

Frequently Asked Questions About Services to Trafficked Children

What is trafficking?

The federal Trafficking Victims Protection Act of 2000 defines severe forms of trafficking in persons as...

- sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Is immigration relief available for child victims of trafficking?

If the victim was born outside the United States and does not have immigration status, she or he may be eligible for a number of different forms of relief from removal. Once identified as a victim of trafficking by law enforcement, she or he may be granted continued presence, a temporary legal status, by the Department of Homeland Security. She or he might be eligible for the T visa, which allows victims of severe forms of trafficking to remain in the United States if they can demonstrate that they would suffer extreme hardship upon removal. Children do not have to cooperate with the prosecution in order to be granted a T visa. Recipients of T visas are eligible for work authorization and may adjust their status to lawful permanent resident after three years. An immigration attorney may also explore other forms of immigration relief that may be appropriate for a child victim of trafficking, including the U-visa, Special Immigrant Juvenile Status, political asylum or a self-petition under the Violence Against Women Act (VAWA).

How are child victims referred for services?

When a federal law enforcement agency determines that a child is a victim of trafficking, this agency can make a referral to the Department of Health and Human Services/Office of Refugee Resettlement (ORR). ORR will then issue a determination of eligibility for benefits, which means a child is eligible for benefits and services to the same extent as a refugee. However, children do not have to cooperate with law enforcement in order to access benefits. ORR will also consider requests for benefits from people other than federal law enforcement. Staff at Lutheran Immigration and Refugee Service (LIRS) and the United States Conference of Catholic Bishops (USCCB) are willing to assist service providers with guidance in navigating referrals and eligibility for services. For assistance, contact LIRS (410/230-2758 or trafficking@lirs.org) or USCCB/MRS (202/541-3462 or mrstvics@usccb.org).

Once ORR receives a request for benefits, they are typically able to issue a letter of eligibility within 48 hours. For unaccompanied children, ORR also contacts LIRS or USCCB to provide specialized services to the child.

Unfortunately, in the time before federal law enforcement refers the child to ORR, there are no specialized services funded specifically for child trafficking victims. However, there is a Trafficking in Persons Information and Referral Hotline (1-888-373-7888) funded by ORR that can direct service providers and victims to services available in the area where the victim is located. Calling this hotline does not initiate an investigation. The U.S. Departments of Justice and Labor sponsor the Trafficking in Persons and Worker Exploitation Task Force complaint line—1-888-428-7581 voice and TTY—which can be called to begin an investigation of a suspected case by federal law enforcement authorities.

What if a child needs immediate attention?

If the child needs immediate shelter or other emergency assistance, it may be necessary to contact the local child protective services agency or assist the child to find an emergency youth shelter for immediate housing and services.

If there are emergency medical issues, a person can not be denied emergency room care or other life saving services due to immigration status. If a trafficked child needs immediate medical attention, you should not hesitate to seek medical attention.

You can also contact the Trafficking in Persons Information and Referral Hotline—1-888-373-7888—for assistance with urgent situations.

What services are provided to unaccompanied child victims of trafficking?

LIRS and USCCB are responsible for coordinating with local specialized foster care programs to place unaccompanied trafficked children in culturally appropriate foster homes, group homes, or independent living arrangements, appropriate to the youth's developmental needs. These programs were established to serve unaccompanied refugee minors and are funded by the Office of Refugee Resettlement (ORR). These foster care programs, therefore, are referred to as the Unaccompanied Refugee Minor programs (URM). Through the URM programs, these children will receive intensive case management, education, health care, mental health counseling, legal assistance, independent living skills training, and many other services. They are eligible to remain in foster care until they turn 20 or 21 years old, depending on the foster care rules of the state.

In order for a trafficked child to enter a URM program, ORR must issue a letter of eligibility to the unaccompanied child. For assistance with referrals and service eligibility, contact LIRS (410/230-2758 or trafficking@lirs.org) or USCCB/MRS (202/541-3462 or mrstvics@usccb.org).

Where are these Foster Care Programs located?

LIRS is headquartered in Baltimore and USCCB in Washington, D.C. These agencies work with 16 local service providers in 18 cities across the United States. Once ORR determines that an unaccompanied child is eligible for these services, he or she can be placed in one of these programs, regardless of where in the United States the child is identified.

How do LIRS and USCCB decide where to place a child?

Decisions take into account any special needs of the child, security concerns, availability of space in the local program, and requests from law enforcement or prosecution involved in the trafficking case. In most cases, a social worker will contact the child (if she or he is available) to discuss placement and answer any questions the child may have.

How will the child receive medical care?

Children placed in specialized foster care are eligible for medical care funded by Medicaid. The program staff or the child's foster parents will be responsible for finding a health care provider for the child.

Who will have legal custody of the child?

In most cases, the local URM program will petition the court to declare that the child is dependent based on abuse, neglect or abandonment and ask the court to appoint the agency as the custodian of the child. In some states, it is the county or the state where the foster program is located that petitions the court for custody of the child. The agency or county or state will have the authority to seek medical treatment and other services for the child.

Will the child's parents lose their parental rights?

This is very unlikely. The agency awarded custody of a child trafficking victim must make a case plan that complies with local child welfare laws. These laws require that the agency make a permanency plan that considers the following options: family reunification, long-term foster care or guardianship and adoption. However, the termination of parental rights is a lengthy process usually requiring the biological parents to be present to answer allegations and mount a legal defense. Therefore it is unlikely that this will occur. For a teenager, unless family reunification is successful, long-term foster care is the most likely long-term plan.

Can a child be reunited with family?

The URM programs are required by law to consider family reunification. If a child has parents or relatives in the United States, home studies will usually be conducted with the family in accordance with the state's laws and procedures to ensure that it is in the best interest of the child to be reunited with her or his relatives. If the child's family is in a different country, the URM program or LIRS or USCCB, as appropriate, will work with the local family court having jurisdiction over the child to arrange a home study by an agency in that country to ensure that it is safe for the child to return. However, repatriation is a complex process and LIRS and USCCB have developed issues for consideration to ensure any repatriations are done safely. LIRS and USCCB will work with law enforcement to the greatest extent possible to ensure that reunification in the United States or abroad is safe for the child.

Will the child have legal representation?

The child's social worker will arrange for a pro bono attorney to help with the child's immigration case. She or he will also have a court appointed attorney or guardian ad litem to represent her or him in dependency proceedings.

However, when a child is first identified, before entry into care, she or he may need help from a reputable attorney with experience in immigration law to help ensure the youth's rights are protected.

Is it advantageous for the child trafficking victim to be placed with local Child Protective Services?

Most social service providers are required to report any suspicion of child abuse and neglect. Federal law enforcement involvement notwithstanding, it would be incumbent on social workers to report to local child protection authorities whenever they come into contact with a child they suspect to be abused or neglected.

There are pros and cons for the child to enter the local child welfare system. Child Protective Services (CPS) is usually able to place a child on short notice in a licensed foster home. In the period immediately after a child has been identified until she or he is referred by federal law enforcement to ORR, this may be the best and only option for shelter for a trafficked child.

However, in the long term, there will be no guarantee that the child will be granted special attention to cultural and linguistic needs or the intensive and specialized services provided by a URM program. Moreover, the CPS system may not be equipped to deal with the complexities of a trafficking case, including security and immigration issues. A child placed by CPS will be in dependency proceedings in juvenile court. If the child is eventually referred to LIRS or USCCB, they will work with the CPS agency on the possibility of transfer into one of the URM programs, including navigating the possibly lengthy process of moving a child from one state to another.

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