

State Legislative Responses to Human Trafficking

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Introduction

- General discussion problem definition and movement toward state human trafficking legislation

- Outline of major statutory components
 - Model legislation vs. enacted state legislation
 - Comparison of component distribution across all statutes

- Discuss future directions and areas of inquiry



The Problem of Human Trafficking

- 1990's Increased international and national concern about human trafficking victimization

- Structural and social changes bring the problem of trafficking to attention of U.S. public
 - Increasing world-wide movement of people and commerce
 - Increasing demand for cheap labor

- Estimates of hundreds of thousands of persons trafficked across international border each year
 - FBI estimates \$9.5 billion a year industry
 - Department of Justice estimated 14,500 – 17,500 victims trafficked into U.S. annually - figures subject to much dispute

Human Trafficking Legislation

❑ Federal Legislative Response:

■ Victims of Trafficking and Violence Protection Act 2000

- ❑ Passed by congress October 2000 (PL 106-386)
- ❑ Enhanced penalties for slavery, involuntary servitude and peonage from 10 to 20 years
- ❑ Allowed criminal sanctions to be applied when psychological coercion used to hold victims in bondage (previously limited to physical force or threats)
- ❑ Makes trafficking victims eligible for benefits (requires certification from HHS, T-Visa)
- ❑ Ranked countries into tiers of trafficking response
 - Sanctions to those countries whose governments have not taken adequate steps to prevent trafficking
- ❑ Provides resources to law enforcement to begin identifying, investigating and prosecuting cases of human trafficking

■ Reauthorized in 2003 and 2005



Definition of Human Trafficking

The United States Trafficking Victims Protection Acts 2000 defines severe forms of trafficking in persons as:

- **Sex trafficking:** the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud or coercion or, in which the person forced to perform such an act is under the age of 18.
- **Labor trafficking:** the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage or slavery.

In U.S. definition of trafficking does not require movement.



Types of Human Trafficking

- Sex trafficking
 - Prostitution
 - Child sex trade
 - Mail order brides

- Forced Labor
 - Debt bondage
 - Labor demanded to repay a loan or money given to fund transport
 - Parents may pledge their children to work in exchange for a loan
 - Value of work exceeds original sum owed

 - Involuntary servitude
 - Forcing someone to stay in job due to threat of harm to themselves or another person such as their family

 - Peonage
 - Debtors bound to servitude to creditors



Elements of Control

- Force
 - Kidnapping, physical violence, rape, confinement.

- Fraud
 - False offers of employment, fake contracts

- Coercion
 - Threats of harm to victims or their family
 - Cause victim to believe that failure to perform act will result in violence to them or others
 - Loss of identify and travel documents



Trafficking versus Smuggling

□ Similarities

- Movement of persons often through illegal means
- Involves payment for transportation
- May involve multiple middlemen

□ Differences

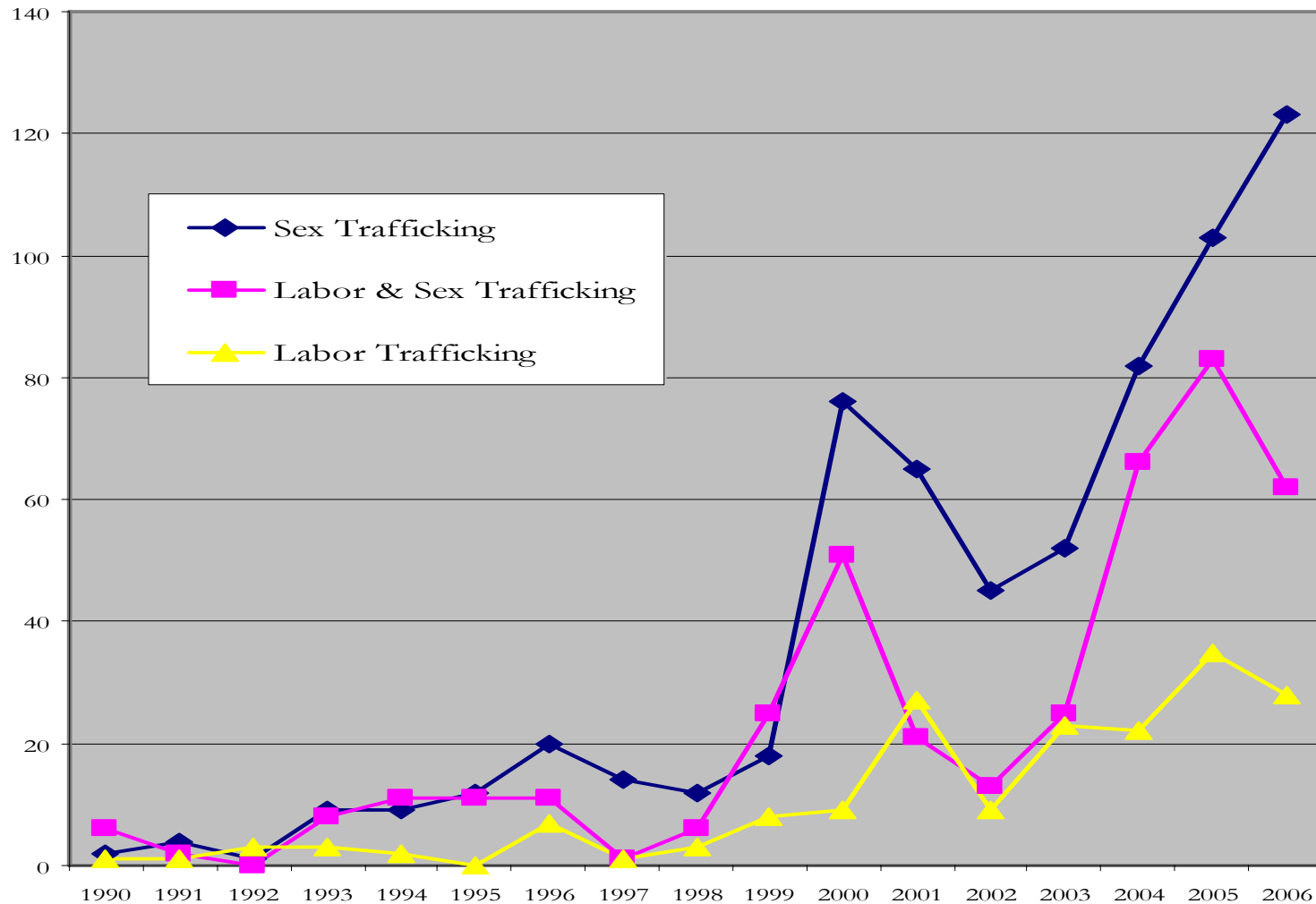
- Smuggling voluntary; trafficking always involves force or coercion
- Smuggling always transnational; trafficking can be either domestic or transnational
- Trafficking results in ongoing profits for traffickers from victims labor where smuggling often involves single payment for transportation.

Collective Problem Development

- In late 1990's trafficking in persons becomes defined as a “social problem”
 - Could be framed as different types of problems:
 - Human Rights
 - Crime
 - Immigration
 - Economic Justice
 - Framed primarily as crime problem

- Increased public attention to the issue
 - 10 fold increase in print media coverage of human trafficking stories between 1995-2005
 - Interest groups used media to make claims about the nature of the trafficking problem
 - Primarily sex trafficking
 - Characterization of innocent victims and nefarious offenders

Media Portrayal of Trafficking Problem

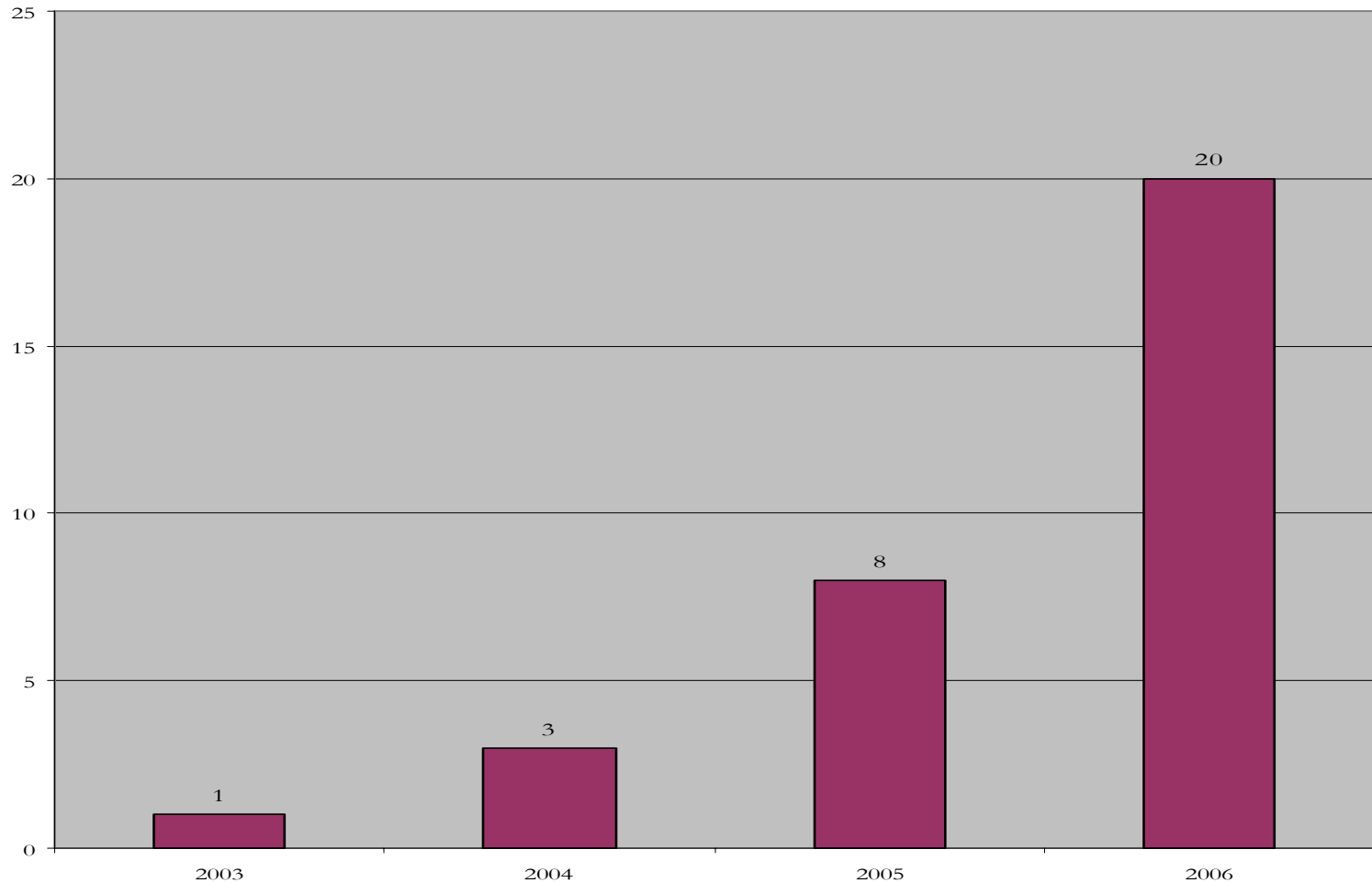




Push for State Legislation

- Recognition of limits of federal prosecutions
 - Federal Government - Department of Justice
 - Model legislation
 - Prevent gaps in federal and state law
 - Provide uniformity between states
 - State-level criminal provisions
 - Non-Governmental Organizations
 - Model legislation
 - Replicated main DOJ criminal provisions
 - Enhanced service provisions

State Human Trafficking Legislation





Main Components of State Human Trafficking Legislation

1. Problem Identification and Planning
2. Criminal Provisions and Penalties
3. Victim Protection



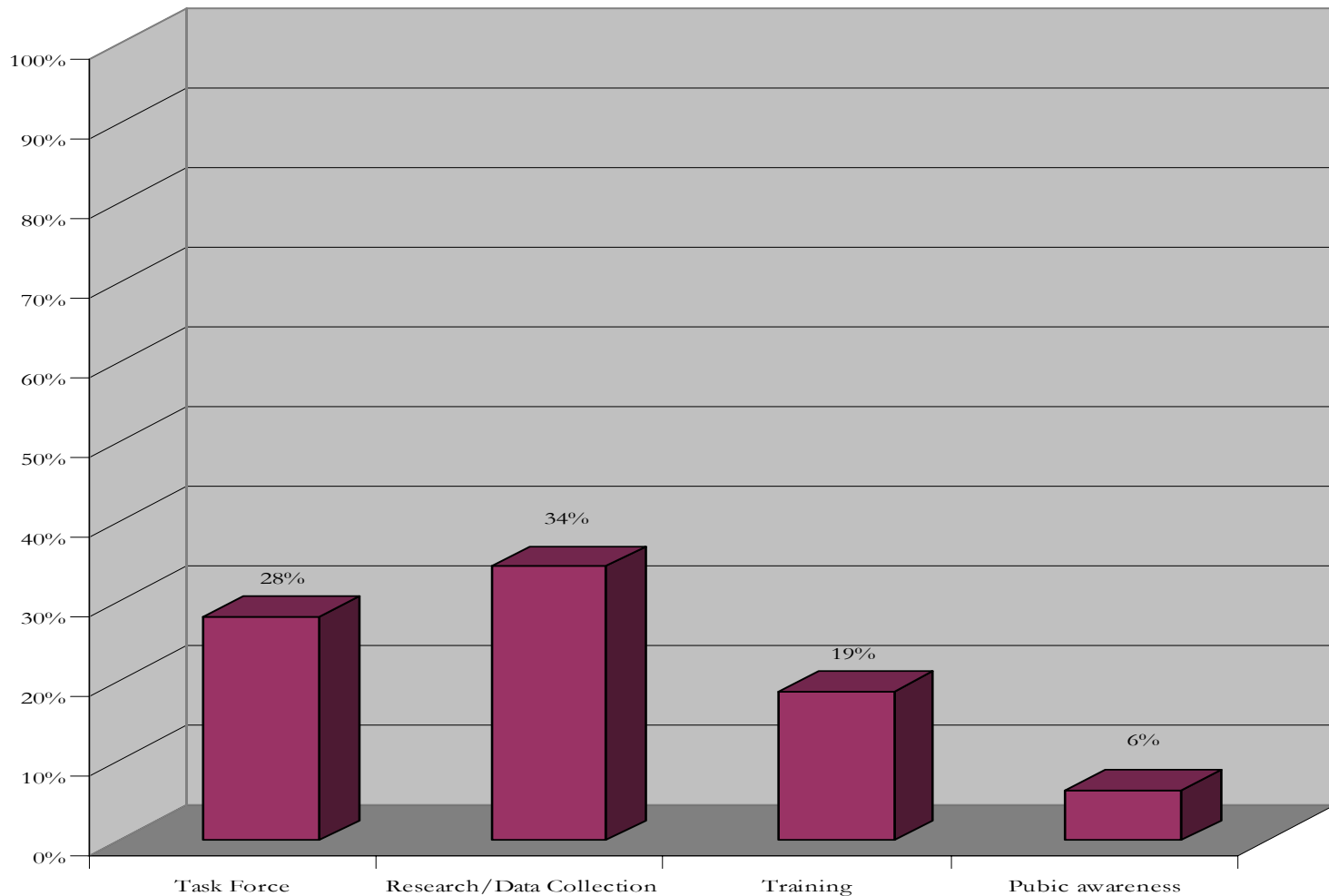
Component 1: Problem Identification and Planning

- Intended to identify the scope of local human trafficking problems and increase awareness through training and public outreach

- 28% of state statutes create task forces to study local problem of human trafficking and existing responses
 - Generally coupled with criminal provisions
 - Connecticut, Hawaii and Maine only had task forces, Connecticut later adopted criminal provisions

- Fewer include comprehensive education
 - 19% include training
 - 6% provisions for public awareness/outreach

Component 1: Problem Identification and Planning



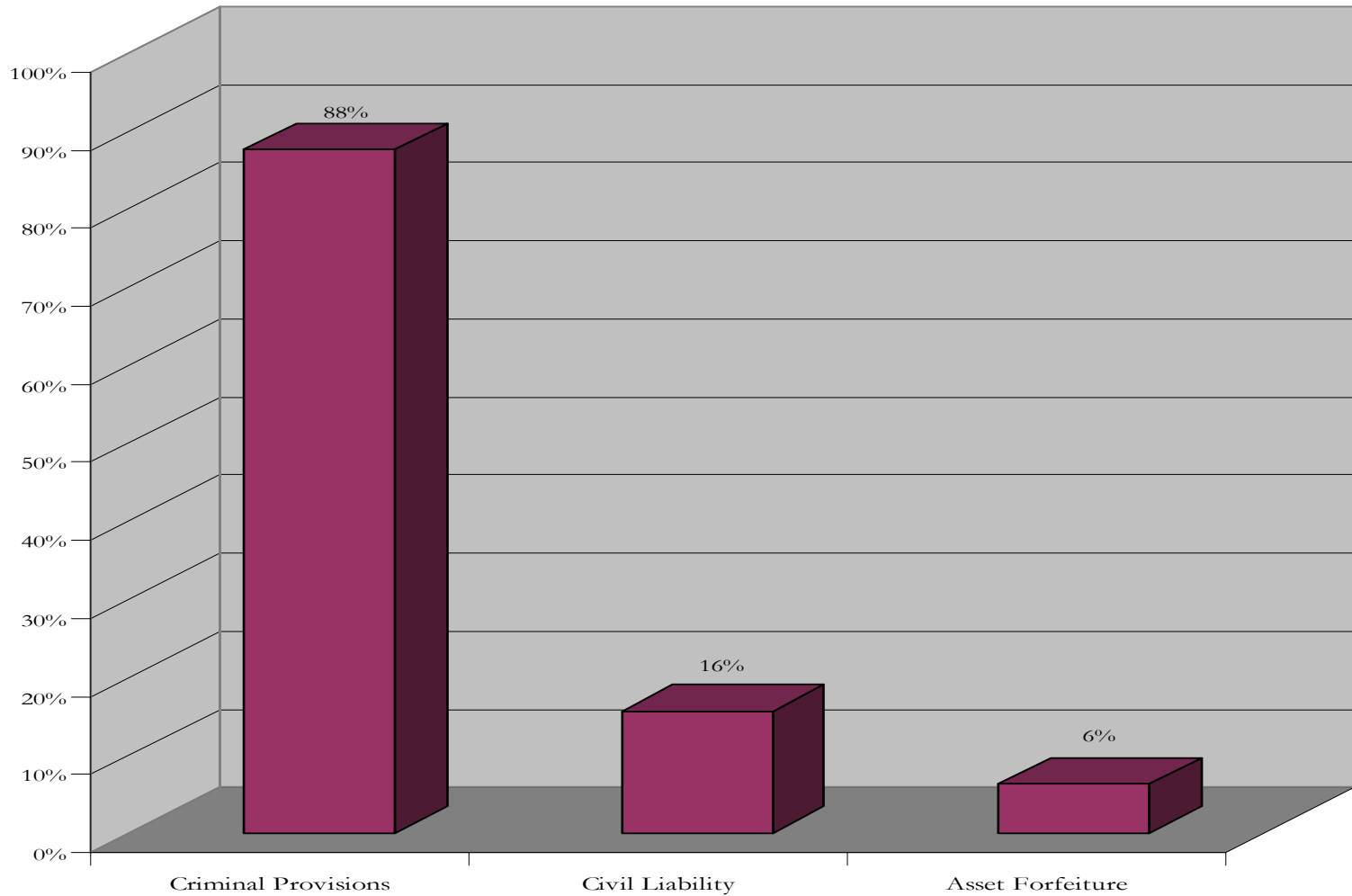
Component 2: Criminal Provisions and Penalties

- ❑ Establishing criminal provisions for trafficking are the most common statutory response
 - 88% of statutes include some type of criminal provisions
 - ❑ Commonly broad offenses of human trafficking as recommended by the Department of Justice Model Statute
 - 41% include specific provisions for sexual servitude of a minor
 - Majority apply to individual actors
 - ❑ 2 states include acts or omissions of businesses or corporations
 - Sentencing

- ❑ 16% include provisions for civil liability

- ❑ Few statutes (6%) specify asset forfeiture conditions

Component 2: Criminal Provisions





Component 3: Victim Services

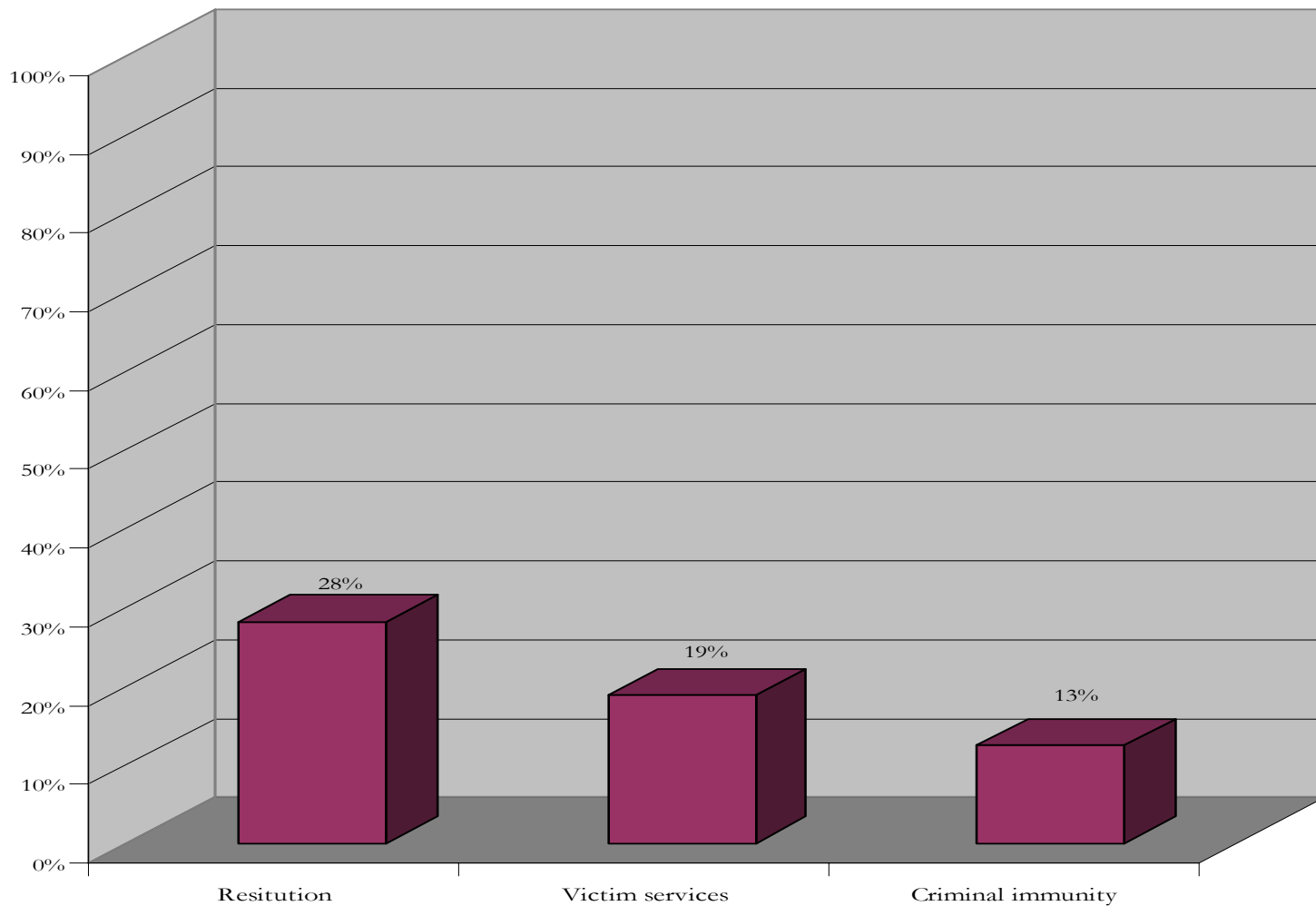
- Only 19% of state statutes provide resources or make explicit provisions for victim services
 - Shelter
 - Mental and physical health services
 - Translation
 - Legal Assistance

- Shift toward more comprehensive legislation
 - Example: California's 2006 statute
 - More complex and difficult to pass than simple criminal provision legislation

- Victims eligible for restitution programs (19%)

- Victim Immunity (13%)
 - Victim will not be charged with offenses committed during the course of their trafficking victimization

Component 3: Victim Services



New Strategies and New Laws - Pending Legislation 2007

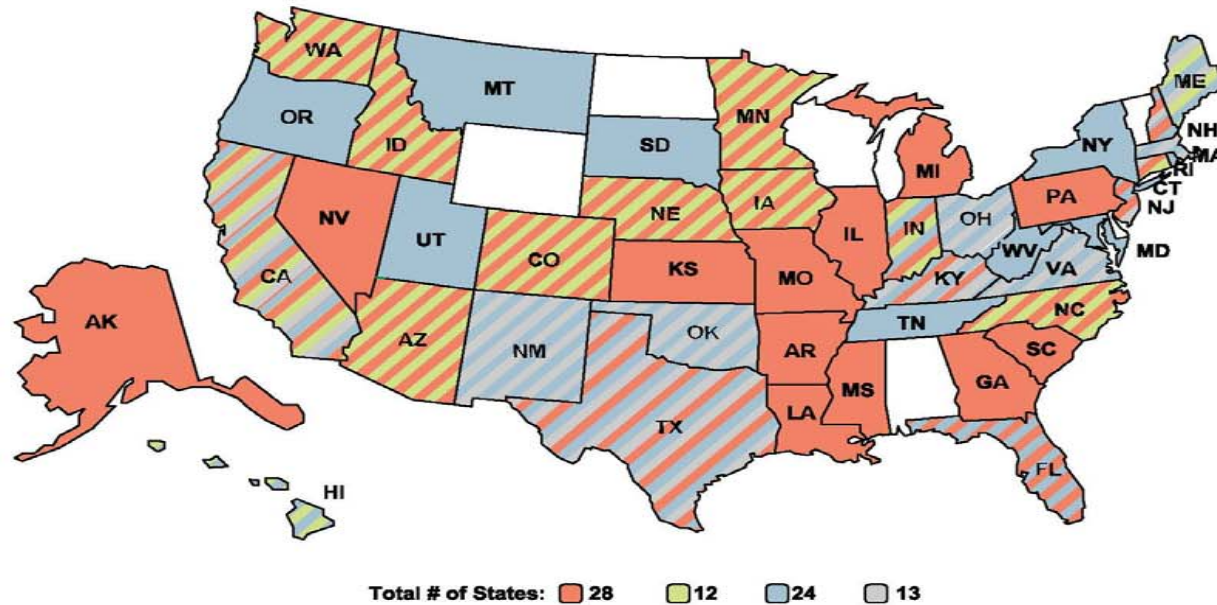
- Overview of new legislative efforts – state and federal
 - Remedies to existing legislation
 - New components and strategies
 - What we are learning from state legislative efforts

- Illustrating the legislative response
 - Polaris Project map



Information contained within U.S. Policy Alert is developed and compiled through online research as well as in partnership with local advocacy groups, local organizations and grassroots volunteers.

While we strive to keep the information in this document as accurate as possible, we cannot guarantee complete accuracy. Please send us any new updates, suggested modifications, or feedback to the Policy Alerts at PolicyAlert@PolarisProject.org. Thank you!



Key	USA Trafficking Map
■	States with anti-trafficking criminal provisions
■	States with anti-trafficking task force / research commission / law enforcement training laws
■	States with pending anti-trafficking criminal provisions
■	States with pending anti-trafficking task force / research commission / law enforcement training bills



Conclusions and Future Directions

- State responses to human trafficking increasing over time
 - Becoming more complex and tailored to local problems

- Need to understand more about differing responses to problem of trafficking
 - Relationship of local problem definition to legislative strategies
 - How federal responses shape state action

- Impact of Legislation
 - How has it affected law enforcement or other victim service providers responses to human trafficking
 - Frequency and success of prosecutions under state human trafficking specific provisions