

2015

PROTECTED INNOCENCE CHALLENGE

A Legal Framework of Protection
for the Nation's Children

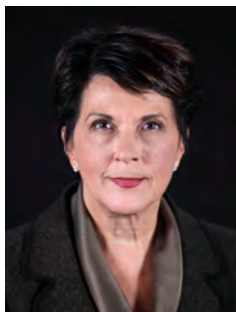
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Greetings,

This year marks the fifth year of the Protected Innocence Challenge. When we first launched this initiative in 2011, our goal was to provide states with a level of legislative accountability and a blueprint for action to strengthen state laws. The first year, 26 states received a failing score and not a single state earned an "A." We knew change was possible but it would take the committed collaboration of legislators, advocates, and nongovernmental organizations to effectuate state action to bring national change.

Five years later, I am proud to announce that no state in America has a failing grade. Together, we drafted new state laws, hosted lobby days, convened advocacy coalitions, sent petitions, and submitted testimony. Over these five years, better and stronger laws have been introduced, passed, and enacted, tightening the national legal fabric. But the change is impacting more than our laws, it is impacting our children.

Legislative advancements this year in Montana, South Carolina, North Dakota, and the District of Columbia mean that, in these states, a children used in commercial sex acts will no longer be criminalized for the sex crimes committed against them. North Dakota, Michigan, and Montana overhauled their laws to allow child victims access to a comprehensive array of protections and services. Virginia closed a major loophole in state law by enacting a sex trafficking law.

As a nation, we have reached new heights and should be proud of our significant accomplishment. Yet, we must remain steadfast in our resolve to strengthen laws until every state has a perfect score. Our children deserve it.

The 2015 Protected Innocence Challenge report provides greater detail on legislative gains made over the past year and highlights states that have made significant strides forward. We hope this resource continues to be a helpful tool to inform legislative action.

We are deeply grateful to the foundations, individuals and families who have seen the importance of this initiative and whose support continues to make it possible. Shared Hope International will continue to fight to prevent, restore and bring justice to the victims of child sex slavery in our country.

Sincerely,

A handwritten signature in cursive script that reads "Linda Smith".

Linda Smith
President and Founder, Shared Hope International
U.S. Congress 1995-99, Washington State Senate/House 1983-94

ACKNOWLEDGMENTS

The Protected Innocence Legislative Framework and Methodology were reviewed by several experts in the anti-trafficking field, and their comments contributed to the final analysis—thanks to Ambassador Mark Lagon (U.S. Department of State, Office to Monitor and Combat Trafficking in Persons 2007–09), Chair, International Relations and Security and Visiting Professor, Master of Science in Foreign Service Program, Georgetown University; Suzanna Tiapula, Esq., Director, National Center for Prosecution of Child Abuse, a program of the National District Attorneys Association; Howard Davidson, Esq., Director, American Bar Association (ABA) Center on Children and the Law; Mohamed Mattar, S.J.D., Executive Director, The Protection Project at Johns Hopkins University School of Advanced International Studies; Tessa Dysart, Esq., Associate Counsel, American Center for Law & Justice; Carol Smolenski, Executive Director, and Christine Fantacone, Policy Coordinator, both of ECPAT-USA; Mandi Sheridan Kimball, Director of Public Policy and Government Affairs, and Jennifer Michel Solak, Esq., Senior Staff Attorney, both of Children at Risk, Houston, Texas; and Kaffie McCullough, Campaign Director, the Juvenile Justice Fund’s A Future. Not A Past. Campaign, Atlanta, Georgia.

The original legal analysis of the 50 states and the District of Columbia that laid the foundation for the Protected Innocence Legislative Framework application and resulting Protected Innocence Challenge Report Cards was accomplished through a partnership between Shared Hope International and the American Center for Law & Justice (ACLJ), which focuses on constitutional and human rights law worldwide. The legal analysis for the 2015 Protected Innocence Challenge was implemented under the direction of Samantha Healy Vardaman, Esq., Christine Raino, Esq., and Rachel Harper, Esq., and was greatly assisted by Ryan Dalton, Esq., Tabatha Mansfield, Esq., Courtney J. McIntyre, Esq., Regent Law School Center for Global Justice, Human Rights, and the Rule of Law, Charlotte Law Advocates Against the Trafficking of Humans (CAATH), and Charlotte School of Law students. The following Shared Hope law fellows contributed to the report: Riley Figueroa, Daniel Lee, Behrad Nazarian, and Cameron Njaa. All Shared Hope staff members were involved in key ways in the research and writing of the Protected Innocence Challenge and the implementation of the Protected Innocence Initiative.

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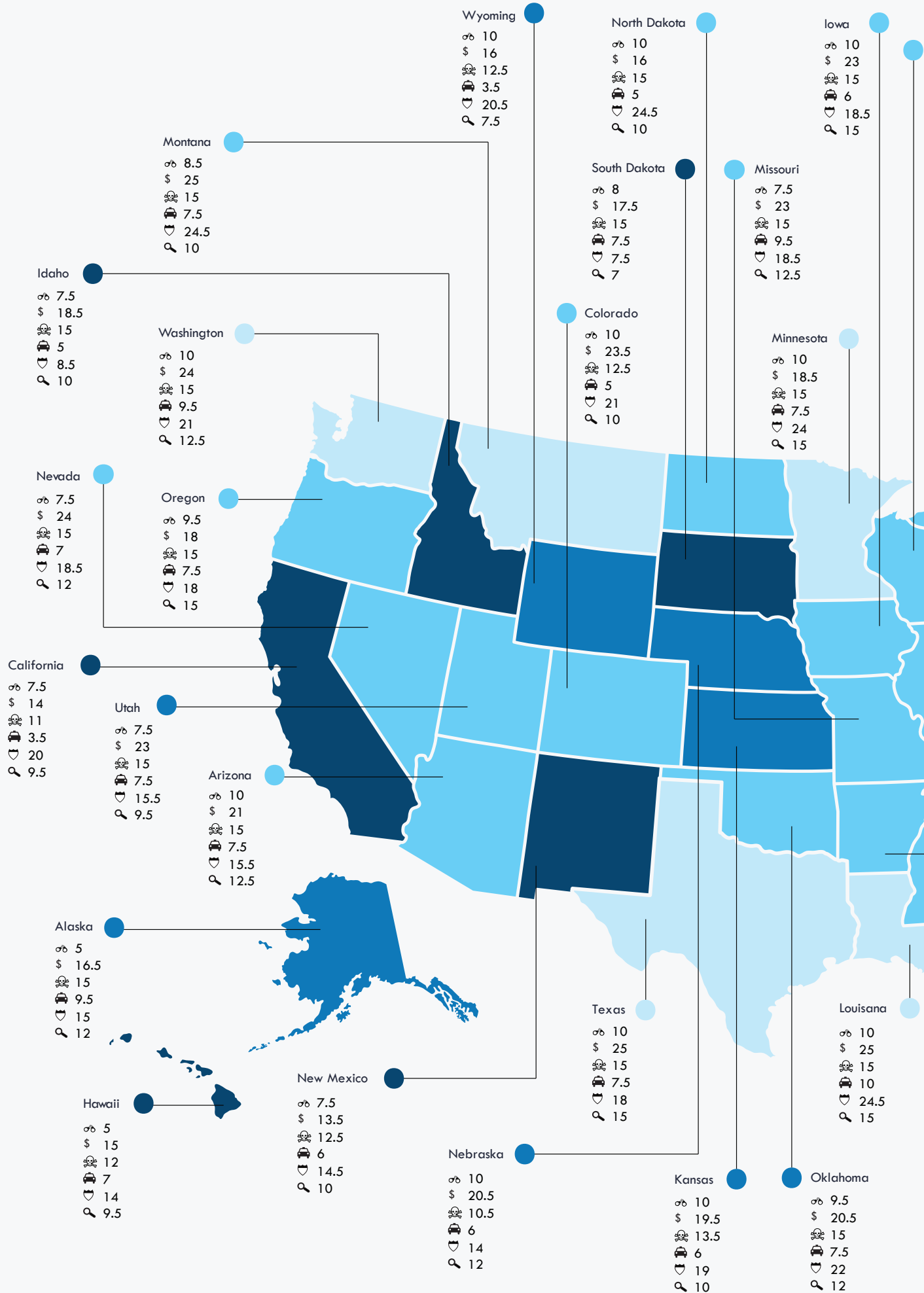
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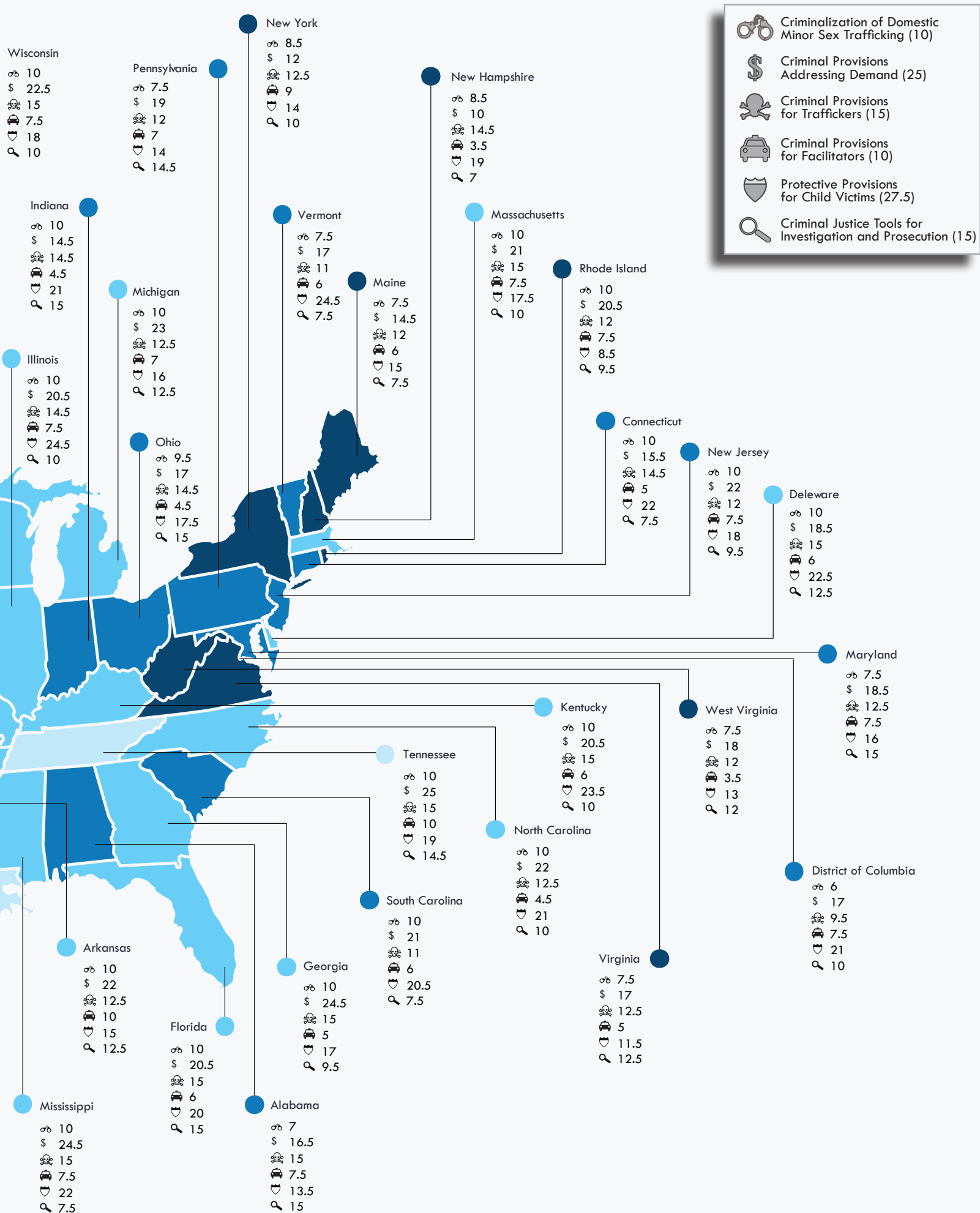
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Introduction

The Protected Innocence Challenge is based on the Protected Innocence Legislative Framework which was informed by research performed by Shared Hope International and compiled in “The National Report on Domestic Minor Sex Trafficking.” Domestic minor sex trafficking is the commercial sexual exploitation of American children under the age of 18 within U.S. borders for the purposes of prostitution, pornography, or sexual performance.

Recognizing that most of the gaps in responding to domestic minor sex trafficking must be addressed at the state level, the Protected Innocence Legislative Framework sets out the basic policy principles required to create a safer environment for children. The steps necessary to create this safer environment include the following: preventing domestic minor sex trafficking through reducing demand, rescuing and restoring victims through improved training on identification, establishing protocols and facilities for victim placement, mandating appropriate services and shelter, and incorporating trauma-reducing mechanisms into the justice system. Broken systems of criminal justice and child welfare responses to victims must also be fixed to ensure that commercially sexually exploited children are treated as victims and receive access to justice.



WHAT IS DOMESTIC MINOR SEX TRAFFICKING?

Domestic minor sex trafficking (DMST) is the commercial sexual exploitation of American children within U.S. borders and is synonymous with child sex slavery, child sex trafficking, prostitution of children, and commercial sexual exploitation of children (CSEC). Congress, in the federal Trafficking Victims Protection Act (TVPA), has made sex trafficking of a minor a crime.¹ Federal law makes it a crime when a person “recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means” a minor for the purpose of a commercial sex act.² When considering the crime of domestic minor sex trafficking, under the TVPA, the victim’s age is the critical issue—there is no requirement to prove that force, fraud, or coercion was used to secure the victim’s actions if the victim is a minor. According to the National Center for Missing and Exploited Children, 1 in 6 runaways in 2014 were likely sex trafficking victims. That is up from 1 in 7 in 2013, reflecting the growing nature of this crime against children in America.

Shared Hope International first actively addressed the sex trafficking of American children by researching the demand for commercial sex that encourages the commercial sexual exploitation of women and girls. The DEMAND project investigated buyers, facilitators, and traffickers in four countries: Jamaica, Japan, the Netherlands, and the United States. The startling findings from this project highlighted the fact that sex trafficking is demand-driven and that the product for sale is most commonly local (domestic) children.³

Recognizing that a strategic response to sex trafficking required a comprehensive understanding of the local situation, Shared Hope International aligned with the U.S. Department of Justice human trafficking task forces to assess domestic minor sex trafficking and the access to victim services in ten U.S. cities. The assessments investigated three areas identified by the TVPA and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as the key components necessary to effectively combat trafficking in persons: Prevention, Prosecution, and Protection. The findings from these ten site assessments formed the foundation of “The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children.”

Based on the research findings, within an overarching framework that identifies minors exploited through sex trafficking as victims, four primary policy issues were identified as critical to combatting domestic minor sex trafficking: 1) eliminating demand; 2) prosecuting traffickers; 3) identifying victims; and 4) providing protection, access to services, and shelter for victims.

1. **Eliminating Demand.** Despite the fact that demand is the primary driver of the commercial sex industry and the commercial sexual exploitation of children, buyers are often not recognized as critical participants in the victimization of children through domestic minor sex trafficking.⁴ All buyers of sex with children—whether they be classified as preferential (pedophiles), opportunistic (thrill seekers), or situational (do not care about the age of the person being prostituted)—are committing a serious crime for which significant punishment is appropriate.

1 Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).

2 18 U.S.C. § 1591.

3 Shared Hope Int’l, *Demand: A Comparative Examination Of Sex Tourism And Trafficking In Jamaica, Japan, The Netherlands, And The United States 2* [hereinafter DEMAND], available at <http://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf>.

4 DEMAND, supra note 4, at 3.

2. Prosecuting Traffickers. Frequently, the arrest and prosecution of the trafficker are based solely on the victim's cooperation in the investigation and testimony at trial.⁵ While victim cooperation with law enforcement is important, this approach can place a heavy burden on a domestic minor sex trafficking victim, who typically requires a lengthy amount of time before he or she will disclose the facts of his or her victimization. Therefore, it is critical for law enforcement officers and prosecutors to pursue innovative or alternative investigation techniques to corroborate, or avoid the need to rely on, victims' allegations in domestic minor sex trafficking cases.

3. Identifying Victims. One of the primary barriers to victim identification is that laws often label minors engaging in commercial sex acts as criminals rather than victims. Misidentification causes a chain reaction of negative outcomes, the most significant of which is the failure to deliver the necessary services to interrupt and treat the trauma these children have endured. The problem occurs at all levels and stages, from law enforcement arrests on the street, to the intake processes of homeless and runaway youth shelters, to court adjudication of victims as juvenile delinquents for offenses committed as a result of the commercial sexual exploitation of those children. Adjudicating the victim as delinquent and detaining him or her in a juvenile facility is a too frequent outcome and contributes to the retention of minors in commercial sexual exploitation. Law enforcement officers reported to Shared Hope International that another barrier to proper identification of victims is that prostituted juveniles are trained by their traffickers to lie to authorities and are provided with excellent fraudulent identification. This results in their registration in the arrest records as adults. Using tools to flag high risk children, such as chronic runaways and other status offenders, as well as youth who have fled from foster care, group homes, or other residential programs, as likely victims of domestic minor sex trafficking would greatly improve the identification process. Equally important to ensuring accurate identification of child sex trafficking victims is ensuring accurate definitions of the crime under state law. States that restrict the definition of child sex trafficking to when a child is sold for sex and do not identify the purchase of a child for sex as a crime of sex trafficking risk misidentifying and excluding from services some of the most vulnerable and at-risk victims of child sex trafficking.⁶

4. Providing Protection, Access to Services and Shelter for Victims. Law enforcement officers expressed frustration that they are often compelled to charge a domestic minor sex trafficking victim with a delinquency offense, such as prostitution, to detain the child and to keep the child safe from the trafficker. Detention, however, is detrimental to the victim. Not only do victims rarely have access to specialized services in detention, but detention in the juvenile justice process sends victims the wrong message—that they are responsible for their own victimization. Due to the unique trauma bonding that occurs between victims and their traffickers, these children often run from juvenile facilities right back to the people who exploited them. Also, in some states, a victim's entry into the delinquency system can disqualify him or her from accessing crime victim funds for services. Establishing protective responses for victims that include shelter and services would provide law enforcement officers and juvenile courts with an alternative placement for prostituted minors. Protective responses also assist in breaking the cycle of destructive trauma bonding between a victim and the trafficker and restoring a victim to the point where the victim can assist in an investigation and trial. Nevertheless, facilities specializing in treating domestic minor sex trafficking victims are limited.⁷ Establishing these protective shelters is critical for creating an effective strategy to combat domestic minor sex trafficking.

⁵ In contrast, 22 U.S.C. § 7105(b), prohibits requiring child victims of severe forms of trafficking to cooperate with law enforcement in order to receive assistance.

⁶ Shared Hope Int'l, National Colloquium 2012 Final Report 93, available at <http://sharedhope.org/wp-content/uploads/2013/05/National-Colloquium-2012-Report-B.pdf>.

⁷ See generally Shared Hope International, "Eliminating the Third Party Control Barrier to Identifying Juvenile Sex Trafficking Victims," JuST Response Policy Paper (2015), http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper_Eliminating-Third-Party-Control_Final1.pdf (discussing need to include buyer conduct in core sex trafficking offense regardless of whether victim is under control of a third party and explaining negative impact on victims and victim-identification when buyers are excluded as sex trafficking offenders).



**Kids Are Not For Sale
Virginia Coalition Press Conference**



Hearing in Olympia, Washington



Pennsylvania Legislature Press Conference

The Protected Innocence Challenge provides the statutory framework from which Shared Hope has launched projects and initiatives to address the implementation of enacted laws.

JuST Response is a project of the National Restoration Initiative and the Protected Innocence Challenge that brings together Shared Hope's research on services for domestic minor sex trafficking victims with its analysis of state statutory protective responses. By merging research on implementation and policy analysis, JuST Response seeks to broaden the research in this emerging area to inform legislative efforts and the implementation of existing responses.

The Demanding Justice Project is a research and advocacy initiative designed to promote demand deterrence by expanding awareness of the harm caused by demand and the importance of concerted anti-demand efforts. The Demanding Justice Report documents the outcomes of federal and state arrests, charges and prosecutions of buyers of sex acts with children. The Demanding Justice website is populated with demand-related news in each state from across the U.S. The findings of this research and website will inform advocacy efforts to strengthen anti-demand legislation and enforcement.

State Grades Arranged Alphabetically

	Criminalization of Domestic Minor Sex Trafficking	Criminal Provisions Addressing Demand	Criminal Provisions for Traffickers	Criminal Provisions for Facilitators	Protective Provisions for Child Victims	Criminal Justice Tools for Investigation and Prosecution	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
2015 Alabama	7	16.5	15	7.5	13.5	15	74.5	C
2014 Alabama	7	16	15	7.5	14.5	15	75	C
2013 Alabama	7	16	15	7.5	14.5	15	75	C
2012 Alabama	4.5	12	14.5	7	16.5	15	69.5	D
2011 Alabama	4.5	11	14.5	7	16.5	12.5	66	D
2015 Alaska	5	16.5	15	9.5	15	12	73	C
2014 Alaska	5	16	14.5	9.5	18.5	12	75.5	C
2013 Alaska	5	16	14.5	9.5	18.5	12	75.5	C
2012 Alaska	5	15.5	12.5	9	18	10	70	C
2011 Alaska	3.5	5.5	10	9	17.5	10	55.5	F
2015 Arizona	10	21	15	7.5	15.5	12.5	81.5	B
2014 Arizona	10	20.5	14.5	7.5	17.5	12.5	82.5	B
2013 Arizona	7.5	20.5	14.5	7.5	15	12.5	77.5	C
2012 Arizona	7	19	13.5	7	13.5	12.5	70.5	C
2011 Arizona	5	19	13.5	7	13.5	12.5	70.5	C
2015 Arkansas	10	22	12.5	10	15	12.5	82	B
2014 Arkansas	10	20	12	3.5	12.5	12.5	70.5	C
2013 Arkansas	10	20	12	3.5	12.5	12.5	70.5	C
2012 Arkansas	4.5	16	10.5	6	10.5	10	57.5	F
2011 Arkansas	3.5	15	10.5	6	9.5	10	54.5	F
2015 California	7.5	14	11	3.5	20	9.5	65.5	D
2014 California	7.5	4	9	3.5	18.5	7.5	50	F
2013 California	7.5	4	9	3.5	18.5	7.5	50	F
2012 California	7	3	8	2	16	7.5	43.5	F
2011 California	4.5	3	8	2	16	7.5	41	F
2015 Colorado	10	23.5	12.5	5	21	10	82	B
2014 Colorado	7.5	23.5	12.5	5	22	10	80.5	B
2013 Colorado	5	20	12	4.5	18.5	7.5	67.5	D
2012 Colorado	5	20	12	4.5	18.5	7.5	67.5	D
2011 Colorado	2.5	18.5	11	3.5	15	7.5	58	F
2015 Connecticut	10	15.5	14.5	5	22	7.5	74.5	C
2014 Connecticut	8.5	15	14.5	5	14	5	62	D
2013 Connecticut	8.5	15	14.5	5	14	5	62	D
2012 Connecticut	8.5	13	12.5	4.5	14.5	3.5	56.5	F
2011 Connecticut	6	6.5	12.5	4.5	14.5	3.5	47.5	F
2015 Delaware	10	18.5	15	6	22.5	12.5	84.5	B
2014 Delaware	10	18.5	15	6	22.5	10	82	B
2013 Delaware	7.5	17	12.5	5	16	7.5	65.5	D
2012 Delaware	6	16.5	12	5	16	7.5	63	D
2011 Delaware	5	15.5	10.5	5	17	7.5	60.5	D
2015 District of Columbia	6	17	9.5	7.5	21	10	71	C
2014 District of Columbia	6	16.5	9	7	17.5	5	61	D
2013 District of Columbia	6	16.5	9	7	17.5	5	61	D
2012 District of Columbia	5	16	8.5	6.5	16.5	5	57.5	F
2011 District of Columbia	5	16	8.5	6.5	16.5	5	57.5	F
2015 Florida	10	20.5	15	6	20	15	86.5	B
2014 Florida	10	20.5	15	6	21	15	87.5	B
2013 Florida	7.5	18	15	6	20.5	15	82	B
2012 Florida	7.5	17.5	14.5	5.5	20.5	15	80.5	B
2011 Florida	4.5	17	14.5	5.5	18	12	71.5	C
2015 Georgia	10	24.5	15	5	17	9.5	81	B
2014 Georgia	10	24	14.5	5	19	9.5	82	B
2013 Georgia	10	24	14.5	5	19	9.5	82	B
2012 Georgia	10	23.5	14	4.5	20	8	80	B
2011 Georgia	7.5	22.5	14	4.5	18.5	8	75	C
2015 Hawaii	5	15	12	7	14	9.5	62.5	D
2014 Hawaii	5	15	11.5	6.5	12.5	9.5	60	D
2013 Hawaii	5	14.5	11.5	5	11.5	7	54.5	F
2012 Hawaii	4.5	5	10.5	5	11.5	7	43.5	F
2011 Hawaii	2.5	4	10.5	5	11.5	7	40.5	F

The Protected Innocence Challenge ■ 2015

	Criminalization of Domestic Minor Sex Trafficking		Criminal Provisions Addressing Demand		Criminal Provisions for Traffickers		Criminal Provisions for Facilitators		Protective Provisions for Child Victims		Criminal Justice Tools for Investigation and Prosecution	
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	Grade				
2015 Idaho	7.5	18.5	15	5	8.5	10	64.5	D				
2014 Idaho	7.5	18	15	5	9.5	10	65	D				
2013 Idaho	7.5	18	15	5	8.5	10	64	D				
2012 Idaho	7	15.5	11	3.5	8.5	10	55.5	F				
2011 Idaho	5	14.5	11	3.5	8.5	10	52.5	F				
2015 Illinois	10	20.5	14.5	7.5	24.5	10	87	B				
2014 Illinois	10	20.5	14.5	7.5	24.5	10	87	B				
2013 Illinois	10	20.5	14.5	7.5	23.5	10	86	B				
2012 Illinois	10	17	14	7	24.5	10	82.5	B				
2011 Illinois	7.5	16	14	7	25.5	10	80	B				
2015 Indiana	10	14.5	14.5	4.5	21	15	79.5	C				
2014 Indiana	7.5	13.5	14	4.5	21	15	75.5	C				
2013 Indiana	7.5	13.5	14	4.5	21	15	75.5	C				
2012 Indiana	7	13	12	3	21	14.5	70.5	C				
2011 Indiana	3.5	13	10	3	18.5	14.5	62.5	D				
2015 Iowa	10	23	15	6	18.5	15	87.5	B				
2014 Iowa	10	22.5	14	6	18.5	14.5	85.5	B				
2013 Iowa	10	20	11.5	6	18	10	75.5	C				
2012 Iowa	6	19.5	11	5.5	17.5	9.5	69	D				
2011 Iowa	5	12	11	5.5	17.5	9.5	60.5	D				
2015 Kansas	10	19.5	13.5	6	19	10	78	C				
2014 Kansas	10	19	13	6	15.5	10	73.5	C				
2013 Kansas	10	19	13	6	15.5	10	73.5	C				
2012 Kansas	5	9	11	5.5	13.5	7.5	51.5	F				
2011 Kansas	5	8	11	5.5	13.5	7.5	50.5	F				
2015 Kentucky	10	20.5	15	6	23.5	10	85	B				
2014 Kentucky	10	18	14.5	6	23	10	81.5	B				
2013 Kentucky	10	18	14.5	6	23	10	81.5	B				
2012 Kentucky	9.5	12	14.5	5.5	16.5	10	68	D				
2011 Kentucky	7.5	11	14.5	5.5	16.5	10	65	D				
2015 Louisiana	10	25	15	10	24.5	15	99.5	A				
2014 Louisiana	10	25	15	10	21	15	96	A				
2013 Louisiana	10	25	15	10	21	12	93	A				
2012 Louisiana	7.5	24.5	13	9.5	20.5	12	87	B				
2011 Louisiana	5	20.5	12.5	9	15.5	7.5	70	C				
2015 Maine	7.5	14.5	12	6	15	7.5	62.5	D				
2014 Maine	7.5	14	11.5	6	12.5	5	56.5	F				
2013 Maine	5	14	11.5	6	12.5	5	54	F				
2012 Maine	2.5	14	9.5	2	12.5	5	45.5	F				
2011 Maine	2.5	15.5	12	2	12.5	7.5	52	F				
2015 Maryland	7.5	18.5	12.5	7.5	16	15	77	C				
2014 Maryland	7.5	17.5	12	7	17	15	76	C				
2013 Maryland	7.5	17.5	12	7	14	15	73	C				
2012 Maryland	7	16	10.5	5.5	14	11	64	D				
2011 Maryland	5	16	10.5	5.5	10.5	11	58.5	F				
2015 Massachusetts	10	21	15	7.5	17.5	10	81	B				
2014 Massachusetts	10	21	15	7.5	17.5	10	81	B				
2013 Massachusetts	10	21	15	7.5	17.5	10	81	B				
2012 Massachusetts	2	18.5	13	7	18.5	10	74.5	C				
2011 Massachusetts	2.5	10.5	8	4	10	10	45	F				
2015 Michigan	10	23	12.5	7	16	12.5	81	B				
2014 Michigan	7.5	6.5	10.5	7	12.5	10	54	F				
2013 Michigan	7.5	6.5	10.5	7	11.5	10	53	F				
2012 Michigan	7.5	4	8.5	5.5	11.5	10	47	F				
2011 Michigan	5	4	8.5	5.5	11.5	10	44.5	F				
2015 Minnesota	10	18.5	15	7.5	24	15	90	A				
2014 Minnesota	10	18	14	7	22	15	86	B				
2013 Minnesota	10	18	14	7	22	15	86	B				
2012 Minnesota	9.5	15.5	11.5	6.5	21.5	15	79.5	C				
2011 Minnesota	7.5	15.5	11.5	6.5	20.5	15	76.5	C				

	Criminalization of Domestic Minor Sex Trafficking	Criminal Provisions Addressing Demand	Criminal Provisions for Traffickers	Criminal Provisions for Facilitators	Protective Provisions for Child Victims	Criminal Justice Tools for Investigation and Prosecution	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
2015 Mississippi	10	24.5	15	7.5	22	7.5	86.5	B
2014 Mississippi	10	24.5	15	7.5	21	7.5	85.5	B
2013 Mississippi	10	24.5	15	7.5	21	7.5	85.5	B
2012 Mississippi	7	16	14.5	6	15	7.5	66	D
2011 Mississippi	5	16	13.5	6	14	7.5	62	D
2015 Missouri	7.5	23	15	9.5	18.5	12.5	86	B
2014 Missouri	7.5	22.5	14.5	9	19.5	12.5	85.5	B
2013 Missouri	7.5	22.5	14.5	9	18.5	12.5	84.5	B
2012 Missouri	7.5	22	12.5	8.5	20.5	11	82	B
2011 Missouri	7.5	22	12.5	8.5	20.5	11	82	B
2015 Montana	8.5	25	15	7.5	24.5	10	90.5	A
2014 Montana	6	22	12.5	6	12	7.5	66	D
2013 Montana	6	22	12.5	6	12	7.5	66	D
2012 Montana	3.5	14.5	12.5	6	12	7.5	56	F
2011 Montana	3.5	14.5	12.5	6	12	7.5	56	F
2015 Nebraska	10	20.5	10.5	6	14	12	73	C
2014 Nebraska	10	20	10	3.5	14	12	69.5	D
2013 Nebraska	10	20	10	3.5	13	12	68.5	D
2012 Nebraska	7.5	19	10	3.5	10.5	10.5	61	D
2011 Nebraska	5	14	10	3.5	10.5	9.5	52.5	F
2015 Nevada	7.5	24	15	7	18.5	12	84	B
2014 Nevada	7.5	23.5	14.5	7	18	12	82.5	B
2013 Nevada	7.5	23.5	14.5	7	18	12	82.5	B
2012 Nevada	4.5	13	13.5	6.5	12.5	10	60	D
2011 Nevada	2.5	13	13.5	6.5	12.5	10	58	F
2015 New Hampshire	8.5	10	14.5	3.5	19	7	62.5	D
2014 New Hampshire	8.5	10	14.5	3.5	19	7	62.5	D
2013 New Hampshire	8	16.5	14.5	3.5	12.5	7	62	D
2012 New Hampshire	7	9	13	2.5	13.5	7	52	F
2011 New Hampshire	7	10	13	2.5	11.5	7	51	F
2015 New Jersey	10	22	12	7.5	18	9.5	79	C
2014 New Jersey	10	21	11.5	7	18	9.5	77	C
2013 New Jersey	10	21	11.5	7	18	9.5	77	C
2012 New Jersey	8.5	17.5	11	4	19	7	67	D
2011 New Jersey	6	17.5	11	6.5	16	5	62	D
2015 New Mexico	7.5	13.5	12.5	6	14.5	10	64	D
2014 New Mexico	7.5	13	11.5	6	15	10	63	D
2013 New Mexico	7.5	13	11.5	6	15	10	63	D
2012 New Mexico	5	15	9.5	4.5	12.5	9.5	56	F
2011 New Mexico	5	15	9.5	4.5	12.5	9.5	56	F
2015 New York	8.5	12	12.5	9	14	10	66	D
2014 New York	8.5	11.5	11	9	16.5	10	66.5	D
2013 New York	8.5	11.5	11	9	16.5	10	66.5	D
2012 New York	6	11.5	10	7.5	18.5	8.5	62	D
2011 New York	3.5	11.5	11	8.5	18.5	8.5	61.5	D
2015 North Carolina	10	22	12.5	4.5	21	10	80	B
2014 North Carolina	10	22	12.5	4.5	21	10	80	B
2013 North Carolina	10	22	12.5	4.5	20	10	79	C
2012 North Carolina	6	20.5	11	3	15	7.5	63	D
2011 North Carolina	5	20.5	10	3	15	7.5	61	D
2015 North Dakota	10	16	15	5	24.5	10	80.5	B
2014 North Dakota	7.5	16.5	14.5	7	10.5	7.5	63.5	D
2013 North Dakota	7.5	16.5	14.5	7	10.5	7.5	63.5	D
2012 North Dakota	7.5	11.5	11	6.5	10.5	10	57	F
2011 North Dakota	5	10.5	11	6.5	10.5	10	53.5	F
2015 Ohio	9.5	17	14.5	4.5	17.5	15	78	C
2014 Ohio	9.5	17	14.5	4.5	17.5	15	78	C
2013 Ohio	8.5	17	13.5	4.5	14	15	72.5	C
2012 Ohio	8.5	20.5	11.5	4	13	15	72.5	C
2011 Ohio	3.5	18	11	4	11.5	12.5	60.5	D

The Protected Innocence Challenge ■ 2015

	Criminalization of Domestic Minor Sex Trafficking						Criminal Provisions Addressing Demand		Criminal Provisions for Traffickers		Criminal Provisions for Facilitators		Protective Provisions for Child Victims		Criminal Justice Tools for Investigation and Prosecution		Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5											A
2015 Oklahoma	10	20.5	15	7.5	22	12	87											B
2014 Oklahoma	9.5	18.5	14.5	7.5	20	9.5	79.5											C
2013 Oklahoma	10	16.5	14	7.5	16.5	9.5	74											C
2012 Oklahoma	7.5	15	13.5	7	17.5	9.5	70											C
2011 Oklahoma	4.5	13.5	13.5	7	17.5	9.5	65.5											D
2015 Oregon	9.5	18	15	7.5	18	15	83											B
2014 Oregon	9.5	20	14.5	7	19	15	85											B
2013 Oregon	9.5	20	14.5	7	19	15	85											B
2012 Oregon	5	12.5	13	4	17	12	63.5											D
2011 Oregon	2.5	12	13	4	17	12	60.5											D
2015 Pennsylvania	7.5	19	12	7	14	14.5	74											C
2014 Pennsylvania	7.5	19	11.5	7	15	14.5	74.5											C
2013 Pennsylvania	5	14	11	3	13	12	58											F
2012 Pennsylvania	5	16	10.5	4	10.5	12	58											F
2011 Pennsylvania	2.5	16	9.5	3	12.5	12	55.5											F
2015 Rhode Island	10	20.5	12	7.5	8.5	9.5	68											D
2014 Rhode Island	10	20.5	12	7.5	9.5	9.5	69											D
2013 Rhode Island	10	20.5	12	7.5	9.5	9.5	69											D
2012 Rhode Island	7.5	22	11.5	7	10.5	9.5	68											D
2011 Rhode Island	5	22	11.5	7	10.5	9.5	65.5											D
2015 South Carolina	10	21	11	6	20.5	7.5	76											C
2014 South Carolina	9.5	20	11	6	18	7.5	72											C
2013 South Carolina	9.5	20	11	6	17	7.5	71											C
2012 South Carolina	7	17	11	6	17	7.5	65.5											D
2011 South Carolina	2.5	13.5	10	2.5	12.5	7.5	48.5											F
2015 South Dakota	8	17.5	15	7.5	7.5	7	62.5											D
2014 South Dakota	8	15	14	7	7.5	7	58.5											F
2013 South Dakota	8	15	14	7	6.5	7	57.5											F
2012 South Dakota	8	10.5	13.5	6.5	7.5	9.5	55.5											F
2011 South Dakota	4.5	16	12.5	5.5	6.5	9.5	54.5											F
2015 Tennessee	10	25	15	10	19	14.5	93.5											A
2014 Tennessee	10	25	15	10	21.5	12.5	94											A
2013 Tennessee	10	24.5	15	10	21.5	12.5	93.5											A
2012 Tennessee	9	20	14.5	7	16.5	12.5	79.5											C
2011 Tennessee	7.5	20	13	3.5	16.5	12.5	73											C
2015 Texas	10	25	15	7.5	18	15	90.5											A
2014 Texas	10	23.5	14.5	7.5	17	15	87.5											B
2013 Texas	10	23.5	14.5	7.5	17	15	87.5											B
2012 Texas	10	23	14	7	17.5	15	86.5											B
2011 Texas	7	23	14	7	17.5	15	83.5											B
2015 Utah	7.5	23	15	7.5	18	10	81											B
2014 Utah	9.5	20.5	15	7.5	16	9.5	78											C
2013 Utah	9.5	20.5	15	7.5	12.5	9.5	74.5											C
2012 Utah	7	9.5	13.5	6	12.5	12	60.5											D
2011 Utah	4.5	9.5	13.5	6	11	12	56.5											F
2015 Vermont	7.5	17	11	6	24.5	7.5	73.5											C
2014 Vermont	7.5	16	10	5.5	24.5	7.5	71											C
2013 Vermont	7.5	16	10	5.5	24.5	7.5	71											C
2012 Vermont	5	13.5	10	5.5	22.5	7.5	64											D
2011 Vermont	5	13.5	10	5.5	23	7.5	64.5											D
2015 Virginia	7.5	17	12.5	5	11.5	12.5	66											D
2014 Virginia	5	15	12	5	13	12	62											D
2013 Virginia	5	15	12	5	12	12	61											D
2012 Virginia	4.5	4.5	11.5	3.5	12	10.5	46.5											F
2011 Virginia	2.5	3.5	11.5	3.5	12	10.5	43.5											F
2015 Washington	10	24	15	9.5	21	12.5	92											A
2014 Washington	10	24	14.5	9.5	22	12.5	92.5											A
2013 Washington	10	24	14.5	9.5	22	12.5	92.5											A
2012 Washington	8	21.5	13.5	9.5	19.5	10	82											B
2011 Washington	6	21.5	13.5	9.5	19.5	10	80											B

	Criminalization of Domestic Minor Sex Trafficking	Criminal Provisions Addressing Demand	Criminal Provisions for Traffickers	Criminal Provisions for Facilitators	Protective Provisions for Child Victims	Criminal Justice Tools for Investigation and Prosecution	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
2015 West Virginia	7.5	18	12	3.5	13	12	66	D
2014 West Virginia	7.5	18	11.5	3.5	14	12	66.5	D
2013 West Virginia	7.5	18	11.5	3.5	13	12	65.5	D
2012 West Virginia	7.5	17	11	3	11.5	9.5	59.5	F
2011 West Virginia	2.5	4.5	8.5	2	11.5	9.5	38.5	F
2015 Wisconsin	10	22.5	15	7.5	18	10	83	B
2014 Wisconsin	10	21	14.5	7.5	18	10	81	B
2013 Wisconsin	7.5	21	14.5	7.5	17	10	77.5	C
2012 Wisconsin	7.5	21.5	12	7	17	10	75	C
2011 Wisconsin	5	21.5	10.5	6	14.5	7.5	65	D
2015 Wyoming	10	16	12.5	3.5	20.5	7.5	70	C
2014 Wyoming	10	15.5	12.5	3.5	21.5	7.5	70.5	C
2013 Wyoming	10	15.5	12.5	3.5	21.5	7.5	70.5	C
2012 Wyoming	4.5	4	10	2.5	9	2.5	32.5	F
2011 Wyoming	2.5	4	9	2.5	9	2.5	29.5	F

State Grades

Arranged by Score

	Criminalization of Domestic Minor Sex Trafficking						Criminal Provisions Addressing Demand		Criminal Provisions for Traffickers		Criminal Provisions for Facilitators		Protective Provisions for Child Victims		Criminal Justice Tools for Investigation and Prosecution	
	TOTAL POSSIBLE	10	25	15	10	27.5	15	Total	Grade							
Louisiana	10	25	15	10	24.5	15	99.5	A								
Tennessee	10	25	15	10	19	14.5	93.5	A								
Washington	10	24	15	9.5	21	12.5	92	A								
Montana	8.5	25	15	7.5	24.5	10	90.5	A								
Texas	10	25	15	7.5	18	10	90.5	A								
Minnesota	10	18.5	15	7.5	24	15	90	A								
Iowa	10	23	15	6	18.5	15	87.5	B								
Illinois	10	20.5	14.5	7.5	24.5	10	87	B								
Oklahoma	10	20.5	15	7.5	22	12	87	B								
Florida	10	20.5	15	6	20	15	86.5	B								
Mississippi	10	24.5	15	7.5	22	7.5	86.5	B								
Missouri	7.5	23	15	9.5	18.5	12.5	86	B								
Kentucky	10	20.5	15	6	23.5	10	85	B								
Delaware	10	18.5	15	6	22.5	12.5	84.5	B								
Nevada	7.5	24	15	7	18.5	12	84	B								
Oregon	9.5	18	15	7.5	18	15	83	B								
Wisconsin	10	22.5	15	7.5	18	10	83	B								
Arkansas	10	22	12.5	10	15	12.5	82	B								
Colorado	10	23.5	12.5	5	21	10	82	B								
Arizona	10	21	15	7.5	15.5	12.5	81.5	B								
Georgia	10	24.5	15	5	17	9.5	81	B								
Massachusetts	10	21	15	7.5	17.5	10	81	B								
Michigan	10	23	12.5	7	16	12.5	81	B								
Utah	7.5	23	15	7.5	18	10	81	B								
North Dakota	10	16	15	5	24.5	10	80.5	B								
North Carolina	10	22	12.5	4.5	21	10	80	B								
Indiana	10	14.5	14.5	4.5	21	15	79.5	C								
New Jersey	10	22	12	7.5	18	9.5	79	C								
Kansas	10	19.5	13.5	6	19	10	78	C								
Ohio	9.5	17	14.5	4.5	17.5	15	78	C								
Maryland	7.5	18.5	12.5	7.5	16	15	77	C								
South Carolina	10	21	11	6	20.5	7.5	76	C								
Alabama	7	16.5	15	7.5	13.5	15	74.5	C								
Connecticut	10	15.5	14.5	5	22	7.5	74.5	C								
Pennsylvania	7.5	19	12	7	14	14.5	74	C								
Vermont	7.5	17	11	6	24.5	7.5	73.5	C								
Alaska	5	16.5	15	9.5	15	12	73	C								
Nebraska	10	20.5	10.5	6	14	12	73	C								
D.C.	6	17	9.5	7.5	21	10	71	C								
Wyoming	10	16	12.5	3.5	20.5	7.5	70	C								
Rhode Island	10	20.5	12	7.5	8.5	9.5	68	D								
New York	8.5	12	12.5	9	14	10	66	D								
Virginia	7.5	17	12.5	5	11.5	12.5	66	D								
West Virginia	7.5	18	12	3.5	13	12	66	D								
California	7.5	14	11	3.5	20	9.5	65.5	D								
Idaho	7.5	18.5	15	5	8.5	10	64.5	D								
New Mexico	7.5	13.5	12.5	6	14.5	10	64	D								
Hawaii	5	15	12	7	14	9.5	62.5	D								
Maine	7.5	14.5	12	6	15	7.5	62.5	D								
New Hampshire	8.5	10	14.5	3.5	19	7	62.5	D								
South Dakota	8	17.5	15	7.5	7.5	7	62.5	D								

*In the case of duplicate scores, states are arranged alphabetically.

Criminalization of Domestic Minor Sex Trafficking

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	10	102.5	A
Arizona	10	81.5	B
Arkansas	10	82	B
Colorado	10	82	B
Connecticut	10	74.5	C
Delaware	10	84.5	B
Florida	10	86.5	B
Georgia	10	81	B
Illinois	10	87	B
Indiana	10	79.5	C
Iowa	10	87.5	B
Kansas	10	78	C
Kentucky	10	85	B
Louisiana	10	99.5	A
Massachusetts	10	81	B
Michigan	10	81	B
Minnesota	10	90	A
Mississippi	10	86.5	B
Nebraska	10	73	C
New Jersey	10	79	C
North Carolina	10	80	B
North Dakota	10	80.5	B
Oklahoma	10	87	B
Rhode Island	10	68	D
South Carolina	10	76	C
Tennessee	10	93.5	A
Texas	10	90.5	A
Washington	10	92	A
Wisconsin	10	83	B
Wyoming	10	70	C
Ohio	9.5	78	C
Oregon	9.5	83	B
Montana	8.5	90.5	A
New Hampshire	8.5	62.5	D
New York	8.5	66	D
South Dakota	8	62.5	D
California	7.5	65.5	D
Idaho	7.5	64.5	D
Maine	7.5	62.5	D
Maryland	7.5	77	C
Missouri	7.5	86	B
Nevada	7.5	84	B
New Mexico	7.5	64	D
Pennsylvania	7.5	74	C
Utah	7.5	81	B
Vermont	7.5	73.5	C
Virginia	7.5	66	D
West Virginia	7.5	66	D
Alabama	7	74.5	C
D.C.	6	71	C
Alaska	5	73	C
Hawaii	5	62.5	D

Criminal Provisions Addressing Demand

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	25	102.5	A
Louisiana	25	99.5	A
Montana	25	90.5	A
Tennessee	25	93.5	A
Texas	25	90.5	A
Georgia	24.5	81	B
Mississippi	24.5	86.5	B
Nevada	24	84	B
Washington	24	92	A
Colorado	23.5	82	B
Iowa	23	87.5	B
Michigan	23	81	B
Missouri	23	86	B
Utah	23	81	B
Wisconsin	22.5	83	B
Arkansas	22	82	B
New Jersey	22	79	C
North Carolina	22	80	B
Arizona	21	81.5	B
Massachusetts	21	81	B
South Carolina	21	76	C
Florida	20.5	86.5	B
Illinois	20.5	87	B
Kentucky	20.5	85	B
Nebraska	20.5	73	C
Oklahoma	20.5	87	B
Rhode Island	20.5	68	D
Kansas	19.5	78	C
Pennsylvania	19	74	C
Delaware	18.5	84.5	B
Idaho	18.5	64.5	D
Maryland	18.5	77	C
Minnesota	18.5	90	A
Oregon	18	83	B
West Virginia	18	66	D
South Dakota	17.5	62.5	D
D.C.	17	71	C
Ohio	17	78	C
Vermont	17	73.5	C
Virginia	17	66	D
Alabama	16.5	74.5	C
Alaska	16.5	73	C
North Dakota	16	80.5	B
Wyoming	16	70	C
Connecticut	15.5	74.5	C
Hawaii	15	62.5	D
Indiana	14.5	79.5	C
Maine	14.5	62.5	D
California	14	65.5	D
New Mexico	13.5	64	D
New York	12	66	D
New Hampshire	10	62.5	D

Criminal Provisions for Traffickers

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	15	102.5	A
Alabama	15	74.5	C
Alaska	15	73	C
Arizona	15	81.5	B
Delaware	15	84.5	B
Florida	15	86.5	B
Georgia	15	81	B
Idaho	15	64.5	D
Iowa	15	87.5	B
Kentucky	15	85	B
Louisiana	15	99.5	A
Massachusetts	15	81	B
Minnesota	15	90	A
Mississippi	15	86.5	B
Missouri	15	86	B
Montana	15	90.5	A
Nevada	15	84	B
North Dakota	15	80.5	B
Oklahoma	15	87	B
Oregon	15	83	B
South Dakota	15	62.5	D
Tennessee	15	93.5	A
Texas	15	90.5	A
Utah	15	81	B
Washington	15	92	A
Wisconsin	15	83	B
Connecticut	14.5	74.5	C
Illinois	14.5	87	B
Indiana	14.5	79.5	C
New Hampshire	14.5	62.5	D
Ohio	14.5	78	C
Kansas	13.5	78	C
Arkansas	12.5	82	B
Colorado	12.5	82	B
Maryland	12.5	77	C
Michigan	12.5	81	B
New Mexico	12.5	64	D
New York	12.5	66	D
North Carolina	12.5	80	B
Virginia	12.5	66	D
Wyoming	12.5	70	C
Hawaii	12	62.5	D
Maine	12	62.5	D
New Jersey	12	79	C
Pennsylvania	12	74	C
Rhode Island	12	68	D
West Virginia	12	66	D
California	11	65.5	D
South Carolina	11	76	C
Vermont	11	73.5	C
Nebraska	10.5	73	C
D.C.	9.5	71	C

Criminal Provisions for Facilitators

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	10	102.5	A
Arkansas	10	82	B
Louisiana	10	99.5	A
Tennessee	10	93.5	A
Alaska	9.5	73	C
Missouri	9.5	86	B
Washington	9.5	92	A
New York	9	66	D
Alabama	7.5	74.5	C
Arizona	7.5	81.5	B
D.C.	7.5	71	C
Illinois	7.5	87	B
Maryland	7.5	77	C
Massachusetts	7.5	81	B
Minnesota	7.5	90	A
Mississippi	7.5	86.5	B
Montana	7.5	90.5	A
New Jersey	7.5	79	C
Oklahoma	7.5	87	B
Oregon	7.5	83	B
Rhode Island	7.5	68	D
South Dakota	7.5	62.5	D
Texas	7.5	90.5	A
Utah	7.5	81	B
Wisconsin	7.5	83	B
Hawaii	7	62.5	D
Michigan	7	81	B
Nevada	7	84	B
Pennsylvania	7	74	C
Delaware	6	84.5	B
Florida	6	86.5	B
Iowa	6	87.5	B
Kansas	6	78	C
Kentucky	6	85	B
Maine	6	62.5	D
Nebraska	6	73	C
New Mexico	6	64	D
South Carolina	6	76	C
Vermont	6	73.5	C
Colorado	5	82	B
Connecticut	5	74.5	C
Georgia	5	81	B
Idaho	5	64.5	D
North Dakota	5	80.5	B
Virginia	5	66	D
Indiana	4.5	79.5	C
North Carolina	4.5	80	B
Ohio	4.5	78	C
California	3.5	65.5	D
New Hampshire	3.5	62.5	D
West Virginia	3.5	66	D
Wyoming	3.5	70	C

*In the case of duplicate scores, states are arranged alphabetically.

Protective Provisions for Child Victims

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	27.5	102.5	A
Illinois	24.5	87	B
Louisiana	24.5	99.5	A
Montana	24.5	90.5	A
North Dakota	24.5	80.5	B
Vermont	24.5	73.5	C
Minnesota	24	90	A
Kentucky	23.5	85	B
Delaware	22.5	84.5	B
Connecticut	22	74.5	C
Mississippi	22	86.5	B
Oklahoma	22	87	B
Colorado	21	82	B
D.C.	21	71	C
Indiana	21	79.5	C
North Carolina	21	80	B
Washington	21	92	A
South Carolina	20.5	76	C
Wyoming	20.5	70	C
California	20	65.5	D
Florida	20	86.5	B
Kansas	19	78	C
New Hampshire	19	62.5	D
Tennessee	19	93.5	A
Iowa	18.5	87.5	B
Missouri	18.5	86	B
Nevada	18.5	84	B
New Jersey	18	79	C
Oregon	18	83	B
Texas	18	90.5	A
Utah	18	81	B
Wisconsin	18	83	B
Massachusetts	17.5	81	B
Ohio	17.5	78	C
Georgia	17	81	B
Maryland	16	77	C
Michigan	16	81	B
Arizona	15.5	81.5	B
Alaska	15	73	C
Arkansas	15	82	B
Maine	15	62.5	D
New Mexico	14.5	64	D
Hawaii	14	62.5	D
Nebraska	14	73	C
New York	14	66	D
Pennsylvania	14	74	C
Alabama	13.5	74.5	C
West Virginia	13	66	D
Virginia	11.5	66	D
Idaho	8.5	64.5	D
Rhode Island	8.5	68	D
South Dakota	7.5	62.5	D

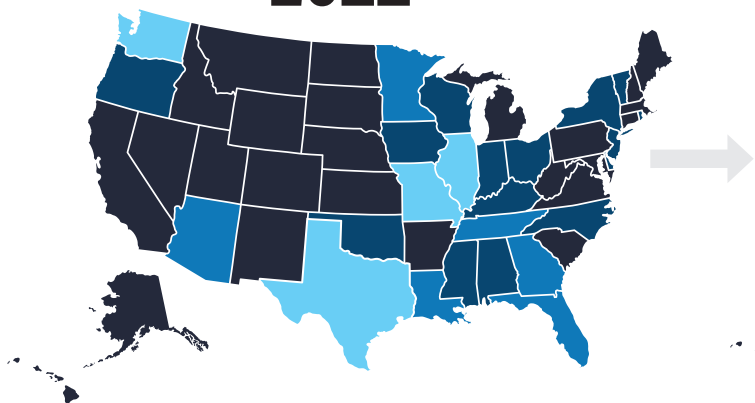
Tools for Investigation and Prosecution

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	15	102.5	A
Alabama	15	74.5	C
Florida	15	86.5	B
Indiana	15	79.5	C
Iowa	15	87.5	B
Louisiana	15	99.5	A
Maryland	15	77	C
Minnesota	15	90	A
Ohio	15	78	C
Oregon	15	83	B
Texas	15	90.5	A
Pennsylvania	14.5	74	C
Tennessee	14.5	93.5	A
Arizona	12.5	81.5	B
Arkansas	12.5	82	B
Delaware	12.5	84.5	B
Michigan	12.5	81	B
Missouri	12.5	86	B
Virginia	12.5	66	D
Washington	12.5	92	A
Alaska	12	73	C
Nebraska	12	73	C
Nevada	12	84	B
Oklahoma	12	87	B
West Virginia	12	66	D
Colorado	10	82	B
D.C.	10	71	C
Idaho	10	64.5	D
Illinois	10	87	B
Kansas	10	78	C
Kentucky	10	85	B
Massachusetts	10	81	B
Montana	10	90.5	A
New Mexico	10	64	D
New York	10	66	D
North Carolina	10	80	B
North Dakota	10	80.5	B
Utah	10	81	B
Wisconsin	10	83	B
California	9.5	65.5	D
Georgia	9.5	81	B
Hawaii	9.5	62.5	D
New Jersey	9.5	79	C
Rhode Island	9.5	68	D
Connecticut	7.5	74.5	C
Maine	7.5	62.5	D
Mississippi	7.5	86.5	B
South Carolina	7.5	76	C
Vermont	7.5	73.5	C
Wyoming	7.5	70	C
New Hampshire	7	62.5	D
South Dakota	7	62.5	D

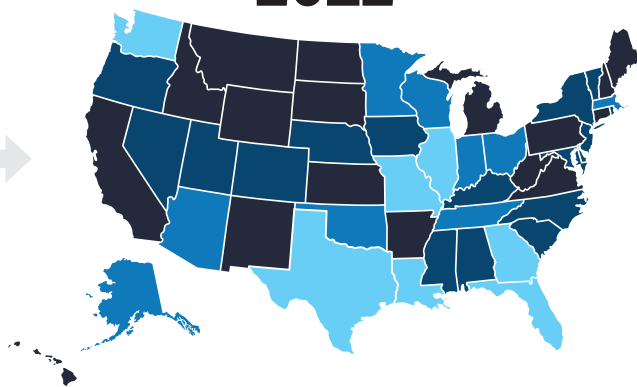
2015 Legislative Advancements

A

2011

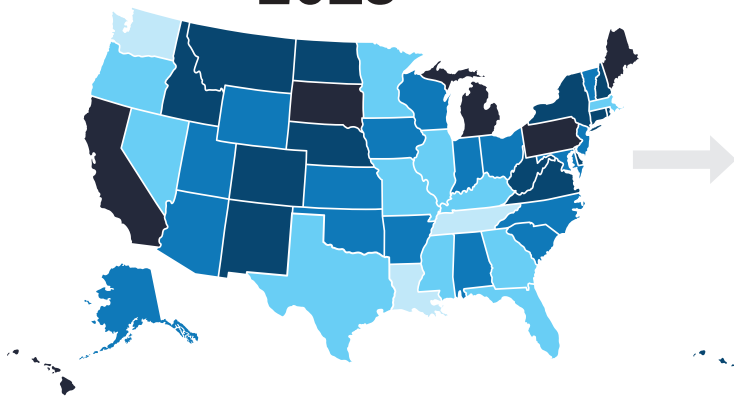


2012

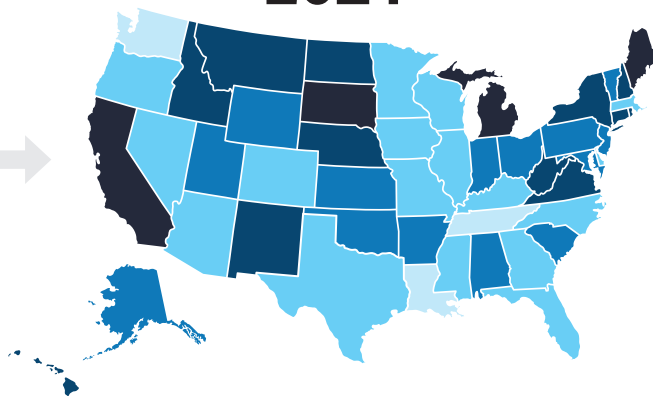


B

2013

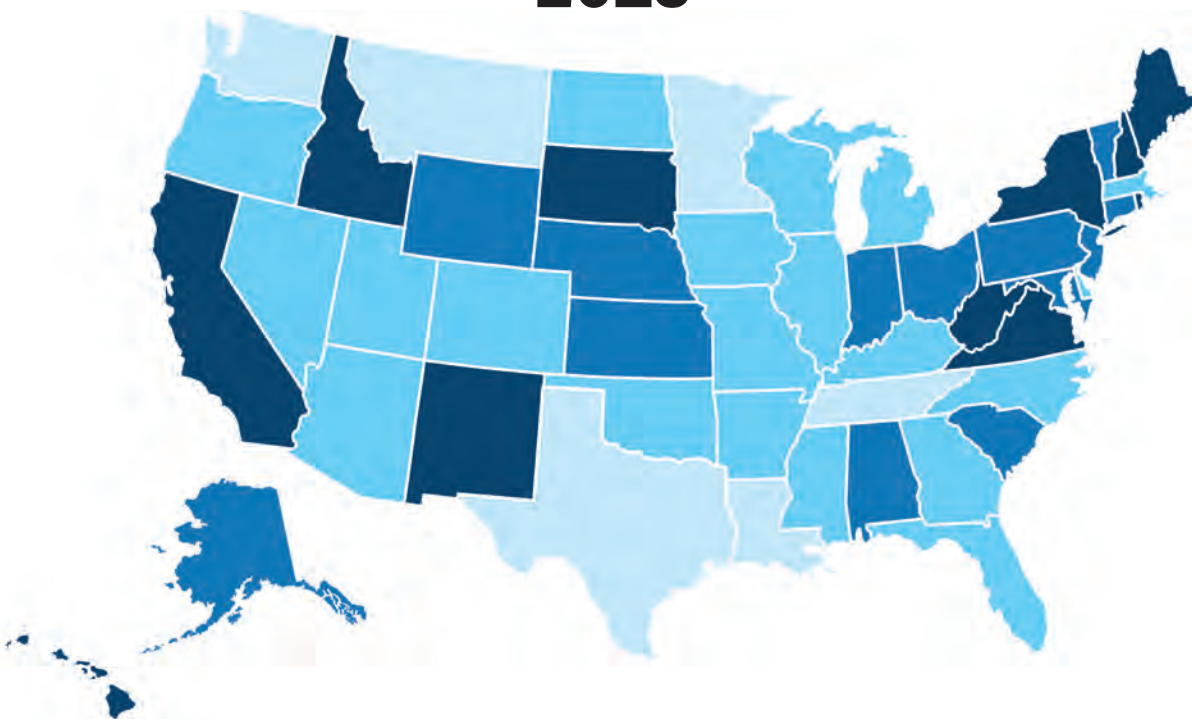


2014



C

2015



D

F

42

states and the District of Columbia
enacted **236** bills relating to the
Protected Innocence Challenge Framework

933 bills

that relate to domestic
minor sex trafficking

Introduced in

50 states

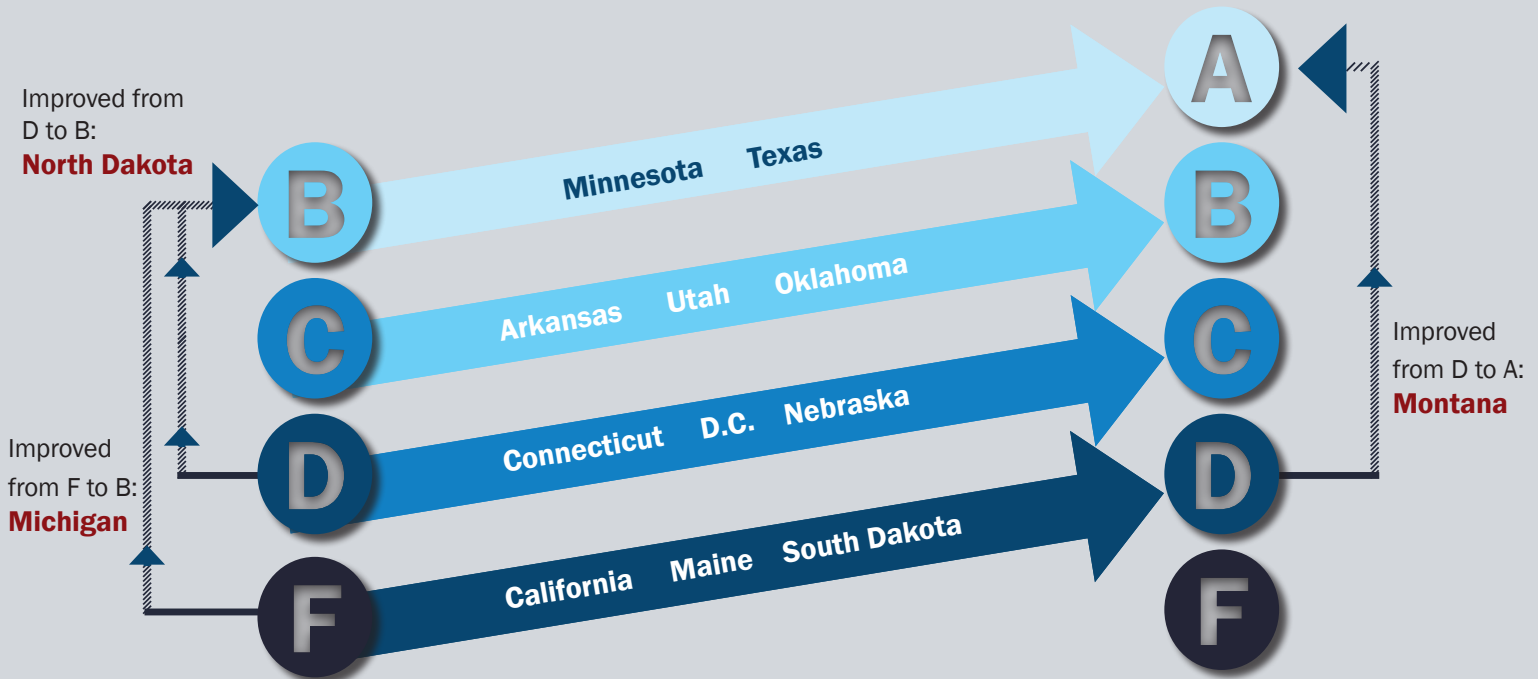
and the District of Columbia

14

States raised
the grade

3

States improved
2+ letter grades



Highest Score

Louisiana

(Final Score: 99.5 points)

Most Improved

Michigan

(Total Score Increase: 27 points)

Methodology

The purpose of the Protected Innocence Legislative Framework is to elaborate the key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking. These principles, as listed above, are eliminating demand, prosecuting the traffickers, identifying the victims, and providing protection, access to services, and shelter for victims. These principles can be grouped into six areas of law:

1. Criminalization of Domestic Minor Sex Trafficking
2. Criminal Provisions Addressing Demand
3. Criminal Provisions for Traffickers
4. Criminal Provisions for Facilitators
5. Protective Provisions for the Child Victim
6. Criminal Justice Tools for Investigation and Prosecution

Each area of law may have several laws that affect the policy within the state's code. As such, specific questions must be asked to determine whether state laws sufficiently address the policy need.

Analysis

Each state will be graded on the basis of the following points of law:

1. Criminalization of Domestic Minor Sex Trafficking

- 1.1 The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.

Note: The vast majority of states have human trafficking laws. Within these statutes, however, there are variations in coverage; some do not expressly cover the sex trafficking of minors. State human trafficking laws that are consistent with each other and with federal law in scope and penalty will prevent migration of the crime to more lenient states or onto tribal lands, many of which are close to densely populated areas and contain attractions for this activity, such as casinos.

- 1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

Note: In the absence of a clear and specific child sex trafficking statute, CSEC laws become critical to punish the crime of commercial sexual exploitation of a child. CSEC statutes are those that make the commercial sexual exploitation of a minor a criminal offense. These offenses range from prostitution of a minor to employment of a minor for live or recorded sexual performance. Also, sexual offenses can be committed in the course of commercial sexual exploitation and, in some cases, establish the predicate offense for certain trafficking or CSEC offenses. Sexual offense statutes may also be used to prosecute CSEC offenses, although this is not preferred due to the potential resulting failure to identify the victim as a trafficking or CSEC victim.

- 1.3 Prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

Note: Language referring to human trafficking is necessary to ensure that CSEC victims are properly identified as human trafficking victims and thus may access the protections and benefits outlined under federal and some state statutes. This is also necessary to further the collection of data on human trafficking, which is critical to countering domestic minor sex trafficking.

- 1.4 The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.

Note: Motivated by high profits and lower risks, gangs are increasingly involved in sex trafficking of minors. A racketeering statute provides a tool to dismantle the infrastructure of a gang by prosecuting all of its members and seizing the assets used or gained through the gang's criminal activity. Amending or enacting a RICO or gang crime statute that includes sex trafficking and CSEC offenses as predicate acts provides states with a powerful tool to combat sex trafficking enterprises.

2. Criminal Provisions Addressing Demand

- 2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Note: Language capturing buyer conduct is necessary to mount a comprehensive attack on domestic minor sex trafficking.

- 2.2 Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.

Note: Anti-demand provisions are critical. State laws on commercial sex abuse of a minor, child prostitution, commercial sexual exploitation of minor, etc. must cover the crime of buying sex with a minor. These provisions will ideally refer to the human trafficking statute to make it clear that buying sex with a minor is domestic minor sex trafficking.

- 2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.

Note: This can be accomplished by amending traditional solicitation and prostitution laws to make them inapplicable to buying sex with a minor along with amending CSEC or trafficking laws to ensure that buyers of sex acts with minors are included. This is important to ensure that crimes of domestic minor sex trafficking are separated from crimes of solicitation and/or prostitution and that buyers are never allowed to proceed with diversion programs, such as a “John School” or other treatment programs.

- 2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Note: Under federal law, sex trafficking of a child is punishable by significant penalties that reflect the seriousness of this offense.⁸ Consistency in sentencing between states will prevent the crime from migrating to more lenient states. Also, stiff penalties are just and are critical to deter demand.

- 2.5 Using the Internet or electronic communications to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

- 2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

- 2.7 Base penalties for buying sex acts with a minor under 18 are sufficiently high and not reduced for older minors.

Note: Under federal law, sex trafficking of a child is punishable by significant penalties.⁹ State laws that set lower criminal penalties for sexual offenses against older minors are ignoring the definition of a minor and perpetuating the false perception that a victim aged 16 or 17 is a lesser victim. This, however, is not to be confused with enhanced penalties for offenses against a minor below a certain age that are considered especially egregious. For example, 18 U.S.C. § 1591 provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14.¹⁰

- 2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

Note: Meaningful fines, asset forfeiture, restitution and fees can make it difficult for buyers to hide the crime they have committed from family and community. Directing the fines to a dedicated account can simultaneously offset the costs of investigating, prosecuting, and restoring the victims of the crime. Impound fees must be significant to act as a deterrent.

- 2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

Note: Child pornography is defined in federal law as any visual depiction involving the use of a minor engaging in sexually explicit conduct, or a visual depiction that has been created or modified to appear as a minor engaging in sexually explicit conduct.¹¹ Child pornography is actually an image of sexual abuse perpetrated on a child. The most common forum for child pornography today is the Internet and once images are on the Internet, they cannot be removed completely and can continue to circulate revictimizing the child each time they are viewed. Child pornography is also frequently encountered in combination with other sexual offenses against children and may serve as a gateway to acting out the images of sexual abuse on children.¹² Therefore, possessing child pornography should be viewed as a serious crime meriting meaningful prosecution.¹³

- 2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

Note: The exchange of money or something of value does not sanitize the buyer of commercial sex with a minor from the sex offender registration requirements; domestic minor sex trafficking is a sexual offense. Buyers convicted of human trafficking with a sexual purpose or of a CSEC offense should be required to register as sex offenders.

3. Criminal Provisions for Traffickers

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

- 3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.

- 3.3 Using the Internet or electronic communications to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

- 3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

Note: Financial penalties may include asset forfeiture, restitution, and fines for the crimes of human trafficking and commercial sexual exploitation of children. Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by the convicted trafficker. Asset forfeiture laws have been very effective in fighting drug trafficking¹⁴ and should be viewed as an effective tool in the fight against domestic minor sex trafficking. Asset forfeiture is commonly tied to Racketeer Influenced and Corrupt Organizations (RICO) statutes in many states and thus requires

⁸ 18 U.S.C. § 1591(a), (b)(2).

⁹ Id.

¹⁰ Id. § 1591(a), (b)(1).

¹¹ Id. § 2256.

¹² ALEXANDRA GELBER, U.S. DEPT OF JUSTICE, CHILD EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION, RESPONSE TO “A RELUCTANT REBELLION” 5-6 (2009), available at <http://www.justice.gov/criminal/ceos/downloads/ReluctantRebellionResponse.pdf>.

¹³ Id. at 14–15.

¹⁴ Asset Forfeiture, U.S. DRUG ENFORCEMENT ADMIN., <http://www.justice.gov/dea/ops/af.shtml> (last visited Oct. 26, 2015).

prosecutors to charge these crimes in addition to human trafficking. Restitution is important to provide victims of sex trafficking with the funds to access treatment and to restart their lives. States should follow the federal model of requiring restitution for all victims of human trafficking¹⁵ and CSEC. Lastly, meaningful fines can be a deterrent and help to fund the programs necessary to serve victims.

3.5 Convicted traffickers are required to register as sex offenders.

3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.

Note: Traffickers may impregnate their victims, including minor victims, with the intent of maintaining control. The effect is to have second generation victims within a criminal “family.” Breaking the bonds between victims and traffickers include freeing their child from a continuing relationship with the trafficker parent. Also, children of traffickers can become victims of trafficking at the hands of their trafficker-parents.

4. Criminal Provisions for Facilitators

4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

Note: Facilitators are those people or entities that knowingly enable domestic minor sex trafficking or benefit from sex trafficking in any way. State sex trafficking laws must also make the act of facilitation a crime.

4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

Note: Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by a person or an entity convicted of knowingly benefitting from sex trafficking, such as hotels or online classified businesses.

4.3 Promoting and selling child sex tourism is illegal.

Note: Businesses and individuals selling travel based on or containing components of commercial sexual exploitation of children are committing the crime of child sex tourism and driving demand for sex with children. Laws prohibiting child sex tourism should apply to a natural person as well as a corporation, and the penalty prescribed for the crime must be sufficiently serious to present substantial risk and deterrence, and should be comparable with the gravity of the crime.

4.4 Promoting and selling child pornography is illegal.

5. Protective Provisions for the Child Victims

5.1 Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.

Note: Language defining a minor who has been used in a commercial sex act (prostitution, pornography, or sexual performance) as a victim of sex trafficking or CSEC can lead to improved identification and responses at all levels.

5.2 The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Note: Many states allow a minor to consent to sex at an age lower than the age of majority. But a minor used in a commercial sex act is a victim of adult criminal behavior; the child’s consent, therefore, cannot mitigate such acts. For this reason, consent must not be available as a defense to the crime of domestic minor sex trafficking.

5.3 Prostitution laws apply only to adults, preventing criminalization of minors under 18 for prostitution offenses.

Note: This is consistent with defining a minor in prostitution as a victim of domestic minor sex trafficking. This also establishes that a prostituted minor will not be charged as an offender, in either juvenile or adult criminal court, but rather, will be protected as a victim.

5.4 State law provides a non-punitive avenue to specialized services through one or more points of entry.

Note: Juvenile sex trafficking victims may come to the attention of service providers through various points of entry into state systems. Clear statutory mechanisms to direct juvenile victims to specialized services are critical to preventing further traumatization and ensuring a protective response consistent with their status as crime victims. Protective shelter and services are far preferable to the current practice of charging the minor with an offense in order to detain him or her for his or her own safety and to assist in investigating a criminal case. Service providers struggle with case management when these victims are ordered to inappropriate placements, such as ill-equipped foster care, group homes, and detention facilities, or they are returned to poor home environments. Debate exists over the level of security in and duration of these placements, as well as the size and location of such shelters; however, agreement exists as to the need for a variety of approaches from long-term shelters to home-based care to specialty foster homes, etc.¹⁶

¹⁵ 18 U.S.C. § 1593.

¹⁶ See NATIONAL COLLOQUIUM 2012 FINAL REPORT, *supra* note 8.

- 5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

Note: Expanding or interpreting the definition of “abuse and neglect” in the child protection statutes to include sex trafficking and commercial sexual exploitation would allow child protective services to include it as a specific type of maltreatment and bring situations of domestic minor sex trafficking within the investigative and protective functions of child protective services.

- 5.6 The definition of “caregiver” or another related term in the child welfare statutes is not a barrier to a sex trafficked child accessing the protection of child welfare.

Note: Child protective services is often precluded from intervening in a case of non-familial domestic minor sex trafficking because the agency’s mandate is limited to cases in which a parent or legal guardian is the cause of danger to the child. Defining such a person to include the person in custody or control of a minor, or providing specific authority for child welfare to serve child sex trafficking victims irrespective of the perpetrator of abuse, can bring greater protections to domestic minor sex trafficking victims through the intervention of child protective services.

- 5.7 Crime victims’ compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC) without regard to ineligibility factors.

Note: Ineligibility criteria contained in state crime victims’ compensation programs often result in child sex trafficking victims being denied funds. Victims may be determined ineligible due to, among other things, their “involvement in the underlying crime” for which they are claiming the compensation, i.e. prostitution, or for failure to cooperate in a law enforcement investigation. This must be remedied with direct language specifically identifying these minors as victims.

- 5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Note: Trauma reduction tools can increase the victim’s successful participation through safety and protection. Some examples include:

- a. Court appointment of an attorney for the domestic minor sex trafficking victim, serving, as appropriate, as the child’s legal counsel or as a guardian ad litem, could help protect the child from court system-related trauma and help better assure that their rights and legal interests were protected.
- b. Victim-witness coordinators, who have received training on child trafficking issues, are needed to shepherd the domestic minor sex trafficking victims and families through the criminal justice process.
- c. Rape shield laws limit a defendant’s ability to cross-examine victims about their past sexual behavior.
- d. Prohibition on publication of an alleged rape victim’s identity.
- e. Closed courtrooms for minor victim testimony can help with the problem of intimidation by defendant traffickers’ friends and family packing the courtroom.
- f. Closed circuit television testimony can reduce re-traumatization of a domestic minor sex trafficking victim and assist in securing his or her testimony against an offender.

- 5.9 Expungement or sealing of juvenile delinquency records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

Note: Victims of domestic minor sex trafficking (and adult sex trafficking) report being hampered in attempts to restore their lives through employment or education because they have criminal records, or in cases involving a minor, records of juvenile delinquency. Juvenile delinquency records can prevent survivors from obtaining academic scholarships, securing certain employment, and working with children in some cases. Saddling the victim of sex trafficking with a criminal or juvenile delinquency record is contrary to his or her legal definition as a victim and can inhibit full reintegration into the community.

- 5.10 Victim restitution and civil remedies for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.

Note: Criminal restitution is an important part of the punishment for a convicted offender of trafficking and can provide funds for a victim to recover from the victimization. Restitution should be mandatory in any case of domestic minor sex trafficking and a means of calculating the typically unquantifiable costs of the victimization should be determined in the law. As an example, criminal restitution is mandated in the federal trafficking law.¹⁷ Often though, criminal cases are not pursued, or a convicted offender is not able to pay the restitution. Therefore, victims of domestic minor sex trafficking must be allowed to pursue civil remedies for the damages they have suffered as a result of the victimization. These might include compensatory damages, attorney’s fees, and punitive damages. The continuing effects of sex trafficking on a young person can lead to future medical costs and other costs as they regain control over their life. Opportunities to access both criminal restitution and civil damages are means to pay for these needs.

- 5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Note: Because of the traumatic effects of sex trafficking on a child, lengthening or eliminating the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes and the injurious effects on the person is important to allow the victims full access to justice. It is preferable to follow the federal model of eliminating the statute of limitations in criminal actions for sex crimes involving children.¹⁸

¹⁷ U.S.C. §§ 1593(b)(1), (b)(3), 2259(b)(4).

¹⁸ Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (PROTECT Act), Pub. L. No. 108-21, § 202, 117 Stat. 650, 660 (codified as amended at 18 U.S.C. § 3283).

6. Tools for Investigation and Prosecution

- 6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated or authorized.

Note: Laws calling for the development of training materials and training of law enforcement officers are important to the response to domestic minor sex trafficking victims. Due to the unique conditions of DMST, specialized training is ideal; however, this training might be combined with general human trafficking training. Training in victim identification, the definition of domestic minor sex trafficking, investigative techniques, and victim-witness management is critical to increased identification of and improved responses to the victims. Training has resulted in demonstrable increases in investigations of domestic minor sex trafficking in many places around the country.

- 6.2 Single party consent to audiotaping is permitted in law enforcement investigations

Note: Requiring two-party consent to audiotaped conversations makes undercover domestic minor sex trafficking investigations difficult and dangerous. Allowing for single party consent empowers law enforcement to more efficiently investigate and better prepare cases for prosecution while providing greater protection for the investigating officers interacting with traffickers and buyers.

- 6.3 Wiretapping is an available tool to investigate domestic minor sex trafficking.

Note: Access to wiretapping can be a decisive factor in initiating domestic minor sex trafficking investigations. The evidence obtained can lead to better prosecutions and could alleviate the need for victim testimony in domestic minor sex trafficking cases. The growing use of text messages to perpetrate sex trafficking makes it even more important to allow access to wiretapping in these investigations as access to text messages are governed by wiretapping laws.

- 6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.
- 6.5 Using the Internet or electronic communications to investigate buyers and traffickers is a permissible investigative technique.
- 6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

Note: Identifying the missing and exploited child leads to identifying the domestic minor sex trafficking victim and provides an opportunity to intervene. The National Crime Information Center (NCIC), a computerized index of criminal justice information, relies on the entry of reports of missing and exploited children by local law enforcement. Also, immediate reporting to local police, the NCIC, and the National Center for Missing and Exploited Children (NCMEC) whenever a child goes missing is critical to identification and intervention, especially given the high correlation between missing children and trafficked children.¹⁹ At the same time, it is critical that first responders check the NCIC database and report to NCMEC whenever any domestic minor sex trafficking victim is rescued to see if the victim has been entered into those systems as a reported missing child.

Grading

The Protected Innocence Legislative Framework will assign a point value of 0 to 2.5 based on a written point allocation scheme accounting for the critical elements of each of the components of law discussed above. The points will be totaled for each of the six areas of law. The six totals will be added to determine the final number for each state, which will translate to the corresponding letter grade as follows:

- A | 90 - 102.5
- B | 80 - 89
- C | 70 - 79
- D | 60 - 69
- F | < 60

These letter grades will reflect the level of protection available through law in a domestic minor sex trafficking case in the respective state. A short analysis of each state's legislation will follow with recommendations.

It is important to note that the methodology looks solely at the laws in place in a given state and their de jure compliance with the Protected Innocence Legislative Framework at the time of the review. This analysis does not review how states enforce or implement their laws, though enforcement is critically important.

¹⁹ SARA ANN FRIEDMAN, ECPAT-USA, INC., WHO IS THERE TO HELP US? HOW THE SYSTEM FAILS SEXUALLY EXPLOITED GIRLS IN THE UNITED STATES: EXAMPLES FROM FOUR AMERICAN CITIES 3 (2005), available at <http://ecpatusa.org/wp/wp-content/uploads/2013/08/Who-Is-There-to-Help-Us-3.pdf>.

Issue Briefs

Section 1 | Criminalization of Domestic Minor Sex Trafficking

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 1.1

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.
The Legislative Solution	The vast majority of states have human trafficking laws; however, within these statutes there are variations in coverage. States must enact human trafficking laws that are consistent with each other and federal law in scope and penalty so as to prevent migration of trafficking crimes to more lenient states or onto tribal lands. First, human trafficking laws must clearly address the crime of sex trafficking for the purposes of prosecution and victim identification. To ensure identification of sexually exploited children as victims and to prevent traffickers from escaping criminal liability through manufactured evidence of consent, all minors under the age of 18 should be deemed unable to consent to involvement in commercial sex acts, thus rendering the element of force, fraud or coercion irrelevant in domestic minor sex trafficking cases. Many state statutes accomplish this goal through the use of the words “any means” when addressing sex trafficking of minors under 18. Enacting laws that specifically criminalize trafficking of minors for commercial sexual exploitation without requiring proof of force, fraud or coercion is necessary to facilitate the prosecution of purchasers, traffickers and facilitators of commercial sex acts with children.

Select Statute Highlights

The following are excerpts from statutes with the following: (1) language specifically criminalizing the commercial sexual exploitation of children or prostitution of children; (2) definition of a “minor” as a child under the age of 18; and (3) absence of any required elements of force, fraud or coercion to accomplish the trafficking of a minor.

D.C.

D.C. Code § 22-1834(a) (Sex trafficking of children) states, “It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.”

Louisiana

A separate statute makes sex trafficking of children a crime without regard to use of force, fraud, or coercion when a minor under 18 is used in a commercial sex act. La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) states, “A.

It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity. (2) For any person to knowingly benefit from activity prohibited by the provisions of this Section. (3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions of this Section. (4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person. (5) For any person to knowingly advertise any of the activities prohibited by this Section. (6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section. B. For purposes of this Section, (1) “commercial sexual activity” means any sexual act performed or conducted when anything of value has been given, promised, or received by any person.”

Massachusetts

Mass. Gen. Laws ch. 265, § 50(a) (Human trafficking – Sexual servitude) provides that “[w]hoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography . . . or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography . . . shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000.” Pursuant to Mass. Gen. Laws ch. 265, § 50(b) “Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years.”

Montana

Enacted House Bill 89 § 2(1) (Trafficking of persons) states that “[a] person commits the offense of trafficking of persons if the person purposely or knowingly: (a) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains or entices another person intending or knowing that the person will be subjected to involuntary servitude or sexual servitude; or (b) benefits, financially or by receiving anything of value, from participation in a venture that has subjected another person to involuntary servitude or sexual servitude. Enacted House Bill 89 § 4(1)(b) (Sexual servitude) states, “A person commits the offense of sexual servitude if the person purposely or knowingly: (a) uses coercion or deception to compel an adult to engage in commercial sexual activity; or (b) recruits, transports, transfers, harbors, receives, provides, obtains by any means, isolates, entices, maintains, or makes available a child for the purpose of commercial sexual activity.”

Tennessee

Tennessee directly addresses human trafficking through Tenn. Code Ann. § 39-13-309 (Trafficking a person for a commercial sex act), which states, “(a) A person commits the offense of trafficking a person for a commercial sex act who: (1) Knowingly subjects, attempts to subject, benefits from or attempts to benefit from another person’s provision of a commercial sex act; or (2) Recruits, entices, harbors, transports, provides, purchases or obtains by any means another person for the purpose of providing a commercial sex act.” Tenn.

Code Ann. § 39-13-301(15) defines “commercial sex act” as (A) Any sexually explicit conduct for which anything of value is directly or indirectly given, promised to or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age; or (B) Any sexually explicit conduct that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age.

Wisconsin

Wis. Stat. § 948.051 (Trafficking of a child) states, “(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a) is guilty of a Class C felony. (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1). (3) Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” For the purpose of this law, a child is defined as “a person who has not attained the age of 18 years.” Wis. Stat. § 948.01(1). Commercial sex acts are “sexual contact for which anything of value is given to, promised, or received, directly or indirectly by any person.” Wis. Stat. § 940.302(1)(a).

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.
The Legislative Solution	CSEC statutes are those that make specific types of exploitation of a minor a criminal act. While sexual offense laws could be used to prosecute some CSEC offenses, the enactment and use of specific CSEC laws is a better method for addressing these offenses and identifying victims. Additionally, sexual offense laws may not be broad enough to cover all types of conduct constituting CSEC offenses. To protect victims and provide a means for prosecuting all CSEC perpetrators, states should enact CSEC statutes to criminalize the entire range of potential CSEC conduct, and minors victimized through these crimes should expressly be identified as CSEC victims.

Select Statute Highlights

Colorado

Within Article 7 (Offenses Related to Morals) of Title 18 (Criminal Law), a comprehensive range of CSEC crimes are codified in Part 4 (Child Prostitution).

Colo. Rev. Stat. § 18-6-403(3) (Sexual exploitation of a child) states, “A person commits sexual exploitation of a child if, for any purpose, he or she knowingly: (a) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the making of any sexually exploitative material; or . . . (d) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing a performance.”

Colo. Rev. Stat. § 18-7-402(1) (Soliciting for child prostitution) makes it a crime when any person “(a) Solicits another for the purpose of prostitution of a child or by a child; (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or (c) Directs another to a place knowing such direction is for the purpose of prostitution or a child or by a child.”

Colo. Rev. Stat. § 18-7-403.5 (Procurement of a child) provides, “Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of prostitution of the child commits procurement of a child, which is a Class 3 felony.”

Colo. Rev. Stat. § 18-7-404(1) (Keeping a place of a child prostitution) states, “Any person who has or exercises control over the use of any place which offers seclusion or shelter for

the practice of prostitution and who performs any one or more of the following commits keeping a place of child prostitution if he: (a) Knowingly grants or permits the use of such place for the purpose of prostitution of a child or by a child; or (b) Permits the continued use of such place for the purpose of prostitution of a child or by a child after becoming aware of facts or circumstances from which he should reasonable know that the place is being used for purposes of such prostitution.”

Colo. Rev. Stat. § 18-7-405 (Pimping of a child) makes it a Class 3 felony when a person “knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution”

Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child) provides, “Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child, as defined in § 18-7-401(6) or (7); or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Kansas

Pursuant to Kan. Stat. Ann. § 21-6422 (Commercial sexual exploitation of a child), “(a) Commercial sexual exploitation of a child is knowingly: (1) Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts: (A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another; or (B) Procuring,

recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another; (2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; (3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or (4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations."

Louisiana

Louisiana provides a comprehensive range of CSEC crimes, including:

La. Rev. Stat. Ann. § 14:82(C)(4), (5) (Prostitution; definition; penalties; enhancement) states "Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both. . . [and] [w]hoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned for not less than twenty-five years nor more than fifty years, or both."

La. Rev. Stat. Ann. § 14:82.1(A)(1) (Prostitution; persons under eighteen; additional offenses) makes it unlawful "[f] or any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons."

La. Rev. Stat. Ann. § 14:86(A) (Enticing persons into prostitution) states, "Enticing persons into prostitution is committed when any person over the age of seventeen entices, places, persuades, encourages, or causes the entrance of any other person under the age of twenty-one into the practice of prostitution, either by force, threats, promises, or by any other device or scheme. . . ."

La. Rev. Stat. Ann. § 14:89.2(A) (Crime against nature by solicitation) provides, "Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation." Pursuant to La. Rev. Stat. Ann. § 14:89.2(B)

(2), (3)(a), "[w]hoever violates the provisions of this Section, when the person being solicited is under the age of eighteen years," shall be fined not more than \$50,000, imprisoned at hard labor for 15–50 years, or both, and when the person being solicited is under the age of 14 years a conviction is subject to a fine up to \$75,000, 25–50 years' imprisonment, or both.

La. Rev. Stat. Ann. § 14:83.2 (Promoting prostitution) is "the knowing and willful control of, supervision of, or management of an enterprise for profit in which customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services." A conviction under La. Rev. Stat. Ann. § 14:83.2 is punishable by a fine not to exceed \$50,000, 15–50 years' imprisonment, or both when prostitution of a person under 18 is involved, and an offender faces a fine not to exceed \$75,000, 25–50 years' imprisonment, or both if the person engaged in prostitution is under 14. La. Rev. Stat. Ann. § 14:83.2(B)(2), (3).

La. Rev. Stat. Ann. § 14:83 (Soliciting for prostitutes) is "the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution." A conviction pursuant to La. Rev. Stat. Ann. § 14:82 when the person being solicited is under 18 years is punishable by a fine up to \$50,000, 15–50 years' imprisonment, or both, and when the person being solicited is under 14 years is punishable by a fine up to \$75,000, 25–50 years' imprisonment, or both. La. Rev. Stat. Ann. § 14:82(B) (2), (3).

La. Rev. Stat. Ann. § 14:82.2 (Purchase of commercial sexual activity; penalties) states that "[i]t shall be unlawful for any person to knowingly give, agree to give, or offer to give anything of value to another in order to engage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity. A person convicted under La. Rev. Stat. Ann. § 14:82.2 is subject to a fine of \$500, imprisonment up to six months, or both. However, a person who violates La. Rev. Stat. Ann. § 14:82.2 and knows the person "to be under the age of eighteen years, or with a person the offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children for sexual purposes as defined by R.S. 14:46.3" is subject to imprisonment at hard labor for 15–50 years, a fine up to \$50,000, or both. If the offender knows the person is under the age of fourteen years, he is subject to a fine up to \$75,000, imprisonment at hard labor 25–50 years, or both. Rev. Stat. Ann. § 14:82.2(C)(1), (4), (5) .

Washington

A series of CSEC laws in the Washington code criminalize a range of specific actions.

RCW 9.68A.100 (Commercial sexual abuse of a minor) states, “(1) A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee. (2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.” RCW 9.68A.100(5) defines “sexual conduct” as “sexual intercourse or sexual contact.”

RCW 9.68A.101 (Promoting commercial sexual abuse of a minor) makes it a crime to “knowingly advance[] commercial sexual abuse or a sexually explicit act of a minor or profit[] from a minor engaged in sexual conduct or a sexually explicit act” by “caus[ing] or aid[ing] a person to commit or engage in commercial sexual abuse of a minor, procur[ing] or solicit[ing] customers for commercial sexual abuse of a minor, provid[ing] persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operat[ing] or assist[ing] in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engage[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.” The provision specifically limits application to situations in which the offender is “acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor.” Additionally, “[a] person ‘advances a sexually explicit act of a minor’ if he or she causes or aids a sexually explicit act of a minor, procures or solicits customers for a sexually explicit act of a minor, provides persons or premises for the purposes of a sexually explicit act of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.”

RCW 9.68A.103 (Permitting commercial sexual abuse of a minor) states “[a] person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.”

Wyoming

Pursuant to Wyo. Stat. Ann. § 6-4-103(a) (Promoting prostitution; penalties), “A person commits a felony if he: (i) Knowingly or intentionally entices or compels another person to become a prostitute” Where the “person enticed or compelled is under eighteen (18) years of age,” a conviction for violating Wyo. Stat. Ann. § 6-4-103(a) is punishable as a felony by imprisonment up to 5 years, a fine not to exceed \$5,000, or both. Wyo. Stat. Ann. § 6-4-103(b).

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	Prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.
The Legislative Solution	Prostitution laws that refer to the state sex trafficking law enable identification of CSEC victims as trafficking victims and promote exploited minors' access to protections and benefits available under federal and state statutes for trafficking victims. Whether through a direct requirement that law enforcement report prostituted minors as an incident of sex trafficking, or through an affirmative defense acknowledging that minors should not be held liable for conduct committed as a result of being a trafficking victim, referring to the trafficking statute is necessary to align the treatment of victims under prostitution and sex trafficking laws. Providing this clarity in the prostitution law furthers efforts to track the scope of child sex trafficking in the state and identify victim-centered ways in which to counter it. To accomplish these goals, prostitution laws must refer to the trafficking law when the person charged or victimized is a minor or a victim under the state human trafficking law, regardless of whether someone is charged or prosecuted for victimizing the minor. Ensuring the criminal code is designed to consistently identify minor victims of commercial sexual exploitation as victims of sex trafficking helps to accurately assess and respond to the specific needs of this victim population.

Select Statute Highlights

The following state prostitution laws refer to the state or federal human trafficking statute.

Arkansas

Ark. Code Ann. §§ 5-70-102(c) (Prostitution) and 5-70-103(c) (Sexual solicitation) state: "It is an affirmative defense to prosecution [under this section] that the person engaged in an act of [prostitution or sexual solicitation] as a result of being a victim of trafficking of persons."

Connecticut

Conn. Gen. Stat. § 53a-82 (Prostitution: Class A misdemeanor) states, "(a) A person sixteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee, (b) In any prosecution for an offense under this section [Prostitution: Class A misdemeanor], it shall be an affirmative defense that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or

(2) a criminal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time. (c) In any prosecution of a person sixteen or seventeen years of age for an offense under this section, there shall be a presumption that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or (2) a criminal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time. . .

Florida

Fla. Stat. Ann. § 796.01 (Offenses by adults involving minors; intent) states, "It is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter [Prostitution] be prosecuted under other laws of this state, such as, but not limited to, s. 787.06 [Human trafficking], chapter 794 [Sexual battery], chapter 800 [Lewdness; Indecent Exposure], s. 810.145 [Video voyeurism], chapter 827 [Abuse of children], and chapter 847 [Obscenity]. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior.)

Georgia

Ga. Code Ann. § 16-3-6(b) (Affirmative defenses to certain sexual crimes) states, “[a] person shall not be guilty of a sexual crime if the conduct upon which the alleged criminal liability is based was committed by an accused who was: (1) Less than 18 years of age at the time of the conduct such person was being trafficked for sexual servitude in violation of subsection (c) of Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude]; or (2) Acting under coercion or deception while the accused was being trafficked for sexual servitude in violation of subsection (c) of Code Section 16-5-46.” Pursuant to Ga. Code Ann. § 16-3-6(a)(3), “[s]exual crime” is defined as “prostitution, sodomy, solicitation of sodomy, or masturbation for hire as such offenses are proscribed in Chapter 6 of Title 16.”

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14(d) (Prostitution) refers to Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses) stating, “Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section [Prostitution] is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 [Trafficking in persons, involuntary servitude, and related offenses] of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.” - Additionally, 720 Ill. Comp. Stat. Ann. 5/11-14(c-5) refers to the human trafficking law to provide an affirmative defense to prostitution charges, stating, “It is an affirmative defense to a charge under this Section that the accused engaged in or performed prostitution as a result of being a victim of involuntary servitude or trafficking in persons as defined in Section 10-9 [Trafficking in persons, involuntary servitude, and related offenses] of this Code.”

Louisiana

La. Rev. Stat. Ann. § 14:82(G) (Prostitution; definition; penalties; enhancement) provides an affirmative defense from prosecution for prostitution offenses if “during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes” as provided in La. Rev. Stat. Ann. § 14:46.3(A), (B) (Trafficking of children for sexual purposes). Additionally, La. Rev. Stat. Ann. § 14:46.2(F) (Human trafficking) establishes an affirmative defense for victims of human trafficking and states that (1) A victim of trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime pursuant to the laws of this state shall have an affirmative defense to prosecution for any of the following offenses which were committed as a direct result of being trafficked: (a) R.S. 14:82 (Prostitution), (b) R.S. 14:83.3 (Prostitution by massage), (c) R.S. 14:83.4 (Massage; sexual conduct prohibited), (d) R.S. 14:89 (Crime against nature), (e) R.S. 14:89.2 (Crime against nature by solicitation).

Nebraska

Neb. Rev. Stat. Ann. § 28-801(1) (Prostitution; penalty) states that “[e]xcept as provided in subsection (5) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318 [Terms, defined], with any person not his or her spouse, in exchange for money or other thing of value, commits prostitution.” Neb. Rev. Stat. Ann. § 28-801(3) goes on to provide that “[i]t is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830 [Human trafficking; forced labor or services; terms, defined].”

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.
The Legislative Solution	The majority of states have a racketeering statute (also commonly called Racketeer Influenced and Corrupt Organizations (RICO) statute) that criminalizes participation in an enterprise engaged in a pattern of racketeering activity. The definition of an enterprise generally incorporates both licit and illicit organizations, including criminal street gangs. Gang trafficking is on the rise as gangs recognize the high profits, opportunities, and comparatively low risks of sex trafficking. A racketeering statute provides a tool to attack the entire trafficking organization, rather than prosecuting each individual offender in separate time consuming and costly litigations. Racketeering and gang crime statutes may also provide for additional or enhanced penalties such as longer prison sentences and financial penalties, including asset forfeiture, that reach the assets used or gained through the crime. States should amend or enact a RICO or gang crime statute to include sex trafficking and CSEC offenses as predicate acts, that may be used to prosecute all of the parties involved in a trafficking enterprise to dismantle its infrastructure.

Select Statute Highlights

The following are excerpts from racketeering statutes that include a comprehensive list of predicate acts, including sex trafficking and CSEC offenses.

Colorado

Col. Rev. Stat. § 18-17-104(3) makes it a crime for “any person employed by, or associated with, any enterprise to knowingly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Col. Rev. Stat. § 18-17-103(5) states that “racketeering activity” means “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or (b) . . . (I) Offenses against the person, [including Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking for sexual servitude)]; . . . (V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children); (VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child).”

Florida

Fla. Stat. Ann. § 895.03(3) makes it a crime for “any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Fla. Stat. Ann. § 895.02(1) defines “racketeering activity” as “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes: . . .

- 22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.
- 26. Chapter 787, relating to kidnapping or human trafficking.
- 28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member’s own standing or position within a criminal gang.
- 29. Former section 796.03, former s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.
- 36. Section 827.071, relating to commercial sexual exploitation of children.
- 45. Chapter 874, relating to criminal gangs.”

Illinois

Illinois's "Street Gang and Racketeering Influenced and Corrupt Organizations Law" codified at 720 Ill. Comp. Stat. 5/33G-4 makes it unlawful when a person "intentionally participates in the operation or management of an enterprise, directly or indirectly, to: (1) knowingly do so, directly or indirectly, through a pattern of predicate activity." 720 Ill. Comp. Stat. 5/33G-4(a)(1). Pursuant to Ill. Comp. Stat. 5/33G-3(e), "predicate activity" means "any act that is a Class 2 felony or higher and constitutes a violation . . . of any of the following provisions . . . (1) under the Criminal Code of 1961: 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5(b)(10) (child abduction), 10-9 (trafficking in persons, involuntary servitude, and related offenses), 11-1.20 (criminal sexual assault), 11-1.30 (aggravated criminal sexual assault), 11-1.40 (predatory criminal sexual assault of a child), 11-1.60 (aggravated criminal sexual abuse), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-18.1 (patronizing a minor engaged in prostitution; patronizing a juvenile prostitute)."

Kansas

Kan. Stat. Ann. §21-6329 (Same; unlawful activities; penalty) (Kansas Racketeer Influenced and Corrupt Organization Act), provides that, "(a) It is unlawful for any covered person: (1) Who has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use recklessly or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in real property or in the establishment or operation of any enterprise." Pursuant to Kan. Stat. Ann. § 21-6328(f)(1), "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit: human trafficking or aggravated human trafficking; K.S.A. 2012 Supp. 21-5428 . . . sexual exploitation of a child; K.S.A. 2012 Supp. 21-5601, endangering a child or aggravated endangering a child; K.S.A. 2012 Supp. 21-5602 . . . selling sexual relations; K.S.A. 2012 Supp. 21-6420, promoting the sale of sexual relations; K.S.A. 2012 Supp. 21-6501 and Kan. Stat. Ann. § 21-6422 (Commercial sexual exploitation of a child) . . ."

Utah

Utah Code Ann. § 76-10-1603(3) makes it unlawful for "any person employed by or associated with any enterprise to conduct or participate, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity." Utah Code Ann. § 76-10-1602(4) states that "unlawful activity" means "to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

- (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- (n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;
- (o) sexual exploitation of a minor, Section 76-5b-201;
- (www) distributing pornographic material, Section 76-10-1204;
- (xxx) inducing acceptance of pornographic material, Section 76-10-1205;
- (yyy) dealing in harmful material to a minor, Section 76-10-1206;
- (zzz) distribution of pornographic films, Section 76-10-1222;
- (aaaa) indecent public displays, Section 76-10-1228;
- (bbbb) prostitution, Section 76-10-1302;
- (cccc) aiding prostitution, Section 76-10-1304;
- (dddd) exploiting prostitution, Section 76-10-1305;
- (eeee) aggravated exploitation of prostitution, Section 76-10-1306

Washington

Washington's "Criminal Profiteering Act", codified at Wash. Rev. Code Ann. § 9A.82.080, makes it unlawful "for a person who has knowingly received any of the proceeds derived, directly or indirectly, from a pattern of criminal profiteering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise." Wash. Rev. Code Ann. § 9A.82.080(1)(a). Wash. Rev. Code Ann. § 9A.82.080(9A.82.010) (Definitions) defines "criminal profiteering" to include "(rr) Commercial sexual abuse of a minor, as defined in RCW 9.68A.100; (ss) Promoting commercial sexual abuse of a minor, as defined in 9 RCW 9.68A.101; or (tt) Trafficking, as defined in RCW 9A.40.100, promoting travel for commercial sexual abuse of a minor, as defined in RCW 9.68A.102, and permitting commercial sexual abuse of a minor, as defined in RCW 9.68A.103."

Issue Briefs

Section 2 | Criminal Provisions Addressing Demand

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.
The Legislative Solution	Demand for commercial sex acts with young people is the driving force behind the child sex trafficking industry. However, the men who demand and purchase sex acts with minors often remain nameless and faceless and are frequently referred to by the innocuous term “johns” or not arrested at all. Many state sex trafficking laws fail to include the criminal actions of buyers, leaving out a critical element of the crime of sex trafficking, and ignoring the importance of criminal deterrence necessary to combat child sex trafficking. Also, failure to include buyers as sex trafficking offenders limits the definition of child sex trafficking to those victims who are controlled by a third party, leading to misidentification of those victims who are exploited for sex by buyers without the involvement of a trafficker. The federal sex trafficking law, 18 U.S.C. § 1591, applies to the actions of buyers, as do certain provisions of the Mann Act, 18 U.S.C.A. § 2421 et seq., permitting the federal law enforcement to vigorously investigate and prosecute buyers of commercial sex acts with minors. It is therefore critically important that states enact or amend human trafficking to apply to the criminal actions of buyers and attempted buyers of sex acts with minors.

Select Statute Highlights

Iowa

Iowa Code § 710A.2(4) states, “A person who knowingly engages in human trafficking by soliciting services or benefiting from the services of a victim . . . if the victim is under the age of eighteen . . . is guilty of a class ‘C’ felony.” Iowa Code § 710A.1(4)(b) defines “human trafficking to include, “knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking.”

Louisiana

Pursuant to La. Stat. Ann. §14:46.3(A)(1) (Trafficking of children for sexual purposes), “It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.”

Oklahoma

Okla. Stat. Ann. tit. 21, § 748(B) states, “It shall be unlawful to knowingly engage in [h]uman trafficking.” Okla. Stat. Ann. tit. 21, § 748(A)(6)(b) defines “human trafficking for commercial sex,” in part, as “. . . purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act.”

Rhode Island

Pursuant to R.I. Gen. Laws § 11-67-6(b)(2), (c) (Sex trafficking of a minor) “Any person who . . . [s]ells or purchases a minor for the purposes of commercial sex acts . . . shall be guilty of a felony . . .”

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for commercial sex acts) states, “(a) A person commits the offense of trafficking a person for a commercial sex act who . . . (2) Recruits, entices, harbors, transports, provides purchases or obtains by any means another person for the purpose of providing a commercial sex act.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons) applies to buyers of sex with domestic minor sex trafficking victims. Tex. Penal Code Ann. § 20A.02(a) (8) states, “A person commits an offense if the person knowingly. . . engages in sexual conduct with a child [under 18] trafficked in the manner described in Subdivision (7).” Section 20A.02(a)(7) states, “A person commits an offense if the person knowingly . . . traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by: (A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children); (B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault); (D) Section 22.021 (Aggravated Sexual Assault); (E) Section 43.02 ((Prostitution); (F) Section 43.03 (Promotion of Prostitution); (G) Section 43.04 (Aggravated Promotion of Prostitution); (H) Section 43.05 (Compelling Prostitution); (I) Section 43.25 (Sexual Performance by a Child); (J) Section 43.251 (Employment Harmful to Children); or (K) Section 43.26 (Possession or Promotion of Child Pornography).”

Washington

Wash. Rev. Code § 9A.40.100(1)(a)(i)(B) states, “a person is guilty of trafficking in the first degree when . . . such person . . . obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact . . . that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act.” Wash. Rev. Code Ann. § 9A.40.100(3)(a)(i) states, “A person is guilty of trafficking in the second degree when such person . . . obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact . . . that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.
The Legislative Solution	Anti-demand provisions are critical. Too often buyers who demand commercial sex acts with children are not prosecuted using CSEC laws because these laws are insufficiently broad to include the criminal purchase, despite the critical role that buyers play in the trafficking transaction. In the absence of provisions to address the buyer under CSEC laws, law enforcement and prosecutors are left with viewing the crime of buying commercial sex acts with a minor as prostitution or a general sex offense, like rape or sexual abuse. The tremendous disparity between the penalties for the vice crime of prostitution and the serious crime of child rape or sexual abuse results in buyers of sex acts with a child being penalized in hugely varying degrees depending upon how they are charged. It also leads to some buyers being registered as sex offenders while others are sent home with a citation for prostitution. State laws on commercial sexual abuse of a minor, child prostitution, commercial sexual exploitation of a minor, etc. that expressly include the crime of buying sex with a minor establish consistency and criminal deterrence.

Select Statute Highlights

The following CSEC laws expressly make the purchase of commercial sex acts with a minor a separate and specific crime.

Colorado

Colo. Rev. Stat. § 18-7-406 (Patronizing a prostituted child) states, “(1) Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child [under the age of 18] . . . or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Idaho

Under Idaho Code Ann. § 18-5610 (Utilizing a person under eighteen years of age for prostitution—Penalties), “[e]very person who exchanges or offers to exchange anything of value for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment and fine.” For purpose of this section, “anything of value” “includes, but is not limited to, a fee, food, shelter, clothing, medical care or membership in a criminal gang . . .” § 18-5610(2)(c).

Maine

Me. Rev. Stat. Ann. tit., 17-A. § 855 (Patronizing prostitution of minor) states, “A person is guilty of patronizing prostitution of a minor if: A. The person, in return for another’s prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age. . . .”

Montana

Mont. Code. Ann §45-5-601(3)(a) (Prostitution) provides, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years . . . ; (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.”

South Carolina

Under S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined), “An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute,” which

includes “(1) soliciting or requesting a minor to participate in prostitution; (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or (3) paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement.”

Washington

Wash. Rev. Code Ann. § 9.68A.100(1) (Commercial sexual abuse of a minor) states, “A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.
The Legislative Solution	Age-neutral solicitation statutes should not apply to a buyer of commercial sex acts with a minor. These laws are intended to address the vice crime of prostitution and typically permit a lenient punitive response to the buyer that is inconsistent with the serious crime of commercial sexual exploitation of a child (CSEC). In some states a diversion program or “John School” which is geared toward behavior change rather than punishment are mandated as punishment for solicitation; these types of responses are inappropriate to the crime of CSEC or child sex trafficking and inadequate to deter demand for commercial sex with minors. Amending solicitation or patronizing prostitution statutes to ensure a buyer of sex with a minor under 18 is properly identified and punished for the crime of child sex trafficking is essential for serious criminal deterrence.

Select Statute Highlights

The statutes highlighted below are either distinct from prostitution laws or contain provisions specifying the more serious crime of soliciting or patronizing a minor for prostitution and providing heightened penalties.

Hawaii

Pursuant to Haw. Rev. Stat. Ann. § 712-1209.1 (Solicitation of a minor for prostitution), “(1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person intentionally, knowingly, or recklessly, offers or agrees to pay a fee to a minor or to a member of a police department, a sheriff, or a law enforcement officer who represents that person’s self as a minor to engage in sexual conduct. (2) Solicitation of a minor for prostitution is a class C felony. (3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than \$5,000; provided that \$5,000 of the imposed fine shall be credited to the general fund. (4) For purposes of this section: ‘Minor’ means a person who is less than eighteen years of age. ‘Sexual conduct’ has the same meaning as in section 712-1200(2) [Prostitution].”

New Jersey

N.J. Stat. Ann. § 2C:34-1 (Prostitution and related offenses) provides an enhanced penalty provision within the general prostitution law. The law states, “b. A person commits an

offense if: (1) The actor engages in prostitution [punishable as a disorderly persons offense]; . . . (7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) is a separate statute from R.I. Gen. Laws § 11-34.1-3(a) (Procurement of sexual conduct for a fee). It provides, “A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen(18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in prostitution.”

South Carolina

S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined) is codified in Chapter 15, Article 3 (Obscenity, material harmful to minors, child exploitation, and child prostitution), separate and apart from the prostitution laws, and makes it a crime for any individual “(A) . . . if he is not a minor and he patronizes a minor prostitute . . . (1) soliciting

or requesting a minor to participate in prostitution; (2) paying or agreeing to pay a minor, either directly or through the minor's agent, to participate in prostitution; . . . (C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced."

Tennessee

Tenn. Code Ann. § 39-13-514(b)(4)(A) (Patronizing prostitution) states, "Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is punishable as trafficking for commercial sex acts under Section 39-13-309." Patronizing prostitution" is defined as "soliciting or hiring another person with the intent that the other person engage in prostitution, or entering or remaining in a house of prostitution for the purpose of engaging in sexual activity." Tenn. Code Ann. § 39-13-512(3).

Texas

Under Tex. Penal Code § 43.02 (Prostitution), "(a) A person commits an offense if he knowingly: (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or (2) solicits another in a public place to engage with him in sexual conduct for hire. . . . (c) An offense under this section is a Class B misdemeanor, except that the offense is: . . . (3) a felony of the second degree if the person solicited is: (A) younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense; (B) represented to the actor as being younger than 18 years of age; or (C) believed by the actor to be younger than 18 years of age."

Utah

Utah Code Ann. § 76-10-1303 (Patronizing a prostitute) states that "(1) A person is guilty of patronizing a prostitute when the person: (a) pays or offers or agrees to pay another person a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or (b) the person enters or remains in a house of prostitution for the purpose of engaging in sexual activity. (2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection (3) or (4) . . . (4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other person, a violation of Subsection (1)(a) is a third degree felony."

Virginia

Va. Code Ann. § 18.2-346(B) (Prostitution; commercial sexual conduct; commercial sexual exploitation of a minor; penalties) provides that "[a]ny person who offers money or its equivalent to another for the purpose of engaging in sexual acts . . . and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony." "Sexual acts" include "adultery, fornication, or any act in violation of § 18.2-361 [Crimes against nature; penalty], or (ii) offers to commit adultery, fornication, or any act in violation of § 18.2-361 [Crimes against nature; penalty]." Va. Code Ann. § 18.2-346(A).

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Penalties for buyers of commercial sex acts with minors are as high as federal penalties.
The Legislative Solution	Penalties for domestic minor sex trafficking should reflect the severity of the underlying crimes of sexual exploitation. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal commercial sexual exploitation of children (CSEC) laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251(Sexual exploitation of children), 18 U.S.C. 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a buyer of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14. Federal trafficking laws have been used to prosecute individuals who have attempted to buy commercial sex acts with a minor and comparable state penalties are important to prevent disparity in the punishments of a buyer convicted under federal laws and one convicted under a state trafficking law. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for buyers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.

Select Statute Highlights

The statutes below reflect penalties as high as federal penalties.

Louisiana

A violation of La. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes), which includes the crime of buying sex with minors, “shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.” La. Stat. Ann. § 14:46.3(D)(1)(a). This penalty is enhanced when the victim is under 14 to “not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.” La. Stat. Ann. §14:46.3(D)(1)(b).

Montana

A conviction under Enacted House Bill 89 § 2 (Trafficking in persons), which includes the crime of buying sex with minors, is punishable by imprisonment for 50 years and a fine of not

more than \$100,000. Enacted House Bill 89 § 2(2)(b)(ii). A conviction under Enacted House Bill 89 § 4 (Sexual servitude) or § 5 (Patronizing victim of sexual servitude) carries a 25 year jail term and a fine of not more than \$75,000. Enacted House Bill 89 §§ 4(3)(b), 5(2)(b). Mont. Code. Ann. § 45-5-601(3)(a) (Prostitution) states, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender’s life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) establishes a crime for “(b) Any person who: . . . (2) Sells or purchases a minor for the purposes of commercial sex acts; . . .” and “(c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than fifty (50) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons), which includes “engag[ing] in sexual conduct with a child trafficked in the manner described in Subdivision (7),” enhances the crime classification in the case of a minor being trafficked from a felony of the second degree to a felony of the first degree. Specifically, a conviction under Tex. Penal Code Ann. § 20A.02(a)(8) is punishable as a first degree felony by “imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years” and a possible fine up to \$10,000. Tex. Penal Code Ann. §§ 20A.02(b)(1), 12.32.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Using the Internet or electronic communications to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.
The Legislative Solution	Buyers of commercial sex acts with minors are increasingly turning to the anonymity of the Internet to identify and solicit minors, and arrange for commercial sex acts. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites, and have netted scores of adults seeking to buy commercial sex with minors. Child pornography also is widely available on the Internet, facilitated through peer-to-peer networks that webcast and sell live child sexual performance and images of sexual abuse. Laws prohibiting this Internet solicitation and exploitation are critical to deterring this activity and protecting children from this form of commercial sexual exploitation.

Select Statute Highlights

The following statutes are highlighted because they apply to the crime of exploitation of any minor under the age of 18, include specific language making the use of the Internet for the purposes of soliciting children for commercial sexual acts a crime, and clearly apply to purchasers and attempted purchasers of sex acts with minors.

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25 (Grooming) specifically criminalizes the use of the Internet for the purposes of purchasing commercial sex acts with a child. Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25(a), states, “A person commits the offense of grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act [730 ILCS 150/2, includes patronizing a minor engaged in prostitution] or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.” Grooming is a Class 4 felony punishable with 1–3 years imprisonment and a possible fine not to exceed \$25,000 for each offense or the amount specified in the offense, whichever is greater.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity” or Ky. Rev. Stat. Ann. § 531 (pornography). Furthermore, pursuant to Ky. Rev. Stat. Ann. § 510.155(3) “[t]he solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person’s intent to commit the offense and the offense is complete at that point without regard to whether the person met or attempted to meet the minor.” This crime is a Class D felony with 1–5 years’ imprisonment and a fine of \$1,000–\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. §§ 510.155(5), 532.060(2)(d), 534.030(1).

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265, § 26D (Enticement of children to engage in prostitution or commercial sexual activity), “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50 (Human trafficking – sexual servitude), 51 (Human trafficking – forced services), 52 (Human trafficking – subsequent violations of sections 50 or 51) or 53 (Human trafficking – organ trafficking) or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) prohibits the use of the Internet by any person who “knowingly solicits another person under eighteen years of age or one whom he or she believes is a person under eighteen years of age for the purpose of engaging in prostitution or any act in violation of chapter 9 [Children], 34 [Prostitution and lewdness], or 37 [Sexual assault] of this title.” A violation is punishable by a sentence of at least 5 years’ imprisonment.

Virginia

Virginia law outlines a range of violations involving the use of the Internet and other electronic devices to commit a sexual offense or produce child pornography. One of these provisions is Va. Code Ann. § 18.2-374.3(E), which states, “Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution, etc., or consenting thereto] or 18.2-361 [Crimes against nature; penalty], (ii) any activity in violation of § 18.2-374.1 [Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability], or (iii) a violation of § 18.2-374.1:1 [Possession, reproduction, distribution, and facilitation of child pornography; penalty] is guilty of a Class 5 felony.” This is punishable by imprisonment of 1–10 years, “or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” Va. Code Ann. § 18.2-10.

Washington

Wash. Rev. Code § 9.68A.090(2) makes it a class C felony “if [a] person communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.” “[E]lectronic communication” is defined as “transmission of information by wire, radio, optical cable, electromagnetic, or other similar means [and] includes, but is not limited to, electronic mail, internet-based communications, pager service, and electronic text messaging.” Wash. Rev. Code § 9.68A.090(3), 9.61.260.

West Virginia

W. Va. Code § 61-3C-14b (Soliciting, etc. a minor via computer; penalty) makes the use of a computer to lure or entice commercial sex acts with a minor illegal. Pursuant to W. Va. Code § 61-3C-14b, “[a]ny person over the age of eighteen, who knowingly uses a computer to solicit, entice, seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer or a person he or she reasonably believes to be a minor, to commit any illegal act proscribed by the provisions of article eight [Crimes against chastity, morality and decency, includes engaging in prostitution], eight-b [Sexual offenses], eight-c [Filming of sexually explicit conduct of minors], or eight-d [Child abuse] of this chapter . . . is guilty of a felony.” A violation is a felony punishable by 2–10 years’ imprisonment and/or a fine up to \$5,000.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.
The Legislative Solution	Purchasing sex acts with a minor is a crime. Permitting a defense to prosecution based on mistake of age subverts the intention of protecting children from exploitation and creates a weakness in the laws needed to deter this crime and to protect our children. State laws prohibiting a defense based on mistake of age in sex trafficking and commercial sexual exploitation of children (CSEC) laws send a clear statement to buyers that this crime will not be tolerated and firmly protects all minors from the danger of commercial sexual exploitation.

Select Statute Highlights

The following state laws contain language that expressly prohibits a defense to prosecution based on a mistake of age.

Colorado

Colo. Rev. Stat. Ann. § 18-3-504(2)(a)(c)(III), (IV) (Human trafficking of a minor for sexual servitude) states that it is not a defense that “[t]he defendant did not know the minor’s age or reasonably believed the minor to be eighteen years of age or older” or “the minor or another person represented the minor to be eighteen years of age or older.” Colo. Rev. Stat. § 18-7-407 (Criminality of conduct) states, “In any criminal prosecution under sections 18-7-402 to 18-7-407 [Soliciting for child prostitution, Pandering of a child, Procurement of a child for, Keeping a place of child prostitution, Pimping of a child, Inducement of child prostitution, Patronizing a prostituted child], it shall be no defense that the defendant did not know the child’s age or that he reasonably believed the child to be eighteen years of age or older.”

Iowa

Iowa Code § 710A.2(8) (Human trafficking) states, “[a] person’s ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.”

Louisiana

La. Stat. Ann. § 14:46.3(C)(3) (Trafficking of children for sexual purposes) states that “[l]ack of knowledge of the victim’s age shall not be a defense” to the purchase of a minor for sex acts. Similarly, La. Stat. Ann. § 14.81.1(D)(1) (Pornography involving juveniles) states, “Lack of knowledge of the juvenile’s age shall not be a defense.” La. Rev. Stat. Ann. § 14:82.1(B)(1) (Prostitution; persons under eighteen;

additional offenses) states, “Lack of knowledge of the age of the person practicing prostitution shall not be a defense.” Finally, La. Rev. Stat. Ann. § 14:89.2(D)(2) (Crime against nature by solicitation) provides, “Lack of knowledge of the age of the person being solicited shall not be a defense.”

Montana

Enacted House Bill 89 § 4(2) (Sexual servitude) states in part, “It is not a defense in a prosecution under subsection (1)(b) [Sexual servitude involving a minor victim] . . . that the defendant believed the child was an adult.” Enacted House Bill 89 § 5(2)(b) imposes a heightened penalty “if the individual patronized was a child . . . whether or not the person believed the child was an adult.” Mont. Code Ann. § 45-5-601(3)(a) (Prostitution) is violated “[i]f the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age.”

New Jersey

N.J. Stat. Ann. § 2C:34-1(b)(7) (Prostitution and related offenses) states, “It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

North Carolina

N.C. Gen. Stat. §§ 14-43.11(c1) (Human trafficking) and 14-43.13(b1) (Sexual servitude) expressly state that “[m]istake of age is not a defense to a prosecution under this section.”

Texas

Tex. Penal Code Ann. § 20A.02 (Trafficking of persons) specifically eliminates a defense of mistake of age by a defendant in a trafficking of persons case, which may reach buyers. Tex. Penal Code Ann. § 20A.02(b) states in part, “[a]n offense under this section is a felony of the first degree if: (1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense.” Tex. Penal Code Ann. § 43.02(c)(3) (Prostitution) states that “[a]n offense under this section is . . . a felony of the second degree if the person solicited is younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Base penalties for buying sex acts with a minor under 18 are sufficiently high and not reduced for older minors.
The Legislative Solution	A minor is defined almost uniformly as a person under 18 years of age. States have laws that protect minors from a range of vices (alcohol, tobacco), legal obligations (entering into a contract), and dangers (dangerous work places). Protection from commercial sexual exploitation is no different and, given the underlying criminal act of buying prostitution, should rise in protection enforcement priority. The federal Trafficking Victims Protection Act (TVPA) of 2000 makes it a crime when a person “recruits, entices, harbors, transports, provides, or obtains” a person under 18 to engage in a commercial sex act. However, some state laws stagger penalties for buyers according to the age of the minor involved. This results in older minors receiving less than full protection under the law and allows buyers, and the public, to believe that an older minor is less of a victim. This staggered penalty is not the same as an enhanced penalty, which starts from a serious base penalty for all minors and heightens that penalty to reflect the especially egregious crime against a younger child, such as the federal crime of sex trafficking in 18 U.S.C. § 1591, which provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14. State laws must sufficiently protect all minors who are exploited by buyers of commercial sex acts.

Example of staggered penalties with insufficient base penalties for buying sex with a minor under 18: Ariz. Rev. Stat. Ann. § 13-3212 (Child prostitution) provides a lesser penalty (Class 6 felony) for buyers of sex with minors aged 15, 16, and 17 when the state cannot prove the buyer had knowledge of or should have known the minor’s age. A person who “[e]ngag[es] in prostitution with a minor under fifteen years of age” commits a Class 2 felony and is subject to 13–27 years imprisonment (presumptive 20 years) under Ariz. Rev. Stat. Ann. § 13-705 dangerous crimes against children penalty enhancement. Also, a person who “[e]ngag[es] in prostitution with a minor who the person knows is fifteen, sixteen or seventeen years of age” is guilty of a Class 2 felony but subject only to 7–21 years (presumptive 10.5). Finally, a person who “[e]ngag[es] in prostitution with a minor who the person knows or should have known is fifteen, sixteen, or seventeen years of age” is guilty of a Class 6 felony, punishable by just .33–2 years (presumptive 1 year) but under subsection H, if the offender is sentenced to probation, “the court shall order that as an initial term of probation” 180 days imprisonment in county jail and if the offender meets certain requirements, the court has discretion to suspend 90 days of the sentence.

Select Statute Highlights

The following statutes provide reasonably serious base penalties for the purchase of commercial sex acts with a minor under 18, although they may not be as high as the federal penalty.

Colorado

Colo. Rev. Stat. § 18-7-401 (Definitions) defines a child, as used in Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child), as “a person under the age of eighteen years.” Under this definition, buyers prosecuted under Colo. Rev. Stat. § 18-7-406(1), a Class 3 felony, are subject to a sentence of 4–12 years’ imprisonment and/or a fine of \$3,000–\$750,000 regardless of the age of the victim.

Georgia

Ga. Code Ann. § 16-6-12 (Pandering), which has been held to apply to buyers, provides a person is guilty of pandering “when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third

person or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution.” Penalties are staggered based on the victim’s age; however, these penalties are reasonably high for all minors. If the victim is 16 or 17, the buyer is guilty of a felony punishable by 5-20 years’ imprisonment and/or a fine of \$2,500-\$10,000; whereas, if the victim is under 16, the buyer is guilty of a felony punishable by 10-30 years imprisonment and/or a fine not to exceed \$100,000. Ga. Code Ann. §§ 16-6-13(b)(1), (2).

Louisiana

Buyers convicted of sex trafficking and CSEC offenses in Louisiana face substantial base penalties for offenses involving minors under 18 and an enhanced penalty for offenses involving minors under 14. Under La. Rev. Stat. Ann. § 14:46.3(D)(1)(a) (Trafficking of children for sexual purposes), § 14:83(B)(2) (Soliciting for prostitutes) and § 14:89.2(A) (Crime against nature by solicitation), convictions are punishable by imprisonment for 15–50 years at hard labor, a fine up to \$50,000, or both unless the victim is under 14, in which case a conviction is punishable by imprisonment for 25–50 years at hard labor and a fine up to \$75,000, with no parole eligibility for the first 25 years. Sufficiently high base penalties are also provided under La. Rev. Stat. Ann. § 14:82.1 (Prostitution; persons under eighteen; additional offenses) makes it a crime “[f]or any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.” A conviction under this statute is punishable by imprisonment for 15–50 years of hard labor, a fine up to \$50,000, or both.

New Jersey

N.J. Stat. Ann. § 2C:34-1(b)(7) states that, “A person commits an offense if . . . [t]he actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. . . .”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) makes it a crime for “(b) Any person who:. . . (2) Sells or purchases a minor [under 18] for the purposes of commercial sex acts;. . .” and “(c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than fifty (50) years’ imprisonment or a fine of up to forty thousand dollars (\$ 40,000), or both.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.
The Legislative Solution	Meaningful fines, asset forfeiture, restitution, and vehicle impound fees serve as punishment and deterrence, and reinforce the reality that purchasing sex acts with minors is a heinous crime. Significant financial penalties can also be used to provide domestic minor sex trafficking victims with funding for social and restorative programs, and help pay for costly investigations. To ensure that minor victims have assets to fund their recovery, financial penalties should be directed first to pay victim restitution, after which assets could be used to fund sex trafficking investigations, law enforcement training and specialized services.

Select Statute Highlights

The following states have significant fines and allow asset forfeiture.

Colorado

A buyer convicted under Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking of a minor for sexual servitude) faces fines ranging from \$5,000–\$1,000,000. Colo. Rev. Stat. Ann. §§ 18-3-504(2)(b), 18-1.3-401(1)(a)(III)(A), (1)(a)(V)(A). Buyers convicted of Colo. Rev. Stat. Ann. § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1) (Inducement of child prostitution), or § 18-7-406(1) (Patronizing a prostituted child), all Class 3 felonies, may be required to pay a fine of \$3,000–\$750,000. Colo. Rev. Stat. Ann. §§ 18-7-402(2), 18-7-405.5(2), 18-7-406(2), 18-1.3-401(1)(a)(III)(A). Pursuant to Colo. Rev. Stat. Ann. § 18-1.3-603 (Assessment of restitution – corrective orders), “For a conviction for human trafficking for . . . sexual servitude, as described in section 18-3-504, the court shall order restitution, if appropriate, pursuant to this section even if the victim is unavailable to accept payment of restitution. Pursuant to Colo. Rev. Stat. Ann. § 18-3-414 (Payment of treatment costs for the victim or victims of a sexual offense against a child) when a victim is under the age of 15, a court may order the person convicted of an unlawful sex offense, including Colo. Rev. Stat. Ann. § 18-3-504(2) (Human trafficking of a minor for sexual servitude), § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1) (Inducement of child prostitution), § 18-7-406(1) (Patronizing a prostituted child), or § 18-6-403(3)(b.5) (Sexual exploitation of a child), to pay for part or all of the victim’s treatment. Colo. Rev. Stat. Ann. §§ 18-3-414(1), 18-3-411(1). Colo. Rev. Stat. Ann. § 16-13-303(1)(a) (Class 1 public nuisance) states that “every vehicle . . . shall be deemed a class 1 public nuisance when . . . [u]sed as a public or private place of prostitution.” Colo. Rev. Stat. Ann. §16-13-311(3) states in part, “Property forfeited under this section or proceeds therefrom shall be distributed or applied in the following order: (I) To payment of the balances due on any liens . . . the order of their priority; (II) To compensate an innocent partial owner for the fair market value of his or her interest in the property; (III) To any person who suffers bodily injury, property damage, or property loss as a result of the conduct constituting a public nuisance that resulted in such forfeiture, if said person petitions the court therefor prior to the hearing dividing the proceeds pursuant to this section and the court finds that such person suffered said damages as a result of the subject acts that resulted in the forfeiture. . . .”

Louisiana

A conviction under La. Rev. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes) or § 14:82.1 (Prostitution; persons under eighteen; additional offenses) is punishable by a possible fine of \$50,000, or a possible fine of \$75,000 if the victim was under 14. La. Rev. Stat. Ann. §§ 14:46.3(D)(1)(a), (b), 14:82.1(D)(1), (2), 14:83(B)(2). La. Rev. Stat. Ann. §§. La. Rev. Stat. Ann. § 15:539.2 (Exploited

children's fund) states "Any person who is convicted or pleads guilty or nolo contendere to an offense involving trafficking of children for sexual purposes..." will have to pay a fine of \$2,000 in addition to other financial penalties. Pursuant to La. Rev. Stat. Ann. § 15:539.3 (Mandatory restitution), "A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied.

Pursuant to La. Rev. Stat. Ann. § 15:539.1(E) (Forfeited property related to certain sex crimes; exempt property; allocation of forfeited property), "when the property is forfeited pursuant to the provisions of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution), the proceeds of the public sale or public auction shall be applied first to any restitution granted to the victim, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied."

Michigan

Buyers of sex with minors face a fine up to \$20,000 for a violation of Mich. Comp. Laws Ann. §750.462e (Forced labor or services; prohibited conduct as relates to age of minor), \$10,000 for a violation of Mich. Comp. Laws Ann. § 449a(2) (Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness, or assignation; penalty) and \$5,000–\$20,000 for a violation of Mich. Comp. Laws Ann. § 750.145d (Use of internet or computer system; prohibited communication), depending on the un-

derlying crime. Mich. Comp. Laws Ann. §§ 750.462f(2), 750.451(4), 750.145d(2)(a)–(f). Mich. Comp. Laws Ann. § 780.766b (Conviction of offense described in MCL 750.462a to 750.462h; restitution) states, "When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code [Human trafficking] . . . the court shall order restitution for the full amount of loss suffered by the victim. Under Mich. Comp. Laws Ann. § 600.4702(1) (Property subject to seizure and forfeiture; exception; encumbrances; substituted proceeds of crime) the following property is subject to seizure and forfeiture: "(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime. (b) All real property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime . . . (c) In the case of a crime that is a violation . . . Michigan penal code . . . 750.462a to 750.462h [Human trafficking]. . . all property described in subdivisions (a) and (b), and all real property or personal property that performed 1 of the following functions: (i) Contributed directly and materially to the commission of the crime. (ii) Was used to conceal the crime. (iii) Was used to escape from the scene of the crime. (iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime."

Mich. Comp. Laws Ann. § 600.3801 (Nuisance; injunction; abatement; guilt; "controlled substance" defined) states that "(1) A building, vehicle, boat, aircraft, or place is a nuisance if . . . (f) It is used for conduct prohibited by chapter LXVIIA of the Michigan Penal Code, 1931 PA 328, MCL 750.462a to 750.462h [Human trafficking]. . . ." Mich. Comp. Laws Ann. § 600.3825 (Order of abatement; execution of court order; duties of officer; use of building or place ordered closed; contempt; determination of amount due victim) states that "[i]f the court in an action under this chapter declares property to be a nuisance under section 3801(1)(f), the officer executing the order of the court shall first pay from the proceeds any amount determined by the court to be due to the victim. . . For purposes of determining the amount due to a victim under this subsection, the court shall consider the loss suffered by the victim as a proximate result of the conduct and may use as guidance the items of loss enumerated in . . . MCL 780.766b [Conviction of offense described in MCL 750.462a to 750.462h; restitution]."

Oregon

A conviction under Or. Rev. Stat. §§ 163.266(1)(b) or (c) (Trafficking in persons) is punishable as Class A felony and includes a possible fine not to exceed \$375,000. Or. Rev. Stat. §§ 163.266(5), 161.625(1)(b). If convicted under Or. Rev. Stat. § 163.413 (Purchasing sex with a minor), a buyer is subject to a Class C or B felony which carries a possible fine not

to exceed \$125,000 or \$200,000, respectively. Or. Rev. Stat. §§ 161.605(2), (3), 161.625(1)(c), (d). However, a mandatory minimum sentence for a first conviction is a fine in the amount of \$10,000, and the second or subsequent conviction is a fine in the amount of \$20,000. Or. Rev. Stat. § 163.413 (3)(a). Buyers may also be subject to discretionary, criminal asset forfeiture. Or. Rev. Stat. § 131.553(1)(e). Where the seizing agency is the state, Or. Rev. Stat. § 131.597 provides that the property shall be distributed as follows: “to pay costs and to the victim, any amount ordered. . . .” A buyer may also be subject to restitution pursuant to Or. Rev. Stat. § 137.106 (Restitution to victims), which requires the district attorney to investigate and present to the court evidence of economic damages suffered as a result of human trafficking or CSEC offenses. The court is authorized to order restitution as part of a criminal case when the victim “suffered economic damages.” Or. Rev. Stat. § 137.106(1).

Washington

Wash. Rev. Code § 9.68A.105 (Additional fee assessment) states, “(1)(a) In addition to penalties set forth in RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.”

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. . . .” Pursuant to subsection (6), “When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may . . . retain the property or “sell that which is not required to be destroyed by law and which is not harmful to the public.” Wash. Rev. Code Ann. § 9.94A.753(7) (Restitution—application dates) states, “. . . . [T]he court shall order restitution in all cases where the victim is entitled to benefits under the crime victims’ compensation act, chapter RCW 7.68 [Victims of crimes—compensation, assistance].”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buying and possessing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	Child pornography is the actual image of sexual abuse as it is being perpetrated on a child. Minor victims depicted in child pornography suffer irreparable physical, emotional and psychological harm. The most common forum for child pornography today is the Internet, and once images are on the Internet they cannot be removed completely and can continue to circulate, re-victimizing the child each time the images are viewed. A federal conviction for possession of child pornography is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000. To decrease demand for these images, those who purchase and possess child pornography must be subject to serious prison sentences, fines, and asset forfeiture, and should be required to pay restitution to the victims.

Select Statute Highlights

The following statutes demonstrate substantial sentences and asset forfeiture for the possession or purchase of child pornography.

Georgia

Under Ga. Code Ann. § 16-12-100(b)(8) (Sexual exploitation of children; reporting violation; forfeiture; penalties), “It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct.” Additionally, Ga. Code Ann. § 16-12-100(b)(6) prohibits “any person knowingly to . . . purchase . . . any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct can be found or purchased.” A person who violates this statute is guilty of a felony punishable by 5–20 years imprisonment and a fine not to exceed \$100,000. In addition, pursuant to Ga. Code Ann. § 16-12-100(e)(1), “A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in: (A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and (B) Any property used, or intended to be used, to commit such offense.”

Mississippi

Miss. Code Ann. § 97-5-33(3) (Exploitation of children; prohibitions) states, “No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Under subsection (5), a person may not “by any means including computer, possess any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” A violation of Miss. Code Ann. § 97-5-33 is punishable by 5–40 years imprisonment and a \$50,000–\$500,000 fine for the first offense and 20 years to life and a \$100,000–\$1,000,000 fine for subsequent violations.

Tennessee

Pursuant to Tenn. Code Ann. § 39-17-1004(a)(1) (Offense of aggravated sexual exploitation of a minor), “(a)(1) It is unlawful for a person to knowingly . . . purchase or exchange material . . . that includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Under subsection (b)(1), “It is unlawful for a person to knowingly . . . purchase or exchange material that is obscene, as defined in § 39-17-901. . . which includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Violation is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to

exceed \$10,000. However, if the number of individual images is greater than 25, the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000. The defendant can be charged on individual counts for each image.

Under Tenn. Code Ann. § 39-17-1003(a) (Offense of sexual exploitation of a minor), “[i]t is unlawful for any person to knowingly possess material that includes a minor engaged in: (1) Sexual activity; or (2) Simulated sexual activity that is patently offensive.” The Class D felony is punishable by 2–12 years imprisonment and a possible fine not to exceed \$5,000 for each individual image possessed. If the number of images and/or materials exceeds 50, then the crime is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to exceed \$10,000. If the number of images and/or materials exceeds 100, then the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000.

Moreover, Tenn. Code Ann. § 39-17-1008 (Forfeiture of any conveyance or real or personal property used in commission of an offense under this part [Sexual Exploitation of Children]), states, “(a) Any conveyance or real or personal property used in the commission of an offense under this part is subject to forfeiture under the provisions of title 40, chapter 33, part 2. (b) Notwithstanding the provisions of § 40-33-211 [Property disposition], the proceeds from all forfeitures made pursuant to this section shall be transmitted to the general fund, where there is established a general fund reserve to be allocated through the general appropriations act, which shall be known as the child abuse fund. Moneys from the fund shall be expended to fund activities authorized by the child abuse fund as set out in § 39-13-530 [Forfeiture of any conveyance or real or personal property used in a sexual offense committed against minors Child abuse fund]. . . .”

Wisconsin

Wis. Stat. § 948.12(2m) penalizes “[w]hoever exhibits or plays a recording of a child engaged in sexually explicit conduct, if all of the following apply... (a) The person knows that he or she has exhibited or played the recording. (b) Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct. (c) Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.” Under Wis. Stat. § 948.12(3)(a), a violation is a Class D felony punishable by a maximum fine of \$100,000 and/or a maximum sentence of 25 years, unless the defendant is under 18, in which case he is guilty of a Class I felony punishable by a maximum fine of \$10,000 or a maximum sentence of 3½, or both.

Wis. Stat. § 973.042(2) (Child pornography surcharge) provides, “If a court imposes a sentence or places a person on probation for a crime under s. 948.05 [Sexual exploitation of a child] or 948.12 [Possession of child pornography] and the person was at least 18 years of age when the crime was committed, the court shall impose a child pornography surcharge of 500 [sic] for each image or each copy of an image associated with the crime. The court shall determine the number of images or copies of images associated with the crime by preponderance of the evidence and without a jury.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.
The Legislative Solution	Purchasers of sex acts with minors and images of child pornography are sexual predators—the exchange of money does not sanitize the underlying crime of child rape or molestation and the consequences should be the same for purchasers as for rapists. Sex offender registry laws are intended to provide people with information that will prevent them and their children from being victimized. The requirement to register as a sex offender serves as deterrence and a warning to the public of the potential danger registered sex offenders pose to children. Domestic minor sex trafficking is a sex offense and state laws should reflect this to require registration. The federal Adam Walsh Act's Sex Offender Registration and Notification Act (SORNA) includes sex trafficking in the definition of "sex offense" and sets the sex offender registry standard for states to achieve. Including child sex trafficking as an offense requiring registration as a sex offender is a relatively easy legislative fix for states to enact and is consistent with the federal government's definition in the Adam Walsh Act.

Select Statute Highlights

The following statutes require sex offender registration for individuals convicted of sex trafficking, purchasing sex with minors, and purchasing or possessing child pornography.

Colorado

Colo. Rev. Stat. § 16-22-103(1), (2) (Sex offender registration—required—applicability—exception) requires anyone convicted in Colorado or another jurisdiction of an "unlawful sex offense" or another offense "the underlying factual basis of which involves unlawful sexual behavior" to register as a sex offender. Colo. Rev. Stat. § 16-22-102(9) (Definitions) defines "unlawful sexual behavior" as including the following offenses requiring sex offender registration: ". . . (j) Human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2), C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; children, in violation of section 18-6-403, C.R.S.; . . . (n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.; . . . (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.; (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . ."

Hawaii

Pursuant to Haw. Rev. Stat. § 846E-1 (Definitions), "Sex offender" means: (1) A person who is or has been convicted at any time . . . of a 'sexual offense'. . . [and] '[s]exual offense'

means an offense that is . . . (3) [a]n act that consists of . . . (F) [s]olicitation of a minor for prostitution in violation of section 712-1209.1 . . ."

Maryland

Pursuant to Md. Code Ann., Crim. Proc. § 11-704(a) (Registration required), sex offender registration is required for tier I, II, and III sex offenders. A "tier I sex offender" in Md. Code Ann., Crim. Proc. § 11-701(o) includes a person convicted of the following: . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of . . . § 11-208 [Possession of visual representation of child under 16 engaged in certain sexual acts] . . . ; (3) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in item . . . (2) of this subsection; (4) any of the following federal offenses: . . . (vi) sex trafficking by force, fraud, or coercion under 18 U.S.C. § 1591; (vii) travel with intent to engage in illicit conduct under 18 U.S.C. § 2423(b)" A "Tier II sex offender" in Md. Code Ann., Crim. Proc. § 11-701(p) includes those persons convicted of: (1) conspiring to commit, attempting to commit, or committing a violation of . . . § 3-324 [Sexual solicitation of minor], [or] § 11-207 [Child pornography] . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of § 11-303 [Human trafficking], § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution]. . . , if the intended prostitute or

victim is a minor; . . . (4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I sex offender after the person was already registered as a tier I sex offender; (5) a crime that was committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; . . .”

North Carolina

Pursuant to N.C. Gen. Stat. § 14-208.7(a) (Registration), “[a] person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides.” The definition of “reportable conviction” includes “a sexually violent offense.” N.C. Gen. Stat. § 14-208.6(4). The term, “sexually violent offense,” is defined in N.C. Gen. Stat. § 14-208.6(5), to include “G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, a violation of . . . G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), . . . G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), . . . G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act) . . .” G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person).”

Issue Briefs

Section 3 | Criminal Provisions for Traffickers

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Penalties for trafficking a child for sexual exploitation are as high as federal penalties.
The Legislative Solution	Commercial sexual exploitation of children and sex trafficking are egregious crimes and the penalties must reflect the severity of the offense. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal CSEC laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251 (Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a trafficker of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14 or force, fraud or coercion were used to cause the trafficking. Federal trafficking laws are being used to secure serious sentences for traffickers and comparable state penalties are important to prevent disparity in the punishments. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for traffickers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.

Select Statute Highlights

Alabama

Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree) makes it illegal for a trafficker who “knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.” Violation of Ala. Code § 13A-6-152(a)(2) is a Class A felony punishable by a sentence of 10–99 years imprisonment and a possible fine up to \$60,000 or any amount up to double the profit or loss to the victim.

Traffickers prosecuted under Ala. Code § 13A-12-111(a) (Promoting prostitution in the first degree), which provides that “(a) A person commits the crime of promoting prostitution in the first degree if he knowingly: . . . (2) Advances or profits from prostitution of a person less than 16 years of age” are in violation of a Class B felony and subject to a sentence of 2–20 years imprisonment and a possible fine up to \$30,000. If the victim is under 18, it is a Class C felony punishable by 1–10 years imprisonment and a possible fine up to \$30,000. If the victim is under 12, then a mandatory minimum sentence of 10 years imprisonment applies.

Georgia

Trafficking a child in Georgia under the age of 18 is punishable under Ga. Code Ann. § 16-5-46(f)(2) (Trafficking of persons for labor or sexual servitude) by 10–20 years imprisonment and/or a fine not to exceed \$100,000. If the trafficker used coercion or deception in trafficking the minor, the penalty is life imprisonment or 25–50 years imprisonment and/or a fine not to exceed \$100,000. Additionally, under subsection (g), “All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Code section shall be subject to forfeiture to the state.”

Iowa

Traffickers who violate Iowa Code § 710A.2 (Human trafficking), when the victim is a minor, commit a Class B or a Class C felony. Class B felonies are punishable by imprisonment up to 25 years, while Class C felonies are punishable by imprisonment up to 10 years and a fine of \$1,000–\$10,000. Iowa Code § 902.9(2), (4). To the extent that a trafficker is a habitual offender, the trafficker may receive imprisonment up to 15 years. Iowa Code § 902.9(3).

Missouri

A trafficker who violates Mo. Rev. Stat. § 566.212.1 (Sexual trafficking of a child), is guilty of “a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.” Mo. Rev. Stat. § 566.213 (Sexual trafficking of a child under age twelve) enhances the penalty for sex trafficking of a child under 12 years of age to “a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.”

North Dakota

Convicted traffickers face a class AA felony punishable by a maximum penalty of life imprisonment if convicted of trafficking an individual under N.D. Cent. Code § 12.1-41-02 or sexual servitude under N.D. Cent. Code § 12.1-41-04 when the victim is a minor. N.D. Cent. Code §§ 12.1-41-032(3), 12.1-41-04(3), 12.1-32-01(1).

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for sexual servitude) is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000, “except where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000’) of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony,” punishable by 15–60 years and a possible fine not to exceed \$50,000.

Virginia

A violation of Va. Code Ann. § 18.2-357.1 (Commercial sex trafficking; penalties) with a person under the age of 18 is punishable as a Class 3 felony, which carries a minimum sentence of 5 years and a maximum sentence of 20 years imprisonment. Va. Code Ann. § 18.2-10(c). Traffickers also face Class 3 felonies for violating Va. Code Ann. § 18.2-355 (Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking), Va. Code § 18.2-356 (Receiving money for procuring person) and Va. Code Ann. §

18.2-357 (Receiving money from earnings of male or female prostitute) when these offenses involve a minor victim and a Class 4 felony for violating Va. Code Ann. § 18.2-370(B) (Taking indecent liberties with children). A Class 3 felony is punishable by 5–20 years imprisonment. Va. Code Ann. § 18.2-10(c). A Class 4 felony is punishable by 2–10 years imprisonment and a possible fine up to \$100,000.

A violation of Va. Code Ann. § 18.2-48 (Abduction with intent to extort money or for immoral purpose) is punishable as a Class 2 felony, which carries a minimum sentence of 20 years and a maximum sentence of life imprisonment. Va. Code Ann. § 18.2-10(b). Va. Code Ann. § 18.2-48 also specially directs that “[i]f the sentence imposed for a violation of (ii), (iii), (iv), or (v) includes a term of confinement less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant’s life subject to revocation by the court.” Va. Code Ann. § 18.2-48.

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Creating and distributing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	Child pornography is the actual image of sexual abuse as it is being perpetrated on a child. Minor victims depicted in child pornography suffer irreparable physical, emotional and psychological harm. The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography. Traffickers of child pornography are seizing the opportunity to make and sell child pornography on the Internet, where images continue to circulate, revictimizing children each time the images are viewed. A federal conviction for producing and distributing images of child pornography is generally punishable by imprisonment for 5–30 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 or 50 years and a fine not to exceed \$250,000. States must enact laws which mandate serious penalties for those persons who create and sell child pornography with penalties adequately steep to deincestivize them including imposition of fines, asset forfeiture, and restitution requirements that will be used for the benefit of their victims.

Select Statute Highlights	
<p>The highlighted statutes apply to all offenses involving a minor under the age of 18 and impose significant penalties.</p>	<p>Hawaii</p> <p>Haw. Rev. Stat. Ann. § 707-750(1)(a), (b) (Promoting child abuse in the first degree) states, “A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person: (a) Produces or participates in the preparation of child pornography;. . .” Promoting child abuse in the first degree is a Class A felony punishable by 20 years imprisonment without the possibility of suspension of sentence or probation and a possible fine up to \$50,000.</p>
	<p>Montana</p> <p>Mont. Code Ann. § 45-5-625(1)(a) (Sexual abuse of children) is punishable by life imprisonment or a term of imprisonment up to 100 years and a possible fine not to exceed \$10,000. Mont. Code Ann. § 45-5-625(2)(a). However, if the victim is under 16, unless punished under Mont. Code Ann. § 46-18-219, a conviction for sexual abuse of children is punishable by life imprisonment or by imprisonment for 4–100 years and a possible fine not to exceed \$10,000. Mont. Code Ann. § 45-5-625(2)(b). Penalties are enhanced when the child is under 13 and the offender is 18 or older to imprisonment for 100 years, 25 years if which cannot be suspended (“except as provided in 46-18-222”), a possible fine not to exceed \$50,000, an order to enroll in a treatment program, and possible supervision for the remainder of the offender’s life. Mont. Code Ann. § 45-5-625(4)(a), (b).</p>
<p>Alabama</p> <p>Ala. Code § 13A-12-197(a) (Production of obscene matter containing visual depiction of person under 17 years of age involved in obscene acts) states, “Any person who knowingly films, prints, records, photographs or otherwise produces any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony.” Ala. Code § 13A-12-197(b) makes each depiction of an individual under 17 a separate offense punishable by imprisonment for life or 5–99 years (depending on the felony Class) “which imprisonment includes hard labor,” and a possible fine up to \$60,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(1), 13A-5-11(a)(1). If the victim of a violation of Ala. Code § 13A-12-197 is under 12 years old, a mandatory minimum imprisonment of 20 years applies. Ala. Code §§ 13A-5-6(a)(4), 15-20A-5(14), 15-20A-48(a).</p>	

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Using the Internet or electronic communications to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.
The Legislative Solution	Traffickers of commercial sex acts with minors are increasingly turning to the Internet to identify and recruit the large numbers of minors vulnerable to these cyber-predators. Also, the Internet is a lucrative venue to sell commercial sex acts, live and recorded sexual performance by minors, and images of child pornography to the growing number of buyers. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites. Child pornography also is widely available on the Internet and live sexual performances are facilitated through peer-to-peer networks, selling live, webcast child sexual performance and images of sexual abuse. Laws specifically prohibiting Internet recruitment and exploitation are critical to deterring the traffickers and protecting children from this form of commercial sexual exploitation.

Select Statute Highlights

The following statutes are highlighted because they apply to all minors under the age of 18, include specific language making the use of the Internet to recruit or sell children for purposes of commercial sexual exploitation, and clearly apply to traffickers.

Illinois

720 Ill. Comp. Stat. Ann. 5/11-25(a) (Grooming) criminalizes any person who “knowingly uses a computer on-line service, Internet service, . . . [to] solicit . . . or attempt to . . . solicit . . . a child . . . to commit” a violation of 720 Ill. Comp. Stat. Ann. 5/11-14.4 (Promoting juvenile prostitution), or 720 Ill. Comp. Stat. Ann. 5/11-19.1 (Juvenile pimping and aggravated juvenile pimping). A violation of 720 Ill. Comp. Stat. Ann. 5/11-25(a) is a Class 4 felony punishable by a sentence of 1–3 years imprisonment and a possible fine up to \$25,000.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards . . . for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where

that offense involves commercial sexual activity” or pornography under Ky. Rev. Stat. Ann. Chapter 531.

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265, § 26D (Enticement of children to engage in prostitution or commercial sexual activity), “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50 (Human trafficking – sexual servitude), 51 (Human trafficking – forced services) . . . or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.”

Washington

Wash. Rev. Code Ann. § 9.68A.090 (Communication with minor for immoral purposes) prohibits communication with a minor or someone one believed to be a minor for immoral purposes. Pursuant to Wash. Rev. Code Ann. § 9.68A.090(2), the penalty is increased from a gross misdemeanor to a Class C felony “[i]f the person communicates . . . for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.” Wash. Rev. Code § 9.68A.1025 (Internet advertisement describing or depicting victim—additional penalty) establishes an enhanced penalty for the use of Internet advertisement to facilitate the commission of a sex-trafficking crime. Section 9.68A.1025 states, in part, “a person

convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.” For purposes of this section, an “internet advertisement” means “a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse . . . in exchange for something of value.” § 9.68A.1025(2).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Financial penalties for traffickers, including asset forfeiture, are sufficiently high.
The Legislative Solution	The primary reason traffickers exploit children is profit. Children can be sold for sex multiple times over a prolonged period of time, resulting in significant profit for the trafficker. Financial penalties, including fines and asset forfeiture, are critical to increasing criminal deterrence and disrupting criminal trafficking enterprises, as well as offsetting the cost of investigating, prosecuting and providing services to restore victims' lives. Also, asset forfeiture is a critical means of prohibiting a criminal from keeping the proceeds or instrumentalities of the crime while ensuring that minor victims have critically needed assets to fund their recovery. This should be accomplished by directing financial penalties collected from convicted traffickers to pay victim restitution first, after which traffickers' assets can be used to fund sex trafficking investigations, law enforcement training and specialized services.

Select Statute Highlights

The following states have significant fines and allow asset forfeiture.

Alabama

Traffickers convicted under Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree), a Class A felony, may be required to pay a possible fine up to \$60,000. A trafficker convicted under Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree) may be required to pay restitution and civil damages to a human trafficking victim and forfeit property used in committing the crime. Pursuant to Ala. Code § 13A-6-155(a) (Penalties—Restitution to victim), buyers convicted under any provision of the human trafficking article, Ala. Code §§ 13A-6-150 to 13A-6-160, will be required to “pay mandatory restitution to the victim, prosecutorial or law enforcement entity, with the proceeds from property forfeited under Section 6 [i.e. Section 13A-6-156] applied first to payment of restitution.”

Louisiana

A conviction under La. Rev. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes) is punishable by a possible fine of \$50,000, or a possible fine of \$75,000 if the victim was under 14. La. Rev. Stat. Ann. § 14:46.3(D) (1)(a), (b). La. Rev. Stat. Ann. §§. La. Rev. Stat. Ann. § 15:539.2 (Exploited children's fund) states “Any person who is convicted or pleads guilty or nolo contendere to an offense involving trafficking of children for sexual purposes...” will have to pay a fine of \$2,000 in addition to other financial

penalties. Pursuant to La. Rev. Stat. Ann. § 15:539.3 (Mandatory restitution), “A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied.

Pursuant to La. Rev. Stat. Ann. § 15:539.1(E) (Forfeited property related to certain sex crimes; exempt property; allocation of forfeited property), “when the property is forfeited pursuant to the provisions of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution), the proceeds of the public sale or public auction shall be applied first to any restitution granted to the victim,

after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied.

Michigan

A violation of Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) is a felony punishable by a sentence of imprisonment up to 20 years, a fine of up to \$20,000, or both. Mich. Comp. Laws Ann. § 750.462f(2). Mich. Comp. Laws Ann. § 780.766b (Conviction of offense described in MCL 750.462a to 750.462h; restitution) states, “When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code [Human trafficking] . . . the court shall order restitution for the full amount of loss suffered by the victim.

Under Mich. Comp. Laws Ann. § 600.4702(1) (Property subject to seizure and forfeiture; exception; encumbrances; substituted proceeds of crime), the following property is subject to seizure and forfeiture: “(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime. (b) All real property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime . . . (c) In the case of a crime that is a violation . . . Michigan penal code . . . 750.462a to 750.462h [Human trafficking]. . . all property described in subdivisions (a) and (b), and all real property or personal property that performed 1 of the following functions: (i) Contributed directly and materially to the commission of the crime. (ii) Was used to conceal the crime. (iii) Was used to escape from the scene of the crime. (iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime.”

Mich. Comp. Laws Ann. § 600.3801 (Nuisance; injunction; abatement; guilt; “controlled substance” defined) states that “(1) A building, vehicle, boat, aircraft, or place is a nuisance if . . . (f) It is used for conduct prohibited by chapter LXVIIA of the Michigan Penal Code, 1931 PA 328, MCL 750.462a to 750.462h [Human trafficking]. . .” Mich. Comp. Laws Ann. § 600.3825 (Order of abatement; execution of court order; duties of officer; use of building or place ordered closed; contempt; determination of amount due victim) states that “[i]f the court in an action under this chapter declares property to be a nuisance under section 3801(1)(f), the officer executing the order of the court shall first pay from the proceeds any amount determined by the court to be due to the victim. . . For purposes of determining the amount due to a victim under this subsection, the court shall consider the loss suffered by the victim as a proximate result of the conduct and may use as guidance the items of loss enumerated in . . . MCL 780.766b [Conviction of offense described in MCL 750.462a to 750.462h; restitution].”

Oregon

A conviction under Or. Rev. Stat. §§ 163.266(1)(b) or (c) (Trafficking in persons) is punishable as a Class A felony and includes a possible fine not to exceed \$375,000. Or. Rev. Stat. §§ 163.266(5), 161.625(1)(b). Traffickers may also be subject to discretionary, criminal asset forfeiture under Or. Rev. Stat. § 131.553(1)(e). Where the seizing agency is the state, Or. Rev. Stat. § 131.597 provides the property shall be distributed as follows: “to pay costs and to the victim, any amount ordered. . . .” A trafficker may also be subject to restitution pursuant to Or. Rev. Stat. § 137.106(2) (Restitution to victims), which requires the district attorney to investigate and present to the court evidence of economic damages suffered as a result of human trafficking or commercial sexual exploitation of children (CSEC) offenses. The court is authorized to order restitution as part of a criminal case when the victim “suffered economic damages.” Or. Rev. Stat. § 137.106(1).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Convicted traffickers are required to register as sex offenders.
The Legislative Solution	Traffickers of sex acts with minors are sexual predators—the exchange of money does not sanitize the underlying crime of child rape or molestation and the consequences should be the same for traffickers as for rapists. Sex offender registry laws are intended to provide people with information that will prevent them and their children from being victimized. The requirement to register as a sex offender serves as deterrence, and a warning to the public of the danger registered sex offenders pose to children. Domestic minor sex trafficking is a sex offense and state laws should reflect this to require registration. The federal Adam Walsh Act's Sex Offender Registration and Notification Act (SORNA) includes sex trafficking in the definition of “sex offense” and sets the sex offender registry standard for states to achieve. Including child sex trafficking as an offense requiring registration as a sex offender is consistent with the federal government's definition in the Adam Walsh Act.

Select Statute Highlights

The following statutes require sex offender registration for individuals convicted of sex trafficking, exploiting a child through prostitution, and producing and distributing child pornography.

Arizona

Ariz. Rev. Stat. Ann. § 13-3821(A) (Persons required to register) lists the crimes for which an offender must register as a sex offender. The list includes, in relevant part, the following crimes: “9. Taking a child for the purpose of prostitution pursuant to section 13-3206, 10. Child prostitution pursuant to section 13-3212, subsection A or subsection B, Paragraph 1 or 2, 11. Commercial sexual exploitation of a minor pursuant to section 13-3552, 12. Sexual exploitation of a minor pursuant to section 13-3553, 13. Luring a minor for sexual exploitation pursuant to section 13-3554, 14. Sex trafficking of a minor pursuant to section 13-1307. . . 21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.”

Colorado

Pursuant to Colo. Rev. Stat. § 16-22-103(1)(a), (2)(a) (Sex offender registration—required—applicability—exception) any person convicted of an “unlawful sexual offense as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of

a child, as described in section 18-3-306, C.R.S.” or “any person convicted. . . of unlawful sexual behavior. . .” must register. Colo. Rev. Stat. § 18-3-411(1) (Sexual offenses against children) and § 16-22-102(9) (Definitions) define “unlawful sexual behavior” as including: “(j) Human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2), C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; (l) Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.; . . . (n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.; (o) Pandering of a child, in violation of section 18-7-403, C.R.S.; (p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.; (q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.; (r) Pimping of a child, in violation of section 18-7-405, C.R.S.; (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.; (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . .”

Florida

Fla. Stat. § 775.21 (Florida's Sexual Predators Act) subjects “sexual predators” convicted of a sexual offense to registration and community and public notification, pursuant to subsections (6) and (7), if the offense was “[a]ny felony violation, or any attempt thereof, of . . . s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),

or (g) [Human trafficking]; former s. 787.06(3)(h) [Human Trafficking]; s. 794.011, excluding s. 794.011(10); s. 794.05 [Unlawful sexual activity with certain minors]; . . . s. 800.04; . . . or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled *nolo contendere* or guilty to, regardless of adjudication, any violation of . . . s. 393.135(2) [Sexual misconduct with developmentally disabled; reporting required; penalties]; s. 394.4593(2) [Sexual misconduct prohibited; reporting required; penalties]; s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), or (g) [Human trafficking]; former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; . . . s. 800.04; . . . s. 847.0135(6) [Computer pornography; traveling to meet minor; penalties], excluding s. 847.0135(6); . . . or a violation of a similar law of another jurisdiction . . .”

Idaho

Pursuant to Idaho Code Ann. § 18-8304(1)(a) (Application of chapter—Rulemaking authority) any person who commits any one of the following crimes, including attempt, solicitation, or conspiracy of such crime, must register as a sex offender under Chapter 83 (Sexual offender registration notification and community right-to-know Act): Idaho Code Ann. § 18-1507 (Definitions—sexual exploitation of a child—penalties), § 18-5609 (Inducing person under eighteen years of age into prostitution), § 18-5610 (Utilizing a person under eighteen years of age for prostitution—Penalties), § 18-5611 (Inducing person under eighteen years of age to patronize a prostitute), § 18-8602 (Human trafficking defined).

Indiana

Ind. Code § 11-8-8-7(a)(1) (Persons who must register) requires registration by a sex or violent offender defined in Ind. Code § 11-8-8-5(a) (“Sex of violent offender” defined) as any person convicted of: “(4) Child exploitation (IC 35-42-4-4(b)), . . . (6) Child solicitation (IC 35-42-4-6). . . (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony, (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014), (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age, (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)), (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age. . . .”

Iowa

Iowa Code § 692A.103 (1) (Offenders required to register) states, “A person who has been convicted of any sex offense classified as a tier I, tier II, or tier III offense . . . if the offender resides, is employed, or attends school in this state. . .” must register as a sex offender. Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor . . .”

Kentucky

Ky. Rev. Stat. Ann. § 17.510(2) (Registration system for adults who have committed sex crimes or crimes against minors—Persons required to register) requires “registrants” to register as sex offenders. Ky. Rev. Stat. Ann. § 17.500(5)(a) (Definitions) defines “registrant” as including “[a]ny person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed: 1. A sex crime; or 2. A criminal offense against a victim who is a minor.” KRS § 17.500(5)(a). KRS § 17.500(3) (a) defines “criminal offense against a victim who is a minor” as “5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100; 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18); . . .”

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.
The Legislative Solution	Traffickers use physical and psychological tactics to maintain control over their victims. Intentionally impregnating victims is one way traffickers ensure the victim will not leave, using the baby as a bond. Traffickers who have children with their victims might later place their own children in the sex trafficking market. Also, children of a trafficking victim are exposed to daily violence and manipulation. The victim-parent's opportunity for freedom from the control of the trafficker-parent's rights to the child, and freedom for the child from the relationship with a trafficker-parent is essential for a child's protection. State laws regarding termination of parental rights frequently identify a conviction for state or federal crimes of violence or extended incarceration as grounds for a termination petition, but clear legislative intent to include convictions for child sex trafficking or commercial sexual exploitation of children (CSEC) crimes must also constitute grounds for termination of parental rights.

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 8-863 (Hearing to terminate parental rights) states, "The court may terminate the parental rights of a parent if the court finds by clear and convincing evidence one or more of the grounds prescribed in section 8-533." Ariz. Rev. Stat. Ann. § 8-533(B) (Petition; who may file; grounds) states in part, "[e]vidence sufficient to justify the termination of the parent-child relationship shall include any one of the following, and in considering any of the following grounds, the court shall also consider the best interests of the child: . . . 2. That the parent has neglected or willfully [sic] abused a child. . . ." Ariz. Rev. Stat. Ann. § 8-201(2)(a) (Definitions), defines "abuse" in relevant part as "commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, . . . or child prostitution pursuant to section 13-3212."

Florida

Parental rights may be terminated under Fla. Stat. § 39.806(1)(d)(2) (Grounds for termination of parental rights) when the parent is determined to be a sexual predator as defined in Fla. Stat. § 775.21(4), which includes convictions for the full range of sex trafficking, CSEC, and sexual offenses. Fla. Stat. § 775.21(4)(b) defines "sexual predators" as persons convicted of "[a]ny felony violation, or any attempt thereof,

of . . . s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), or (g) [Human trafficking]; former s. 787.06(3)(h) [Human Trafficking]; s. 794.011, excluding s. 794.011(10); s. 794.05 [Unlawful sexual activity with certain minors]; . . . s. 800.04; . . . or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of . . . s. 393.135(2) [Sexual misconduct with developmentally disabled; reporting required; penalties]; s. 394.4593(2) [Sexual misconduct prohibited; reporting required; penalties]; s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), or (g) [Human trafficking]; former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; . . . s. 800.04; . . . s. 847.0135(6) [Computer pornography; traveling to meet minor; penalties], excluding s. 847.0135(6); . . . or a violation of a similar law of another jurisdiction , , , "

Iowa

Iowa Code § 600A.8(10) (Grounds for termination) permits the court to order the termination of parental rights based on "clear and convincing proof" that any of the following grounds exist: "[t]he parent has been convicted of a felony offense that is a 'sex offense against a minor' as defined in section 692A.101[Definitions]. . ." Pursuant to Iowa Code § 692A.101 (Definitions) "Sex offense against a minor" "means

an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.” Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense. . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor., (32) Sex trafficking of children in violation of 18 U.S.C. § 1591. . . . (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A. . . .”

Tennessee

Tenn. Code Ann. § 36-1-113(g) (Termination of parental rights) states, “Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and non-exclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground . . . (12) The parent or guardian has been convicted of trafficking for commercial sex act under § 39-13-309. (13) The parent or guardian has been convicted on or after July 1, 2015, of sex trafficking of children or by force, fraud, or coercion under 18 U.S.C. § 1591, or a sex trafficking of children offense under the laws of another state that is substantially similar to § 39-13-309.”

Texas

Tex. Fam. Code Ann. § 161.001(1)(L), (2) states, “The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence . . . that the parent has . . . been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following . . . Penal Code sections . . . (iv) Section 21.11 (indecent with a child) . . . (vi) Section 22.011 (sexual assault) . . . (viii) Section 22.021 (aggravated sexual assault) . . . (xii) Section 43.25 (sexual performance by a child); (xiii) Section 43.26 (possession or promotion of child pornography); (xiv) Section 21.02 (continuous sexual abuse of young child or children); (xv) Section 20A.02(a)(7) or (8) (trafficking of persons); and (xvi) Section 43.05(a)(2) (compelling prostitution) . . . and

(2) that termination is in the best interest of the child.”

Wisconsin

Pursuant to Wis. Stat. § 48.415(9m), (am) (Grounds for involuntary termination of parental rights), “Grounds for termination of parental rights shall be one of the following . . . Commission of a felony against a child . . . [or] Commission of a violation of s. 948.051 (Trafficking of a child) involving any child or a violation of the law of any other state or federal law, if that violation would be a violation of s. 948.051 involving any child if committed in this state.”

Issue Briefs

Section 4 | Criminal Provisions for Facilitators

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	The acts of assisting, enabling, or financially benefiting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.
The Legislative Solution	Facilitators of domestic minor sex trafficking are those people or business that assist, enable, aid, or financially benefit from child sex trafficking. These actions are essential to the success of the sex trafficking enterprise but facilitators are rarely held accountable for their role in the crime of sex trafficking. Due to the low risk of being prosecuted or seriously penalized, facilitators often reap the financial benefits of the sex trafficking industry without significant risk of criminal liability. The inclusion of acts of assisting, enabling, and/or financially benefitting from domestic minor sex trafficking in state human trafficking laws allows law enforcement to fully investigate cases, enables prosecutors to obtain convictions, and provides judges appropriate sentencing for these perpetrators who facilitate the commercial sexual exploitation of children.

Select Statute Highlights

District of Columbia

D.C. Code § 22-1836 (Benefitting financially from human trafficking) states, “It is unlawful for an individual or business knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1833 [Trafficking in labor or commercial sex acts], § 22-1834 [Sex trafficking of children], or § 22-1835 [Unlawful conduct with respect to documents in furtherance of human trafficking], knowing or in reckless disregard of the fact that the venture has engaged in the violation.”

Iowa

Iowa Code § 710A.2(4), (7) (Human trafficking) makes any “person who benefits financially or by receiving anything of value from knowing participation in human trafficking . . . [when] the victim is under the age of eighteen” guilty of a felony.

Louisiana

La. Stat. Ann. § 14:46.3(A)(2), (4) (Trafficking of children for sexual purposes) makes it unlawful “for any person to knowingly benefit from activity prohibited by the provisions of this Section” or “[f]or any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.”

Mississippi

Miss. Code Ann. § 97-3-54.1(1)(a) (Human trafficking; offenses) provides, “[a] person who [...] benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in [acts under this provision]” is guilty of the crime of human-trafficking. Section 97-3-54.1(1)(a) penalizes a person “who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services.”

New Jersey

N.J. Stat. § 2C:13-9 (Human trafficking as a crime of the second degree) states, “[a] person commits a [human trafficking] crime of the second degree if he: (1) provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking in violation of section 1 of . . . § 2C:13-8 [Human trafficking].” For purposes of this provision, “services, resources, or assistance” include “financial support, business services, lodging, transportation, the provision of false documentation or identification, equipment, facilities, or any other service or property with a pecuniary value that exceeds \$200, whether or not a person is compensated for the services, resources, or assistance, but shall not include humanitarian or charitable aid or services provided directly to a victim of human trafficking.” § 2C:13-9.a(1)(a).

Pennsylvania

Pursuant to 18 Pa. Cons. Stat. § 3011(a)(2) (Trafficking in individuals), “A person commits a felony of the second degree if the person . . . knowingly benefits financially or receives anything of value from any act that facilitates any activity described in paragraph (1).” 18 Pa. Cons. Stat. § 3011(a) (1) makes it a crime when a person “recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude” and § 3011(b) states, “A person commits a felony of the first degree if the person engages in any activity listed in subsection (a) that results in a minor’s being subjected to sexual servitude.”

South Carolina

S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) states, “A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.”

Wisconsin

Wis. Stat. § 948.051(2) (Trafficking of a child) penalizes “[w]hoever benefits in any manner from a violation of sub. (1)...if the person knows that the benefits come from an act described in sub. (1).” Subsection (1) makes “[w]hoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain or harbor, any child for the purpose of commercial sex acts” guilty of trafficking.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from, or aid and assist in committing domestic minor sex trafficking.
The Legislative Solution	Facilitators benefit economically from a multibillion dollar human trafficking industry in the United States but are rarely held financially liable for the consequences of the crime. Financial penalties, including asset forfeiture for the money and property used in connection with or derived from the facilitation of commercial sexual exploitation of children, can serve as a deterrent to assisting in or benefitting from this crime. To ensure that minor victims have assets to fund their recovery, financial penalties should be directed first to pay victim restitution first, after which assets could be used to fund sex trafficking investigations, law enforcement training and specialized services. Asset forfeiture and financial penalties are frequently available through racketeering and money laundering laws, but ensuring these are also available directly through criminal statutes on sex trafficking is important to reach all facilitators.

Select Statute Highlights

The following laws impose financial penalties on facilitators of domestic minor sex trafficking.

Alabama

Ala. Code § 13A-6-153(b) (Human trafficking in the second degree) makes a conviction of the crime of human trafficking under Ala. Code § 13A-6-153(a) a Class B felony punishable by imprisonment for 2–20 years, “which imprisonment includes hard labor,” and a possible fine up to \$30,000. Ala. Code § 13A-6-156 (Forfeiture of profits or proceeds and interest in property) states, “[a] person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that he or she has acquired or maintained [or] that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree. . . .” Pursuant to Ala. Code § 13A-6-155(a) (Penalties—Restitution to victim), facilitators convicted under any provision of the human trafficking article, Ala. Code §§ 13A-6-150 to 13A-6-160, will be required to “pay mandatory restitution to the victim, prosecutorial or law enforcement entity, with the proceeds from property forfeited under Section 6 [i.e. Section 13A-6-156] applied first to payment of restitution.”

Colorado

Facilitators convicted of Colo. Rev. Stat. Ann. §§ 18-7-402(1)(a) (Soliciting for child prostitution), 18-7-403.5 (Procurement of a child) or 18-7-404(1) (Keeping a place of child prostitution), all Class 3 felonies, may be required to pay a fine of \$3,000–\$750,000. Colo. Rev. Stat. Ann. §§ 18-7-402(2), 18-7-403.5, 18-7-404(2), 18-1.3-401(1)(a) (III)(A). Pursuant to Colo. Rev. Stat. Ann. § 18-1.3-603(1) (Assessment of restitution—corrective orders), “Every order of conviction of a felony [or] misdemeanor . . . shall include consideration of restitution.” Colo. Rev. Stat. Ann. § 16-13-303(1)(a) (Class 1 public nuisance) states that “every vehicle . . . shall be deemed a class 1 public nuisance when . . . [u]sed as a public or private place of prostitution.” Colo. Rev. Stat. Ann. §16-13-311(3) states in part, “Property forfeited under this section or proceeds therefrom shall be distributed or applied in the following order: (I) To payment of the balances due on any liens . . . the order of their priority; (II) To compensate an innocent partial owner for the fair market value of his or her interest in the property; (III) To any person who suffers bodily injury, property damage, or property loss as a result of the conduct constituting a public nuisance that resulted in such forfeiture, if said person petitions the court therefor prior to the hearing dividing the proceeds pursuant to this section and the court finds that such person suffered said damages as a result of the subject acts that resulted in the forfeiture. . . .”

Oregon

Facilitators convicted under Or. Rev. Stat. §§ 163.266(1)(a) or (2) (Trafficking in persons), or § 167.017(1)(c)106 (Compelling prostitution) are punishable as Class B felonies by a possible fine not to exceed \$250,000.107 Or. Rev. Stat. §§ 163.266(4), 161.625(1)(c). A conviction under Or. Rev. Stat. § 163.670(1) (Using child in display of sexually explicit conduct) is punishable as a Class A felony by a possible fine not to exceed \$375,000. Or. Rev. Stat. §161.625(1)(b). Under Oregon's discretionary, criminal forfeiture provisions, Or. Rev. Stat. § 131.553(1)(c), (e) (Legislative findings; effect on local laws; remedy not exclusive) finds that "[p]erpetrators of crimes should not be allowed to keep the proceeds and instrumentalities of their crimes" and that "[t]here is a need to provide for the forfeiture of certain property subject to criminal forfeiture under ORS 131.550 to 131.600,108 to provide for the protection of the rights and interests of affected persons and to provide for uniformity throughout this state with respect to the laws of this state that pertain to the criminal forfeiture of real and personal property based upon prohibited conduct." Where the seizing agency is the state, the forfeited property shall be distributed pursuant to Or. Rev. Stat. § 131.597, which provides that the property shall be distributed as follows: to pay costs and to the victim, any amount ordered. Facilitators may also be subject to restitution pursuant to Or. Rev. Stat. § 137.106 (Restitution to victims), which requires the district attorney to investigate and present to the court before sentencing evidence of economic damages suffered as a result of the crime. The court is authorized to order restitution110 as part of a criminal case when the crime "has resulted in economic damages."111 Or. Rev. Stat. § 137.106(1). In addition to these provisions, Oregon's racketeering provisions provide for civil asset forfeiture. Or. Rev. Stat. §§ 166.715–.735.

Washington

Facilitators convicted under Wash. Rev. Code Ann. § 9A.40.100(1)(a), (2)(a) (Trafficking) or § 9.68A.101 (Promoting commercial sexual abuse of a minor) may be required to pay possible fines up to \$50,000. Wash. Rev. Code Ann. §§ 9A.40.100(1)(b), (2)(b), 9.68A.101(2), 9.94A.550. Furthermore, pursuant to Wash. Rev. Code Ann. § 9.68A.106, an adult offender who is convicted of an offense under Wash. Rev. Code Ann. §§ 9.68A.101 (Promoting commercial sexual abuse of a minor--Penalty), 9.68A.102 (Promoting travel for commercial sexual abuse of a minor—Penalty) will receive an additional fine of \$5,000 "per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime." Facilitators also

face asset forfeiture under several statutes since Wash. Rev. Code Ann. § 10.105.010 (Seizure and forfeiture) applies to most felonies, including Wash. Rev. Code Ann. § 9A.40.100 (Trafficking) and Wash. Rev. Code Ann. § 9.68A.102 (Promoting travel for commercial sexual abuse). Facilitators may forfeit vehicles for suspected violations of promoting commercial sexual abuse of a minor or promoting travel for commercial sexual abuse of a minor. Wash. Rev. Code Ann. § 9A.88.140(2) (Vehicle impoundment—fees and fines). Personal property "used as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony," is also subject to forfeiture. Wash. Rev. Code §§ 10.105.010(1), 10.105.900. Wash. Rev. Code Ann. § 10.105.010(1) (Seizure and forfeiture). Pursuant to subsection (6), "When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may . . . " retain the property or "sell that which is not required to be destroyed by law and which is not harmful to the public." Wash. Rev. Code Ann. § 9.94A.753(7) (Restitution—application dates) states, ". . . [T]he court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter RCW 7.68 [Victims of crimes—compensation, assistance]."

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Promoting and selling child sex tourism is illegal.
The Legislative Solution	<p>Sex tourism encourages commercial sexual exploitation of children (CSEC) and creates incentives for traffickers and facilitators to increase profits while furthering the clandestine nature of the trafficking offense by interfering with detection of trafficking crimes that are disguised as travel services. Sex tourism not only exploits children overseas; it can fuel the demand for children in the United States. Federal law criminalizes child sex tourism, defined to include “arrang[ing], induc[ing], procur[ing] or facilitat[ing] the travel” with knowledge that the traveler “is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct” and the arranging was done for “commercial advantage or private financial gain.” “Illicit sexual conduct” is defined to include “any commercial sex act (as defined in section 1591) with a person under 18 years of age.” Some states have made sex tourism a crime when the commercial sexual exploitation involved adult victims; these and all sex tourism criminal statutes should enhance penalties when the victim of the commercial sexual activity is a minor under 18 in recognition of the serious underlying crime of child sexual abuse. To protect children from the demand that is generated through sex tourism, states should enact a law that prohibits selling or offering to sell travel services that include or facilitate travel, either into or out of the state, for the purpose of engaging in commercial sexual exploitation of a minor.</p>

Select Statute Highlights	
<p>Alaska</p> <p>Alaska Stat. § 11.66.120(a)(3) (Sex trafficking in the second degree) makes it a Class B felony when a person “offers, sells, advertises, promotes, or facilitates travel that includes commercial sexual conduct as enticement for the travel.” Under Alaska Stat. § 12.55.125 a “Class B felony is punishable by 1–3 years imprisonment if the felony is a first offense and a possible fine not to exceed \$100,000.”</p>	<p>Hawaii</p> <p>Haw. Rev. Stat. Ann. § 712-1208(1) (Promoting travel for prostitution) makes it illegal when a facilitator “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state.” Promoting travel for prostitution is a Class C felony punishable by a sentence of 5 years imprisonment and a possible \$10,000 fine. Haw. Rev. Stat. Ann. §468L-7.5 (10) (Prohibited Acts) criminalizes the “[s]elling, advertising, or otherwise offering to sell travel services or facilitate travel: (A) [f]or the purpose of engaging in a commercial sexual act; (B) [t]hat consists of tourism packages or activities using and offering sexual acts as enticement for tourism; or (C) [t]hat provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.” Haw. Rev. Stat. Ann. § 468L-8 (Restitution) permits a convicted offender of “any provision of this chapter . . . may be ordered . . . to make restitution to all persons injured by the act or practice.”</p>
<p>Arkansas</p> <p>Pursuant to Ark. Code Ann. § 5-18-103(a)(5) a person commits human trafficking if he or she knowingly “[s]ells or offers to sell travel services that he or she knows includes an activity prohibited under subdivision (a)(1) – (4) of this section.” Subsection (4) of Ark. Code Ann. § 5-18-103(a) makes it a crime to “[r]ecruit[], entice[], solicit[], isolate[], harbor[], transport[], provide[], maintain[], or obtain[] a minor for commercial sexual activity.”</p>	

Louisiana

La. Rev. Stat. Ann. § 14:46.3(A)(6) (Trafficking of children for sexual purposes) makes it unlawful “for any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.” Additionally, La. Rev. Stat. Ann. § 14:46.3(A)(5) (Trafficking of children for sexual purposes) makes it unlawful “[f]or any person to knowingly advertise any of the activities prohibited by this Section.”

Missouri

1. Mo. Rev. Stat. § 567.085(1) (Promoting travel for prostitution) states that a “person commits the crime of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in prostitution as defined by section 567.010.” Until December 31, 2016, promoting travel for prostitution will be deemed a “Class C felony and is punishable by a maximum term of imprisonment and conditional release of 7 years.” See Mo. Rev. Stat. § 567.085(1) and Mo. Rev. Stat. § 558.011. (Beginning January 1, 2017; promoting travel for prostitution will be deemed a Class D felony. See Mo. Rev. Stat. § 567.085(1).)

2. Mo. Rev. Stat. § 567.087 (Prohibitions on travel agencies or tour operators—rebuttable presumption, advertisements) states, “1. No travel agency or charter tour operator shall: (1) Promote travel for prostitution under section 567.085; (2) Sell, advertise, or otherwise offer to sell travel services or facilitate travel: (a) For the purpose of engaging in a commercial sex act as defined in section 566.200, RSMo [Definitions], (b) That consists of tourism packages or activities using and offering any sexual contact as defined in section 556.010, RSMo [Prostitution], as enticement for tourism; or (c) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services. 2. There shall be a rebuttable presumption that any travel agency or charter tour operator using advertisements that include “sex travel” or include depictions of human genitalia is in violation of this section.”

3. Mo. Rev. Stat. § 567.089 (Offering travel for purpose of prostitution prohibited—penalties) states, “1. No travel agency or charter tour operator shall engage in selling, advertising, or otherwise offering to sell travel services, tourism packages, or activities that solicit, encourage, or facilitate travel for the purpose of engaging in prostitution. 2. Upon violation of this section by a travel agency or charter tour operator, the secretary of state shall revoke the articles of incorporation of the travel agency or charter tour operator. The secretary of state, as part of a proceeding brought under this section, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.”

New York

N.Y. Penal Law § 230.25 (Promoting prostitution in the third degree) states that “[a] person is guilty of promoting prostitution in the third degree when he knowingly: 1) advances or profits from prostitution by . . . controlling or owning, either alone or in association with others . . . a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a prostitute, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction. . . and is a Class D felony.” Under N.Y. Penal Law § 70.00 a “Class D felony is punishable by up to 7 years imprisonment and a possible fine not to exceed \$5,000 or double the amount of the profit from the crime, whichever is higher.”

Tennessee

Tenn. Code Ann. § 39-13-533 (Promoting travel for prostitution) states, “(a) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state. (b) “Travel services” means, but is not limited to, transportation by air, sea, road or rail, related ground transportation, hotel accommodations, or package tours, whether offered on a wholesale or retail basis. (c) Promoting travel for prostitution is a Class C felony.”

Washington

Wash. Rev. Code § 9A.88.085 (Promoting travel for prostitution) makes it a Class C felony with a maximum of 12 months in prison to “promot[e] travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in [Washington].” Wash. Rev. Code § 9.68A.102(1) (Promoting travel for commercial sexual abuse of a minor) makes it a crime if a person “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in [Washington].” Also a Class C felony with a maximum sentence of 12 months, this statute requires a convicted offender to register as a sex offender upon completion of the prison term.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Promoting and selling child pornography is illegal.
The Legislative Solution	The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography, and creating a tremendous opportunity for individuals and businesses to capitalize on profits from facilitating the manufacture, promotion and sale of the images. A legislative response from states to criminalize and impose serious penalties for those persons who promote or sell these images is critical.

Select Statute Highlights

The state laws selected below define a child as a person under the age of 18 and impose serious penalties on offenders.

Arkansas

Ark. Code Ann. § 5-27-304(a) (Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child) makes it illegal to “[w]ith knowledge of the character of the visual or print medium involved . . . : (1) Knowingly advertise for sale or distribution, sell, distribute, transport, ship, exhibit, display, or receive for the purpose of sale or distribution any visual or print medium depicting a child participating or engaging in sexually explicit conduct; or (2) Knowingly solicit, receive, purchase, exchange, possess, view, distribute, or control any visual or print medium depicting a child participating or engaging in sexually explicit conduct.” A first violation of this section is a Class C felony punishable by imprisonment for 3–10 years and a possible fine not to exceed \$10,000. Ark. Code Ann. §§ 5-27-304(b)(1), 5-4-401(a)(4), 5-4-201(a)(2). Subsequent violations are Class B felonies punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-304(b)(2), 5-4-401(a)(3), 5-4-201(a)(1).

Ark. Code Ann. § 5-27-403(a) (Producing, directing, or promoting a sexual performance by a child) makes it a crime for a person “knowing the character and content of the material, to . . . promote a performance that includes sexual conduct by a child under eighteen (18) years of age.” As a Class B felony, this crime is punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-403(b), 5-4-401(a)(3), 5-4-201(a)(1).

Ark. Code Ann. § 5-27-602(a)(1) (Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child) makes it a crime when a person knowing-

ly “[r]eceives for the purpose of selling or knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers, or agrees to offer through any means, including the internet, any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct.” Ark. Code Ann. §§ 5-27-602(a)(1). A first violation is a Class C felony punishable by imprisonment for 3–10 years and a possible fine not to exceed \$10,000. Ark. Code Ann. §§ 5-27-602(b)(1), 5-4-401(a)(4), 5-4-201(a)(2). Subsequent offenses are Class B felonies punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-602(b)(2), 5-4-401(a)(3), 5-4-201(a)(1).

Connecticut

Conn. Gen. Stat. § 53a-196b(a) (Promoting a minor in an obscene performance) states, “A person is guilty of promoting a minor in an obscene performance when he knowingly promotes any material or performance in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors notwithstanding that such material or performance is intended for an adult audience.” A conviction under Conn. Gen. Stat. § 53a-196b(a) is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

Conn. Gen. Stat. § 53a-196c(a) (Importing child pornography) states, “A person is guilty of importing child pornography when, with intent to promote child pornography, such person knowingly imports or causes to be imported into the

state three or more visual depictions of child pornography of known content and character.” A conviction under this statute is punishable as a Class B felony by 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-196c(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

Mississippi

Miss. Code Ann. § 97-5-33(4) (Exploitation of Children; prohibitions) states, “No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Miss. Code Ann. § 97-5-33(3) states, “No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Under Miss. Code Ann. § 97-5-35, a first-time conviction for violating any provision of Miss. Code Ann. § 97-5-33 is punishable by imprisonment for 5–40 years and a \$50,000–\$500,000 fine. Repeat offenders face 20 years to life imprisonment and a \$100,000–\$1,000,000 fine. Miss. Code Ann. § 97-5-35.

Nevada

Nev. Rev. Stat. Ann. § 200.725 (Preparing, advertising or distributing materials depicting pornography involving minor unlawful; penalty) makes it a category B felony when a person “knowingly prepares, advertises or distributes any item or material that depicts a minor engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct” punishable by imprisonment for 1–15 years and/or a fine not to exceed \$15,000. Victims under 16 who “appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result. . .” also have a civil cause of action against facilitators pursuant to Nev. Rev. Stat. Ann. § 41.1396(1) and may recover actual damages deemed to be at least \$150,000, plus attorney’s fees and costs.”

New Hampshire

N.H. Rev. Stat. Ann. § 649-A:3(I)(a)-(b), (II) (Possession of Child Sexual Abuse Images) makes it a Class A felony to “possess, or control . . . or [b]ring or cause to be brought into this state any visual representation of a child engaging in sexually explicit conduct,” punishable by up to 15 years imprisonment and fines up to \$4,000 or up to \$100,000 for a corporation or, in the alternative, up to double the value of any property gained in the commission of the felony. N.H. Rev. Stat. Ann. §§ 649-A:3(II), 651:2(I), (II)(a), (IV)(a). It is also unlaw-

ful under N.H. Rev. Stat. Ann. § 649-A:3-a(I)(a), (b) to “[k]nowingly sell, exchange, or otherwise transfer, or possess with the intent to sell, exchange, or otherwise transfer any” child pornography or to “[k]nowingly publish, exhibit, or otherwise make available . . .” child pornography. This offense is punishable by up to 20 years imprisonment with a minimum sentence not to exceed ½ of the maximum or, where previously convicted of such an offense or its reasonable equivalent in another jurisdiction, up to 30 years imprisonment with a minimum sentence not to exceed ½ of the maximum. N.H. Rev. Stat. Ann. §§ 649-A:3-a(II)(a), 651:2(I), (IV)(a).

Virginia

Va. Code Ann. § 18.2-374.1:1(D) (Possession, reproduction, distribution, solicitation, and facilitation of child pornography; penalty) states, “[a]ny person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.” This offense is punishable by imprisonment for 2–10 years and a potential fine of up to \$100,000. Va. Code Ann. § 18.2-10(d), (g). If the offender is a not a natural person, only a fine will be assessed for this felony. Va. Code Ann. § 18.2-10(g).

Issue Briefs

Section 5 | Protective Provisions for Child Victims

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.
The Legislative Solution	Child victims of sex trafficking often continue to be viewed as juvenile delinquents instead of victims due to the unique nature of their exploitation and injuries. These children must expressly be defined as victims under state law to ensure them access to crime victims’ compensation, court protections, and various programs designed to protect and respond to victims of sexual crimes. Changing the language in state and federal laws to ensure that commercially sexually exploited children are deemed victims will lead to improved identification of these minors as victims. With improved identification, these victims’ unique injuries and criminal backgrounds can be recognized as indicators of their exploitation rather than barriers to victims’ rights and services.

Select Statute Highlights	
<p>Colorado</p> <p>For purposes of Colorado’s laws relating to restitution, Colo. Rev. Stat. Ann. § 18-1.3-602(4)(e) (Definitions) states, “Notwithstanding any other provision of this section, ‘victim’ includes a person less than eighteen years of age who has been trafficked by an offender, as described in section 18-3-503 [Human trafficking for sexual servitude], or coerced into involuntary servitude, as described in section 18-3-504 [Coercion of involuntary servitude].”</p>	<p>(Rights of crime victims and witnesses) defines the following: “(1.1) “Crime victim who is a minor” means a person under the age of eighteen against whom any of the following offenses have been committed: (a) Any homicide, or any felony offense defined or enumerated in R.S. 14:2(B) [Definitions] [which includes La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes)], (b) Any sexual offense. . . .”</p>
<p>Iowa</p> <p>For purposes of the Victim’s Rights chapter, Iowa Code § 915.35(1) (Child victim services) defines a “victim” as a “a minor under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 [Sexual abuse], 710A [Human trafficking] or 726 [Protection of the family and dependent persons] or who has been the subject of a forcible felony.”</p>	<p>Texas</p> <p>Tex. Code Crim. Proc. Ann. art. 56.01(3) (Definitions), which provides definitions applicable to Chapter 56 (Rights of crime victims), defines a “victim” as “a person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another.”</p>
<p>Louisiana</p> <p>The definition of “sexually exploited child” under La. Rev. Stat. Ann. art. 725.1(3) (Definitions) for the purpose of a specialized child protective response means “[a]ny person under the age of eighteen who has been subject to sexual exploitation because the person either: [i]s a victim of trafficking of children for sexual purposes under R.S. 14:46.3. [or] [i]s a victim of child sex trafficking under 18 U.S.C. 1591.” La. Stat. Ann. § 46:1842 (Definitions) for La. Stat. Ann. Title 46 (Public welfare and assistance), Chapter 21-B</p>	<p>Washington</p> <p>Wash. Rev. Code §13.40.219 (Arrest for prostitution or prostitution loitering—Alleged offender—Victim of severe form of trafficking, commercial sex abuse of a minor) specifies that “in any proceeding under this chapter [Juvenile Justice Act of 1977] related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code [Trafficking Victims Protection Act of 2000, as amended], and that the alleged offender is also a victim of commercial sex abuse of a minor.”</p>

Wisconsin

Wis. Stat. § 949.01(6) (Definitions—Crime Victim Compensation) defines “victim” as “a person who is injured or killed . . . by any act or omission of any other person that is within the description of any of the offenses listed in s. 949.03(1)(b)” The offenses listed under Wis. Stat. § 949.03(1)(b) (Compensable acts) include § 948.05 (Sexual exploitation of a child), § 948.051 (Trafficking of a child), § 948.07 (Child enticement), §948.075 (Use of a computer to facilitate a child sex crime), § 948.08 (Soliciting a child for prostitution).

Area of Law	Protective Provisions for the Child Victims
The Policy Point	The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.
The Legislative Solution	A minor cannot consent to commercial sex acts, which are in and of themselves, criminal acts. For the same reason, age of consent laws also are irrelevant for commercial sex transactions. Permitting a defense to prosecution or civil actions based on the child's consent incorrectly implies that a minor, or any person, could authorize criminal sex acts. Sex trafficking and commercial sexual exploitation laws that do not expressly prohibit a defense based on the child's consent to sex acts unfairly shifts the burden to the child to prove she or he did not in fact consent and may result in shielding buyers, traffickers and facilitators from prosecution and liability. Moreover, permitting a defense that presumes a minor can consent to commercial sex acts further undermines the reality of prostituted children as victims, instead supporting a perception of these children as willingly delinquent youth.

Select Statute Highlights	
<p>Alabama</p> <p>Alabama's human trafficking statute lists evidence which cannot serve as a defense in the prosecution of a human trafficking case. Pursuant to Ala. Code § 13A-6-154(3) (Evidence of certain facts or conditions not deemed a defense), any facts relating to "consent of or permission by a victim of human trafficking or anyone else on the victim's behalf to any commercial sex act or sexually explicit performance. . ." are excluded from evidence.</p>	<p>Louisiana</p> <p>Pursuant to La. Rev. Stat. Ann. § 14:46.3(C)(1) (Trafficking of children for sexual purposes), "Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this section." Further, La. Rev. Stat. Ann. § 14:86(A) (Enticing persons into prostitution) establishes that "it shall not be a defense to prosecution for a violation of this Section that the person being enticed consented to the activity." La. Rev. Stat. Ann. § 14:86(C)(2).</p>
<p>Georgia</p> <p>Under Ga. Code Ann. § 16-5-46(d) (Trafficking of persons for labor or sexual servitude), "The age of consent for sexual activity or the accused's lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section."</p>	<p>Minnesota</p> <p>Minn. Stat. Ann. § 609.325, subd. 2 (Defenses) expressly states that "[c]onsent . . . shall be no defense to prosecutions under 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties]." Furthermore, Minn. Stat. Ann. § 609.284, subd. 1 (Labor or sex trafficking crimes; defenses, civil liability; corporate liability) and § 609.283, subd. 3 (Unlawful conduct with respect to documents in furtherance of labor or sex trafficking) clarify that "[i]n an action under this section the consent or age of the victim is not a defense."</p>
<p>Illinois</p> <p>For the purpose of recovering civil damages and remedies from individuals who "recruited, harmed, profited from, or maintained" victims in the sex trade industry, 740 Ill. Comp. Stat. Ann. 128/25 (Non-defenses) provides that "(a) It is not a defense to an action brought under this Act that: . . . (6) the victim of the sex trade consented to engage in acts of the sex trade; . . ."</p>	<p>North Carolina</p> <p>N.C. Gen. Stat. § 14-43.11(c1) (Human trafficking) and § 14-43.13(b1) (Sexual servitude) state in part, "Consent of a minor is not a defense to prosecution under this section."</p>

South Carolina

S.C. Code Ann. § 16-3-2020(K) (Trafficking in persons) states, “[e]vidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation: ... (3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section.”

Vermont

Vt. Stat. Ann. tit. 13, § 2652(d) (Human trafficking) states, “In a prosecution for a violation of this section, the victim’s alleged consent to the human trafficking is immaterial and shall not be admitted.” Consent is also irrelevant with respect to Vt. Stat. Ann. tit. 13, § 2636(a)(3), (4) (Unlawful procurement), which criminalizes any person who “(3) Pay[s] money or other valuable consideration to procure a person for the purpose of placing such person for immoral purposes in a house of prostitution, with or without the person’s consent; or (4) Knowingly receive money or other valuable thing for or on account of procuring or placing a person in a house of prostitution for immoral purposes, with or without the person’s consent.”

Washington

Washington prohibits a consent defense under its trafficking law and several of its commercial sexual exploitation of children laws:

Wash. Rev. Code § 9A.40.100(4) (Trafficking) states, “If the victim of any offense identified in this section is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.”

Wash. Rev. Code § 9.68A.101(4) (Promoting sexual abuse of a minor – Penalty) states, “Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) states, “Consent of a minor to the sexual conduct does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.102(3) (Promoting travel for commercial sexual abuse of a minor) states, “Consent of a minor to the travel for commercial sexual abuse, or the sexually explicit act or sexual conduct itself, does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.103(3) (Permitting commercial sexual abuse of a minor) states, “Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Prostitution laws apply only to adults, preventing criminalization of minors under 18 for prostitution offenses.
The Legislative Solution	State human trafficking laws serve the purpose of making the actions of traffickers, buyers and facilitators criminal while protecting the victims. Therefore, it is counterproductive and confusing to retain state statutes that permit prostituted children—trafficking victims—to also be charged and prosecuted for prostitution. Criminal prostitution statutes should be amended to remove any criminal responsibility from child victims of commercial sexual exploitation. Domestic minor sex trafficking victims and prostituted children are the same persons and, as such, they should consistently be treated as victims under every state law.

Select Statute Highlights

The following state laws eliminate criminal liability for minors for prostitution

DC

D.C. Code § 22-2701(d) states, “(1) A child who engages in or offers to engage in a sexual act or sexual contact in return for receiving anything of value shall be immune from prosecution for a violation of subsection (a) of this section. (2) The Metropolitan Police Department shall refer any child suspected of engaging in or offering to engage in a sexual act or sexual contact in return for receiving anything of value to an organization that provides treatment, housing, or services appropriate for victims of sex trafficking of children under § 22-1834.”

Illinois

Pursuant to 720 Ill. Comp. Stat. Ann. 5/11-14(d) (Prostitution) “if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5 and 705 ILCS 405/2-6]. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-6], a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately

report an allegation of a violation of Section 10-9 of this Code [720 ILCS 5/10-9] to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.4 et seq.]. Further-more, 720 Ill. Comp. Stat. Ann. 5/11-14.3(a)(2)(C) (Promoting prostitution) also clarifies that an offense for profiting from prostitution by “any means . . . including from a person who patronizes a prostitute . . . does not apply to a person engaged in prostitution who is under 18 years of age. A person cannot be convicted of promoting prostitution under this paragraph (C) if the practice of prostitution underlying the offense consists exclusively of the accused’s own acts of prostitution under Section 11-14 of this Code [720 ILCS 5/11-14 [Prostitution]].”

Kentucky

Ky. Rev. Stat. Ann. § 529.120 (Treatment of minor suspected of prostitution offense) provides that “(1) Notwithstanding KRS 529.020 [Prostitution] or 529.080 [Loitering for prostitution purposes], if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under KRS 529.020 or 529.080. (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to KRS 620.030 [Duty to report dependency, neglect, abuse, or human trafficking]. Pursuant to KRS 620.040 [Duties of prosecutor, police, and cabinet], the officer may take the

minor into protective custody. (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to KRS 620.029 [Duties of cabinet relating to children who are victims of human trafficking].”

Minnesota

As of August 1, 2014, a child whose conduct would violate Minn. Stat. Ann. § 609.324, subd. 2, 3 (Patrons; Prostitutes; Housing Individuals engaged in prostitution; Penalties) or § 609.3243 (Loitering with intent to participate in prostitution) if the child were an adult cannot be considered a delinquent child. “Delinquent child” is expressly defined to “not include a child alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.” Minn. Stat. Ann. § 260B.007, subd. 6(c). As of August 1, 2014, Minn. Stat. Ann. § 260B.007, subd. 16(d) (Juvenile petty offender; juvenile petty offense), also clarifies that a “juvenile petty offense” will not include: “a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.” These provisions effectively make it impossible for minors to be treated as delinquent children for engaging in commercial sex acts. Instead, pursuant to Minn. Stat. Ann. § 260C.007, subd. 6(17), commercially sexually exploited minors can be treated as a child in need of protection or services which will be defined to include “sexually exploited youth” as of August 1, 2014.

Mississippi

Miss. Code Ann. § 97-29-49(4) (Prostitution) provides that “[i]f it is determined that a person suspected of or charged with engaging in prostitution is engaging in those acts as a direct result of being a trafficked person, as defined by Section 97-3-54.4, that person shall be immune from prosecution for prostitution as a juvenile or adult and, if a minor, the provisions of Section 97-3-54.1(4) shall be applicable.” Pursuant to Miss. Code Ann. § 97-3-54.4(p) (Human Trafficking Act; definitions), ‘[t]rafficked person’ means a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’” Since anyone who “causes or attempts to cause a minor to engage in commercial sexual activity . . .” commits an offense under § 97-3-54.1(1)(c) (Human Trafficking Act; prohibited conduct; penalty), any minor who engages in prostitution would qualify as a victim of trafficking and immunity under Miss. Code Ann. § 97-29-49(4).

Nebraska

Neb. Rev. Stat. Ann. § 28-801(5) (Prostitution; penalty) states, “If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) of this section is a person under eighteen years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subjected to temporary custody under section 43-248 [Temporary custody of juvenile without warrant] and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under eighteen years of age into custody under this section shall immediately report an allegation of a violation of section 28-831 [Human trafficking] to the Department of Health and Human Services which shall commence an investigation within twenty-four hours under the Child Protection Act.”

New Hampshire

N.H. Rev. Stat. Ann. § 633:7(VI) (Trafficking in persons) states, “A victim under this section who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceeding . . . or prosecuted for conduct chargeable as indecent exposure and lewdness under RSA 645:1 or prostitution under RSA 645:2, where the conduct was committed as a direct result of being trafficked.” N.H. Rev. Stat. Ann. § 645:2(I)(a) (Prostitution and related offenses) makes it a crime if any person “[s]olicits, agrees to perform, or engages in sexual contact . . . or sexual penetration . . . in return for consideration,” and N.H. Rev. Stat. Ann. § 645:2(V) states that, “a person under 18 years of age shall not be subject to a juvenile delinquency proceeding . . . or criminal prosecution for the commission of an offense under subparagraph I(a).”

North Carolina

N.C. Gen. Stat. § 14-204(c) (Prostitution) states that “[n]otwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to the provisions of G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment], a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 [Human Trafficking] and G.S.

14-43.13 [Sexual servitude] to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment], and G.S. 7B-302 [Assessment by director].”

Tennessee

Tenn. Code Ann. § 39-13-513(d) states, “[n]otwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the National Human Trafficking Resource Center hotline and release the minor to the custody of a parent or legal guardian or transport the minor to a shelter care facility designated by the juvenile court judge to facilitate the release of the minor to the custody of a parent or legal guardian.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	State law provides a non-punitive avenue to specialized services through one or more points of entry.
The Legislative Solution	Juvenile sex trafficking victims may come to the attention of service providers through various points of entry into state systems. Without clear statutory mechanisms to direct juvenile sex trafficking victims into specialized services outside the detention context, victims face an adversarial criminal justice or juvenile justice process that is ill-equipped to provide appropriate services. Alternatively, relying on child serving agencies, such as child welfare, without clear statutory guidance that ensures victims' access to appropriate services may leave victims prone to re-victimization or return them to the conditions which led to their trafficking. One or more non-punitive avenues to specialized services is necessary to protect juvenile sex trafficking victims and promote access to multidisciplinary services that help break trauma bonds and end the concomitant cycle of re-victimization.

Select Statute Highlights

The following statutes establish non-punitive avenues to specialized services for juvenile sex trafficking victims.

Florida

Pursuant to Fla. Stat. Ann. § 39.01(15)(g), “Child who is found to be dependent’ means a child who, pursuant to this chapter, is found by the court . . . [t]o have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.” Pursuant to Fla. Stat. Ann. § 39.01(69)(g) provides that “sexual abuse of a child for purposes of finding a child to be dependent means one or more of the following acts . . . The sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, provided that the child is not under arrest or is not being prosecuted in a delinquency or criminal proceeding for a violation of any offense in chapter 796 based on such behavior; or allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827; or 3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g) [Human trafficking].

Under Fla. Stat. Ann. § 39.401(2)(b), when there is probable cause that a child taken into custody and alleged to be dependent has been sexually exploited, “the law enforcement officer shall deliver the child to the department [of Children

and Families].” Pursuant to Fla. Stat. Ann. § 39.524 (Safe harbor placement) states, “. . . a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in 39.01(69)(g) [Definitions] must be assessed for placement in a safe house or safe foster home as provided in s. 409.1678 [using the initial screening and assessment instruments provided in s. 409.1754(1) [Sexually exploited children; screening and assessment]. If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child’s needs or if a safe house or safe foster home is unavailable, as long as the child’s behaviors are managed so as not to endanger other children served in that setting. (2) The results of the assessment described in s. 409.1754(1) and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child’s placement, with special reference regarding the stability of the placement and the permanency planning for the child.”

Pursuant to Fla. Stat. Ann. § 409.1754(1), “The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals

involved in the identification and care of sexually exploited children when developing or adopting initial screening and assessment instruments. Initial screening and assessment instruments shall assess the appropriate placement of a sexually exploited child, including whether placement in a safe house or safe foster home is appropriate, and shall consider, at a minimum, the following factors: 1. Risk of the child running away[;] 2. Risk of the child recruiting other children into the commercial sex trade[;] 3. Level of the child's attachment to his or her exploiter[;] 4. Level and type of trauma that the child has endured[;] 5. Nature of the child's interactions with law enforcement[;] 6. Length of time that the child was sexually exploited[;] 7. Extent of any substance abuse by the child. (b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies. (c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use. (d) The department, the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children."

Fla. Stat. Ann. § 409.1678(1)(a) (Specialized residential options for children who are victims of sexual exploitation) defines "[s]afe foster home" as "a foster home certified by the department under this section to care for sexually exploited children," and Fla. Stat. Ann. § 409.1678(1)(b) defines "[s]afe house" as "a group residential placement certified by the department under this section to care for sexually exploited children." Pursuant to Fla. Stat. Ann. § 409.1678(2)(a), "A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches." Additionally, "A safe house or a safe foster home must be certified by the department. . . To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also: 1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate[;] 2. Serve exclusively one sex[;] 3. Group sexually exploited children by age or maturity level[;] 4. Care for sexually exploited children in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced sexual exploitation do not interact with children who have experienced sexual exploitation[;] 5. Have awake staff members on duty 24

hours a day, if a safe house[;] 6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas[;] 7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered." Fla. Stat. Ann. § 409.1678(1)(e) further provides, "The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. . . ."

Kansas

Kan. Stat. Ann. § 38-2231(b) provides that "A law enforcement officer shall take a child under 18 years of age into custody when the officer: . . . (3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child." Pursuant to Kan. Stat. Ann. § 38-2232(b)(2), "When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility"

Kan. Stat. Ann. § 65-535 (Maternity centers and child care facilities) provides that "A staff secure facility shall: (1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents . . . A staff secure facility shall provide the following services to children placed in such facility: (1) Case management; (2) life skills training; (3) health care; (4) mental health counseling; (5) substance abuse screening and treatment; and (6) any other appropriate services . . . Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation."

Pursuant to Kan. Stat. Ann. § 38-2287 (Child in custody, victim of certain conduct), "[w]henver a child is in custody, as defined in K.S.A. 38-2202 [Definitions], and amendments

thereto, and such child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 21–5426 [Human trafficking; aggravated human trafficking], and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 21–6419 [Selling sexual relations], and amendments thereto, the court shall refer the child to the secretary of the department for children and families for an assessment to determine safety, placement and treatment needs for the child. The secretary shall use a research-based assessment tool to assess such needs and shall make appropriate recommendations to the court.”

Kentucky

Ky. Rev. Stat. Ann. § 529.120 provides, “(1) Notwithstanding Section 12 [Prostitution] or 13 [Loitering for prostitution purposes] of this Act, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under Section 12 or 13 of this Act. (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to Section 2 of this Act. Pursuant to Section 3 of this Act, the officer may take the minor into protective custody. (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to Section 1 of this Act.”

Ky. Rev. Stat. Ann. § 620.029(1)(a) (Duties of cabinet relating to children who are victims of human trafficking) states that “[i]n order to provide the most effective treatment for children who are victims of human trafficking, as defined in KRS 529.010, the cabinet shall: (a) Investigate a report alleging a child is a victim of human trafficking pursuant to KRS 620.030(3) [Duties to report dependency, neglect, abuse, or human trafficking]; (b) Provide or ensure the provision of appropriate treatment, housing, and services consistent with the status of the child as a victim of human trafficking; and (c) Proceed in the case in accordance with applicable statutes governing cases involving dependency, neglect, or abuse regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.”

Ky. Rev. Stat. Ann. § 15A.068(1) (Duties of department if child may be victim of human trafficking; administrative regulations) specifies that “[i]f If, during the course of screening, assessing, or providing services to a child committed to or in the custody of the department, there

is reasonable cause to believe that the child is a victim of human trafficking as defined in KRS 529.010 [Definitions], the department shall: (a) File a report with the Cabinet for Health and Family Services pursuant to KRS 620.030 [Duty to report dependency, neglect, abuse, or human trafficking]; (b) Notify the child’s attorney that the child may be a victim of human trafficking; and (c) If the child does not pose a threat to public safety, petition the court to transfer custody from the department to the Cabinet for Health and Family Services. (2) After consultation with agencies serving victims of human trafficking, the department shall promulgate administrative regulations for the treatment of child victims of human trafficking who are committed to or in the custody of the department and pose a threat to public safety but do not qualify to be in the custody of the Cabinet for Health and Family Services under subsection (1)(c) of this section. The administrative regulations shall include provisions for appropriate screening, assessment, placement, treatment, and services for these children, the training of staff, and collaboration with service providers.”

Massachusetts

Mass. Gen. Laws ch. 119 § 21 defines “child in need of services” in part, as “a child between the ages of 6 and 17 who . . . is a sexually exploited child.” Mass. Gen. Laws ch. 119 § 21 defines a “sexually exploited child” as “any person under the age of 18 who has been subjected to sexual exploitation because such person: (1) is the victim of the crime of sexual servitude pursuant to section 50 of chapter 265 or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105; (2) engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272, or in exchange for food, shelter, clothing, education or care; (3) is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under by section 4A of chapter 272; or (4) engages in common night walking or common streetwalking under section 53 of chapter 272.”

Mass. Gen. Laws ch. 119 § 39K(a)–(c) (Sexually exploited children – child welfare services) states, “(a) Notwithstanding any general or special law to the contrary, the department of children and families, in collaboration with the department of mental health and other appropriate state agencies, shall: (i) provide for the child welfare services needs of sexually exploited children including, but not limited to, services for sexually-exploited children residing in the commonwealth at the time they are taken into custody by law enforcement or are identified by the department as sexually-exploited children, for the duration of any legal or administrative proceeding in which they are either the complaining witness, defendant or the subject child; and (ii) provide appropriate services to a

child reasonably believed to be a sexually exploited child in order to safeguard the child's welfare. If a child reasonably believed to be a sexually exploited child declines services or is unable or unwilling to participate in the services offered, the department or any person may file a care and protection petition under section 24. Sexually exploited children shall have access to an advocate. The advocate or a member of the multidisciplinary service team established under section 51D shall accompany the child to all court appearances and may serve as a liaison between the service providers and the court. (b) The services that shall be provided under this section shall be available to all sexually exploited children, whether they are accessed voluntarily, through a court proceeding under this section or through a referral, which may be made by any person. (c) In determining the need for and capacity of the services that may be provided under this section, the department of children and families shall recognize that sexually exploited youth have separate and distinct service needs according to gender and appropriate services shall be made available while ensuring that an appropriate continuum of services exists."

Nevada

Enacted Assembly Bill 153 § 6.5 states, "1. If the district attorney files a petition with the juvenile court alleging that a child who is less than 18 years of age has engaged in prostitution or the solicitation of prostitution, the juvenile court . . . shall: (1) Place the child under the supervision of the juvenile court pursuant to a supervision and consent decree, without a formal adjudication of delinquency; and (2) Order that the terms and conditions of the supervision and consent decree include, without limitation, services to address the sexual exploitation of the child and any other needs of the child, including, without limitation, any counseling and medical treatment for victims of sexual assault in accordance with the provisions of NRS 217.280 to 217.350, inclusive. 2. If a child is placed under a supervision and consent decree pursuant to this section, the juvenile court may issue any order authorized by chapter 62E of NRS [Disposition of cases by juvenile court], including, without limitation, any placement of the child that the juvenile court finds to be in the child's best interest."

New York

Under the Safe Harbor Act, commercially sexually exploited children can be placed in a "short-term safe house" or "safe house" both of which are defined in part as "a residential facility operated by an authorized agency . . . including a residential facility operating as part of an approved runaway program . . . or a not-for-profit agency with experience in providing

services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter, services and care to sexually exploited children . . ." N.Y. Soc. Serv. Law § 447-a(2), (4). Also in both short term and long term safe housing sexually exploited children will receive services "including food, shelter, clothing, medical care, counseling, crisis intervention" and for long term housing, services will either be provided through "direct provision of services, or through written agreements with other community and public agencies . . ." N.Y. Soc. Serv. Law § 447-a(2),(4).

Pursuant to N.Y. Fam. Ct. Act § 739(a) (Release or detention after filing of petition and prior to order of disposition), upon an initial appearance at a juvenile delinquency proceeding, if the child is a sexually exploited child, "the court may direct the respondent to an available short-term safe house as an alternative to detention." Moreover, N.Y. Fam. Ct. Act § 739(a) notes "the court shall not direct detention [of a sexually exploited minor] unless it finds and states the facts and reasons for so finding that unless the respondent is detained there is a substantial probability that the respondent will not appear in court on the return date and all available alternatives to detention have been exhausted." If the victim is unwilling "to cooperate with specialized services for sexually exploited youth" or has a prior prostitution conviction, the minor will be subject to the delinquency proceedings and could be detained. N.Y. Fam. Ct. Act § 311.4(3).

With regard to minor victims aged 16 or 17 who face criminal prosecution for prostitution offenses, N.Y. Crim. Proc. Law § 170.80 (Proceedings regarding certain prostitution charges; certain teenagers) states, "Notwithstanding any other provision of law, when a person is arrested for prostitution or loitering for the purposes of prostitution and such offense allegedly occurred when the person was sixteen or seventeen years of age: 1. unless, after consultation with counsel a knowing and voluntary plea of guilty has been entered to such charge, any judge or justice hearing any stage of such case may, upon consent of the defendant after consultation with counsel, convert such charge and retain it as a person in need of supervision proceeding for all purposes and shall have the authority to grant any relief available under article seven of the family court act. 2. Any adverse finding and all records of the investigation and proceedings relating to such charge shall be promptly expunged upon the person's eighteenth birthday or the conclusion of the proceedings on the charge before the court, whichever occurs later. In the event of a conviction or plea of guilty to such charge or charges of prostitution or loitering for the purposes of prostitution as described in the opening paragraph and subdivision one of this section, the court must find that the person is a youthful offender and proceed in accordance with article seven hundred twenty of this chapter, provided,

however, that where the conviction for which the youthful offender finding is substituted is loitering for the purposes of prostitution as defined in section 240.37 of the penal law, the available sentence shall be the sentence that may be imposed for a violation as defined in the penal law.”

Vermont

Vt. Stat. Ann. tit.13, § 2652(e) (Human trafficking) states, “If a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision [CHINS] proceeding.” Vt. Stat. Ann. tit. 33, § 5301 (Taking into custody) allows law enforcement to take a CHINS into custody “(1) Pursuant to an order of the family division of the superior court under the provisions of this chapter, (2) By an officer when the officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that removal from the child’s current home is necessary for the child’s protection, (3) By an officer when the officer has reasonable grounds to believe that the child has run away from a custodial parent, a foster parent, a guardian, a custodian, a noncustodial parent lawfully exercising parent-child contact, or care provider.”

Washington

Wash. Rev. Code § 13.32A.030(5)(d) (Definitions—Regulating leave from semi secure facility) defines “child in need of services” (CHINS) as a juvenile who is “sexually exploited.” A “sexually exploited child” is defined as “any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.” Wash. Rev. Code § 13.32A.030(17). A sexually exploited child may be “(1) . . . taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032 [Crisis residential centers—Establishment—Staff—Duties—Semi-secure facilities—Secure facilities] or may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center, the nearest regional secure crisis residential center, or a secure facility with which it is collocated under RCW 74.13.032. Placement in both locations shall not exceed fifteen consecutive days from the point of intake as provided in RCW 13.32A.130.” Wash. Rev. Code. § 74.15.255 (Licenses for secure or semi-secure crisis residential centers or HOPE centers—Requirement—Access to person trained to work with needs of sexually exploited

children) requires each crisis residential center to have a staff member, or “access to a person, who has been trained to work with the needs of sexually exploited children.” Wash. Rev. Code § 74.13.034.

Wash. Rev. Code § 13.32A.179(2) (Out-of-home placement—Disposition hearing—Court order—Dispositional plan—Child subject to contempt proceedings—Dismissal of order at request of department or parent) provides that at a post disposition hearing, “the court may: . . . (d) order an out-of-home placement at the request of the child or the department not to exceed ninety days. (3) The court may only enter an order under subsection (2)(d) of this section if it finds by clear, cogent, and convincing evidence that: . . . (b)(i) the order is in the best interest of the child; and (ii) the parents are unavailable; or (c) the parent’s actions cause an imminent threat to the child’s health or safety.” Wash. Rev. Code §13.32A.180(2) states in part: “[n]o placement made pursuant to this section may be in a secure residence as defined by the federal Juvenile Justice and Delinquency Prevention Act of 1974.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.
The Legislative Solution	Child protective services are often unable to respond to or investigate cases of child sex trafficking or commercial sexual exploitation when such victimization is not included in the definition of “abuse and neglect.” Broadening the definition of “abuse and neglect” in child protection statutes to include sex trafficking and commercial sexual exploitation will permit child protective services to investigate and intervene in situations of domestic minor sex trafficking. Also, states that include commercial sexual exploitation in their statutory definitions of “abuse and neglect” can offer domestic sex trafficking victims services through child welfare rather than involving them in the criminal justice process and burdening law enforcement with child welfare matters.

Select Statute Highlights	
Florida	
<p>Fla. Stat. Ann. § 39.01(2) (Definitions) defines “abuse” as “any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired” Fla. Stat. Ann. § 39.01(69)(g) defines “‘sexual abuse of a child’ for purposes of finding a child to be dependent” to include “[t]he sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, provided that the child is not under arrest or is not being prosecuted in a delinquency or criminal proceeding for a violation of any offense in chapter 796 [Prostitution] based on such behavior; or allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]; or 3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g) [Human trafficking].” Additionally, under Fla. Stat. Ann. § 39.01(32), “‘Harm’ to a child’s health or welfare can occur when any person: (c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]. . . .”</p>	Hawaii
	<p>Haw. Rev. Stat. Ann. § 350-1 (Definitions) defines “child abuse or neglect” as “acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to When the child has been the victim of sexual contact or conduct, including, but not limited to, sexual assault as defined in the Penal Code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation[; or], including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Promoting prostitution in the first degree]. . . .” Haw. Rev. Stat. Ann. § 587A—4 (Definitions) defines “harm” as “damage or injury to a child’s physical or psychological health or welfare where: (1) The child exhibits evidence of injury, including, but not limited to: (2) The child has been the victim of sexual contact or conduct, including prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Promoting prostitution in the first degree].</p>

Idaho

Idaho Code § 16-1602(1)(b) (Definitions) defines “abuse” to include “[s]exual conduct, including . . . prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child’s health or welfare or mental injury to the child.”

Illinois

Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vi) (Neglected or abused minor) and § 325 ILCS 5/3(h) (Definitions) defines “abused child,” in part, as “a child whose parent or immediate family member, or any person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of the child’s parent . . . commits or allows to be committed the offense of . . . involuntary sexual servitude of a minor . . . as defined in [720 ILCS 5/10-9] against the child.” Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vii) (Neglected or abused minor) adds that an “abused” child includes a minor encouraged or required to “commit any act of prostitution . . . and extending those definitions to include minors under 18 years of age.”

Maryland

Pursuant to Md. Code Ann., Fam. Law § 5-701(x)(2) (Definitions), “Sexual abuse” includes: (I) allowing or encouraging a child to engage in: 1. obscene photography, films, poses, or similar activity; 2. pornographic photography, films, poses, or similar activity; or 3. prostitution; (II) human trafficking . . .

Minnesota

Minn. Stat. Ann. § 260C.007, Subd. 5 (Definitions) defines “child abuse,” in part, as “an act that involves a minor victim that constitutes a violation of section . . . 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . 617.246 [Use of minors in sexual performance prohibited].” Additionally, pursuant to Minn. Stat. Ann. § 260C.007, Subd. 6(11), “Child in need of protection or services” means a child who is in need of protection or services because the child . . . is a sexually exploited youth.” Minn. Stat. Ann. § 260C.007, Subd. 31, defines “Sexually exploited youth” as “an individual who: (1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct; (2) is a victim of a crime described in section

... 617.246 [Use of minors in sexual performance prohibited] ... (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.”

New Hampshire

Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II)(a) (Definitions) an “abused child” is defined as “any child who has been sexually abused.” N.H. Rev. Stat. Ann. § 169-C:3(XXVII-a) defines “sexual abuse” as including: “the following activities under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose or producing any visual depiction of such conduct; or the . . . prostitution, or other form of sexual exploitation of children, . . . who is under the age of 18 years.”

Rhode Island

R.I. Gen. Laws § 40-11-2(1) defines an “abused and/or neglected child,” in part, as one “whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare: . . . (vii) Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions in § 11-34.1-1 [Commercial sexual activity] et seq., entitled “Commercial Sexual Activity”; or (viii) Sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under eighteen years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality.”

Tennessee

Tenn. Code Ann. § 37-1-102(12)(I) (Definitions) defines a “dependent and neglected child” to include a child “[w]ho is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity.”

Wisconsin

Wis. Stat. § 48.02(1)(c),(d) (Definitions) of the Children's Code defines "abuse" as including a "violation of s. 948.05 [Sexual exploitation of a child]" or "[p]ermitting, allowing or encouraging a child to violate s. 944.30 [Prostitution]."

Area of Law	Protective Provisions for the Child Victims
The Policy Point	The definition of “caregiver” or another related term in the child welfare statutes is not a barrier to a sex trafficked child accessing the protection of child welfare.
The Legislative Solution	Juvenile sex trafficking victims are regularly subjected to abuse at the hands of their traffickers and buyers, but child welfare may be unable to intervene and provide ongoing services to juvenile sex trafficking victims if the definition of “caregiver” or a similar term limits child welfare’s jurisdiction to cases in which a parent, guardian, caretaker or other person with legally provided custodial rights caused the abuse or neglect. As laws designed to protect juvenile sex trafficking victims increasingly rely on child welfare to provide services to exploited youth, and as child welfare increasingly encounters children under its care who have been commercially sexually exploited, statutory restrictions on child welfare’s jurisdiction undermine its ability to respond appropriately. To avoid this result, state statutory definitions of the term “caregiver” (or similar) need to be designed to avoid creating barriers to services and protection of child welfare for juvenile sex trafficking victims who are exploited by non-family members.

Select Statute Highlights

The definition of “caregiver” (or similar term) under the following state laws does not limit child welfare’s ability to intervene on behalf of juvenile sex trafficking victims who are exploited by a non-family member.

Connecticut

Pursuant to Conn. Gen. Stat. § 46b-120(6), (7), “(a) The Commissioner of Children and Families may: (1) Provide child welfare services for any minor child residing in the state who is identified by the Department of Children and Families as a victim of trafficking, as defined in section 46a-170 of the general statutes; and (2) provide appropriate services to a minor child residing in the state who the Department of Children and Families reasonably believes may be a victim of trafficking in order to safeguard the welfare of such minor child. For purposes of this section and section 17a-106a of the general statutes, ‘minor child’ means any person under eighteen years of age.”

Kentucky

Pursuant to Ky. Rev. Stat. § 620.029(1)(c) (Duties of cabinet relating to children who are victims of human trafficking), “the cabinet shall . . . [p]roceed in the case in accordance with applicable statutes governing cases involving dependency,

neglect, or abuse regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.”

Michigan

Mich. Comp. Laws Ann. § 712A.2(b)(3) (Authority and jurisdiction of court) states, “The court has the following authority and jurisdiction: . . . (b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county: . . . (3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs: . . . (C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 462a of the Michigan penal code [Human trafficking] . . . or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.”

Mississippi

Miss. Code Ann. § 43-21-105(g) (Definitions), which provides definitions for Mississippi’s chapter 21 (Youth court), defines “custodian” as “any person having the present care or custody of a child whether such person be a parent or otherwise.” “Custody” is defined as “the physical possession of the child by any person” at Miss. Code Ann. § 43-21-105(q). Additionally, Miss. Code Ann. § 43-21-105(v) defines “any

person responsible for care or support” as “the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, nonlicensed baby-sitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services.”

New Jersey

N.J. Stat. Ann. §9:6-2 (Parent and custodian defined) defines “the person having care, custody and control of any child” as including “any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed.”

Utah

Pursuant to Utah Code Ann. § 62A-4a-105(1)(b) (Division responsibilities), “(1) The division shall . . . (b) provide the following services: . . . (x) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and (xi) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Crime victims' compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC) without regard to ineligibility factors.
The Legislative Solution	Victims of domestic minor sex trafficking and CSEC are commonly caused to commit crimes as a result of being trafficked. This cannot be allowed to prevent them from accessing crime victims' compensation, critically needed to fund the process of restoration. At the societal level, awarding compensation acknowledges that trafficking is a crime. At the individual level, compensation acknowledges victims' pain and suffering. At the practical level, compensation can assist victims in rebuilding their lives. Crime victims' compensation programs frequently contain eligibility criteria that can foreclose a domestic minor sex trafficking victim's access to an award, such as required cooperation with law enforcement, reporting the crime within short time limits, and being deemed to have contributed to the crime for which they are claiming compensation. Statutory exceptions for victims of domestic minor sex trafficking to the ineligibility factors, beyond just "good cause" exceptions, are necessary to ensure access to these funds.

Select Statute Highlights

District of Columbia

In D.C., the crime of human trafficking and sex trafficking of children are specifically listed as offenses for which the victim may seek compensation. D.C. Code § 4-501 (Definitions), defines "crime" for the crime victim's compensation statute as "the offense of, or the attempt to commit the offense of . . . benefitting financially from human trafficking, using a minor in a sexual performance, promoting a sexual performance by a minor, attending or possessing a sexual performance by a minor, trafficking in labor or commercial sex acts, sex trafficking of children, a felony violation of an act codified in Chapter 27 of Title 22 of the District of Columbia Code, where a person was compelled to engage in prostitution or was a minor" Furthermore, domestic minor sex trafficking victims are specifically protected from disqualification and reductions in awards under D.C. Code § 4-508(a)(1) (Disqualification and reductions), which states, "The Court shall not award compensation if the: (1) Claimant knowingly or willingly participated in the commission of the crime which forms the basis for the claim; provided, that a claimant who was a minor and a victim of sex trafficking of children, may be awarded compensation."

Florida

Pursuant to Fla. Stat. Ann. § 960.065(5), "A person is not ineligible for an award pursuant to paragraph (2)(a), para-

graph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation as defined in s. 39.01(69)(g)." Fla. Stat. Ann. § 39.01(69)(g) defines sexual exploitation of child to include "the act of a child offering to engage or engaging in prostitution, provided that the child is not under arrest or is not being prosecuted in a delinquency or criminal proceeding for a violation of any offense in chapter 796 based on such behavior; or allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]; or 3. Participate in the trade of human trafficking as provided in s. 787.063(3)(g) [Human trafficking]."

Georgia

Ga. Code Ann. § 17-15-2(3)(A) (Definitions) defines "crime" for the purposes of crime victims' compensation funds to include a violation of Ga. Code Ann. § 16-5-46 (Trafficking in persons for labor or sexual servitude). Pursuant to Ga. Code Ann. § 17-15-7(a)(1), a person "eligible for awards pursuant to this chapter" is defined as someone who endures at least one of the following: "Suffers a serious mental or emotional trauma as a result of being trafficked for labor or sexual servitude as defined in Code Section 16-5-46 [Trafficking in persons for labor or sexual servitude]." Additionally, Ga. Code Ann. § 17-15-2(3)(A) defines victims as those who are present during or suffer injury or emotional trauma from certain crimes, including "any act which constitutes a violation of Chapter 6 or Part 2 of Article 3 of Chapter 12 of Title 16," which includes

Ga. Code Ann. § 16-12-100 (Sexual exploitation of children; reporting violation; forfeiture; penalties) and § 16-12-100.2 (Computer or electronic pornography and child exploitation prevention). Ga. Code Ann. § 17-15-7(e) (Persons eligible for awards) states, “A person who is criminally responsible for the crime upon which a claim is based or is an accomplice of such person shall not be eligible to receive an award with respect to such claim; provided, however, that such ineligibility shall not apply if the person is as defined in subparagraph (a)(1) (D) of this Code section.”

Montana

Enacted House Bill 89 § 12(2) (Eligibility for benefit or service) states, “(1) A victim of human trafficking is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1 [The Crime Victims Compensation Act of Montana] . . . (2) A child who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1 [The Crime Victims Compensation Act of Montana], regardless of . . . factors described in 53-9-125 [Limitations on awards].”

Ohio

Ohio Rev. Code Ann. § 2743.60(J) states, “Nothing in [2743.60 (Grounds for denial of claim or reduction of award; limit on aggregate awarded)] shall be construed to prohibit an award to a claimant whose claim is based on the claimant’s being a victim of a violation of section 2905.32 [Compulsion to involuntary servitude] of the Revised Code if the claimant was less than eighteen years of age when the criminally injurious conduct occurred.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim-friendly procedures and protections are provided in the trial process for minors under 18.
The Legislative Solution	States should enact laws that provide protections for domestic minor sex trafficking victims in the trial process. A victim-friendly justice system will reduce the trauma experienced by commercially sexually exploited children and will foster successful participation of the victim in the justice system. Examples of such victim-friendly procedures include: (1) court appointed attorneys; (2) victim witness coordinators; (3) security and confidentiality of identifying information about the victim; (4) closed courtrooms for minor victim testimony; (5) closed circuit testimony; and (6) application of the “rape shield” law to reduce the trauma of cross-examination related to prior sexual conduct. The statutes enacted by states must have an adequate focus on all victims of sexual exploitation or abuse to ensure equal protection for those minors who pursue prosecution of their trafficker under a range of criminal laws.

Select Statute Highlights

California

Ca. Evidence Code §1161 (b) states, “Evidence of sexual history or history of any commercial sexual act of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, is inadmissible to attack the credibility or impeach the character of the victim in any civil or criminal proceeding.”

District of Columbia

D.C. Code § 22-1839 (Reputation or opinion evidence) states, “In a criminal case in which a person is accused of trafficking in commercial sex, as prohibited by § 22-1833, sex trafficking of children, as prohibited by § 22-1834, or benefiting financially from human trafficking, as prohibited by § 22-1836, reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. . . .”

Indiana

Ind. Code Ann. § 35-42-3.5-4 (a)(3) (Rights of alleged victims) provides that human trafficking victims must be provided protection if their safety is at risk or if there is danger of “additional harm by recapture of the victim by the person who allegedly committed the offense.” Protections include “ensuring that the names and identifying information of the alleged victim and the victim’s family members are not disclosed to the public.”

Minnesota

Pursuant to Minn. Stat. Ann. §§ 631.045, 631.046, subd. 1, the judge may exclude spectators from the courtroom at “trial of a complaint or indictment for a violation of sections . . . 617.246, subdivision 2 [Use of minor in sexual performance prohibited] . . . when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed,” and may also authorize the presence of any supportive person in the courtroom for prosecuting witnesses who are minors in cases involving child abuse defined to include Minn. Stat. Ann. § 609.321 (Prostitution and sex trafficking; definitions), § 609.322 (Solicitation, inducement and promotion of prostitution; sex trafficking), and § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties).

South Carolina

South Carolina provides rape shield protection to victims of sex trafficking. Pursuant to S.C. Code Ann. § 16-3-2020(K) (1), “the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct” may not be offered as a defense in prosecutions for sex trafficking.

S.C. Code Ann. § 16-3-2070(B) provides that “in a prosecution for violations of the criminal provisions of [trafficking

Section 5.8 (continued)

in persons], the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant."

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Expungement or sealing of juvenile delinquency records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.
The Legislative Solution	A juvenile delinquency record is a barrier to a survivor of child sex trafficking seeking to move forward with life. While juvenile records are generally not publicly available in the same manner as adult convictions, juvenile records can still prevent survivors from staying in school, obtaining academic scholarships, obtaining professional licenses, securing certain employment, or working with children. For commercially sexually exploited children, the collateral consequences of a juvenile record result in further victimization, including possible release of information about delinquency adjudications to survivors' schools which are often authorized to take further punitive actions, in some cases, expulsion. These academic consequences will follow a survivor from school to school, potentially barring access to higher education. A juvenile record may also prevent survivors from joining the military, obtaining or retaining a driver's license, or accessing public housing benefits. Each of these collateral consequences hinders survivors' ability to rebuild their lives. Laws are needed that expressly protect victims of commercial sexual exploitation of children (CSEC) and sex trafficking by expunging or sealing juvenile delinquency records and keeping such records out of public view or access. Burdening prostituted children with a criminal record is contrary to their status as a trafficking victim.

Select Statute Highlights

Alaska

Alaska Stat. § 47.12.300(d) (Court records) provides that the court shall order a minor's records sealed "within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor." This extends to all "records pertaining to that minor in a proceeding under this chapter [Delinquent minors] sealed, as well as records of all . . . criminal proceedings against the minor, and punishments assessed against the minor."

Indiana

Under Ind. Code Ann. § 31-39-8-2 (Petition to juvenile court for removal of records), "Any person may petition a juvenile court at any time to remove from: (1) the court's files; (2) the files of law enforcement agencies; and (3) the files of any other person who has provided services to a child under a court order; those records pertaining to the person's involvement in juvenile court proceedings." In determining whether to grant such a petition, Ind. Code Ann. § 31-39-8-3 states the court may consider "(1) the best interests of the child; (2)

the age of the person during the person's contact with the juvenile court or law enforcement agency; (3) the nature of any allegations; (4) whether there was an informal adjustment or an adjudication; (5) the disposition of the case; (6) the manner in which the person participated in any court ordered or supervised services; (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency; (8) whether the person acquired a criminal record; and (9) the person's current status."

Ohio

Ohio Rev. Code Ann. § 2151.358(E) (Expungement of records) states, "a person who has been adjudicated a delinquent child for having committed an act that would be a violation of section 2907.24 [Soliciting], 2907.241 [Loitering to engage in solicitation], or 2907.25 [Prostitution] of the Revised Code if the child were an adult may apply to the adjudicating court for the expungement of the record of adjudication if the person's participation in the act was a result of the person having been a victim of human trafficking. The application shall be made in the same manner as an application for expungement under section 2953.38 of the Revised Code, and all of the provisions of that section shall apply to the expungement procedure." The court must find

“that the applicant has demonstrated by a preponderance of the evidence that the applicant’s participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking” Ohio Rev. Code Ann. § 2953.38.

Where the court holds a complaint of delinquency in abeyance because “the act charged would be a violation of section 2907.24 [Soliciting], 2907.241 [Loitering to engage in solicitation], or 2907.25 [Prostitution] . . . [or] . . . [t] he court has reason to believe that the child is a victim of a violation of section 2905.32 [Trafficking in persons] of the Revised Code, regardless of whether any person has been convicted of a violation of that section or of any other section for victimizing the child, and the act charged is related to the child’s victimization . . . and the child complies with the conditions of abeyance and completes the diversion actions to the court’s satisfaction, the court shall dismiss the complaint and order that the records pertaining to the case be expunged immediately.” Ohio Rev. Code Ann. § 2152.021(F)(1), (5).

diversion proceeding unless, upon motion, the court finds: (1) the participant has been convicted of a subsequent felony or misdemeanor during the two-year period, or proceedings are pending seeking such conviction; or (2) rehabilitation of the participant has not been attained to the satisfaction of the court. (f) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.”

Utah

Utah Code Ann. § 78A-6-1105(1)(a) (Expungement of juvenile court record—Petition—Procedure) allows a person adjudicated under the Juvenile Court Act of 1996 to “petition the court for the expungement of the person’s juvenile court record and any related records in the custody of a state agency, if: (i) the person has reached the age of 18 years of age; and (ii) one year has elapsed from the date of termination of the continuing jurisdiction of the juvenile court, or if the person was committed to a secure youth corrections facility, one year from the date of the person’s unconditional release from the custody of the Division of Juvenile Justice Services.” Once the court orders the person’s records sealed, the person’s case will “be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.” Utah Code Ann. § 78A-6-1105(4).

Vermont

Vt. Stat. Ann. tit. 3, § 163(e), (f) (Juvenile court diversion project) allows for juvenile records to be sealed after the successful completion of a diversion program. Vt. Stat. Ann. tit. 3, § 163(e), (f) provides, “(e) Within 30 days of the two-year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court files and records, law enforcement records other than entries in the juvenile court diversion project’s centralized filing system, fingerprints, and photographs applicable to a juvenile court

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim restitution and civil remedies for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.
The Legislative Solution	Sex trafficking is a multi-billion dollar industry. States must enact laws that require restitution for the victim and permit victims of domestic minor sex trafficking to pursue civil remedies for the damages they have suffered as a result of the trafficking. Restitution should include payment for medical and psychological treatment, lost income, attorney's fees and costs, and other damages. Restitution and civil remedies will serve to punish those persons who commercially sexually exploit children and at the same time provide much needed funding for victim services. The purpose of these laws is to make the victims of the crime whole again and empower them with the private right to vindicate their civil rights and hold their traffickers directly accountable for their actions.

Select Statute Highlights

California

Cal. Civ. Code § 52.5 (Action by victim of human trafficking) expressly states that victims of Cal. Penal Code § 236.1 (Human trafficking defined; punishment) “may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney’s fees and costs,” as well as “litigation costs including, but not limited to, expert witness fees and expenses.” Additionally, “the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars (\$10,000), whichever is greater,” as well as “punitive damages may also be awarded upon proof of the defendant’s malice, oppression, fraud, or duress in committing the act of human trafficking.”

Cal. Penal Code § 1202.4(q) (Restitution; amount; hearing and court order; financial disclosure) states, “Upon conviction for a violation of Section 236.1 [Human trafficking], the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in any case in which a victim has suffered economic loss as a result of the defendant’s conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim’s labor or services based upon the comparable value of similar services in the labor market

in which the offense occurred, or the value of the victim’s labor as guaranteed under California law, or the actual income derived by the defendant from the victim’s labor or services or any other appropriate means to provide reparations to the victim.”

Cal. Penal Code § 1202.4 (a)(3)(B) states, “The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay . . . [r]estitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment. Cal. Penal Code § 1202.4(f)(3) provides that a victim may receive restitution for the following: “(A) Full or partial payment for the value of stolen or damaged property. . . .(B) Medical expenses, (C) Mental health counseling expenses, (D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents, guardian, or guardians, while caring for the injured minor. . . . (E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. . . . (F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288 [Lewd or lascivious acts involving children], (G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court, (H) Actual and reasonable attorney’s fees and other costs”

Connecticut

Conn. Gen. Stat. § 52-571i (Action for damages resulting from trafficking in persons) states, “Any person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney’s fee.”

Conn. Gen. Stat. § 53a-28(c) requires, “if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense”

Florida

Fla. Stat. Ann. § 847.01357 (Exploited children’s civil remedy) states, “(1) Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794 [Sexual Battery], chapter 800 [Lewdness; indecent exposure], chapter 827 [Abuse of children], or chapter 847 [Obscenity], where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney’s fees. Any victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$150,000.”

Fla. Stat. Ann. § 775.089 (1)(a) (Restitution) states, in part, “In addition to any punishment, the court shall order the defendant to make restitution to the victim for: 1. Damage or loss caused directly or indirectly by the defendant’s offense;

and 2. Damage or loss related to the defendant’s criminal episode, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03.”

Ohio

Ohio Rev. Code Ann. § 2929.18(B)(8)(a) (Financial sanctions; restitution; reimbursements) states, “If an offender who is convicted of or pleads guilty to a violation of section 2905.01 [Kidnapping], 2905.02 [Abduction], 2907.21 [Compelling prostitution], 2907.22 [Promoting prostitution], or 2923.32 [Engaging in a pattern of corrupt activity; forfeiture], division (A)(1) or (2) of section 2907.323 [Illegal use of a minor in nudity-oriented material or performance], or division (B)(1), (2), (3), (4), or (5) of section 2919.22 [Endangering children] of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 [Human trafficking specification] of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following: (i) The gross income or value to the offender of the victim’s labor or services; (ii) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the “Federal Fair Labor Standards Act of 1938,” 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.”

Ohio Rev. Code Ann. § 2307.51(A) states, “[a] victim of a violation of section 2905.32 of the Revised Code has and may commence a civil cause of action for compensatory and punitive damages against the trafficker for harm that resulted from the violation...” regardless of whether the trafficker was prosecuted or convicted. This is addition to any other cause of action. Ohio Rev. Code Ann. § 2307.51(B).

SECTION 5.11

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.
The Legislative Solution	The effect of sex trafficking on a child is traumatic, potentially long-lasting, and is extremely injurious to the person; it is a hidden crime as well. For these reasons the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes should be lengthened or eliminated. It is important to allow victims full access to justice in both civil and criminal forums, and to provide adequate time for law enforcement and prosecutors to discover, investigate and develop cases for successful prosecution.

Select Statute Highlights**Alaska**

Alaska Stat. § 12.10.010 (General time limitations) provides that prosecutions for “felony sexual abuse of a minor”, violations of Alaska Stat. §§ 11.66.110–11.66.130 (Promoting prostitution in the first through fourth degrees), § 11.41.452 (Online enticement of a minor) or § 11.41.455 (Unlawful exploitation of a minor) when committed against a person who, at the time of the offense, was under 18 years of age, distribution of child pornography in violation of § 11.61.125, sex trafficking in violation of §§ 11.66.110–11.66.130 (Sex trafficking in the first through third degrees) that is an unclassified, class A, or class B felony or that is committed against a person who, at the time of the offense, was under 20 years of age, and human trafficking in violation of §§ 11.41.360 or 11.41.365 (Human trafficking in the first and second degrees) may be brought at any time.

For civil actions, Alaska Stat. § 09.10.065(a) (Commencement of actions for acts constituting sexual offenses) provides that “(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses: (1) felony sexual abuse of a minor; (2) felony sexual assault; (3) unlawful exploitation of a minor; (4) felony sex trafficking; or (5) felony human trafficking.”

Arizona

Ariz. Rev. Stat. Ann. § 13-107(A) (Time limitations) provides that a prosecution for any offense under Chapter 35.1 (Sexual exploitation of children) that is a Class 2 felony may be commenced at any time. Under Chapter 35.1, § 13-3552 (Commercial sexual exploitation of a minor; classification) states, “A. A person commits commercial sexual exploitation

of a minor by knowingly: 1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain, 3. Permitting a minor under the person’s custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.”

Colorado

Pursuant to Colo. Rev. Stat. § 16-5-40(1)(a) (Limitation for commencing criminal proceedings and juvenile delinquency proceedings) there is no time limit for commencing a prosecution for “any sex offense against a child” or “attempt, conspiracy, or solicitation to commit any sex offense against a child,” defined in subsection (c)(IV) by reference to the § 18-3-411(1) definition of “unlawful sexual offense,” which includes “human trafficking of a minor for sexual servitude, as described in section 18-3-504; sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in

section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).”

Texas

Tex. Code Crim. Proc. Ann. Art. 12.01(1)(B), (D), (G), (H), (I) (Felonies) eliminates the statute of limitations for prosecutions of Tex. Penal Code Ann. § 20A.02(a)(7),(8) (Trafficking of persons) and § 20A.03 (Continuous traffick-ing of persons). Tex. Code Crim. Proc. Ann. Art. 12.01(2)(G),(H) imposes a 10 year statute of limitations on prosecutions for traf-ficking under Tex. Penal Code Ann. § 20A.02(1),(2),(3), or (4) and § 43.05(a)(1) (Compelling prostitution), except subsection (6)(A),(C) provides that where the victim was under 18 at the time of the offense, then prosecutions for Tex. Penal Code Ann. § 20A.02(5), (6) (Trafficking of persons) and § 43.05(a)(2) (Compelling prostitution) may be brought within “ten years from the 18th birthday of the victim of the offense.” Tex. Code of Crim. Proc. Ann. Art. 12.01(5) states a 20-year statute of limita-tions (from the victim’s 18th birth-day) if the victim is younger than 17 at the time of the offense of sexual performance of a child (Tex. Penal Code Ann. § 43.25) or aggravated kidnapping “with the intent to violate or abuse the victim sexually.”

Tex. Civ. Prac. & Rem. Code Ann. § 16.0045 (Limitations period for claims arising from certain offenses) extends the standard two year statute of limitations for civil actions to fifteen years for injuries resulting from Tex. Penal Code § 22.011 (Sexual assault of a child), § 22.021 (Aggravated sexual assault of a child), § 21.02 (Continuous sexual abuse of young children), § 20A.02 (Trafficking of persons), or § 43.05 (Compelling prostitu-tion).

Issue Briefs

Section 6 | Criminal Justice Tools for Investigation and Prosecution

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated or authorized.
The Legislative Solution	Law enforcement officers are very often the first responders in a domestic minor sex trafficking situation. Providing them with the awareness, skills and tools necessary to respond appropriately and effectively is critically important. Given limited time and competing priorities, mandatory training on issues of domestic minor sex trafficking will result in an increase in enforcement and successful prosecutions. Training will also lead to implementing protocols across the law enforcement community to enhance officers' ability to detect a trafficking situation and to work effectively with trafficking victims. The objectives of many anti-trafficking task forces include working collaboratively to identify victims, convict traffickers, and implement unique agency policies and procedures for victims of sex trafficking given limited community resources.

Select Statute Highlights

Few states mandate or authorize training, or development of training, specifically on domestic minor sex trafficking. The following are examples of state laws that mandate or authorize training or development of training for law enforcement on human trafficking issues broadly.

California

Cal. Penal Code § 13519.14 states, "Every law enforcement officer who is assigned field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of human trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later." Cal. Penal Code § 13519.14 (e). Subdivision (a) provides, "The commission shall implement by January 1, 2007, a course or courses of instruction for the training of law enforcement officers in California in the handling of human trafficking complaints and also shall develop guidelines for law enforcement response to human trafficking. The course or courses of instruction and the guidelines shall stress the dynamics and manifestations of human trafficking, identifying and communicating with victims, providing documentation that satisfy the law enforcement agency Law Enforcement Agency (LEA) endorsement (LEA) required by federal law, collaboration with federal law enforcement officials, therapeutically appropriate investigative techniques, the availability of civil and immigration remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include human trafficking experts with experience in the delivery of direct services to victims of human trafficking. Completion of the course may

be satisfied by telecommunication, video training tape, or other instruction."

Georgia

Ga. Code Ann. § 35-1-16(a) (Training law enforcement of officers investigating crimes involving trafficking persons for labor or sexual servitude) mandates the Georgia police officer training council to establish procedures, training materials and information in "(1) Methods for identifying, combating, and reporting incidents where a person has been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude]; (2) Methods for providing proper detention facilities or alternatives to detention facilities for persons who have been trafficked for labor or sexual servitude . . . including providing information on therapeutic facilities for such persons; and (3) Methods for assisting persons who have been trafficked for labor or sexual servitude . . . including providing information on social service organizations available to assist such person.

Florida

Fla. Stat. § 787.06(5) (Human Trafficking) requires "[e]ach state attorney to develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and to provide for periodic and timely instruction." Also, "[a]fter January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation." Fla. Stat. Ann. § 787.06(5).

Indiana

Ind. Code Ann. § 5-2-1-9(a)(10) requires the Indiana Law Enforcement Training Board to provide “[m]inimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for in-service training programs for law enforcement officers. The course must cover the following topics: (A) Examination of the human and sexual trafficking laws (IC 35-42-3.5), (B) Identification of human and sexual trafficking, (C) Communicating with traumatized persons, (D) Therapeutically appropriate investigative techniques, (E) Collaboration with federal law enforcement officials, (F) Rights of and protections afforded to victims, (G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law [and] (H) The availability of community resources to assist human and sexual trafficking victims.” Police reserve officers must also receive training on human trafficking. Ind. Code Ann. § 36-8-3-20 (1) (Police reserve officers).

Louisiana

La. Rev. Stat. Ann. § 2405.7 (Human trafficking training) states that “A. The council shall provide training for law enforcement agencies in addressing human trafficking. B. Such training shall focus on all of the following: (1) Investigating human trafficking under R.S. 14:46.2. (2) Investigating trafficking of children for sexual purposes under R.S. 14:46.3 and the special needs of sexually exploited children. (3) Methods used in identifying United States citizens and foreign national victims of human trafficking, including preliminary interview techniques and appropriate questioning methods. (4) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case. (5) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and the special needs of female and child victims. (6) The necessity of treating victims of human trafficking as crime victim rather than criminals. (7) Methods for promoting the safety of victims of human trafficking. C. The council shall seek input and participation of appropriate nongovernmental organizations and other relevant organizations in the preparation and presentation of training called for in this Section.”

Ohio

Pursuant to Ohio Rev. Code Ann. § 109.745(A) (Training for investigating and handling crime of trafficking in persons), “The attorney general shall provide training for peace officers in investigating and handling violations of section 2905.32 [Trafficking in persons] of the Revised Code. The training shall include all of the following: (1) Identifying violations of section 2905.32 [Trafficking in persons] of the Revised Code; (2) Methods used in identifying victims of violations of section 2905.32 of the Revised Code who are citizens of the United States or a foreign country, including preliminary interviewing techniques and appropriate questioning methods; (3) Methods for prosecuting persons who violate section 2905.32 [Trafficking in persons] of the Revised Code; (4) Methods of increasing effective collaboration with nongovernmental organizations and other social service organizations in the course of a criminal action regarding a violation of section 2905.32 of the Revised Code; (5) Methods for protecting the rights of victims of violations of section 2905.32 [Trafficking in persons] of the Revised Code, including the need to consider human rights and the specific needs of women and children who are victims of violations of that section and to treat victims as victims rather than as criminals; (6) Methods for promoting the safety of victims of violations of section 2905.32 [Trafficking in persons] of the Revised Code, including the training of peace officers to quickly recognize victims of a violation of any of those sections who are citizens of the United States or citizens of a foreign country.”

Oregon

Or. Rev. Stat. § 181.649 (Labor trafficking and sex trafficking recognition, investigation and reporting training for police officers) states that “[t]he Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate and report cases involving . . . sex trafficking of children and adults at any advanced training program operated or authorized by the Department of Public Safety Standards and Training.”

Texas

Tex. Occ. Code Ann. § 1701.258(a) (Education and training programs on trafficking of persons) requires law enforcement officers licensed on or after January 1, 2011 to “complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons.” The program must be at least four hours long and “include a review of the substance of Sections 20A.02 [Trafficking of persons] and 43.05 [Compelling prostitution].” Tex. Occ. Code Ann. § 1701.258(a). Additionally,

Tex. Occ. Code Ann. § 1701.258(b) states, “The [Commission on Law Enforcement Officer Standards and Education] shall make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution prohibited under Sections 20A.02 and 43.05, Penal Code.” Tex. Occ. Code Ann. § 1701.402(a) (Proficiency certificates) authorizes the Commission on Law Enforcement Officer Standards and Education to issue proficiency certificates to law enforcement officers who meet training, education, and experience requirements. Tex. Occ. Code Ann. § 1701.402(j) states, “As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011, an officer must complete the basic education and training program on the trafficking of persons described by Section 1701.258(a).” Tex. Hum. Res. Code § 242.009(b) requires juvenile correctional officers to receive training on human trafficking.

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Single party consent to audiotaping is permitted in law enforcement investigations.
The Legislative Solution	Audiotaping is an important tool for law enforcement. This important tool can lead to actionable evidence while simultaneously providing protection to investigating officers by permitting them to record and broadcast their interactions with the criminals. Recorded evidence collected through phone conversations is necessary to increase the number of successful prosecutions of domestic minor sex trafficking cases.

Select Statute Highlights	
<p>Kansas</p> <p>Kansas allows single party consent to audiotaping, stating in Kan. Stat. Ann. § 21-6101(a)(1) (Breach of privacy) that a breach of privacy occurs when an individual “without the consent of the sender or receiver” intercepts the contents of a message sent via “telephone, telegraph, letter or other means of private communication.”</p>	<p>lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception.”</p>
<p>Oregon</p> <p>Or. Rev. Stat. § 165.543(1) (Interception of communications) permits single party consent to audiotaping, stating, “Except as provided in ORS 133.724 [Application for ex parte order; evidence; required contents of order; reports] or as provided in ORS 165.540 (2)(a) [Obtaining whole or part of communication], any person who willfully intercepts, attempts to intercept or procures any other person to intercept or attempt to intercept any wire or oral communication where such person is not a party to the communication and where none of the parties to the communication has given prior consent to the interception, is guilty of a Class A misdemeanor.”</p>	
<p>South Carolina</p> <p>S.C. Code Ann. § 17-30-30(B) (Interception by employee of Federal Communications Commission, by person acting under color or law, and where party has given prior consent) permits single party consent to audiotaping. S.C. Code Ann. § 17-30-30(B) states, “It is lawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.” Subsection (C) states, “It is</p>	
	<p>South Dakota</p> <p>South Dakota allows single party consent to audiotaping. Pursuant to S.D. Codified Laws § 23A-35A-20(1) (Unlawful interception—telephone or telegraph—consent), an individual who is “[n]ot a sender or receiver of a telephone or telegraph communication, intentionally and by means of an eavesdropping device overhears or records a telephone or telegraph communication, or aids, authorizes, employs, procures, or permits another to so do, without the consent of either a sender or receiver thereof” is guilty of a felony.</p>

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Wiretapping is an available tool to investigate domestic minor sex trafficking.
The Legislative Solution	A serious challenge in any prosecution of domestic minor sex trafficking is producing corroborating evidence at trial. Recorded phone conversations or text messages between a victim and a buyer or trafficker are important incriminating pieces of evidence. Wiretapping is largely permitted in cases of murder, arson, terrorism and often other serious felonies involving danger to life or limb. Child sex trafficking should be recognized as a serious crime involving these dangers to a child, and therefore necessitating wiretapping as an investigative tool. States should carve out an exemption for investigations of sex trafficking cases in their wiretapping laws to allow law enforcement officers to investigate and obtain evidence to substantiate their cases against buyers and traffickers while protecting victims who have a difficult time testifying. This investigative tool will lead to more and better arrests and prosecutions, and help to alleviate reliance on the child victim-witness' testimony.

Select Statute Highlights

Alaska

Under Alaska Stat. §12.37.010, the attorney general may authorize a written application for an order authorizing the interception of private communication “if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit” certain crimes, included “sex trafficking in the first or second degree,” or “human trafficking in the first degree.”

Florida

Fla. Stat. Ann. § 934.07(1)(a) (Authorization for interception of wire, oral, or electronic communications) provides that certain specified persons “may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with ss. 934.03–934.09 an order authorizing or approving the interception of, wire, oral, or electronic communications” by law enforcement for the purpose of investigating the commission of certain crimes, including “any violation of s. 787.06 [Human trafficking] . . . any violation of chapter 895 [Offenses concerning racketeering and illegal debts]; any violation of chapter 896 [Offenses related to financial transactions]; any violation of chapter 815 [Computer-related crimes]; any violation of chapter 847 [Obscenity]; any violation of s. 827.071 [Sexual performance

by a child; penalties]; . . . or any conspiracy or solicitation to commit any violation of the laws of this state relating to the crimes specifically enumerated in this paragraph.”

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/14–2(a) (Elements of the offense; affirmative defense) makes it a crime for any person who “(1) Knowingly and intentionally uses an eavesdropping device for the purpose of hearing or recording all or any part of any conversation or intercepts, retains, or transcribes electronic communication . . .” However, Ill. Comp. Stat. Ann. § 720 ILCS 5/14–3 (Exemptions) specifically allows for court-ordered interceptions for investigations relating to a felony offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services. Ill. Comp. Stat. Ann. § 725 5/108B-3 authorizes the State’s Attorney to apply to a judge for an order to intercept private communication when it may provide evidence of or assist in the apprehension of a person “who has committed, is committing or is about to commit,” involuntary servitude, involuntary sexual servitude of a minor, trafficking in persons, promoting juvenile prostitution, soliciting for a minor engaged in prostitution, keeping a place of juvenile prostitution, patronizing a minor engaged in prostitution, juvenile pimping and aggravated juvenile pimping.

Louisiana

La. Rev. Stat. Ann. § 15:1308(A)(2)(q), (r), (s) (Authorization for interception of wire or oral communications) states, “The attorney general, or the deputy or any assistant attorney general acting pursuant to the authorization of the attorney general, with the approval of the district attorney or any assistant district attorney acting pursuant to the written authorization of the district attorney in whose district the interception of wire, electronic, or oral communications shall take place, and the district attorney or authorized assistant district attorney, with the approval of the attorney general or authorized deputy or assistant attorney general may authorize an application to a judge in whose district the interception of wire, electronic, or oral communications shall take place, and such judge may grant in conformity with R.S. 15:1310 an order authorizing or approving the interception of wire, electronic, or oral communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of . . . [t]he commission, attempted commission, or conspiracy to commit a crime involving any of the following offenses . . . [h]uman trafficking when prosecuted under R.S. 14:46.2(B) (3) . . . , [t]rafficking of children for sexual purposes as defined by R.S. 14:46.3, [and] [c]ommercial sexual exploitation of children including R.S. 14:81.1 [Pornography involving juveniles], 81.3 [Computer-aided solicitation of a minor], 82 [Prostitution; definition; penalties; enhancement], 82.1 Prostitution; persons under eighteen; additional offenses], 82.2 [Purchase of commercial sexual activity; penalties], 83 [Soliciting for prostitutes], 83.1 [Inciting prostitution], 83.2 [Promoting prostitution], 83.3 [Prostitution by massage], 83.4 [Massage; sexual conduct prohibited], 84 [Pandering], 85 [Letting premises for prostitution], 86 [Enticing persons into prostitution], 89.2 [Crime against nature by solicitation], 104 [Keeping a disorderly place], 105 [Letting a disorderly place], and 282 [Operation of places of prostitution prohibited; penalty].”

Maryland

Md. Code Ann. Crim. Proc. § 10-402(c)(2) (Wiretapping—unlawful interception of communications) provides in part, “(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence: “(1) Of the commission of: . . . O. A Human trafficking offense under § 11-303 of the 10 Criminal Law Article; P. Sexual solicitation of a minor under §

3-324 of the Criminal 12 Law Article; . . . R. Sexual abuse of a minor under § 3-602 of the Criminal Law 16 Article.”

Pennsylvania

18 Pa. Cons. Stat. § 5708(1), (2) permits certain law enforcement officers to make a written application for “an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses,” which includes 18 Pa. Cons. Stat. § 911 (Corrupt organizations), § 3002 (Trafficking in individuals), § 5902 (Prostitution and related offenses) (“where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year”), and § 6318 (Unlawful contact with minor).

Texas

Tex. Code Crim. Proc. art. 18.20 §4 (Bases for an application for a court order to intercept wire communications) provides, “A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of . . . (1) a felony under Section . . . 43.26, Penal Code [Possession or promotion of child pornography]; . . . (4) an offense under Chapter 20A, Penal Code [Trafficking of persons]; (7) an offense under 43.04 [Aggravated promotion of prostitution] or 43.05 [Compelling prostitution], Penal Code; . . .”

Wisconsin

Wis. Stat. § 968.28 (Application for court order to intercept communications) states, “The attorney general together with the district attorney of any county may approve a request of an investigative or law enforcement officer to apply to the chief judge of the judicial administrative district for the county where the interception is to take place for an order authorizing or approving the interception of wire, electronic or oral communications. The chief judge may under s. 968.30 grant an order authorizing or approving the interception of wire, electronic or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense for which the application is made. The authorization shall be permitted only if the interception may provide or has provided evidence of the commission of the

offense of homicide, felony murder, kidnapping, commercial gambling, bribery, extortion, dealing in controlled substances or controlled substance analogs, a computer crime that is a felony under s. 943.70, sexual exploitation of a child under s. 948.05, trafficking of a child under s. 948.051, child enticement under s. 948.07, use of a computer to facilitate a child sex crime under s. 948.075, or soliciting a child for prostitution under s. 948.08, or any conspiracy to commit any of the foregoing offenses.”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.
The Legislative Solution	Law enforcement struggle to investigate the prostitution of children due to the inability to use a true minor as an undercover investigator and the inevitable defense to a prosecution that the “minor” solicited for prostitution was in fact an adult undercover police officer. State laws that permit law enforcement to pose as minor decoys in investigations of domestic minor sex trafficking cases and explicitly prohibit a defense to prosecution that the decoy was not, in fact, a minor are essential to impact this crime. Use of a decoy by law enforcement to investigate commercial sexual exploitation of children, especially through prostitution, is an effective way to proactively locate and investigate buyers of sex acts with children, potentially leading to identification of traffickers. This investigative tool is frequently encountered in statutes prohibiting the use of electronic communications to lure a child for purposes of committing non-commercial sex offenses and the same tool is needed to investigate commercial sexual exploitation of minors through prostitution.

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 13-3212(C) (Child prostitution) states, “It is not a defense to a prosecution under subsection A and subsection B, paragraphs 1 and 2 of this section that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.” Ariz. Rev. Stat. Ann. § 13-3212(A), (B)(1) and (2) criminalize, among other things, knowingly causing a minor to engage in prostitution, receiving any benefit from prostitution of a child, or knowingly “[e]ngaging in prostitution with a minor who is under 15 years of age” or “with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.”

Hawaii

Pursuant to Haw. Rev. Stat. Ann. § 712-1209.1 (Solicitation of a minor for prostitution), “a person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person intentionally, knowingly, or recklessly offers or agrees to pay a fee to a minor or to a member of a police department, a sheriff, or a law enforcement officer who represents that person’s self as a minor to engage in sexual conduct.” Pursuant to Haw. Rev. Stat. Ann. § 712-1209.1 (Solicitation of a minor for prostitution), “a person eighteen years of age or older commits the offense of solicitation of a

minor for prostitution if the person intentionally, knowingly, or recklessly offers or agrees to pay a fee to a minor or to a member of a police department, a sheriff, or a law enforcement officer who represents that person’s self as a minor to engage in sexual conduct.”

Louisiana

Pursuant to La. Rev. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) and § 14:82.2 (Purchase of commercial sexual activity; penalties) state that “it shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, sold, purchased, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.” La. Rev. Stat. Ann. 46.3(A)(3), 14:82.2(E). Additionally, pursuant to La. Rev. Stat. Ann. § 14:86 (Enticing persons into prostitution) “it shall not be a defense to prosecution “that the person being enticed is actually a law enforcement officer or peace officer acting in his official capacity” and similarly under La. Rev. Stat. Ann. § 14:89.2 (Crime against nature by solicitation) it shall not be a defense “that the person being solicited is actually a law enforcement officer or peace officer acting within the official scope of his duties.” La. Rev. Stat. Ann. § 14:86(C), 89.2 (D)(4). Finally, under La. Rev. Stat. Ann. § 14:82.1 (Prostitution; persons under eighteen; additional offenses), it shall not be a defense that the person practicing prostitution who is believed to be under the age of

eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties. La. Rev. Stat. Ann. § 14:82.1(E).

Maryland

Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor) provides, “A person may not, with the intent to commit a violation of . . . § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under . . . § 11-305, or § 11-306 of this article.”

Pennsylvania

18 Pa. Cons. Stat. § 6318 (Unlawful contact with minor) permits a law enforcement decoy to investigate situations of commercial sexual exploitation of children. 18 Pa. Cons. Stat. § 6318(a) states, “A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth: . . . (3) Prostitution as defined in section 5902 (relating to prostitution and related offenses). (4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances). . . . 6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using the Internet or electronic communications to investigate buyers and traffickers is a permissible investigative technique.
The Legislative Solution	The growing use of the Internet to accomplish crimes of domestic minor sex trafficking necessitates new investigative techniques and tools for law enforcement. Laws establishing a separate or enhanced penalty for using the Internet to commit an underlying offense, and the express inclusion of CSEC or sex trafficking of a minor as such an offense, are critical. Also critical is prohibiting a defense that the prohibited contact made online was with a law enforcement officer acting as a decoy rather than a real minor. Internet crimes against children are committed against minors of all ages and any state law prohibiting this conduct should protect all minors under 18 from the crime.

Select Statute Highlights

The following statutes prohibit the use of the Internet to commit a commercial sexual offense against a child and prohibit a defense based on the “minor” being law enforcement.

Alabama

Ala. Code § 13A-6-122 (Electronic solicitation of a child) provides that “an undercover operative or law enforcement officer’s [involvement in] . . . the detection and investigation of an offense” is not a defense to prosecution.

Georgia

Ga. Code Ann. § 16-12-100.2(g) clarifies that “[t]he sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section [Computer or electronic pornography and child exploitation prevention] shall not constitute a defense to prosecution under this Code section.”

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) states, “It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer

is a minor or is wanton or reckless in that belief, for any activity in violation of . . . KRS 529.100 [Human trafficking] where that offense involves commercial sexual activity, or 530.064(1)(a) [Unlawful transaction with a minor in the first degree], or KRS Chapter 531 [Pornography].”

Louisiana

La. Stat. Ann. § 14:81.3(C), states, “It shall not constitute a defense to a prosecution brought pursuant to this Section [Computer-aided solicitation of a minor] that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.”

Maryland

Md. Crim. Code Ann. § 11-305 (Sexual solicitation of a minor) states, “A person may not, with the intent to commit a violation of § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 [Receiving earnings of a prostitute], § 11-305 [Abduction of a child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 [Receiving earnings of a prostitute], § 11-305 [Abduction of a child under 16], or § 11-306 [House of prostitution].” Pursuant subsection (a), “‘Solicit’ means to

command, authorize, urge, entice, request, or advise a person by any means, including . . . (6) by computer or Internet; or (7) by any other electronic means.”

Michigan

Mich. Comp. Laws § 750.145d(1)(a) (Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions) makes it illegal for a defendant to, “use the internet or a computer, [etc.] . . . for the purpose of . . . Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a [Accosting, enticing or soliciting child for immoral purpose], 145c [child pornography] . . . in which the victim or intended victim is . . . believed by that person to be a minor.”

Area of Law

Criminal Justice Tools for Investigation and Prosecution

The Policy Point

Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

The Legislative Solution

Many children are reported missing each year. Unfortunately, there is a strong corollary between missing and runaway children and domestic minor sex trafficking as children removed from the stability of a home and supervision have heightened vulnerabilities that are identified and exploited quickly by traffickers. State laws that mandate the reporting of missing and found children can lead to data to assist in the tracking of these children and ultimately provide a tool for law enforcement and child welfare to identify the repeat runaways and frequent missing children who are at high-risk for exploitation through sex trafficking and commercial sexual exploitation. Integrated reporting requirements between law enforcement, schools and child welfare agencies can help to close gaps that interfere with identification and reporting of missing children who become victims of sex trafficking.

Select Statute Highlights

The following state laws mandate the reporting of missing children and recovered children.

California

Cal. Penal Code § 14211(Missing person reports; persons under 16 and persons at risk) states, “(a) All local police and sheriffs’ departments shall accept any report, by any party, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property. (b) In cases where the person making a report of a missing person or runaway, contacts, including by telephone, the California Highway Patrol, the Department of the California Highway Patrol may take the report, and shall immediately advise the person making the report of the name and telephone number of the police or sheriff’s department having jurisdiction of the residence address of the missing person and of the name and telephone number of the police or sheriff’s department having jurisdiction of the place where the person was last seen. (c) In cases of reports involving missing persons, including, but not limited to, runaways, the local police or sheriff’s department shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person . . . (d) If the missing person is under 21 years of age, or there is evidence that the person is at risk, the police department or sheriff’s department shall broadcast a ‘Be On the Look-Out’ bulletin, without delay,

within its jurisdiction.”

Cal. Penal Code § 14206 (a)-(c) (Missing and exploited children’s recovery network)states, “(a) The Attorney General shall establish within the Department of Justice the Missing and Exploited Children’s Recovery Network by July 31, 1995. (b) This network shall consist of an automated computerized system that shall have the capability to electronically transmit to all state and local law enforcement agencies, and all cooperating news media services, either by facsimile or computer modem, a missing child poster that includes the name, personal description data, and picture of the missing child. . . (c) The Department of Justice shall work in cooperation with the National Center for Missing and Exploited Children to develop and implement a network that can electronically interface with the National Missing and Exploited Children’s Network.”

Cal. Penal Code § 14213(a), (b) (Report of finding missing person) states, “(a) When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or the law enforcement agency locating the missing person shall immediately report that information to the Attorney General’s office. The Attorney General’s office shall then notify the National Crime Information Center that the missing person has been found. (b) When a missing person is found, the report indicating that the person is found shall be made not later than 24 hours after the person is found to the law enforcement agency that made the initial missing person report.”

Colorado

Colo. Rev. Stat. Ann. § 24-33.5-415.1(3) (List of missing children) provides, “every law enforcement agency in this state shall, upon receipt of information that a child is believed to be missing, send a missing child report containing identifying and descriptive information about the child to the bureau as soon as possible but no later than twenty-four hours after obtaining such information. If, at a later time, the law enforcement agency determines that the missing child has been located, the agency shall send notification to the bureau no later than twenty-four hours after making such determination.”

Pursuant to Colo. Rev. Stat. Ann. § 19-1-115.3 (Missing children and youth from out-of-home placement - required reporting to law enforcement.), “If a child or youth for whom the Department of Human Services or a county department of human or social services has legal custody pursuant to the provisions of this title is determined by the agency to be missing, the agency having legal custody of said child or youth shall report the disappearance immediately, and in no case later than twenty-four hours after learning of the disappearance, to the National Center for Missing and Exploited Children and to law enforcement. Law enforcement authorities shall notify the Colorado Bureau of Investigation for transmission to the Federal Bureau of Investigation for entry into the National Crime Information Center database pursuant to section 16-2.7-103, C.R.S. notwithstanding the provisions of this section, the reporting requirements set forth for foster parents and out-of-home placement facilities in section 19-2-920 shall still apply.

Pursuant to Colo. Rev. Stat. Ann. § 16-2.7-103(2)(b)(II) (Missing person reports – response), “If the missing person is under eighteen years of age and under the legal custody of the state Department of Human Services or a county department of human or social services, the law enforcement agency shall, within twenty-four hours after receiving notification pursuant to section 19-1-115.3, C.R.S., notify the Colorado Bureau of Investigation for transmission to the Federal Bureau of Investigation for entry into the National Crime Information Center database.”

District of Columbia

D.C. Code § 4-1323.01 (Missing Persons) states, “(a) The Child and Family Services Agency shall file a missing person report with the Metropolitan Police Department (“MPD”) for any child in the custody of the Child and Family Services Agency immediately after discovering that the child is missing from the child’s home or out-of-home placement. (b) A person required to make a report of abuse or neglect under

§ 4-1321.02(b), may file a missing person report with the MPD. (c) The MPD shall immediately report a missing child to the National Center for Missing and Exploited Children if the child has been: (1) Deemed critical missing by the MPD, as defined by MPD General Order 304-03; or (2) Missing for more than 30 days from the date the Child and Family Services Agency filed a missing person report with MPD pursuant to subsection (a) of this section. (d) For the purposes of this section, the term “child” means a person who has not attained the age of 18 years.”

Florida

Fla. Stat. § 937.025(1) (Missing children; student records; reporting requirements; penalties) states that “upon notification by the Department of Law Enforcement that a child is listed or reported as a missing child, the school in which the child is currently enrolled, or was previously enrolled, shall flag the student records in such a manner that whenever a copy of or information concerning the records of the missing child is requested, the person authorized to provide such copy or information is alerted to the fact that the child has been listed or reported as missing.”

Louisiana

La. Rev. Stat. Ann. § 40:2521 (Law enforcement agency receiving report of missing or recovered child; duty) requires the law enforcement agency that receives an initial report of a missing child or the recovery of a missing child to “immediately report the missing or recovered child to national law enforcement agencies and the state law enforcement agencies of neighboring states. This notification shall include entry of the name of the child into the National Crime Information Center registry. These reports shall be made for each reported missing child without regard to whether the child is believed to be missing due to stranger abduction, parental abduction, or any other cause.” La. Rev. Stat. Ann. § 46:1433(A) (Notification of location of missing and/or exploited child) requires a “parent, guardian, or legal custodial responsible for notifying the clearinghouse or a law enforcement agency of a missing or exploited child” to “immediately notify such agency or the clearinghouse of any child whose location has been determined.” Additionally, law enforcement agencies are required to “transmit information of the recovery of a missing child to the clearinghouse, which shall maintain the information in the central repository . . .” La. Rev. Stat. Ann. § 46:1433(B).

Nevada

Pursuant to Nev. Rev. Stat. Ann. § 432.200(1) (Duties of law enforcement agency receiving report of missing child; request for and use of identifying information; notification that child is found or returned), “1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as “runaway,” “abducted by the parent of the child,” “abducted by a stranger” or “cause of disappearance unknown,” and shall: (a) Transmit all available information about the child to the Clearinghouse within 36 hours after the report is received; (b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary; . . . (d) Enter into the National Crime Information Center’s Missing Person File, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.” Nev. Rev. Stat. Ann. § 432.200(4) requires the law enforcement agency to transmit information of a recovered child to the National Crime Information Center and Clearinghouse. Pursuant to Nev. Rev. Stat. Ann. § 432B.165 (Authority of agency which provides child welfare services and other entities to provide information to assist in locating a missing child; information not confidential), child welfare agencies must promptly report missing children who have been in agency custody. Nev. Rev. Stat. Ann. § 432B.165 states, An agency which provides child welfare services that receives information concerning a child who has been placed in the custody of the agency who is missing, including, without limitation, a child who has run away or has been abducted, shall report the information to the appropriate law enforcement agency as soon as practicable, but not later than 24 hours after receiving such information, for investigation pursuant to NRS 432.200.



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