

Since 2011, Shared Hope has laid the foundation for transformational policy, practice, and cultural change by supporting state legislators and stakeholders to identify gaps in the fabric of laws needed to address child sex trafficking. The Report Cards on Child & Youth Sex Trafficking build upon the progress already made, challenging states to take the next step in the fight against sex trafficking by focusing on the area where the largest gaps remain—victim protections. This report provides a thorough review of Alabama’s laws related to both criminalization and victim protections while providing recommendations for addressing gaps in the law.



## ISSUE 1: Criminal Provisions

**Policy Goal 1.1** The child sex trafficking law is expressly applicable to buyers of commercial sex with any minor under 18.

Ala. Code § 13A-6-152 (Human trafficking in the first degree) expressly applies to buyers of commercial sex with minors. Specifically, Ala. Code § 13A-6-152(3) states,

A person commits the crime of human trafficking in the first degree if:

....

(3) He or she knowingly gives monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.

Further, Ala. Code § 13A-6-152(2) can apply to buyers based on the terms “solicits” and, following federal precedent, “obtains.”<sup>1</sup>

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<sup>1</sup> See *United States v. Jungers*, 702 F.3d 1066 (8th Cir. 2013). In this case, the Eighth Circuit specifically addressed whether the federal sex trafficking law, 18 U.S.C. § 1591 (Sex trafficking of children or by force, fraud, or coercion) applies to buyers of sex with minors. Reversing a District of South Dakota ruling that Congress did not intend the string of verbs constituting criminal conduct under 18 U.S.C. § 1591(a)(1) (“recruits, entices, harbors, transports, provides, obtains, or maintains”) to reach the conduct of buyers (*United States v. Jungers*, 834 F. Supp. 2d 930, 931 (D.S.D. 2011)), the Eighth Circuit concluded that 18 U.S.C. § 1591 does not contain a “latent exemption for purchasers” because buyers can “engage in at least some of the prohibited conduct.” *Jungers*, 702 F. 3d 1066, 1072. Congress codified *Jungers* clarifying that the federal sex trafficking law is intended to apply to buyers in the Justice for Victims of Trafficking Act (JVTA) of 2015 Pub. L. No. 114-22, 129 Stat 227, enacted on May 29, 2015. The JVTA adds the terms “patronize” and “solicit” to the list of prohibited conduct and expressly states, “section 108 of this title amends section 1591 of title 18, United States Code, to add the words ‘solicits or patronizes’ to the sex trafficking statute making absolutely clear for judges, juries, prosecutors, and law enforcement officials that criminals who purchase sexual acts from human trafficking victims may be arrested, prosecuted, and convicted as sex trafficking

**Policy Goal 1.2** Commercial sexual exploitation of children (CSEC) laws specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

Alabama law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, Ala. Code § 13A-12-121.1 (Engaging in an act of prostitution with a minor) states,

- (a) No person shall commit an act of prostitution, as defined in Section 13A-12-120 [Prostitution defined], with a minor.
- (b) No person shall solicit, compel, or coerce any minor to have sexual intercourse or participate in any natural or unnatural sexual act, deviate sexual intercourse, or sexual contact for monetary consideration or other thing of marketable value.
- (c) No person shall agree to engage in sexual intercourse, deviate sexual intercourse, or sexual contact with a minor or participate in the act for monetary consideration or other thing of marketable value and give or accept monetary consideration or other thing of value in furtherance of the agreement.
- (d) No person shall knowingly do any of the following:
  - (1) Cause or aid a minor to commit or engage in prostitution.
  - (2) Procure or solicit a minor for prostitution.
  - (3) Provide premises for the prostitution of a minor.
  - (4) Receive or accept money or other thing of value pursuant to a prior agreement with a minor where the minor participates or is to participate in the proceeds of any prostitution activity.
  - (5) Operate or assist in the operation of a house of prostitution or a prostitution enterprise where minors participate in prostitution.
  - (6) Sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in sexual intercourse, sexual acts, deviate sexual intercourse, or any other sexual contact with a minor.

**Policy Goal 1.3** Commercial sexual exploitation of children (CSEC) laws apply to traffickers and protect all minors under 18.

Alabama’s CSEC laws address an array of trafficker conduct. Pursuant to Ala. Code § 13A-12-112(a) (Promoting prostitution; second degree),

- A person commits the crime of promoting prostitution in the second degree if he knowingly:
- (1) Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes other than the defendant; or
  - (2) Advances or profits from prostitution of a person less than 18 years of age.

Ala. Code § 13A-12-111(a) (Promoting prostitution; first degree) criminalizes similar conduct but requires use of force, coercion, or intimidation unless the minor is under 16 years of age; it states,

- A person commits the crime of promoting prostitution in the first degree if he knowingly:
- (1) Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or

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offenders when this is merited by the facts of a particular case.” Id. at Sec. 109. The Eighth Circuit decision in *United States v. Jungers* and the federal sex trafficking law as amended by the Justice for Victims of Trafficking Act establish persuasive authority when state courts interpret the string of verbs constituting prohibited conduct in state sex trafficking laws (in particular, the term “obtains”) to the extent such interpretation does not conflict with state case law.

(2) Advances<sup>2</sup> or profits<sup>3</sup> from prostitution of a person less than 16 years of age.

**Policy Goal 1.4** Mistake of age is not an available defense under sex trafficking and commercial sexual exploitation of children (CSEC) laws.

Alabama law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Ala. Code § 13A-6-154(5) (Prohibited defenses), “Evidence of the following facts or conditions shall not constitute a defense in a prosecution for human trafficking in the first or second degree, nor shall the evidence preclude a finding of a violation: . . . [m]istake as to the human trafficking victim’s age, even if the mistake is reasonable.” Ala. Code § 13A-6-152(b) (Human trafficking in the first degree) reinforces this prohibition for cases involving human trafficking in the first degree, stating, “For purposes of this section, it is not required that the defendant have knowledge of a minor victim’s age, nor is reasonable mistake of age a defense to liability under this section.”

Lastly, Ala. Code § 13A-12-124 (Mistake of age defense prohibited) prohibits a mistake of age defense for prosecutions under Ala. Code § 13A-12-121.1 (Engaging in an act of prostitution with a minor). Ala. Code § 13A-12-124(b)(5) states,

Evidence of any of the following facts or conditions does not constitute a defense in a prosecution under Section 13A-12-121.1, Code of Alabama 1975, nor shall the evidence preclude a finding of a violation:

.....  
(5) Mistake as to the minor victim’s age, even if the mistake is reasonable.

**Policy Goal 1.5** Use of a law enforcement decoy is not an available defense in child sex trafficking cases.

Although state trafficking laws do not expressly prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor, Alabama’s criminal attempt statute, Ala. Code § 13A-4-2 (Attempt), could provide prosecutors with an alternative avenue to prosecute those cases. Ala. Code § 13A-4-2(b) states,

It is no defense under this section that the offense charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the defendant believed them to be.

Accordingly, an offender could be found guilty of attempting to commit a child sex trafficking offense despite the use of a law enforcement decoy.

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<sup>2</sup> Ala. Code § 13A-12-110 (Definitions) defines “advance prostitution” as

[A]cting other than as a prostitute or a patron of a prostitute, 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.

<sup>3</sup> Ala. Code § 13A-12-110 defines “profit from prostitution” as

[A]cting other than as a prostitute receiving compensation for personally-rendered prostitution services, he accepts or receives money or other property pursuant to a prior agreement with any person whereby he participates or is to participate in the proceeds of prostitution activity.

**Policy Goal 1.6** The trafficking law expressly allows for business entity liability and establishes a business-specific penalty scheme.

Alabama’s trafficking laws expressly allow for business entity liability but do not establish a business-specific penalty scheme. Pursuant to Ala. Code § 13A-6-152(c) (Human trafficking in the first degree),

A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree<sup>4</sup> for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person’s employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

Similarly, Ala. Code § 13A-6-153(a)(3) (Human trafficking in the second degree) states,

A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree<sup>5</sup> for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person’s employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

Despite allowing for business entity liability, a violation of Ala. Code § 13A-6-152(c) or Ala. Code § 13A-6-153(a)(3) is punishable as a Class A or Class B felony, respectively, carrying penalties most pertinent to individuals.<sup>6</sup>

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<sup>4</sup> Conduct criminalized under Ala. Code § 13A-6-152(a) as human trafficking in the first degree includes:

- (1) . . . [K]nowingly subject[ing] another person to labor servitude or sexual servitude.
- (2) . . . [K]nowingly obtain[ing], recruit[ing], entic[ing], solicit[ing], induc[ing], threaten[ing], isolate[ing], harbor[ing], hold[ing], restrain[ing], transport[ing], provid[ing], or maintain[ing] any minor for the purpose of causing a minor to engage in sexual servitude.
- (3) . . . [K]nowingly giv[ing] monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual . . . believe[d] to be a minor.

<sup>5</sup> Conduct criminalized under Ala. Code § 13A-6-153(a)(1), (2) as human trafficking in the second degree includes:

- (1) . . . [K]nowingly benefit[ing], financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.
- (2) . . . [K]nowingly recruit[ing], entic[ing], solicit[ing], induc[ing], harbor[ing], transport[ing], hold[ing], restrain[ing], provid[ing], maintain[ing], subject[ing], or obtain[ing] by any means another person for the purpose of labor servitude or sexual servitude.

<sup>6</sup> However, Ala. Code § 13A-6-157(a) (Attorney General may enforce the human trafficking laws and recover damages for victims) also provides for the following:

In addition to any other remedy under this article, if the Attorney General has reason to believe that any person, corporation, or any other legal entity is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this article [Human trafficking], the Attorney General may bring an action in the name of the state in the appropriate state court against the person, corporation, or entity to restrain by temporary restraining order, or temporary or permanent injunction, the acts or practices.

1.6.1 Recommendation: Amend state law to provide for a business-specific penalty scheme.

**Policy Goal 1.7** State law mandates that financial penalties are levied on sex trafficking and CSEC offenders and are directed to a victim services fund.

Alabama state law levies financial penalties, including fees and asset forfeiture, on sex trafficking and CSEC offenders and directs at least a percentage of those financial penalties into a victim services fund. Specifically, under Ala. Code § 13A-12-125 (Additional penalty for engaging in an act of prostitution with a minor), offenders must pay a \$500 fee to be deposited in the Alabama Crime Victims Compensation Fund for purposes of compensating victims of commercial sexual exploitation or for providing other benefits.<sup>7</sup> It states,

In addition to all other fines and penalties prescribed by law, a person convicted of violating Section 13A-6-152 [Human trafficking in the first degree], Section 13A-6-153 [Human trafficking in the second degree], Section 13A-12-111 [Promoting prostitution; first degree], Section 13A-12-112 [Promoting prostitution; second degree], Section 13A-12-121 [Prohibited activity], or Section 13A-12-121.1 [Engaging in an act of prostitution with a minor] shall pay a fine of five hundred dollars (\$500) which shall be used to compensate victims of prostitution and human trafficking. The fine shall be deposited into the State Treasury to the credit of the Alabama Crime Victims Compensation Fund under Section 15-23-16 [Fund]. Amounts deposited into the Alabama Crime Victims Compensation Fund shall be budgeted and allocated in accordance with Sections 41-4-80 through 41-4-96 [regarding the Division of the Budget] and Sections 41-19-1 through 41-19-12 [regarding budget management].

Ala. Code § 13A-6-156 (Penalties – Forfeiture of property) also directs part of a sex trafficking offender’s forfeited assets toward the Alabama Crime Victims Compensation Fund, stating,

A person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree. Any assets seized shall first be used to pay restitution to trafficking victims and subsequently to pay any damages awarded to victims in a civil action. Any remaining assets shall go toward the cost of the investigation and prosecution and the remaining assets shall be remitted to funding the Alabama Crime Victims Compensation Fund.

Further, sex trafficking and CSEC offenders face asset forfeiture under Ala. Code § 15-5-61(a) (Seizure and forfeiture of property criminally acquired), which provides,

Any property, proceeds, or instrumentality of every kind, used or intended for use in the course of, derived from, or realized through the commission of a felony offense, as defined in this article, or a misdemeanor offense under Article 3, Chapter 12, Title 13A, relating to prostitution offenses, or as inducement or attempt or conspiracy to commit such offenses, is subject to civil forfeiture.

However, a percentage of assets forfeited under Ala. Code § 15-5-61(a) is not directed into a victim services fund.

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<sup>7</sup> Ala. Code § 15-23-16(b) states, “The fund shall be placed under the management or administration of the Alabama Crime Victims Compensation Commission for purposes of providing compensation or other benefits to crime victims and for purposes of implementing this article [Crime Victims’ Compensation].”



## ISSUE 2: Identification of & Response to Victims

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**Policy Goal 2.1** The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control.

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Ala. Code § 13A-6-151(9) (Definitions) defines “trafficking victim” as “any person, including minors, subjected to . . . sexual servitude . . . .” “Sexual servitude” is defined under Ala. Code § 13A-6-151(8) to include the following:

Any sexual conduct . . . for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person; provided, however, that if the sexual conduct is with a minor, no coercion or deception is required.

Further, Alabama’s human trafficking law does not require third party control because it expressly applies to buyers of sex with minors. Ala. Code § 13A-6-152(3) (Human trafficking in the first degree) states,

A person commits the crime of human trafficking in the first degree if:

....

(3) He or she knowingly gives monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.

Accordingly, third party control is not required to identify a commercially sexually exploited child as a trafficking victim or to establish the crime of human trafficking.

**Policy Goal 2.2** State law provides policy guidance to facilitate access to services and assistance for trafficked foreign national children.

Alabama law does not require the development of policy guidance to facilitate appropriate responses to foreign national child sex trafficking victims.

2.2.1 Recommendation: Statutorily mandate the development of policy guidance to facilitate access to services and assistance for trafficked foreign national children.

**Policy Goal 2.3** State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking.

Alabama law does not require child welfare to conduct trauma-informed CSEC screening of system-involved children and youth who are at risk of sex trafficking.

2.3.1 Recommendation: Statutorily mandate child welfare to screen system-involved children and youth at risk of sex trafficking for experiences of commercial sexual exploitation.

**Policy Goal 2.4** State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking.

Ala. Code § 12-15-701(d) (Protection of sexually exploited child) requires a juvenile court intake officer to screen a prostitution complaint filed against a child to determine whether the child meets the legal definition of “sexually exploited child.” It states,

If a law enforcement officer or a person seeks to file a complaint against a child for an offense of prostitution as provided in Section 13A-12-120 [Prostitution defined] or 13A-12-121 [Engaging in an act of prostitution with a minor], the juvenile court intake officer shall evaluate the complaint to determine if the child is a sexually exploited child<sup>8</sup> and could have another complaint filed stating that the child is alleged to be in need of supervision or alleged to be dependent, and not a child alleged to be delinquent, pursuant to Rule 12 of the Alabama Rules of Juvenile Procedure. A juvenile probation officer who is designated to be a juvenile court intake officer may determine if a child alleged to be in need of supervision is appropriate for an informal adjustment pursuant to Rule 15 of the Alabama Rules of Juvenile Procedure.

However, Alabama law does not mandate juvenile justice agencies to conduct trauma-informed CSEC screening for commercially sexually exploited children who enter the juvenile justice system on other charges related to their trafficking victimization.

- 2.4.1 Recommendation: Amend Ala. Code § 12-15-701(d) (Protection of sexually exploited child) to protect all children at risk of sex trafficking who enter the juvenile justice system.

**Policy Goal 2.5** State law prohibits the criminalization of minors under 18 for prostitution offenses.

Alabama law prohibits adjudicating some, but not all, minors for prostitution offenses. Pursuant to Ala. Code § 12-15-801 (Protection of sexually exploited child), minors identified as a sexually exploited children are provided a limited protection from criminalization for violating state prostitution laws under Ala. Code § 13A-12-120 (Prostitution defined) and Ala. Code § 13A-12-121 (Prohibited activity). Ala. Code § 12-15-801(b) states, “A sexually exploited child may not be adjudicated delinquent or convicted of a crime of prostitution as provided in Section 13A-12-120 or 13A-12-121, or any municipal ordinance prohibiting such acts.” As such, while a presumption of victimization exists under Ala. Code § 12-15-801(c), minors not identified as sexually exploited may be subject to delinquency adjudications for a violation of Ala. Code § 13A-12-120 or Ala. Code § 13A-12-121.

Further, minors protected under Ala. Code § 12-15-801 may still encounter punitive responses as a result of their trafficking victimization. While Alabama law prohibits the court from adjudicating sexually exploited children delinquent for violating the prostitution laws, Ala. Code § 12-15-801(c)–(d) acknowledges the possibility of arrest, prosecution, or punitive responses for such offenses, stating,

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<sup>8</sup> Ala. Code § 12-15-701(a) defines “sexually exploited child” as

an individual under the age of 18 years who is under the jurisdiction of the juvenile court and who has been subjected to sexual exploitation because he or she is any of the following:

- (1) A victim of the crime of human trafficking sexual servitude as provided in Section 13A-6-150, et seq., Code of Alabama 1975.
- (2) Engaged in prostitution as provided in Section or 13A-12-121, Code of Alabama 1975.
- (3) A victim of the crime of promoting prostitution as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113, Code of Alabama 1975.

(c) In any proceeding based upon a child's arrest for an act of prostitution, there is a presumption that the child satisfies the definition of a sexually exploited child as provided in this section.

(d) If a law enforcement officer or a person seeks to file a complaint against a child for an offense of prostitution as provided in Section 13A-12-120 or 13A-12-121, the juvenile court intake officer shall evaluate the complaint to determine if the child is a sexually exploited child and could have another complaint filed stating the child is alleged to be in need of supervision or alleged to be dependent, and not a child alleged to be delinquent . . . A juvenile probation officer who is designated to be a juvenile court intake officer may determine if a child alleged to be in need of supervision is appropriate for an informal adjustment pursuant to Rule 15 of the Alabama Rules of Juvenile Procedure.

Additionally, Ala. Code § 12-15-801(d) clarifies that juvenile court intake officers may direct identified sexually exploited children to alternative, punitive processes to receive services and support. If a child sex trafficking victim is identified and adjudicated as "child in need of supervision" pursuant to Ala. Code § 12-15-801(d), the child may be subject to traditional juvenile court procedures and outcomes, including probation and removal from the child's home. Ala. Code § 12-15-215(a) (Disposition of delinquent children or children in need of supervision) states,

If the juvenile court finds on proof beyond a reasonable doubt . . . that the child committed the acts by reason of which the child is alleged to be . . . in need of supervision, it may proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings thereon . . . . If the juvenile court finds that the child is in need of care or rehabilitation, it may make any of the following orders or dispositions, subject to the limitations and prohibitions on secure custody contained in Section 12-15-208:

- (1) Permit the child to remain with the parent, legal guardian, or other legal custodian of the child, subject to the conditions and limitations the juvenile court may prescribe.
- (2) Place the child on probation pursuant to conditions and limitations the juvenile court may prescribe.
- (3) Transfer legal and physical custody to any of the following:
  - (a) The Department of Youth Services, with or without an order to a specific institution.
  - (b) In the case of a child in need of supervision, the Department of Youth Services, or the Department of Human Resources; provided however (i) that prior to any transfer of custody to the Department of Human Resources, the case must first be referred to the county children's services facilitation team, which must proceed according to Article 5; and (ii) the child's commission of one or more status offenses shall not constitute a sufficient basis for transfer of legal or physical custody to the Department of Human Resources. Upon referral to the county children's services facilitation team. When the juvenile court transfers legal and physical custody to the Department of Human Resources, all requirements shall be met for the child to be eligible for federal funding . . . .
  - (c) A local, public, or private agency, organization, or facility willing and able to assume the education, care, and maintenance of the child and which is licensed or otherwise authorized by law to receive and provide care for children.
  - (d) During the term of supervision, a relative or other individual who is found by the juvenile court to be qualified to receive and care for the child.
- (4) Make any other order as the juvenile court in its discretion shall deem to be for the welfare and best interests of the child, including random drug screenings, assessment of fines not to exceed two hundred fifty dollars (\$250), and restitution against the parent, legal guardian, legal custodian, or child, as the juvenile court deems appropriate . . . .
- (5) Direct the parent, legal guardian, or legal custodian of the child to perform reasonable acts as are deemed necessary to promote the best interests of the child.

Consequently, while Alabama law recognizes some minors engaged in commercial sex as victims of sex trafficking and, thus, eligible for limited non-criminalization protections as "sexually exploited children" under Ala. Code § 12-15-801, some minors may still be subject to arrest, detention, prosecution, and punitive outcomes for violations of the state prostitution laws.



- 2.5.1 Recommendation: Amend state law to expressly prohibit the criminalization of any minor for conduct violating state prostitution laws, regardless of whether the minor is identified as a sexually exploited child.

**Policy Goal 2.6** State law prohibits the criminalization of child sex trafficking victims for status offenses, and misdemeanor and non-violent felony offenses committed as a result of their trafficking victimization.

Alabama law does not prohibit the criminalization of child sex trafficking victims for status offenses nor does it prohibit charging victims with misdemeanors or non-violent felonies committed as a result of their trafficking victimization.

- 2.6.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for status offenses, and misdemeanors and non-violent felonies committed as a result of their trafficking victimization.

**Policy Goal 2.7** State law prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

Alabama law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

- 2.7.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

**Policy Goal 2.8** State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

Alabama law does not provide child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

- 2.8.1 Recommendation: Amend state law to provide child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

**Policy Goal 2.9** Juvenile court jurisdiction aligns with international human rights standards.

Alabama law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While juvenile court jurisdiction extends to all minors under 18 years of age, Alabama law does not establish a minimum age for jurisdictional purposes, permits direct file and transfers to adult criminal court for minors accused of certain offenses or those previously adjudicated or convicted in criminal court, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age for Juvenile Court Jurisdiction	Maximum Age for Charging a Minor in Juvenile Court	Automatic Transfers or Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
<b>Summary</b>	None. “Child” is defined as “an individual under the age of 18 . . . .”	17	Yes. Minors 16+ years old who have been charged with certain offenses and minors previously convicted in criminal court.	Yes. Minors 14+ years old may be transferred to criminal court following a transfer hearing.	No.
<b>Relevant Statute(s)</b>	Ala. Code § 12-15-102(3) (Definitions)	Ala. Code § 12-15-102(3) (Definitions)	Ala. Code § 12-15-203 (Transfer of cases from juvenile court); Ala. Code § 12-15-204 (Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult)	Ala. Code § 12-15-203 (Transfer of cases from juvenile court)	Ala. Code 12-15-203(d) (Transfer of cases from juvenile court)

Consequently, Alabama law fails to provide age-appropriate juvenile court responses to all minors, including child sex trafficking victims, as governing state statute: (1) does not establish a minimum age for juvenile court jurisdiction that is in alignment with international human rights standards; (2) allows minors to be subjected to automatic transfers; and (3) does not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Amend state law to require age-appropriate juvenile court responses for all children accused of engaging in juvenile or criminal conduct.

**Policy Goal 2.10** State law defines child abuse to include child sex trafficking for purposes of accessing child welfare services.

The definition of “child abuse” includes commercial sexual exploitation of children (CSEC) but not child sex trafficking. Specifically, Ala. Code Ann. § 12-15-301(4) (Definitions) defines “child abuse” as “[h]arm or the risk of harm to the emotional health, physical health, or welfare of a child, which can occur through nonaccidental physical or mental injury, sexual abuse, or attempted sexual abuse or sexual exploitation or attempted sexual exploitation.” Further, Ala. Code Ann. § 12-15-301(15), (16) defines “sexual abuse” and “sexual exploitation” to include commercial sexual exploitation of children, stating,

(15) SEXUAL ABUSE. Sexual abuse includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any person to engage in, any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct. Sexual abuse also includes rape, molestation, prostitution, or other forms of sexual exploitation or abuse of children, or incest with children, as those acts are defined in this article or by Alabama law.

(16) SEXUAL EXPLOITATION. Sexual exploitation includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child.

2.10.1 Recommendation: Amend the definition of “child abuse” to expressly include child sex trafficking.

**Policy Goal 2.11** State law clearly defines child welfare’s role in responding to non-familial child sex trafficking through an alternative specialized response that does not hinge on caregiver fault.

Alabama’s child welfare code does not allow for a child welfare response in non-familial child sex trafficking cases and does not provide for a specialized response to child sex trafficking reports. While the definition of “child abuse” under Ala. Code Ann. § 12-15-301(4) (Definitions) is not limited to acts committed by a caregiver, Ala. Code § 12-15-102(8) (Definitions) defines “dependent child” to require caregiver fault,<sup>9</sup> and no alternative response is provided for children reported to child welfare due to trafficking victimization perpetrated by a non-familial trafficker.

2.11.1 Recommendation: Amend the child welfare code to provide an alternative specialized response to child sex trafficking reports that does not hinge on caregiver fault and sets out a trafficking-specific response protocol for non-familial child sex trafficking cases.

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<sup>9</sup> Ala. Code § 12-15-102(8)(a) (Definitions) defines “dependent child” as follows:

A child who has been adjudicated dependent by a juvenile court and is in need of care or supervision and meets any of the following circumstances:

1. Whose parent, legal guardian, legal custodian, or other custodian subjects the child or any other child in the household to abuse, as defined in Section 12-15-301 or neglect as defined in Section 12-15-301, or allows the child to be so subjected.
2. Who is without a parent, legal guardian, or legal custodian willing and able to provide for the care, support, or education of the child.
3. Whose parent, legal guardian, legal custodian, or other custodian neglects or refuses, when able to do so or when the service is offered without charge, to provide or allow medical, surgical, or other care necessary for the health or well-being of the child.
4. Whose parent, legal guardian, legal custodian, or other custodian fails, refuses, or neglects to send the child to school in accordance with the terms of the compulsory school attendance laws of this state.
5. Whose parent, legal guardian, legal custodian, or other custodian has abandoned the child, as defined in subdivision (1) of Section 12-15-301.
6. Whose parent, legal guardian, legal custodian, or other custodian is unable or unwilling to discharge his or her responsibilities to and for the child.
7. Who has been placed for care or adoption in violation of the law.
8. Who, for any other cause, is in need of the care and protection of the state.



## ISSUE 3: Continuum of Care

### Policy Goal 3.1 State law provides child sex trafficking victims with access to specialized services through a non-punitive system.

Alabama law provides child sex trafficking victims with access to a broad range of services through a non-punitive system. Pursuant to Ala. Code § 12-15-701(d)–(h) (Protection of sexually exploited child),<sup>10</sup>

(d) If a law enforcement officer or a person seeks to file a complaint against a child for an offense of prostitution as provided in Section 13A-12-120 [Prostitution defined] or 13A-12-121 [Prohibited activities], the juvenile court intake officer shall evaluate the complaint to determine if the child is a sexually exploited child<sup>11</sup> and could have another complaint filed stating that the child is alleged to be in need of supervision or alleged to be dependent, and not a child alleged to be delinquent, pursuant to Rule 12 of the Alabama Rules of Juvenile Procedure. A juvenile probation officer who is designated to be a juvenile court intake officer may determine if a child alleged to be in need of supervision is appropriate for an informal adjustment pursuant to Rule 15 of the Alabama Rules of Juvenile Procedure.

(e) If a petition alleging that a sexually exploited child is in need of supervision or is dependent is filed, a sexually exploited child may be adjudicated a child in need of supervision or a dependent child pursuant to Section 12-15-102(4) and (8) [Definitions]. Once the sexually exploited child is adjudicated, the juvenile court shall retain jurisdiction over the sexually exploited child and may enforce prior orders requiring payment of court-ordered monies pursuant to Section 12-15-117 [Retention and termination of jurisdiction generally]. The juvenile court may issue any requisite order or conduct any hearing necessary to protect the health or safety of a sexually exploited child that is determined to be in the best interests of the child. The juvenile court may also, on an emergency basis, enter an order of protection or restraint to protect the health or safety of a sexually exploited child.

....

(g) A sexually exploited child who commits an act of prostitution as provided in Section 13A-12-120 or 13A-12-121 shall be afforded all rights pursuant to Section 12-15-202 [Rights of the child].

(h) All social and community services shall be made available to a sexually exploited child. Services may include, but are not limited to, any of the following:

- (1) Forensic evidence collection.
- (2) Forensic interviewing.
- (3) Counseling.
- (4) Advocacy.

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<sup>10</sup> Although Ala. Code. § 13A-12-123 (Treatment of sexually exploited child) states that a commercially sexually exploited child should be treated in accordance with the process outlined in Ala. Code § 13A-6-181 (Additional fine for certain crimes relating to prostitution; pre-trial diversion programs), that process is specific to adult victims. Instead, Ala. Code § 12-15-701 (Protection of sexually exploited child) outlines the process for child victims.

<sup>11</sup> Ala. Code § 12-15-701(a) defines “sexually exploited child” as

[A]n individual under the age of 18 years who is under the jurisdiction of the juvenile court and who has been subjected to sexual exploitation because he or she is any of the following:

- (1) A victim of the crime of human trafficking sexual servitude as provided in Section 13A-6-150, et seq.
- (2) Engaged in prostitution as provided in Section 13A-12-120 or 13A-12-121.
- (3) A victim of the crime of promoting prostitution as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113.

- (5) Shelter.
- (6) Alcohol or substance abuse treatment.
- (7) Mental health services.
- (8) Medical treatment.
- (9) Legal services.
- (10) Educational tutoring, counseling, and language interpreter services.
- (11) Crisis intervention services.
- (12) Safety planning.
- (13) Investigation and prosecution of the individuals subjecting the child to sexual exploitation or abuse.

Problematically, the process outlined above requires a sexually exploited child to be adjudicated a child in need of supervision, which can be a punitive process, or a dependent child, which could unjustly involve non-offending parents in the child welfare system, in order to access services.

**Policy Goal 3.2** State law provides for a survivor-centered multi-disciplinary team response to child sex trafficking cases.

Alabama does not statutorily require a multi-disciplinary team response to child sex trafficking cases.

- 3.2.1 Recommendation: Statutorily require a multi-disciplinary team response to child sex trafficking victims.

**Policy Goal 3.3** State law requires the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

Alabama law does not provide access to specialized services for identified sex trafficked children and youth in the juvenile justice system.

- 3.3.1 Recommendation: Statutorily require the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

**Policy Goal 3.4** State law extends foster care services to older foster youth.

Alabama law extends foster care services to youth under 21 years of age. However, these services are not extended to youth under 23 years of age as permitted under federal law.<sup>12</sup> Ala. Code § 38-7-2(1) (Definitions) defines “child” as “[a]ny person under 19 years of age, a person under the continuing jurisdiction of the juvenile court pursuant to Section 12-15-117 [Retention and termination of jurisdiction generally],<sup>13</sup> or a person under 21 years of age in foster care as defined by the Department of Human Resources.” Additionally, Ala. Code § 38-7-2(14) specifically defines “transitional living facility” as a program designed to give opportunities to practice independent living skills to foster care involved youth ages 16 to under 21.<sup>14</sup>

<sup>12</sup> For more information, see Shared Hope Int’l, *Issue Brief 3.4: Continuum of Care*, [https://sharedhope.org/wp-content/uploads/2020/12/SH\\_Issue-Brief-3.4\\_2020.pdf](https://sharedhope.org/wp-content/uploads/2020/12/SH_Issue-Brief-3.4_2020.pdf) (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

<sup>13</sup> See supra Policy Goal 2.9 for discussion of juvenile court jurisdiction.

<sup>14</sup> Ala. Code § 38-7-2(14) (Definitions) defines “transitional living facility” as “[a] child-care facility or program that is designed to give opportunities to practice independent living skills to eligible persons at least 16 years of age and under 21 years of age in foster care in a variety of residential settings with varying degrees of care and supervision.”

- 3.4.1 Recommendation: Strengthen existing law to better support transition age youth by extending transitional foster care services to youth under 23 years of age.

**Policy Goal 3.5** State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.

The Alabama state legislature did not appropriate funds to support the development and provision of specialized, community-based services and care to child and youth survivors.

- 3.5.1 Recommendation: Appropriate state funds to support the development of and access to specialized, community-based services to child and youth survivors of sex trafficking.

**Policy Goal 3.6** State funding is appropriated to support child-serving agencies with providing specialized services and a continuum of care for sex trafficked children.

The Alabama state legislature did not appropriate funds to support child-serving agencies with developing and providing specialized services and ensuring a continuum of care for child and youth survivors who interact or are involved with state systems.

- 3.6.1 Recommendation: Appropriate state funds to support child-serving agencies in the development of and access to specialized services to child and youth survivors of sex trafficking.



## ISSUE 4: Access to Justice for Trafficking Survivors

### **Policy Goal 4.1** State law allows trafficking victims to seek emergency civil orders of protection.

While civil orders of protection exist under Alabama law, this protection is not expressly available to victims of child sex trafficking and CSEC.

- 4.1.1 Recommendation: Amend state law to expressly allow victims of trafficking and CSEC to obtain ex parte civil orders of protection against their exploiters.

### **Policy Goal 4.2** Ineligibility factors for crime victims' compensation do not prevent victims of child sex trafficking and commercial sexual exploitation of children (CSEC) from accessing compensation.

Although the Alabama Crime Victims Compensation Act defines “victim” broadly enough to include victims of child sex trafficking and CSEC, ineligibility factors may prevent a commercially sexually exploited child from accessing an award.

For purposes of accessing crime victims' compensation, Ala. Code § 15-23-3(3) (Definitions) defines “victim” as “[a] person who suffered serious personal injury or death as a result of criminally injurious conduct.” Under Ala. Code § 15-23-3(2)(a), “criminally injurious conduct” is defined in part as “[a]n act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment, or death may be imposed.” Under Ala. Code § 15-23-8(a) (Determination of claims.) a victim may receive compensation from the Alabama Crime Victims Compensation Commission if the commission is “satisfied by a preponderance of the evidence that the requirements for compensation have been met.”

However, ineligibility factors could still bar access to an award. Pursuant to Ala. Code § 15-23-12(a) (Grounds for denial – Reduction of award),

Compensation shall not be awarded in any of the following circumstances:

- (1) A claim has been filed with the commission later than one year after the injury or death upon which the claim is based, unless the commission finds there was good cause for the failure to file within that time.
- (2) To a claimant who was the offender, or an accomplice of the offender, or who encouraged or in any way participated in the criminally injurious conduct.
- (3) If the award would unjustly benefit the offender or accomplice of the offender.
- (4) The criminally injurious conduct resulting in injury or death was reported to a law enforcement officer later than 72 hours after its occurrence, unless the commission finds there was good cause for the failure to report within that time.

Further, under Ala. Code § 15-23-12(c), the commission can deny or reduce the award for compensation if the claimant or victim did not fully cooperate with appropriate law enforcement agencies.

Alabama law does not exempt child sex trafficking victims from these ineligibility factors. As a result, some commercially sexually exploited children may not have access to an award.

- 4.2.1 Recommendation: Statutorily exempt victims of child sex trafficking and CSEC from ineligibility factors for crime victims' compensation.

**Policy Goal 4.3** Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

Alabama law does not allow sex trafficked children and youth to vacate delinquency adjudications or criminal convictions for offenses arising from trafficking victimization.

- 4.3.1 Recommendation: Amend state law to allow sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

**Policy Goal 4.4** State law mandates restitution for child sex trafficking and commercial sexual exploitation of children (CSEC) offenses.

Alabama law requires an offender convicted of a child sex trafficking or CSEC offense to pay. Pursuant to Ala. Code § 13A-6-155(a) (Mandatory restitution),

A person or entity convicted of any violation of this article [Human trafficking] shall be ordered to pay mandatory restitution to the victim, prosecutorial or law enforcement entity, with the proceeds from property forfeited under [Ala. Code § 13A-6-156 (Penalties – Forfeiture of property)] applied first to payment of restitution. Restitution under this section shall include items covered under Article 4A [Restitution to victims of crimes], commencing with Section 15-18-65 [Legislative intent] of Chapter 18 of Title 15 of the Code of Alabama 1975, and any of the following:

- (1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion.
- (2) Costs of necessary transportation, temporary housing, and child care, at the court's discretion.
- (3) Cost of the investigation and prosecution, attorney's fees, and other court-related costs such as victim advocate fees.
- (4) The greater of a. the value of the human trafficking victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA); or b. the gross income or value to the defendant of the victim's labor servitude or sexual servitude engaged in by the victim while in the human trafficking situation.
- (5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair.
- (6) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim.
- (7) Any and all other losses suffered by the victim as a result of any violation of this article.

Restitution is available more generally to victims of other crimes pursuant to Ala. Code § 15-18-67 (Hearings), which provides,

When a defendant is convicted of a criminal activity or conduct which has resulted in pecuniary damages or loss to a victim, the court shall hold a hearing to determine the amount or type of restitution due the victim or victims of such defendant's criminal acts. Such restitution hearings shall be held as a matter of course and in addition to any other sentence which it may impose, the court shall order that the defendant make



restitution or otherwise compensate such victim for any pecuniary damages. The defendant, the victim or victims, or their representatives or the administrator of any victim's estate as well as the district attorney shall have the right to be present and be heard upon the issue of restitution at any such hearings.

Pursuant to Ala. Code § 15-18-68(a) (Determination of amount),

In determining the manner, method, or amount of restitution to be ordered, the court may take into consideration all of the following:

- (1) The financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant.
- (2) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court.
- (3) The anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment.
- (4) Any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts.
- (5) The mental, physical, and financial well-being of the victim.

#### EXTRA CREDIT



Alabama law mandates restitution for victims of child labor trafficking under Ala. Code § 13A-6-155(a), which requires offenders convicted of any violation of Article 8 (Human trafficking) to pay victim restitution.

#### **Policy Goal 4.5** State law provides child sex trafficking victims with a trafficking-specific civil remedy.

Alabama law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Ala. Code § 13A-6-157(a)–(d) (Civil action – Damages) states,

- (a) An individual who is a victim of human trafficking<sup>15</sup> may bring a civil action in the appropriate state court.  
. . . .
- (c) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious.
- (d) The court shall award a prevailing plaintiff attorney's fees and costs.

Additionally, the Attorney General is permitted to bring a civil action against an offender convicted of human trafficking for the purpose of recovering damages for victims. Pursuant to Ala. Code § 13A-6-157.1(b) (Attorney General may enforce the human trafficking laws and recover damages for victims), "In addition to any other remedy under this article, the Attorney General may bring a civil action on behalf of the state in the appropriate state court to recover actual damages for victims of acts or practices performed in violation of this article."

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<sup>15</sup> Ala. Code § 13A-6-151(9) (Definitions) defines "trafficking victim" as "[a]ny person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude."

## EXTRA CREDIT



Alabama law provides sex trafficked youth with a trafficking-specific civil remedy under Ala. Code § 13A-6-157(a), which allows “an individual who is a victim of human trafficking [to] bring a civil action . . . .” Importantly, Ala. Code § 13A-6-151(9) defines “trafficking victim” to include “[a]ny person . . . subjected to . . . sexual servitude” regardless of their age.



Alabama law provides child labor trafficking victims with a trafficking-specific civil remedy under Ala. Code § 13A-6-157(a), which allows “an individual who is a victim of human trafficking [to] bring a civil action . . . .” Importantly, Ala. Code § 13A-6-151(9) defines “trafficking victim” to include “[a]ny person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude.”

### **Policy Goal 4.6** Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Prosecutions for human trafficking and CSEC offenses involving victims under 16 years of age may commence at any time; in contrast, statutes of limitation for related civil actions are lengthened but not eliminated. Pursuant to Ala. Code § 15-3-5(a)(4) (Offenses having no limitation), “There is no limitation of time within which a prosecution must be commenced for . . . [a]ny sex offense pursuant to Section 15-20A-5 involving a victim under 16 years of age, regardless of whether it involves force, serious physical injury, or death.” Ala. Code § 15-20A-5(12)–(34) (Offenses) defines “sex offense” to include the following crimes:

- (12) Promoting prostitution in the first degree, as provided by Section 13A-12-111.
- (13) Promoting prostitution in the second degree, as provided by Section 13A-12-112.
- . . . .
- (28) Human trafficking in the first degree, as provided by Section 13A-6-152, provided that the offense involves sexual servitude.
- (29) Human trafficking in the second degree, as provided by Section 13A-6-153, provided that the offense involves sexual servitude.
- . . . .
- (34) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (33), inclusive.

Accordingly, the criminal statute of limitation would be eliminated for prosecutions of these crimes if the victim was under 16 years of age. Further, Ala. Code § 15-3-5(a)(2) eliminates the criminal statute of limitation for felonies involving “serious physical injury or death of a person,” regardless of the victim’s age. Otherwise, Ala. Code § 15-3-1 (Felonies generally) provides, “the prosecution of all felonies, except those specified in Section 15-3-3 [Conversion of public revenues], Section 15-3-5 [Offenses having no limitation], or any other felony that has a specified limitations period, shall be commenced within five years after the commission of the offense.”

Regarding civil actions, an action brought under Ala. Code § 13A-6-157 (Civil action by victims; relief awarded) must be commenced within 5 years of the victim being freed from the trafficking situation or turning 19 years of age, whichever occurs later, and may be tolled as provided under Ala. Code § 13A-6-158(a), (b) (Limitation period), which states,

- (a)
  - (1) Except as provided in subsection (c), an action for an offense defined by this article where the victim is not a minor shall be brought within five years from the date the victim was removed or escaped from the human trafficking situation.
  - (2) Any statute of limitations that would otherwise preclude prosecution for an offense involving the trafficking of a minor, or the physical or sexual abuse of a minor, shall be tolled until such time as the victim has reached the age of 19 years.
  - (3) The running of the statute of limitations shall be suspended where a person entitled to bring a claim of an offense defined by this article could not have reasonably discovered the crime due to circumstances resulting from the human trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.
- (b) Any statute of limitation period imposed for the filing of a civil action under this article will not begin to run until the plaintiff discovers both that the sex trade act occurred and that the defendant caused, was responsible for, or profited from the sex trade act.
  - (1) If the plaintiff is a minor, then the limitation period will not commence running until he or she has reached the age of majority.
  - (2) If the plaintiff is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.
  - (3) If the plaintiff's injury is caused by two or more acts that are part of a continuing series of sex trade acts by the same defendant, then the limitation period will not commence running until the last sex trade act in the continuing series occurs.
  - (4) If the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant, then the time when these acts occur will not be part of the time limited for the commencement of this action.

Notably, a civil action filed by the Attorney General under Ala. Code § 13A-6-157.1 (Attorney General may enforce the human trafficking laws and recover damages for victims) is not subject to a statute of limitation. Ala. Code § 13A-6-158(c) provides, "There shall be no limitation period for civil actions brought under this article by the Attorney General."

- 4.6.1 Recommendation: Amend state law to eliminate criminal and civil statutes of limitation for all cases involving child sex trafficking and CSEC regardless of the victim's age.



## ISSUE 5: Tools for a Victim-Centered Criminal Justice Response

**Policy Goal 5.1** State law provides a child sex trafficking-specific hearsay exception that applies to non-testimonial evidence to reduce reliance on victim testimony.

Alabama law does not allow non-testimonial, out-of-court statements made by a commercially sexually exploited child to be admitted into evidence in lieu of, or for the purpose of corroborating, the child's testimony. Although Ala. Code § 15-25-31 (Out-of-court statements; admissibility) provides some protection to younger minors, it applies only to select crimes involving "a child physical offense, sexual offense, and exploitation" and leaves minors who are 12 years of age or older unprotected. Specifically, Ala. Code § 15-25-31 states,

An out-of-court statement made by a child under 12 years of age at the time the statement is made concerning an act that is a material element of any crime involving child physical offense, sexual offense, and exploitation, as defined in Section 15-25-39 [Definition], which statement is not otherwise admissible in evidence, is admissible in evidence in criminal proceedings, if the requirements of Section 15-25-32 [Out-of-court statements; requirements for admissibility] are met.

Ala. Code § 15-25-39 (Definition) defines "a child physical offense, sexual offense, and exploitation" to include one of the following crimes committed against a child under 12 years of age:

- (1) Rape in any degree.
- (2) Sodomy in any degree.
- (3) Sexual abuse in any degree.
- (4) Sexual misconduct.
- (5) Enticing a child to enter a vehicle, room, house, office, or other place, for immoral purposes.
- (6) Any crime involving the production of child pornography.
- (7) Torture and willful abuse of a child under 18 years of age by responsible person as defined in Section 26-15-3.
- (8) Sexual torture as defined in Section 13A-6-65.1.
- (9) Attempted murder.
- (10) Assault first degree.
- (11) Assault second degree.
- (12) Assault third degree.
- (13) Harassment.

Accordingly, commercially sexually exploited children are excluded from this protection as are older minors.

- 5.1.1 Recommendation: Amend state law to extend the hearsay exception to any case involving the commercial sexual exploitation of children under 18 years of age.

**Policy Goal 5.2** State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.

Alabama law does not provide child sex trafficking victims with an alternative to live, in-court testimony. Although Ala. Code § 15-25-3 (Closed circuit examination of victim) permits the court to order the testimony of a child under 16 years of age be taken by closed-circuit television (CCTV) during the prosecution of a specified offense, this protection likely does not apply to victims of sex trafficking or CSEC. Specifically, Ala. Code § 15-25-3(a)–(c) states,

- (a) In those criminal prosecutions set out in Section 15-25-1 [Leading questions], the court, on motion of the state or the defendant prior to the trial of the case, may order that the testimony of any alleged victim of the crime or witness thereto who is under the age of 16 at the time of the order shall be viewed and heard at trial by the court and the finder of fact by closed circuit equipment. In ruling on the motion the court shall take into consideration those matters set out in Section 15-25-2 [Videotaped deposition].<sup>16</sup>
- (b) If the court orders that the victim's or witness's testimony in court shall be by closed circuit equipment, the testimony shall be taken outside the courtroom in the judge's chambers or in another suitable location designated by the judge.
- (c) Examination and cross-examination of the alleged child victim or witness shall proceed as though he or she were testifying in the courtroom. Present in the room with the child during his or her testimony shall be the prosecuting attorney, the attorney of the defendant, and a person whose presence, in the judgment of the court, contributes to the well-being of the child and who has dealt with the child in a therapeutic setting regarding the abuse. Additional persons, such as the parent or parents or legal guardian except the defendant, may be admitted into the room in the discretion of the court.

Under Ala. Code § 15-25-1 (Leading questions), eligible offenses include “any criminal prosecution for a physical offense or a sexual offense wherein the alleged victim is a child under the age of 16 years and in any criminal prosecution involving the sexual exploitation of a child under the age of 16.” Neither Ala. Code § 15-25-3 nor Ala. Code § 15-25-1 define “physical offense,” “sexual offense,” or “sexual exploitation.” However, Ala. Code § 15-25-39 (Definition), located within the Chapter on “Child Victims and Witnesses in Prosecutions for Sexual Offenses and Exploitation Involving Children,” defines “a child physical offense, sexual offense, and exploitation” to include one of the following crimes:

- (1) Rape in any degree.
- (2) Sodomy in any degree.
- (3) Sexual abuse in any degree.
- (4) Sexual misconduct.
- (5) Enticing a child to enter a vehicle, room, house, office, or other place, for immoral purposes.
- (6) Any crime involving the production of child pornography.
- (7) Torture and willful abuse of a child under 18 years of age by responsible person as defined in Section 26-15-3.
- (8) Sexual torture as defined in Section 13A-6-65.1.
- (9) Attempted murder.
- (10) Assault first degree.
- (11) Assault second degree.
- (12) Assault third degree.
- (13) Harassment.

Accordingly, the protection provided for under Ala. Code § 15-25-3 is likely unavailable to victims of commercial sexual exploitation.

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<sup>16</sup> Pursuant to Ala. Code § 15-25-2(b) (Videotaped deposition),

On any motion for a video deposition of the victim or a witness, the court shall consider the age and maturity of the child, the nature of the offense, the nature of testimony that may be expected, and the possible effect that the testimony in person at trial may have on the victim or witness, along with any other relevant matters that may be required by Supreme Court rule.

Alternatively, Ala. Code § 15-25-2 (Videotaped deposition) provides for the taking of a video deposition,<sup>17</sup> which “shall be entered into the record by the state in lieu of the direct testimony of the alleged victim or witness and shall be viewed and heard at the trial of the case” unless “the court determines that its introduction in lieu of the victim’s or witness’s actual appearance as a witness at the trial will unfairly prejudice the defendant.” However, Ala. Code § 15-25-2 also limits this protection to victims and witnesses under 16 years of age in connection with any criminal proceeding referred to in Ala. Code § 15-25-1, narrowing its applicability to the offenses noted above.

- 5.2.1 Recommendation: Strengthen existing protections to allow all commercially sexually exploited children to testify by an alternative method regardless of the child’s age and the offense charged.

**Policy Goal 5.3** Child sex trafficking victims have access to victim protections in the criminal justice system.

	<b>Child sex trafficking victims have the right to a victim advocate</b>	<b>Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom</b>	<b>Child sex trafficking victims’ identifying information is protected from disclosure in court records</b>
<b>Summary</b>	Not statutorily required.	Not statutorily required.	Identifying information of child victims of sexual abuse and exploitation is protected from disclosure in criminal court records.
<b>Relevant Statute(s)</b>	None.	None.	Ala. Code § 15-1-2(b) (Child sexual abuse victims; protection from repeated interrogation; sealed court records)

- 5.3.1 Recommendation: Statutorily ensure that child sex trafficking victims have the right to a victim advocate and are provided courtroom supports when testifying against their exploiter.

**Policy Goal 5.4** State law provides for privileged communications between caseworkers and child sex trafficking victims.

Alabama law does not provide for privileged communications between caseworkers and child sex trafficking victims.

- 5.4.1 Recommendation: Amend state law to provide child sex trafficking-specific caseworker privilege to protect a child sex trafficking victim’s communications with a caseworker from being disclosed.

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<sup>17</sup> Ala. Code § 15-25-2(e) defines “video deposition” as “the recording of video, with sound, of witness testimony made under oath to be entered in the record in a judicial proceeding.”



## ISSUE 6: Prevention & Training

**Policy Goal 6.1** State law mandates statewide training for child welfare agencies on identification and response to child sex trafficking.

Alabama law does not mandate statewide training for child welfare agencies on identification and response to child sex trafficking.

6.1.1 Recommendation: Statutorily mandate statewide training for child welfare agencies on identification and response to child sex trafficking.

**Policy Goal 6.2** State law mandates statewide training for juvenile justice agencies on identification and response to child sex trafficking.

Alabama law does not mandate statewide training for juvenile justice agencies on identification and response to child sex trafficking.

6.2.1 Recommendation: Statutorily mandate statewide training for juvenile justice agencies on identification and response to child sex trafficking.

**Policy Goal 6.3** State law mandates ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

Alabama law authorizes training for law enforcement on issues related to exploited children. Pursuant to Ala. Code § 26-19-4(3) (Alabama center for missing and exploited children; functions),

ACMEC shall be responsible for the following specific functions:

....

(3) To provide training to law enforcement officers, other professionals, and medical examiners, when available, on issues relating to missing persons, exploited children, and unidentified bodies.

Resultingly, resources and training regarding exploited children, including sexually exploited children, should be available for use by law enforcement. However, law enforcement officers are not statutorily mandated to receive such training, the training is not trafficking-specific, and the training is not required to be ongoing.

6.3.1 Recommendation: Statutorily mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

**Policy Goal 6.4** State law mandates trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

Alabama law does not mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

- 6.4.1 Recommendation: Statutorily mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

**Policy Goal 6.5** State law mandates child sex trafficking training for school personnel.

Alabama law does not mandate training on child sex trafficking for school personnel.

- 6.5.1 Recommendation: Statutorily mandate trafficking-specific prevention education training for school personnel.

**Policy Goal 6.6** State law mandates child sex trafficking prevention education in schools.

Alabama law does not mandate child sex trafficking prevention education in schools.

- 6.6.1 Recommendation: Statutorily mandate developmentally and age-appropriate child sex trafficking prevention education in schools.



## State Laws Addressing Child Sex Trafficking

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1. Ala. Code § 13A-6-152 (Human trafficking in the first degree) states,

(a) A person commits the crime of human trafficking in the first degree if:

.....

(2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor<sup>18</sup> for the purpose of causing a minor to engage in sexual servitude.<sup>19</sup>

(3) He or she knowingly gives monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.

.....

(e) Human trafficking in the first degree is a Class A felony.

A Class A felony is punishable by imprisonment for life or 10–99 years, “which imprisonment includes hard labor,” and a possible fine up to \$60,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(1), 13A-5-11(a)(1). If the victim is under 12 years of age, the mandatory minimum sentence is 20 years. Ala. Code §§ 13A-5-6(a)(5), 15-20A-5(28), 15-20A-48(a).

2. Ala. Code § 13A-6-153 (Human trafficking in the second degree) states,

(a) A person commits the crime of human trafficking in the second degree if:

(1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.

(2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude.

.....

(b) Human trafficking in the second degree is a Class B felony.

A Class B felony is punishable by imprisonment for 2–20 years, “which imprisonment includes hard labor,” and a possible fine up to \$30,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(2), 13A-5-11(a)(2). If the victim is under 12 years of age, the mandatory minimum sentence is 10 years. Ala. Code §§ 13A-5-6(a)(6), 15-20A-5(29), 15-20A-48(a).

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<sup>18</sup> Ala. Code § 13A-6-151(5) (Definitions) defines “minor” as “A person under the age of 19.”

<sup>19</sup> Ala. Code § 13A-6-151(8) defines “sexual servitude” as

Any sexual conduct . . . for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person; provided, however, that if the sexual conduct is with a minor, no coercion or deception is required.

## State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

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1. Ala. Code § 13A-12-111 (Promoting prostitution; first degree) states,
  - (a) A person commits the crime of promoting prostitution in the first degree if he knowingly:
    - (1) Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or
    - (2) Advances<sup>20</sup> or profits<sup>21</sup> from prostitution of a person less than 16 years of age.
  - (b) Promoting prostitution in the first degree is a Class B felony.

A Class B felony is punishable by imprisonment for 2–20 years, “which imprisonment includes hard labor,” and a possible fine up to \$30,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(2), 13A-5-11(a)(2). If the victim is under 12 years of age, the mandatory minimum sentence is 10 years. Ala. Code §§ 13A-5-6(a)(6), 15-20A-5(12), 15-20A-48(a).

2. Ala. Code § 13A-12-112 (Promoting prostitution; second degree) states,
  - (a) A person commits the crime of promoting prostitution in the second degree if he knowingly:
    - (1) Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes other than the defendant; or
    - (2) Advances or profits from prostitution of a person less than 18 years of age.
  - (b) Promoting prostitution in the second degree is a Class C felony.

A Class C felony is punishable by imprisonment for 1 year and 1 day to 10 years, “which imprisonment includes hard labor,” and a possible fine up to \$15,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(3), 13A-5-11(a)(3).

3. Ala. Code § 13A-12-121.1 (Engaging in an act of prostitution with a minor) states,
  - (a) No person shall commit an act of prostitution, as defined in Section 13A-12-120 [Prostitution defined],<sup>22</sup> with a minor.
  - (b) No person shall solicit, compel, or coerce any minor to have sexual intercourse or participate in any natural or unnatural sexual act, deviate sexual intercourse, or sexual contact for monetary consideration or other thing of marketable value.

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<sup>20</sup> Ala. Code § 13A-12-110 (Definitions) defines “advance prostitution” as

[A]cting other than as a prostitute or a patron of a prostitute, 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.

<sup>21</sup> Ala. Code § 13A-12-110 defines “profit from prostitution” as

[A]cting other than as a prostitute receiving compensation for personally-rendered prostitution services, he accepts or receives money or other property pursuant to a prior agreement with any person whereby he participates or is to participate in the proceeds of prostitution activity.

<sup>22</sup> Ala. Code § 13A-12-120 defines “prostitution” as “[T]he commission by a person of any natural or unnatural sexual act, sodomy, or sexual contact for monetary consideration or other thing of value.”

(c) No person shall agree to engage in sexual intercourse, deviate sexual intercourse, or sexual contact with a minor or participate in the act for monetary consideration or other thing of marketable value and give or accept monetary consideration or other thing of value in furtherance of the agreement.

(d) No person shall knowingly do any of the following:

- (1) Cause or aid a minor to commit or engage in prostitution.
- (2) Procure or solicit a minor for prostitution.
- (3) Provide premises for the prostitution of a minor.
- (4) Receive or accept money or other thing of value pursuant to a prior agreement with a minor where the minor participates or is to participate in the proceeds of any prostitution activity.
- (5) Operate or assist in the operation of a house of prostitution or a prostitution enterprise where minors participate in prostitution.
- (6) Sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in sexual intercourse, sexual acts, deviate sexual intercourse, or any other sexual contact with a minor.

A violation of this section is punishable as a Class B felony by imprisonment for 2–20 years, “which imprisonment includes hard labor,” and a possible fine up to \$30,000. Ala. Code §§ 13A-12-122, 13A-5-2(a), (b), 13A-5-6(a)(2), 13A-5-11(a)(2).