

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## 2016 ANALYSIS AND RECOMMENDATIONS CONNECTICUT

### FRAMEWORK ISSUE 1: CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

#### *Legal Components:*

- 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.*
- 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.*
- 1.3 *Prostitution statutes refer to the sex trafficking statute to acknowledge the intersection of prostitution with trafficking victimization.*
- 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.*

#### *Legal Analysis<sup>1</sup>:*

- 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.*

Connecticut's trafficking in persons statute criminalizes child sex trafficking without requiring proof of force, fraud or coercion when the victim is a minor. Pursuant to Conn. Gen. Stat. § 53a-192a<sup>2</sup> (Trafficking in persons),<sup>3</sup>

A person is guilty of trafficking in persons when such person (1) compels or induces another person to engage in conduct involving sexual contact<sup>4</sup> with one or more third persons, or provide labor or

<sup>1</sup> This report includes legislation enacted as of August 1, 2016.

<sup>2</sup> The text of Conn. Gen. Stat. § 53a-192a cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>3</sup> Connecticut's trafficking in persons statute is found under Connecticut Penal Code, Part XIX Coercion.

services<sup>5</sup> that such person has a legal right to refrain from providing, by means of (A) the use of force against such other person or a third person, or by the threat of use of force against such other person or a third person, (B) fraud, or (C) coercion, as provided in section 53a-192, or (2) compels or induces another person who is under eighteen years of age to engage in conduct involving sexual contact with one or more third persons that constitute sexual contact for which such third person may be charged with a criminal offense.

Conn. Gen. Stat. § 53a-192a(a). A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years,<sup>6</sup> a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-192a(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

When the victim is not a minor, a conviction for trafficking in persons requires the use of force or threat of use of force, fraud, or coercion. According to Conn. Gen. Stat. § 53a-65(7), “‘Use of force’ means: (A) use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.” Under, Conn. Gen. Stat. § 53a-192(a),

A person is guilty of coercion when he compels or induces another person to engage in conduct which such other person has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which such other person has a legal right to engage, by means of instilling in such other person a fear that, if the demand is not complied with, the actor or another will: (1) Commit any criminal offense; or (2) accuse any person of a criminal offense; or (3) expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair any person’s credit or business repute; or (4) take or withhold action as an official, or cause an official to take or withhold action.

*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.*

Connecticut has several statutes specifically criminalizing CSEC, including the following:

1. Conn. Gen. Stat. § 53a-86(a)(2)<sup>7</sup> (Promoting prostitution in the first degree) makes it a crime if a person knowingly “advances<sup>8</sup> or profits from prostitution<sup>9</sup> of a person less than eighteen years old.”

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<sup>4</sup> Conn. Gen. Stat. § 53a-192a(a) explains that “[f]or the purposes of this subsection, ‘sexual contact’ means any contact with the intimate parts of another person.”

<sup>5</sup> The terms “labor” or “services” are not defined.

<sup>6</sup> If an offender is sentenced to imprisonment, however, the court may suspend any or all portions of imprisonment, unless the convicting statute expressly provides otherwise. Specifically, Conn. Gen. Stat. § 53a-28(b) states,

Except as provided in section 53a-46a [Imposition of sentence for capital felony], when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-65a [Confinement of young and teenage women] or 18-73 [Confinement of male children and youths]; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or (9) a term of imprisonment and a period of special parole as provided in section 54-125e [Special parole].

Therefore, it should be presumed throughout this report that the penalty of imprisonment may be wholly or partially suspended unless specifically stated to the contrary.

A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a fine of \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

2. Conn. Gen. Stat. § 53a-196a(a) (Employing a minor in an obscene performance) states,

A person is guilty of employing a minor in an obscene performance when such person (1) employs any minor, whether or not such minor receives any consideration, for the purpose of promoting<sup>10</sup> any material<sup>11</sup> or performance<sup>12</sup> which is obscene as to minors,<sup>13</sup> notwithstanding that such material or performance is intended for an adult audience, or (2) permits any such minor to be [so] employed . . . and such person is the parent or guardian of such minor or otherwise responsible for the general supervision of such minor's welfare.

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<sup>7</sup> The text of Conn. Gen. Stat. § 53a-86 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>8</sup> Conn. Gen. Stat. § 53a-85(1) (Promoting prostitution: Definitions) states,

A person “advances prostitution” when, acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

<sup>9</sup> Conn. Gen. Stat. § 53a-85(2) states, “A person ‘profits from prostitution’ when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of prostitution activity.”

<sup>10</sup> Conn. Gen. Stat. § 53a-193(12) states, “‘Promote’ means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, advertise, produce, direct or participate in.”

<sup>11</sup> Pursuant to Conn. Gen. Stat. § 53a-193(10),

“Material” means anything tangible which is capable of being used or adapted to arouse prurient, shameful or morbid interest, whether through the medium of reading, observation, sound or in any other manner. Undeveloped photographs, molds, printing plates, and the like, may be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

<sup>12</sup> “Performance” is defined as “any play, motion picture, dance or other exhibition performed before an audience.” Conn. Gen. Stat. § 53a-193(11).

<sup>13</sup> Pursuant to Conn. Gen. Stat. § 53a-193(2),

Material or a performance is “obscene as to minors” “if it depicts a prohibited sexual act and, taken as a whole, it is harmful to minors. For purposes of this subdivision: (A) “Minor” means any person less than seventeen years old as used in section 53a-196 [Obscenity as to minors] and less than sixteen years old as used in sections 53a-196a and 53a-196b [Promoting a minor in an obscene performance], and (B) “harmful to minors” means that quality of any description or representation, in whatever form, of a prohibited sexual act, when (i) it predominantly appeals to the prurient, shameful or morbid interest of minors, (ii) it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (iii) taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

A conviction under this statute is punishable as a Class A felony by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

3. Conn. Gen. Stat. § 53a-83<sup>14</sup> (Patronizing a Prostitute) makes buying commercial sex a class C felony, if the other person was a minor or the victim of human trafficking.
4. Conn. Gen. Stat § 53a-83a(a)<sup>15</sup> (Patronizing a prostitute from a motor vehicle – Class A misdemeanor), although age neutral, makes buying commercial sex from a motor vehicle a Class A misdemeanor, stating:

A person is guilty of patronizing a prostitute from a motor vehicle when he, while occupying a motor vehicle:

- (1) Pursuant to a prior understanding, pays a fee to another person as compensation for such a person or a third person having engaged in sexual conduct with him; or
  - (2) pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or
  - (3) solicits or requests another person to engage in sexual conduct with him in return for a fee; or
  - (4) engages in sexual conduct for which a fee was paid or agreed to be paid.
5. Conn. Gen. Stat. § 53a-90a(a)<sup>16</sup> (Enticing a minor. Penalties) makes it a crime if a person “uses an interactive computer service<sup>17</sup> to knowingly persuade, induce, entice or coerce any person (1) under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A first conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

6. Conn. Gen. Stat. § 53a-70c(a) (Aggravated sexual assault of a minor) states,

A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 [Injury or risk of injury to, or impairing

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<sup>14</sup> The text of Conn. Gen. Stat. § 53a-83 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>15</sup> The text of Conn. Gen. Stat § 53a-83a cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>16</sup> The text of Conn. Gen. Stat § 53a-90a cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>17</sup> “Interactive computer service” is defined as “any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” Conn. Gen. Stat. § 53a-90a(a).

morals of, children. Sale of children] or section 53a-70 [Sexual assault in the first degree], section 53a-70a [Aggravated sexual assault in the first degree], section 53a-71 [Sexual assault in the second degree], section 53a-86 [Promoting prostitution in the first degree], Conn. Gen. Stat. § 53a-87 [Promoting prostitution in the second degree] or section 53a-196a [Employing a minor in an obscene performance] and the victim of such offense is under thirteen years of age, and (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3) such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault.

A first conviction under this statute is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for 50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

Several other sexual offenses, while not expressly commercial in nature, may also apply in cases involving the commercial sexual exploitation of a child. Some of those statutes are as follows:

1. Conn. Gen. Stat. § 53-21(a)(2) (Injury or risk of injury to, or impairing morals of, children. Sale of children) makes it a crime if a person

has contact with the intimate parts, as defined in section 53a-65, of a child under the age of sixteen years or subjects a child under sixteen years of age to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child . . . .

A conviction under Conn. Gen. Stat. § 53-21(a)(2) is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both, but if the victim is under the age of 13, a conviction is punishable by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53-21(a), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

2. Conn. Gen. Stat. § 53a-70(a)(2) (Sexual assault in the first degree) makes it a crime if a person “engages in sexual intercourse<sup>18</sup> with another person and such other person is under thirteen years of age and the actor is more than two years older than such person.”

A conviction under Conn. Gen. Stat. § 53a-70(a)(2) is punishable as a Class A felony by imprisonment for 10–25 years, a fine not to exceed \$20,000, or both. Conn. Gen. Stat. §§ 53a-70(b)(2), 53a-35a(4), 53a-41(1), 53a-28(b)(4), (6). If the victim is under 10 years of age, however, a conviction is punishable by imprisonment for 10–25 years, of which all but 10 years<sup>19</sup> may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70(b)(2), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

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<sup>18</sup> Pursuant to Conn. Gen. Stat. § 53a-65(2) (Definitions),

“Sexual intercourse” means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim’s body.

<sup>19</sup> Pursuant to Conn. Gen. Stat. § 53a-70(b)(3), “Any person found guilty under this section shall be sentenced to a term of imprisonment of at least ten years, a portion of which may be suspended, except as provided in subdivisions (1) and (2) of this subsection, or a term of imprisonment and a period of special parole pursuant to subsection (b) of

3. Pursuant to Conn. Gen. Stat. § 53a-71(a),

A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person . . . .

A conviction under Conn. Gen. Stat. § 53a-71(a)(1) is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-71(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

4. Conn. Gen. Stat. § 53a-73a(a)(1)(A), (1)(B) (Sexual assault in the fourth degree) makes it a crime if a person

subjects another person to sexual contact<sup>20</sup> who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person . . . .

A conviction under Conn. Gen. Stat. § 53a-73a(a)(1)(A), (B) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both. Conn. Gen. Stat. §§ 53a-73a(b), 53a-41(4), 53a-35a(8), 53a-28(b)(4), (6).

1.3 *Prostitution statutes refer to the sex trafficking statute to acknowledge the intersection of prostitution with trafficking victimization.*

Conn. Gen. Stat. § 53a-82<sup>21</sup> (Prostitution) refers to both state and federal human trafficking laws to provide an affirmative defense for trafficking victims, as well as explicitly allows duress as a defense. Pursuant to Conn. Gen. Stat. § 53a-82(b)–(c),

(b) In any prosecution for an offense under this section, 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<sup>22</sup>

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section 53a-28 which together constitute a sentence of at least ten years. Notwithstanding the provisions of subsection (a) of section 53a-29 and except as otherwise provided in this subsection, a court may suspend a portion of a sentence imposed under this subsection and impose a period of supervised probation pursuant to subsection (f) of section 53a-29.” Pursuant to Conn. Gen. Stat. § 53a-70(b)(1), “two years of the sentence imposed may not be suspended or reduced by the court or, if the victim of the offense is under ten years of age, for which ten years of the sentence imposed may not be suspended or reduced by the court,” and pursuant to § 53a-70(b)(2), “ten years of the sentence imposed may not be suspended or reduced by the court if the victim is under ten years of age or of which five years of the sentence imposed may not be suspended or reduced by the court if the victim is under sixteen years of age.”

<sup>20</sup> Pursuant to Conn. Gen. Stat. § 53a-65(3) (Definitions),

“Sexual contact” means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.

<sup>21</sup> The text of Conn. Gen. Stat. § 53a-82 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>22</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

[Trafficking in persons], as amended by this act, or (2) a criminal violation of 18 USC Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time.

(c) Nothing in this section shall limit a person's right to assert the defense of duress pursuant to section 53a-14<sup>23</sup> [Duress as defense] in any prosecution for an offense under this section.

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.*

Conn. Gen. Stat. § 53-395(a)–(c) (Prohibited activities) states,

(a) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use 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.<sup>24</sup>

(b) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to receive anything of value or to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(c) It is unlawful for any person employed by, or associated with, any enterprise to knowingly conduct or participate in, directly or indirectly, such enterprise through a pattern of racketeering activity or through the collection of an unlawful debt.

Under Conn. Gen. Stat. § 53-394(e) (Definitions), “pattern of racketeering activity” is defined as

engaging in at least two incidents of racketeering activity that have the same or similar purposes, results, participants, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided the latter or last of such incidents occurred after October 1, 1982, and within five years after a prior incident of racketeering activity.

Additionally, pursuant to Conn. Gen. Stat. § 53-394(a),

“Racketeering activity” means to commit, attempt to commit, to conspire to commit, or to intentionally aid, solicit, coerce or intimidate another person to commit any crime which, at the time of its commission, was a felony chargeable by indictment or information under the following

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<sup>23</sup> Conn. Gen. Stat. § 53a-14 explains that

[i]n any prosecution for an offense, it shall be a defense that the defendant engaged in the proscribed conduct because he was coerced by the use or threatened imminent use of physical force upon him or a third person, which force or threatened force a person of reasonable firmness in his situation would have been unable to resist . . . .

<sup>24</sup> “Enterprise” is defined in Conn. Gen. Stat. § 53-394(c) as

any individual, sole proprietorship, corporation, business trust, union chartered under the laws of this state or other legal entity, or any unchartered union, association or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit enterprises and governmental, as well as other entities. In determining whether any unchartered union, association or group of individuals exists, factors which may be considered as evidence of association include, but are not limited to: (1) A common name or identifying sign, symbols or colors and (2) rules of behavior for individual members.

provisions of the general statutes then applicable: . . . (5) sections 53a-85 to 53a-88, inclusive, relating to prostitution; . . . (11) chapter 952, part XX, relating to obscenity and related offenses [including employing a minor in an obscene performance]; (12) chapter 952, part XIX, relating to coercion; . . . or (19) section 53a-192a, relating to trafficking in persons.

A conviction under Conn. Gen. Stat. § 53-395 is punishable by imprisonment for 1–20 years, a fine not to exceed \$25,000 or both. Conn. Gen. Stat. § 53-397(a).

Conn. Gen. Stat. § 53-397(a), (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver) provides for mandatory asset forfeiture and states,

A person who violates any provision of [the Corrupt Organizations and Racketeering Activity Act<sup>25</sup>] . . . and shall forfeit to the state:

- (1) Any property he has acquired, maintained or used in violation of [the Corrupt Organizations and Racketeering Activity Act], including profits derived therefrom and the appreciated value thereof, or, where applicable, the proceeds from the sale thereof; and
- (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which he has established, operated, controlled, conducted or participated in the conduct of, in violation of [the Corrupt Organizations and Racketeering Activity Act].

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<sup>25</sup> Conn. Gen. Stat. §§ 53-393 to -419.



**Legal Components:**

- 2.1 *The state sex trafficking law can be applied to the buyers of commercial sex acts with minor.*
  - 2.2 *Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.*
  - 2.3 *Solicitation laws differentiate buying sex acts with an adult and buying sex acts with a minor under 18.*
  - 2.4 *Penalties for buyers of commercial sex acts with minors are as high as federal penalties.*
  - 2.5 *Using the Internet or other electronic communication 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.*
  - 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.*
  - 2.9 *Buying and possessing child pornography carries penalties as high as similar federal offenses.*
  - 2.10 *Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.*
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**Legal Analysis:**

- 2.1 *The state sex trafficking law can be applied to the buyers of commercial sex acts with minor.*

Conn. Gen. Stat. § 53a-192a<sup>26</sup> (Trafficking in persons) does not apply to buyers of sex with minors. Pursuant to Conn. Gen. Stat. § 53a-192a(a),

A person is guilty of trafficking in persons when such person . . . compels or induces another person who is under eighteen years of age to engage in conduct involving sexual contact with one or more third persons that constitute sexual contact for which such third person may be charged with a criminal offense.

Since Conn. Gen. Stat. § 53a-192a(a) requires compelling or inducing another person to engage in sexual contact with “one or more third persons,” it is inapplicable to buyers of sex with minors.

- 2.1.1 Recommendation: Amend Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to make the statute applicable to the actions of buyers of commercial sex with minors.

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

Connecticut’s patronizing a prostitute statute, Conn. Gen. Stat. § 53a-83<sup>27</sup> (Patronizing a prostitute), makes buying commercial sex a class C felony if the other person was a minor or a victim of human trafficking. Conn. Gen. Stat. § 53a-83 states,

- (a) A person is guilty of patronizing a prostitute when:
  - (1) Pursuant to a prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him; or

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<sup>26</sup> See *supra* note 2.

<sup>27</sup> See *supra* note 14.

- (2) he pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or
- (3) he solicits or requests another person to engage in sexual conduct with him in return for a fee.
- (b) Except as provided in subsection (c) of this section, patronizing a prostitute is a class A misdemeanor and any person found guilty shall be fined two thousand dollars.
- (c) Patronizing a prostitute is a class C felony if such other person
  - (1) had not attained eighteen years of age, or
  - (2) was the victim of conduct of another person that constitutes
    - (A) trafficking in persons in violation of section 53a-192a<sup>28</sup> [Trafficking in persons], as amended by this act, or
    - (B) a criminal violation of 18 USC Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time.

Additionally, Conn. Gen. Stat § 53a-83a(a)<sup>29</sup> (Patronizing a prostitute from a motor vehicle – Class A misdemeanor), makes buying commercial sex from a motor vehicle a class A misdemeanor, stating:

A person is guilty of patronizing a prostitute from a motor vehicle when he, while occupying a motor vehicle:

- (1) Pursuant to a prior understanding, pays a fee to another person as compensation for such a person or a third person having engaged in sexual conduct with him; or
- (2) pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or
- (3) solicits or requests another person to engage in sexual conduct with him in return for a fee; or
- (4) engages in sexual conduct for which a fee was paid or agreed to be paid.

Furthermore, Conn. Gen. Stat § 53a-90a(a)<sup>30</sup> (Enticing a minor. Penalties) allows buyers to be prosecuted for enticing a minor via a computer. Conn. Gen. Stat § 53a-90a(a) states,

- (a) A person is guilty of enticing a minor when such person uses an interactive computer service to knowingly persuade, induce, entice or coerce any person (1) under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense. For purposes of this section, “interactive computer service” means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.
- (b) (1) Except as provided in subdivision (2) of this subsection, enticing a minor is a class D felony for a first offense, a class C felony for a second offense and a class B felony for any subsequent offense.
- (2) Enticing a minor is a class B felony if the victim of the offense is under thirteen years of age and any person found guilty of such class B felony shall, for a first offense, be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court.

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<sup>28</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>29</sup> See *supra* note 15.

<sup>30</sup> See *supra* note 16.

### 2.3 *Solicitation laws differentiate buying sex acts with an adult and buying sex acts with a minor under 18.*

Connecticut's primary solicitation law, Conn. Gen. Stat. § 53a-83<sup>31</sup> (Patronizing a prostitute) differentiates between buying sex acts with an adult from buying sex acts with a minor.<sup>32</sup> Conn. Gen. Stat. § 53a-83 states:

- (a) A person is guilty of patronizing a prostitute when:
  - (1) Pursuant to a prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him; or
  - (2) he pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or
  - (3) he solicits or requests another person to engage in sexual conduct with him in return for a fee.
- (b) Except as provided in subsection (c) of this section, patronizing a prostitute is a class A misdemeanor and any person found guilty shall be fined two thousand dollars.
- (c) Patronizing a prostitute is a class C felony if such other person
  - (1) had not attained eighteen years of age, or
  - (2) was the victim of conduct of another person that constitutes
    - (A) trafficking in persons in violation of section 53a-192a<sup>33</sup> [Trafficking in persons], as amended by this act, or
    - (B) a criminal violation of 18 USC Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time.

In addition, Conn. Gen. Stat § 53a-90a(a)<sup>34</sup> (Enticing a minor. Penalties) specifically makes it a crime if a person “uses an interactive computer service<sup>35</sup> to knowingly persuade, induce, entice or coerce any person under eighteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

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

Pursuant to a conviction under Conn. Gen. Stat. § 53a-83(c)<sup>36</sup> (Patronizing a prostitute), a person who buys sex with a minor is subject to a Class C felony by imprisonment for 1-10 years, a fine not to exceed \$10,000, or both. Conn. Gen. Stat. §§ 53a-35a(7), 53a-41(3), 53a-28(b)(4), 53a-28(b)(4).

Additionally, a buyer's first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

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<sup>31</sup> See *supra* note 14.

<sup>32</sup> However, Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle) does not differentiate between buying sex acts with an adult from buying sex acts with a minor.

<sup>33</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>34</sup> See *supra* note 16.

<sup>35</sup> See *supra* note 17.

<sup>36</sup> See *supra* note 14.

In contrast, if the victim is under the age of 14, a conviction under the Trafficking Victims Protection Act (TVPA)<sup>37</sup> for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3). If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(2), 3559(a)(1), 3571(b)(3). A conviction is punishable by mandatory life imprisonment, however, if the buyer has a prior conviction for a federal sex offense<sup>38</sup> against a minor. 18 U.S.C. § 3559(e)(1). To the extent buyers can be prosecuted under other federal CSEC laws,<sup>39</sup> a conviction is punishable by penalties ranging from a fine not to exceed \$250,000 to life imprisonment and a fine not to exceed \$250,000.<sup>40</sup>

2.5 *Using the Internet or other electronic communication 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.*

Using the Internet to entice a minor to commit unlawful sexual activity is prohibited under Conn. Gen. Stat. § 53a-90a(a)<sup>41</sup> (Enticing a minor), which prohibits a person from using “an interactive computer service<sup>42</sup> to knowingly persuade, induce, entice or coerce any person (1) under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A buyer’s first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

<sup>37</sup> 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.).

<sup>38</sup> Pursuant to 18 U.S.C. § 3559(e)(2), “federal sex offense” is defined as,

an offense under section 1591 [18 USCS § 1591] (relating to sex trafficking of children), 2241 [18 USCS § 2241] (relating to aggravated sexual abuse), 2242 [18 USCS § 2242] (relating to sexual abuse), 2244(a)(1) [18 USCS § 2244(a)(1)] (relating to abusive sexual contact), 2245 [18 USCS § 2245] (relating to sexual abuse resulting in death), 2251 [18 USCS § 2251] (relating to sexual exploitation of children), 2251A [18 USCS § 2251A] (relating to selling or buying of children), 2422(b) [18 USCS § 2422(b)] (relating to coercion and enticement of a minor into prostitution), or 2423(a) [18 USCS § 2423(a)] (relating to transportation of minors).

<sup>39</sup> 18 U.S.C. §§ 2251A(b) (Selling or buying of children), 2251(a) (Sexual exploitation of children), 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 2422(a) (Coercion and enticement), 2252(a)(2), (a)(4) (Certain activities relating to material involving the sexual exploitation of minors).

<sup>40</sup> 18 U.S.C. §§ 2251A(b) (conviction punishable by imprisonment for 30 years to life and a fine), 2251(e) (conviction punishable by imprisonment for 15–30 years and a fine), 2423(a) (conviction punishable by imprisonment for 10 years to life and a fine), 2422(a) (conviction punishable by a fine, imprisonment up to 20 years, or both), 2252(b) (stating that a conviction under subsection (a)(2) is punishable by imprisonment for 5–20 years and a fine, while a conviction under subsection (a)(4) is punishable by imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>41</sup> *See supra* note 16.

<sup>42</sup> *See supra* note 17.

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

Conn. Gen. Stat. § 53a-83(c)<sup>43</sup> (Patronizing a prostitute) does not permit a mistake of age defense for patronizing a prostitute. Pursuant to Conn. Gen. Stat § 53a-83(c), “patronizing a prostitute is a class C felony if such other person” is a minor, regardless of whether the buyer knew or reasonably should have known the victim’s age.

However, Conn. Gen. Stat § 53a-90a<sup>44</sup> (Enticing a minor. Penalties) does not prohibit a mistake of age defense. Under Conn. Gen. Stat § 53a-90a, the buyer must “knowingly persuade, induce, entice or coerce any person (1) under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age . . . .” As such, a buyer may assert a mistake of age defense and claim not to have known or reasonably believed the victim was a minor.

2.6.1 Recommendation: Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to expressly prohibit a mistake of age defense.

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

Conn. Gen. Stat. § 53a-90a<sup>45</sup> (Enticing a minor. Penalties) applies if the minor victim is under the age of 18 and the penalties are staggered to provide a heightened penalty if the victim is under the age of 13. A buyer’s first conviction under Conn. Gen. Stat. § 53a-90a is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

2.7.1 Recommendation: Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to raise the base penalty to provide sufficiently high penalties for all offenses involving a minor under the age of 18.

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.*

Buyers are subject to possible fines up to \$15,000. If the victim is under the age of 18, a buyer convicted under Conn. Gen. Stat. § 53a-90a<sup>46</sup> (Enticing a minor: Penalties) is subject to a possible fine not to exceed \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for subsequent violations; if the victim is under the age of 13, however, a buyer is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(1), (2), 53a-41(2), (3), (4), 53a-35a(6). Buyers convicted under Conn. Gen. Stat. § 53a-83(c)<sup>47</sup> (Patronizing a prostitute) are subject to a possible fine up to \$10,000, while buyers convicted under Conn. Gen.

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<sup>43</sup> See *supra* note 14.

<sup>44</sup> See *supra* note 16.

<sup>45</sup> See *supra* note 16.

<sup>46</sup> See *supra* note 16.

<sup>47</sup> See *supra* note 14.

Stat. § 53a-83a<sup>48</sup> (Patronizing a prostitute from a motor vehicle) shall be fined \$2,000. Conn. Gen. Stat. §§ 53a-41(3), 53a-83a(b), 53a-42(1), 53a-28(b)(3).

Additionally, a convicted buyer is subject to mandatory restitution orders where the victim suffers injury and requests restitution. Conn. Gen. Stat. § 53a-28(c) states,

In addition to any sentence imposed pursuant to subsection (b) of this section, 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 . . . .<sup>49</sup>

Pursuant to Conn. Gen. Stat. § 54-36p<sup>50</sup> (Forfeiture of moneys and property related to sexual exploitation and human trafficking), a violation of Conn. Gen. Stat. §§ 53a-83 (Patronizing a prostitute) and 53a-90a (Enticing a minor) subjects a buyer to discretionary, civil asset forfeiture as follows:

- (a) The following property shall be subject to forfeiture to the state . . . .
  - (1) All moneys used, or intended for use, in a violation of . . . 53a-90a . . . .
  - . . . .
  - (4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation of . . . 53a-83 . . . 53a-90a . . . .

Additionally, property may be seized pursuant to Conn. Gen. Stat. § 54-33 (Summons to owner on seizure of property), “[w]hen any property [is] believed to be possessed, controlled, designed or intended for use or which is or has been used or which may be used as a means of committing any criminal offense, or which constitutes the proceeds of the commission of any criminal offense.”

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

- . . . .
- (e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction
- . . . .
- (f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the Criminal Injuries Compensation Fund established in section 54-215.

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<sup>48</sup> See *supra* note 29.

<sup>49</sup> See *infra* Component 5.10 for a more detailed discussion of this restitution provision.

<sup>50</sup> The text of Conn. Gen. Stat. § 54-36p cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

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

Connecticut punishes the possession of child pornography in three degrees. Conn. Gen. Stat. § 53a-196d(a) (Possessing child pornography in the first degree) makes it a crime if a person “knowingly possesses (1) fifty or more visual depictions of child pornography,<sup>51</sup> or (2) one or more visual depictions<sup>52</sup> of child pornography that depict the infliction or threatened infliction of serious physical injury, or (3) (A) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of two or more frames, or a film or videotape, consisting of two or more frames, that depicts (i) more than one child engaging in sexually explicit conduct, or (ii) more than one act of sexually explicit conduct by one or more children, or (B) any combination of a (i) series of images in electronic, digital or other format, which is intended to be displayed continuously, (ii) film, or (iii) videotape, which series, film or videotape each consists of two or more frames and depicts a single act of sexually explicit conduct by one child.” A conviction under this statute is punishable as a Class B felony by imprisonment for 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-196d(c), 53a-35a (6), 53a-41(2), 53a-28(b)(4).

Conn. Gen. Stat. § 53a-196e(a) (Possessing child pornography in the second degree) makes it a crime if a person “knowingly possesses (1) twenty or more but fewer than fifty visual depictions of child pornography, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of twenty or more frames, or a film or videotape, consisting of twenty or more frames, that depicts a single act of sexually explicit conduct by one child.” A conviction under this statute is punishable as a Class C felony by imprisonment for 2–10 years, of which all but 2 years may be suspended, and a possible fine not to exceed \$10,000. Conn. Gen. Stat. §§ 53a-196e(c), 53a-35a(7), 53a-41(3), 53a-28(b)(4).

Lastly, Conn. Gen. Stat. § 53a-196f(a) (Possessing child pornography in the third degree) makes it a crime if a person “knowingly possesses (1) fewer than twenty visual depictions of child pornography, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of fewer than twenty frames, or a film or videotape, consisting of fewer than twenty frames, that depicts a single act of sexually explicit conduct by one child.” A conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, of which all but 1 year may be suspended, and a possible fine not to exceed \$5,000. Conn. Gen. Stat. §§ 53a-196f(c), 53a-35a(8), 53a-41(4), 53a-28(b)(4).

In comparison, a federal conviction for possession of child pornography<sup>53</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>54</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>55</sup>

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<sup>51</sup> Pursuant to Conn. Gen. Stat. § 53a-193(13),

“Child pornography” means any visual depiction including any photograph, film, videotape, picture or computer-generated image or picture, whether made or produced by electronic, digital, mechanical or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under sixteen years of age engaging in sexually explicit conduct, provided whether the subject of a visual depiction was a person under sixteen years of age at the time the visual depiction was created is a question to be decided by the trier of fact.

<sup>52</sup> “‘Visual depiction’ includes undeveloped film and videotape and data, as defined in subdivision (8) of section 53a-250, that is capable of conversion into a visual image and includes encrypted data.” Conn. Gen. Stat. § 53a-193(15).

<sup>53</sup> 18 U.S.C. §§ 2252(a)(2), (a)(4) (Certain activities relating to material involving the sexual exploitation of minors), 2252A(a)(2)–(3) (Certain activities relating to material constituting or containing child pornography), 1466A(a), (b) (Obscene visual representations of the sexual abuse of children).

<sup>54</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(2) is punishable by imprisonment for 5–20 years and a fine, while a conviction under subsection (a)(4) is punishable by imprisonment up to 10 years, a fine, or

- 2.9.1 Recommendation: Amend Conn. Gen. Stat. § 53a-196d(a) (Possessing child pornography in the first degree), Conn. Gen. Stat. § 53a-196e(a) (Possessing child pornography in the second degree), and Conn. Gen. Stat. § 53a-196f(a) (Possessing child pornography in the third degree) to enhance the penalties for these offenses and align them closer to federal penalties.

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

Conn. Gen. Stat. § 54-251(a)<sup>56</sup> (Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense) states in part,

Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection . . . and shall maintain such registration for ten years from the date of such person's release into the community, except that any person who has one or more prior convictions of any such offense or who is convicted of a violation of subdivision (2) of subsection (a) of section 53a-70 . . . shall maintain such registration for life.

Conn. Gen. Stat. § 54-250(2)(A) (Definitions) defines “criminal offense against a victim who is a minor” to include violations of Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties), § 53a-196d (Possessing child pornography in the first degree), § 53a-196e (Possessing child pornography in the second degree) or § 53a-196f (Possessing child pornography in the third degree).

- 2.10.1 Recommendation: Amend Conn. Gen. Stat. § 54-250(2)(A) (Definitions) to include Conn. Gen. Stat. § 53a-83(c) (Patronizing a prostitute) and Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle), if the person patronized is under the age of 18, as offenses that qualify as a “criminal offense against a victim who is a minor” and require registration.

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both), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>55</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(2), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years, but if a person has a prior conviction under subsection (a)(4), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 10–20 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>56</sup> *See supra* note 19.



**Legal Components:**

- 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 other electronic communication 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.*
- 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.*

**Legal Analysis:**

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

A conviction under Conn. Gen. Stat. § 53a-192a<sup>57</sup> (Trafficking in persons) 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-192a(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6). Conn. Gen. Stat. § 53a-86(a)(2)<sup>58</sup> (Promoting prostitution in the first degree)<sup>59</sup> is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a fine of \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

A conviction under Conn. Gen. Stat. § 53a-196i (Commercial sexual exploitation of a minor) is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both. Conn. Gen. Stat. §§ 53a-35a(7), 53a-41(3).

A conviction under Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance)<sup>60</sup> is punishable as a Class A felony by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

A first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as Class B felonies by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

<sup>57</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>58</sup> See *supra* note 7.

<sup>59</sup> See *supra* Component 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-86(a)(2).

<sup>60</sup> See *supra* Component 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-196a.

Additionally, a trafficker's first conviction under Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor)<sup>61</sup> is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for 50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

In comparison, if the victim is under the age of 14, a conviction under the TVPA for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3). If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(2), 3559(a)(1), 3571(b)(3). A conviction is punishable by mandatory life imprisonment, however, if the trafficker has a prior conviction for a federal sex offense<sup>62</sup> against a minor. 18 U.S.C. § 3559(e)(1). Additionally, a federal conviction for distribution of child pornography<sup>63</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>64</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>65</sup>

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

Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance)<sup>66</sup> is a Class A felony punishable by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

Conn. Gen. Stat. § 53a-196b(a), (c) (Promoting a minor in an obscene performance) makes it a crime if a person “knowingly<sup>67</sup> promotes<sup>68</sup> any material<sup>69</sup> 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 this statute is

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<sup>61</sup> See *supra* Component 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-70c.

<sup>62</sup> See *supra* note 38.

<sup>63</sup> 18 U.S.C. §§ 2252(a)(1), (a)(2), (a)(3) (Certain activities relating to material involving the sexual exploitation of minors), 2252A(a)(2), (a)(3) (Certain activities relating to material constituting or containing child pornography), 1466A(a) (Obscene visual representations of the sexual abuse of children).

<sup>64</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(1), (a)(2), or (a)(3) is punishable by imprisonment for 5–20 years and a fine), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); see also 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>65</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(1), (a)(2), or (a)(3) or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); see also 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>66</sup> See *supra* Component 1.2 for a full discussion of Conn. Gen. Stat. § 53a-196a.

<sup>67</sup> “Knowingly” is defined in Conn. Gen. Stat. § 53a-196b(b) as, “having general knowledge of or reason to know or any belief or ground for belief which warrants further inspection or inquiry as to (1) the character and content of any material or performance which is reasonably susceptible of examination by such person and (2) the age of the minor employed.”

<sup>68</sup> See *supra* note 10.

<sup>69</sup> See *supra* note 11.

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).

Additionally, a federal conviction for distribution of child pornography<sup>70</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>71</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>72</sup>

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

Using the Internet to entice a minor to commit unlawful sexual activity is prohibited under Conn. Gen. Stat. § 53a-90a(a)<sup>73</sup> (Enticing a minor), which states, “A person is guilty of enticing a minor when such person uses an interactive computer service<sup>74</sup> to knowingly persuade, induce, entice or coerce any person under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A first conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

A trafficker who uses the Internet to advertise commercial sexual exploitation of a minor may also be prosecuted under Conn. Gen. Stat. § 53a-196i (Commercial sexual exploitation of a minor) which states,

....

(b) A person is guilty of commercial sexual exploitation of a minor when such person knowingly purchases advertising space for an advertisement for a commercial sex act that includes a depiction of a minor.

<sup>70</sup> 18 U.S.C. §§ 2252(a)(1), (a)(2), (a)(3) (Certain activities relating to material involving the sexual exploitation of minors), 2252A(a)(2), (a)(3) (Certain activities relating to material constituting or containing child pornography), 1466A(a) (Obscene visual representations of the sexual abuse of children).

<sup>71</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(1), (a)(2), or (a)(3) is punishable by imprisonment for 5–20 years and a fine), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>72</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(1), (a)(2), or (a)(3) or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>73</sup> *See supra* note 16.

<sup>74</sup> *See supra* note 17.

- (c) (1) In any prosecution for an offense under this section, it shall not be a defense that the defendant
- (A) did not know the age of the person depicted in the advertisement,
  - (B) relied on an oral or written representation of the age of the person depicted in the advertisement, or
  - (C) relied on the apparent age of the person depicted in the advertisement.
- (2) In any prosecution for an offense under this section, it shall be an affirmative defense that the defendant, prior to purchasing advertising space for the advertisement, made a reasonable bona fide attempt to ascertain the true age of the person depicted in the advertisement by requiring the person depicted in the advertisement to produce a driver's license, marriage license, birth certificate or other government-issued or school-issued identity card that identifies the age of the person, provided the defendant retains and produces a copy or other record of the license, certificate or identity card used to ascertain the age of the person depicted in the advertisement.

A conviction under this statute is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both. Conn. Gen. §§ 53a-35a(7), 53a-41(3).

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

Traffickers are subject to possible fines up to \$20,000. A trafficker convicted under Conn. Gen. Stat. § 53a-192a (Trafficking in Persons) or § 53a-86(a)(2)<sup>75</sup> (Promoting prostitution in the first degree) is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-192a(b), 53a-86(b), 53a-41(2), 53a-28(3). Traffickers convicted under Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) are subject to a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-41a(4), 53a-28(3). Traffickers convicted under Conn. Gen. Stat. § 53a-196i (Commercial sexual exploitation of a minor) are subject to a fine not to exceed \$10,000. Conn. Gen. §§ 53a-35a(7), 53a-41(3).

If the victim is under the age of 18, a trafficker convicted under Conn. Gen. Stat. § 53a-90a<sup>76</sup> (Enticing a minor: Penalties) is subject to a possible fine not to exceed \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for third and subsequent violations; if the victim is under the age of 13, however, a trafficker is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(1), (2), 53a-41(2), (3), (4), 53a-28(3).

A trafficker is also subject to discretionary, civil asset forfeiture. Pursuant to Conn. Gen. Stat. § 54-36p(a)<sup>77</sup> (Forfeiture of moneys and property related to sexual exploitation and human trafficking),

The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

- (1) All moneys used, or intended for use, in a violation of . . . section 53a-86 [Promoting prostitution in the first degree], 53a-87 [Promoting prostitution in the second degree], 53a-88 [Promoting prostitution in the third degree], 53a-90a [Enticing a minor. Penalties] . . . 53a-192a [Trafficking in persons], 53a-196a [Obscenity as to minors], 53a-196b [Promoting a minor in an obscene performance], 53a-196c [Importing child pornography] or 53a-196i [Commercial sexual exploitation of a minor];
- (2) All property constituting the proceeds obtained, directly or indirectly, from a violation of . . . section 53a-86, 53a-87, 53a-88, 53a-90a . . . 53a-192a . . . 53a-196a, 53a-196b, 53a-196c or 53a-196i;

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<sup>75</sup> See *supra* note 7.

<sup>76</sup> See *supra* note 16.

<sup>77</sup> See *supra* note 50.

- (3) All property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of . . . 53a-86, 53a-87, 53a-88, 53a-90a . . . 53a-192a . . . 53a-196a, 53a-196b, 53a-196c or 53a-196i;
- (4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation of . . . section 53a-86, 53a-87, 53a-88, 53a-90a . . . 53a-192a . . . 53a-196a, 53a-196b, 53a-196c or 53a-196i.

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

....

(e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction

....

(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the General Fund.

Additionally, property may be seized pursuant to Conn. Gen. Stat. § 54-33 (Summons to owner on seizure of property), “[w]hen any property [is] believed to be possessed, controlled, designed or intended for use or which is or has been used or which may be used as a means of committing any criminal offense, or which constitutes the proceeds of the commission of any criminal offense.”

Additionally, convicted traffickers are subject to mandatory restitution orders where their crimes cause injury and the victim requests restitution. Pursuant to Conn. Gen. Stat. § 53a-28(c) (Authorized sentences),

In addition to any sentence imposed pursuant to subsection (b) of this section, 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 . . . .

### 3.5 *Convicted traffickers are required to register as sex offenders.*

Conn. Gen. Stat. § 54-251(a) (Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense) states in part,

Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person’s place of residence is in this state, register such person’s name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection . . . .

Conn. Gen. Stat. § 54-250(2)(A) (Definitions) defines “criminal offense against a victim who is a minor” to include violations of Conn. Gen. Stat. § 53a-86 (Promoting prostitution in the first degree), § 53a-90a (Enticing a minor. Penalties), § 53a-196a (Employing a minor in an obscene performance), § 53a-196b (Promoting a minor in an obscene performance), and § 53a-196c (Importing child pornography).

- 3.5.1 Recommendation: Amend Conn. Gen. Stat. § 54-250(2)(A) (Definitions) to include Conn. Gen. Stat. § 53-192a (Trafficking in persons), if the person trafficked is under the age of 18, as an offense that qualifies as a “criminal offense against a victim who is a minor.”

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.*

Conn. Gen. Stat. § 45a-717(g) (Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination) states that parental rights can be terminated if a court determines by clear and convincing evidence that the termination is in the best interest of the child and the child has, among other things, been sexually molested or exploited. In addition, parental rights may be terminated when the child is determined to be “uncared for” which is defined to include children identified as a victim of trafficking. Pursuant to Conn. Gen. Stat. § 45a-717(g),

At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a petition terminating the parental rights and may appoint a guardian of the person of the child, or, if the petitioner requests, the court may appoint a statutory parent, if it finds, upon clear and convincing evidence that (1) the termination is in the best interest of the child, and (2) . . . (B) the child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child’s physical, educational, moral or emotional well-being [or] . . . (D) a child of the parent (i) was found by the Superior Court or the Probate Court to have been neglected, abused or uncared for, as those terms are defined in section 46b-120<sup>78</sup> . . . or (G) except as provided in subsection (h) of this section, the parent committed an act that constitutes sexual assault as described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force as described in section 53a-70b, if such act resulted in the conception of the child; or (H) the parent was finally adjudged guilty of sexual assault under section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or of compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force under section 53a-70b, if such act resulted in the conception of a the child.

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<sup>78</sup> Pursuant to Conn. Gen. Stat. § 46b-120 (8)(C) (Definitions), “A child or youth may be found ‘uncared for’ who has been identified as a victim of trafficking, as defined in section 46a-170 . . .” See *infra* Component 5.5 for further discussion of the definition of an “uncared for” child.

***Legal Components:***

- 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.*
  - 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.*
  - 4.3 *Promoting and selling child sex tourism is illegal.*
  - 4.4 *Promoting and selling child pornography is illegal.*
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***Legal Analysis:***

- 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.*

Conn. Gen. Stat. § 53a-192a<sup>79</sup> (Trafficking in persons) does not expressly make it a crime for a person to assist, enable, or financially benefit from domestic minor sex trafficking.

A facilitator may be convicted under Conn. Gen. Stat. § 53a-86(a)(2)<sup>80</sup> (Promoting prostitution in the first degree) if the facilitator knowingly “advances<sup>81</sup> or profits from prostitution<sup>82</sup> of a person less than eighteen years old.” A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a fine of \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

Additionally, a facilitator may be convicted under Conn. Gen. Stat. § 53a-70c(a) (Aggravated sexual assault of a minor).<sup>83</sup> A first conviction under this statute is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for 50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

- 4.1.1 Recommendation: Amend Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to include those who have knowingly assisted, enabled, or financially benefited from domestic minor sex trafficking.

- 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.*

A person who facilitates the commercial sexual exploitation of a minor is subject to possible fines not to exceed \$20,000. A facilitator convicted under Conn. Gen. Stat. § 53a-86<sup>84</sup> (Promoting prostitution in the first degree) shall be fined \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-41(2), 53a-28(b)(3). A facilitator convicted under Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor), however, is subject to a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-41(b), 53a-28(b)(3).

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<sup>79</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>80</sup> See *supra* note 7.

<sup>81</sup> See *supra* note 8.

<sup>82</sup> See *supra* note 9.

<sup>83</sup> See *supra* Component 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-70c(a).

<sup>84</sup> See *supra* note 7.

A convicted facilitator is subject to mandatory restitution orders where the victim suffers injury and requests restitution. Conn. Gen. Stat. § 53a-28(c) states,

In addition to any sentence imposed pursuant to subsection (b) of this section, 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 . . . .<sup>85</sup>

Additionally, a facilitator may be subject to asset forfeiture under Conn. Gen. Stat. § 54-36p(a)<sup>86</sup> (Forfeiture of moneys and property related to sexual exploitation and human trafficking) and § 53-397 (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver), and may be required to pay restitution pursuant Conn. Gen. Stat. § 53a-28(c) (Authorized sentences).

Additionally, property may be seized pursuant to Conn. Gen. Stat. § 54-33 (Summons to owner on seizure of property), “[w]hen any property [is] believed to be possessed, controlled, designed or intended for use or which is or has been used or which may be used as a means of committing any criminal offense, or which constitutes the proceeds of the commission of any criminal offense.”

Conn. Gen. Stat. § 54-36p(a)<sup>87</sup> (Forfeiture of moneys and property related to sexual exploitation and human trafficking) subjects a facilitator to discretionary civil asset forfeiture and states,

The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

- (1) All moneys used, or intended for use, in a violation of . . . section 53a-86 [Promoting prostitution in the first degree], 53a-87 [Promoting prostitution in the second degree], 53a-88 [Promoting prostitution in the third degree], . . . or 53a-196i [Commercial sexual exploitation of a minor];
- (2) All property constituting the proceeds obtained, directly or indirectly, from a violation of . . . section 53a-86, 53a-87, 53a-88, . . . or 53a-196i;
- (3) All property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of . . . 53a-86, 53a-87, 53a-88, . . . or 53a-196i;
- (4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation of . . . section 53a-86, 53a-87, 53a-88, . . . or 53a-196i.

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

- . . . .
- (e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction
- . . . .

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<sup>85</sup> See *infra* Component 5.10 for a more detailed discussion of this restitution provision.

<sup>86</sup> See *supra* note 49.

<sup>87</sup> See *supra* note 50.



(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the General Fund.

#### 4.3 *Promoting and selling child sex tourism is illegal.*

There is no provision in the Connecticut code prohibiting child sex tourism.

- 4.3.1 Recommendation: Enact a law that prohibits selling or offering to sell travel services in Connecticut that include or facilitate travel for the purpose of engaging in commercial sexual exploitation of a minor or prostitution of a minor.

#### 4.4 *Promoting and selling child pornography is illegal.*

Connecticut expressly prohibits the promotion of child pornography. 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<sup>88</sup> promotes<sup>89</sup> any material<sup>90</sup> or performance<sup>91</sup> in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors<sup>92</sup> 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).

Pursuant to Conn. Gen. Stat. § 53a-196c(a) (Importing child pornography), “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).

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<sup>88</sup> See *supra* note 67.

<sup>89</sup> See *supra* note 10.

<sup>90</sup> See *supra* note 11.

<sup>91</sup> See *supra* note 12.

<sup>92</sup> See *supra* note 13.

**Legal Components:**

- 5.1 *Victims under the core child sex trafficking offense include all commercially sexually exploited children.*
- 5.2 *The state sex trafficking statute expressly prohibits a defendant from asserting a defense based on the willingness of a minor under 18 to engage in the commercial sex act.*
- 5.3 *State law prohibits the criminalization of minors under 18 for prostitution offenses.*
- 5.4 *State law provides a non-punitive avenue to specialized services through one or more points of entry.*
- 5.5 *Child sex trafficking is identified as a type of abuse and neglect within child protection statutes.*
- 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.*
- 5.7 *Crime victims’ compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC).*
- 5.8 *Victim-friendly procedures and protections are provided in the trial process for minors under 18.*
- 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.*
- 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.*
- 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.*

**Legal Analysis:**

- 5.1 *Victims under the core child sex trafficking offense include all commercially sexually exploited children.*<sup>93</sup>

Conn. Gen. Stat. § 53a-192a(a)<sup>94</sup> (Trafficking in persons), Connecticut’s human trafficking offense, does not include all commercial sexual exploitation of minors. Although Conn. Gen. Stat. § 53a-192a(a) does not require proof of force, fraud, or coercion when the victim is a minor,<sup>95</sup> the act of buying commercial sex with a minor does not constitute human trafficking.<sup>96</sup> The offense of human trafficking applies only to those who “compel[] or induce[] a [minor] to engage in conduct involving sexual contact with one or more third persons . . .” Conn. Gen. Stat. § 53a-192a(a). Therefore, the offense of human trafficking requires a trafficker or controlling third party be identified. Consequently, not all commercially sexually exploited children are identifiable as victims under Conn. Gen. Stat. § 53a-192a(a).

- 5.1.1 Recommendation: Amend the definition of Conn. Gen. Stat. § 53a-192a (Trafficking in persons) so that all commercially sexually exploited children are identifiable as victims and eligible for protections pursuant to their victim status.

<sup>93</sup> 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](http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper_Eliminating-Third-Party-Control_Final1.pdf) (discussing need to include all commercially sexually exploited children within sex trafficking definitions and corresponding need to include buyer conduct in core sex trafficking offenses regardless of whether victim is under control of a third party).

<sup>94</sup> See *supra* note 2.

<sup>95</sup> See *supra* discussion in Component 1.1.

<sup>96</sup> See *supra* discussion of buyer applicability in Component 2.1.

5.2 *The state sex trafficking statute expressly prohibits a defendant from asserting a defense based on the willingness of a minor under 18 to engage in the commercial sex act.*

Connecticut's sex trafficking statute, Conn. Gen. Stat. § 53a-192a (Trafficking in persons) is silent with regard to the availability of a defense based on a minor's willingness to engage in the commercial sex act, meaning that a defendant charged under Conn. Gen. Stat. § 53a-192a or Connecticut's CSEC laws may seek to assert such a defense.

5.2.1 Recommendation: Enact a statute that expressly prohibits a defense to prosecution based on a minor's willingness to engage in the commercial sex act.

5.3 *State law prohibits the criminalization of minors under 18 for prostitution offenses.<sup>97</sup>*

Connecticut's prostitution law prohibits the criminalization of minors for prostitution offenses. under Conn. Gen. Stat. § 53a-82(a)<sup>98</sup> (Prostitution). Pursuant to Conn. Gen. Stat. § 53a-82(a)–(c),

- (a) A person eighteen 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, 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<sup>99</sup> [Trafficking in persons], as amended by this act, or
  - (2) a criminal violation of 18 USC Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time.
- (c) Nothing in this section shall limit a person's right to assert the defense of duress pursuant to section 53a-14 [Duress as defense] in any prosecution for an offense under this section.

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

Connecticut law provides for the development of response and service programs for victims of human trafficking.<sup>100</sup> Conn. Gen. Stat. § 54-234 (Development of response system for victims of offense of trafficking in persons) states,

- (a) The Office of Victim Services within the Judicial Department shall, within available appropriations, contract with nongovernmental organizations to develop a coordinated response system to assist victims of the offense of trafficking in persons.
- (b) Such contracts shall be entered into for the following purposes, including, but not limited to:
  - (1) Developing a uniform curriculum to address rights and services for such victims;
  - (2) Developing information and materials on available resources and services for such victims;
  - (3) Actively seeking out quality training and other educational opportunities regarding the identification and assistance of such victims that take into consideration such victims' cultural context and needs; and
  - (4) Promoting and disseminating information on training and other educational opportunities concerning the assistance of such victims to emergency medical services, faith-based

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<sup>97</sup> For more information regarding recent federal legislation impacting this component see: <http://go.sharedhope.org/stateimpactmemo>.

<sup>98</sup> See *supra* note 21.

<sup>99</sup> See *supra* Component 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>100</sup> The analysis in this component is predicated upon the recommendation in 5.1 being simultaneously or previously enacted.

communities, sexual assault service providers, domestic violence service providers and state and local governmental agencies.

Additionally, the court may issue a standing criminal protective order to protect victims of human trafficking from offenders that are convicted of violating Conn. Gen. Stat. § 53a-192a. Conn. Gen. Stat. § 53a-40e(a)<sup>101</sup> (Standing criminal protective orders).

### **Child Identified as Abused/Neglected**

Pursuant to Conn. Gen. Stat. § 46b-120(6), (7) (Definitions),<sup>102</sup> a sexually exploited child is likely to be identified as abused or neglected. Pursuant to Conn. Gen. Stat. § 17a-106f(a) (Trafficking of minor children. Child welfare services. Training for law enforcement officials),

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.

Therefore, a commercially sexually exploited child is likely to be identified as abused or neglected and receive services through the Commissioner of Children and Families.

A domestic minor sex trafficking victim may be classified as an “abused” or “neglected” child. Conn. Gen. Stat. § 46b-120(6)–(8) (Definitions) defines an “abused” or “neglected” child as follows:

- (6) A child<sup>103</sup> or youth may be found “neglected” who, for reasons other than being impoverished,
  - (A) has been abandoned,
  - (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or
  - (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth;
- (7) A child or youth may be found “abused” who
  - (A) has been inflicted with physical injury or injuries other than by accidental means,
  - (B) has injuries that are at variance with the history given of them, or

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<sup>101</sup> The text of Conn. Gen. Stat. § 53a-40e cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

<sup>102</sup> See *infra* Component 5.5 for a full analysis of the definition of “abuse” as it relates to identification of sexually exploited children.

<sup>103</sup> Conn. Gen. Stat. § 46b-120(1) defines “child” as,

any person under eighteen years of age who has not been legally emancipated, except that (A) for purposes of delinquency matters and proceedings, “child” means any person (i) under eighteen years of age who has not been legally emancipated, or (ii) eighteen years of age or older who, prior to attaining eighteen years of age, has committed a delinquent act or, subsequent to attaining eighteen years of age, (I) violates any order of the Superior Court or any condition of probation ordered by the Superior Court with respect to a delinquency proceeding, or (II) willfully fails to appear in response to a summons under section 46b-133 or at any other court hearing in a delinquency proceeding of which the child had notice, and (B) for purposes of family with service needs matters and proceedings, child means a person under eighteen years of age.

(C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment.

(8) A child or youth may be found “uncared for”

(A) who is homeless,

(B) whose home cannot provide the specialized care that the physical, emotional or mental condition of the child or youth requires, or

(C) who has been identified as a victim of trafficking, as defined in section 46a-170<sup>104</sup> . . .

## *I. Process following initial custody<sup>105</sup>*

Pursuant to Conn. Gen. Stat. § 46b-129(a) (Commitment of child or youth),

Any selectman, town manager, or town, city or borough welfare department, any probation officer, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or such child’s representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared-for or abused may file with the Superior Court that has venue over such matter a verified petition plainly stating such facts as bring the child or youth within the jurisdiction of the court as neglected, uncared-for or abused . . .

## *II. Placement process pending adjudication/ investigation*

If the allegations in the petition create reasonable cause to believe that the child is seriously physically ill or injured or “is in immediate physical danger” from the child’s surroundings and, as a result of those conditions, the child’s “safety is endangered and immediate removal from such surroundings is necessary to ensure the child’s . . . safety,” the court is directed to either order a hearing on temporary care and custody of the child “pending disposition of the petition” or issue an ex parte order granting temporary care and custody to a person related to the child. Conn. Gen. Stat. § 46b-129(b).

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<sup>104</sup> Pursuant to Conn. Gen. Stat. § 46a-170(g), a “trafficking” is defined as:

all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons, within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor or other debt bondage.

<sup>105</sup> Pursuant to Conn. Gen. Stat. § 17a-106a(a), “The Commissioner of Children and Families, as department head of the lead agency, and the appropriate state’s attorney may establish multidisciplinary teams for the purpose of reviewing particular cases or particular types of cases or to coordinate the prevention, intervention and treatment in each judicial district or to review selected cases of child abuse or neglect or cases involving the trafficking, as defined in section 46a-170, of minor children. The purpose of such multidisciplinary teams is to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect, to reduce the trauma of any child victim and to ensure the protection and treatment of the child. The head of the local law enforcement agency or his or her designee may request the assistance of the Division of State Police within the Department of Emergency Services and Public Protection for such purposes.”

The text of Conn. Gen. Stat. § 17a-106a cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 185 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

### III. Outcomes

Pursuant to Conn. Gen. Stat. § 46b-129(j)(2),<sup>106</sup>

Upon finding and adjudging that any child or youth is uncared-for, neglected or abused the court may  
(A) commit such child or youth to the Commissioner of Children and Families. Such commitment shall remain in effect until further order of the court, except that such commitment may be revoked or parental rights terminated at any time by the court;  
(B) vest such child's or youth's legal guardianship in any private or public agency that is permitted by law to care for neglected, uncared-for or abused children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage;  
....

#### **Child Identified as Runaway**

Identification and intervention of a domestic minor sex trafficking victim could occur through Conn. Gen. Stat. § 17a-185 (Police transportation of certain minors to facility for care).

#### *I. Initial Custody*

##### *a. Authority for initial custody*

Pursuant to Conn. Gen. Stat. § 17a-185,

Any officer of the state police or of an organized municipal police department may transport, with the sole written consent of the person transported, any person over sixteen years of age and less than eighteen years of age who appears to be away from home without permission of such person's parents or guardian or who appears to be suffering from lack of food, shelter or medical care to any public or private facility

##### *b. Placement:*

Conn. Gen. Stat. § 17a-185 also provides that “. . . institutions of the Department of Correction, the Connecticut Juvenile Training School and local police detention facilities shall not be used . . .” as placement facilities for a child who is alleged to be a runaway.

#### *II. Outcomes (Final permanent placement)*

Conn. Gen. Stat. § 17a-201a (Commitment under sixteen restricted) states, “No court shall commit any child under sixteen years of age to any community correctional center or almshouse.”

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<sup>106</sup> The text of Conn. Gen. Stat. § 46b-129 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 187 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

## Child Identified as Delinquent

Minors in Connecticut are not subject to prosecution for Conn. Gen. Stat. § 53a-82<sup>107</sup> (Prostitution); thus, a commercially sexually exploited minor will not be subject to delinquency charges for prostitution.<sup>108</sup> Conn. Gen. Stat. § 46b-133(d)(2)<sup>109</sup> (Arrest of child. Release or detention of arrested child) states, “Upon the arrest of any youth by an officer for a violation of section 53a-82 [Prostitution], such officer shall report suspected abuse or neglect to the Department of Children and Families . . . .” This report, however, does not prevent these minors from being charged with other delinquent offenses for conduct related to their victimization. Pursuant to Conn. Gen. Stat. § 46b-120(4) (Definitions), a child will be adjudicated as “delinquent” if the child violated “any federal or state law” with only limited exceptions.

### *I. Initial Custody*

#### *a. Authority for initial custody*

According to Conn. Gen. Stat. § 46b-133(a), “Nothing in this part shall be construed as preventing the arrest of a child, with or without a warrant, as may be provided by law, or as preventing the issuance of warrants by judges in the manner provided by section 54-2a, except that no child shall be taken into custody on such process except on apprehension in the act, or on speedy information, or in other cases when the use of such process appears imperative . . . .”

#### *b. Placement*

Conn. Gen. Stat. § 46b-133(c)(1) states,

Upon the arrest of any child by an officer, such officer may (A) release the child to the custody of the child’s parent or parents, guardian or some other suitable person or agency, (B) at the discretion of the officer, release the child to the child’s own custody, or (C) immediately turn the child over to a juvenile detention center. No child may be placed in detention unless a judge of the Superior Court determines, based on available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no less restrictive alternative available, and (C) there is (i) probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition, (ii) a need to hold the child in order to ensure the child’s appearance before the court, as demonstrated by the child’s previous failure to respond to the court process, or (iii) a need to hold the child for another jurisdiction. No child shall be held in any detention center unless an order to detain is issued by a judge of the Superior Court.

### *II. Process following initial custody*

Pursuant to Conn. Gen. Stat. § 46b-133(e), once a child has been taken into custody, “such child may be detained pending a hearing which shall be held on the business day next following the child’s arrest . . . .” However, Conn. Gen. Stat. § 46b-133 states,

the order to detain such child shall be for a period that does not exceed seven days or until the dispositional hearing is held, whichever is shorter, unless, following a detention review, such

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<sup>107</sup> See *supra* note 21.

<sup>108</sup> See *supra* Component 5.3 for a full analysis of protection from prosecution regarding prostitution offenses.

<sup>109</sup> The text of Conn. Gen. Stat. § 46b-133 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5642 during the 2016 1st Regular Session of the Connecticut General Assembly (effective January 1, 2017).

order is renewed for a period that does not exceed seven days or until the dispositional hearing is held, whichever is shorter.

### *III. Placement process pending adjudication*

Pursuant to Conn. Gen. Stat. § 46b-133(e), prior to a final dispositional hearing, the child must be released

unless the court determines, based on the available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no less restrictive alternative available, and (C) through the use of the detention risk assessment instrument developed pursuant to section 2 of this act, that there is (i) probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition; (ii) a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or (iii) a need to hold the child for another jurisdiction . . . .

### *IV. Outcomes (Final permanent placement)*

After conviction a child may be routed into an alternative program pursuant to Conn. Gen. Stat. § 46b-141a(a) (Placement of delinquent child in alternative incarceration program), which states in part, when “a child is convicted as delinquent, the court, in lieu of committing such child to the Department of Children and Families or to a juvenile detention center, may, in its discretion, order an assessment for placement in an alternative incarceration program” and, should the court decide “that the child shall participate in such program, the court shall suspend any commitment to the Department of Children and Families or to a juvenile detention center and shall make participation in the alternative incarceration program a condition of probation.” These alternative programs include “fines, restitution, community service, halfway houses, alternative incarceration centers, day incarceration centers, drug, alcohol and mental health programs, electronic monitoring, intensive probation, vocational probation, boot camps, structured wilderness programs, pretrial diversion options aimed at creating alternatives to unnecessary detention, and school and job training programs.” Conn. Gen. Stat. § 46b-141a(b). The statutory language relating to these programs is not specifically geared toward treatment or counseling for victims of domestic minor sex trafficking.

#### *5.5 Child sex trafficking is identified as a type of abuse and neglect within child protection statutes.<sup>110</sup>*

Child sex trafficking victims will be identified as abused under Connecticut’s child protection statutes. Pursuant to Conn. Gen. Stat. § 46b-120(6)–(8) (Definitions),

- (6) A child or youth may be found “neglected” who, for reasons other than being impoverished,
  - (A) has been abandoned,
  - (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or
  - (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth;
- (7) A child or youth may be found “abused” who
  - (A) has been inflicted with physical injury or injuries other than by accidental means,
  - (B) has injuries that are at variance with the history given of them, or
  - (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;
- (8) A child or youth may be found “uncared for”
  - (A) who is homeless,

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<sup>110</sup> For more information regarding recent federal legislation impacting this component see: <http://go.sharedhope.org/stateimpactmemo>.



- (B) whose home cannot provide the specialized care that the physical, emotional or mental condition of the child or youth requires, or
- (C) who has been identified as a victim of trafficking, as defined in section 46a-170 . . . .

In addition, Conn. Gen. Stat. § 17a-106f(a) (Trafficking of minor children. Child welfare services. Training for law enforcement officials) states,

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<sup>111</sup>; 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.

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.*

Chapter 815t (Juvenile Matters), which addresses abused and neglected children, does not define terms related to caregiver. Throughout the chapter “person having responsibility for the care of the child or youth” is utilized, but undefined. However, pursuant to Conn. Gen. Stat. § 17a-106f(a) (Trafficking of minor children. Child welfare services. Training for law enforcement officials), the Department of Children and Families is authorized to provide services to any minor who is a victim of trafficking. It states,

The Commissioner of Children and Families may: (1) Provide child welfare services<sup>112</sup> 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<sup>113</sup>; 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.

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<sup>111</sup> The analysis in this component is predicated upon the recommendation in 5.1 being previously or simultaneously enacted.

<sup>112</sup> Pursuant to Conn. Gen. Stat. § 17a-106a(a) (Multidisciplinary teams. Purpose. Composition. Confidentiality. Records of meetings.),

The Commissioner of Children and Families, as department head of the lead agency, and the appropriate state's attorney may establish multidisciplinary teams for the purpose of reviewing particular cases or particular types of cases or to coordinate the prevention, intervention and treatment in each judicial district or to review selected cases of child abuse or neglect or cases involving the trafficking, as defined in section 46a-170, of minor children. The purpose of such multidisciplinary teams is to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect, to reduce the trauma of any child victim and to ensure the protection and treatment of the child.

*See supra* note 105.

<sup>113</sup> The analysis in this component is predicated upon the recommendation in 5.1 being previously or simultaneously enacted.

5.7 *Crime victims' compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC).*

For the purposes of victim services, Conn. Gen. Stat. § 54-201(1) (Definitions) defines “victim” as “a person who is injured or killed as provided in section 54-209.” Conn. Gen. Stat. § 54-209(a) (Compensation ordered, when) states,

The Office of Victim Services or, on review, a victim compensation commissioner may order the payment of compensation in accordance with the provisions of sections 54-201 to 54-233 [Chapter 968 Victim Services], inclusive, for personal injury or death which resulted from: . . . (2) the commission or attempt to commit by another of any crime as provided in section 53a-24 [Offense defined] . . .

Pursuant to Conn. Gen. Stat. § 53a-24(a), “The term ‘crime’ comprises felonies and misdemeanors.” Therefore, commercially sexually exploited children are included as victims.

Due to several victim compensation eligibility factors, commercially sexually exploited children may not be eligible for victim compensation. Conn. Gen. Stat. § 54-211(b)(2) (Time limitation on filing application for compensation—restrictions on award of compensation—amount of compensation.) states that no compensation will be given if “the victim violated a penal law of this state, which violation caused or contributed to his injuries or death.” Another possible limitation for domestic minor sex trafficking victims can be found in Conn. Gen. Stat. § 54-208(c) (Order of payment of compensation), which states,

In determining whether to make an order under this section, the Office of Victim Services or, on review, a victim compensation commissioner shall consider all circumstances determined to be relevant, including but not limited to provocation, consent or any other behavior of the victim which directly or indirectly contributed to such victim’s injury or death, the extent of the victim’s cooperation in investigating the application and the extent of the victim’s cooperation with law enforcement agencies in their efforts to apprehend and prosecute the offender, and any other relevant matters.

However, Conn. Gen. Stat. § 54-211(a)(1) (Time limitation on filing application for compensation. Restrictions on award of compensation. Amount of compensation) provides a specific waiver to the time limitation for filing to minors who are victims of trafficking in persons. It states,

No order for the payment of compensation shall be made under section 54-210 [Compensation ordered for expenses, loss of earnings, pecuniary loss and other losses] unless (A) the application has been made within two years after the date of the personal injury or death, (B) the personal injury or death was the result of an incident or offense listed in section 54-209, and (C) such incident or offense has been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within five days of the time when a report could reasonably have been made, except that a victim of a sexual assault shall not be ineligible for the payment of compensation by reason of failing to make a report pursuant to this subparagraph if such victim presented himself or herself to a health care facility within seventy-two hours of such sexual assault for examination and collection of evidence of such sexual assault in accordance with the provisions of section 19a-112a . . . (3) Notwithstanding the provisions of subdivision (1) of this subsection, any minor, including, but not limited to, a minor who is a victim of conduct by another person that constitutes a violation of section 53a-192a [Trafficking in persons], as amended by this act, or a criminal violation of 18 USC Chapter 77, who, before, on or after October 1, 2005, fails to make application for compensation within two years after the date of the personal injury or death through no fault of the minor, may apply for a waiver of such time limitation. The Office of Victim Services, upon a finding that such minor is not at fault, may grant such waiver . . . (6) Notwithstanding the provisions

of subdivision (1), (2) or (3) of this subsection, the Office of Victim Services may, for good cause shown and upon a finding of compelling equitable circumstances, waive the time limitations of subdivision (1) of this subsection.

To the extent child sex trafficking victims are able to access crime victim compensation, Conn. Gen. Stat. § 54-210(a) (Compensation ordered for expenses, loss of earnings, pecuniary loss and other losses), provides that compensation may be paid for, among other things, medical costs beyond Medicaid or health insurance coverage and loss of earning ability due to incapacity of the victim. However, compensation for pain and suffering is not permitted. Conn. Gen. Stat. § 54-211(c).

- 5.7.1 Recommendation: Amend Conn. Gen. Stat. §§ 54-211(b)(2) (Time limitation on filing application for compensation—restrictions on award of compensation—amount of compensation) and 54-208(c) (Order of payment compensation) to establish an exception to all listed ineligibility factors for child sex trafficking victims.

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

Most of Connecticut’s victim-friendly criminal justice procedures and protections do not extend to or do not explicitly cover victims of domestic minor sex trafficking. Conn. Gen. Stat. § 54-86f (Admissibility of evidence of sexual conduct), which limits the introduction of a victim’s prior sexual conduct, subject to several exceptions, does not apply to domestic minor sex trafficking victims. Conn. Gen. Stat. § 54-86f only applies “[i]n any prosecution for sexual assault under sections 53a-70 [Sexual assault in the first degree:], 53a-70a [Sexual assault in the first degree], and 53a-71 to 53a-73a, inclusive [Sexual assault in the second degree; Sexual assault in the third degree; Sexual assault in the third degree with a firearm; Sexual assault in the fourth degree].”

Children 12 years of age or younger who are victims of assault, sexual assault, or abuse are provided certain additional protections. Conn. Gen. Stat. § 54-86g(b) (Testimony of victim of child abuse. Court may order testimony taken outside courtroom. Procedure) states,

In any criminal prosecution of an offense involving assault, sexual assault or abuse of a child twelve years of age or younger, the court may, upon motion of the attorney for any party, order that the following procedures be used when the testimony of the child is taken:

- (1) Persons shall be prohibited from entering and leaving the courtroom during the child’s testimony;
- (2) an adult who is known to the child and with whom the child feels comfortable shall be permitted to sit in close proximity to the child during the child’s testimony, provided such person shall not obscure the child from the view of the defendant or the trier of fact;
- (3) the use of anatomically correct dolls by the child shall be permitted; and
- (4) the attorneys for the defendant and for the state shall question the child while seated at a table positioned in front of the child, shall remain seated while posing objections and shall ask questions and pose objections in a manner which is not intimidating to the child.

Additionally, for such victims, under Conn. Gen. Stat. § 54-86g(a), the court may order the child’s testimony taken outside the courtroom and “televised by closed circuit equipment in the courtroom or recorded for later showing before the court.” The defendant may be excluded from the room or screened from the child’s sight when the testimony is taken, “only if the state proves, by clear and convincing evidence, that the child would be so intimidated, or otherwise inhibited, by the physical presence of the defendant that a compelling need exists to take the testimony of the child outside the physical presence of the defendant in order to insure the reliability of such testimony.” If the defendant is excluded or screened, however, “the court shall ensure that the defendant is able to observe and hear the testimony of the child, but that the child cannot see or hear the defendant. The defendant shall be able to consult privately with his attorney at all times during the taking of the testimony.”

Pursuant to the 2013 Connecticut Practice Book, “All oral testimony shall be given under oath.”<sup>114</sup> If the person testifying in Superior Court is under the age of 18,<sup>115</sup> however, the court may administer a simplified age-appropriate oath or “admit the testimony of a child or youth without the imposition of a formal oath if the judicial authority finds that the oath would be meaningless to the particular child or youth, or would otherwise inhibit the child or youth from testifying freely and fully.”<sup>116</sup> Additional victim-friendly procedures include allowing a trusted adult to sit with the child or youth during testimony and requiring the attorneys to remain seated and proceed in a non-threatening manner.<sup>117</sup> If the minor who is testifying is the child of the respondent, the respondent may be excluded from the hearing “upon a showing by clear and convincing evidence that the child or youth witness would be so intimidated or inhibited that trustworthiness of the child or youth witness is seriously called into question.”<sup>118</sup>

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.*

Conn. Gen. Stat. § 46b-146 (Erasure of police and court records) states,

Whenever any child has been convicted as delinquent, has been adjudicated a member of a family with service needs or has signed a statement of responsibility admitting to having committed a delinquent act, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to whom the child has been committed by the court, such child, or the child’s parent or guardian, may file a petition with the Superior Court. If such court finds (1)(A) that at least two years or, in the case of a child convicted as delinquent for the commission of a serious juvenile offense, four years have elapsed from the date of such discharge, (B) that no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, (C) that such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such two-year or four-year period, (D) that such child has not been convicted as an adult of a felony or misdemeanor during such two-year or four-year period, and (E) that such child has reached eighteen years of age, or (2) that such child has a criminal record as a result of being a victim of conduct by another person that constitutes a violation of section 53a-192a as, amended by this act, or a criminal violation of 18 USC Chapter 77, the court shall order all police and court records pertaining to such child to be erased . . . .

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<sup>114</sup> THE COMMISSION ON OFFICIAL LEGAL PUBLICATIONS, CONNECTICUT PRACTICE BOOK (2013) § 32a-4(a), available at <http://www.jud.ct.gov/publications/PracticeBook/PB.pdf>.

<sup>115</sup> Pursuant to THE COMMISSION ON OFFICIAL LEGAL PUBLICATIONS, CONNECTICUT PRACTICE BOOK (2011) § 26-1(a)(1), (2),

“Child” means any person under sixteen years of age, except that (A) for purposes of delinquency matters and proceedings, “child” means any person (i) under seventeen years of age who has not been legally emancipated or, (ii) seventeen years of age or older who, prior to attaining seventeen years of age, has committed a delinquent act and, subsequent to attaining seventeen years of age, (i) violates any order of a judicial authority or any condition of probation ordered by a judicial authority with respect to such delinquency proceeding; or (ii) willfully fails to appear in response to a summons under General Statutes § 46b-133, with respect to such delinquency proceeding, and (B) for purposes of family with service needs matters and proceedings, child means a person under seventeen years of age; (2) “Youth” means any person sixteen or seventeen years of age who has not been legally emancipated.

<sup>116</sup> See *supra* note 114.

<sup>117</sup> See *supra* note 114, § 32a-4(c).

<sup>118</sup> See *supra* note 114, § 32a-4(e).

*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.*

Civil remedies are specifically available in cases of trafficking in persons<sup>119</sup> through Conn. Gen. Stat § 52-571i (Action for damages resulting from trafficking in persons), which 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.

A domestic minor sex trafficking victim may also receive restitution under Conn. Gen. Stat. § 53a-28(c) which states,

In addition to any sentence imposed pursuant to subsection (b) of this section, 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 . . . .

In deciding the amount of restitution under Conn. Gen. Stat. § 53a-28(c),

the court shall consider: (A) The financial resources of the offender and the burden restitution will place on other obligations of the offender; (B) the offender's ability to pay based on installments or other conditions; (C) the rehabilitative effect on the offender of the payment of restitution and the method of payment; and (D) other circumstances, including the financial burden and impact on the victim, that the court determines make the terms of restitution appropriate. If the court determines that the current financial resources of the offender or the offender's current ability to pay based on installments or other conditions are such that no appropriate terms of restitution can be determined, the court may forego setting such terms. The court shall articulate its findings on the record with respect to each of the factors set forth in subparagraphs (A) to (D), inclusive, of this subsection.

*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.*

Pursuant to Conn. Gen. Stat. § 54-193(a) (Limitation of prosecution for certain offenses), "There shall be no limitation of time within which a person may be prosecuted for . . . a class A felony." Therefore, prosecutions for Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) or § 53a-70c (Aggravated sexual assault of a minor) are not subject to a statute of limitations and may be prosecuted at any time. All offenses punishable by imprisonment for more than 1 year are subject to a 5-year statute of limitations, while all other offenses are subject to a 1-year statute of limitations. Conn. Gen. Stat. § 54-193(b), (c).

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<sup>119</sup> The analysis in this component is predicated upon the recommendation in 5.1 being simultaneously or previously enacted.

Under Conn. Gen. Stat. § 54-193a (Limitation of prosecution for offenses involving sexual abuse of minor), however,

Notwithstanding the provisions of section 54-193, no person may be prosecuted for any offense, except a class A felony, involving sexual abuse, sexual exploitation or sexual assault of a minor except within thirty years from the date the victim attains the age of majority or within five years from the date the victim notifies any police officer or state's attorney acting in such police officer's or state's attorney's official capacity of the commission of the offense, whichever is earlier . . . .

Pursuant to Conn. Gen. Stat. § 52-577d (Limitation of action for damages to minor caused by sexual abuse, exploitation or assault),

Notwithstanding the provisions of section 52-577 [Action founded upon a tort], no action to recover damages for personal injury to a minor, including emotional distress, caused by sexual abuse, sexual exploitation or sexual assault may be brought by such person later than thirty years from the date such person attains the age of majority.

**Legal Components:**

- 6.1 *Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated or authorized.*
  - 6.2 *Single party consent to audiotaping is permitted in law enforcement investigations.*
  - 6.3 *Wiretapping is an available tool to investigate domestic minor sex trafficking.*
  - 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 other electronic communication to investigate buyers and traffickers is a permissible investigative technique.*
  - 6.6 *Law enforcement are mandated to promptly report missing and recovered children.*
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**Legal Analysis:**

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

While training is not mandated, Connecticut has developed a training program on trafficking in persons pursuant to Conn. Gen. Stat. § 46a-4b<sup>120</sup> (Training program on trafficking in persons) which states,

The Commission on Women, Children and Seniors in conjunction with the Police Officer Standards and Training Council, shall develop a training program on trafficking in persons and make such training program available, upon request, to the Division of State Police within the Department of Emergency Services and Public Protection, the office of the Chief State's Attorney, local police departments and community organizations.<sup>121</sup>

Additionally, Conn. Gen. Stat. § 17a-106f(b) (Trafficking of minor children. Child welfare services. Training for law enforcement officials) states,

The Commissioner of Children and Families may, within available appropriations, provide training to law enforcement officials regarding the trafficking of minor children. The training shall include, but not be limited to,

- (1) awareness and compliance with the laws and protocols concerning trafficking of minor children,
- (2) identification of, access to and provision of services for minor children who are victims of trafficking, and

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<sup>120</sup> The text of Conn. Gen. Stat. § 46a-4b cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 502 during the 2016 May Special Session of the Connecticut General Assembly (effective July 1, 2016).

<sup>121</sup> Additionally, the Trafficking in Persons Council, a subdivision of the Commission on Women, Children and Seniors, shall “coordinate the collection, analysis and dissemination of data regarding human trafficking, and consult with governmental and non-governmental organizations in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking and prosecute traffickers.” Conn. Gen. Stat. § 46a-170(d)(2)–(3).

The text of Conn. Gen. Stat. § 46a-170 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 5621 during the 2016 1st Regular Session of the Connecticut General Assembly (effective October 1, 2016).

(3) any other services the department deems necessary to carry out the provisions of this section and section 17a-106a.

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

Connecticut requires two-party consent for the recording of telephonic communications. Pursuant to Conn. Gen. Stat. § 52-570d(a) (Action for illegal recording of private telephonic communications),

No person shall use any instrument, device or equipment to record an oral private telephonic communication unless the use of such instrument, device or equipment

- (1) is preceded by consent of all parties to the communication and such prior consent either is obtained in writing or is part of, and obtained at the start of, the recording, or
- (2) is preceded by verbal notification which is recorded at the beginning and is part of the communication by the recording party, or
- (3) is accompanied by an automatic tone warning device which automatically produces a distinct signal that is repeated at intervals of approximately fifteen seconds during the communication while such instrument, device or equipment is in use.

- 6.2.1 Recommendation: Amend Conn. Gen. Stat. § 52-570d(a) (Action for illegal recording of private telephonic communications) to create an exception that allows for single-party consent to audio-taping if the offense being investigated is a trafficking in persons offense under Conn. Gen. Stat. § 53a-192a or a CSEC offense.

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

Wiretapping is authorized for investigations of trafficking in persons and certain CSEC offenses. Pursuant to Conn. Gen. Stat. § 54-41d(1), (2) (Issuance of order), orders authorizing wiretapping may only be issued for crimes enumerated in Conn. Gen. Stat. § 54-41(b) (Application for order authorizing interception). Assuming the other requirements in Conn. Gen. Stat. § 54-41d and the chapter on wiretapping are met, an authorization to intercept a wire can be granted pursuant to Conn. Gen. Stat. § 54-41b in the following cases,

when such interception may provide evidence of the commission of offenses involving gambling, bribery, violations of section 53-395 [Prohibited activities in Chapter 949c Corrupt Organizations and Racketeering Activity Act], violations of section 53a-70c [Aggravated sexual assault of a minor], violations of subsection (a) of section 53a-90a [Enticing a minor; penalties], violations of section 53a-192a [Trafficking in persons], as amended by this act, violations of section 53a-196 [Obscenity as to minors], violations of section 21a-277 [Penalty for illegal manufacture, distribution, sale, prescription, dispensing], felonious crimes of violence or felonies involving the unlawful use or threatened use of physical force or violence committed with the intent to intimidate or coerce the civilian population or a unit of government.

*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.*

Conn. Gen. Stat. § 53a-192a (Trafficking in persons), Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute), and § 53a-83a (Patronizing a prostitute from a motor vehicle) are silent with regard to the availability of a defense based on the person solicited being an undercover officer. Thus, a defendant may be able to assert a defense based on a law enforcement decoy posing as a minor to investigate these buyer-applicable CSEC offenses through reverse sting operations, which are the most likely situations in which a defendant would try to use such a defense.



- 6.4.1 Recommendation: Enact a law expressly permitting the use of a law enforcement decoy during the investigation or prohibiting a defense to prosecution based on the “minor” being in fact a person posing as a minor for purposes of the investigation of a violation under Conn. Gen. Stat. § 53a-192a (Trafficking in persons) and CSEC laws.<sup>122</sup>

6.5 *Using the Internet or other electronic communication to investigate buyers and traffickers is a permissible investigative technique.*

Using the Internet or other electronic communication to investigate buyers and traffickers is a permissible investigative technique. Pursuant to Conn. Gen. Stat. § 53a-90a<sup>123</sup> (Enticing a minor),

A person is guilty of enticing a minor when such person uses an interactive computer service to knowingly persuade, induce, entice, or coerce any person

- (1) under eighteen years of age, or
- (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity . . . .

Accordingly, the offender must only “reasonably believe” that the intended victim is a minor; thus, an offender may be convicted when contacting an undercover officer.

6.6 *Law enforcement are mandated to promptly report missing and recovered children.*

Conn. Gen. Stat. § 29-1e (Missing Children Information Clearinghouse. Definitions. Duties. Missing child reports) establishes a Missing Children Information Clearinghouse within the Department of Emergency Services and Public Protection. Pursuant to Conn. Gen. Stat. § 29-1e(c)–(e),

(c) The clearinghouse is established as a central repository of information regarding missing children<sup>124</sup> and other missing persons. Such information shall be collected and disseminated to assist in the location of missing children. The clearinghouse shall:

- (1) Establish a system of intrastate communication of information relating to children determined to be missing by the parent, guardian or legal custodian of the child, or by a law enforcement agency;
- (2) Provide a centralized file for the exchange of information on missing children within the state;
- (3) Interface with the National Crime Information Center for the exchange of information on children suspected of interstate travel;
- (4) Collect, process, maintain and disseminate information on missing children and shall strive to maintain or disseminate only accurate and complete information;
- (5) Establish procedures to maintain the confidentiality of the medical information of any missing child or other missing person that is collected, discovered or otherwise obtained pursuant to the provisions of this section or section 29–1f, including procedures providing that no such medical information shall be disseminated to the public without the consent of the parent, guardian or legal custodian of any such missing child or, in the case of a missing person other than a missing child, the spouse, parent, sibling, child or next of kin of such person; and
- (6) Conduct investigations concerning missing children in this state and cooperate with local law enforcement agencies and other state and federal agencies in investigations concerning missing children.

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<sup>122</sup> This recommendation in this component is predicated upon the recommendation in 2.1 being simultaneously or previously enacted.

<sup>123</sup> See *supra* note 16.

<sup>124</sup> Pursuant to Conn. Gen. Stat. § 29-1e(b)(1), “‘Missing child’ means any person who is under the age of eighteen years, whose temporary or permanent residence is in Connecticut or is believed to be in Connecticut, whose location has not been determined, and who has been reported as missing to a law enforcement agency.”

- (d) All state, county and municipal law enforcement agencies shall submit to the clearinghouse all missing child reports received by any such agency.
- (e) (1) Any parent, guardian or legal custodian may submit a missing child report to the clearinghouse on any child whose whereabouts is unknown, regardless of the circumstances, subsequent to the reporting of such to the appropriate law enforcement agency within the county in which the child became missing, which shall be included in the clearinghouse data base.  
(2) The parent, guardian or legal custodian responsible for notifying the clearinghouse or a law enforcement agency of a missing child shall immediately notify such agency or the clearinghouse of any child whose location has been determined.

Additionally, Conn. Gen. Stat. § 7-282c (Filing and dissemination of reports re missing children and certain missing persons) states, “Any municipal police department which receives a report of a missing child or missing youth under eighteen years of age . . . shall immediately accept such report for filing and inform all on-duty police officers . . . and communicate the report to other appropriate law enforcement agencies.”

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