

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 Georgia’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.

Ga. Code Ann. § 16-5-46 (Trafficking of persons for labor or sexual servitude) expressly applies to buyers of commercial sex with minors based on the term “patronizes.” Ga. Code Ann. § 16-5-46(c) states, “A person commits the offense of trafficking an individual for sexual servitude when that person knowingly . . . [r]ecruits, entices, harbors, transports, provides, solicits, patronizes, or obtains by any means an individual for the purpose of sexual servitude.”

Ga. Code Ann. § 16-5-46(a)(8) defines “sexual servitude as follows:

Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any individual, which conduct is induced or obtained:

- (A) By coercion or deception;
- (B) From an individual who is under the age of 18 years;
- (C) From an individual whom the accused believes to be under the age of 18 years;
- (D) From an individual who has a developmental disability; or
- (E) From an individual whom the accused believes to have a developmental disability.

Accordingly, the definition of “sexual servitude” is broad enough to reach buyers who patronize a minor for commercial sex. Further, Ga. Code Ann. § 16-5-46(c) can apply to buyers based on the terms “solicits” and,

following federal precedent, “obtains.”¹

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

Georgia law criminalizes soliciting commercial sex acts with a minor under Ga. Code Ann. § 16-6-15 (Solicitation of sodomy). However, this offense addresses on a narrow subset of sexual conduct. It states,

- (a) A person commits the offense of solicitation of sodomy when he solicits another to perform or submit to an act of sodomy. Except as provided in subsection (b) of this Code section, a person convicted of solicitation of sodomy shall be punished as for a misdemeanor.
- (b) A person convicted of solicitation of sodomy when such offense involves the solicitation of a person or persons under the age of 18 years to perform or submit to an act of sodomy² for money shall be guilty of a felony and shall be punished by imprisonment for a period of not less than five nor more than 20 years and shall be fined not less than \$2,500.00 nor more than \$10,000.00.

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

Georgia’s CSEC laws address an array of trafficker conduct. Specifically, Ga. Code Ann. § 16-6-11 (Pimping) states,

A person commits the offense of pimping when he or she performs any of the following acts:

- (1) Offers or agrees to procure a prostitute for another;
- (2) Offers or agrees to arrange a meeting of persons for the purpose of prostitution;
- (3) Directs or transports another person to a place when he or she knows or should know that the direction or transportation is for the purpose of prostitution;
- (4) Receives money or other thing of value from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or
- (5) Aids or abets, counsels, or commands another in the commission of prostitution or aids or assists in prostitution where the proceeds or profits derived therefrom are to be divided on a pro rata basis.

¹ 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 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 Pursuant to Ga. Code Ann. § 16-6-2(a)(1) (Sodomy; aggravated sodomy; medical expenses), “A person commits the offense of sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.”

Further, pursuant to Ga. Code Ann. § 16-6-12 (Pandering),

A person commits the offense of pandering when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third person or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution.

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

Georgia law expressly prohibits a mistake of age defense in prosecutions for child sex trafficking but not CSEC. Pursuant to Ga. Code Ann. § 16-5-46(d) (Trafficking of persons for labor or sexual servitude), “the accused's lack of knowledge of the age . . . of the individual being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.”

1.4.1 Recommendation: Amend state law to prohibit a mistake of age defense in CSEC cases.

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

Georgia’s child sex trafficking law expressly prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor. Ga. Code Ann. § 16-5-46(k) (Trafficking of persons for labor or sexual servitude) states,

The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section; provided, however, that Code Section 16-3-25 [Entrapment] may still provide an absolute defense.

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

Georgia’s trafficking law expressly allows for business entity liability but does not provide for a business-specific penalty scheme. Pursuant to Ga. Code Ann. § 16-5-46(j) (Trafficking of persons for labor or sexual servitude),

A corporation may be prosecuted under this Code section for an act or omission constituting a crime under this Code section only if an agent of the corporation 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 and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of his or her employment on behalf of the corporation or constituted a pattern of illegal activity that an agent of the company knew or should have known was occurring.

Ga. Code Ann. § 16-5-46(f), the penalty provision applicable to the trafficking law, does not differentiate between offenses committed by an individual or a business, meaning businesses are subject to penalties that are most pertinent to individuals.

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.

Georgia law levies financial penalties on sex trafficking and CSEC offenders; although the mandatory fine will be directed into a victim services fund, a percentage of forfeited assets is not.

Regarding mandatory fines, Ga. Code Ann. § 15-21-208(a)–(c) (Financial penalty; collection) requires adult sex trafficking and CSEC offenders to pay a \$2,500 fine to be deposited in the Safe Harbor for Sexually Exploited Children Fund,³ stating,

- (a) In every case in which any court in this state shall impose a fine, which shall be construed to include costs, for trafficking a person for sexual servitude in violation of Code Section 16-5-46 or any violation of Code Section 16-6-10 [Keeping a place of prostitution], 16-6-11 [Pimping], 16-6-12 [Pandering], 16-6-15 [Solicitation of sodomy], 16-6-16 [Masturbation for hire], or 16-12-100 [Computer or electronic pornography and child exploitation prevention], there shall be imposed an additional penalty of \$2,500.00 if the defendant was 18 years of age or older at the time of the offense.
- (b) Such sums shall be in addition to any amount required to be paid into any pension, annuity, or retirement fund under Title 47 or any other law and in addition to any other amounts provided for in this chapter.
- (c) The sums provided for in this Code section shall be assessed and collected by the clerk or court officer charged with the duty of collecting moneys arising from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks' Cooperative Authority for remittance to the Safe Harbor for Sexually Exploited Children Fund Commission, to be deposited into the Safe Harbor for Sexually Exploited Children Fund.

More broadly, Ga. Code Ann. § 15-21-131(a) (Imposition of additional fines) provides,

In every case in which any court of this state or any municipality or political subdivision of this state shall impose a fine, which shall be construed to include costs, for any criminal offense or any criminal ordinance violation, there shall be imposed as an additional penalty a sum equal to 5 percent of the original fine.

Any fines imposed pursuant to Ga. Code Ann. § 15-21-131 will be dispersed in accordance with Ga. Code Ann. § 15-21-132(a)(1), (2) (Assessment and collection of additional sums; reporting; certification of victim assistance programs) as follows:

The sums provided for in Code Section 15-21-131 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid monthly:

³ Pursuant to Ga. Code Ann. § 15-21-202(c) (Commission established; fund creation; disbursement of proceeds),

The [Safe Harbor for Sexually Exploited Children Fund Commission, which operates under the Division of Family and Children Services,] may authorize the disbursement of available money from the fund, after appropriation thereof, for purposes of providing care, rehabilitative services, residential housing, health services, and social services, including establishing safe houses, to sexually exploited children and to a person, entity, or program eligible pursuant to criteria to be set by the commission. The commission shall also consider disbursement of available money from the fund to a person, entity, or program devoted to awareness and prevention of becoming a sexually exploited child. The commission may also authorize the disbursement of fund money for the actual and necessary operating expenses that the commission incurs in performing its duties; provided, however, that such disbursements shall be kept at a minimum in furtherance of the primary purpose of the fund, which is to disburse money to provide care and rehabilitative and social services for sexually exploited children.

- (1) If the county where the fine was imposed operates or participates in any victim assistance program certified by the Criminal Justice Coordinating Council,⁴ to the governing authority of the county for disbursement to those victim assistance programs; or
- (2) If the county where the fine was imposed does not operate or participate in any victim assistance program certified by the Criminal Justice Coordinating Council, to the district attorney of the judicial circuit in which the county is located for the purpose of defraying the costs of victim assistance activities carried out by the district attorney's office. Such funds shall be paid over in the same manner as other county funds paid for operations of the district attorney's office and shall be in addition to rather than in lieu of any other such funds.

Regarding asset forfeiture, Ga. Code Ann. § 16-5-46(g) (Trafficking of persons for labor or sexual servitude) specifically provides for forfeiture in trafficking cases; it states,

- (1) As used in this subsection, the terms “civil forfeiture proceedings,” “proceeds,” and “property” shall have the same meanings as set forth in Code Section 9-16-2 [Definitions].
- (2) Any property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this Code section and any proceeds are declared to be contraband and no person shall have a property right in them.
- (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- (4) The Attorney General shall be specifically authorized to commence civil forfeiture proceedings under this Code section.

Further, under Ga. Code Ann. § 16-6-13.3(b) (Civil forfeiture of proceeds and property), “Any property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of Code Section 16-6-10 [Keeping a place of prostitution], 16-6-11 [Pimping], or 16-6-12 [Pandering] and any proceeds are declared to be contraband and no person shall have a property right in them.”

Lastly, Ga. Code Ann. § 16-6-13.2(b) (Civil forfeiture of motor vehicle) provides, “Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-10 [Keeping a place of prostitution], 16-6-11 [Pimping] when the offense involved the pimping of a person to perform an act of prostitution, or 16-6-12 [Pandering] is declared to be contraband and no person shall have a property right in it.”

As noted above, however, state asset forfeiture laws do not direct a percentage of a sex trafficking or CSEC offender’s forfeited assets into a victim services fund.

⁴ Pursuant to Ga. Code Ann. § 15-21-132(e),

The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.



ISSUE 2: Identification of & Response to Victims

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 Ga. Code Ann. § 16-5-46(c) (Trafficking of persons for labor or sexual servitude), “A person commits the offense of trafficking an individual for sexual servitude when that person knowingly . . . [r]ecruits, entices, harbors, transports, provides, solicits, patronizes, or obtains by any means an individual for the purpose of sexual servitude.”

Ga. Code Ann. § 16-5-46(a)(8) defines “sexual servitude as

Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any individual, which conduct is induced or obtained:

....

(B) From an individual who is under the age of 18 years;

(C) From an individual whom the accused believes to be under the age of 18 years;

....

Accordingly, the definition of “sexual servitude” is broad enough to reach buyers who patronize a minor for commercial sex 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.

Georgia 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.

Georgia 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.

Georgia 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.

Georgia law fails to fully prohibit the criminalization of minors for prostitution offenses; while the core prostitution law is inapplicable to minors, children under 18 years of age may be prosecuted under an alternative prostitution offense.

Ga. Code Ann. § 16-6-9 (Prostitution) provides clear non-criminalization protections, stating, “A person 18 years of age or older, commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including, but not limited to, sexual intercourse or sodomy, for money or other items of value.” However, Ga. Code Ann. § 16-6-16(a) (Masturbation for hire) fails to insulate minors from criminal liability, providing,

A person, including a masseur or masseuse, commits the offense of masturbation for hire when he erotically stimulates the genital organs of another, whether resulting in orgasm or not, by manual or other bodily contact exclusive of sexual intercourse or by instrumental manipulation for money or the substantial equivalent of.

While Ga. Code Ann. § 16-3-6(b) (Affirmative defenses to certain sexual crimes) provides an affirmative defense to child sex trafficking victims accused of engaging in certain sexual crimes, including Ga. Code Ann. § 16-6-16, the protection does not insulate minors from arrest, detention, charges, and prosecution for the offense of Masturbation for hire.

- 2.5.1 Recommendation: Amend Ga. Code Ann. § 16-6-16 (Masturbation for hire) to be inapplicable to minors.

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.

Georgia 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.

Georgia 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.

Georgia 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.

Georgia law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. In addition to lacking a minimum age for purposes of juvenile court jurisdiction, Georgia law excludes children who are 17 years of age from the court’s jurisdiction. Further, governing state statute permits direct file and automatic transfers to criminal court for minors charged with certain offenses and fails to require the court to consider the impact of trauma of past trafficking 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 Filing	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	None. “Child” is defined as “any individual who is . . . [u]nder the age of 17 years when alleged to have committed a delinquent act”	16	Yes. Minors who are 13+ years of age who are charged with certain offenses.	Yes. Minors: (1) 13 or 14 years of age charged with on offense which, if convicted as an adult, would result in loss of life, life imprisonment without parole, or life confinement; or (2) 15 or 16 years of age charged with a felony.	No.
Relevant Statute(s)	Ga. Code Ann. § 15-11-2(10)(B) (Definitions)	Ga. Code Ann. § 15-11-2(10)(B) (Definitions)	Ga. Code Ann. § 15-11-560(b) (Concurrent and original jurisdiction of superior court)	Ga. Code Ann. § 15-11-560(a) (Concurrent and superior jurisdiction of superior court); Ga. Code Ann. § 15-11-561 (Waiver of juvenile court jurisdiction and	Ga. Code Ann. § 15-11-562(a) (Transfer criteria; written report)

				transfer to superior court)	
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Consequently, some minors may still be subjected to inappropriate juvenile court responses due to state laws that: (1) does not establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) fails to extend juvenile court jurisdiction to all minors under 18 years of age; (3) allows some juvenile cases to be automatically transferred or subject to direct file in criminal court; and (4) do not require the juvenile court to consider past trafficking victimization or trauma in 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.

Georgia law clearly defines “abuse” to include child sex trafficking. Pursuant to Ga. Code Ann. § 15-11-2(2)(C) (Definitions), “[a]buse’ means . . . sexual exploitation,” and Ga. Code Ann. § 15-11-2(70)(A) defines “sexual exploitation” as “conduct by a caregiver or other person responsible for the care of a child who allows, permits, encourages, or requires a child to engage in . . . [s]exual servitude, as defined in Code Section 16-5-46.”

Additionally, Ga. Code Ann. § 19-7-5(a) (Reporting of child abuse; when mandated or authorized; content of report; to whom made; immunity from liability; report based upon privileged communication; penalty for failure to report) provides in part,

The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible.

Lastly, Ga. Code Ann. § 19-7-5(b)(10)(j) defines “sexual abuse” as “a person's employing, using, persuading, inducing, enticing, or coercing any minor who is not such person's spouse to engage in any act which involves . . . [a]ny act described by subsection (c) of Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude].”

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.

Georgia allows for a child welfare response to non-familial child sex trafficking cases that does not hinge on caregiver fault and provides a specialized alternative process for child sex trafficking victims to access services through child welfare without having to enter the dependency process. While Georgia’s definition of “sexual exploitation” is limited to “conduct by a caregiver or other person responsible for the care of a child,” Ga. Code Ann. § 15-11-130 (Emergency care and supervision of child without court order; immunity) and Ga. Code Ann. § 15-11-130.1 (Referral to victim assistance organizations of child suspected of being a victim of sexual exploitation or trafficking) provide a process for child welfare to provide an emergency response to child sex trafficking victims and make referrals to specialized services without directing child victims into the dependency process.

Specifically, Ga. Code Ann. § 15-11-130 states,

(a) Notwithstanding Code Sections 15-11-133 [Removal of child from the home; protective custody; consideration of alternatives] and 15-11-135 [Placement in eligible foster care], DFCS shall be authorized to

provide emergency care and supervision to any child without seeking a court order for a period not to exceed seven days when:

- (1)
 - (A) As a result of an emergency or illness, the person who has physical and legal custody of a child is unable to provide for the care and supervision of such child, and such person or a law enforcement officer, emergency personnel employed by a licensed ambulance provider, fire rescue personnel, or a hospital administrator or his or her designee requests that DFCS exercise such emergency custody; and
 - (B) A child is not at imminent risk of abuse or neglect, other than the risks arising from being without a caretaker; or
- (2) The child is a victim of trafficking for labor or sexual servitude under Code Section 16-5-46.
 - (b) During the period when a child is in the temporary care and supervision of DFCS, DFCS shall endeavor to place such child with a relative of such child's parent, guardian, or legal custodian, in foster care, or in emergency foster care or shall make other appropriate placement arrangements. DFCS shall have the same rights and powers with regard to such child as does his or her parent, guardian, or legal custodian including the right to consent to medical treatment.
 - (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for a relative or other designee of a child's parent who can provide for the care and supervision of such child.
 - (d) At any time during such seven-day period, and upon notification to DFCS that a child's parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof, is able to provide care to and exercise control over a child, DFCS shall release such child to the person having custody of such child at the time such child was taken into DFCS custody or to such person's authorized relative or designee.
 - (e) Upon the expiration of such seven-day period, if a child has not been released or if DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall promptly contact a juvenile court intake officer or bring such child before the juvenile court. If, upon making an investigation, the juvenile court intake officer finds that foster care is warranted for such child, then, for purposes of this chapter, such child shall be deemed to have been placed in foster care at the time such finding was made and DFCS may file a dependency petition.
 - (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and all liability for providing care and supervision in accordance with this Code section, for consenting to medical treatment for a child, and for releasing a child.

A child who receives an emergency response through child welfare may also be referred to specialized services under Ga. Code Ann. § 15-11-130.1, which provides,

A law enforcement officer or agency or DFCS shall refer any child suspected of being a victim of sexual exploitation or trafficking under Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude] to an available victim assistance organization, as certified by the Criminal Justice Coordinating Council pursuant to Code Section 15-21-132 [Assessment and collection of additional sums; reporting; certification of victim assistance programs],⁵ which provides comprehensive trauma-informed services designed to alleviate the adverse effects of trafficking victimization and to aid in the child's healing, including, but not

⁵ Pursuant to Ga. Code Ann. § 15-21-132(e) (Assessment and collection of additional sums; reporting; certification of victim assistance programs),

The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

limited to, assistance with case management, placement, access to educational and legal services, and mental health services.



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.

Although Georgia law requires a commercially sexually exploited child to be referred to a child-serving entity, that entity is not mandated to provide that child with access to specialized services. Pursuant to Ga. Code Ann. § 15-11-130.1 (Referral to victim assistance organizations of child suspected of being a victim of sexual exploitation or trafficking),

A law enforcement officer or agency or [the Division of Family and Children Services] shall refer any child suspected of being a victim of sexual exploitation or trafficking under Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude] to an available victim assistance organization, as certified by the Criminal Justice Coordinating Council pursuant to Code Section 15-21-132 [Assessment and collection of additional sums; reporting; certification of victim assistance programs],⁶ which provides comprehensive trauma-informed services designed to alleviate the adverse effects of trafficking victimization and to aid in the child's healing, including, but not limited to, assistance with case management, placement, access to educational and legal services, and mental health services.

- 3.1.1 Recommendation: Amend state law to 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.

Georgia 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 in all cases of child sex trafficking.

⁶ Pursuant to Ga. Code Ann. § 15-21-132(e), (f),

(e) The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

(f) The Criminal Justice Coordinating Council shall promulgate rules governing the revocation of certification of victim assistance programs. Such rules shall provide for the decertification of programs previously certified by the Criminal Justice Coordinating Council that are no longer in compliance with the rules promulgated by the Criminal Justice Coordinating Council pursuant to this Code section.

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

Georgia 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.

Georgia 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.⁷ Pursuant to Ga. Code Ann. § 15-11-340 (Criteria for receiving services; development of transition plan; termination),

- (a) A child may receive extended care youth services from DFCS. In order to receive such services, he or she must be between 18 and 21 years of age, sign a voluntary placement agreement with DFCS, and meet objective eligibility criteria established by DFCS, which shall include one or more of the following requirements:
- (1) Be completing secondary education or a program leading to an equivalent credential;
 - (2) Be enrolled in an institution which provides postsecondary or vocational education;
 - (3) Be a participant in a program or activity designed to promote or remove barriers to employment;
 - (4) Be employed for at least 120 hours per month;
 - (5) Be employed for 80 hours per month, provided that he or she is also engaged in one of the activities described in paragraphs (1) through (3) of this subsection or can only work 80 hours per month due to a medical condition; or
 - (6) Be incapable of doing any of the activities described in paragraphs (1) through (5) of this subsection due to a medical condition.
- (b) When a child is receiving extended care youth services from DFCS, a DFCS case manager and staff, other representatives of such child and, as appropriate, such child shall develop a transition plan that is personalized at the direction of such child, including an option to execute a durable power of attorney for health care, health care proxy, or other similar document recognized by law with respect to health care and specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, and is as detailed as such child may elect. Such transition plan shall be completed within 30 days of the child agreeing to such services and shall be updated as required by this article.
- (c) A child may terminate a voluntary placement agreement and stop receiving extended care youth services at any time.
- (d) Every 60 days, a DFCS case manager shall determine if a child is still eligible for extended care youth services. If DFCS determines that a child is no longer eligible for extended care youth services, DFCS may terminate the voluntary placement agreement with such child and stop providing extended care youth services. DFCS shall provide written or electronic notice to such child regarding such termination and to the court that approved such services.
- (e) A child who is within 12 months of becoming 21 years of age shall not be permitted to sign a voluntary placement agreement with DFCS for extended care youth services.

⁷ 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 (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

Additionally, Ga. Code Ann. § 49-5-8(a)(12) (Powers and duties of department) provides,

The Department of Human Services is authorized and empowered, through its own programs and the programs of county or district departments of family and children services, to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated therefor, programs that will provide:

.....

(12) Extended care youth services for youths between 18 and 21 years of age as set forth in Article 4A of Chapter 11 of Title 15 and to receive federal reimbursement for providing such services in accordance with 42 U.S.C. Section 675, as it existed on February 1, 2018.

- 3.4.1 Recommendation: Strengthen existing statutory 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 Georgia 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 Georgia 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 Georgia law, this protection is not expressly available to victims of child sex trafficking and CSEC.

- 4.1.1 Recommendation: Amend state law to expressly allowing 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.

Georgia's 'crime victims' compensation laws exempt victims of child sex trafficking, but not CSEC, from some, but not all, ineligibility factors, leaving some commercially sexually exploited children without access to an award.

For the purposes of accessing crime victims' compensation, Ga. Code Ann. § 17-15-7(a)(1) (Person eligible for awards) states,

Except as otherwise provided in this Code section, the following persons shall be eligible for awards pursuant to this chapter:

- (1) A person who:
- (A) Is injured physically, who dies, or who suffers financial hardship as a result of being injured physically as a direct result of a crime;
 - (B) Suffers a serious mental or emotional trauma as a result of being threatened with a crime which could result in physical injury or death;
 - (C) Suffers a serious mental or emotional trauma as a result of being present during the commission of a crime;
 - (D) Suffers a serious mental or emotional trauma as a result of being trafficked for labor servitude or sexual servitude as defined in Code Section 16-5-46; or
 - (E) Is a dependent spouse, parent, step-parent, child, or step-child of a person who is injured physically, who dies, or who suffers financial hardship as a result of being injured physically as a direct result of a crime;

“Crime” is defined under Ga. Code Ann. § 17-15-2(3)(A)(iv), (v) to include violations of Ga. Code Ann. § 16-5-46 (Trafficking of persons for labor or sexual servitude) and Chapter 6 of Title 16 (Sexual offenses), which houses Georgia’s CSEC offenses.

However, certain ineligibility factors may still limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to Ga. Code Ann. § 17-15-5(b)(1) (Filing of claims; verification; contents),

A claim shall be filed by a victim not later than three years after the occurrence of the crime upon which such claim is based or not later than three years after the death of the victim; provided, however, that if such victim was a minor at the time of the commission of the crime, he or she shall have until three years after his or her eighteenth birthday to file such claim; and provided, further, that upon good cause shown, the board may extend the time for filing a claim.

Further, Ga. Code Ann. § 17-15-8(a)–(a.1), (d) (Required findings, amount of award; rejection of claim; reductions; exemptions; effective date for awards; psychological counseling for relatives of deceased; memorials for victims of DUI homicide) states,

- (a) No award may be made unless the board or director finds that:
 - (1) A crime was committed;
 - (2) The crime directly resulted in the victim's physical injury, serious mental or emotional trauma, or financial hardship as a result of the victim's physical injury, serious mental or emotional trauma, or the victim's death;
 -
 - (4) The applicant has pursued restitution rights against any person who committed the crime unless the board or director determines that such action would not be feasible.
- (a.1) The board, upon finding that any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny, reduce, or withdraw any award.
-
- (d) In determining the amount of an award, the director and board shall determine whether because of his or her conduct the victim contributed to the infliction of his or her injury, serious mental or emotional trauma, or financial hardship, and the director and board may reduce the amount of the award or reject the claim altogether in accordance with such determination.

Notably, Georgia law carves out exceptions to other ineligibility factors. Because those exceptions are offense-specific, however, only victims of trafficking, not CSEC, will be protected. Under Ga. Code Ann. § 17-15-8(a)(3),

- No award may be made unless the board or director finds that:
 -
 - (3) Police records, records of an investigating agency, or records created pursuant to a mandatory reporting requirement show that the crime was promptly reported to the proper authorities. In no case may an award be made where the police records, records of an investigating agency, or records created pursuant to a mandatory reporting requirement show that such report was made more than 72 hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified and provided, further, that good cause shall be presumed if the person is eligible for awards pursuant to this chapter corresponding to subparagraph (a)(1)(D) of Code Section 17-15-7

Lastly, Ga. Code Ann. § 17-15-7(e) provides,

A person who is criminally responsible for the crime upon which a claim is based or is an accomplice of such person shall not be eligible to receive an award with respect to such claim; provided, however, that such ineligibility shall not apply if the person is as defined in subparagraph (a)(1)(D) of this Code section.

- 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.

Georgia law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions; however, vacatur for delinquency adjudications is limited to certain offenses arising from a child's victimization.

Ga. Code Ann. § 17-10-21 (Vacating sentence for trafficking victim defendants) applies to convictions arising from trafficking victimization. Subsection (a) states,

(1) A defendant convicted of an offense and sentenced as a direct result of the defendant being the victim of an offense of trafficking under Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude] may petition the court imposing the sentence to vacate such conviction. Such court shall maintain the jurisdiction, power, and authority to vacate such conviction and sentence.

(2) The defendant shall serve the petition provided for under paragraph (1) of this subsection upon the prosecuting attorney, and such petition:

.....

(B) Shall be submitted no earlier than six months following conviction and sentencing for a misdemeanor offense or no earlier than one year following completion of the sentence for a felony offense;

.....

(D) May include documentation of a defendant's status as a victim of an offense of trafficking under Code Section 16-5-46 at the time of the offense; provided, however, that official documentation shall not be required to obtain relief under this Code section. Such documentation shall create a rebuttable presumption that the defendant was a victim of trafficking under Code Section 16-5-46

.....

(4) If the prosecuting attorney, to the court, consents in writing to the vacatur of such conviction or fails to respond to such petition within 30 days of service, the court imposing the conviction and sentence shall, without notice or hearing, issue an order vacating the conviction and sentence and shall also issue an order restricting⁸ access to criminal history record information for such offense.

(5)

(A) If the prosecuting attorney, to the court, objects in writing to the petition, the court shall hold a hearing within 90 days of the filing of the petition. The court shall hear evidence and determine, by a preponderance of the evidence, whether the defendant committed such offense as a direct result of being the victim of an offense of trafficking under Code Section 16-5-46. If the court finds, by a preponderance of the evidence, that the defendant committed such offense as a direct result of being the victim of an offense of trafficking under Code Section 16-5-46, the court may issue an order vacating the conviction and sentence.

(B) If such order to vacate is issued, the court shall also issue an order restricting access to criminal history record information for such offense and no fee shall be charged by the Georgia Crime Information Center or any other entity for restricting access to criminal history record information under this paragraph.

.....

.....

Ga. Code Ann. § 15-11-32(d)–(g) (Modification or vacation of orders; retroactive application) applies to delinquency adjudications, stating,

⁸ Ga. Code Ann. § 35-3-37(a)(6) (Review of individual's criminal history record information; definitions; privacy considerations; written application requesting review; inspection) defines "restrict" to mean the following:

[T]hat the criminal history record information of an individual relating to a particular offense shall be available only to judicial officials and criminal justice agencies for law enforcement or criminal investigative purposes or to criminal justice agencies for purposes of employment in accordance with procedures established by the center and shall not be disclosed or otherwise made available to any private persons or businesses pursuant to Code Section 35-3-34 [Disclosure and dissemination of criminal records to private persons and businesses; resulting responsibility and liability of issuing center; provision of certain information to the FBI in conjunction with the National Instant Criminal Background Check System] or to governmental agencies or licensing and regulating agencies pursuant to Code Section 35-3-35 [Disclosure and dissemination of records to public agencies and political subdivisions; responsibility and liability of issuing center].

(d) An order of adjudication of delinquency by a court may be modified or vacated if the child was adjudicated for a delinquent act for a sexual crime⁹ as defined in Code Section 16-3-6 [Affirmative defenses to certain sexual crimes] and such crime resulted from the child being:

- (1) Trafficked for sexual servitude in violation of Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude]; or
- (2) A victim of sexual exploitation as defined in Code Section 49-5-40 [Definitions; confidentiality of records; restricted access to records].

(e) Any party to the proceeding, the probation officer, or any other person having supervision or legal custody of or an interest in a child may petition the court for the relief provided in this Code section. Such petition shall set forth in clear and concise language the grounds upon which the relief is requested.

(f) After a petition seeking relief under this Code section is filed, the court shall fix a time for hearing and shall cause notice to be served on the parties to the proceeding or those affected by the relief sought. After the hearing, the court shall deny or grant relief as the evidence warrants.

(g) This Code section is intended to be retroactive and shall apply to any child who is under the jurisdiction of the court at the time of a hearing, regardless of the date of the original delinquency order.

However, unlike Ga. Code Ann. § 17-10-21, which broadly allows for vacatur of any conviction directly resulting from trafficking victimization, Ga. Code Ann. § 15-11-32 limits vacatur to adjudications for “sexual crimes,” which fails to recognize the array of crimes child sex trafficking victims are charged with.

- 4.3.1 Recommendation: Strengthen existing law to allow sex trafficked children to vacate delinquency adjudications 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.

Georgia law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Ga. Code Ann. § 17-14-3(a) (Requirement of restitution by offender as condition of relief generally),

[I]n addition to any other penalty imposed by law, a judge of any court of competent jurisdiction shall, in sentencing an offender, make a finding as to the amount of restitution due any victim, and order an offender to make full restitution to such victim.

However, Ga. Code Ann. § 17-14-2(9) (Definitions) states that “the term ‘victim’ shall not include any person who is concerned in the commission of such unlawful act as defined in Code Section 16-2-20.” Under Ga. Code Ann. § 16-2-20(b) (When a person is party to a crime),

A person is concerned in the commission of a crime only if he:

- (1) Directly commits the crime;
- (2) Intentionally causes some other person to commit the crime under such circumstances that the other person is not guilty of any crime either in fact or because of legal incapacity;
- (3) Intentionally aids or abets in the commission of the crime; or
- (4) Intentionally advises, encourages, hires, counsels, or procures another to commit the crime.

Accordingly, this limitation could hinder a child sex trafficking victim from receiving restitution if the court views the victim as an aider or abettor in the crime.

⁹ Ga. Code Ann. § 16-3-6 (Affirmative defenses to certain sexual crimes) defines “sexual crime” to include “prostitution, sodomy, solicitation of sodomy, or masturbation for hire”

EXTRA CREDIT



Georgia law mandates restitution for victims of child labor trafficking under Ga. Code Ann. § 17-14-3(a), which applies broadly to any offense.

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

Georgia law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Pursuant to Ga. Code Ann. § 51-1-56(b) (Civil recovery available to victims of human trafficking; statute of limitations; relief sought by attorney general), “An individual who is a victim of a violation of Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude] shall have a cause of action against any perpetrator¹⁰ of said violation and may recover damages and reasonable attorney’s fees.”

Further, Ga. Code Ann. § 9-3-33.1(a), (b) (Actions for childhood sexual abuse) provides,

- (a)
- (1) As used in this subsection, the term “childhood sexual abuse” means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under 18 years of age and which would be in violation of:
-
 - (F) Pandering, as prohibited in Code Section 16-6-12;
 -
 - (H) Solicitation of sodomy, as prohibited in Code Section 16-6-15;
 -
- (2) Notwithstanding Code Section 9-3-33 and except as provided in subsection (d) of this Code section as it existed on June 30, 2017, any civil action for recovery of damages suffered as a result of childhood sexual abuse committed before July 1, 2015, shall be commenced on or before the date the plaintiff attains the age of 23 years.
- (b)
- (1) As used in this subsection, the term “childhood sexual abuse” means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under 18 years of age and which would be in violation of:
- (A) Trafficking a person for sexual servitude, as prohibited in Code Section 16-5-46;
 -
- (2)
- (A) Notwithstanding Code Section 9-3-33, any civil action for recovery of damages suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall be commenced:
 - (i) On or before the date the plaintiff attains the age of 23 years; or
 - (ii) Within two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff as established by competent medical or psychological evidence.

¹⁰ Ga. Code Ann. § 51-1-56(a)(2) defines “perpetrator” as “a person or entity that knowingly benefits, financially or by receiving anything of value, from participation in a venture or scheme which such person or entity knew or should have known involved a violation of Code Section 16-5-46.”

(B) When a plaintiff's civil action is filed after the plaintiff attains the age of 23 years but within two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff, the court shall determine from admissible evidence in a pretrial finding when the discovery of the alleged childhood sexual abuse occurred. The pretrial finding required under this subparagraph shall be made within six months of the filing of the civil action.

EXTRA CREDIT



Georgia law provides sex trafficked youth with a trafficking-specific civil remedy under Ga. Code Ann. § 51-1-56(b), which allows a trafficking victim to bring “a cause of action against any perpetrator.” This protection applies to victims of Ga. Code Ann. § 16-5-46 (Trafficking of persons for labor or sexual servitude), including both minor and adult victims.



Georgia law provides child labor trafficking victims with a trafficking-specific civil remedy under Ga. Code Ann. § 51-1-56(b), which allows a trafficking victim to bring “a cause of action against any perpetrator.” This protection applies to victims of Ga. Code Ann. § 16-5-46 (Trafficking of persons for labor or sexual servitude), including both sex and labor trafficking victims.

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.

Trafficking prosecutions involving victims under 16 years of age may commence at any time; however, prosecutions involving trafficking of older minors or CSEC are subject to statutes of limitation as are civil actions. Pursuant to Ga. Code Ann. § 17-3-2.1(b)(1) (Limitation on prosecution of certain offenses involving a victim under 16 years of age),

For crimes committed on and after July 1, 2012, if the victim of a violation of:

(1) Trafficking a person for sexual servitude, as defined in Code Section 16-5-46;

....

is under 16 years of age on the date of the violation . . . , a prosecution may be commenced at any time.

Otherwise, Ga. Code Ann. § 17-3-1(c) (Generally) states, “prosecution for felonies [generally] . . . shall be commenced within four years after the commission of the crime, provided that prosecution for felonies committed against victims who are at the time of the commission of the offense under the age of 18 years shall be commenced within seven years after the commission of the crime.”

Regarding civil actions, Ga. Code Ann. § 51-1-56(c), (d) (Civil recovery available to victims of human trafficking; statute of limitations; relief sought by attorney general) provides,

- (c) Any action filed under subsection (b) of this Code section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the individual is the victim.
- (d) Notwithstanding any other law to the contrary, an action may be brought under subsection (b) of this Code section within ten years after the:
 - (1) Cause of action arose; or
 - (2) Victim reaches 18 years of age, if the victim was a minor at the time of the alleged violation.

Further, Ga. Code Ann. § 9-3-33.1(a), (b) (Actions for childhood sexual abuse) provides the following statute of limitation for actions related to childhood sexual abuse:

- (a)
 - (1) As used in this subsection, the term “childhood sexual abuse” means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under 18 years of age and which would be in violation of:
 -
 - (F) Pandering, as prohibited in Code Section 16-6-12;
 -
 - (H) Solicitation of sodomy, as prohibited in Code Section 16-6-15;
 -
 - (2) Notwithstanding Code Section 9-3-33 and except as provided in subsection (d) of this Code section as it existed on June 30, 2017, any civil action for recovery of damages suffered as a result of childhood sexual abuse committed before July 1, 2015, shall be commenced on or before the date the plaintiff attains the age of 23 years.
- (b)
 - (1) As used in this subsection, the term “childhood sexual abuse” means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under 18 years of age and which would be in violation of:
 - (A) Trafficking a person for sexual servitude, as prohibited in Code Section 16-5-46;
 -
 - (2)
 - (A) Notwithstanding Code Section 9-3-33 [Injuries to the person; injuries to reputation; loss of consortium; exception], any civil action for recovery of damages suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall be commenced:
 - (i) On or before the date the plaintiff attains the age of 23 years; or
 - (ii) Within two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff as established by competent medical or psychological evidence.
 - (B) When a plaintiff's civil action is filed after the plaintiff attains the age of 23 years but within two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff, the court shall determine from admissible evidence in a pretrial finding when the discovery of the alleged childhood sexual abuse occurred. The pretrial finding required under this subparagraph shall be made within six months of the filing of the civil action.

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.

Although Georgia law does not expressly allow non-testimonial, out-of-court statements made by commercially sexually exploited children to be admitted into evidence, there is a broad hearsay exception that applies to victims of criminal conduct that encompasses the abuse experienced by child sex trafficking victims; however, this protection is only available to younger minors. Pursuant to Ga. Code Ann. § 24-8-820(a) (Testimony as to child’s description of sexual contact or physical abuse),

A statement made by a child younger than 16 years of age describing any act of sexual contact or physical abuse performed with or on such child by another or with or on another in the presence of such child shall be admissible in evidence by the testimony of the person to whom made if the proponent of such statement provides notice to the adverse party prior to trial of the intention to use such out-of-court statement and such child testifies at the trial, unless the adverse party forfeits or waives such child's testimony as provided in this title, and, at the time of the testimony regarding the out-of-court statements, the person to whom the child made such statement is subject to cross-examination regarding the out-of-court statements.

Notably, child victims who are 16 years of age or older are not protected by this hearsay exception.

- 5.1.1 Recommendation: Strengthen existing statutory hearsay protections to expressly apply in child sex trafficking and CSEC cases.

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

Georgia law allows a victim who is under 17 years of age to testify by closed circuit television (CCTV) during the prosecution of an offender charged with pimping or another specified offense; however, this protection does not apply to all victims of child sex trafficking. Specifically, Ga. Code Ann. § 17-8-55(a)–(d) (Testimony of child less than 17 years old outside physical presence of accused) states,

- (a) As used in this Code section, the term “child” means an individual who is under 17 years of age.
- (b) This Code section shall apply to all proceedings when a child is a witness to or an alleged victim of a violation of Code Section . . . 16-6-11 [\[Pimping\]](#)
-
- (d) The court may order a child to testify outside the physical presence of the accused, provided that the court finds by a preponderance of the evidence that such child is likely to suffer serious psychological or emotional distress or trauma which impairs such child's ability to communicate as a result of testifying in the presence of the accused¹¹

¹¹ Pursuant to Ga. Code Ann. § 17-8-55(d),

Further, Ga. Code Ann. § 17-8-55 only protects children under 17 years of age, leaving older minors at increased 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.

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
Summary	Georgia law provides for district attorneys’ offices to hire a victim assistance	Courts will clear the room for children under 16 during their testimony.	Not statutorily required.

In determining whether a preponderance of the evidence has been shown, the court may consider any one or more of the following circumstances:

- (1) The manner of the commission of the offense being particularly heinous or characterized by aggravating circumstances;
- (2) The child's age or susceptibility to psychological or emotional distress or trauma on account of a physical or mental condition which existed before the alleged commission of the offense;
- (3) At the time of the alleged offense, the accused was:
 - (A) The parent, guardian, legal custodian, or other person responsible for the custody or care of the child at the relevant time; or
 - (B) A person who maintains or maintained an ongoing personal relationship with such child's parent, guardian, legal custodian, or other person responsible for the custody or care of the child at the relevant time and the relationship involved the person living in or frequent and repeated presence in the same household or premises as the child;
- (4) The alleged offense was part of an ongoing course of conduct committed by the accused against the child over an extended period of time;
- (5) A deadly weapon or dangerous instrument was used during the commission of the alleged offense;
- (6) The accused has inflicted serious physical injury upon the child;
- (7) A threat, express or implied, of physical violence to the child or a third person if the child were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer, or law enforcement office concerning the incident has been made by or on behalf of the accused;
- (8) A threat, express or implied, of the incarceration of a parent, relative, or guardian of the child, the removal of the child from the family, or the dissolution of the family of the child if the child were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer, or law enforcement office concerning the incident has been made by or on behalf of the accused;
- (9) A witness other than the child has received a threat of physical violence directed at such witness or to a third person by or on behalf of the accused, and the child is aware of such threat;
- (10) The accused, at the time of the inquiry:
 - (A) Is living in the same household with the child;
 - (B) Has ready access to the child; or
 - (C) Is providing substantial financial support for the child; or
- (11) According to expert testimony, the child would be particularly susceptible to psychological or emotional distress or trauma if required to testify in open court in the physical presence of the accused.

	coordinator and other victim assistance personnel.		
Relevant Statute(s)	Ga. Code Ann. § 15-18-14.2(a) (Victim assistance coordinator)	Ga. Code Ann. § 17-8-54 (Persons in courtroom when person under age of 16 testifies concerning sexual offense)	None.

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims' identifying information is protected from disclosure in court records.

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

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

- 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.



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.

Georgia 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.

Georgia 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.

Georgia law provides for the incorporation of trafficking-specific information into law enforcement training materials but does not mandate training. Pursuant to Ga. Code Ann. § 35-1-16 (Training law enforcement officers investigating crimes involving trafficking persons for labor or sexual servitude),

- (a) The Georgia Peace Officer Standards and Training Council and the Georgia Public Safety Training Center shall establish guidelines and procedures for the incorporation of training materials and information in:
- (1) Methods for identifying, combating, and reporting incidents where a person has been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude];
 - (2) Methods for providing proper detention facilities or alternatives to detention facilities for persons who have been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46, including providing information on therapeutic facilities for such persons; and
 - (3) Methods for assisting persons who have been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46, including providing information on social service organizations available to assist such person.
- (b) The guidelines and procedures listed in subsection (a) of this Code section shall be for use by law enforcement training centers monitored by the Georgia Peace Officer Standards and Training Council and monitored and funded by the Georgia Public Safety Training Center in all courses for which they have responsibility and oversight.

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by law enforcement. However, law enforcement officers are not statutorily mandated to receive such training nor is the training 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.

Georgia 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.

Georgia 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.

State law authorizes child sex trafficking prevention education in schools. Pursuant to Ga. Code Ann. § 20-2-142(c)(2) (Prescribed courses), “The State Board of Education shall prescribe a course of study in human trafficking awareness for grades six through 12, which may be included as part of the health and physical education course of study provided for in paragraph (1) of this subsection.” Resultingly, education on child sex trafficking prevention may be included as part of a school’s curriculum; however, state law does not mandate the provision of 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

1. Ga. Code Ann. § 16-5-46(c), (f) (Trafficking of persons for labor or sexual servitude) states,

(c) A person commits the offense of trafficking an individual for sexual servitude when that person knowingly:

- (1) Subjects an individual to or maintains an individual in sexual servitude;
- (2) Recruits, entices, harbors, transports, provides, solicits, patronizes, or obtains by any means an individual for the purpose of sexual servitude; or
- (3) Benefits financially or by receiving anything of value from the sexual servitude of another.

.....

(f)

.....

(2) Any person who commits the offense of trafficking an individual for labor servitude or sexual servitude against an individual who is under 18 years of age or if the offense is committed against an individual who has a developmental disability, the person shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed \$100,000.00.

Ga. Code Ann. § 16-5-46(a)(8) defines “sexual servitude as

Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any individual, which conduct is induced or obtained:

- (A) By coercion or deception;
- (B) From an individual who is under the age of 18 years;
- (C) From an individual whom the accused believes to be under the age of 18 years;
- (D) From an individual who has a developmental disability; or
- (E) From an individual whom the accused believes to have a developmental disability.

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Ga. Code Ann. § 16-6-11 (Pimping) states,

A person commits the offense of pimping when he or she performs any of the following acts:

- (1) Offers or agrees to procure a prostitute for another;
- (2) Offers or agrees to arrange a meeting of persons for the purpose of prostitution;
- (3) Directs or transports another person to a place when he or she knows or should know that the direction or transportation is for the purpose of prostitution;
- (4) Receives money or other thing of value from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or
- (5) Aids or abets, counsels, or commands another in the commission of prostitution or aids or assists in prostitution where the proceeds or profits derived therefrom are to be divided on a pro rata basis.

Pursuant to Ga. Code Ann. § 16-6-13(b)(2) (Penalties for violating Code Sections 16-6-9 through 16-6-12), the crime is punishable by imprisonment for 10–30 years and a fine up to \$100,000 when the victim is a minor.

2. Ga. Code Ann. § 16-6-12 (Pandering) states,

A person commits the offense of pandering when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third person or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution.

Pursuant to Ga. Code Ann. § 16-6-13(b)(2) (Penalties for violating Code Sections 16-6-9 through 16-6-12), the crime is punishable by imprisonment for 10–30 years and a fine up to \$100,000 when the victim is a minor.

3. Ga. Code Ann. § 16-6-10 (Keeping a place of prostitution) states,

A person having or exercising control over the use of any place or conveyance which would offer seclusion or shelter for the practice of prostitution commits the offense of keeping a place of prostitution when he knowingly grants or permits the use of such place for the purpose of prostitution.

Pursuant to Ga. Code Ann. § 16-6-13(b)(2) (Penalties for violating Code Sections 16-6-9 through 16-6-12), the crime is punishable by imprisonment for 10–30 years and a fine up to \$100,000 when the victim is a minor.

4. Ga. Code Ann. § 16-6-15 (Solicitation of sodomy) states,

(a) A person commits the offense of solicitation of sodomy when he solicits another to perform or submit to an act of sodomy. Except as provided in subsection (b) of this Code section, a person convicted of solicitation of sodomy shall be punished as for a misdemeanor.

(b) A person convicted of solicitation of sodomy when such offense involves the solicitation of a person or persons under the age of 18 years to perform or submit to an act of sodomy¹² for money shall be guilty of a felony and shall be punished by imprisonment for a period of not less than five nor more than 20 years and shall be fined not less than \$2,500.00 nor more than \$10,000.00.

¹² Pursuant to Ga. Code Ann. § 16-6-2(a)(1) (Sodomy; aggravated sodomy; medical expenses), “A person commits the offense of sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.”