Mark Obenshain Announces Measures to Combat Human Trafficking in Virginia
~ News Release and Media Packet ~

In This Media Packet:

- News Release / Issue Overview
- Scope of the Problem
- Detailed Outline of Obenshain Plan

Issue Overview

Today, Senator Mark Obenshain (R-Harrisonburg), the Republican nominee for Attorney General, unveiled the second part of his “Safe Communities Agenda,” announcing his plan to combat human trafficking and secure justice for victims of trafficking on a call with Rep. Frank Wolf, a congressional leader in the fight against modern-day slavery.

Said Obenshain, “Human trafficking is the world’s fastest-growing criminal enterprise, stealing children and forcing them into a life of slavery and prostitution. As Attorney General, I will fight to keep our children safe and crack down on those involved in this heinous trade in human life. I will work to equip investigators and prosecutors with new tools to identify and prosecute traffickers, and to provide justice and a chance at a new life for victims of this terrible crime.”

Obenshain’s plan includes:

- Making human trafficking a stand-alone felony offense, ensuring that prosecutors have the means to bring traffickers to justice;
- Adding those engaging in commercial sex with a minor to the sex offender registry, one of the most effective means of deterring prostitution with a minor;
- Extending asset forfeiture laws to human trafficking, with proceeds deposited in a set-aside fund to cover investigative costs and compensate victims;
- Ensuring victim compensation and creating a civil cause of action for victims; and
- Establishing a Human Trafficking Task Force to assist prosecutors, collect and publish trafficking data, produce educational materials, and review policy.

(Full details of Obenshain’s plan follow.)

Bedford County Sheriff Mike Brown, an innovator in combating crimes against children over the Internet and human trafficking, said of Obenshain’s plan, “As a Sheriff who has been in the arena of child sexual exploitation and human trafficking cases for many years, I know how challenging it can be to rescue victims and bring offenders to justice—challenging, but also deeply rewarding. We are battling against modern-day slavery, and the legal reforms and new prosecutorial tools Mark Obenshain has proposed will help us rescue and get justice for more women and children. Mark Obenshain’s proposals will help us crack down on the exploitation of children, traffickers, deter child prostitution, and connect victims with the resources they so desperately need.”

Sheriff Brown, a retired federal agent, the real-life inspiration for the anti-trafficking film “Finding Faith” starring Erik Estrada, is a member of the Board of Directors for the National Sheriffs’ Association’s, the National White Collar Crime Center and the Law Enforcement Innovation Center, University of Tennessee.

Sara Pomeroy, founder of the Richmond Justice Initiative, added, “The fight to end human trafficking in America is not a fight that will end anytime soon. We need a comprehensive effort from everyone, including those who can ensure laws are in place that secure safety for victims of trafficking and proper prosecution of perpetrators. I applaud Senator Obenshain for joining in on the fight by ensuring that human trafficking will remain a priority until Virginia is a national leader in the fight against modern day slavery.”
Earlier this year, Obenshain partnered with Del. David Bulova (D-Fairfax) to introduce legislation requiring posters advertising the Human Trafficking Hotline number to be posted at truck stops, an effort championed by Virginia’s Justice Institutes.

Congressman Wolf, who participated on the press call with Senator Obenshain, added, “The tragic reality is that slavery still exists in this country in the form of human trafficking. The evidence abounds and we can no longer say we did not know; the only question is what we will do about it. Combating human trafficking is one of my top priorities, and I know that it’s something that Mark Obenshain cares about deeply as well. I commend his initiative in making this a priority in our own state and am heartened by Mark’s efforts to protect the most vulnerable in our midst.”

Said Obenshain, “Human trafficking is the second-largest criminal industry in the world and it’s still growing. We have to take a stand, and these policies will help us do so. As Attorney General, I will work to position Virginia at the forefront of the fight against human trafficking.”

Obenshain concluded, “Human trafficking is the next front in the fight against child predators, with the average age of those entering prostitution being thirteen. And many are much younger. Human trafficking is a global calamity, but here in Virginia, we are going to do every thing in our power to end this terror and offer victims a chance at a new and better life.”

Scope of the Problem

- Human trafficking is a $32 billion / year global industry, the second-largest and fastest-growing criminal industry in the world
- According to the Polaris Project, traffickers can earn up to $632,000 per year by selling four young women or children
- Internationally, tens of millions of people—mostly children—are enslaved
- As many as 100,000 children are trafficked in the United States
- Roughly 15,000 foreign nationals are trafficked into the United States each year
- Hundreds of thousands of children are at risk of trafficking in the United States at any given time
- The average age of entry into prostitution is 13
- Globally, for every 800 people trafficked, only one person is convicted
- Last year, 465 calls were placed from Virginia to the Human Trafficking Hotline, pertaining to 91 potential trafficking situations and 60 potential victims
- This is a real issue in Virginia, with some noted successes in interdiction, including Henrico County’s “Operation Innkeeper” (working with hotels and their employees to identify and respond to trafficking), a Fairfax police bust of a prostitution ring involving at least 10 underage girls—but by all accounts, these efforts barely scratch the surface
- Recent coverage of human trafficking in Virginia—
  - Loudoun Times on Sex Trafficking in Northern Virginia
  - FBI Release on Trafficking of Seven Girls in Herndon, Elsewhere
  - DOJ on Sentencing of Gang Leader Running Trafficking Ring in Lorton
  - ABC News on Ten Trafficked Girls Rescued in Lorton Crackdown
  - Washington Times on Virginia Trafficking Run by MS-13 Gang
  - Washingtonian Magazine Feature Article
  - Virginian-Pilot on Couple’s Efforts to Help Trafficking Victims

Detailed Outline of Obenshain Plan

Make Human Trafficking a Stand-Alone Offense

- Currently, sex trafficking is prosecuted under abduction for immoral purposes or taking indecent liberties, neither of which is comprehensive
- Taking indecent liberties—which includes receiving money for a child to perform in sexually explicit material—is a misdemeanor offense, and the abduction law requires proof of force, intimidation, or deception even when the victim is under the age of 18
• Misdemeanors carry a one year statute of limitations, restricting the prosecution of older trafficking cases that would currently fall under indecent liberties
• The penalty for human trafficking should be as strong as or stronger than the penalty for abduction for immoral purposes
• Absent a human trafficking statute, business liability is extremely limited even when the business (e.g., a hotel) is knowingly engaging in conduct that constitutes human trafficking
• Uncertainty as to how to proceed without an anti-trafficking statute actually led to a van holding 16 victims of labor trafficking being allowed to proceed after a police stop (Luis Sifuentes-Botello case)
  
  • Proposal: Make human trafficking a felony in its own right; eliminate the requirement to prove force, intimidation, or deception when the victim is a minor; and include forcing a child to perform in sexually explicit material in the definition of trafficking

List Those Having Commercial Sex with a Minor to Sex Offender Registry

• Currently, since human trafficking is not a crime in its own right and those paying for sexual services are not complicit in the abduction itself, their actions can only be prosecuted as prostitution
• Prostitution with a minor is now a felony under a new 2013 law, but does not entail listing the offender on the Sex Offender Registry—one of the most powerful deterrents available
• A second or subsequent offense of possession of child pornography lands an offender on the sex offender registry, but prostitution with a minor—even after multiple convictions—does not
  
  • Proposal: Add those convicted of a felony charge of engaging in prostitution with a minor to the Sex Offender Registry

Seek Additional State Prosecutorial Authority

• Under the Communications Decency Act, state and local governments do not possess concurrent authority to investigate and prosecute the promotion of prostitution online
  
  • Proposal: Work with Virginia’s congressional delegation to seek jurisdiction for state public safety officials to investigate and prosecute businesses and individuals advertising and promoting internet facilitated child sex trafficking

Provide for Asset Forfeiture

• Virginia’s asset forfeiture laws are only incidentally and thus intermittently applicable to human trafficking
• Facilitators are subject to vehicle forfeiture for prostitution-related offenses and mandatory asset forfeiture for child pornography, but not for convictions of assisting abduction and other related offenses
  
  • Proposal: Provide for the mandatory forfeiture of any profits or proceeds, and any interest or property, that the sentencing court determines to have been acquired or maintained as a result of human trafficking, to be deposited into a set-aside fund for investigative cost reimbursement and victim compensation

Ensure Victim Compensation and Restitution

• Victims of child sex trafficking are eligible for crime victims’ compensation, but may be rendered ineligible if they did not adequately cooperate with law enforcement or if time requirements are not met
• In many cases, these are frightened children who are afraid to cooperate with law enforcement, and they should be seen as victims of abuse, not participants in a crime—even if they prove initially uncooperative
• There are currently no provisions for direct restitution to victims
• Proposal: Relax disqualifying provisions for juvenile victims of sex trafficking and provide for restitution to cover costs of medical and psychological treatment, housing services, and a reversion of income the defendant received by trafficking the victim

Create a Civil Cause of Action for Trafficking Victims

• Civil actions are possible for victims of a variety of criminal offenses, but not for trafficking victims
• Proposal: Allow victims to bring civil action for actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief

Establish a Human Trafficking Task Force

• Human trafficking is a complex and growing criminal issue on which we collect and report inadequate data
• Prosecutors must be supported and assisted, where needed, by the resources of the Attorney General’s office
• Cooperation among partners—law enforcement, NGOs, industry partners—is essential to tackling the problem
• Proposal: Utilizing the existing resources of the office, create a task force within the OAG to consider all aspects of human trafficking—sex and labor trafficking alike, which would help produce and promote educational and training materials, support law enforcement efforts, develop policies for cooperation with NGOs and establish a coalition of partners in the effort to combat trafficking, institute public awareness initiatives, oversee research and compile statistics on human trafficking in Virginia, and review existing laws and practices

Enhance Training and Awareness

• Prosecutors and law enforcement officers already receive training on human trafficking, and industry groups for hoteliers, truck stops, and the like also provide some educational materials
• Victims are often unaware of their legal rights
• Proposal: Provide enhanced training and educational materials covering things like interview techniques, prosecutorial methods, collaboration with NGOs, and promoting victim safety, along with advanced training options; and ensure that victims are provided with information regarding their legal rights, the progress of court proceedings, and a directory of local victim service organizations