Mr. Chair and Members of the Committee, good morning. My name is Michele Garnett McKenzie. I am advocacy director of The Advocates for Human Rights, a nonprofit nongovernmental organization based here in Minnesota.

First, my thanks to the Chair and to the committee for taking the time to hear about one of the most troubling human rights abuses taking place every day in our own community: the sex trafficking of children. I am pleased to be with you this morning to talk about Minnesota’s Safe Harbor law, what’s happened to date and what’s needed to move us forward toward effective implementation. My colleague Jeff Bauer of The Family Partnership will be addressing the specific recommendations of the year-long Safe Harbor working group which are outlined in the No Wrong Door report you have received.

Human trafficking is a form of slavery and involuntary servitude resulting in grave human rights violations. At heart, it involves individuals profiting from the sexual exploitation of others. Too often, it results in brutal physical and sexual assaults and in devastating physical and psychological injuries.

Tragically, sex trafficking of children in Minnesota is all too common. As you have heard from County Attorney Choi, sex trafficking is a violent and predatory crime. Traffickers seek out persons they perceive to be vulnerable, including the young. The average age of entry into prostitution is between 12-14 years of age – that’s 6th and 7th grade. The average life expectancy of a person in prostitution is 7 years.

The Safe Harbor for Sexually Exploited Youth Act of 2011 changed Minnesota’s approach to meeting the needs of sexually exploited youth and youth at risk of sexual exploitation. Safe Harbor defined prostituted children as the victims of sexual exploitation, ended reliance upon delinquency proceedings as the sole systems response to meeting the needs of these crime victims, and called upon the State to create a framework for implementation of these changes, which become effective on August 1, 2014.
Safe Harbor builds on Minnesota’s a unique history of confronting commercial sexual exploitation, including sex trafficking, through grassroots activism, service provision, law enforcement, and innovative legal reform.

In 2005, Minnesota passed anti-trafficking legislation. In passing that law, the Legislature recognized the need to hold perpetrators accountable by creating the crimes of sex and labor trafficking.

That legislation defined “sex trafficking” as the “receiving, recruiting, enticing, harboring, providing or obtaining by any means an individual to aid in the prostitution of the individual” and created a definition of “sex trafficking victim.”

In 2008, The Advocates for Human Rights released its Sex Trafficking Needs Assessment for the State of Minnesota, undertaken in part to explore why the 2005 changes had yielded no trafficking convictions. Following that report, the Legislature increased penalties for trafficking and adopted changes to our sentencing guidelines, and today many prosecutions have been brought and convictions obtained. Thanks to strong leadership, we have seen a sea change in law enforcement identification of sex trafficking crimes.

We know that strong offender accountability is one part of the equation of a coordinated community response. Victim safety is another.

When enacting the 2005 anti-trafficking legislation, the Legislature recognized the need to protect the victims of this crime when it authorized the pilot project that has become known at the Ramsey County Runaway Intervention Project. That pilot has served as a true touchstone in developing the Safe Harbor approach.

In our 2008 Needs Assessment we identified several key recommendations to strengthen victim safety. These recommendations include

- Greater access to housing and services tailored to meet the specific needs of trafficked persons; and
- Ensuring that those defined as victims under Minnesota’s trafficking law are not charged or prosecuted for their involvement in prostitution.

In 2011, the Legislature passed Minnesota’s Safe Harbor for Sexually Exploited Youth Act. With Safe Harbor Minnesota took a significant step toward addressing these key recommendations insofar as they relate to prostituted children.

Why was Safe Harbor needed? Children found to be “engaging in prostitution” are simultaneously considered to be victims of sex trafficking, children in need of protection or services, in some cases maltreated minors, and juvenile delinquents.
Minnesota’s best practices have moved beyond simply adjudicating the victims of sexual exploitation as delinquent because they have engaged in prostitution. We know that by criminalizing the victim, we not only cause them further harm; we offer a weak and ineffective counter-offensive to what is a highly manipulative and sophisticated grooming and control process by the trafficker. By treating exploited children as victims of a crime, we build their trust; indicate to children that they are not at fault for being abused; reduce victim contact with juvenile offenders; eliminate stigmatizing criminal records; provide assistance; and set them on a path to recovery.

The cornerstone of the 2011 Safe Harbor proposal included two provisions designed to work in tandem to eliminate the conflict that exists in Minnesota’s law:

1. Eliminating the offense of engaging in prostitution from the definition of delinquency, and
2. Charging the commissioner of public safety, in consultation with the commissioner of health and the commissioner of human services, and other stakeholders to develop a victim services model to address the needs of sexually exploited youth and youth at risk of sexual exploitation.

The premise of these provisions was that both were needed to effectively respond to the needs of sexually exploited youth.

Simply decriminalizing prostitution without providing the victims of this crime with appropriate, trauma-informed, victim-centered services and housing was not the answer. While working on the 2011 legislation, we heard loud and clear from law enforcement and service providers alike that, absent a system of housing and services designed to address the needs of prostituted youth, those children would be placed in even greater danger than they are today.

Manipulated by the traffickers, victims often view their traffickers as boyfriends and quickly return to the perpetrator. Violence or threats of violence against themselves or their families further interfere with the ability of sexually exploited children to voluntarily leave the trafficking situation and seek help. And the child protection system lacks the authority or capacity to step in where children face danger at the hands of strangers.

Removing sexually exploited children from delinquency jurisdiction without replacing it with the ability to intervene would have left children at risk of falling through the cracks. The delayed implementation date has given the commissioner of public safety time to recommend necessary changes to ensure that children find safety when leaving prostitution.

In 2011, the Legislature considered in committee hearings the fundamental premise of Safe Harbor: that prostituted children must be recognized as the victims of sexual exploitation – not as delinquents or offenders. As passed, however, Safe Harbor fails to protect all children from
being adjudicated delinquent for engaging in the crime of prostitution. Only young children – those under 16 – are excluded from the delinquency definition. 16 and 17 year olds can still be adjudicated delinquent for being trafficked.

Although the rationale for this change was never considered by the Legislature, the distinction appears to rest on a misappropriation of the concept of the “age of consent.” Minnesota law does not actually define a legal standard of the “age of consent.” Rather, the term is a loosely used to describe what the law identifies as strict criminal liability for perpetrators of rape and sexual assault in cases where the child is under the age of 16. The notion of the “age of consent” relates to the criminal liability of the assailant.

Allowing the adjudication of 16 and 17 year olds as delinquents for being trafficked and continuing to rely on the idea of “consent” when considering the prostitution of children is misguided. It perpetuates the false notion that prostitution is a victimless transaction between consenting parties in the face of its reality as a violent and predatory crime against children.

The Advocates for Human Rights supports correcting this problem before the law goes into effect in 2014 by defining the term “delinquent child” to exclude any child under 18 who would be adjudicated delinquent based on engaging in prostitution.

I will now turn to Jeff Bauer, who will walk through the No Wrong Door model for providing a victim-centered response to trafficked youth.

Thank you.