Survey of United States Diversion Programs

Sex Work and Sex Trafficking
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INTRODUCTION

About the Amara Legal Center
The Amara Legal Center ("Amara") provides free legal services to anyone located in DC, Maryland, or Northern Virginia who was harmed while involved in commercial sex. Most of Amara’s clients are victims of sex trafficking, but Amara provides these services regardless of whether someone was engaged in sexual exchange due to choice, circumstance or coercion. Since 2013, Amara has served over 390 clients. Although many believe that sex trafficking only occurs overseas or among foreign nationals, the vast majority of Amara’s clients are U.S. citizens who were born and raised in the DC metro area. Amara serves both juveniles and adults.

Amara provides brief legal advice, partial representation, and full representation for civil legal issues such as civil protection orders, divorce, child custody and support, name changes, living wills, and power of attorney cases. In addition to civil legal services, Amara also provides victim-witness advocacy services, criminal defense, and representation in criminal record sealing, expungement, and vacatur cases.

Amara’s Clients and the Criminal Justice System
Involvement in the criminal justice system impacts most of Amara’s clients, regardless of the legal issues they are seeking to resolve. Involvement may come from being arrested for prostitution or solicitation; arrests for drug use; mental illness that may precede, begin through, or be exacerbated by sex trafficking; struggles with housing and homelessness; and a variety of crimes related to survival like shoplifting and trespassing.

The vast majority of the crimes that Amara’s clients are arrested for are low level misdemeanors. Of these misdemeanors, roughly 90% of them are prostitution or prostitution-related offenses. A typical situation involves a trafficker posting online commercial sex advertisements for one of his victims against her will and then using threats of bodily harm to coerce her into the selling of sexual services for money.

About the Survey
As many of our clients have a criminal history, Amara wanted to find a way to disrupt their entrance into the criminal justice system. In 2016, Amara received a grant from the DC Office of Victim Services and Justice Grants, which, in addition to funding our regular legal services, provided Amara with the funds to advocate for a diversion program for survivors of trafficking. Amara started by conducting focus groups to learn more about the kind of changes those in our client population would like to see. We also set out to research what programs exist across the United States. We wanted to use this information to inform our advocacy and inform key agencies that would be responsible for instituting a diversion program in the District of Columbia.

Amara requested the assistance of many volunteers in conducting this survey. The research was completed between January 2017 and September 2018. As jurisdictions are always creating, changing, and closing their programs, this is by no means an exhaustive list of all diversion programs in the United States. However, this survey provides an overview of programs in all 50 states and the District of Columbia that provide helpful background on

1 Solicitation charges are not just for “johns.” Some jurisdictions, like the District of Columbia, have written their laws in such a way that sex workers or buyers can be charged with solicitation. DC Code §22-2701.
potential alternatives to the traditional model of criminalization for **adult** individuals engaged in commercial sex. We hope that the research provided motivates the creation of inclusive diversion programs to address the diverse needs of individuals involved in commercial sex whether by choice, coercion, or circumstance.
ACKNOWLEDGEMENTS

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

This survey of diversion programs is not legal advice. It should be used for informational purposes only. There are a wide variety of diversion programs across the United States. This is by no means a comprehensive list. This survey did not compile a list of all drug courts, mental health courts, veterans’ courts, domestic violence courts, or the other plethora of programs available.

This survey provides an overview of diversion programs that could be utilized by adult sex workers, survivors of trafficking\(^2\), or any other adult who may become justice involved for violating a prostitution related criminal offense. This is not a survey of juvenile diversion programs. The availability of juvenile participation in any given jurisdiction is noted where the program was also open to adults.

Not all states have a specific program for prostitution-related offenses. If a state had a more general diversion program and no specific program geared toward prostitution offenses was available, the general diversion program was discussed instead. Many states merely have legislation giving prosecutors the discretion to enter into a pre-trial diversion agreement. These can range from deferred prosecution to deferred sentencing arrangements. For example, in Alabama, the legislature has essentially codified a deferred sentencing arrangement. An individual in a court that has opted for the establishment of a pre-trial diversion program would have to plead guilty and then comply with the conditions imposed in order for the charge to be dismissed.\(^3\) The program is not specifically for survivors of trafficking or individuals charged with prostitution, but those individuals can participate.

Finally, where available, the survey touches on the ability of pimps or customers (also referred to as “Johns” or “buyers”) to participate in a diversion program; the type and availability of funding; success rates; and more.

A Note on Terminology

In this survey, we refer to sex work as a transaction where a party provides sexual services in exchange for anything of value, typically money or other goods. Sex work is not conducted exclusively by persons of one gender, sex, gender identity, or sexual orientation. Sex work is frequently used to generate financial income, but not all who participate consider sex work to be their occupation. We do not use the term “prostitute” because it has historically been used in reference to women exclusively and to impose negative moral judgements on these individuals. The term “prostitute” is often used to dehumanize those engaging in sex work, and insinuates that the identity of the person selling sex is indivisible from the sex work itself.

Where the term “prostitute” is used in this survey, it is used because that is the language used in the context of the jurisdiction where the program was identified. This survey assumes that individuals can engage in “sex work” by choice, circumstance (such as in the case of survival and in exchange for food or housing), or coercion (trafficking).

Amara’s clients define their involvement in sex work differently. Some refer to it as “the life,” in which they were an unwilling participant. Some refer to themselves as “escorts.” Others

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\(^2\) Sex trafficking is the criminal act of recruiting or soliciting a person in order to force, coerce, or deceive that individual into engaging in a commercial sex act.

\(^3\) AL Code § 12-14-91 (2016)
consider themselves “sex workers.” This terminology and its given definition is not meant to dictate or modify any particular individual’s experience. Rather, it is a practical shorthand to separate coercive commercial sexual exchange, which is referred to as sex trafficking, from commercial sexual exchange engaged in for other reasons.

Overview of Diversion Programs
A diversion program is a way for an individual to bypass the usual criminal justice process. These programs can be designed in a number of ways. Diversion programs can be pre-arrest or post-arrest. Post arrest programs are generally deferred prosecution or deferred sentencing

A pre-arrest diversion program would bypass the “booking” process where an individual is physically arrested or issued a citation and then potentially placed in secured detention for a period of time. This avoids an individual getting an arrest record. For example, some states have or are considering mental or behavioral health programs where law enforcement would take an individual directly to a treatment facility instead of arresting them for committing a crime that is related to their mental or behavioral health status.

A post-arrest, deferred prosecution agreement is where an individual is arrested, but the prosecutor agrees not to proceed with the prosecution as long as the individual agrees to comply with a set of conditions. For example, an individual would need to engage in community service or a treatment program for a set number of months. Community service could be anything from providing administrative support at a business or nonprofit that agrees to be a part of the program to taking a class, attending a support group, or enrolling in counseling. There would be a record of the arrest, but it may be able to be sealed or expunged after a set period of time. If the program is not successfully completed, the prosecutor may continue with prosecution. The individual would have the same criminal justice options (fighting the charge or taking a plea) as would have been originally available.

A post-arrest/deferred sentencing agreement mandates that an individual plead guilty, but no sentence would be handed down immediately. An individual would engage in many of the same conditions as in deferred prosecution and, upon successful completion of the program, the guilty plea would be withdrawn and the charge would be dismissed. If the program is not successful, the guilty plea would remain and the individual is sentenced according to the crime to which the individual plead.

Diversion Programs Should Be Inclusive
Regardless of the type of diversion program jurisdictions choose, officials should be careful to design a program that is inclusive. Many programs around the country are tailored toward women. Men and boys are survivors of trafficking as well. Programs should be open to individuals regardless of sex, gender, sexual orientation, gender identity, or gender expression.

Discretion Should Be Carefully Regulated
Jurisdictions should make efforts to guard against giving prosecutors and court officials too much discretion over who enters the program. Objective criteria should be set out by which to determine who is allowed to participate. Discrimination against women of color\(^4\) and trans-women of color\(^5\) in the justice system is well documented. Amara has had a harder time locating

services for male survivors of trafficking than for female survivors. At times, it has been more difficult for us to get law enforcement agencies to recognize the existence of trafficking for our male clients. Unfortunately, Amara’s experience encountering difficulties assisting male clients is not uncommon.6

Diversion Programs Should Be Accessible
Some jurisdictions that adopted pre-arrest diversion programs have certain practices that end up excluding the individuals who need the most help. In creating a diversion program, it is Amara’s view that individuals should not be excluded from a pre-arrest diversion program for a host of conditions, including: past criminal history (for example, only making the program available to first time offenders or those with a limited criminal record) or the existence of pending warrants, pending charges, or a term of supervision against that individual. Some jurisdictions have opted to decline participants (either completely or for a certain period of time) from a pre-arrest framework if they have outstanding warrants or certain violent criminal histories. However, multiple jurisdictions, including Albany and Baltimore, have indicated that it is a mistake to make these exclusionary criteria too expansive. Albany decided to remove the barrier to participation if an individual has outstanding warrants.7 In conversations with the Baltimore Law Enforcement Assisted Diversion program coordinator, he indicated that it would be beneficial to have a more inclusive program. For example, programs should allow participation by individuals who are on a form of court ordered supervision, if they would otherwise be eligible for the program.

No fees should be charged to participate in the program. The individuals who need the program most are likely to be unable to pay any fees.

Individuals should also be unable to “fail” out of the program as long as they are putting forth a good faith effort to participate. Survivors of trafficking, like individuals suffering from drug addiction or domestic violence, may take several tries before fully succeeding.8

Practical Challenges
Regardless of the model selected, there are some issues that pre-arrest diversion cannot fix on its own. For example, if there is a housing shortage, the jurisdiction needs to invest in a variety of accessible housing options. This means that, while some individuals are engaging in criminalized activities because they lack access to affordable housing, the jurisdiction may not

6 Samuel Vincent Jones, The Invisible Man: The Conscious Neglect of Men and Boys in the War on Human Trafficking, UTAH L. REV. 1143 (2010); Office to Monitor and Combat Trafficking in Persons, Assisting Male Survivors of Human Trafficking, U.S. DEPARTMENT OF STATE, (July 24, 2018 1:52 PM), https://www.state.gov/documents/organization/272323.pdf (“In addition, authorities, such as immigration officers, labor inspectors, and police, often do not recognize male victims due to biases or the tendency to perceive males as less vulnerable to human trafficking or erroneously view human trafficking as exclusively the sex trafficking of girls and women.”).
be able to prevent those offenses from occurring because there is no practical solution available. This does not mean that law enforcement should continue jailing individuals for these quality of life offenses, however. Jurisdictions with these issues need to prioritize housing solutions and can view the benefits as a method of crime prevention.

**Pre-Arrest Programs Should Be Used as Often as Possible**

Pre-arrest diversion is a strategy to improve public safety and reduce human suffering by engaging with individuals charged with low-level crimes that are often borne of substance use and addiction, poverty, homelessness, circumstance, or mental illness. Pre-arrest diversion approaches specific low-level criminalized activities with a public health response, instead of a typical criminal justice response. Rather than arresting individuals caught engaging in activities like prostitution, drug possession, or other low-level offenses, law enforcement connects these individuals to community service providers. By doing so, pre-arrest diversion programs address the underlying reasons an individual may be engaging in certain activities and prevents them from incurring an arrest or conviction record that would leave them in a worse situation and lead to collateral consequences.

In order to provide the most assistance to individuals engaged in commercial sexual exchange and survivors of trafficking, expansive pre-arrest diversion programs are best. There is ample room to develop a pre-arrest program that suits each jurisdiction’s unique needs. A pre-arrest program would ensure that individuals selling sexual services aren’t saddled with criminal penalties. Even an arrest record can hold someone back from pursuing their best, most stable life.
Alabama does not have programs specifically for sex workers or survivors of trafficking, but it has diversion programs that include prostitution offenses. One example of a diversion program in Alabama is one operated by the City of Huntsville. The City implemented a program consistent with the state statute.

Applicants are accepted into the program on a case by case basis. The program charges a non-refundable application fee ($300 for a misdemeanor) for admittance and evaluation for the pretrial program. There are also several fees for participating in the program, such as compliance monitoring ($30 per appointment); drug/alcohol testing ($25 per test); and rescheduling ($15 per reschedule).

Individuals accepted into the program are responsible for payment of the cost of the specific treatment programs they are ordered to take part in. For example, this could include addiction treatment, behavior modification, or other therapy. They are also responsible for all court costs and fees, restitution, victims’ compensation fund assessment, and any other fees that would have been assessed if they were not accepted into the program. These fees may be waived if the judge finds the participant does not have the “reasonable ability” to pay the fees within the “reasonably foreseeable future.” However, no applicant will be denied access to the program for failure to pay the application fee.

If the participant fails to comply with the conditions of the program, a Court Referral Officer with the Department of Probation will recommend to the city attorney one of several options. The city attorney may permit the participant to continue the program with or without a modification to the conditions; terminate the participant from the program; require a new agreement as condition of continued participation; or the city attorney may waive the violation for good cause shown why the participant should remain in the program.

**Statutory Authority**
Code of Alabama § 12-17-226 et seq. Alabama Pre-Trial Diversion Program. The district attorney of any judicial circuit of Alabama may establish a pre-trial diversion program.

The district attorney may contract with any entity for services related to the program. Section 12-17-226.1(d) states that the pretrial diversion program should “utilize individual and realistic intervention plans which feature achievable goals.”

Section 13A-6-181 is the Alabama Human Trafficking Safe Harbor Act. That Act dictates that someone arrested for soliciting or procuring prostitution, among other related offenses, may be ordered to attend counseling or educational training to reduce recidivism for those offenses.

Section 13A-6-183 permits law enforcement to hold an individual arrested for prostitution in custody for up to 72 hours. Within 48 hours, that individual must be brought before a court to determine whether that individual has access to resources such as shelter, healthcare, financial assistance, and counseling. The court may issue an order to assist the individual in obtaining necessary services and resources.

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Interestingly, § 13A-6-183(b) dictates that the photograph taken by law enforcement upon the arrest of an individual for prostitution is not a public record and cannot be published or distributed without a court order.

**Eligibility**
The applicant must be at least 18 years old and waive their rights to trial, agree to toll the statutes of limitation, be informed of the costs of the program, admit guilt to the crime(s), and agree in writing to the conditions of the program.

The programs are open to individuals charged with drug offenses (except as related to selling, trafficking, or manufacturing drugs), property offenses, misdemeanors or violations of many traffic offenses.

**Limitations**
The program is not open to those who commit misdemeanors or violations that the district attorney decides is not in the best interest of “the victim, the offender, the community, or justice.” The program is also not available when it involves a victim under age 14, or involves serious physical injury or death.

No one may be admitted to the pretrial diversion program if they have been previously convicted for promoting, soliciting, or procuring prostitution.

**Consequences of Participation**
Upon successful completion, the case will be dismissed. Failure to satisfy conditions of the program may result in an entry of judgment against the defendant. Records of the program are generally not admissible in later proceedings, but the individual’s admission of guilt is admissible.
ALASKA

Alaska does not currently have a statewide pretrial diversion program. However, the city of Anchorage has implemented and codified a municipal pretrial diversion program.

According to a Sentencing Alternatives Workgroup proposal published in April 2015, the Alaska Department of Law took the position that pretrial diversion programs were not permitted.\(^\text{10}\) However, that stance has changed. There has been a recent push to institute a statewide program. The state implemented a Sentencing Alternatives Workgroup which has proposed a statewide pretrial diversion program, but at the time this research was completed, the proposed program had not yet been accepted and written into law.

The proposal states that “Payment [of fines and restitution to victims] is more likely when offenders avoid incarceration and therefore experience less disruption of work opportunities and economic status.” It also acknowledges that “programs for individuals with serious mental health and substance use disorders can also prevent future criminality by providing an early intervention and diversion away from jail beds and into community-based services.”\(^\text{11}\)

A study providing a snapshot of the program was conducted in 2015.\(^\text{12}\) At the time this research was completed, an evaluation on the success of the program, including recidivism had not yet been completed. According to this study, participants were given approximately one month to complete the program and it took an average of 24 days to complete the conditions.

**Statutory Authority**\(^\text{13}\)
Anchorage has a pre-trial diversion program in Anchorage Municipal Code § 08.05.060.

**Eligibility**
The diversion program applies to non-violent crimes enumerated in § 08.05.060 (including prostitution) and generally targets first time offenders, although offers still may technically be made to repeat offenders.

Diversion offers occur at the pre-plea or pre-booking stage. Offers for pretrial diversion may be made independent of whether the defendant is in custody or not. Only non-violent offenders who have committed either theft or certain misdemeanor offenses and traffic offenses, of the Anchorage Municipal Code are eligible.

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\(^\text{12}\) The Anchorage, Alaska Municipal Pretrial Diversion Program: Initial Outcome Assessment, https://scholarworks.alaska.edu/bitstream/handle/11122/7024/1606.01.anchorage-pretrial-initial.lepage-may.pdf?sequence=1

\(^\text{13}\) Alaska Statutes also permits courts around the state to suspend imposition of sentence, Codified in Section 12.55.085 of the Alaska Statutes. The court may suspend sentence, place the person on probation, and set aside the conviction if the individual complies. This is not available to defendants who commit felonies, human trafficking, or other specified serious offenses.
“Assignation\textsuperscript{14} can be committed by someone buying or selling sexual services and is eligible for diversion.

Limitations
Individuals charged with sexual exploitation or sex trafficking are explicitly excluded from the diversion program.\textsuperscript{15}

Consequences of Participation
Completion of the program results in dismissal of the case. Failure to complete the conditions results in the case proceeding as it normally would.

\textsuperscript{14} Assignation is defined by Anchorage Municipal Code § 08.65.010 as follows: “the making of an appointment or engagement for prostitution or an act in furtherance of such appointment or engagement.”

\textsuperscript{15} The crime of “sexual exploitation” is defined as “knowingly soliciting, inducing, enticing, inviting, or procuring another for the purposes of prostitution or assignation.” Anchorage Municipal Code § 08.65.030.
Arizona has four diversion programs specifically related to prostitution offenses. They are all worth mentioning separately.

City of Phoenix Prostitution Diversion Program
The City of Phoenix Prostitution Diversion Program (“PDP”) is a post-arrest, pre-sentencing program where the participant must guilt and comply with the terms of the PDP.

The City contracts with Catholic Charities Community Services to provide their DIGNITY (“Developing Individual Growth and New Independence Through Yourself”) Diversion Program. It provides participants with 36 hours of “self-exploration and education to develop self-esteem, rehabilitation services including support, education and treatment to escape prostitution, [and] job placement assistance.”

To complete the program, participants must: complete the initial intake, action plan, follow-up and exit interview. The program’s action plan requires attendance at a variety of therapeutic meetings, and educational sessions. Participants cannot be late or leave the property during classes. Furthermore, participants must comply with an individualized case plan, which includes addictions groups, groups to treat issues with trauma and abuse, and receive job assistance. The program must be completed within six months.

Eligibility
In order to participate, the individual must be at least 18 years old and facing a misdemeanor prostitution charge. Both women and men may participate.

Limitations
Individuals are ineligible if they have previously completed the program, are currently enrolled in the program, have attempted three or more times to complete the program without success, or have three or more provable misdemeanor prostitution convictions.

Consequences of Participation
If the participant fails to comply, the court imposes sentence. If the participant completes the program, the charge is dismissed without prejudice. The participant’s record still shows the arrest and charge, but indicates the charge was dismissed due to participation in the PDP.

Funding
The City of Phoenix provides funding for the program.

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16 Arizona has statutes for two general diversion programs. One is the deferred prosecution program § 11-361 et seq. and the other is the pretrial diversion program §9-500.22.  
Project Reaching Out to the Sexually Exploited (“ROSE”)

Project ROSE started in 2011 by Dr. Dominique Roe-Sepowitz, Director of the Office of Sex Trafficking Intervention Research at Arizona State University, in conjunction with the Phoenix police and other local social service agencies. Based on a media report, Project ROSE was put on hold in 2015, due to officer availability, not controversy over the program.

Project ROSE was a pre-arrest program that aimed to connect participants to social service providers. As described in media articles, sex workers were picked up in two-day stings or raids twice a year and brought to a church (Bethany Bible Church) where they were offered clean clothes and toiletries and access to services, including health, housing, mental health, substance abuse counseling. Eligible sex workers spoke to a prosecutor who presented them with the choice between criminal charges and possible jail time, or participation in a rehabilitation program.

The women were detained, but not technically arrested, because they were not booked into jail. If accepted into the program, they were not arrested, booked, charged, or convicted of a crime. Participants needed to attend and complete 36 hours of classes called “DIGNITY Diversion” run by Catholic Charities (see description of DIGNITY in the City of Phoenix Program, above).

In 2014, Project Rose’s compliance rate was reported to be about 27%.19

Limitation

Individuals who already completed a diversion program, had past prostitution charges, or were found with drugs or weapons were ineligible for the program.

Consequences of Participation

If the individuals were not eligible for diversion or failed to complete it, criminal proceedings continued as they would normally. If successfully completed, they faced no arrest, charge, or conviction.

Criticism

Project ROSE has been widely criticized, including by the Sex Workers Outreach Project and ACLU of Arizona. The controversy arises out of the fact that the suspects are brought to Project Rose’s intake center, and are not free to leave or consult an attorney in order to make an informed decision about participation in the program.20

Others criticize the role of the police and prosecutors, who are essentially tasked with finding clients for Project ROSE as opposed to addressing increased criminal activity or public safety concerns.

In addition, given the project’s completion rate, the raids result in more sex workers facing criminal charges and jail time.21


20 Id.

City of Tucson Prostitution Diversion Program

This program is an alternative sentencing program for repeat prostitution offenders through the Mental Health Division Court.

The City of Tucson created a specialized Mental Health Division Court, which has sentencing alternatives.

Eligibility
Repeat offenders of prostitution who either have a mental illness or struggle with substance abuse.

Consequences of Participation
Approved defendants plead guilty to a single count of Prostitution, which requires only a single 15-day sentence (a third or subsequent prostitution conviction generally mandates a minimum 180-day jail sentence), and are then eligible for release into in-patient treatment for a minimum of 6 months.

If participants leave the facility or do not follow through with treatment requirements, they are subject to being returned to jail to complete the remainder of their six-month sentence.

CLE/AV4eyb/in-arizona-project-rose-is-arresting-sex-workers-to-save-them+&cd=1&hl=en&ct=clnk&gl=us
(last visited August 1, 2018).

22 City of Tucson, Alternatives to Incarceration, https://www.tucsonaz.gov/courts/alternatives-incarceration
(last visited August 1, 2018).
Project Responsible Alternatives to Incarceration for the Sexually Exploited ("RAISE")

RAISE is a City of Tucson pilot post-arrest diversion program developed in consultation with law enforcement officials, prosecutors, social service providers, former sex workers, and the organizers of Phoenix's Project ROSE. Every year, approximately 30 people take part in the diversion program.23

On the night that the program launched in 2013, Tucson police officers brought people arrested for suspected prostitution to Our Saviour's Lutheran Church instead of jail. Those eligible were offered 20 hours of free counseling through Cactus Counseling. If they completed the 20 hours, they would not face jail time.24 In the counseling sessions, participants discuss harm reduction, substance abuse, sexually transmitted diseases, HIV, family dynamics and personal issues.25

Participants have an initial appearance before a City Court Chief Magistrate Judge who checks their criminal record and sets up a future court date. The individuals then speak with a prosecutor who decides whether to offer diversion. Notably, individuals are only entitled to a free public defender if the prosecutor is seeking jail time, and diversion is not considered jail time. If the individual declines diversion, they are taken to county jail.26

Eligibility

Eligible if a criminal history check showed that this was a first prostitution arrest, and no history of violence or extensive criminal record.27

Limitations

Only about half of those arrested on the project launch date were found to be eligible for the program.

Consequences of Participation

If the program is completed, the charges are dismissed.

Criticism

The local Sex Workers Outreach Project protested outside the first Project RAISE event. They worried that the project coerced mostly poor women into services that they may or may not need under the threat of incarceration.28

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24 Id.
25 Id.
27 Id.
ARKANSAS

A diversion program for individuals charged with prostitution or related offenses was not located.

The Arkansas Task Force for the Prevention of Human Trafficking published a report in August 2014 that recommended establishing a pilot program for and funding a court-approved educational course in Little Rock, Arkansas for those charged or convicted of soliciting prostitution and related offenses.\(^{29}\)

The Task Force also suggested the creation of multi-disciplinary teams to provide services to adult trafficking victims.\(^{30}\)

**Statutory Authority**
Arkansas Code §§ 5-4-901 et. seq. permits diversion programs under the “Pre-Adjudication Probation Act” for felony offenses upon approval of the court and prosecuting attorney.

**Eligibility**
Felonies.

**Limitations**
Prostitution is a misdemeanor, therefore, prostitution related offenses are ineligible for this program.


CALIFORNIA
Los Angeles

The Prostitution Diversion Program ("PDP") runs two programs: one for sex workers and one for buyers, or “Johns”.

For sex workers, participants are required to attend an education program about the dangers of prostitution, ways to keep themselves safe, strategies to reduce risk, and referrals to wrap around services to help them transition out of sex work. It includes survivor-led workshops and programming to provide peer support.

According to the program leader Sonja Dawson, of repeat offenders who participated in the program, about 68% had not picked up additional arrests.

For buyers, the PDP is used to educate buyers of sex. Participants complete an eight-hour course in a single day. The program covers 8-9 different topics, including awareness, education, consequences of paying for sex (including legal, physical and emotional impact), a community impact and survivor panel. The program also facilitates presentations from police officers and representatives from Sex Addicts Anonymous.

As of October 2014, 1,400 men completed the program and four were rearrested. Dawson estimated the buyer recidivism rate was around 1%.

Statutory Authority

Eligibility
Sex Worker Arm: Originally designed for first time offenders, repeat offenders may be eligible in certain circumstances. PDP is open to cis- and trans-gender men and women.
John School: Buyers may sign up if they have no prior arrests for solicitation, drugs, or violent crime, pay a $600 fee and submit to an HIV test.

Limitations
Sex Worker Arm: Repeat offenders may not have more than two convictions that are at least 10 years old. Minors and individuals with prior arrests for violent crime are ineligible.
John School: Repeat offenders are not eligible. They cannot participate if charged with soliciting a minor.

Consequences of Participation
Graduates of the program may have their charges dismissed within the year if they are compliant and avoid re-arrest. Dismissal of the charges is equivalent to expungement in California.

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Funding
The City Attorney's office does not fund or conduct the PDP itself, instead it partners with private organizations and vendors in the area that receive funding of their own to provide programming.
San Diego

The Prostitution Impact Panel (PIP) program is not a diversion program, but a charge reduction program.

The PIP sessions are generally held every two months. It includes educational sessions and presentations from a variety of individuals including, former commercial sex buyers, police, women formerly involved in prostitution, and mental health specialists. Presentations are given on several topics, including: impact on the community, impact on survivors, risk of crime victimization, drug and alcohol addictions, sexual addiction, impact on johns, and health risks and consequences.34

Requirements include paying a fee of $200, attending the PIP class (for which they earn a certificate), and completing mandatory HIV/AIDS counseling. The PIP class itself is three hours.

Through the end of 2009, 800 people had successfully completed the program, for an average of roughly 100 participants per year.35

According to an article published in the San Diego Union Tribune on March 3, 2016, since 2002, more than 97 percent of the nearly 1,400 participants in the program have never again been arrested for solicitation.36

Statutory Authority
Cal. Penal Code § 1001.50 et seq; Cal. Penal Code § 1001.87

Eligibility
Participants who are offered the option of participating in the program are generally arrested, commercial sex buyers or the similar charge of loitering with intent to engage in prostitution.37

Consequences of Participation
Successfully fulfilling its requirement results in a reduced charge (and not a dismissal, as in diversion programs). Upon successful completion of the program, the charge is then reduced to a lesser offense.

Offenders must pay a fine (which is in addition to the PIP fee). The charge also allows for a maximum of 90 days in jail (as opposed to 180 days for the original charge), but participants who complete the program rarely receive jail time. The primary penalty of concern to the offenders is that the conviction stays on their criminal record.38

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35 Id.
36 Id.
37 California Penal Code Section 647(b) (soliciting prostitution); Section 653.22 (loitering with intent to engage in prostitution)
The First Offender Prostitution Program (FOPP) is a prosecutor led diversion program that seeks to reduce recidivism among first time solicitors of prostitution.

Eligible “johns” participate in an eight-hour course focused on building knowledge regarding the consequences, both personal and societal, of buying sexual services. The educational program is divided into seven units: prostitution law and street facts, health education, effect of prostitution on prostitutes (testimonials by former sex workers), dynamics of prostitution, effects on communities, sexual addiction, and dynamics of human trafficking.39

Program participants enter the program after being arrested. Individuals pay a sliding scale fee associated with the program.40

<table>
<thead>
<tr>
<th>Statutory Authority</th>
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<td>Cal. Penal Code § 1001.50 et seq; Cal. Penal Code § 1001.87</td>
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<th>Eligibility</th>
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<tr>
<td>The FOPP targets individuals who solicit commercial sex, specifically those who violate California Penal Code 647(a), 647(b) or 653.22 (prostitution offenses).</td>
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<th>Limitations</th>
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<td>Participants generally may not have a criminal record or prior contacts with the criminal justice system. Individuals who have prior criminal justice contacts for domestic violence related incidents, prior convictions for weapons offenses, or violent offenses are not eligible.41</td>
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<tr>
<th>Consequences of Participation</th>
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<tr>
<td>Individuals who complete the program and have no further arrests for a prostitution offense for one year following the FOPP will have their cases discharged.43</td>
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| If there is a subsequent arrest, both the original and the new charges are prosecuted. Offenders are not permitted to enter into the FOPP again.44 |

| Individuals who complete the program and remain arrest-free for two years may petition to have their charge sealed.45 |

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40 Id.
41 Id.
42 Id.
43 Id.
44 Id.
45 Id.
Funding
The total fee revenue generated during the life of the program was over $3.1 million. The fee revenue from the FOPP has been approximately evenly split among three service providers with each of the three partners receiving about $1 million between March 1995 and July 2007. The fees covered the direct costs of the John school classes, all FOPP administrative costs incurred by San Francisco District Attorney (“SFDA”), San Francisco Police Department (“SFPD”), and Standing Against Global Exploitation (“SAGE”) (a program partner); 88% of the SFDA’s costs for processing arrestees referred to the program; about one third of the cost of the SFPD’s reverse sting operations; and approximately $980,000 in fee revenue supports programs for women and girls involved in prostitution.\footnote{Michael Shively, Sarah Kuck Jalbert, Ryan Kling, William Rhodes, Peter Finn, Chris Flygare, Laura Tierney, Dana Hunt, David Squires, Christina Dyous, & Kristin Wheeler, Final Report on the Evaluation of the First Offender Prostitution Program, Abt Associates Inc., \url{https://www.ncjrs.gov/pdffiles1/nij/grants/221894.pdf} (Last visited September 20, 2018).}
COLORADO

According to our researchers, Colorado does not have a state-wide program designed specifically for individuals engaging in commercial sex. However, municipal or county courts are authorized to create and administer programs for certain individuals. That program is described below.

Additionally, Colorado is one of the states expected to implement the pre-arrest diversion model, Law Enforcement Assisted Diversion (LEAD). The Office of Behavioral Health received $2,300,000 annually for three years to contract for four pilot programs. Four communities will receive equal shares ($575,000 per year) to operate a LEAD pilot program for three years. The communities are the City of Alamosa, Denver County, City of Longmont, and Pueblo County. Contracts were anticipated to be executed in April 2018.

Statutory Authority
Colorado Revised Statutes §13-10-126 Prostitution Offender Program Authorized.

Eligibility
Individuals charged with soliciting for prostitution, patronizing a prostitute, or any corresponding municipal code or ordinance.

Limitations
Prior convictions, charges pending for any felonies, and charges of enticement of a child, internet luring of a child, smuggling of humans, any offense of “unlawful sexual behavior” or “human trafficking and slavery,” pandering, pimping, and select other offenses may preclude an individual from participation.

Consequences of Participation
If eligible, the individual enters a guilty plea to the prostitution-related offense or offenses. Judgment and sentencing is deferred for up to two years while the individual participates in the program as set forth in the individual jurisdiction.

If satisfactorily completed, the charges are dismissed with prejudice. If the individual fails to complete the program, the court enters judgment and sentences the individual to the charges to which he or she pled guilty.

47 https://www.colorado.gov/pacific/cdhs/law-enforcement-assisted-diversion-lead-program
48 18-7-202, C.R.S.
49 18-7-205, C.R.S.
50 13-10-126(a)(I)(A)
Connecticut has several statutorily authorized pretrial diversion programs. Of particular interest to our survey was the Accelerated Rehabilitation Program.\(^{51}\)

A successful applicant will complete a period of probation up to two years under the supervision of the Court Support Services Division.\(^{52}\) For non-violent misdemeanors, the court "shall consider ordering the person to perform community service in the community in which the offense or violation occurred."\(^{53}\)

According to a criminal defense attorney interviewed for this survey, AR is a well-established program and the oldest of the pretrial diversion programs available in the state. It is regarded as a very successful program. Historically, as new programs have developed (e.g., the drug and alcohol diversion program), those offenses have been carved out of the scope of AR.

Supervision within the program is mainly administrative probation that involves checking in. Courts sometimes order counseling or other educational programs, but that is rare in his experience.

Prostitution is a Class A misdemeanor, so is not excluded by statute from the AR program.\(^{54}\) This attorney was certain that individuals charged with prostitution have availed themselves of this program. There is at least one reported Connecticut case in which a male defendant charged with promoting prostitution applied for AR and the trial court granted the application, although the court later denied the defendant’s motion to dismiss because of a subsequent arrest.\(^{55}\)

### Statutory Authority

The Accelerated Rehabilitation (AR) program. CGSA Section 54-56e(a).

### Eligibility

To order AR, the court must “believe...that [defendant] will probably not offend in the future.”\(^{56}\) Caselaw directs that the determination "must be reached on the basis of the facts and circumstances before the court that are relevant to predicting such future conduct."\(^{57}\)

### Limitations

The defendant must have no prior criminal convictions and no prior violations of various motor vehicle provisions.\(^{58}\) Many people who otherwise would qualify for the program have prior convictions and thus are ineligible.

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\(^{51}\) C.G.S.A. § 54-56(e)  
\(^{52}\) Id. § 54-56e(d)  
\(^{53}\) Id.  
\(^{54}\) See C.G.S.A. § 53a-82(d). Notably, under Connecticut law it is an affirmative defense to prostitution charge that the defendant was a victim of human trafficking. See C.G.S.A. § 53a-82(b).  
\(^{55}\) See Fanning, 908 A.2d at 575, 577.  
\(^{56}\) Id. § 54-56e(b).  
\(^{58}\) (The motor vehicle provisions are: (1) fraud relating to motor vehicle certificates of title, C.G.S.A. § 14-196; (2) driving after a license suspension or revocation, C.G.S.A. § 14-215(c); (3) negligent homicide with a motor vehicle, C.G.S.A. § 14-222a; (4) evading responsibility in an accident involving death or
Only veterans may use the program twice. If anyone else wants to use it a second time, ten years must have elapsed since the previous charges were dismissed.

AR does not apply to Class A and B felonies, DUI, some sexual assault crimes, and enticing a minor, among other offenses.

**Consequences of Participation**

Upon successful completion of AR program, the defendant may apply for dismissal of the charges, and the court must dismiss the charges if it finds satisfactory completion.\(^59\)

If the defendant fails to complete the AR program satisfactorily, the suspension of criminal proceedings may be terminated.\(^60\)

Participation and dismissal of charges as part of the AR program is not “a right” and is “totally dependent upon the trial court’s discretion.”\(^61\)

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\(^{59}\) See id. § 54-56e(f).


The Trauma-Informed Probation Court (more commonly known as the Human Trafficking Court) was launched in 2012, and ran long enough to become the oldest coordinated program in the state. However, it was shut down in December 2017 with no immediate replacement. It was a problem-solving court for New Castle County, which focused mainly on women with any drug charge or who also had a history of prostitution related offenses. The Human Trafficking Court worked in conjunction with a number of other services in the state, namely the Women In Support of Health (WISH) program. WISH is a partnership between multiple non-profit organizations and the state. In addition to WISH, the Court provided a number of additional services. For example, the participants were eligible for emergency housing.62

Interestingly, the Court also utilized the Seeds of Change gardening program, which allowed participants to work off past fines from their previous charges and citations. Furthermore, participants were eligible for free haircuts provided by a local salon owner.63

In 2016, the court wanted to transition into a pre-plea diversion program rather than its post-adjudication model that generally served individuals on probation, but a plan to make that change hadn’t been implemented.

Statutory Authority
Del. Code Ann. tit. 11, § 787

Eligibility
Post shutdown, researchers had a difficult time locating all program requirements. However, researchers were able to discover:

- The program was open to all individuals who have pled guilty or no contest to prostitution or a prostitution-related offense.
- Most participants had extensive misdemeanor criminal history.
- Most referrals were women, but participants off all genders were eligible.
- The program was only available to those who were on probation who had already pled no contest or guilty.
- The court did not yet screen for other factors (e.g. a violent background or severe mental health issues), but it was considering doing so.64

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63 Id.

Consequences of Participation
Upon successful completion of the program the participant participated in graduation. Consideration for graduation required participants to “remain sober, regularly attend parole and probation meetings, continue needed mental health services, and prove that they've progressed in the program. The Court required at least “three months of sobriety, three months of compliance with probation, and no new criminal charges.”

For failure to comply with the program, the court could impose a curfew. If participants were not compliant in community-based treatment the court could consider inpatient substance abuse treatment. If that also failed, then the court could have looked to a secure facility for additional treatment. Finally, termination from the program was also possible. This typically occurred due to repeated violations of probation, including violations of the law, curfew and/or required attendance and engagement.65

Funding
WISH had a five-year funding grant which expired after August of 2016, from Delaware’s Office of Women’s Health. Members of HTCC were exploring ways to get more funding for the center, but it does not appear they have yet been successful. The court itself did not appear to have any separate funding allocated to it.66

Limitations
The Court noted that obtaining enough resources (treatment beds, housing, outpatient treatment, etc.) for the participants in the program was a continuing barrier. Staff and Coordinators noted that it was difficult to establish a trust relationship with the participants, largely due to the trauma that they had experienced in their lives. The Court had difficulty with enrollment and retention in WISH. The program was facing a difficulty with funding, as their sources of financial aid were not consistent.67

Outcomes
There is limited information about outcome data. From a report created near the end of 2012/beginning of 201368:

- Three women had graduated from program – only one had prostitution related offenses (graduated in 8 months), while the other two graduated in 6 months.
- There were 27 active participants in the court program.
- WISH provided some information about the approximately 50 women in its program (of which 35-40 people had been or are, at the time of the report, currently in the court’s program). At the end of the first year:
  - 10 of those 50 women had stable permanent housing

69 Id.
- 20 active in drug treatment
- 5 had reconnected with family and children
- 2 employed
- More than 10 achieved sobriety for an extended period.
- WISH data from 2016:
  - 104 participants in total entered the program
  - 29 total graduated

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DISTRICT OF COLUMBIA

The Pre-Arrest Diversion Pilot Program launched in April 2014 is for individuals facing mental illness and/or substance use disorders. Individuals charged with prostitution and solicitation are permitted to participate.

For both individuals facing mental illness and those who have substance use disorders, individuals can be referred to the pilot program through an arrest-related referral or through a social contact referral. Participants will generally have had multiple contacts with the criminal justice system. Participants will follow a person-centered process from referral to graduation. Trained MPD officers will offer potentially eligible individuals committing low-level offenses an opportunity to meet with a licensed behavioral health professional for an assessment. Once accepted, program staff will collaborate with the participant to begin services based on a plan tailored to the participant’s individual needs. Program staff will provide ongoing assessment, outreach, referrals and resources to participants. Participants will be assessed for vulnerability and service needs throughout the pilot program and will graduate from the pilot program after 180 days when they have a robust connection to the community care system and their needs are being addressed.

Participation is voluntary: the individual is not eligible if he or she states an intention to not pursue services, is impaired by alcohol or narcotics, or indicates the intent to flee or cause harm to any person or property.

Statutory Authority
“The Neighborhood Engagement Achieves Results (NEAR) Act seeks to use public health approaches to prevent violence and reduce incarceration. In Fiscal Year 2017-2018, Mayor Bowser fully funded all 20 different provisions of the NEAR Act.”70 One of the initiatives funded by the NEAR Act was the Pre-Arrest Diversion Pilot Program.

The Metropolitan Police Department Published a General Order laying out the design of the program. GO-PCA-502.04

Eligibility
Participants who are offered the option of participating in the program are generally individuals who are facing mental illness and/or substance use disorders whose highest possible charge when they were arrested was a non-violent misdemeanor offense from a pre-approved list. Generally, this includes disorderly conduct, narcotics possession, alcohol related offenses, prostitution and misdemeanor theft.

Limitations
The individual cannot have an active warrant in the District of Columbia, be on release in a pending felony, assault, weapons, or DV case, or have an outstanding extraditable warrant from another jurisdiction.

An individual is also not eligible if he or she: cannot reasonably be identified by MPD by name, or place of residence, is a current Gunstat candidate, or is arrested on White House grounds.

Consequences of Participation
Individuals are provided with needed services as an alternative to criminal charges if they successfully graduate from the program after 180 days. So far, the agencies operating the program have not held participants to a strict completion date of 180 days.
FLORIDA

Turn Your Life Around (“TYLA”), Sarasota, FL.71

The goal of TYLA is to change the system in which women are arrested and re-arrested for prostitution, by dealing with the core issues surrounding prostitution/sex trafficking by finding a more permanent and fiscally responsible solution.

Under the TYLA program, individuals are arrested for prostitution and then taken to a location to meet with case managers from TYLA. The program lasts between six to twelve months. Additionally, the diversion participant may be connected with resources in the following areas: legal assistance, financial planning, healthy relationship classes, trauma therapy, employment referencing, housing assistance, and safety planning.

After the participant meets with a case worker and agrees to participate in the program, the participant is transported to a detox facility under Florida’s Hal S. Marchman Alcohol and Other Drug Services Act. The Marchman Act allows the participant to obtain drug treatment assessment and stabilization. The individual’s charges are not dismissed, instead the participant is given a Notice to Appear in court to answer for the prostitution charge. After a minimum three-day detox, the participant is referred to community services. If the participant continues with the program, the State Attorney’s Office is notified prior to the arraignment date. Generally, a TYLA representative, an NGO representative, and the law enforcement officers are present at the arraignment. The TYLA representative works in conjunction with the State Attorney’s Office to continue the participants during the diversion program. The participant must be present at quarterly court dates with their TYLA representative.

Statutory Authority
Florida Statute § 796.07(4); Admin. Order 2016-7A.3

Eligibility
Individuals arrested for prostitution.

Limitations
To be admitted into the program, individuals cannot have any outstanding warrants or felony charges, cannot be identified as a “recruiter,” and must be willing to receive diversionary services. Ineligibility is not permanent, TYLA case managers will conduct jail assessments in order to form new diversionary strategies.

Consequences of Participation
Successful completion of the program results in dismissal of the charges. Gauging success is different for every client. Any positive outcome on the way to establishing a better support systems and developing healthy coping mechanisms are considered a success.

Failure to complete the program will lead to prosecution of the charges.

Phoenix Program, DeKalb County, GA\textsuperscript{72}

The Phoenix Program in DeKalb County is believed to be the only specific diversion program for individuals engaged in commercial sex in the state.

The Phoenix program is a voluntary diversion program offered by the Office of the DeKalb County Solicitor-General for women facing misdemeanor prostitution and related charges. Spearheaded by Sherry Boston (then Solicitor-General of DeKalb County, now District Attorney) and Kiesha Storey (then Deputy Chief Assistant Solicitor-General of DeKalb County, now Judge in DeKalb County State Court), the program graduated its first class of participants in November 2012. At any one time there are about 12 to 20 participants enrolled in the program.

The program lasts a minimum length of nine months. It includes classes on job readiness, health and safety, trauma, and PTSD. Participants also attend counseling sessions, and are required to earn their high school diploma or GED. Free GED classes are available via a partnership with DeKalb Workforce Development.

Participants are expected to not engage in prostitution during their program enrollment.

Eight hours per week of community service is required unless participant is unless participant is employed or enrolled in school.

Phoenix also connects women to necessary resources to become more independent and escape homelessness and violence.

\textsuperscript{72} The researcher used the following sources to compile the information contained in this report:

Office of the DeKalb County Solicitor-General, “Phoenix,”
http://dekalbsolicitorgeneral.com/diversion/phoenix/ (last visited July 12, 2018);

“News from Solicitor-General Sherry Boston,” Winter 2013, available at

Office of the DeKalb County District Attorney, “Diversion & Community Alternatives Programs,”
http://www.dekalbda.org/divisions_special_units/ special_units/pre-trial_diversion_program/index.php (last visited July 12, 2018).

Office of the DeKalb County District Attorney, “Gaining Opportunities and Life Skills (GOALS Programs A and B),”

Dekalb County, Georgia Magistrate Court, “Diversion Treatment Court Policies and Procedures Manual,”

Dekalb County, Georgia Magistrate Court, “Misdemeanor Mental Health Court Policy and Procedure Manual,”
Success rates are generally low. Interview with a program contact indicated that the program has, “a lower graduation rate than other diversion programs, but a higher impact on quality of life.”

There was an instance in 2014 where one participant’s pimp attempted to use the program as a recruiting tool. Both directly and through the woman, he tried to get other participants in the program to prostitute for him. He would regularly show up at court appearances because it was an open courtroom. To address this problem, the judge agreed to institute a policy for Phoenix program court appearances whereby all people present in the courtroom (family and friends) are required to identify themselves and state how they are supporting the participant. At times, the Phoenix program also placed an investigator in the hallway outside the courtroom to deal with pimps showing up at the participants’ court appearances. Despite these measures, the woman in this instance was ultimately ordered to leave the program because she and her pimp posed a recruitment danger to other participants.

There was at least one case of a participant still engaging in prostitution while enrolled in the program.

A number of participants have drug issues. There is not a formal relationship between the Phoenix program and other drug diversion programs, but participants do receive some drug counseling within the Phoenix program, and those who are involved in serious drugs are referred to the DeKalb County Community Service Board.

Recruiters and Buyers
The program does not have any associated programs for pimps or johns. According to the program contact, it is possible that johns could enter into counties' general diversion programs, but there should be no diversion opportunities for pimps. She also noted that at one time they considered a “john school” component but decided against it, and that many of the john schools she heard of that were sprouting up about ten years ago are now defunct.

Eligibility
Participants are women who face misdemeanor prostitution or related charges. They must have little to no criminal history and must be "motivated to rise above their present circumstances and change their life direction."

Phoenix recognizes that a number of the women arrested for prostitution in DeKalb County are not from that county or even from Georgia. The County allows women to return home if they enroll in diversion programs in their own jurisdictions. Therefore, Phoenix maintains contact with a number of diversion programs in other jurisdictions.

Limitations
Would-be participants are ineligible if they have engaged in exploiting or recruiting others to prostitution.

There are no age restrictions to the program as long as they meet the above criteria.

The program is designed for women only. Participants are subject to random drug screenings and are expected to remain arrest-free during their program enrollment.

Transportation is a major issue for many participants.
Consequences of Participation
Participants who successfully complete the program receive dismissal of their case with record restriction, Georgia’s term for expungement.

If a participant fails a drug screen, misses a class/meeting, or fails to participate as necessary, her case will be set for a sanction hearing in front of the judge. Dismissal from the program will occur for serious violations of the rules or as a result of a series of minor violations. Participants may be returned to State Court for traditional prosecution of the case in count.

Reentry into the program is available at the discretion of the prosecuting attorney and the presiding judge, but the program will more likely not take reentrance requests, and will instead press “charges and prosecution of the case in count” in a traditional criminal court.

Fees
Participation is free. Although prosecuting attorneys in Georgia are generally authorized to charge up to $1,000 for entry into a diversion program, they do not do so for entrants in the Phoenix program.

Funding
The program is funded through criminal justice grants and partnerships with community groups.
Pre-Arrest Diversion Program, Atlanta, GA (Recently Launched)

The city of Atlanta recently established a pre-arrest diversion program in October 2017. As early as 2013, and perhaps sooner, two groups started developing a proposal for a pre-arrest diversion program: the Pre-Arrest Diversion (“PAD”) initiative. The groups were the Racial Justice Action Center (“RJAC”) and the Solutions Not Punishment Coalition (“SNapCO”), the latter of which includes some current and former sex workers. Their proposal was inspired in large part by Seattle’s Law Enforcement Assisted Diversion (“LEAD”) program.

The Design Team for the PAD initiative includes “Atlanta Police Department, as well as MARTA and GSU police departments, the Solicitor’s office and the District Attorney for Fulton County, our city and county public defender’s office, social service providers, medical experts, city council members, the city’s law department, community and neighborhood leaders, victims’ rights advocates and formerly incarcerated individuals.”

The PAD Team includes local implementation partners, including: the Fulton County Public Defender’s Office, the Fulton County District Attorney, the Fulton County Solicitor General, the APD, Atlanta Office of Public Defender, and Atlanta Solicitor.

Statutory Authority

On December 7, 2015, the City Council of Atlanta passed the PAD initiative as Resolution 15-R-3920 in a 13-0 vote. The Fulton County Commissioners voted to approve on December 16, 2015. The text of the resolution is available online.

The PAD initiative launched in October 2017. PAD is currently in an 8-beat pilot area and includes its diversion schedule for daytime and nighttime hours. It works with APD liaison officers. As of 2018, it has trained 55 officers and successfully diverted 13 participants.

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77 Resolution 15-R-3920, available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwjnuPiNugfSAhVJ4WMKHfZ8DvQFggjMAE&url=http%3A%2F%2Fatlantacityga.igm2.com%2FCCitizens%2FFileOpen.aspx%3FType%3D30%26ID%3D90980%26MeetingID%3D1668&usg=AFQjCgV85n0_U7d-x4h859nZBs5Sb0CLXUCA
There is a pilot pre-arrest diversion program that was scheduled to roll out on October 1, 2017 in the Chinatown district of Honolulu. In 2016, the Hawaiian legislature approved $200,000 in funding to the non-profit organization CHOW (Community Health Outreach Work) Project for development and implementation of the pilot program in Honolulu. However, at the time this research was completed, the program had not yet launched.

Under the pilot program, the non-profit organization CHOW Project partnered with the Honolulu Police Department to initiate a Law Enforcement Assisted Diversion (“LEAD”) model program in the Chinatown section of Honolulu, Hawaii. Local prosecutors and the Hawaii Attorney General's office have also joined as stakeholders.

The focus of the program is primarily on offenses relating to drug use and homelessness. Eventually, the program would expand to cover additional offenses (including prostitution and other offenses pertaining to sex workers), but the pilot program has a limited scope.

The program would apply to a narrow and distinct list of offenses centered around drug-use and homelessness, which account for the largest number of arrests and citations in Honolulu’s Chinatown district. This pilot would not be in effect every day, but rather would have on/off days, due to a lack of resources. Local law enforcement would have discretion as to whether to permit a potential arrestee to be diverted into the program.

An individual suspected by law enforcement of having committed one of the enumerated offenses would be referred to a case manager. Participants must meet with the case manager within 30 days. The case manager completes a psycho-social assessment of the individual and provides referrals to other community services (such as mental health, drug treatment, job training, and social/housing services), but the individuals are not required to avail themselves of those services.

Statutory Authority
No statute located.

Eligibility
To be eligible, the participant must have been arrested within the Chinatown district of Honolulu, committed an eligible offense, which includes promotion of a dangerous drug, possession of a controlled substance, criminal trespassing (on non-private property), possession of drug paraphernalia, violation of the city's sit/lie ban.

Limitations
The following individuals are not permitted to participate:
Individuals possessing drugs in amounts beyond that for personal use (generally over 1/8 ounce); people accused of trafficking, delivery or possession with intent to deliver drugs; People who are (in the view of the responding officer) violent, psychotic, or otherwise present a threat to themselves or others; Individuals committing violent offenses (the only felony that would permit participation in the pilot program is promoting a dangerous drug - a Class C felony); Minors;

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78 David Abitbol - Policy and Contracts Manager, The CHOW Project (www.chowproject.org). Mr. Abitbol is a primary driver of the Honolulu pilot diversion program described above. Mr. Abitbol provided all of the information above concerning the pilot diversion program in Honolulu's Chinatown district.
Individuals who are suspected of exploiting minors; Registered sex offenders; Individuals suspected of promoting prostitution.

**Pimps and Buyers**
Pimps would be excluded from participation in this pilot program. "Johns" who otherwise meet the eligibility criteria (e.g., who are threatened with arrest for one of the enumerated offenses) would not be excluded simply by virtue of having sought sex for money. There are no separate programs for clients/Johns.

**Consequences of Participation**
The only reward for completion is avoidance of arrest for the underlying offense.

The only sanction for failing to attend the case manager assessment is that the individual would be ineligible for future participation in the diversion program, as records will be maintained of who is referred to the case manager and who does or does not appear for the assessment within 30 days.

**Program Funding**
The Hawaii legislature has funded the pilot program via a $200,000 grant. It was reported that the CHOW Project would seek additional funding from the legislature in the 2018 session.

**Criticism**
Tracy Ryan, APLE ("Arresting Prostitutes is Legal Exploitation"). At the time the research was conducted, Ms. Ryan advised that there are no formal or informal diversion programs for sex workers in Hawaii. She went on to explain that her organization is against such diversion programs generally. She stated, "We are not supportive of mandated diversion programs for sex workers. Giving persons a choice of jail or a rescue program is force and abuse. It is not a successful model. Pam Vessels told me during the entire time Hale Ho'omaka Na Wahine was operating (5 years), there was not one success story when we accepted mandated diversion residents! The residents that came from Drug Court were all successful but they were not mandated! They were told about the program option & the decision was theirs to make!

When an individual is ready and willing to exit the sex trades they should have good social services available. These should be based on harm reduction standards and not on moral judgements. The first step for improving the lives of sex workers, whether trafficked or not, is to repeal the criminal laws that address consensual adult activity. This includes the buyer and seller of sexual services and extends to managers who do not engage in abusive or exploitive practices. This discontinues the abuse sex workers face from law enforcement which, based on the numbers involved, is a far greater problem than trafficking. It also allows for better reporting and prosecution of abusive situations. If you wish to know more about the need for such changes you may wish to visit the website of the Global Alliance Against Trafficking Women at ww.gaatw.org. They are the largest anti-trafficking organization in the world.

Short of convincing legislative bodies to enact meaningful repeal of anti-prostitution laws, efforts should be made to ensure all sex workers can easily clear a criminal record. Limiting this to 'trafficking victims' creates more needs of proof and motivates persons to dream up phony trafficking stories. We have a legislative bill pending in Hawaii that will allow all misdemeanor level prostitution convictions to be automatically expunged after a three-year period if no further criminal offenses are on the individual's record during that three years. This cuts out a lot of expensive legal wrangling over expungements and does away with the harmful two tiered
system aimed at giving alleged trafficking victims better treatment under the law than others convicted of the same crimes."
IDAHO

Idaho does not appear to have any diversion programs specifically for sex workers or survivors of trafficking. Our researchers contacted several counties in Idaho. According to the Chief Criminal Deputy in the Ada County Prosecutor’s Office, she is “not aware of Specialty Courts or Diversion programs specifically intended for victims of human trafficking in Ada County. However, the circumstances of the crime are always part of both the charging decision and the sentence imposed in the case.” Therefore, if someone was a victim of human trafficking, it is possible they could be referred to Drug Court or Mental Health Court. This may hold true for other counties in Idaho.

Statutory Authority
Idaho Statutes § 19-2601. Suspension of Judgment

Eligibility
Any defendant charged with a misdemeanor or felony

Limitations
Defendant charged with treason or murder

Consequences of participation
If defendant enters a plea of guilty, the court may suspend judgment and place defendant on probation with conditions instead of imprisonment.
The Chicago Prostitution and Trafficking Intervention Court is a deferred prosecution program for misdemeanor prostitution cases.79

The Chicago Prostitution and Trafficking Intervention Court was implemented in 2015 as a coordinated initiative between the Cook County State’s Attorney’s Office, Cook County Chief Judge’s Office, and the Cook County Public Defender’s Office. The program claims to herald a new approach to those engaged in prostitution by combining successful alternative prosecution models with trauma-based services and a trafficking-oriented response. The program design is said to include tailored services, multi-agency cooperation, expert technical assistance, and a contained court-based environment.80

Those with an eligible charge will be evaluated by the state’s attorney for eligibility to participate in the Program. “Each eligible defendant shall enter into an oral agreement with the state’s attorney to participate in the Program. Upon the agreement between defendant and the state’s attorney, the defendant will be screened by members of a resource agency to determine which services to make available to the defendant. At the initial hearing, if the defendant has been accepted into the Program and the court approves, the case will be continued to a date determined by the state’s attorney and the court.

The state’s attorney shall advise the court of the defendant’s status at the next scheduled court date or by a date set by motion.

At that time, the state’s attorney shall determine whether the defendant is still eligible for the Program, whether additional services are needed, and whether the defendant is eligible to remain in the program with modifications to the agreement.”

Statutory Authority
None found.

Eligibility
Women, men and transgender individuals are all eligible.81 Participants must be facing a misdemeanor prostitution or prostitution-related Pedestrian Soliciting Rides charge.

Limitations
Persons with significant violence in their recent criminal history will not be eligible for the program.

Consequences of Participation
Prosecution of the case by the state’s attorney will be deferred, pending confirmation of successful completion of all conditions.

If the defendant does not qualify for the program, does not agree to the terms, the court doesn’t

80 Id.
81 Id.
approve the diversion agreement, or the defendant violates terms of the agreement, the state’s attorney shall resume prosecution of the initial charge.\textsuperscript{82}

Researchers for Indiana indicated the absence of a statewide diversion program. They found that the ability to enter into pre-trial diversion agreements vary by county and prosecutor.

Indiana published guidelines for prosecuting attorneys to determine how they should operate diversion programs. The general information from that guide is provided.

**Statutory Authority**

**Eligibility**
Misdemeanors and low level felonies

**Limitations**
No individual may participate in a pre-trial diversion program if they committed murder or a list of other more serious offenses.  

**Consequences of Participation**
Upon successful completion of the program, the charges will be dismissed. If the participant is unsuccessful, the prosecution may continue.

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Researchers did not locate a statewide program. Diversion options and deferred sentencing or prosecution agreements vary by county and are left to the discretion of the holding facility and district attorney.  

There is some collaboration with Sex Trafficking Organizations in some counties. Researchers conducted interviews and found that some of the counties will work with the organization, Braking Traffik, and allow Braking Traffik into their jails to perform counseling to victims of human trafficking. They will also allow Braking Traffik in to help with post-release planning and assistance (e.g., how to find a job and housing). Other counties are not receptive at all. Scott County allows social services. Rock Island County does not.

According to the interviewee Cathy O'Keefe from Braking Traffik: many times Braking Traffik will recognize sex trafficking even before the individual being prosecuted for prostitution. In those situations, they may say something to the jail. District attorneys or assistant district attorneys in certain counties are sometimes good about identifying where there could be an issue and referring the woman over to Braking Traffik for some assistance. There is no consistent approach. Everything is on a case by case basis.

As of January 2016, the Iowa legislature established the state Human Trafficking Office and Task Force. The Annual Meeting of the state bar provided a human trafficking training geared toward judges. The Iowa Department of Human Rights also published a 2016 report on Human Trafficking in Iowa.

Statutory Authority
Iowa Code § 907.3. Deferred Judgment.

Eligibility
Any defendant who pleads guilty to a misdemeanor or a felony

Limitations
Cannot participate if pled guilty to a felony within the preceding 5 years, committed any offenses requiring registration as a sex offender, and others.

Consequences of Participation
If defendant is not cooperating then the court may withdraw the defendant from the program, pronounce judgment, and impose sentence after the defendant has an opportunity to be heard.

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84 Iowa Code § 907.3
85 Interview with Cathy O'Keefe, Braking Traffik.
There are several counties in Kansas with diversion programs developed by the prosecutors in each jurisdiction. Several counties stress that diversion is a privilege and not a right.

Johnson County\textsuperscript{88}, for example, permits diversion for the misdemeanors “prostitution and patronizing a prostitute.” However, the researchers did not find any programs in Kansas specifically for sex workers or survivors of trafficking.

While conducting interviews, one researcher discovered that in Clay and Riley counties that one prosecutor’s policy was to attempt to get services to someone arrested for prostitution before charging them with a crime and arrange for counseling and other contacts through the local Crisis Center to facilitate shelter and vocational options. At the time of the interview, in early 2017, those offices were expected to travel to Portland, Oregon to observe procedures with regard to survivors of trafficking.

\textbf{Statutory Authority}

Kansas Statutes Annotated §22-2907-2911. Kansas permits pre-trial diversion agreements created by the district attorney of each jurisdiction within Kansas.

\textbf{Eligibility}

Defendants charged with non-violent felonies or any misdemeanor or traffic offense is eligible to apply. The district attorney considers several factors including the nature of the crime, the circumstances, and mitigating circumstances.

\textbf{Limitations}

There are limited circumstances where a district attorney may not enter into a diversion agreement with a defendant.\textsuperscript{89} In some cases, previous participation in the diversion program or prior convictions may make individuals ineligible to participate in another diversion agreement for a period of years.

\textbf{Consequences of Participation}

If the participant completes all requirements of diversion, the charges are dismissed. If not, the criminal proceedings continue.

\textsuperscript{88} For more details on this program, please see the Johnson County District Attorney’s Office Website for Adult Diversion: http://da.jocogov.org/adult-diversion-program

\textsuperscript{89} See K.S.A. 22-2908(b)(1)(A).
KENTUCKY

The diversion program is not specific to human trafficking, but is available for certain felonies and misdemeanors.

The program was expanded to the lowest level of felonies, class D felonies, by legislative action in 1998. The change was part of a broad restructuring of criminal sentencing in Kentucky. The primary goal of the legislation was to increase penalties for criminals thought to be a threat to society. A second goal was to increase rehabilitation opportunities for lower-level offenders. ⁹⁰

Recent criminal justice reforms in 2011 and 2014, made significant changes to drug crimes, pretrial release, and juvenile crimes. ⁹¹ Neither bill changed the diversion programs.

There is no formal diversion court. The proceedings are heard by Kentucky Circuit Courts, the trial level court. ⁹²

The program requirements are similar to probation. The mandatory terms include: (1) payment of any restitution; (2) submit to supervision from the Division of Probation and Parole; (3) commit no further offenses; (4) prohibit firearm possession; (5) submit to drug and alcohol tests; (6) waive constitutional search and seizure protections; and (7) other "reasonable conditions. "Discretionary terms include jail terms, additional fines, curfew, and community service." ⁹³

Statutory Authority
Kentucky Statutes § 533.250. Pretrial Diversion Program

Eligibility
Only Class D felonies, the lowest level felony, and misdemeanors are available for diversion. The defendant must be eligible for probation. Eligibility for misdemeanor diversion varies within judicial districts. In 30 of the 52 districts, all misdemeanors are eligible. The remaining districts exclude certain misdemeanors. ⁹⁴

Prostitution is a class B misdemeanor, a charge which is eligible for diversion. Promoting prostitution is a class B misdemeanor, a charge also eligible for diversion. Prostitution with knowledge of HIV infection is a class D felony, also eligible for diversion. Diversion generally lasts 1 to 5 years, the longer the diversion, the more apt clients are to fail. If diversion is successfully completed, the charge is dismissed and the client can file to expunge the charge. ⁹⁵

The defendant must plead guilty to the charged offense to be eligible for diversion. ⁹⁶ Additionally, some judicial district's locals rules state the felony diversion program is only

⁹⁰ Local Rules Regarding Diversion, 46th Judicial District.
⁹¹ House Bill 463 (2011); Senate Bill 200 (2014).
⁹² KRS § 533.250.
⁹³ KRS § 533.250.
⁹⁵ Interview with Glenda Edwards, Trial Division Director of Dept. of Public Advocacy.
⁹⁶ KRS § 533.250.
available for "victimless crimes."\textsuperscript{97}

**Limitations**

The defendant must not have been convicted of a felony within ten years. The defendant must not have entered the diversion program previously in the past five years.\textsuperscript{98}

**Consequences of Participation**

Eligibility for the program requires a defendant plead guilty to the offense.\textsuperscript{99} The judgment is then issued with imposition of sentence suspended pending the completion of the diversion program. If the diversion program is completed, the conviction is erased from the record. If not, the defendant may serve the sentence previously imposed.\textsuperscript{100}

Upon successful completion of the program, the conviction is erased from the defendant's criminal record.


\textsuperscript{98} KRS § 533.250.

\textsuperscript{99} KRS § 533.250.

\textsuperscript{100} KRS § 533.256.
LOUISIANA

There is no formal state-wide diversion program. Diversion programs are available at the parish level. Only two parishes have diversion programs specific to sex trafficking: New Orleans Parish and Caddo Parish.

Governor Edwards announced the first statewide symposium on ending human trafficking on September 20, 2017. The Governor's Office of Programs and Planning and the Children's Cabinet are identifying key partners and securing grant funding from the National Criminal Justice Center to host regional trafficking summits. These summits could lead to legislative action and, potentially, a statewide diversion program.101

Caddo Parish Program

The "Purchased: Not for Sale" program is a faith-based program in collaboration with the Caddo District Attorney's office. The program began informally in 2011 as a support group for women in the industry, including those working in strip clubs, in prostitution, as online escorts, or in pornography. The organization reviews online arrest records on a weekly basis to identify those charged with prostitution or who have a prostitution charge on their record. Volunteers then visit the jails to inquire if any woman is interested in diversion. Law enforcement, the District Attorney's office, or the judge will also refer a defendant to the program.102

The program is an 18 months to 2 years, holistic recovery program, which features custom treatment plans including medical care and medication and assistance with applications for Medicaid; counseling and trauma recovery, including group and individual sessions; access to safe and stable housing; GED program and testing; financial literacy classes; job training, including a shopping day with nonprofit dress for success; sex education; assistance with applications for government assistance; and bible study.103

Eligibility

The only hardline rule is no prior charges of violent crimes. Additionally, the program is not equipped to accept those with severe mental health issues, such as schizophrenia or multiple personality disorder. Aside from these restrictions, it is at the discretion of the individual judge to approve the application for diversion.104

Limitations

The program is not limited to women and has accepted transgender individuals. However, the program is geared toward women and only women can take advantage of the fully residential program.105

Consequences of Participation

The program requires check-ins with the court every three months in which class attendance and drug screen results are presented. Once the program is completed, the charge is

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102 Interview with LeAnn Bussey, Director of Purchased Not for Sale in Shreveport (Caddo Parish).

103 Id.

104 Id.

105 Id.
dismissed. In addition, participants receive merit points during the course of the program for certain milestones. Following completion, the points become dollars. The organization will match points up to $800. For example, if a program participant earns 500 points during the program, upon completion she will receive $1000 (500 points to dollars plus matching contribution by the program). The participant can then allocate how she wants to use the money (i.e. a down payment on a vehicle or class tuition). Purchased will then write a check made payable to the college or dealership.\textsuperscript{106}

If a participant fails to complete the program, the judge can send the participant back to jail.\textsuperscript{107}

Support
The program works with other nonprofits, such as CADA, a drug rehabilitation program, Dress for Success, and volunteer counselors and medical professionals. Women who complete the program can continue to access resources through Purchased: Not for Sale.\textsuperscript{108}

Program Funding
The program is funded through private donations from churches, business, families. The program does not receive any government funding.\textsuperscript{109}

Success Rates
There are no formal studies, but Director LeAnne Bussey estimates that about half of program participants complete the program.

New Orleans Parish Program
Women With A Vision first partnered with the New Orleans Municipal Court, Orleans District Attorney’s Office, the City Attorney, Orleans Public Defenders, and the New Orleans Police Department in 2012 to pilot the Crossroads Diversion program.\textsuperscript{110} The program is part of the Racial Justice Improvement Project, which is funded through two federal grants from the ABA and Bureau of Justice Administration.\textsuperscript{111}

Release on own Recognizance (ROR) by Court; Must report to Women With a Vision (WWAV) within 10 days of release; Case managers at WWAV conduct assessment and develop an individualized service plan; and Must return to court for status hearing with WWAV case manager.\textsuperscript{112}

Classes include: Communication styles, Mindfulness Meditation, Identifying Emotions, Understanding Triggers, Identifying and Changing Harmful Self-Talk, Undoing Internalized Oppression, Healthy Relationships, Stress Management, Yoga/Zumba, Vision Mapping, and Personal Strengths and Weakness Inventory.\textsuperscript{113}

\textsuperscript{106}Id.
\textsuperscript{107}Id.
\textsuperscript{108}Id.
\textsuperscript{109}Id.
\textsuperscript{111}Id.
\textsuperscript{112}Racial Justice Project. Cross Roads Diversion Program.
\textsuperscript{113}Id.
Participants also receive assistance with obtaining their GED, job/interview skill Training, financial responsibility training, and safer sex education.\textsuperscript{114}

**Eligibility Requirements**
Individuals may participate if they have misdemeanor prostitution charges, have a current local address, and have non-violent misdemeanor or felony convictions/arrests.

**Limitations**
Individuals may not participate if they are on probation or parole, have violent criminal histories more recent than 5 years. If the conviction is within the past 5 years, individuals are accepted on a case-by-case basis.

**Consequences of Participation**
Upon successful completion of the program, charges are dismissed by the prosecution.\textsuperscript{115}

**Program Funding**
Two federal grants through the ABA and Bureau of Justice.\textsuperscript{116}

**Success Rates**
During the pilot program 23 client graduated; 8 were currently enrolled; and 14 have a continued relationship with WWAV (more than 50% of participants). As of 2014, there were no rearrests.\textsuperscript{117}

**Other Parish Programs**
Other parishes, including those located in the 15th, 18th, 19th, 22nd, and 25th judicial divisions offer some variation of Pre-Trial Intervention. PTI is not pre-arrest, but it is pre-charge. Prosecution is delayed until successful completion of the program, upon which the charges are dismissed or refused. Applicants for the program must be first time offenders with nonviolent crimes. Prostitution is a misdemeanor eligible for PTI. Some judicial divisions have age restrictions. Additionally, the program requires a fee, which is based on a sliding scale and can range anywhere from $200 to $3,000, though fee waivers are available.\textsuperscript{118}

Programs last between six months and two years. Successful participants must wait five years before seeking expungement of their arrest record.\textsuperscript{119}

Classes provided through the program vary, though some offer substance abuse, anger management, and parenting classes. Community service and restitution is general requires, as is acknowledgment of wrongdoing. For drug offenses, random drug screenings are required.\textsuperscript{120}

\textsuperscript{114} Racial Justice Project. Cross Roads Diversion Program.
\textsuperscript{115} Racial Justice Project. Cross Roads Diversion Program.
\textsuperscript{117} Racial Justice Project. Cross Roads Diversion Program.
\textsuperscript{118} 15th, 18th, 19th, 22nd, and 25th Judicial Division of Louisiana.
\textsuperscript{119} 15th, 18th, 19th, 22nd, and 25th Judicial Division of Louisiana.
\textsuperscript{120} 15th, 18th, 19th, 22nd, and 25th Judicial Division of Louisiana.
This jurisdiction has diversion programs addressing specific issues like substance abuse and mental health, but researchers were unable to locate programs specifically geared toward assisting sex workers or survivors of trafficking. There also does not appear to be a general diversion program for individuals who committed low level offenses that don’t involve drugs or mental illness.
MARYLAND

Baltimore Law Enforcement Assisted Diversion Program ("LEAD") appears to be the only formal diversion program for sex workers or survivors of trafficking in Maryland.

Baltimore Law Enforcement Assisted Diversion Program ("LEAD")

“Baltimore’s LEAD program is designed to divert individuals from prosecution and incarceration when engaging in minor drug offenses and prostitution. The Baltimore program was inspired by the success of the Seattle LEAD program, and stakeholders hope to extend the program after an initial 18-month pilot period.”

The LEAD program began in 2016 as a partnership between the Baltimore Police Department ("BPD"), Behavior Health System Baltimore ("BHSB"), the Office of the State’s Attorney ("OSA"), the Office of the Public Defender, the Division of Parole and Probation, and the Baltimore City Health Department.

The program commenced operations on February 21, 2017 and will apply to arrests in a designated portion of Baltimore. BPD officers who detain individuals suspected of prostitution or misdemeanor drug possession or prostitution-related offenses in the designated district of Baltimore will be able to call case managers with Baltimore Crisis Response Inc. instead of booking the suspects on criminal charges.

Baltimore’s consent decree with the U.S. Justice Department requires BPD to revisit how it interacts with individuals with behavioral health issues or who are in “crisis,” including by establishing “a preference for the least police-involved response possible consistent with public safety.”

The program works on a referral basis. Adults suspected of minor violations related to controlled dangerous substance (“CDS”) or prostitution-related offenses may be referred to the LEAD program by a LEAD-trained BPD officer via a “Stop Referral.”

BPD officers have discretion to make Stop Referrals based on LEAD training and are the primary decision makers regarding such referrals. Only LEAD-trained officers may make Stop

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Referrals. 125

“Upon either making a warrantless arrest (based upon probable cause under Maryland law) or an Investigative Stop (based upon reasonable articulable suspicion) for a CDS or prostitution-related violation, a LEAD trained officer will make an immediate assessment whether the suspect is eligible for the LEAD program.” 126

If the individual is eligible to participate in the LEAD program, the BPD officer will advise the individual about the LEAD program and ask the individual if they would like to participate (the program is voluntary). If the individual does wish to participate, the officer will: Transport the individual for an initial intake assessment from a LEAD Case Manager and verify eligibility. 127

Following intake, Case managers with Baltimore Crisis Response, Inc., under oversight by BHSB, will provide services including drug treatment, mental health services and housing aid.

If the individual is not eligible to participate in the LEAD program or does not want to participate in the program, the BPD officer will transport the individual for arrest processing if there is probable cause to arrest. If there is not probable cause to arrest, the individual is free to leave. 128

Individuals who are capable of giving informed consent but not capable of completing the full intake and assessment at the time of a Stop Referral or Social Contact Referral may schedule a follow-up appointment, though such individuals who do schedule a follow-up appointment within 7 business days may be referred for prosecution for the original criminal activity. 129

BPD LEAD-trained officers that identify an individual who may benefit from LEAD services but who is not currently suspected of LEAD-eligible offenses may contact a LEAD Case Manager for a “Social Contact Referral.” 130

Eligibility
The “LEAD program is designed to provide services to adult Baltimore City residents in the LEAD pilot area” (approximately 10 square blocks). 131

Limitations
Distribution or Possession with Intent to Distribute drugs, and there is reason to believe the individual’s primary motivation for distribution is to derive income, as opposed to addiction motivation (i.e., as a source of funding to acquire additional CDS for personal use):

- The individual’s behavior does not appear amenable to diversion (e.g., combative behavior);
- The individual appears to be a threat to himself/herself or to public safety;

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126 Id.
127 Id.
128 Id.
129 Id.
130 Id.
131 Id.
• The individual appears to exploit minors or others in a drug dealing enterprise;
• The individual is suspected of promoting prostitution;
• The individual has an existing peace or protective order prohibiting contact with a current LEAD participant or LEAD staff member(s);
• The individual has an open or pending case in any jurisdiction;
• The individual has certain disqualifying convictions that occurred within 10 years, or if any sentence for such disqualifying offenses was completed within the last 5 years;
• The individual has an open arrest warrant; or
• The individual is currently under supervision in any jurisdiction (e.g., parole, probation, pretrial release, etc.).

If, in an officer’s and/or service provider’s judgment, an individual is unable to provide informed consent and/or poses a risk to self or others due to severe mental illness, the person will not be referred to LEAD. Rather, the officer will refer such individuals to the BPD’s Crisis Response Team for connection to behavioral health services.133

If a BPD officer encounters a self-identified LEAD participant outside the pilot area, the officer should inquire about LEAD status through a dispatcher.134

To the extent the LEAD program has capacity for additional clients after responding to Stop Referral cases, LEAD will also accept Social Contacts Referrals for individuals who are perceived as having a high risk of future arrest for minor drug activity or prostitution.135

The program is expected to serve about 60 people at a time.136

**Funding**

The program is funded with a mix of public and private funding: The Maryland Governor’s Office of Crime Control and Prevention provided $100,000; the Abell Foundation provided $100,000; the Morton K. and Jane Blaustein Foundation gave $75,000; and the Open Society Institute-Baltimore provided $350,000. Medicaid will cover some services.137

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132 Id.
133 Id.
134 Id.
135 Id.
137 Id.
**MASSACHUSETTS**

Massachusetts does not appear to have a diversion program specifically for survivors of trafficking or sex workers. There also does not appear to be a statute authorizing diversion programs, like some of the other states.

It is possible that Massachusetts will create a population specific diversion program as there is an interagency task force established to address sex trafficking, including to: "evaluate approaches to and offer recommendations for programs...for victims, developments in state and federal laws regarding human trafficking and methods to increase effective collaboration between state and local agencies, law enforcement, social service providers and non-governmental organizations...and examine ways to curtail the demand side of trafficking such as self-sustaining first offender diversion programs..."\(^{138}\)

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Informal diversion programs/understandings with various counties/cities (e.g., Boston PD generally follows Nordic Model -- criminalizing the buyers of sex while not criminalizing individuals in prostitution).
### MICHIGAN

Human Trafficking Court ("HTC") is a sex trafficking diversion program founded and run in partnership with the University of Michigan Law School’s Human Trafficking Clinic in Washtenaw County, Michigan.  

The Court began in 2013 with the idea of diverting victims of a severe form of sex trafficking from jail to a problem solving court.  

The program is still relatively small with around 8-20 participants involved at any given time, and a completion time-frame of approximately 18-24 months. During its short time in existence, concrete success has been seen in the increased self-sufficiency of participants, high compliance rates, few absconders or re-arrests, and significant cost savings (in incarceration costs) to the county.  

HTC is a post-arrest diversion program with individualized time-frames and requirements, which as of January 2015 is able to defer judgements, such that the court erases the underlying conviction from the participant’s record upon completion.  

The team consists of one judge, a magistrate, probation officers, a designated coordinator and case manager, peer supports, and service providers. Applicable cases are transferred to the 14B District Court.  

Participants meet with the coordinator within 48 hours. The Peer Support Specialists are considered integral to the success of HTC and are individuals with experience receiving public mental health services who have completed training by the Michigan Department of Community Mental Health and have become certified Peer Support Specialists. They support participants by meeting with them individually, facilitating in group therapy, modeling engagement in the 12-step community, transporting them to meetings and job interviews, counseling appointments, and court dates.  

The court subcontracts with an agency that maintains a consistent and intimate team to provide chemical dependency and trauma-informed counseling to the participants. The agency follows the ROSC (Recovery Oriented System of Care) model, which is a coordinated network of community-based services and supports that is person-centered and builds on the strengths and resiliencies of individuals, families, and communities to achieve abstinence, improved health, wellness, and quality of life for participants.  

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141 Interview with Chelsea Brodfuehrer, HTC Coordinator.  

142 Interview with Chelsea Brodfuehrer, HTC Coordinator.  

143 Interview with Chelsea Brodfuehrer, HTC Coordinator.
Although the coordinator will make an initial assessment as to whether the person has been subjected to a severe form of trafficking at the first meeting, that assessment may change as more is learned about the participant (recognizing that victims cannot always disclose all details at that time due to safety and/or trauma). \(^{144}\)

Participants are sentenced to probation after pleading to or being found guilty of the charge.

Fines/fees are waived, except those mandatory by statute, and those are eligible for deferment/payment plan.

A comprehensive intake assessment is done by an outside service provider (funded by the court), covering mental health, chemical dependency, and trauma. The service provider develops an individualized plan that addresses trauma, addiction, independence, and stability.

This plan is the basis for the court to select the probation requirements:

1. The court sets individualized probation plans using service provider plans. Requirements generally include attending regular meetings with the coordinator, engagement with local recovery community, review hearings with the Judge, employment or school enrollment, and periodic drug and alcohol testing.

2. Participants receive three months of free public transportation, and receive assistance in applying for public benefits, securing a valid ID, applying for employment or education opportunities, and identifying stable housing.

3. There are three phases, with gradually less oversight. As the participant progresses, changes may be made to the plan where necessary upon review by a service provider therapist.

4. Graduation requires having paid all mandatory fees/fines and that the participant has been sober and sanction-free for the ninety days immediately preceding the day of graduation.

**Eligibility**\(^{145}\)

Because of the fact that victims are often arrested on other related offenses (e.g., drug paraphernalia or curfew violations), the court has broad eligibility requirements and allows the participation of “any person arrested for prostitution and related crimes.”

**Limitations**

Candidates for HTC will be ineligible if they are minors with juvenile delinquency charges, which are under the exclusive jurisdiction of family courts; they are charged with a felony (Michigan district courts only adjudicate misdemeanor charges); they are considered to be “violent offenders”; or they have a severe mental health diagnosis and the court cannot assist with the needed services. The program requires that participants have been subjected to a “severe form of trafficking”, and as such clients and pimps are ineligible.

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\(^{144}\) Interview with Chelsea Brodfuehrer, HTC Coordinator.

\(^{145}\) Chelsea Brodfuehrer, HTC Coordinator (14b District Court), personal communication, June 2018.
Consequences of Participation
Participants are recognized when they complete a phase, and participate in a formal graduation. Since the judgement is deferred, the prosecution will cease and nothing will go onto the participant's criminal record.

Participants are minimally sanctioned for failure to comply with requirements.

Funding
In 2013, the Michigan State Courts Administration Office ("SCAO") granted a Court Performance Innovation Fund ("CPIF") award to the HTC, for the purpose of encouraging Michigan trial courts with great ideas to improve court performance and public service. Other sources of funding come from grants and private donors, however the HTC is still seeking a reliable source of funding.

Successes
Although it is too early to formally evaluate recidivism rates, there have been no re-arrests. Furthermore, the participants complete the Arizona Self-Sufficiency Matrix (an evaluator tool to measure the self-sufficiency of eighteen areas of one's life) every three months, and findings report increased self-sufficiency.

The HTC has shown significant cost savings. While putting a defendant in jail for 90 days in Washtenaw County costs $11,610, a two-year probation program has averaged $5,319 per participant.

Challenges
- Gaps in services (from service providers).
- Availability of affordable housing.
- Access to job training and GED programming.
- Reducing the stigma attached to sex trafficking.
- Some victims may not be identified until after their criminal case has already reached disposition at pretrial.

Lessons Learned
Participants generally want treatment, but have had problems with the affordability and/or bureaucratic hoops of Medicaid funded treatment. "The key to getting people to commit to the program was [not] the promise of dismissing their charges, but...the direct access to services.” – Honorable Charles J. Pope (presiding judge).

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146 Chelsea Brodfuehrer, HTC Coordinator (14b District Court), personal communication, June 2018.
147 Id.
148 Id.
149 Id.
150 Id.
MINNESOTA

The diversion programs in Minnesota occur on either a city- or county-wide basis. The only diversion program for survivors and sex workers discovered during this review was in Minneapolis, which started on July 1 2017.

Hennepin County - Minneapolis & Minnesota Indian Women's Resource Center
MIWRC/Family Partnership-Pride
The researchers spoke with the Executive Director of the Minnesota Indian Women's Resource Center ("MIWRC"), as well as one of her Sexual Assault Advocates. The Minneapolis City Attorney's Office is running a pilot pre-charge diversion program for adults engaged in prostitution and victims of trafficking.

The interviewees stated that they thought the impetus for the program was the increase in prostitution on one particular street in the city, Lake Street, where individuals are no longer trying to hide the fact that they are engaged in criminal conduct. The businesses and residences in the area started complaining. The city attorney, rather than trying to solve the problem with more criminal charges, thought that a service-driven model might work given the conditions. Because this is a pilot program, the City Attorney was focused on prostitution on Lake Street.151

MIWRC's program is 6 months long of weekly group and individual therapy sessions. There is no separation within the group therapy sessions.

After the individual is arrested for prostitution, the prosecuting attorney contacts MIWRC. MIWRC sends a Sexual Assault Advocate to the prison and the Advocate offers the program to the individual arrested. The individual has to accept on the spot and contact MIWR within 24 hours of release. If the individual does not, the individual is re-arrested and charged with prostitution. The main population MIWRC serves is the Native-American population. Although Native-Americans represent less than 2% of the population in Minnesota, they make up 1/3 of the population of individuals arrested for prostitution.152

Statutory Authority
Minnesota Statutes Section 401.065. Pretrial Diversion Program.

Eligibility
Youth or adult with two or fewer convictions or arrests for prostitution.

Individuals with violent offenses may be included.

Limitations
There is no program for pimps or clients.

151 Interview with Patina Park, Executive Director of the Minnesota Indian Women’s Resource Center and Joy Friedman.
152 Interview with Patina Park, Executive Director of the Minnesota Indian Women’s Resource Center and Joy Friedman.
Consequences for Participation
In order not to be charged with prostitution, the individual has to complete the six-month program plus another six months after the program without being arrested for prostitution. If the individual is arrested for another crime (e.g., drug possession or theft), they will not be charged with prostitution.\textsuperscript{153}

Support
MIWRC has a close connection with other non-profits in Minnesota that have work-force training and a GED certificate program. The individual arrested always has the option to take part in those trainings through MIWRC partnership. After the six-month pre-trial diversion program is completed, the individual has the ability to participate in an ongoing non-ending group program called Healing Journey and can engage in one-on-one case management.

Funding
MIWRC serves as a provider/sub-contractor to a tribe in Minnesota under a contract between the tribe and the federal and state governments. The funding still flows through the state and the county, but the tribe actually funds the programming via federal funds provided to the state.\textsuperscript{154}

Concerns
The researchers spoke with an individual from the organization, Breaking Free. Breaking Free could not participate because it is in Ramsey County. She stated that she thought the Hennepin County program was not great for a few reasons: (1) It is focused just on the activities on Lake Street in one particular precinct in Minneapolis. This street is mainly frequented by older female sex workers who cannot compete with the online demand and who have been arrested multiple times before. The interviewee thought that most of the women will likely not be eligible for the program because they will have had too many arrests; (2) Neither MIWRC and PRIDE have housing, which is a significant problem for victims of prostitution; (3) The victims will have to spend the night in jail and this will count as an arrest which could potentially preclude them from the program.\textsuperscript{155}

Central Minnesota Sexual Assault Center ("CMSAC") and Women of Worth ("WOW")
WOW began in August 2015 and is an "empowering, gender-responsive, and trauma-informed psycho-educational group that covers various topics relevant to women who have been commercially sexually exploited."\textsuperscript{156}

WOW is a total of 12 sessions – two individual and ten weekly group session spanning a three-month time period, totaling 17 hours.\textsuperscript{157}

CMSAC and Central MN Sex Trafficking Task Force have a pre-court diversion partnership where individuals picked up for the potential prostitution charges/escort citations will not be

\textsuperscript{153} Interview with Patina Park, Executive Director of the Minnesota Indian Women’s Resource Center and Joy Friedman.
\textsuperscript{154} Interview with Patina Park, Executive Director of the Minnesota Indian Women’s Resource Center and Joy Friedman.
\textsuperscript{155} Interview with Terry Forliti, Executive Director, Breaking Free.
\textsuperscript{156} Central Minnesota Sexual Assault Center - Women of Worth. https://cmsac.org/wow/.
\textsuperscript{157} Central Minnesota Sexual Assault Center - Women of Worth. https://cmsac.org/wow/.
cited/charged if the individual shows a demonstrated effort to successfully complete the program.

**Breaking Free**
Breaking Free is a Minnesota-based non-profit and social justice organization founded in 1996. The current Executive Director, Terry Forlitti, is a trafficking survivor.

In addition to the services for survivors, Breaking Free also has a John's School. The John's School is available for men who have been arrested and/or charged with a gross misdemeanor or misdemeanor prostitution charge. It is not available for felony prostitution charges, which is engaging the services of a child under 17. The program is an 8-hour one-day seminar that costs $750. It is facilitated by Jeremiah Whit, a former gangbanger from California whose daughter was trafficked. There are several lecturers, including the City Attorney, someone from the Department of Health who speaks about the diseases that are circulating, and victims of trafficking. The Johns receive a Free Aids test. The topics include: the dynamics of prostitution, coercion, adverse effects of prostitution on victims and the community, different ways of recruitment, tactics used to keep the victims, male sexuality, sex addiction, why Minnesota has a high incidence of prostitution (proximity to Great Lakes, good highway access to many major cities, and unprotected border with Canada). The men are issued pre- and post-tests. The purpose of the program is to address the underlying assumptions and attitudes that perpetuates prostitution and to hold the John accountable. The typical John is a 47-year old white man from the suburbs, married with kids, at least one kid is female, salary of $75,000 or more and more than a college education. Once the John is arrested, he has 3 months to sign up for the program. Once the John completes the program and pays the $750, he receives a certificate and is eligible to have the charge reduced from a gross misdemeanor to a misdemeanor or to be ripped up completely. Breaking Free's John School services Hennepin and Ramsey County.¹⁵⁸

¹⁵⁸ Interview with Terry Forlitti, Executive Director, Breaking Free.
MISSISSIPPI

Mississippi has so-called "Pretrial Intervention Programs" but neither the statutory language nor the descriptions of specific programs available on District Attorneys' websites indicate that there are programs designed specifically for prostitution defendants. Some program descriptions suggest that the programs are limited to felony defendants, whereas prostitution is a misdemeanor. However, prostitution is not specifically excluded either.

Section 97-29-49(4) of the MS Code provides immunity from prosecution for prostitution as a juvenile or adult to persons who have engaged in prostitution as a direct result of being "trafficked persons", which under § 97-3-54.4 and § 97-3-54.1 of the MS Code includes persons subjected to human trafficking, involuntary servitude, or sexual servitude of a minor. This is regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted.

Statutory Authority
Mississippi Code § 99-15-101 through 99015-127. Under the Pretrial Intervention Act, the decision whether to establish a Pretrial Intervention Program in a given circuit court district is left to the "prosecutorial discretion" of the District Attorney, and any such program will be supervised and controlled by the District Attorney.

Eligibility
The participant must be 18 or older, poses no threat to the community, is unlikely to be involved in further criminal activity, has no significant history of criminal activity, was indicted and is represented by counsel, and is likely to respond quickly to rehabilitative treatment, among other factors.

Limitations
Individuals charged with crimes of violence or drug trafficking may are ineligible.

Prostitution does not fall under the definition of "crimes of violence" in § 97-3-2 or the definition of "trafficking in controlled substances in § 41-29-139(f) of the MS Code.

The restrictions in participation vary based upon the office running the program. For example, the 14th District states that the program "is available to first time offenders who commit certain non-violent property crimes, such as embezzlement and failure to support minor children."

Consequences of Participation
If a participant successfully completes the program, the court will make a noncriminal disposition of the charges. The court will also expunge the arrest and charge, if it was dismissed. If the participant violates the conditions, the prosecutor may terminate the participant from the program and prosecution is resumed.

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159 MS Code § 97-29-49(3) (2013).
162 MS Code § 97-3-54.4 (2013).
Researchers did not locate a diversion program specifically for sex workers or survivors of trafficking. However, individuals arrested for prostitution and related offenses should be eligible for a diversion agreement set up with the prosecutor.

**Statutory Authority**
46-16-130. Pretrial diversion. A deferred prosecution agreement may be entered into between the prosecutor and the defendant.

**Eligibility**
Diversion appears to be an option for anyone who has not committed one of the excluded offenses.

**Limitations**
Diversion is not an option for a specified list of driving under the influence and underage drinking and driving offenses.

**Consequences of Participation**
If the defendant complies with the terms of the agreement, the charges must be dismissed.
The researcher was unable to locate any diversion programs specific to sex workers or survivors of trafficking. A representative for the Nebraska Human Trafficking Task Force was also not aware of any specific programs in the state.

Notably, engaging in prostitution is a misdemeanor, while soliciting prostitution can be a misdemeanor or felony (with prior convictions). It is an affirmative defense to prosecution both for engaging in and soliciting prostitution that the accused individual was a trafficking victim.

Statutory Authority
Neb. Rev. Stat. § 29-3601 et. seq. Counties are authorized to establish pretrial diversion programs.

Eligibility
Criminal offenses and minor traffic violations

Limitations
The only offenses specifically made ineligible by statute relate to driving while intoxicated.

Note that Lancaster County (which holds Nebraska’s capital city of Lincoln) holds prostitution to be ineligible for pretrial diversion, according to its public website.

Consequences of Participation
If successfully completed, charges are dismissed. If not, prosecution may continue.

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169 Id.
172 Lancaster County Adult Diversion Program Eligibility Criteria and Program Conditions. https://lancaster.ne.gov/attorney/pdf/AdultPreTrial.pdf
There is a prostitution specific court in Nevada. Nevada also authorized pre-prosecution diversion for those charged with misdemeanors.\textsuperscript{173}

**Women In Need ("WIN") Court**

WIN is for women with a history of prostitution who may need trauma and mental health treatment. It is a trauma-responsive diversionary court that addresses criminal behaviors of chronic offenders arrested in the City of Las Vegas. It is an intense 18-month program of accountability and personal growth under the constant direction of Chief Judge Leung and the WIN Court team.

The program takes place at the post-arrest, pre-trial phase. Prosecutors offer WIN court as an alternative to prosecution. Participation is voluntary.\textsuperscript{174}

The program targets women with 3 or more offenses, but this isn’t a bright line rule. This is generally true for Clarke County, and not just the WIN court.

Generally, the court is for non-violent offenders, but they have accepted individuals with simple battery charges and domestic violence charges after an investigation of the basis of the charges. They also consider age (young and wants help), whether they are pregnant, history of physical abuse, substance abuse, and history of trauma. Each woman is evaluated individually based on her own circumstances in context. Participation is based on an individual’s willingness and desire to accept change.\textsuperscript{175} Any attorney can request WIN court from the prosecutors, who are really good about supporting delayed adjudication.

**Eligibility**
- Originally just for women in prostitution, but has expanded
- 18 years or older
- MAY have (nonviolent) felony convictions
- Must go through evaluation before excepted
- Must be willing to comply with recommendations
- Agree to in-patient treatment
- May be specialized, individual circumstances (depending on evaluation)\textsuperscript{176}
- “18-24 month commitment.”\textsuperscript{177}

**Consequences of Participation**

No conviction unless participation is unsatisfactory. The case is dismissed if completed satisfactorily.

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\textsuperscript{173} Nevada Revised Statues. AB 470. The program is not open to those who have not previously completed a preprosecution diversion program, those charged with a violent crime or individuals who have been previously convicted of any crime (except minor traffic offenses)

\textsuperscript{174} Interview with Beth DiFiore.

\textsuperscript{175} Id.

\textsuperscript{176} Id.

\textsuperscript{177} Id.
Funding
Funding through the Bureau of Justice Administration, federal funding through SAMSHA, State administrative office of Courts
City Counsel - non-restricted funding for special court needs (outside of line-items)\textsuperscript{178}

Challenges
In 2007 prostitution was a revolving door and there were a lot of stings. Funding was always an issue. Housing has also been an obstacle - finding housing for women in the program, particularly for women with young children.

Successes
Judges were very receptive when WIN developed. Prosecutors weren’t opposed and became advocates of it after about the first year.

Began as prostitution diversion court, but has grown. They realized the recurring issues were trauma women had experienced (sexual abuse, etc.). The judge broadened the scope to focus more on uncovering the trauma and substance abuse behind the criminal behavior.

When asked about successes, the interviewee indicated that they try to once a year run the graduates’ criminal history to see if there have been any re-arrests that were not previously caught.

A lot of graduates keep in touch. None have gone back to prostitution, some have relapsed, but have gotten back into the program and are in recovery again. Only had 3 out of 36 were re-arrested (for substance-abuse related activity) One woman has come back into the program after a jaywalking arrest. She wanted help.\textsuperscript{179}

\textsuperscript{178} Id.
\textsuperscript{179} Id.
NEW HAMPSHIRE

New Hampshire appears to lack a state-wide pretrial diversion program, but a few of New Hampshire’s counties operate such programs through their district attorneys’ offices. There does not appear to be a diversion program specifically for adult sex workers or survivors of trafficking. There also does not appear to be a statute specifically authorizing a general diversion program.

Merrimack County

There are five different types of programs offered at the Merrimack County Diversion Center, two of which are possible alternatives to prosecution programs (Diversion and First-time Alcohol Substance Training), one is used as both a pre or post-conviction referral (Diagnosing and Treating Addiction) and the remaining two are post-conviction programs (Court Ordered Monitoring Program and Court Ordered Community Service). The mission of the diversion program is to hold an eligible offender accountable while providing the resources, skills and education to reduce the risk of committing crimes in the future. An individual who completes the program may avoid prosecution and potential conviction. The diversion program is for any offenses except violent crimes, domestic violence, sexual-offender-related crimes, and DWI/related offenses (unless an exception is approved by the program director). The Merrimack County Diversion Center accepts referrals from law enforcement and prosecutors from within Merrimack County and from courts that oversee any Merrimack County cities and towns.

The basic program parameters (as set forth online) are as follows:

- Fees: $500 for felony; $400 for misdemeanor
- Community Service: 150 hours for felony; 50-75 hours for misdemeanor
- Also required: weekly case management meetings, random drug testing, discussions with inmates, substance education classes, high school education, employment, 30-60 day progress reviews, life-skills classes, and restitution payments if applicable.
- Additional components may be added during the assessment phase (e.g., anger management, obtaining a driver’s license, defensive driving classes and parenting classes).

Jinnie Arenella who assists with coordinating the diversion program said she did see a need for a diversion program for victims of trafficking, but indicated that she has never had such a referral. She mentioned that they do have a lot of resources available that could be useful for such victims (e.g., counselors, doctors, financial advisors, and peer support groups) and would be willing to help set up such a program. She also said that David Croft (who oversees the diversion program) may be someone to reach out to about this.

Rockingham County

The Rockingham County Adult Diversion Program is a pretrial program designed to divert individuals who have been charged with violation, felony, and/or misdemeanor cases, and individuals who successfully complete the program avoid prosecution and conviction. The goal of the program is to redirect offenders away from the criminal justice system and toward

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healthier choices through support, guidance, and education. In 2014, 40 cases were closed successfully and 19 were returned for prosecution.  

**Strafford County**

The county’s pre-trial diversion program is for non-violent offenders with no criminal record (with certain exceptions). The Diversion Program was created for people who have not been part of the criminal justice system before and are not anticipated to be returning to the system. Although there is no specific list of crimes that are approved, the idea is that this was a one-time event and not just the first time the person has been charged with a crime. The program is typically one year long and common conditions include (a) jail tour with an essay requirement, (b) community service, (c) substance abuse evaluation, (d) anger management, (e) drug testing, and (f) restitution. Upon completion of the diversion program, the corrections department gathers all required documentation and runs a criminal history check for any new records and if none, the County Attorney is notified to Nolle Prosse the case. Carrie Lover said that while the Diversion Program has included individuals charged with prostitution, she has not seen any relating to victims of sex trafficking. She said that they receive referrals directly from the County Attorney’s office.

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New Jersey has a statewide diversion program, the Conditional Dismissal Program for “disorderly persons offenses” or “petty disorderly persons offenses” (crimes commonly classified as misdemeanors or violations). This includes the act of engaging in prostitution.

As a condition of the Conditional Dismissal Program, the defendant must either plea or be found guilty of the offense, after which the defendant can apply for entry into the Conditional Dismissal Program. If approved for participation, prior to entry of judgment of conviction, the defendant is placed on probation for a period of one year.

In addition to potential participation in a diversion program, New Jersey law also affords victims of human trafficking with an affirmative defense against a charge of prostitution. Additionally, anyone previously convicted of prostitution or related offenses may also apply to have their conviction vacated and expunged "when the person's participation in the offense was a result of having been a victim of human trafficking."

Statutory Requirements

Eligibility
A person charged engaging i prostitution (as opposed to promoting prostitution) may qualify for diversion under the Conditional Dismissal Program. The court considers a variety of factors including, the motivation, age, character, and attitude of the defendant, their desire to forego prosecution, whether the offense was violent, and more.

Limitations
The defendant must not have any prior convictions, and must not previously have been granted a conditional discharge or Pretrial Intervention (diversion program for felonies).

Consequences of Participation
If at the end of the term of probation under the Conditional Dismissal Program the defendant has not been convicted of any subsequent crime and has complied with all other terms and conditions imposed by the court, the charges against the defendant will be dismissed.

If a defendant who has been granted participation in the Conditional Dismissal program is convicted of any crime, or otherwise fails to comply with the terms and conditions imposed by the court, the court may enter a judgment of conviction in accordance with the defendant's prior plea of guilty or finding of guilt.

NEW MEXICO

Each of New Mexico’s thirteen judicial districts has a diversion program overseen by its district attorney.

The defendant must have representation (retained or appointed) before applying to a pre-prosecution program.

Under the Act, at a minimum, each pre-prosecution diversion program must include the following:
1. Individual counseling and guidance for each participant;
2. Required victim restitution as well as discretionary public service restitution; and
3. Referral resources where program participants may be sent for rehabilitation and treatment.

In addition, the Act imposes the following limits on all of New Mexico’s pre-prosecution programs:
1. Once a participant enters the pre-prosecution diversion program the district attorney must suspend all criminal proceedings against the defendant;
2. Pre-prosecution diversion programs must require the participant to adhere to the program for a minimum of six months and the district attorney may not extend a participant’s participation in the pre-prosecution diversion program beyond two years; and
3. The pre-prosecution diversion program must require the defendant to pay the costs of participating in the program; however, the costs may not exceed $1,020 annually. Monthly minimum payments may range from $15 to $85, but may be changed by the district attorney if financial circumstances require a change.

Interestingly, the Third Judicial District mandates an extra factor in order to participate in the program. The defendant must have proof of legal residence in the United States in the form of a birth certificate, certificate of citizenship, resident alien card, work authorization card, VISA, or proof of other legal status.

Statutory Authority
New Mexico’s Pre-prosecution Diversion Act (N.M. Ann. § 31-16A-3)(1981) (the “Act”) created an obligation for each of New Mexico’s district attorneys to develop and implement a pre-prosecution diversion program in his or her respective judicial district, to remove adult and juvenile defendants from the criminal justice system.

190 The researcher provided the following as their sources of information for this state:
Telephone Interview with Desiree Lovato, Direct of Special Programs, Thirteenth District of New Mexico, (Mar. 30, 2017)
Telephone Interview with Daniel Rosales, Director of Special Programs, Third District of New Mexico, (Mar. 3, 2017)
Eligibility
The crime alleged to have been committed by the defendant is nonviolent in nature, with the exception of domestic disputes not involving a minor.

Limitations
- The defendant must have no prior felony convictions for a violent crime and no prior felony convictions for any crime for the previous ten years.
- If the defendant was on probation previously, the defendant's probation must not have been revoked or unsatisfactorily discharged.
- The defendant has not been admitted into a similar program for the previous ten years.

Simply satisfying the entire list of requirements does not guarantee a defendant access to a pre-prosecution diversion program because the district attorney has absolute discretion for deciding who has access to the pre-prosecution diversion programs.

Consequences of Participation
The Act allows the district attorney to resume prosecutorial proceedings against program participants that fail to adhere to the requirements of the program. When a participant is removed from the program, the Act requires the district attorney to provide the participant with a reason for their removal.

Participants who successfully complete the program will have any criminal charges dismissed.
NEW YORK™

Although a state-wide initiative, the Human Trafficking Intervention Courts ("HTICs") in New York were not statutorily created, but rather are a creation of the courts. The system began with four courts, but has since expanded to eleven in the following locations throughout the state: Bronx Criminal Court, Brooklyn Criminal Court, Midtown Community Court, Queens County Criminal Court, Richmond County Criminal Court, Buffalo City Court, Rochester City Court, Nassau District Court, Syracuse City Court, Suffolk District Court, and Yonkers City Court.

The HTICs are a post-arrest diversion court for human trafficking, which creates individualized, trauma-informed programs for participants, whereby upon completion the originating offense will not go on the criminal record of the participant. The HTICs have served over 12,000 victims as of 2017. Despite the inherent challenges of such a large program, areas served by HTICs have seen a significant drop in prostitution arrests (as much as 56%).

Each court operates differently, as they each cater to the specific needs and demographics of the areas which they serve. The New York HTICs are a product of the collaboration between the New York State Unified Court System and the Center for Court Innovation. Other collaborators include the State Justice Institute, Center for Public Policy Studies, The National Judicial College, the National Association of Women Judges, Legal Momentum and the Center for Human Trafficking Court Solutions.

Service providers that cater to specific demographics are used, including (but not limited to) WISE (for English-speaking women), HEM (for men), NYAWC (for Chinese and Korean-speaking women), GEMS (for young women), Transiciones (for Spanish-speaking transgender women), and Transwomen Empowerment (for English-speaking transgender women). Additionally, women’s specialists are on-site at some courts to provide holistic services to victims of gender-based violence.

The length of the programs is individualized and are not measured by an amount of weeks or months, but rather a number of sessions or the achievement of a specific goal. Some defendants are only ordered to attend five or six session, which aligns with the trauma-informed programming with the goal of bettering the participant and the community, but also sparks criticism as to program efficacy.

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191 The researcher provided the following as their sources of information for this state:
Christine Edwards, Assistant Deputy Counsel to the Office of Policy and Planning for the New York State Unified Court System, personal communication, June 2018.


Eligibility
Participants must be at least 21 years old and charged with a misdemeanor prostitution or a related offense.

Participants must display an indicia of trafficking/commercial sex acts (any minimal indicia will suffice)

Limitations
Anyone charged with a felony may not participate.

Clients or pimps may not participate.

Consequences of Participation
Charges may be dismissed or reduced contingent upon compliance with the court-mandated services/programs.
There is a policy of not sanctioning participants for failures or non-compliance. They strive for a supportive and therapeutic environment, and use positive reinforcement only. Participants have no specific time-frame in which they are required to complete their program requirements, they may take as much time as they need.

The exception to the above is failure to appear in court. Upon a failure to appear in court, the criminal charges against the participant may proceed.

There are no specific rewards other than inherent rewards, such as empowerment, independence, obtaining identification, finding a job, etc. Because there are no phases, and no uniform requirements, success is individualized and difficult to measure.

Funding
The HTICs are funded with state funds, through the New York Court System.

Outside service providers are self-funded.

Successes
The New York Courts System does not monitor recidivism statistics for the HTICs. Because many victims have multiple cases pending at the same time, such statistics are difficult to monitor.

Although program-wide statistics are not available, the Midtown Community Court cites an 87% compliance rate for community service (partially due to a policy of striving to offer same-day or next-day community service assignments), and that prostitution arrests in New York County have dropped by 56%.

Challenges
One of the biggest challenges has been training the court officers, bailiffs, and other court staff who normally are accustomed to prosecuting defendants of illegal activity to understand that in the HTC they are tasked with “assisting victims” rather than “prosecuting defendants”.

Criticism
There has been some opposition from sex worker rights organizations that are of the opinion that some sex workers are not being coerced, but rather are involved in sex work by choice.
Some have challenged the efficacy of the HTC in that some defendants are only ordered to attend five or six therapy sessions, “raising doubts that the short-term programs can address the kind of pervasive problems faced by marginalized people who sell sex for survival.”
Law Enforcement Assisted Diversion (LEAD) in Albany, New York\(^1\)  

LEAD is a pre-arrest diversion program that began in April of 2016 and is based off of the LEAD pilot program that was started in Seattle/King County, Washington in 2011.

In 2013 Albany city officials were invited to attend a LEAD presentation in Seattle, and in 2014 the city of Albany created a Steering Committee to explore starting a LEAD program. The Steering Committee included the Mayor’s Office, the County Executive’s Office, the Albany Police Department, the Albany County District Attorney’s Office, the Albany County Sheriff’s Office, the Center for Law and Justice, the Albany County Department of Mental Health, the Albany County Public Defender’s Office, and numerous community and faith-based groups. The steering committee spent over a year investigating and studying Albany public safety and public health issues, and in June 2015 the Steering Committee transformed into a formal Policy Coordinating Group (PCG) and signed a Memorandum of Understanding (MOU) outlining LEAD’s model and principles. The PCG works by consensus and is completely voluntary.

Once diverted, participants have a meeting with a case manager to complete an intake assessment and develop individualized service plans. Prosecutors work closely with case managers to ensure that all contacts with LEAD participants move forward. If a participant does not complete their assessment, an arrest warrant will be issued.

Police officers exercise discretionary authority at point of contact to divert individuals to a community-based, harm-reduction intervention program for law violations driven by unmet behavioral health needs.

A Community Leadership Team (CLT) was formed to provide regular public meetings for feedback and accountability.

LEAD is a coordinated effort between the police, government agencies (District Attorney’s Office, County Probation Department, Public Defender’s Office, City Court Judges), the business community, and other community partners (community centers, cultural centers, city/town councils, and universities).

Catholic Charities Care Coordination Services “Project Safe Point” provides a 24-hour access facility for LEAD services to operate out of.

Training was provided to all 342 Albany police officers on principles of LEAD and harm-reduction. 46 officers received an additional eight-hour training.

Services provided include shelter, housing, mental health services, drug rehabilitation, educational placement, job training, and job placement.

**Eligibility**
Only cases involving crimes driven by addiction, mental illness, homelessness, or poverty may

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\(^{1}\) The researcher provided the following as their sources of information for this state:

Kris Nyrop, LEAD National Support Director, personal communication, June 2018
be considered for diversion.

Individuals with open warrants may still be diverted (if otherwise eligible).

**Limitations**
Clients and pimps are not eligible.

**Consequences of Participation**
There are no rewards other than the satisfaction of rehabilitation. In this way the goals of LEAD and the participant are aligned.

There are no sanctions, other than the fact that participants may be rearrested for a subsequent offense.

**Funding**
A full-time Program Director is funded through a local family foundation, the Carl E. Touhey Foundation ($70,000 initial grant).
A full-time Project Manager, full-time Case Manager, and part-time Outreach Worker are funded by the Albany Medical Center and Catholic Charities ($150,000 initial grant).

Additional funding comes from the NYS Health Foundation, the Touhey Foundation, the Albany Medical Center, the Albany Police Department (via staff allocation), and in-kind donations through the Central Avenue Business Improvement District (including Stewart’s Shops, the Capital District Transportation Authority, the Capital City Rescue Mission, Homeless and Traveler’s Aid Society, and the Albany County Department of Social Services).

Albany Medical Center also uses Medicaid funding to support LEAD’s case management function.

Additional funding is being sought through government and private grants (to expand number of case managers). The PCG is prioritizing hiring more case managers in order to expand capacity and would like to hire a Community Engagement Coordinator (to assist with fundraising efforts).

**Successes**
- University of Washington in Seattle has shown a 58% reduction in recidivism among LEAD participants in Seattle/King County.
- The New York State Department of Criminal Justice Services is providing funding to the John F. Finn Institute for Public Safety to conduct an evaluation of the program.
- The PCG has formed a Data & Evaluation Committee (a system of checks and balances)
- As of March 31, 2017 40 individuals have been diverted to Albany’s LEAD program (although none yet for sex work).
- Arrests would have led to unnecessary jail time, fines, increased costs, and increased destabilization.

**Challenges**
Both temporary shelter and permanent housing are difficult to find.
North Carolina does not have a specific program for adult sex workers or survivors of trafficking. However, North Carolina law permits a discharge of a prostitution offense for first offenders charged with engaging in prostitution.

For other offenses, an individual may look to North Carolina General Statutes § 15A01341(a1) for deferred prosecution of any misdemeanor and certain felonies.

Additionally, certain counties in North Carolina contract with Corrective Solutions, a for-profit company in California, to establish county-wide diversion programs.

**Statutory Authority**
Conditional Discharge for Prostitution. North Carolina General Statutes § 14-204

**Eligibility**
Anyone who pleads guilty or is found guilty for willfully engaging in prostitution.

**Limitations**
This is a first offender program.

**Consequences of Participation**
If the defendant successfully completes the conditions, the court discharges the person from the agreement and dismisses the proceedings. After that, the person is eligible to apply for “expunction” of records. Discharge and dismissal is not deemed a conviction.

For violating the conditions, the court may enter judgment and proceed with sentencing.
NORTH DAKOTA

While North Dakota does not appear to have a formal diversion program or court system, below are some relevant laws and requirements with respect to victims of trafficking. Most notably, §12.1-41-17 requires law enforcement, "as soon as practicable after a first encounter with an individual who reasonably appears to law enforcement to be a victim or a minor who has engaged in commercial sexual activity," to notify the victim services division of the department of corrections that the individual may be eligible for a benefit or service.  

Under North Dakota Century Code § 12.1-41-13, if an individual is charged with prostitution, felony forgery, felony theft, felony drug distribution, or an offense listed in subsection 1 of §12.1-41-12 which was committed as a direct result of being a victim, that individual may assert an affirmative defense that he/she is a victim.

Buyers

Of note, North Dakota does have a Johns Program (known as the "Demand Reduction Program (DRP)"). Under North Dakota Century Code section 12.1-29-07, a sentence for an offense under section 12.1-29-06 or chapter 12.1-41 may include an order for the offender to participate in an offender education program on the negative consequences of the commercial sex industry, including health and legal consequences and the impact on communities, survivors, spouses, and children. The court may order the offender to pay the cost of the offender education program.

An August 2017 article discussing the program said that while people of buying sex have been eligible for this program (aimed at teaching them about the harms of sex trafficking) since February 2017, no one has been sentenced to it yet. On July 25, 2017, Attorney General Wayne Stenehjem sent a letter to city attorneys and municipal judges explaining the program.

The formal program, called the "Demand Reduction Program (DRP)," was expected to launch September 2017. It was developed by a subcommittee of the North Dakota Human Trafficking Task Force, in conjunction with CAWS North Dakota and the University of Mary. The one day program educates buyers of commercial sex on the link between prostitution and human trafficking, and on the consequences of buyers' decisions on their communities, health and on the survivors.

More specifically, the program is designed to reduce recidivism of participants through a sentence and diversion aspect involving an education program. The cost is $500 for the offender to attend. The program is designed to span over the course of one day (8-10 hours) with a total of five sessions. The programs can be offered in Bismarck, Fargo, Grand Forks,

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193 N.D.C.C. § 12.1-41-17.
194 N.D.C.C. § 12.1-29-07 (note that this is a permissive, rather than mandatory sentencing requirement).
195 West Fargo Pioneer, “New ND Anti-Prostitution Program for ‘Johns’ has no Takers so Far.”
Watford City, and Minot and was set to begin September 2017. The sessions include the following:\(^\text{197}\):

- Cause of human trafficking — connection between prostitution, trafficking, and criminal activity
- Impacts of human trafficking on the buyer — legal ramifications, medical and health risks of further criminal activity
- Impacts of human trafficking on the victim — connection between their criminal activity and health, psychological, and social impacts on the victim
- Impacts of human trafficking on the community — local, regional, and global aspect
- Developing healthy relationships and communities — conditions of healthy relationships, services available to aid individuals, responsibilities as a member of a community to develop healthy personal attitudes regarding intimacy and sexuality

Ohio does not appear to have a diversion program specifically for sex workers or survivors of trafficking. However, Ohio has a diversion program accessible to those populations.

**Statutory Authority**
Ohio Revised Code Section 2935.36\(^{198}\) permits prosecuting attorneys to establish pretrial diversion programs.

**Eligibility**
Adults accused of committing criminal offenses who the prosecutor believes will not offend again.

**Limitations**
The program is not open to a specific set of individuals including those accused of committing crimes of violence or repeat offenders.

**Consequences of Participation**
If the participant complies with the conditions, the prosecutor may recommend to the court that the charges be dismissed. The court, upon that recommendation, must dismiss the charges.

If the terms of the program are violated, the prosecution may continue.

\(^{198}\) Please note that there is a statutory change effective October 29, 2018 as to who may participate in the program.
Oklahoma has various diversion programs and specialized courts authorized by statute, but none specifically directed at human trafficking.

Notwithstanding the lack of diversion programs for trafficking-related offenses, certain conditions specific to these offenses apply at the sentencing stage. A sentencing court may generally “[s]uspend the execution of sentence in whole or in part, with or without probation,” and “in the case of a person convicted of prostitution, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities.” Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems. Such counseling may also be ordered independently, regardless of and “in addition to the other sentencing powers of the court.”

Statutory Authority
Okla. Stat. tit. 22 § 305.1 enables Oklahoma district attorneys to maintain their own deferred prosecution programs, based on a number of considerations including the nature of the offense with priority given to first offenders and nonviolent crimes and any mitigating or aggravating circumstances.

Eligibility
Anyone may participate if it is in the best interests of the accused and not contrary to public interest.

Limitations
No statutory exclusions.

Consequences of Participation
If the defendant complies with the deferred prosecution agreement, the charges will be dismissed. If not, the defendant could be prosecuted.

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199 Okla. Stat. tit. 22, § 991a,
200 Section 1029 of Title 21 of the Oklahoma Statutes
201 Id. § 991a(A)(1)(dd).
202 Id. § 991a(A)(7).
New Options for Women (NOW) Program, Multnomah County (Portland Area)

In 2010, Multnomah County, Oregon collaborated with City of Portland, the District Attorney’s Office, and Lifeworks Northwest (a mental health and substance abuse organization in Portland) to create what they referred to as the “Prostitution Alternatives Program.” The Program was envisioned as a collaboration between the Portland police, the Multnomah County Department of Community Justice, the District Attorney, and Lifeworks Northwest, which ran the New Options for Women (NOW) program, a comprehensive mental health and substance abuse program for commercially sexually exploited women and girls.

Currently the NOW program, which includes participants who are self-referred, as well as court-involved participants, collaborates with law enforcement in two ways: (1) a one-day, 4-hour introductory program that is offered to first-time arrestees who have pled guilty to their charges and then, once they complete the program, will have the opportunity to have their case dismissed; and (2) a 6-9 month program that includes mental health and addiction treatment, peer mentoring, case managements, and wrap-around services. Not only are these services usually a condition of probation, courts also require the participant to sign releases allowing NOW to communicate directly with their probation officer. Then, the NOW coordinators report the participant’s progress and compliance to the Court. The program has received mixed reviews regarding success rates, but one of the main criticisms is that it requires sharing information with law enforcement.

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203 The researcher provided the following as their sources of information for this state:
Interview with Kendra Harding, NOW Coordinator (Oct. 28, 2016);


Community Court, Multnomah County District Attorney, http://mcda.us/index.php/community-initiatives-special-programs/community-court (last visited Mar. 21, 2017);

Kathleen Treb, Adult Prostitution Alternatives Program – City Funding, Multnomah County, http://www3.multco.us/budgetwebFY12Adopted/PDF/50013-ADOPTED.pdf (last visited Mar. 21, 2017);


There is no formal specialized court (there are about 10 judges who handle prostitution cases), but there is an assigned district attorney and the funding includes a Prostitution Coordination team, including assigned police officers.

The prostitution charge remains on the participant record regardless of program completion; however, individuals who have sustained their first prostitution case can engage in the “First Offender Program” through Community Court.

In the First Offender Program, participants are required to pleading guilty to a misdemeanor prostitution charge. After an entry of guilty, the participant is given the opportunity to have the case dismissed if he/she/ze can avoid re-arrest for a certain time frame and furnish the court with a certificate of completion of NOW’s one-day, 4-hour program.

Police can refer individuals to the program directly, without arresting/charging them, but it is unclear how frequently that happens.

**Statutory Authority**
ORS § 137.533 and 135.901

**Eligibility**
Individuals charged with prostitution or prostitution related crimes or individuals who self-refer themselves to the NOW program.

Eligibility for the program is determined on a case-by-case basis, including consideration of prior/other court-involvement, allegations of violence, and other factors.

**Limitations**
Neither NOW’s 6-9 month program, nor the one-day, 4-hour program, are actual diversion programs since the participants are usually charged, processed, and convicted. Many participants are mandated by the Court to participate in the NOW program as a condition of their probation or community court sentence. Participants in the 6-9 month program are not usually mandated to participate in the program as a condition of their probation, since probation generally lasts longer than the program (i.e. 18 months).

**Consequences of Participation**
Individuals who self-referred into the NOW program are not subject to sanctions for relapse. In Oregon, an individual who violates probation may receive a penalty listed on the sanction grid proportionate to the participant’s violation.204 The following sanctions are available upon probation violation: jail, restitution, work center, house arrest, community service, work crew, impatient treatment, and various other interventions.
If individuals utilizing the First Offender Program—Deferred Adjudication Program—fail to comply with the program requirements, the individual will be sentenced on the charges.

**Challenges**
The program has been criticized for not meeting its goals and having low “graduation” rates. Additionally, some eligible women have reportedly chosen jail time over mandated participation in program because they are uncomfortable with the involvement of law enforcement in the program (i.e. sharing of information and monitoring progress).

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The police and Lifeworks/NOW maintain that their collaboration with law enforcement (i.e. district attorney, police) is an important component of their program and that their communication is focused on what needs to happen to enable the participants to succeed in the program and not the sharing of details of treatment or personal information. The police officers who are involved in the program claim to spend a lot of time on the streets building trust with the eligible participants and even providing them with information about NOW rather than arresting them, but it is unclear how often individuals are actually “diverted” from court-involvement.

Successes
In 2016, the NOW program had three women who secured safe and sober housing for themselves and their children. All three women continued to utilize NOW’s case management and counseling services after they moved. NOW considers these women’s stories a huge success because of the life changing impact safe and sober housing creates.
Project Dawn Court (“PDC”) is a pre-trial treatment court, designed for women with repeat prostitution offenses. The court is available in the county of Philadelphia. The court is modeled on the nationally lauded Philadelphia Treatment Court, established in 1997 to reduce both drug possession recidivism rates and the cost of jailing those addicted to drugs by providing rehabilitative services under close court supervision.

Once admitted into Project Dawn Court, participant’s plea is held in abeyance while she undergoes the program.

The program provides drug treatment as well as trauma counseling for abuse (physical, sexual and emotional) that often dates back to adolescence. Specific services are based upon the results of a Forensic Intensive Recovery ("FIR") evaluation, including: counseling for post-traumatic stress disorder, counseling for childhood sexual abuse, drug treatment, and parenting classes.

Participants are required to appear in court monthly (or more if deemed necessary by the Court and Project Dawn team) where her progress is assessed before a judge.

Participants can usually complete the program within a year of acceptance.

**Eligibility**

Women with open prostitution cases and a history of convictions for prostitution

**Limitations**

No prior record of violent crime.

Cases are accepted at the discretion of the District Attorney’s Office upon review of their case.

**Consequences of Participation**

Upon completion of the program, the Commonwealth will withdraw prosecution and participant will graduate without a new conviction.

If the defendant remains arrest free for one year, the underlying case may be expunged.
Accelerated Rehabilitative Disposition ("ARD")

ARD is a pre-trial diversion program for non-violent offenders with no prior or limited record in the Commonwealth of Pennsylvania. It is statutorily created and available in every county in Pennsylvania.

The court team consists of the judge, public defenders, the district attorney ("DA"), case manager, counselor, service providers and probation officers (optional). Participants (the defendant, the defendant’s attorney, or an interested agency or institution) can apply to ARD by making a request for inclusion into the program to the DA.

Once admitted into ARD, the participant will be supervised for 6-24 months and will have to comply with various conditions.

Statutory Authority
The Pennsylvania Code. Chapter 3. Accelerated Rehabilitative Disposition

Eligibility
ARD is available to a broadest range of crimes as it is available at the DA Office’s discretion. Misdemeanor and Felony though low-level, non-violent misdemeanors are more likely to be admitted by the DA.

First offense of prostitution is usually graded as misdemeanor of the third degree, and may be eligible for ARD at DA’s discretion.

Limitations
The participant cannot have prior record of any criminal offense.

Consequences of Participation
Upon completion of the sentence, the participant will receive a certificate from the probation officer indicting successful completion of the ARD program and the charges against the participant will be withdrawn.

The court will not automatically expunge or remove the charges from the participant’s record, and a petition for expungement needs to be filed.

If the participant fails to comply with the conditions, the judge may order the program terminated.

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Rhode Island does not have prostitution-related diversion programs in place. However, in October of 2017, Rhode Island Governor Gina Raimondo signed the package of legislation known as the Justice Reinvestment Initiative, which includes provisions that enable the Superior Court of Rhode Island to create a diversion program for people suffering from mental illness or substance abuse to receive treatment as an alternative to criminal incarceration. Therefore, for sex workers suffering from mental illness or substance abuse, there could, indirectly, be diversion programs available once the aforementioned Superior Court diversion program has been implemented in Rhode Island.

Under Rhode Island statute, a peace officer may issue a summons in lieu of arrest to a person that the officer has reasonable grounds to believe has committed a misdemeanor offense, such as prostitution. The person issued a summons must still appear in court to answer the misdemeanor charge and failure to appear in court by the date specified in the summons results in the issuance of an arrest warrant and potential imprisonment.

Additionally, the Office of Attorney General of Rhode Island has the discretion to refer first-time nonviolent felony offenders to the Adult Diversion Unit, which is an alternative to criminal prosecution. While prostitution in Rhode Island has been illegal under Rhode Island statute since 2009, it is classified as a misdemeanor under Rhode Island statute. Therefore, a first-time nonviolent offender of Rhode Island’s prostitution law would not be eligible for referral to the Adult Diversion Unit which only accepts referrals of felony offenders.

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209 See Adult Diversion Unit, http://www.riag.ri.gov/CriminalUnit/eligibility.pdf.
SOUTH CAROLINA

The Pre-Trial Intervention is not specifically for sex workers or survivors of trafficking, but is open to them.

Although a task force for the prevention of trafficking in persons was established pursuant to South Carolina Code Section 16-3-2050, the state does not have a formal court diversion program.

Statutory Authority
South Carolina Code § 17-22-10 et seq. Prosecutors may establish programs in their respective circuits.

Eligibility
First time offenders charged with non-violent offenses.

Limitations
Those who previously participated in an intervention program are ineligible, as are those with certain offenses, such as driving under the influence or crimes of violence.

Consequences of Participation
If an individual successfully completes the program, the prosecutor shall effect a noncriminal disposition.

The individual may then petition the court for an order to destroy the records relating to the arrest. If asked, the individual does not have to disclose the arrest after the records are destroyed.

If the individual violates the conditions, they may be terminated from the program.
There is no formal court diversion program in South Dakota. Information on an informal diversion program in Eastern South Dakota is provided below.211

South Dakota does not have a formal diversion program, diversion court or John’s program. Call to Freedom works closely with the Sherriff’s department, police department, highway patrol and prosecutors in the Eastern part of South Dakota on human and sex trafficking issues. Specifically, Call to Freedom will intervene when a woman has been arrested for solicitation or prostitution to see whether or not that individual has been a victim of trafficking and work with the appropriate agencies to determine next steps for the victim and prosecution of her “John” or trafficker.

Certain state troopers are trained to know how to work with victims of human trafficking and police officers are more and more learning to ask sensitive questions when they arrest someone for solicitation/prostitution in order to determine whether this person may have a history of trafficking (e.g., have you ever solicited, but not received payment? How long have you been doing this?). They also bring in Call to Freedom personnel to help ask those questions.

After it has been determined that the arrested individual was a victim of trafficking, the first step is to make sure these women can get to a safe place, which sometimes involves moving them out of state to a restoration house / shelter. The case manager at Call to Freedom is very hands on and works with other organizations to get them support services, career guidance, education etc. The goal is to treat these individuals as victims, rather than criminals, and help them move on from the trafficking experience.

The interviewee was aware of diversion programs and courts in other states, but said the focus on trafficking in South Dakota is still so new, they haven’t gotten there yet. Her team is actively involved in pushing through legislation and hopes that these kinds of programs would be formalized at some point.

Eligibility
Women arrested for solicitation or prostitution who are victims of trafficking.

Limitations
It appears that if the individual is not a victim of trafficking, they would not be eligible for the program.

Consequences of Participation
Victims of trafficking are not charged with a crime.

211 Interview with a Community Relations Coordinator at Call to Freedom (a nonprofit in South Dakota that provides supportive services for victims of human trafficking and sexual exploitation: http://calltofreedom.org/).
Beginning February 9, 2016 Nashville instituted the first-in-state Human Trafficking Intervention Court dedicated solely to human trafficking cases in order to expedite and be more “victim services” oriented. The program is called Cherished H.E.A.R.T.S. (“Healing Enslaved and Repressed Trafficking Survivors of Nashville”) and offers rehabilitation resources for victims, while encouraging police and prosecutors to work harder to identify trafficking victims during prostitution arrests.\(^{212}\)

**Statutory Authority**

Tennessee Code:

- § 40-15-101 *et. seq.* Pretrial Diversion (deferred prosecution)
- § 40-35-313 *et. seq.* Judicial Diversion (deferred adjudication)

**Eligibility**

Both programs are open to individuals who generally have a clean record and have not participated in either diversion program previously.

**Limitations**

**Pretrial Diversion**

They may not have prior convictions, may not be charged with a felony or certain misdemeanor sex offenses.

**Judicial Diversion**

May not be charged with a sex offense, exploitation, or certain felonies. Also, defendants with prior convictions for a felony or class A misdemeanor and was incarcerated for those convictions are not eligible.

**Consequences of Participation**

With pretrial diversion, if the conditions are successfully met, then the charges are dropped. If not, the prosecution may continue.

In order to participate in judicial diversion, the defendant must enter a conditional plea and the court withholds sentencing. If the participant does not complete the conditions as ordered, the court may enforce the original sentence.

Several counties in Texas have their own programs for individuals engaged in commercial sex. A few of them are discussed below. Texas passed a law authorizing counties to create their own diversion programs for sexually exploited individuals charged with prostitution offenses.²¹³

**PHOENIX Court Program (Travis County)**²¹⁴

After a state law was passed requiring a prostitution diversion program, this program was established. The pilot was in summer 2015. Charges are dropped and expunged upon successful completion of the program.

First, the program assesses participants’ needs, then the program makes referrals if the individual needs in-patient or outpatient therapy, and continues to make referrals to community partners. A certain number of counseling classes and other standards must be met for graduation.

Defense attorneys refer clients to the prosecutor, and then the case gets sent to the program manager, who interviews the individual, and then finds out if the individual want to participate.

The program makes referrals to mental health and job placement nonprofits. They have a lot of collaboration with community nonprofits. Tony also does some counseling around seeking safety (a trauma-based approach to counseling).

There is a set number of counseling classes required for graduation, and some other requirements (e.g., stable employment), but they do evaluate on an individual basis. For example, they had someone with developmental disabilities. She was not able to maintain employment. The program helped her file a claim for SSI and she graduated successfully, as she completed all other program requirements. Evaluation is based on “maximum benefit achieved.” The program does one year of follow-up after graduation.

**Eligibility**

Cis- and trans-gender women.

Case-by-case assessment with regard to charges; the program will take people with loitering, trespassing, theft, charges (not just prostitution).

**Limitations**

Each participant is assessed on an individual basis. If there are too many violent offenses, this could be disqualifying, but it depends on the individual's circumstance. For example, they took one woman had numerous domestic violence charges, but it turned out they were nuisance charges by her boyfriend.

**Consequences of Participation**

If the individual absconds, a bench warrant is issued and they go back to the original court.

Some people have dropped out. According to Mr. Frank, there aren’t really any lessons on reducing recidivism; it’s a complicated population, so it’s really on an individual basis whether

²¹³ Texas Government Code § 126.001 et. seq. Commercially Sexually Exploited Persons Court Program.

²¹⁴ Information from Interview with Tony Frank, coordinator and case manager for PHOENIX court
people complete the program.

**Funding**
Originally funded through the state, as it was set up in response to state legislation (making it mandatory to have a prostitution diversion court in counties above a certain size). However, the governor and county sheriff have been feuding because of immigration policies, and, as a result, the governor has discontinued funding.

**Successes**
They have had three women, who completed one year and met all requirements, graduate.

**Challenges**
Tony notes that it is a “tough population” as the women often have a number of challenges (e.g., finding safe housing, substance abuse, mental health, some developmental disabilities). Working with them takes a lot of patience.

Vetting community resources is important. Not everyone is comfortable with this population. Certain subpopulations have even more challenges. For example, there is only one sober house in Austin for the LGBT population. Finding the right resources is key.
ESPERANZA Court in Bexar County, Texas (San Antonio)\textsuperscript{215}

Esperanza Court is a felony specialty court for prostitution offenses in Bexar County. Esperanza Court began in May 2014 after a statewide statute was signed in 2013 mandating such programs. Esperanza Court is a post-trial diversion court, which follows the National Association of Drug Court Professionals’ drug court model.

The court team consists of twelve members, including a prosecutor, two public defenders, the Judge, and a housing specialist, public defenders, the district attorney, a case manager, a probation officer, counselor, service providers and the presiding judge.

The goal of the Esperanza Court is to help prostituted individuals become sober, obtain housing, receive an education (GED), become employed, reunite with family, and become responsible enough to handle daily activities (e.g., pay bills, care for children, etc.). This goal is obtained through individuals participating in the 4 different phases of the program.

The program is capped at 35 individuals and takes 2 years to complete. Participants must undergo weekly drug and alcohol screenings through the entire two years.

At the beginning, Participants meet weekly with the judge, eventually scale back to every other week, and finally monthly towards the end of the Program. Participants must undergo mental health treatment and therapy.

If they have not completed high school, participants must pursue their GED. Participants are required to live in housing to remove them from their environment/bad situation in order to be successful. Participants spend the first 2 weeks-1 month in housing and may spend another 2-4 months in a halfway house. With full compliance they may be released to live with family after that.

\textbf{Eligibility}

The Program focuses on individuals who have three or more convictions for prostitution. The person cannot join until he or she is on probation or parole. Participants must be willing to abide by Esperanza Court rules, frequent check-ins, and drug and alcohol testing.

The program is open to cis-gender and trans-gender men and women.

\textbf{Limitations}

Participants cannot have any pending felony charges.

\textbf{Consequences of Participation}

Sanctions are given progressively. For example, if an individual fails to call the drug testing line they may get a verbal warning but if it happens multiple times, they may have to complete four hours of community service. Other offenses include drafting an essay, spending a weekend in general population (jail), or have their 1-2 week work release revoked. The largest sanction is having their probation revoked and they have to serve time in jail or in an in-patient lock-down facility (drug offenses).

\textbf{Incentives}

Each week in the group sessions, drawings are held of $10 Walmart gift cards. Also, the Judge will verbally praise participants (in front of the group) who have completed a milestone or done

\textsuperscript{215} Information from Rachel Estrada, personal communication, September 2018.
something particularly well.

Funding
The court is funded through a variety of grants. For the September 30, 2015-September 29, 2016 term, a SAMHSA (Substance Abuse and Mental Health Treatment Administration) Grant in the amount of $186,257.25 was provided. For the September 1, 2016-August 31, 2017 term, $280,071.00 was provided through a Criminal Justice Grant from the state.

Successes
The first graduation was held in December 2016 with 9 graduates.

Eight participants are expected to graduate in 2017.

Challenges
- Drug relapses
- Bad friends and old habits
- Most halfway houses have only men or only women. Unless trans-individuals undergo surgery, they must be housed with the sex matching their sex at birth.
Representatives from the ESTEEM Court responded to our researchers’ inquiries by confirming that the court has been defunded by the Governor of Texas following a dispute over immigration policy with the county sheriff. Information on how that court operated is provided.

ESTEEM Court is a pre- and post-trial, voluntary, specialty court for all ‘commercially sexually exploited offenses’ in El Paso. The ESTEEM Court began in March 2013 after a statewide statute was signed in early 2013 mandating such programs.

The goal of the ESTEEM Court is to help those who have been involved in commercial sex practices to obtain housing, become employed, and not be repeat offenders. This goal is obtained through individuals participating in the 3 different phases of the program. The program is capped at 25 individuals and takes 9 months - 2 years to complete. Each phase is approximately 3 months each but may be extended for different individuals; as individuals must stay in the phase until they fully comply:

The court works in conjunction with the Probation Department to monitor the program and ensure compliance. It also follows the Specialty Courts Best Practices guidelines.

The court team consists of 6 (six) individuals: Judge, ADA, Public Defender, an advocate for contract services, coordinator, and two counsels.

The ADA acts as the gatekeeper and decides who (which cases) may enter the program or not. Ultimately the ADA is the one who makes the plea deals and decides to bring a case against the individual or offer the program.

At the beginning, Participants meet weekly with the judge, eventually scale back to every other week, and finally monthly towards the end of the Program. Participants must undergo mental health treatment and therapy.

Participants are referred to ESTEEM Court through the ADA and the coordinator. The coordinator received a daily spreadsheet of prostitution and related charges (soliciting and pimping) and reviews them for referral purposes.

Once participants are found eligible, the coordinator will approach the ADA for approval. Also, the ADA may bring potential participants to the coordinator on his or her own.

**Eligibility**
Men and women with prostitution charges are eligible.

**Limitations**
Participants cannot pick up other charges
Participants cannot be violent offenders.

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216 Information is from an interview with Claudia Arreola from the Prostitution Prevention Court Program
**Consequences of Participation**
Completion of the program is rewarded by having the charge(s) dropped and/or expunged.

Each team member has input on the rewards and sanctions given to participants. As a team, they fill out a 'sanction grid' on individuals. It is a gradual grid that can institute jail time and/or rehab time. They can revoke participants' privileges as well.

**Funding**
The court is funded through the Criminal Justice Division of the Governor of Texas. They receive $150,000 per year, up to $75,000 per city.

**Successes**
The program has had a number of successful individuals so far.

**Challenges**
Getting buy-in from law enforcement and obtaining the prostitution charge for the individual to even begin the program. If the person has drugs, or if there is another ‘higher’ charge than prostitution, then law enforcement will always go for the higher charge. Without the prostitution charge, the individual is not eligible for the program.
Prostitution Court Program in Webb County, Texas (Laredo)\(^{218}\)

Just as the ESTEEM court was defunded, our researchers’ found that this court may have also been defunded over a dispute related to immigration, but were unable to confirm this.

The Prostitution Court is a pre-trial drug specialty court for prostitution offenses in Webb County. The Court began in 2013, but has never really taken off or been very popular. The reason for this is explained in the “challenges” section.

The Program is set up to be a 12-month program with three phases. The Program is divided into three phases, each four months long. The only real difference in the Program is the frequency in which check-ins occur. It is unknown what the cap of the Program is as only 2-3 individuals ever participate at a time and so resources have never been close to being maxed.

The court team changes depending on resources available. Due to the lack of interest on the Prostitution side, resources have been poured into the DWI Court and Adolescent Court and programs.

Participants must undergo check-ins the entire 12 months. Participants must undergo mental health treatment and therapy. If they have not completed high school, participants must pursue their GED. Participants are required to live in housing to remove them from their environment/bad situation in order to be successful. Participants must be willing to abide by Prostitution/Drug Court rules, frequent check-ins, and drug and alcohol testing.

Prostitution Court is voluntary, so if individuals agree to participate in the program the defense attorney reviews the program with them according to the National Best Practices procedures.

**Eligibility**

Cis- and trans- gender men and women are eligible, but so far only women have participated. The Program focuses on individuals pre-trial and non-violent offenders.

**Consequences of Participation**

Completion of the program is rewarded by having the misdemeanor charge dropped.

In the Webb County Program, all Participants have dropped out. The Program, with so few participants, has been willing to give Participants multiple chances as long as they want to be in the Program. At some point it seems as though they stop returning.

**Funding**

As with Bexar County and El Paso, the Laredo court is funded through a variety of grants; mostly through a SAMHSA (Substance Abuse and Mental Health Treatment Administration) Grant in the amount of $325,000 per year.

**Successes**

The Program has not been successful so far due to the lax punishments for prostitution in the county. Resources that have gone to the Prostitution Court in its early years has been shifted to DWI Court or Juvenile Court.

\(^{218}\) Information from an interview with Victor Oliveros who used to run the Laredo diversion program.
Challenges
It is difficult to provide sufficient funding for housing.

Enticing defendants to enter and remain in program is a challenge as jail time can be easier on misdemeanor cases. If an individual gets picked up for prostitution. If she (usually a female) makes bail, she pays it and disappears. Because she is not on probation and because the resources aren’t there, the Program will not send ‘Abscondment’ Officers to track the person down.

If the individual cannot make bail, the person will sit in jail for 20-25 days before going before a judge. In Webb County the charge for prostitution is 30 days. Many of the participants are drug (heroine) addicts. So with the charge being only 30 days, the individual can sit in jail another 5-10 days and be out free to get high again. Why would she agree to enter a year-long program that will require her to meet a bunch of requirements (including remaining drug free)? It’s far easier to sit in jail another five days and be done with the sentence.

Another problem is that first time offenders in Webb County do not qualify for treatment programs. Since Prostitution Court is considered a Drug Court, it is treated as such and so first time offenders cannot receive services. As it stands, the laws and the Program have no teeth or leverage.

In order to work and be successful, the program needs willing participants who want to turn their lives around; which there are few of at the moment. At any given time there may be 2-3 individuals and Mr. Oliveros mentioned not a single individual successfully completed the Program.
RISE Program in Tarrant County, Texas (County Seat: Fort Worth)\(^{219}\)

In 2011, Judge Carr, a misdemeanor judge, noticed that there were a lot of defendants with prostitution arrests, and they were rotating through the system without getting any services. He went to the county and probation department to start this program. (The program was started before the Texas statute was put into place requiring counties above a certain size to have a prostitution diversion program.)

The probation department in Texas works directly for the criminal judges, whether felony or misdemeanor. The judge makes the choice of placing them on probation and into the program. While they do not officially transfer the case, they informally give control over their colleague, Judge Carr.

RISE court operates on a post-conviction, drug court model. Defendants are placed on probation for the duration of program. Typically, the program takes 2 years, although some women take closer to 3-4 years. Brit typically asks judges to do a five-year probation term so the women have plenty of time to complete the program.

Classes and counseling take priority to employment, and women are expected to work around their program commitments. Sometimes conflicts come up and women are unable to take a job; recently one of the women wanted to take an overnight job at a warehouse, and the program manager told her that wouldn’t work because of her class and counseling obligations during the day. However, the program does make exceptions (e.g., in a recent case, one woman who was about to graduate wanted to take a class that conflicted with the court meeting, and the judge granted an exception). Additionally, communication solves a lot of the issues. The program manager often talks to employers on behalf of probationers to advocate for them. They don’t want to take away an opportunity if they don’t have to.

The women generally have been able to find a job. The biggest issue is not scheduling, but finding a job with an extensive criminal history. Community partners help here too – Goodwill has a training/work program to help with job training and job placement.

After the women graduate, there is some informal follow-up, but nothing formal. The program is working with community agencies to improve follow up. Currently, some of the community partners do reach out after the women are off probation and encourage them to keep getting services.

Eligibility

Resident of Tarrant County.

Women only. No program in Tarrant County for john/pimps, as Tarrant County statistics show that a lot more women are charged, and men, if arrested, are charged with a different crime, like criminal trespassing, not necessarily charged with prostitution. And there was research showing that men were given more lenient charges.

Felony case that can be placed on probation. Judge Carr initially wanted to target misdemeanors, but found that with misdemeanors, the women did not have enough motivation to do the program. In the state of Texas, after a person’s third prostitution arrest it enhances to a felony. The program has started focusing on the felonies, because they have a lot more on the

\(^{219}\) Information from interview with Britannia "Brit" Broostrom, Program Manager for RISE (Assistant Supervisor with the Probation Department)
line. A lot of women have extensive criminal histories and don’t want to go to prison again.

Substance abuse issues and history of sexual trauma. Originally, they had to have prostitution history, and that was widened to that “sexual trauma” because some women don’t have prostitution arrests, only substance abuse/possession.

Limitations
Disqualified if they have the “3g” offenses – assault (especially aggravated assault), robbery, or murder. If they have one misdemeanor assault several years ago, the program may make an exception. This rule is partly to protect other participants, but also because housing partners will not house people with assaultive history.

Consequences of Participation
Completion of the program is rewarded by early release (after an additional 6 months of supervision).

Violations are initially dealt with in a phased manner (e.g., requiring increased reporting to the court, verbal admonishment, loss of privileges at the residential facility, phase demotion). Eventually, if the participant continues to violate terms of supervision court action may be warranted. In that case, they are discharged from the program and their probation is revoked, and their original case proceeds to sentencing.

Funding
They are funded through a grant from the governor’s office. Community partners have their own separate grants, and provide their services for free. Probationers are charged a monthly fee, which is waived, and a flat $1000 fee is ordered. The women don’t have to start paying until later in the program, when they have a job.

Successes
The biggest component of the court’s success was finding community agencies to work with as partners.

In July 2016, there were approximately 80 people in the program. 11 people have graduated. On March 1, 2017, an additional 8 people (who began the program around 2013) graduated.

A recent outcome evaluation study found that the majority of people who unsuccesssfully discharged were dropping out at the beginning (e.g., if residential treatment is out in the community, or as soon as they get to transitional housing). A few women were unsuccesssfully discharged because they had so many violations, the program used up all community resources, the women had to be discharged.

Challenges
Our biggest lesson learned has been, deciding whether it’s diversion or intervention. That will determine how to set things up. The laws and sentencing guidelines affect the women’s motivation to complete the program.
The two programs in Utah that were specific to prostitution and solicitation offenses are no longer in operation. However, information on how those programs operated is provided. Currently, Utah has a statute providing for a diversion agreement between the defendant and prosecutors.\(^{220}\)

The researcher interviewed Paige Williamson, Prosecutor at Salt Lake City Prosecutors' Office. Ms. Williamson was familiar with the Johns Program and Prostitution Outreach Program that the Salt Lake County/Salt Lake City Prosecutors' office used to offer.\(^{221}\)

### Prostitution Outreach Program

The Prostitution Outreach Program was a collaboration between the Salt Lake City Prosecutor, Salt Lake City Justice Courts, and Criminal Justice Services to provide a treatment alternative to women charged with Soliciting Sex Acts for Hire. Criminal Justice Services (“CJS”) contracted with a private provider for the treatment services including a 12-week risk-reduction course which concentrates on behavior changing activities. CJS also provided case management and urinalysis services as needed.

The program's curriculum was intended to provide a structured opportunity for participants to assess what in their personal experiences and larger cultural context influenced their decision to prostitute and the impact that decision has had on their lives, families and greater community. Those who were eligible included: (1) women charged with first or second time Soliciting Sex Acts for Hire; (2) Salt Lake County resident; (3) stable residence; (4) participants may receive a plea and abeyance or complete program as a condition of probation with Salt Lake County Court & Treatment Services; and (5) those with no history of violent priors. The program consisted of a 10-week course, with classes offered on a weekly basis. The program/treatment fee was $100. Ms. Williamson explained that the fees collected from the Johns Program were in part used to pay for the Prostitution Outreach Program. However, the resources required for the Prostitution Program were very extensive (i.e., drug, housing, job resources etc.) and there wasn't enough funding to keep it going.

### Johns Program

With respect to the Johns Program, an individual arrested for the first time for solicitation would be offered a plea in abeyance. This means that the charge would be dismissed when he completed the Johns Program, and would not be entered on his record. If an individual had been arrested once or twice before, the individual would be permitted to enroll in the course as part of a probationary agreement. The cost of the program was $350, but all fines and court costs would be waived for the individual attending the program. The course included 10 classes (2 hours each) offered once a week. If an individual failed to complete the course, a conviction would automatically be entered on his record, or an order to show cause for violation of

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\(^{220}\) Utah Code § 77-2-5 et seq. Diversion is available to anyone who does not commit serious felonies or sexual offenses against individuals under 14, among others. If successfully completed, the charge is dismissed and it is like the charge was never filed. If unsuccessful, the prosecutor may resume prosecution. Defendants are entitled to counsel. The diversion program agreed to cannot be longer than 2 years.

probation will be requested. Ms. Williamson explained that this program went on for a few years and has since transitioned to a private counseling service. Judges no longer recommend / sentence individuals to the Johns Program because it's unclear how the private counseling services really work.

Ms. Williamson was not aware of any other diversion programs, courts or judicial processes for victims of trafficking who have been arrested for prostitution / solicitation. She did say that prosecutors will always listen to what people say and try and determine if those arrested are victims of trafficking. Unfortunately, she said those arrested for prostitution do not often give up a lot of information. She recalled one woman recently who was willing to speak up, so there was enough to dismiss the charges. They have previously worked with the police department and homeland security to try and identify victims of trafficking, but not on a formal basis.

Ms. Williamson was not aware of any movements to try and reestablish the Johns Program or some variation of the former Prostitution Outreach Program.
Researchers did not locate a diversion program specifically for sex workers or survivors of trafficking. However, Vermont has a state-wide diversion program that is accessible to individuals who commit prostitution-related offenses.

Diversion involves regular meetings with a court diversion case manager and a Review Board/Panel meeting with trained volunteers from the community to discuss the crime and focus on repairing the harm and preventing future offenses. The Review Board/Panel will create a contract with a list of items the participant must complete in order to successfully conclude the program. Some contracts involved paying for property damage, apologizing to victims, and/or substance abuse screenings or assessment with a counselor. Participants must pay a fee of not more than $300.

Participants have the right to counsel during all phases of the program. For those with mental illness and/or substance abuse, the goal is to refer these persons to treatment and counseling programs and obtain access to healthcare. Different counties have different relationships with various nonprofits and agencies to meet these needs. However, the program is still very short term: 2-3 months is the average even for those with mental illness and drug dependency. The goal is to get these individuals connected with resources and to have the program conclude within 90 to 100 days.

Willa Farrell, Vermont Court Diversion Director: provided background on new amendments to the program, the success rates and studies discussed, and the local resources available to the participants.

Statutory Authority
3 VSA § 164 provides for a state-wide diversion program

Eligibility
Adults with a first or second misdemeanor or a first nonviolent felony (there is a separate diversion program for juveniles). Amendments in 2017 expanded the program to defendants with substance abuse and/or mental illness, regardless of criminal background. The amendments also state that the prosecutors "shall" refer individuals charged with certain misdemeanors or non-violent felonies to the program. However, referral of individuals with mental illness or substance abuse is still at the prosecutor's discretion.

Consequences of Participation
Upon completion, the case is dismissed by the AG. Following the two-year anniversary of the participant's completion of the program, the court shall seal all records relating to the charge, provided the participant has not been convicted of a subsequent felony or misdemeanor and there are no pending charges, and the court is otherwise satisfied with the participant's performance.

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223 3 VSA § 164(c)(7)(B)(9).
224 3 VSA § 164(c)(2).
225 3 VSA § 164(a).
226 3 VSA § 164(a).
226 S. 143 No. 61 2017.
rehabilitation.\textsuperscript{227} The sealing is automatic, thought the prosecution can object.

If the diverted does not comply, the case manager will inform the State AG that the contract items were not completed and the State AG can proceed with prosecution.\textsuperscript{228}

**Funding**
The Attorney General provides grants of financial assistance to municipalities, private groups or other local organizations to encourage the development of diversion programs, though local financial contributions may be required as a condition of receipt. 3 VSA § 164(b). Per Willa Farrell, the Diversion Director for Vermont, county financial contribution has not been required. Some counties nonetheless still fundraise. Fees collected from the program are also reinvested in the program 3 VSA § 164(c)(7)(B)(9). This amounts to 15% of the funding, though there is tension between collecting the fees and also providing reduced fees and payment plans for indigent participants. The Attorney General may also accept grants and gifts up for use in the diversion program pursuant to 32 VSA § 5.

**Successes**
The Vermont Center for Justice Research published a study success rates and recidivism in April 2014. Between July 2008 and June 2011 recidivism was 11%, as people who are referred to court diversion are already at low risk to reoffend. For the fiscal 2016, the program boasted an 83% completion rate.

\textsuperscript{227} 3 VSA § 164(e).
Researchers did not locate any diversion programs relating specifically to sex workers or survivors of trafficking. Virginia has a diversion programs for individuals with mental illness, developmental disabilities, and drug addiction. The most applicable to this survey is the Community Diversion Incentive Program ("CDI"), as it appears that prostitution-related charges could be covered because the CDI Program only requires that the individual be charged with a nonviolent offense.

The CDI Program is a state-sponsored program that was created via statute in 1980 by the General Assembly in response to concerns over inmate overcrowding and growing correctional expenditures. 229

Request for participation in the Diversion Center Incarceration Program can be filed upon motion of the defendant or the attorney for the Commonwealth or upon the court's own motion.

Upon motion, the court may order the defendant be committed to the Department of Corrections for a period not to exceed 45 days from the date of commitment for evaluation and diagnosis by the Department to determine suitability for participation in the Program.

The Department of Corrections shall recommend to the court in writing that the defendant be committed to the Diversion Center Incarceration Program upon determining that 1) the commitment is in the best interest of the Commonwealth and the defendant and that 2) facilities are available for the defendant. 230

The evaluation and diagnosis shall include a complete physical and mental examination of the defendant and may be conducted by the Department at any state or local correctional facility, probation and parole office, or other location deemed appropriate by the Department. 231

The diversion program depends largely on the individual admitted as each program is tailored for the defendant. Most defendants are admitted to a 5-7 month residential program. Divertees are housed in open-space detention centers similar to minimum-security prisons; divertees are provided individual beds in the Centers. 232


231 Va. Code § 19.2-316.3. The specific agency tasked with evaluating the well-being of the defendant appears to vary depending on the treatment options available in the district administering the CDI. All are licensed and recognized at the local or state level as an agency of law enforcement or justice. That said, as noted in footnote 7, ultimately the judge overseeing the case has the discretion as to whether the defendant can enter the diversion program.

232 See VADOC Presentation on the Program Updates for its Diversion Centers at page 13, 15 for additional details on successful program completion, http://www.vcsc.virginia.gov/2017Meetings/DOC%20-%20CCAP%20overview%20for%20external%20stakeholders%20-%20%20revised%20version%204.pdf; see also,
Divertees perform physical labor in organized public works projects/community service projects and at some prison complexes.

Some centers focus on Cognitive Behavioral Training, while others focus on Substance Abuse Treatment. All divertees must participate for 42-48 weeks and log at least 300 hours of treatment and program work in order to successfully complete the program. 233

Upon successful completion of the program, the court shall order that the defendant be released from confinement and be under intensive probation supervision for a period to be specified by the court, followed by an additional period of regular probation for at least a year.

Statutory Authority

Eligibility
If the defendant does not have a criminal history and appears fit to participate in the Community Diversion Initiative or other diversion programs in Virginia, he or she may be able to participate if charged with prostitution-related offenses.

Nonviolent felons 234 are allowed into the program. There is no statutory requirement for admission beyond the defendant having committed only a nonviolent crime, the defendant is tried/convicted as an adult, and the defendant is physically and emotionally suited for the program.

Limitations
Although individuals with prior records are not necessarily banned from the program, commentary found online suggests that Virginia judges and district attorneys are generally not lenient with individuals who have prior records; in other words, judges may not offer a diversion program if the accused is a repeat offender. The statute itself, however, does not restrict the programs from individuals with prior or repeat offenses, as long as the offense in question is nonviolent. 235

Consequences of Participation
Upon receipt of a recommendation and the court’s determination that the defendant is capable of returning to society as a productive citizen following successful completion of the program, the court 1) shall impose sentence, suspend the sentence, and place the defendant on

https://vadoc.virginia.gov/community/programs/diversion.shtm for an overview of Diversion Center programs, as drafted by the Department of Corrections (last accessed July 3, 2018).

233 See VADOC Presentation on the Program Updates for its Diversion Centers at page 13, 15 for additional details on successful program completion.


234 Code of Virginia §19.2-316.1

235 See https://koehlerlaw.net/2011/03/second-chances-in-virginia/ for additional information on diversion programs, as seen through the lens of a criminal defense attorney;
probation or 2) if the defendant is found to have violated terms of a previous probation, the defendant will be placed on a special probation program specific to the diversion program, which requires a successful completion of the Diversion Center program.\textsuperscript{236}

\textsuperscript{236} Va. Code § 19.2-316.3. The specific agency tasked with evaluating the well-being of the defendant appears to vary depending on the treatment options available in the district administrating the CDI. All are licensed and recognized at the local or state level as an agency of law enforcement or justice. That said, as noted in footnote 7, ultimately the judge overseeing the case has the discretion as to whether the defendant can enter the diversion program.
Law Enforcement Assisted Diversion Program (“LEAD”) is a pre-arrest diversion program for low-level drug and prostitution offenses that began in Seattle and King County, Washington in 2011. It has since inspired twenty other currently operating LEAD programs in the country (including Los Angeles, San Francisco, Hartford, New Haven, Atlanta, Baltimore, Santa Fe, Albany, and Portland), and another twenty-two currently in development (including Honolulu, New Orleans, Las Vegas, Ithaca, Denver, Louisville, Jacksonville, Brooklyn, and Houston).237

LEAD is a collaboration between law enforcement agencies, public officials, and community groups, and studies have found that the program has led to significant cost savings (booking, charging, court appearances, jail time, criminal recidivism, and lost tax dollars)238 and a 58% reduction in criminal recidivism among low-level drug and prostitution offenders.239

The “Policy Coordinating Group” (PCG) governs LEAD by consensus and consists of representatives from the King County Prosecuting Attorney’s Office, the Seattle City Attorney’s Office, the Seattle Police Department, the King County Sheriff’s Office, the King County Executive, the Mayor’s Office, the Washington State Department of Corrections, The Defender Association, the ACLU of Washington, as well as other community members.

The community supports LEAD and provides feedback regularly via the LEAD Community Advisory Board, which includes representatives from the Belltown Community Council, Belltown Business Association, Downtown Seattle Association/Metropolitan Improvement District, Recovery Café, YWCA, Plymouth Housing Group, Millionaire Club Charity, Skyway United Methodist Church, Westhill Community Council, and Skyway Solutions.

Eligibility
Individuals arrested for low-level drug and prostitution offenses are eligible.

Limitations
Those who committed certain drug offenses, exploited minors, promoted prostitution, or has a disqualifying criminal history such as murder, kidnapping, a domestic violence offense within the past 10 years, and more. Pimps and buyers are ineligible to participate.

Decision making power of whether to arrest of divert to LEAD is made by street-level public

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238 For the first year of operation, the program cost approximately $899 per participant per month. After the first two years the cost dropped to $532 per participant per month, and is currently averaging $340 per participant per month. The decreasing cost is due to greater efficiency with more experience, as well as increased service coverage following the implementation of the Affordable Care Act.

239 In a University of Washington study with a control group, participants of LEAD were found to be 58% less likely than those in the control group to be rearrested. The same study found that LEAD participants spend 39 fewer days in jail annually and have an 87% decrease in odds of being incarcerated subsequent to their participation.
safety personnel. Approximately 40 officers (of 1300 in Seattle) were trained to apply the inclusion/exclusion criteria to identify possible participants.

LEAD conducts periodic reviews with local police to identify and fix operational issues. Additionally, training is provided to police on such topics as social service barriers facing those who are homeless, drug addicts, or mentally ill.

Participants begin working immediately with case managers and social workers. Case managers work with participants to identify and rank their needs, and many identify housing, food, and hygiene facilities as their greatest needs. Case managers assess participants’ substance use, housing situation, quality of life, psychological symptoms, interpersonal relationships, and health, and act as brokers to find participants local services and programs useful to them.

If an individual whose case is diverted does not complete intake within 30 days and law enforcement does not agree to an extension, prosecutors will file the underlying charge.

LEAD uses harm reduction principles, and case managers set goals with participants that are individualized, meaningful to them, and reduce the harmful impact of their behaviors on themselves and others.

Case managers design Individual Intervention Plans (IIP) to assist with housing, treatment, mental health counseling, drug treatment, education, job training/placement, licensing assistance, small business counseling, child care, or other services. Programs may also include things such as reading, art, or yoga classes.

Additionally, services may be tailored to different racial and ethnic groups, LGBTQ people, immigrants, etc.

Case managers have access to funds for the fulfillment of participants’ basic needs (motel during cold weather, food, clothing, treatment).

Each participant’s program is individualized and open-ended. There are no requirements other than completing an intake, and success is defined only by each participant themselves.

There is currently no peer support program in place. Initially they did have a mentorship program, however it was found to be unsuccessful and not to be a critical aspect of the program.

Consequences for Participation
There are no rewards other than the satisfaction of rehabilitation. In this way the goals of LEAD and the participant are aligned. There are no sanctions, other than the fact that participants may be rearrested for a subsequent offense.

Funding
Initially LEAD was completely privately funded (donors included the Ford Foundation, Open Society Foundations, Vital Projects Fund, RiverStyx Foundation, Massena Foundation, and the Social Justice Fund Northwest). Currently LEAD is completely publically funded by the city of Seattle and King County.
Challenges
Finding affordable housing has been one of the biggest challenges. 82% of participants are homeless upon referral.

System capacity is an ongoing challenge, and scarce resources must be devoted where they make the biggest impact.

Getting case managers to buy into the harm-reduction method is sometimes a challenge, as many come from a 12-Step method background.

Seattle has had few complaints from sex workers’ rights organizations. However, nationally (and in San Francisco in particular) there has been severe criticism from sex workers’ rights groups, who feel that LEAD may stand in the way of the decriminalization of prostitution.
There is a diversion program in Cabell County, West Virginia, but no statewide program at this time.

In 2015, the Cabell County, West Virginia Adult Drug Court, launched the Women's Empowerment and Addiction Recovery ("W.E.A.R.") Program, which is a specialized track within the current drug court that expands the drug court's services to address the needs of individuals engaging in prostitution who are also addicted to drugs.²⁴⁰

Participants in the W.E.A.R. program proceed through the standard drug court model, but also receive specialized trauma-informed services (particularly counseling/therapy) to comprehensively address their mental and physical health issues, helping them to leave the sex trade and become healthy, productive members of society.

The W.E.A.R. Program was the first specialty court program for prostitution in the State of West Virginia, offering intensive supervision and diverting prostituted individuals into treatment and social services that address and change the underlying issues that led to prostitution. W.E.A.R. treatment teams include officials from the Drug Court, City Prosecutor and Public Defender's offices, Probation Department, Fire Department, and local non-profit groups, as well as local therapists.

The W.E.A.R. program features a three-phase treatment program, where each phase is developed and then overseen by a Drug Court Probation Officer, and the Drug Court team. Completing all three phases takes one year, while the actual time spent in the program may exceed one year. Also, the program offers a six-month aftercare option.

**Statutory Authority**
West Virginia Code § 61-11-22. Prosecuting attorneys may enter into pretrial agreements for crimes other than specified offenses, such as driving under the influence.

**Eligibility**
A person must be an adult charged with a non-violent, sex-related felony offense. However, the City of Huntington prosecutor has discretion on which individuals may be admitted to the program. The program requires participants to submit to regular drug screening and to live in or near Cabell County, West Virginia.

Once admitted to the W.E.A.R. program, participants must do the following: regular substance abuse testing, including urinalysis; meet regularly with a Drug Court Probation Officer and Case Manager; refrain from drug and alcohol use; attend support group meetings; submit to extensive supervision by Drug Court staff and/or probation officers and other involved officials; participate in education, testing, counseling and treatment referrals through the Cabell-Huntington Health Department; perform community service; obtain employment or attend school and obtain a high school diploma or GED; and pay restitution to victims and a program fee of $700.

At this time, the W.E.A.R. program appears to be the only such diversion program for women involved in sex-related offenses in the State of West Virginia, though given its broad support from the court system, police department, and health officials in the City of Huntington and

²⁴⁰ Most of the information provided by the researcher can be located: *Adult Drug Court Probation Officer, W.E.A.R. Program - Cabell County, W. Va. Judiciary, [http://www.courtswv.gov/AdultDrugCourt.html](http://www.courtswv.gov/AdultDrugCourt.html).*
Cabell County, it seems at least likely that other similar diversion programs could be implemented on the city, county or state level in the future.

**Consequences of Participation**
Upon completion of the Drug Court program, and depending on the terms of the plea agreement, a W.E.A.R. participant's case may be retired from the Court's docket and the participant will be released from further supervision.
Wisconsin does not have a formal statewide diversion program or deferred prosecution program. Instead, decisions are left to the counties and vary county by county and by prosecuting attorney to prosecuting attorney. Researchers did not find any programs specifically related to sex workers or survivors of trafficking.

**Volunteers in Probation Program**

**Statutory Authority**
§971.40; §973.11 The court may withhold sentence and order a defendant placed in this program.

**Eligibility**
Defendants charged with one or more misdemeanors, for which a period of incarceration is not mandatory.

**Consequences of Participation**
If the participant satisfies all conditions, the court dismisses the charges if a judgment of conviction was not already entered. If the participant fails to comply with the conditions, the court may keep the same conditions, extend supervision, revise the conditions, or impose a sentence.

**Deferred Prosecution Program**

**Statutory Authority**
Wisconsin Statutes §971.39. District attorneys in counties with a population of less than 100,000 may enter deferred prosecution agreements.

**Eligibility**
Individuals charged with any crime, except for certain driving under the influence offenses.

**Consequences of Participation**
The court must dismiss with prejudice any charge subject to the agreement, unless prosecution resumed because the participant did not comply with the conditions imposed.
The state and several counties have court-supervised drug treatment programs and juvenile diversion programs, but nothing directed at crimes associated with prostitution offenses. However, prosecutors may engage in pre-trial agreements.

**Statutory Authority**
Wyoming Statutes §7-13-301 authorizes a pre-trial diversion agreement where the court may defer prosecution or sentencing if the defendant and prosecution agree. The defendant is placed on a term of probation with conditions set by the court. The defendant must report to the court as ordered, not commit anymore offenses, among other requirements. The statute permits only one discharge and dismissal.

**Eligibility**
Individuals charged with certain misdemeanors and certain felonies. Prostitution is not specifically excluded.

**Limitations**
Individuals are not eligible for deferred prosecution if they were previously convicted of a felony.

**Consequences of Participation**
If the defendant successfully completes the program, the court may dismiss the charge. The defendant is not convicted.

If the defendant fails to comply with any requirements, the court may find the defendant guilty and impose sentence, if the defendant previously pled guilty or was found guilty of the original charge. If the defendant had not yet pled guilty, then the court may order that trial of the original charge proceed.