OHIO PROSECUTING ATTORNEYS ASSOCIATION

196 EAST STATE STREET • SUITE 200 • COLUMBUS, OHIO 43215

TELEPHONE 614/221-1266 • FAX 614/221-0753 • WWW.OHIOPA.ORG

John E. Murphy
Executive Director

Memo To: Senate Judiciary Committee on Criminal Justice
From: John Murphy
Date: March 10, 2010
Re: SB-235; Trafficking in Persons

Human trafficking has been getting more attention in recent months. Studies indicate that the prevalence of this offense in Ohio might be greater than previously thought. As prosecutors, we are naturally concerned with the adequacy of our laws to prosecute such cases.

We have several statutes available to us. The obvious ones are kidnapping, abduction, and compelling prostitution. If we can show multiple offenses tied together so as to constitute a criminal enterprise, we could also prosecute under the corrupt activity statute, which is a potent weapon. In fact, the main reason for our opposition to past bills proposing new human trafficking offenses was that those bills proposed new offenses that overlapped or duplicated existing law, and the proposed new offenses were invariably, in our opinion, inferior to existing law. On the whole, we believe that our current statutes are adequate for most cases and are in fact far superior to many of the proposals that we have seen.

In the last few months we have had several discussions with the proponents of human trafficking legislation, and I think we have made progress in arriving at some proposals to address the issue without radical departure from current law. We have agreed, however, to support the creation of one new offense, that being the offense of trafficking in persons, which is now SB-235. We think the bill does fill a niche in current law having to do with those who are the recruiters of victims into the sex trade or into situations involving involuntary servitude. If we had a case involving those facts today, we could possibly mount a prosecution based on conspiracy, or aiding and abetting, or complicity in the commission of the offenses of kidnapping, abduction, or compelling prostitution, but it could be a difficult prosecution, depending of course on the facts. This new offense addresses the recruiters and enablers directly, without the necessity of proving an agreement, or that the other offenses were actually completed. We would only need to prove that these offenders acted knowingly, and with knowledge that the victims were likely to be subjected to involuntary servitude or compelled to engage in the sex trade.

This offense will be an additional weapon in the battle against human trafficking. We urge the committee to support the enactment of SB-235.

S235mmo