



## 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.

Ariz. Rev. Stat. Ann. § 13-3212 (Child sex trafficking; classification; increased punishment; definition) expressly applies to buyers of commercial sex with minors. Specifically, Ariz. Rev. Stat. Ann. § 13-3212(B) states,

A person who is at least eighteen years of age commits child sex trafficking by knowingly:

- (1) Engaging in prostitution with a minor who is under fifteen years of age.
- (2) Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
- (3) Engaging in prostitution with a minor who is fifteen, sixteen or seventeen years of age.

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

Arizona's CSEC laws do not criminalize purchasing or soliciting commercial sex with a minor.

- 1.2.1 Recommendation: Enact a CSEC law that specifically includes purchasing or soliciting sex with any minor under 18.

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

Ariz. Rev. Stat. Ann. § 13-3206 (Taking child for purpose of prostitution) applies to traffickers but is limited in application to traffickers who take a child from a legal guardian; it states,

A person who takes away any minor from the minor's father, mother, guardian or other person having the legal custody of the minor, for the purpose of prostitution, is guilty of a class 4 felony. If the minor is under fifteen years of age, taking a child for the purpose of prostitution is a class 2 felony and is punishable pursuant to section 13-705 [Dangerous crimes against children; sentences; definitions].

- 1.3.1 Recommendation: Enact a CSEC law that addresses an array of exploitive conduct engaged in by traffickers.

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

Arizona law does not prohibit a mistake of age defense in prosecutions where an older minor is the victim of child sex trafficking, nor does it prohibit the defense in CSEC cases. Specifically, Ariz. Rev. Stat. Ann. § 13-3212(B)(1) (Child sex trafficking; classification; increased punishment; definition) eliminates a mistake of age defense for a person who “[e]ngag[es] in prostitution with a minor who is under fifteen years of age.” However, a mistake of age defense is permitted when the victim is 15–17 years of age, but a successful defense will result in a lower penalty, not acquittal.<sup>1</sup> Ariz. Rev. Stat. Ann. § 13-3212(B)(2), (3).

- 1.4.1 Recommendation: Amend state law to prohibit a mistake of age defense in all cases involving child sex trafficking and CSEC.

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

Arizona’s child sex trafficking law expressly prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor. Ariz. Rev. Stat. Ann. § 13-3212(C) (Child sex trafficking; classification; increased punishment; definition) states, “It is not a defense to a prosecution under subsection A and subsection B, paragraphs 1 and 2 of this section that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”

Further, Ariz. Rev. Stat. Ann. § 13-705(P) (Dangerous crimes against children; sentences; definitions) prohibits the defense in other cases involving a dangerous crime against children<sup>2</sup> when the decoy was said to be under 15 years

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<sup>1</sup> Pursuant to Ariz. Rev. Stat. Ann. § 13-3212(B)(2), (3), a buyer who engages in prostitution with a 15–17 year old is guilty of a Class 2 felony if the state can prove the buyer knew or should have known the victim’s age; otherwise, a buyer who engages in prostitution with a 15–17 year old will be guilty of a Class 5 felony.

<sup>2</sup> Ariz. Rev. Stat. Ann. § 13-705(R)(1) defines “dangerous crime against children” as follows:

- [A]ny of the following that is committed against a minor who is under fifteen years of age:
- (a) Second degree murder.
  - (b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
  - (c) Sexual assault.
  - (d) Molestation of a child.
  - (e) Sexual conduct with a minor.
  - (f) Commercial sexual exploitation of a minor.
  - (g) Sexual exploitation of a minor.
  - (h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.
  - (i) Kidnapping.
  - (j) Sexual abuse.
  - (k) Taking a child for the purpose of prostitution as prescribed in section 13-3206.
  - (l) Child sex trafficking as prescribed in section 13-3212.
  - (m) Involving or using minors in drug offenses.
  - (n) Continuous sexual abuse of a child.
  - (o) Attempted first degree murder.
  - (p) Sex trafficking.
  - (q) Manufacturing methamphetamine under circumstances that cause physical injury to a minor.
  - (r) Bestiality as prescribed in section 13-1411, subsection A, paragraph 2.
  - (s) Luring a minor for sexual exploitation.

of age, stating, “It is not a defense to a dangerous crime against children that the minor is a person posing as a minor or is otherwise fictitious if the defendant knew or had reason to know that the purported minor was under fifteen years of age.”

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

Arizona’s trafficking law does not expressly allow for business entity liability.

- 1.6.1 Recommendation: Amend state law to ensure business entities can be held liable under state trafficking laws and establish 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.

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders are not required to be directed into a victim services fund.<sup>3</sup>

- 1.7.1 Recommendation: Statutorily direct a percentage of financial penalties levied on trafficking and CSEC offenders into a victim services fund.

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- (t) Aggravated luring a minor for sexual exploitation.
  - (u) Unlawful age misrepresentation.
  - (v) Unlawful mutilation.
  - (w) Sexual extortion as prescribed in section 13-1428.

<sup>3</sup> Regarding asset forfeiture, Ariz. Rev. Stat. Ann. § 13-4304 (Property subject to forfeiture; exemptions) states, in part, “All property, including all interests in such property, described in a statute providing for its forfeiture is subject to forfeiture.” Although Arizona law authorizes forfeiture under numerous chapters of its code, forfeiture is not provided for under Chapter 32 (Prostitution), which houses Arizona’s child sex trafficking and CSEC offenses.



## 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. Under Ariz. Rev. Stat. Ann. § 13-3212(B) (Child sex trafficking; classification; increased punishment; definition),

A person who is at least eighteen years of age commits child sex trafficking by knowingly:

- (1) Engaging in prostitution with a minor who is under fifteen years of age.
- (2) Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
- (3) Engaging in prostitution with a minor who is fifteen, sixteen or seventeen years of age.

Accordingly, Arizona's child sex trafficking law expressly applies to buyers of sex with minors, meaning a buyer can be charged regardless of whether a trafficker is involved or identified. As such, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

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

Arizona 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 require 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.

Arizona 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 require 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.

Arizona law does not require juvenile justice agencies to conduct trauma-informed CSEC screening of children and youth who are at risk of sex trafficking.

- 2.4.1 Recommendation: Statutorily require juvenile justice agencies to screen children and youth who are at risk of sex trafficking for experiences of commercial sexual exploitation.

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

Arizona law does not prohibit the criminalization of minors for prostitution offenses. Pursuant to Ariz. Rev. Stat. Ann. § 13-3214(D) (Prostitution; clarified),<sup>4</sup> child sex trafficking victims may be able to assert an affirmative defense in a prosecution for prostitution based on their trafficking victimization; however, the prostitution law fails provide comprehensive protections for all minors. As such, minors alleged to have violated the prostitution law may be subject to arrest, detention, prosecution, and adjudication for conduct constituting their sex trafficking victimization.

- 2.5.1 Recommendation: Amend state law to prohibit the criminalization of minors for prostitution offenses.

**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.

Arizona 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.

Arizona 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.

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

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<sup>4</sup> Ariz. Rev. Stat. Ann. § 13-3214(D) (Prostitution; classification) states, “It is an affirmative defense to a prosecution under this section that the defendant committed the acts constituting prostitution as a direct result of being a victim of sex trafficking.”

- 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.

Arizona 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, Arizona law fails to establish a minimum age for juvenile court jurisdiction and permits direct file and transfers to adult criminal court for minors accused of certain offenses or those previously adjudicated or convicted in the adult criminal justice system.

	<b>Minimum Age for Juvenile Court Jurisdiction</b>	<b>Maximum Age for Charging a Minor in Juvenile Court</b>	<b>Automatic Transfers or Direct File</b>	<b>Discretionary Transfers</b>	<b>Requirement for Court to Consider Trauma or Past Victimization</b>
<b>Summary</b>	None. “Juvenile” is defined as “an individual who is under the age of eighteen years.”	17	Yes. Minors 14+ charged with certain felony offenses, minors deemed “chronic felony offender[s],” and minors previously convicted of a felony offense.	Yes. Minors charged with a felony may be transferred to criminal court following a transfer hearing.	No; however, the court is required to consider the child’s emotional condition.
<b>Relevant Statute(s)</b>	Ariz. Rev. Stat. Ann. § 8-201(6), (12) (Definitions)	Ariz. Rev. Stat. Ann. § 8-201(12) (Definitions)	Ariz. Rev. Stat. Ann. § 13-501 (Persons under eighteen years of age; felony charging; definitions)	Ariz. Rev. Stat. Ann. § 8-327 (Transfer hearing)	Ariz. Rev. Stat. Ann. § 8-327(D) (Transfer hearing)

Consequently, some minors may still be subjected to age-inappropriate juvenile court responses due to state laws that: (1) do not establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) allow some juvenile cases to be automatically transferred to criminal court; and (3) do not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Statutorily 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.

Arizona law expressly includes child sex trafficking and commercial sexual exploitation of children (CSEC) within the definition of child abuse. Pursuant to Ariz. Rev. Stat. Ann. § 8-201(2)(a) (Definitions),



“Abuse” means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and is caused by the acts or omissions of an individual who has the care, custody and control of a child. Abuse includes:

(a) Inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child sex trafficking pursuant to section 13-3212.

**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.

Arizona’s child welfare code does not allow for a child welfare response in non-familial child sex trafficking cases. Pursuant to Ariz. Rev. Stat. Ann. § 8-201(2) (Definitions), the definition of “abuse” is limited to “acts or omissions of an individual who has the care, custody and control of a child.” Additionally, 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 state law 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.



## ISSUE 3: Continuum of Care

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

Arizona law does not provide a process to connect child sex trafficking victims with access to specialized services through a non-punitive system.

3.1.1 Recommendation: Statutorily require access to specialized services through a non-punitive system.

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

Arizona 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.

Arizona 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.

Arizona law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement. However, these services are not extended to youth under 23 years of age as permitted under federal law.<sup>5</sup> Ariz. Rev. Stat. § 8-521.02 (Extended foster care program; requirements) provides,

A. The department may establish an extended foster care program for qualified young adults. To participate in the program, a qualified young adult must meet all of the following requirements:

1. Have been in the custody of the department as a dependent child when the young adult became eighteen years of age.
2. Be eighteen, nineteen or twenty years of age and be one or more of the following:
  - (a) Completing secondary education or an educational program leading to an equivalent credential or be enrolled in an institution that provides postsecondary or vocational education.
  - (b) Employed at least eighty hours a month.

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<sup>5</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).



(c) Participating in a program or activity that promotes employment or removes barriers to employment.

(d) Unable to be a full-time student or to be employed because of a documented medical condition.

3. Sign a voluntary extended foster care agreement with the department on or after the qualified young adult's eighteenth birthday and before the young adult's twenty-first birthday.

B. The department shall provide a progress report every six months to the young adult administrative review panel for each qualified young adult who participates in the extended foster care program.

C. The young adult administrative review panel shall review, at least once every six months, the qualified young adult's voluntary extended foster care case plan, including the services and supports provided and needed to assist the young adult in the young adult's successful transition to adulthood.

D. The department shall develop and coordinate educational case management plans for a qualified young adult participating in the extended foster care program to assist the qualified young adult to accomplish the following:

1. Graduate from high school.

2. Pass the statewide assessment to measure pupil achievement adopted pursuant to section 15-741.

3. Apply for postsecondary education financial assistance.

4. Apply for postsecondary education.

5. Complete postsecondary education classes.<sup>6</sup>

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 Arizona 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 Arizona 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 in state systems. However, appropriations were made to fund non-child serving agencies to respond to human trafficking.

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<sup>6</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 the need to extend child welfare protections to youth under 23 years of age).

2021-2022 Appropriations				
Bill	Recipient	Amount	Intended Purpose	Term
SB 1823	Department of Emergency and Military Affairs	\$2,700,000 (\$675,000 to the Department of Public Safety Border Strike Force; money is further allocated among county sheriff departments)	To operate a pilot program to reduce human trafficking. The pilot program may use private contractors and provide training, analytical services and human trafficking network discovery tools to law enforcement agencies. § 105(3).	FY 2021-2022
2021 Legislative Session				July 1 <sup>st</sup> to June 30 <sup>th</sup>
	Cities, towns, or counties	\$20,000,000	To prosecute and imprison individuals charged with drug trafficking, human smuggling, illegal immigration and other border related crimes. § 105(5).	FY 2021-2022
				July 1 <sup>st</sup> to June 30 <sup>th</sup>
	Cities, towns, or counties	\$500,000	Of the \$1,261,700 appropriated for the border strike task force local support line item, \$500,000 shall be used for grants to cities, towns, or counties for costs associated with prosecuting and imprisoning individuals charged with drug trafficking, human smuggling, illegal immigration and other border related crimes. § 76(4).	FY 2021-2022
				July 1 <sup>st</sup> to June 30 <sup>th</sup>

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.

Arizona law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to Ariz. Rev. Stat. Ann. § 12-1809(A), (T)(1)(b) (Injunction against harassment; petition; venue; fees; notices; enforcement; definition),

A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment.<sup>7</sup> If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise . . . .

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T. For the purposes of this section, “harassment”:

1. Means either of the following:

.....

(b) One or more acts of sexual violence as defined in section 23-371 [Definitions].

Ariz. Rev. Stat. Ann. § 23-371(J)(b) (Definitions) defines “sexual violence” as “an offense prescribed in . . . sections . . . 13-1307 [Sex trafficking], . . . 13-3206 [Taking child for purpose of prostitution], 13-3212 [Child sex trafficking; classification; increased punishment; definition] . . . .” Accordingly, civil orders of protection are available to victims of child sex trafficking.

Further, Ariz. Rev. Stat. Ann. § 12-1809(E) allows those orders to be granted on an ex parte basis, stating,

The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the injunction requested should issue without a further hearing. Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant’s attorney can be heard in opposition and the court finds specific facts attesting to the plaintiff’s efforts to give notice to the defendant or reasons supporting the plaintiff’s claim that notice should not be given, the court shall issue an injunction as provided in subsection F of this section. If the court denies the requested relief, it may schedule a further hearing within ten days with reasonable notice to the defendant . . . .

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<sup>7</sup> Pursuant to Ariz. Rev. Stat. Ann. § 12-1809(F),

If the court issues an injunction, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more acts of harassment.
2. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons.
3. Grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.

**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 Arizona’s crime victims’ compensation laws define “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.<sup>8</sup>

For purposes of accessing crime victims’ compensation, Ariz. Admin. Code § R10-4-101(32)(a) (Definitions) defines “victim” as “a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of . . . [c]riminally injurious conduct,” which is defined under Ariz. Admin. Code § R10-4-101(9) (Definitions) as follows:

- [C]onduct that:
  - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
  - b. Poses a substantial threat of physical injury, mental distress, or death; and
  - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.

However, several ineligibility factors may prevent victims of child sex trafficking and CSEC offenses from obtaining an award. Under in Ariz. Admin. Code § R10-4-106(3)(a) (Prerequisites for a Compensation Award),

- The Board shall make a compensation award only if it determines that,
  - . . . .
  - 3. The victim of the criminally injurious conduct or act of international terrorism or a person who submits a claim regarding criminally injurious conduct or an act of international terrorism was not:
    - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim’s physical injury, mental distress, medical condition, or death.

Further, under Ariz. Admin. Code § R10-4-106(A)(3)(e), the Board must also determine that the victim was not “[c]onvicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.”

Additionally, under Ariz. Admin. Code § R10-4-106(A)(4)–(5), (7), among other things, the board must determine that the crime was “reported to an appropriate law enforcement authority within 72 hours after its discovery,” that the victim “cooperated with law enforcement agencies,” and that the claim “was submitted to the operational unit within two years after discovery of the criminally injurious conduct . . . .” However, under Ariz. Admin. Code § R10-4-106(B), “The Board shall extend the time limits under subsections (A)(4) [regarding reporting requirements] and (A)(7) [regarding filing deadlines] if the Board determines there is good cause for a delay.”

Ariz. Admin. Code § R10-4-108(F)(3), (G) (Compensation Award Criteria) requires the board to “deny or reduce” the award if, among other things,

- F. The Board shall deny or reduce a compensation award to a claimant if:

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<sup>8</sup> Ariz. Admin. Code § R10-4-108 (Compensation award criteria) outlines the expenses for which a claim may be made, including medical expenses, mental health counseling and care, work loss expenses, funeral expenses, and crime scene cleanup expenses.

1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
    - ....
  3. The Board determines that the victim's physical injury, medical condition, mental distress, or death was due in substantial part to the victim's:
    - a. Negligence,
    - b. Intentional unlawful conduct that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism, or
    - c. Conduct intended to provoke or aggravate that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism.
- G. The Board shall deny or reduce a compensation award under subsection (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, mental distress, or death.

Further, under Ariz. Admin. Code § R10-4-108(H)(1), the Board may also deny a compensation award if:

The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:

- a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;
- b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was negatively affected; or
- c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities . . . .

As noted above, Arizona law does not exempt victims of child sex trafficking and CSEC from these ineligibility factors, which may leave some commercially sexually exploited children without 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.

Although Arizona has a trafficking-specific vacatur law on the books, it only applies to convictions that occurred before July 24, 2014, leaving many survivors without access to this critical remedy. Ariz. Rev. Stat. Ann. § 13-909(A) (Vacating the conviction of a sex trafficking victim; requirements) states,

A person who was convicted of a violation of section 13-3214 [Prostitution; classification] or a city or town ordinance that has the same or substantially similar elements as section 13-3214 committed before July 24, 2014 may apply to the court that pronounced sentence to vacate the person's conviction. The court shall grant the application and vacate the conviction if the court finds by clear and convincing evidence that the person's participation in the offense was a direct result of being a victim of sex trafficking pursuant to section 13-1307 [Sex trafficking; classification; definitions].

Even if the remedy were available to survivors convicted on or after July 24, 2014, Ariz. Rev. Stat. Ann. § 13-909 applies only to “convictions,” and Ariz. Rev. Stat. Ann. § 8-207(A) (Order of adjudication; noncriminal; use as evidence) states, “an order of the juvenile court in proceedings under this chapter [Juvenile court] shall not be deemed a conviction of a crime . . . .” Accordingly, a child sex trafficking victim would be unable to vacate a delinquency adjudication under this law. Further, Ariz. Rev. Stat. Ann. § 13-909(A) applies only to violations of Arizona’s prostitution offense, which fails to recognize the array of crimes trafficking victims are charged with and leaves many survivors without any avenue for relief.

- 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.

Restitution is mandatory in cases involving child sex trafficking but not CSEC. Under Ariz. Rev. Stat. Ann. § 13-1309 (Restitution),

The court shall order restitution for any violation of section 13-1306 [Unlawfully obtaining labor services], 13-1307 [Sex trafficking] or 13-1308 [Trafficking of persons for forced labor or services] or section 13-3212 [Child sex trafficking; classification; increased punishment; definition], subsection A, paragraph 9 or 10, including the greater of either the gross income or value to the defendant of the victim’s labor or services or the value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the fair labor standards act of 1938 (52 Stat. 1060; 29 United States Code sections 201 through 219).

Restitution is available more generally to victims of other crimes under Ariz. Rev. Stat. Ann. § 13-804 (Restitution for offense causing economic loss; fine for reimbursement of public monies); however, restitution under Ariz. Rev. Stat. Ann. § 13-804 is discretionary and limited to offenses causing economic loss. Ariz. Rev. Stat. Ann. § 13-804(A), (B) states,

- A. On a defendant’s conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant’s conduct.
- B. In ordering restitution for economic loss pursuant to section 13-603, subsection C or subsection A of this section, the court shall consider all losses caused by the criminal offense or offenses for which the defendant has been convicted.

- 4.4.1 Recommendation: Statutorily mandate restitution in CSEC cases.



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

Arizona law does not allow victims of child sex trafficking to pursue civil remedies against their exploiters.<sup>9</sup>

- 4.5.1 Recommendation: Statutorily provide child sex trafficking victims with a trafficking-specific civil remedy.

**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 child sex trafficking may commence at any time. Pursuant to Ariz. Rev. Stat. Ann. § 13-107(A) (Time limitations), “A prosecution for . . . any violation of section . . . 13-3212 [Child sex trafficking; classification; increased punishment; definition] . . . or any attempt to commit an offense listed in this subsection may be commenced at any time.” Otherwise, Ariz. Rev. Stat. Ann. § 13-107(B), (F) provides,

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<sup>9</sup> Although not specific to cases involving child sex trafficking, Arizona law does allow the attorney general or a county attorney to pursue civil remedies on behalf of victims injured by racketeering, which could include commercially sexually exploited children. Pursuant to Ariz. Rev. Stat. Ann. § 13-2314(A), (L) (Racketeering; civil remedies by this state),

- A. The attorney general or a county attorney may file an action in superior court on behalf of a person who sustains injury to his person, business or property by racketeering<sup>9</sup> as defined by section 13-2301 [Definitions], subsection D, paragraph 4 . . . for the recovery of treble damages and the costs of the suit, including reasonable attorney fees, or to prevent, restrain or remedy racketeering as defined by section 13-2301, subsection D, paragraph 4 . . . .
- . . . .
- L. A civil action authorized by this section, including proceedings pursuant to chapter 39 of this title, is remedial and not punitive and does not limit and is not limited by any other previous or subsequent civil or criminal action under this title or any other provision of law. Civil remedies provided under this title are supplemental and not mutually exclusive.

Ariz. Rev. Stat. Ann. § 13-2301(D)(4) (Definitions) defines “racketeering” as follows:

[A]ny act, including any preparatory or completed offense, that is chargeable or indictable under the laws of the state or country in which the act occurred . . . and the act involves either:

- . . . .
- (b) Any of the following acts if committed for financial gain:
  - . . . .
  - (xxiii) Prostitution.
  - . . . .
  - (xxxi) Child sex trafficking.
  - (xxxii) Sex trafficking.
  - (xxxiii) Trafficking of persons for forced labor or services.
  - . . . .

However, Ariz. Rev. Stat. Ann. § 13-2314 does not allow survivors to file a suit directly. In contrast, Ariz. Rev. Stat. Ann. § 13-2314.04(A) (Racketeering; unlawful activity; civil remedies by private cause of action) allows victims injured by racketeering to file suit directly, but the definition of “pattern of racketeering activity” under Ariz. Rev. Stat. Ann. § 13-2314.04(I)(3) narrows applicability to a pattern of racketeering involving certain acts but not child sex trafficking or CSEC. Ariz. Rev. Stat. Ann. § 13-2314.04(A) states,

A person who sustains reasonably foreseeable injury to his person, business or property by a pattern of racketeering activity . . . may file an action in superior court for the recovery of up to treble damages and the costs of the suit, including reasonable attorney fees for trial and appellate representation . . . .

B. Except as otherwise provided in this section and section 28-672 [Causing serious physical injury or death by a moving violation; time limitation; penalties; violation; classification; definition], prosecutions for other offenses must be commenced within the following periods after actual discovery by the state or the political subdivision having jurisdiction of the offense or discovery by the state or the political subdivision that should have occurred with the exercise of reasonable diligence, whichever first occurs:

1. For a class 2 through a class 6 felony, seven years.
2. For a misdemeanor, one year.
3. For a petty offense, six months.

....

F. The time limitation within which a prosecution of a class 6 felony shall commence shall be determined pursuant to subsection B, paragraph 1 of this section, irrespective of whether a court enters a judgment of conviction for or a prosecuting attorney designates the offense as a misdemeanor.

Regarding civil actions, Arizona law does not provide child sex trafficking victims with a trafficking-specific civil remedy.

- 4.6.1 Recommendation: Amend state law to eliminate the criminal and civil statutes of limitation for all cases involving child sex trafficking and CSEC.<sup>10</sup>

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<sup>10</sup> The recommendation in this Policy Goal is predicated upon the recommendation in Policy Goal 4.5 being simultaneously or previously enacted.



## 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.

Arizona 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.

5.1.1 Recommendation: Amend state law to provide a hearsay exception that applies to non-testimonial evidence in cases involving 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.

Arizona law allows child sex trafficking victims who are under 15 years of age to testify by an alternative method regardless of the prosecuted offense. Specifically, Ariz. Rev. Stat. Ann. § 13-4253 (Out of court testimony; televised; recorded) states,

- A. The court, on motion of the prosecution, may order that the testimony of the minor<sup>11</sup> be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding<sup>12</sup> . . . .
- B. The court, on motion of the prosecution, may order that the testimony of the minor be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding . . . . The court shall also ensure that:
  1. The recording is both visual and aural and is recorded on film or videotape or by other electronic means.
  2. The recording equipment was capable of making an accurate recording, the operator was competent and the recording is accurate and is not altered.
  3. Each voice on the recording is identified.
  4. Each party is afforded an opportunity to view the recording before it is shown in the courtroom.
- C. If the court orders the testimony of a minor to be taken pursuant to this section, the minor shall not be required to testify in court at the proceeding for which the testimony was taken.

Notably, child victims who are 15 years of age or older are not permitted to testify by an alternative method, thereby increasing their risk of re-traumatization from testifying.

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

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<sup>11</sup> Ariz. Rev. Stat. Ann. § 13-4251(B) (Applicability; definition) defines "minor" to include "a person under fifteen years of age."

<sup>12</sup> Pursuant to Ariz. Rev. Stat. Ann. § 13-4251(A),

This article applies to the testimony or statements of a minor in criminal proceedings involving acts committed against the minor or involving acts witnessed by the minor whether or not those acts are charged and in civil proceedings including proceedings involving a dependency or a termination of parental rights.

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

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims' identifying information is protected from disclosure in court records
<b>Summary</b>	Not statutorily required.	The court must allow victims under 18 to have a facility dog while testifying in court (victims 18 and older may have a facility dog at the court's discretion).	A minor victim's identifying information may be redacted from public records, and victims' identifying and locating information must be redacted from law enforcement and prosecution records.
<b>Relevant Statute(s)</b>	None.	Ariz. Rev. Stat. Ann. § 13-4442(A), (B) (Use of facility dog in court room proceedings; definitions)	Ariz. Rev. Stat. Ann. § 13-4434(B), (C1), (D1) (Victim's right to privacy; exception; definitions)

5.3.1 Recommendation: Amend state law to ensure that child sex trafficking victims have the right to a victim advocate.

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

Arizona law does not provide for privileged communications between caseworkers and child sex trafficking victims.<sup>13</sup>

5.4.1 Recommendation: Statutorily 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>13</sup> Although not available in cases related to child sex trafficking, Ariz. Rev. Stat. Ann. § 12-2240(A), (E) (Sexual assault victim advocate; exception; training; supervision; definition) provides protection in cases involving sexual assault, stating,

A. In a civil action, a sexual assault victim advocate shall not be examined as to any communication made by the sexual assault victim to the sexual assault victim advocate.

....

E. To qualify for the privilege prescribed in this section, a sexual assault victim advocate must have at least thirty hours of training in assisting victims of sexual assault. A portion of this training must include an explanation of privileged communication and the reporting requirements prescribed in section 13-3620. The training may be provided by the sexual assault program or service provider or by an outside agency that issues a certificate of completion. The records custodian of the sexual assault program or service provider must maintain the training documents.



## ISSUE 6: Prevention & Training

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

Arizona 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.

Arizona 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.

Arizona law does not mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.<sup>14</sup>

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.

Arizona 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.

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<sup>14</sup> Although trafficking-specific training is not statutorily mandated, the State of Arizona Peace Officer Standard Training Board's basic training curriculum includes identifying examples of various crimes against children as one of its stated performance objectives. Applicable crimes against children include, but are not limited to, commercial sexual exploitation of a minor, sexual exploitation of a minor, dangerous crimes against children, child abuse, child neglect, and sexual conduct with a minor. See ARIZONA PEACE OFFICER STANDARDS & TRAINING BOARD, BASIC TRAINING CURRICULUM 22, available at <https://postacademy.az.gov/sites/default/files/documents/files/585%20Basic%20Training%20Curriculum%20January%202011.pdf>.

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

Arizona 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.

Arizona 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. Ariz. Rev. Stat. Ann. § 13-3212(A)–(B) (Child sex trafficking; classification; increased punishment; definition) states,
  - (A) A person commits child sex trafficking by knowingly:
    - (1) Causing any minor to engage in prostitution.
    - (2) Using any minor for the purposes of prostitution.
    - (3) Permitting a minor who is under the person’s custody or control to engage in prostitution.
    - (4) Receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purpose of prostitution.
    - (5) Receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor.
    - (6) Financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor.
    - (7) Transporting or financing the transportation of any minor with the intent that the minor engage in prostitution.
    - (8) Providing a means by which a minor engages in prostitution.
    - (9) Enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the intent to cause the minor to engage in prostitution or any sexually explicit performance.
    - (10) Enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the knowledge that the minor will engage in prostitution or any sexually explicit performance.
  - (B) A person who is at least eighteen years of age commits child sex trafficking by knowingly:
    - (1) Engaging in prostitution with a minor who is under fifteen years of age.
    - (2) Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
    - (3) Engaging in prostitution with a minor who is fifteen, sixteen or seventeen years of age.
  
2. Ariz. Rev. Stat. Ann. § 13-1308(A)(2) (Trafficking of persons for forced labor or services; classification; definitions) states,

It is unlawful for a person to either:

....

- (2) Knowingly benefit, financially or by receiving anything of value, from participation in a venture that has engaged in an act in violation of . . . section 13-3212, subsection A, paragraph 9 or 10 [Child sex trafficking; classification; increased punishment; definition].

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

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1. Ariz. Rev. Stat. Ann. § 13-3206 (Taking child for purpose of prostitution) states,

A person who takes away any minor from the minor's father, mother, guardian or other person having the legal custody of the minor, for the purpose of prostitution, is guilty of a class 4 felony. If the minor is under fifteen years of age, taking a child for the purpose of prostitution is a class 2 felony and is punishable pursuant to section 13-705 [Dangerous crimes against children; sentences; definitions].

## Penalties

Offense	Crime classification <sup>15</sup>	Sentence (first felony offense) pursuant to Ariz. Rev. Stat. Ann. § 13-702 (First time felony offenders; sentencing; definition) <sup>16</sup>	Ariz. Rev. Stat. Ann. § 13-705 (Dangerous crimes against children; sentences; definitions) (first felony offense) – applies when victim is under 15 years of age
Ariz. Rev. Stat. Ann. § 13-3212 (Child sex trafficking; classification; increased punishment; definition)	1) § 13-3212(A): class 2 felony if involves a minor under 15 years of age (Ariz. Rev. Stat. Ann. § 13-3212(E))	1) N/A	1) 13–27 years Presumptive 20 years (Ariz. Rev. Stat. Ann. § 13-705(D))
	2) § 13-3212(B)(1): class 2 felony if involves a minor under 15 years of age (Ariz. Rev. Stat. Ann. § 13-3212(F))	2) N/A	2) 13–27 years Presumptive 20 years
	3) § 13-3212: class 2 felony if involves a minor 15–17 years of age (Ariz. Rev. Stat. Ann. § 13-3212(G))	3) 13–27 years Presumptive 20 years (Ariz. Rev. Stat. Ann. § 13-3212(G)(1))	3) N/A

<sup>15</sup> Unless otherwise indicated, penalties discussed throughout this report are for first convictions. Enhanced penalties and penalties for subsequent convictions have not been included.

<sup>16</sup> These penalties include those of aggravating or mitigating factors, which increase or reduce the penalties, respectively, in accordance to the guidelines given in Ariz. Rev. Stat. Ann. § 13-702.