Loudenberg and Senator Wanggaard in crafting the bill before you today.

The revisions in this bill will aid law enforcement investigating these crimes, facilitate prosecutions, and help victims. They are a good first step towards improving our ability to identify and enforce laws against human trafficking.

Thank you for the opportunity to testify in support of this important legislation.



WISCONSIN STATE LEGISLATURE



**TESTIMONY IN SUPPORT OF SB 536
PROVIDED TO THE COMMITTEE ON LABOR, PUBLIC SAFETY, AND URBAN AFFAIRS**

MARCH 8, 2012

Alicia Wilson, Policy Counsel, Shared Hope International

Thank you Chairman Wanggaard, Vice-Chair Grothman, and Committee members for considering testimony on the importance of **SB 536** in the fight against domestic minor sex trafficking in Wisconsin.

Shared Hope International is an anti-trafficking organization focused on combating the egregious crime of child sex trafficking. Shared Hope International has worked to rescue and restore girls from sexual exploitation for more than twelve years. We completed four years of research into the scope of and response to domestic minor sex trafficking which is defined as the commercial sexual abuse and exploitation through prostitution, pornography and sexual entertainment, like stripping. At least 100,000 children are exploited through prostitution every year in the United States. This number is conservative, as we now know that homeless and runaway youth shelters and group homes house many of these children without identifying them as trafficking victims.

Shared Hope designed the Protected Innocence Initiative to outline the framework of laws necessary to protect children from sex trafficking and to provide them access to justice when exploited. **SB 536** addresses several components of the Protected Innocence Initiative, making it critical to closing the safety net for the past, present and potential future young victims of sex trafficking.

- **SB 536** ensures that a court can terminate parental rights of a convicted child trafficker. Traffickers use physical and psychological tactics to maintain control over their victims. Traffickers may impregnate their victims, including minor victims, with the intent of maintaining control. Traffickers who have children with their victims might later place their own children in the sex trafficking market. Also, children of a trafficking victim are exposed to daily violence and manipulation. Opportunity for the child's freedom from the relationship with a trafficker-parent is essential for a child's protection.
- Trafficking of a child is often a hidden crime. Moreover, the effects of sex trafficking on a child are traumatic and potentially long-lasting, making it more difficult for the victim to report the crime and cooperate with law enforcement. For these reasons the statutes of limitations on criminal actions for child sex trafficking should be lengthened to ensure access to legal remedies when a survivor has recovered the strength to disclose the victimization. Wisconsin law currently permits most sexual offenses related to children and some commercial

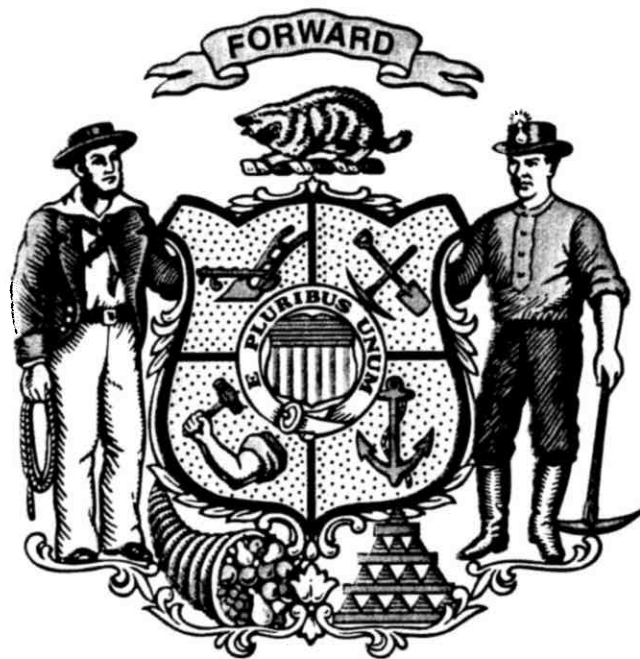


sexual exploitation of children offenses to be brought until the victim reaches 45, but trafficking of a child is not included in this list of offenses. **SB 536** rectifies this problem by adding trafficking of a child to the list of crimes that can be brought up to the time a victim reaches 45, providing adequate time for a survivor of trafficking to disclose the victimization and for law enforcement and prosecutors to discover, investigate and develop cases for successful prosecution.

- Crime victim compensation is critical to pay for the treatment and restoration of a child victim of commercial sexual exploitation. Wisconsin law currently allows child victims of trafficking to receive crime victim compensation but victims of related crimes are not specifically eligible. **SB 536** remedies this problem by adding commercial sexual exploitation of children crimes to the list of crimes for which a victim is eligible for crime victim compensation. With the frequent use of child sexual exploitation and child prostitution laws by state prosecutors in cases of child sex trafficking, the addition of these crimes to the list of those for which victims may receive crime victim compensation is critical to ensuring that victims not properly identified as victims of child trafficking may still receive compensation. This change will result in children exploited through prostitution and pornography receiving the assistance they require to break free from the exploitation.
- Law enforcement agencies need tools to successfully investigate and stop child sex trafficking and to be safe in their work. Research across the country has found that restrictions on the use of wiretapping and the admissibility of resulting evidence prevent law enforcement from utilizing this tool and hinders prosecutors from pursuing the perpetrators of child sex trafficking. **SB 536** will allow law enforcement to use wiretapping in investigations of trafficking of a child, sexual exploitation of a child, soliciting a child for prostitution, child enticement, and use of a computer to facilitate a child sex crime.
- “Rape shield” laws protect testifying victims from the trauma of cross-examination based on their prior sexual conduct and reputation. Victims of child sex trafficking who testify against their trafficker are currently afforded the protection of the “rape shield” law in Wisconsin; however, victims of related crimes, such as solicitation of prostitution are not. Trafficking is often prosecuted as a prostitution or commercial sexual exploitation of a child offense, therefore victims of each of these crimes should receive the same protections. **SB 536** amends current law to extend the protection of the rape shield law to these victims.

Honorable Chairman and Vice-Chair, Members of the committee, on behalf of the Shared Hope International and domestic minor sex trafficking survivors, thank you for the opportunity to share with you our findings on this important issue.





Date ?

**Testimony of Representative Amy Loudenberg of Senate Bill 536
Senate Committee on Labor, Public Safety, and Urban Affairs**

Good morning. Thank you Chairman Wanggaard and committee members for the opportunity to testify today in support of Senate Bill 536.

Trafficking of children is a brutal form of human trafficking and child sexual abuse. Child sex trafficking is a problem many associate with developing countries but is one that is increasingly plaguing the U.S.

Wisconsin took an important step in the fight against human trafficking with the enactment of 2007 Wisconsin Act 116. This legislation was intended to increase the prosecution of human and child traffickers, improve the protection provided to victims of trafficking, and enhance methods of prevention. Wisconsin Act 116 created two new crimes: Human Trafficking and Trafficking of a Child. Human Trafficking includes both labor exploitation and sexual exploitation. Trafficking of a Child includes sexual exploitation only.

Senate Bill 536 strengthens Wisconsin laws to more effectively combat the crime of Trafficking of a Child. Under the bill, Wisconsin laws related to child pornography and trafficking a child would be strengthened to provide additional tools for law enforcement and increased protections for victims. The bill would also increase prosecution time limits for the offense of Trafficking of a Child, and add the offense of Trafficking a Child to the crimes which may be considered for involuntary termination of parental rights.

This bill was introduced at the request of Attorney General J. B. Van Hollen who has a strong record of fighting crime and protecting those least able to protect themselves.

Senator Van Wanggaard is the Senate author of this bill. As you are likely aware, Senator Wanggaard has a law enforcement background and commitment to public safety.

There are six changes to current law under the bill. I would like to further explain three of the provisions included in the bill and my Senate colleague Senator Van Wanggaard will explain the remaining three provisions.

#1 Under current law, the parental rights of a parent to his or her child may be terminated involuntarily on various grounds, including if the person commits a serious felony against one of his or her children. Under this bill, a parent's parental rights may be terminated involuntarily if the parent commits against any child the offense of trafficking of a child. SB 536 ensures that a court can terminate parental rights of a convicted child trafficker. It is important to note that the bill would retain the two parts of the Termination of Parental proceeding under current law. This process consists of two hearings, a fact finding hearing and a dispositional hearing. Under current law, a prosecutor is *required* to initiate a TPR proceeding only under certain circumstance, otherwise a prosecutor has the prosecutorial discretion whether or not to initiate a TPR proceeding. Even if the juvenile court finds grounds to order a TPR, the juvenile court may still determine that a TPR is not in the best interests of the child and, accordingly, may dismiss the TPR petition.

#2 Under current law, the Department of Justice provides compensation to victims of certain crimes. This bill adds to the list of crimes for which the victim may be compensated the following offenses: sexual exploitation of a child, incest with a child, use of a computer to facilitate a child sex crime, soliciting a child for prostitution, and sexual intercourse with a child who is age 16 or older. Crime victim compensation is critical to pay for the treatment and restoration of a child victim of commercial sexual exploitation. Wisconsin law currently allows child victims of trafficking to receive crime victim compensation but victims of related crimes are not specifically eligible. **SB 536** remedies this problem by adding commercial sexual exploitation of children crimes to the list of crimes for which a victim is eligible for crime victim compensation.

#3 Under current law, in a criminal trial, if a person is accused of certain sex crimes, with certain exceptions the person may not introduce evidence concerning the complaining witness's prior sexual conduct or opinions of the witness's prior sexual conduct and reputation as to prior sexual conduct. This bill adds to the list of sex crimes that invoke this prohibition the following offenses: child enticement, soliciting a child for prostitution, and sexual intercourse with a child who is age 16 or older. This "Rape shield" laws protect testifying victims from traumatizing cross-examination based on their prior sexual conduct and reputation. Victims of child sex trafficking

who testify against their trafficker are currently afforded the protection of the "rape shield" law in Wisconsin; however, victims of related crimes, such as solicitation of prostitution are not. Trafficking is often prosecuted as a prostitution or commercial sexual exploitation of a child offense, therefore victims of each of these crimes should receive the same protections. SB 536 amends current law to extend the protection of the rape shield law to these victims.

My Senate colleague Senator Van Wanggaard will explain the three remaining provisions of the bill which will assist victims and law enforcement in the investigation and prosecution of Trafficking of a Child and Child Pornography crimes. Thank for the opportunity to testify today on Senate Bill 536.

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Date ?

**Testimony of Senator Van Wanggaard of Senate Bill 536
Senate Committee on Labor, Public Safety, and Urban Affairs**

Good morning Committee members. Thank you for the opportunity to testify today on this bill along with Representative Amy Loudenberg.

As a former law enforcement professional, I am pleased to speak in support this bill and encourage members of this committee to consider the important tools that this bill will provide to law enforcement during the investigation and prosecution of crimes related to Trafficking of a Child and Child Pornography.

I would like to highlight three additional tools and protections offered under the bill, which are in addition to the elements of the bill explained by Representative Loudenberg.

#1 Law enforcement agencies need tools successfully investigate and stop child sex trafficking and to be safe in their work. Research across the country has found that restrictions on the use of wiretapping and the admissibility of resulting evidence prevent law enforcement from utilizing this tool and hinders prosecutors from pursuing the perpetrators of child sex trafficking. Under current law, a chief judge may authorize or approve an interception of wire, electronic, or oral communications by investigative or law enforcement officers if the interception may provide or has provided evidence of the commission of certain offenses including homicide, felony murder, kidnapping, commercial gambling, bribery, extortion, dealing in controlled substances, or certain computer crimes, or any conspiracy to commit any of the foregoing offenses. This bill adds to the list the following offenses: sexual exploitation of a child, trafficking of a child, child enticement, use of a computer to facilitate a child sex crime, and soliciting a child for prostitution. SB 536 will allow law enforcement to use wiretapping in investigations of trafficking of a child, sexual exploitation of a child, soliciting a child for prostitution, child enticement, and use of a computer to facilitate a child sex crime.

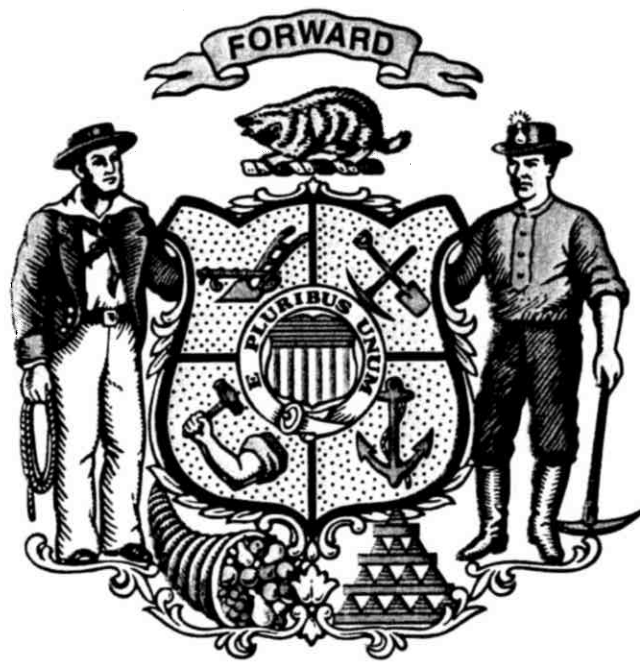
#2 Under current law, with exceptions, a prosecution for a felony must be commenced within six years of the commission of the felony. Exceptions include prosecutions for second-degree sexual assault of a child, physical abuse of a child that results in great bodily harm, sexual exploitation of a

child, incest with a child, certain child enticement offenses, use of a computer to facilitate a child sex crime, and soliciting a child for prostitution. In general, prosecution for these crimes must be commenced before the victim reaches the age of 45 years. Another exception generally requires a prosecution for trafficking of a child to be commenced before the victim reaches the age of 24. Under this bill, a prosecution for trafficking of a child must be commenced before the victim reaches the age of 45 years. This important change will provide adequate time for a survivor of trafficking to disclose the victimization and for law enforcement and prosecutors to discover, investigate and develop cases for successful prosecution.

#3 This bill also strengthens Wisconsin's current laws related to child pornography. Under current law, whoever possesses any undeveloped film, photographic negative, photograph, motion picture, videotape, or other recording of a child engaged in sexually explicit conduct is guilty of a felony. This bill adds that a person who knowingly accesses such material is guilty of a felony. This adoption of the federal formulation is preferred and has been recently adopted in several states.

Thank you for the opportunity to testify today and I encourage the committee's support for Senate Bill 536. This bill has bi-partisan support in both the Assembly and the Senate. This bill is an important step in the right direction to help protect innocent children across Wisconsin.

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Selected Excerpts of Justice System Agency Stories

SB 536
file

Source: Office of Justice Assistance February 2008 Report:

Hidden in Plain Sight-a Baseline Survey of Human Trafficking in Wisconsin
ftp://doafp04.doa.state.wi.us/doadocs/Human_Trafficking_Report_Final.pdf

Comment #1

Client #2 is a 13 year-old African-American female who must engage in sex with others to receive shelter and food. She has been sexually abused since age 6 by her father (a pimp) and her mother a prostitute who is also a drug addict.

Comment #2

Nude photos of children being exposed on the internet. Children being forced to watch pornography.

Comment #3

We provided technical assistance to a domestic violence agency in Northern Wisconsin who located a minor victim of trafficking. The trafficked individual's grandfather sold her to a farmer to satisfy a debt. She was isolated on a farm and forced to marry her captor. Finally, the police got involved and she is in a shelter.

Comment #4

Instances that may be perceived is by getting teens addicted to a substance, pregnant then use them for prostitution. The females are young enough that they become dependent upon this person emotionally, with the addiction and through the child.