

# Human Trafficking on Temporary Foreign Work Visas in the U.S.A.



# A Sample of Federal Cases with Guestworkers<sup>1</sup> Claiming Human Trafficking

Human trafficking, the use of force, fraud, or coercion to obtain some type of labor or commercial sex act, afflicts millions of men, women, and children around the world, including in the United States. Traffickers often target potential victims who are vulnerable for any number of reasons, including economic precarity, lack of a social network, and irregular immigration status. In the US, trafficking victims are not limited to US citizens, legal permanent residents, nor undocumented migrants, but also encompass guestworkers, legally present in the US, who are subject to extreme exploitation that often amounts to human trafficking. Inherent weakness in US temporary foreign worker programs, such as poor program oversight, immigration status tied to a single sponsoring employer, and a hidden workforce, expose guestworkers to the abuse of unscrupulous employers. Trafficking occurs on every temporary work visa and temporary foreign workers make up a disturbing portion of the identified victims of human trafficking.

Several sources over the past few years have described the pervasiveness of human trafficking on temporary foreign work visas. In April of 2018, Polaris, operator of the National Human Trafficking Hotline, released a report detailing human trafficking of non-immigrant visa holders. From 2015 through 2017, Polaris identified 797 victims of trafficking who held a work visa at the time of their abuse. During the 2016 calendar year alone, the National Human Trafficking Hotline and the BeFree Textline identified 1,067 labor trafficking victims in the United States, and 342 (representing 32% of the total) were holders of temporary non-immigrant visas.<sup>2</sup>

Data published by the Human Trafficking Legal Center indicates a significant number of federal human trafficking cases involved victims holding non-immigrant work visas. From 2003 through 2017, 261 civil suits containing claims of human trafficking were filed in federal court. Of those, 122 alleged the trafficking of a non-immigrant visa holder. According to this data,

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<sup>1</sup> U.S. guestworker programs are also called temporary foreign worker programs, and participants can be referred to as guestworkers, temporary foreign workers, or non-immigrant visa holders. All three designations are used here to refer to the participants in legal, temporary work programs overseen by the U.S. Government.

<sup>2</sup> Crowe, S. (2018, June). Human Trafficking on Temporary Work Visas: A Data Analysis 2015-2017. Polaris. Retrieved from <https://polarisproject.org/sites/default/files/Polaris%20Temporary%20Work%20Visa%20Report.pdf>

nearly half of the civil human trafficking federal lawsuits filed counted non-immigrant work visa holders as victims. These victims worked legally under one of eleven visa classifications, from the more commonly known H-2A agriculture visa to the lesser known A-3 and G-5 domestic worker visas.<sup>3</sup>

In 2014, the Urban Institute and Northeastern University studied 122 closed labor trafficking victim service records from service providers in four United States cities. The vast majority of trafficking survivors sampled (71 percent) entered the U.S. on a temporary visa. The most common temporary visas were H-2A visas for work in agriculture and H-2B visas for jobs in hospitality, construction, and restaurants. The study also identified female domestic servitude victims who had arrived in the United States on diplomatic, business, or tourist visas.<sup>4</sup>

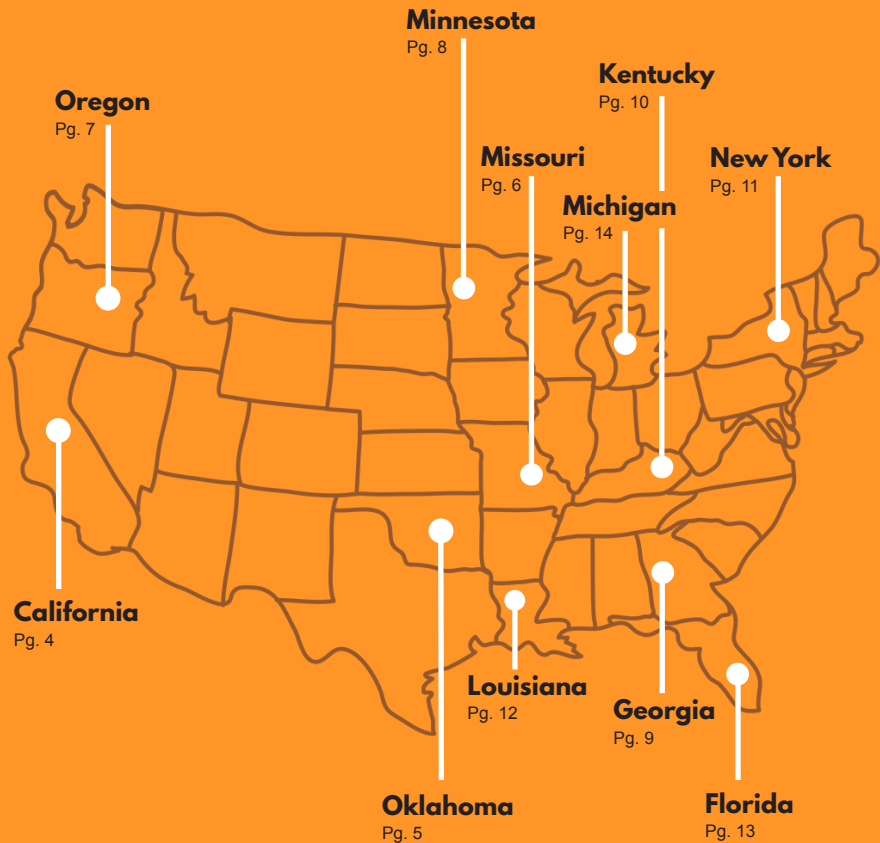
The Visa Transparency Anti-Trafficking (VTAT) Act would create a standardized reporting system across nonimmigrant visa categories that authorize work, and require that this information be made public. Anti-human trafficking organizations could then identify where traffickers are operating abroad, develop targeted outreach campaigns to prevent human trafficking, and warn vulnerable workers and U.S. embassies in source countries. U.S. non-governmental organizations could identify U.S.-based traffickers, inform law enforcement, and educate workers about their rights. Researchers and policymakers could use the data to identify systemic failures in U.S. worker visa programs and correct them, thus protecting both foreign and U.S. workers. Robust data reporting on and transparency in U.S. non-immigrant visa programs are important tools for combatting human trafficking in the U.S.

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<sup>3</sup> The Human Trafficking Legal Center. (2017) Database of Federal cases containing claims of human trafficking. Report generated January 2017.

<sup>4</sup> Owens, C., Dank, M., Farrell, A., Breaux, J., Banuelos, I., Pfeffer, R., et al. (2014, October 21). Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States. Urban Institute, Justice Policy Center. Retrieved from [https://www.urban.org/research/publication/understanding-organization-operation-and-victimization-process-labor-trafficking-united-states/view/full\\_report](https://www.urban.org/research/publication/understanding-organization-operation-and-victimization-process-labor-trafficking-united-states/view/full_report)

# Case Studies Across the U.S.



# CALIFORNIA

## A-3: Domestic Workers Employed by Diplomats

*U.S. v. Penzato et al.*

Giuseppe Penzato, an Italian Consulate official in California, and his wife, Kesia Penzato, sponsored the entry of a domestic worker from Brazil on an A-3 visa. The couple promised the woman free room and board, as well as \$1500 per month to clean their home and care for their children. Instead, she was kept as a virtual prisoner; according to the prosecution, the Penzatos paid her only \$500, withheld food, and abused her physically and verbally. The woman escaped after several months and sued her employers for human trafficking and labor law violations. The couple pleaded guilty to a misdemeanor charge of conspiring to possess an illegal identification document and agreed to pay \$13,000 to the victim.<sup>5</sup>

**Potential impact of VTAT:** The data required by the bill will reveal the country the domestic worker came from and the zip code and nationality of the employer. This information will allow anti-trafficking advocates to reach out to the Italian consulate to provide technical assistance and training to their employees about the rights of domestic workers and enlist the embassy's assistance to build effective oversight protocols. If patterns of human trafficking are detected from the same countries of origin, then efforts can be coordinated around A-3 recruitment in that specific country.

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<sup>5</sup> Egelko, B. (2013, April 18). Plea deal for ex-Italian consular worker, wife. San Francisco Gate. Retrieved from <https://www.sfgate.com/crime/article/Plea-deal-for-ex-Italian-consular-worker-wife-4446446.php>

# OKLAHOMA

## B-1: Business Visitors

### *U.S. v. John Pickle Company*

“John Pickle of Tulsa, Oklahoma and owner of John Pickle Company (JPC), an oil industry parts manufacturer, was sued by the Equal Employment Opportunity Commission (EEOC) for fraudulently recruiting 52 male foreign workers under the B-1 Temporary Business Visa [specifically, the B-1 in lieu of H-3 training visa]. JPC contracted with Al-Samit International to handle the overseas recruitment of skilled welders from India who were promised travel, accommodation, medical insurance, overtime, and the opportunity for salary increases. Instead, these workers were subjected to contract fraud, wage abuse, forced to live on their worksite in substandard conditions, falsely imprisoned, subjected to phone tapping, food rationing, restrictions on their religious freedom, and repeated threats. Their passports, visas, and return airfares were confiscated under the guise of ‘safekeeping’ and they were denied further access to these documents. They were forced to perform janitorial work and other menial tasks not previously outlined in their contracts. The EEOC case was joined with related civil actions filed by the workers that alleged false imprisonment, minimum wage violations under the Fair Labor Standards Act (FLSA), deceit, and intentional infliction of emotional distress. In the case ruling, the federal judge ordered the JPC to pay \$1.24 million to 52 foreign workers.”<sup>6</sup>

**Potential impact of VTAT:** The B-1 in lieu of H-3 training visa is a visa that the public and policymakers know little about—it is virtually hidden in plain sight. There is no publicly reported information on this B-1 subcategory. Under the VTAT, the workers will have access to previous year’s information if available and allow them to verify a job offer with previous workers and the employer. Local anti-trafficking organizations will also know B-1 workers are present and be able to conduct know-your-rights efforts.

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<sup>6</sup> Scaperlanda, M. A. (2005). Human Trafficking in the Heartland: Greed, Visa Fraud, and the Saga of 53 Indian Nationals “Enslaved” by a Tulsa Company, *Loyola University of Chicago International Law Review*, 2(2), 219. Retrieved from <https://lawcommons.luc.edu/lucilr/vol2/iss2/5>

# MISSOURI

## **B-1: Business Visitors (continued)**

### *U.S. v. Liu*

This trafficking case involved two domestic workers with B-1 visas. Hsien-Hsien Liu, a Taiwanese envoy based in Kansas City, Missouri, was indicted for fraud in foreign labor recruiting in 2011. After bringing two Filipina nationals to the United States on B-1 visas to work as her housekeepers, Liu only paid them a portion of their contracted salary and forced them to work long hours without holidays or breaks. Additionally, Liu used surveillance cameras to monitor the two trafficking victims who were unable to leave the residence. Federal prosecutors held Liu in custody for 78 days after her arrest and she was not granted diplomatic immunity. She waived her right to grand jury and pled guilty on the lesser charges. That year, she was ordered to pay \$80,044 in criminal restitution to these victims and a judge ordered her deportation after she paid over \$11,000 in fines. The federal government determined that the two Filipina nationals were labor trafficking victims and they received certification from Health and Human Services, which granted them eligibility to access public benefits and services to the same extent as refugees.<sup>7</sup>

**Potential impact of VTAT:** The B-1 personal servant subcategory is another “hidden” visa. The bill requires disclosure of the nationality of the employer and her zip code, which at least notifies local anti-human trafficking organizations of the presence of the domestic workers and their countries of origin. Domestic workers can receive help earlier when their presence is known. Advocates can discern patterns of trafficking by cross-referencing VTAT data with lists of employers known for exploiting workers.

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<sup>7</sup> Morris, M. (2011, November 18). Taiwanese envoy admits guilt in labor fraud case. Kansas City Star. Retrieved from <https://www.kansascity.com/news/local/article299750/Taiwanese-envoy-admits-guilt-in-labor-fraud-case.html>



# OREGON

## E-2: Investor Visa

### *U.S. vs. Jumroon*

In February of 2018, Paul Jumroon pled guilty to forced labor and other charges after Federal prosecutors exposed his E-2 visa scheme. The E-2 visa program is reserved for foreign nationals that invest significant funds in a U.S. business and for employees critical to the operation of that business. Jumroon fraudulently obtained visas for Thai nationals with the purpose of requiring them to labor in his Oregon restaurants for little or no wages. In addition to confiscating travel documents and threatening workers with deportation, Jumroon also created a situation of debt bondage by making his victims believe that they owed him considerable amounts of money to cover their travel and living expenses. Using these threats and inflated debt, he obligated workers to labor 12 hours a day, six or seven days a week, with little compensation.<sup>8</sup>

**Potential impact of VTAT:** Tens of thousands of E-2 Investor Visas are granted each year, yet little is known about the investments and employers that bring non-immigrants to the US under this visa. Investors bring employees from their home country that perform an executive or supervisory role, or are skilled workers with special qualifications that are essential to the efficient operation of the US investment. The wage data required by the VTAT will reveal potentially exploitative employers. Law enforcement and advocates can examine wage data related to the particular employers and businesses that bring in non-immigrants under the investment categories and compare it to comparable positions in similar enterprises. Comparatively low wages could signal potentially fraudulent investment schemes and exploitation of workers.

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<sup>8</sup> Russell, M. (2018, February 27). Thai restaurant owner pleads guilty to forced labor, visa fraud. The Oregonian. Retrieved from [https://www.oregonlive.com/news/index.ssf/2018/02/thai\\_restaurant\\_owner\\_pleads\\_g.html](https://www.oregonlive.com/news/index.ssf/2018/02/thai_restaurant_owner_pleads_g.html)

# MINNESOTA

## F-1: Students

### *U.S. v. Sukhtipyaroge*

Sukhtipyaroge, 71, of Maplewood, Minnesota, was charged with the forced labor of a teenager whom Sukhtipyaroge held in the basement of his restaurant. The victim, who was 18 years old when he arrived in 2015 from the Dominican Republic on a student visa, came to the U.S. on promises of schooling and a better life but was obligated to work for Sukhtipyaroge under a “debt-bondage arrangement.” He met the victim through an organization that connects poor families in the Dominican Republic with Americans who can sponsor their children to go to school on a student visa. Though the victim attended high school for a time, Sukhtipyaroge told him shortly after his arrival that he could no longer attend classes and that he had to work in Sukhtipyaroge’s restaurant. The young man was promised \$500 a month for working as a dishwasher, but in fact was paid less than \$1 per hour. Sukhtipyaroge also told the victim that he had to engage in sexual acts. The victim feared immigration consequences after he stopped attending school and worried for the safety of his family in the Dominican Republic if he didn’t do as he was told by Sukhtipyaroge. Federal prosecutors allege that Sukhtipyaroge used “coercion, psychological abuse, intimidation, and threats of legal process to maintain control” of the alleged victim, both as “forced laborer” and “a continued victim of Sukhtipyaroge’s sexual assaults.”<sup>9</sup>

**Potential impact of VTAT:** This legislation requires that the government report the business name and location of any employer that uses non-immigrant workers. This information, combined with details on employers with a history of exploitation, will help students identify potentially risky opportunities and allow advocates and law enforcement to investigate potential traffickers.

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<sup>9</sup> Covington, H. and Browning, D. (2017, August 4) Feds charge owner of popular Thai restaurant with forced labor. Star Tribune. Retrieved from <http://www.startribune.com/feds-charge-owner-of-popular-thai-restaurant-with-forced-labor/438559513/>

# GEORGIA

## H-1B: Specialty Occupations

*U.S. v. Kalu*

Kizzy Kalu of Highlands Ranch, Colorado and Philip Langerman of McDonough, Georgia owned and operated Foreign Healthcare Professional Group (FHPG), which recruited foreign nationals to be employed as teaching professionals with high paying salaries at the unaccredited Adam University. The victims paid \$6500 up front in order to secure their H-1B guestworker visas, and once they arrived in the U.S., they were forced to work in nursing homes and long-term care facilities rather than as nurse instructor supervisors. Additionally, they were paid considerably less than what they had been promised and in some instances, Kalu terminated the contract of these victims while forcing them to seek employment elsewhere, while requiring them to continue paying a monthly fee to FHPG. When the nurses refused, Kalu threatened them with deportation and said he would notify U.S. Citizenship and Immigration Services (USCIS) of his withdrawal of their visas. Langerman pled guilty to conspiracy charges and cooperated with the government to receive three years' probation. Kalu was convicted on 89 counts including mail fraud, visa fraud, human trafficking, and money laundering and was sentenced to 13 years in federal prison. Both defendants are responsible for \$3.8 million in restitution owed to the victims involved in this case.<sup>10</sup>

**Potential impact of VTAT:** The bill will make it easier for potential future H-1B workers and local anti-trafficking organizations to verify information about employers and confirm whether U.S. job offers are legitimate. Wage transparency will also let workers compare what the recruiter is offering to what the employer told the U.S. government the wages would be. A gross difference could be an indicator of a human trafficking scheme.

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<sup>10</sup> McGhee, T. (2013, June 4). Kizzy Kalu lured nurses to U.S. with promises of high pay, prosecutors say. Denver Post. Retrieved from <https://www.denverpost.com/2013/06/04/kizzy-kalu-lured-nurses-to-u-s-with-promises-of-high-pay-prosecutors-say/>

# KENTUCKY

## H-2A: Agricultural Workers

*Gutierrez Morales et al. v. Planck et al.*

In this human trafficking case, nine Mexican workers were brought to the U.S. on H-2A agricultural visas to work on tobacco farms in Kentucky. On arrival, their employer confiscated their passports, restricting their movement and effectively trapping them. The victims were subjected to abysmal housing conditions infested with fleas and bedbugs. In addition, rather than receiving a legal wage, they were paid on a piece rate basis, earning on average only \$6 per hour. The victims found assistance with a legal aid organization, and the employers and victims reached a settlement agreement.<sup>11</sup>

**Potential impact of VTAT:** H-2A is one of the visas that offers at least a minimum amount of public information regarding workers and employers participating in the program. However, we know very little about which employers actually get the visas and hire H-2A workers. At present, anti-trafficking groups must be proactive to review the clearance orders that are posted on the DOL's online i-certification portal before they are removed or FOIA the local State Workforce Agency to find out what farms requested workers and where they are (farmworker organizations regularly do outreach based on this data). This bill will make access to that information easier and more precise, since it will also include DOS data which reveals the visas that were actually issued to employers.

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<sup>11</sup> Knaub, K. (2017, February 6) Trial Nixed Following Settlement In Mexican Farm Worker Case. Law360. Retrieved from <https://www.law360.com/articles/888781/trial-nixed-following-settlement-in-mexican-farm-worker-case>

# NEW YORK

## H-2B: Non-Agricultural Workers

### *Vazquez et al. v. Karageorgis*

Food vendor Pantelis (“Peter”) Karageorgis was accused of abusing H-2B workers from Mexico that he recruited to sell his products at fairs and carnivals throughout the Northeastern U.S. Several workers filed a class action lawsuit against Karageorgis and his business “Peter’s Fine Greek Food Inc.” alleging wage theft and severe abuse amounting to human trafficking during the summer of 2010. When the workers were recruited in Mexico, they were promised wages of nearly \$11.00 per hour plus overtime for any hours worked in excess of 40 per week. However, the Plaintiffs claimed that they regularly worked for Karageorgis in excess of 40 hours per week, sometimes more than 17 hours in a day for weeks at a time, received little regular rest, and were in fact paid only \$1-3 per hour of work that they performed. The workers were also forced to stay in small and bedbug infested travel trailers, were given inadequate food and water, and had their travel documents withheld from them while they worked. It was only after a few workers became so sick from insect bites, exhaustion, and dehydration at the NY State Fair in Syracuse, NY that they sought out medical attention and the abuse was discovered. The workers sued Karageorgis and his company for wages and recompense for human trafficking. They were able to reach a settlement with the Defendants in federal court.<sup>12</sup>

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<sup>12</sup> O’Brien, J. (2010, November 18). NY state fair vendor is accused of human trafficking for underpaying migrants. Syracuse Post-Standard. Retrieved from [https://www.syracuse.com/news/index.ssf/2010/11/ny\\_state\\_fair\\_vendor\\_is\\_accuse.html](https://www.syracuse.com/news/index.ssf/2010/11/ny_state_fair_vendor_is_accuse.html)

# LOUISIANA

## H-2B: Non-Agricultural Workers (continued)

*David, et al. v. Signal International LLC, et al.*

Following Hurricane Katrina, the shipbuilding company Signal International recruited over 500 guestworkers from India to work in Louisiana for construction and rebuilding projects under the H-2B guestworker program. These workers were recruited for good-paying jobs with career potential, falsely promised green cards, and charged exorbitant broker fees of up to \$20,000. Once in the U.S., these workers were subjected to unsafe living conditions in trailer camps and charged extremely high fees for rent and food. The Indian workers' belongings were confiscated, they lived in crowded trailers in a closed campground, and they were not allowed to leave the camp or receive visitors. The situation came to light after a worker attempted suicide following retribution for seeking outside counsel to learn about his rights. The U.S. Equal Opportunity Employment Commission (EEOC) pursued a civil suit against Signal International under the Civil Rights Act of 1964, which prohibits discrimination based on national origin, because only the Indian guestworkers endured the exploitative conditions. In February 2014, a federal jury found Signal International guilty of labor trafficking, fraud, racketeering, and discrimination. The five plaintiffs were awarded \$14 million in compensatory and punitive damages.<sup>13</sup>

**Potential impact of VTAT:** The bill will have a similar impact on H-2B workers as on the H-2A visa holders as described above.

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<sup>13</sup> Finn, K. (2015, February 18). Indian workers win \$14 million in U.S. labor trafficking case. Reuters. Retrieved from <https://www.reuters.com/article/us-usa-louisiana-trafficking-idUSKBN0LN03820150219>

# FLORIDA

## **J-1: Exchange Visitors**

### *U.S. v. Cooper*

Jeffrey Jason Cooper, 46, recruited a group of female university students from Kazakhstan on J-1 Summer Work Travel visas by promising them work at a yoga studio in Miami, Florida. The young women were told that they would work as receptionists, setting up appointments and answering phone calls while enjoying cultural immersion in Miami. When they arrived, however, they found that the yoga studio did not exist; instead, they were forced to run an erotic massage parlor from Cooper's condo and perform sex acts for customers. Cooper, who was operating under a false name, advertised the women as "gorgeous" and "drama free" on Backpage.com. He told them that if they did not obey his orders, their visas would be revoked and they would not be paid. The students were rescued by law enforcement after several months, and Cooper was convicted of 11 sex trafficking-related charges and sentenced to 30 years in prison.<sup>14</sup>

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<sup>14</sup> U.S. Attorney's Office, Southern District of Florida, U.S. Department of Justice. (2016, November 18). Florida Man Convicted of Sex Trafficking in Connection with Human Trafficking Scheme Targeting Foreign University Students. United States Department of Justice. Retrieved from <https://www.justice.gov/usao-sdfl/pr/florida-man-convicted-sex-trafficking-connection-human-trafficking-scheme-targeting>

# MICHIGAN



## J-1: Exchange Visitors (continued)

### *U.S. v. Aleksandr Maksimenko*

Aleksandr Maksimenko and his co-defendants were ringleaders in a conspiracy to bring women from Eastern Europe to work as exotic dancers in strip clubs in Detroit, Michigan. Posing as a legitimate business, Beauty Search Inc., the defendants promised participants through the J-1 Cultural Exchange Program an opportunity to learn English and work at local restaurants. These young women were forced to dance at strip clubs by threats of physical violence and deportation, document confiscation, debt bondage, and confinement. In particular, one woman was forced to dance for 12 hours a day, six days a week, and forced to meet a daily quota of \$1,000 a day, or face physical and sexual abuse. Similarly, the victims were made to believe that they incurred significant debt for travel and entry into the U.S. The defendants pleaded guilty to involuntary servitude, money laundering, and immigration conspiracies. Maksimenko was sentenced to 14.5 years in prison and ordered to pay \$1.5 million in restitution and his co-defendants received similar sentences.<sup>15</sup>

Potential impact of VTAT: Summer Work Travel is one of the many J-1 work programs about which there is little publicly available information; others include the Au Pair, Camp Counselor, Intern, and Trainee programs. The bill will require disclosure of all of the J-1 work programs, as well as information on the employers that hire J-1 workers. In this specific case, the sponsoring employer businesses did not even exist. Workers or local anti-trafficking organizations can look at VTAT required J-1 data from previous years to see if the employer had hired J-1 workers in the past. If no records are found, advocates and potential visa holders then know that further research is necessary to confirm whether or not the job offer and employer are legitimate.

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<sup>15</sup> U.S. Attorney's Office, Eastern District of Michigan, U.S. Department of Justice. (2007, June 25). Livonia Man Sentenced To 14 Years In Prison And \$1.5 Million In Restitution For Forcing Eastern European Women To Work At Detroit Area Strip Clubs. United States Department of Justice. Retrieved from <https://www.legislationline.org/documents/id/6765>







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