

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 Mississippi’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.

Mississippi’s trafficking law could apply to buyers of commercial sex with minors based on the term “causes.”¹ Specifically, Miss. Code Ann. § 97-3-54.1(1)(c) (Human trafficking act; prohibited conduct; penalty) states,

A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity,² sexually explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not less than twenty (20) years nor more than life in prison, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both

However, to ensure buyers are held accountable as sex trafficking offenders, the trafficking law should be amended to expressly apply to persons who “patronize” a minor for commercial sex.

1.1.1 Recommendation: Amend Miss. Code Ann. § 97-3-54.1(1)(c) (Human trafficking act; prohibited conduct; penalty) to clarify that buyer conduct is included as a violation of Miss. Code Ann. § 97-3-54.1(1)(c).

¹ Following federal precedent, “obtains” can also be a buyer-applicable term. However, the definition of “obtains” under Mississippi’s Human Trafficking Act is specific to labor trafficking cases. Miss. Code Ann. § 97-3-54.4(l) (Human trafficking act; definitions).

² Miss. Code Ann. § 97-3-54.4(e) defines “commercial sexual activity” as “any sex act on account of which anything of value is given to, promised to, or received by any person.”

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

Mississippi law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, Miss. Code Ann. § 97-29-51(1)(a) (Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties) states,

A person commits the [crime] of procuring the services of a prostitute if the person knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or sexual conduct with the person or with any other person. “Sexual conduct” includes cunnilingus, fellatio, masturbation of another, anal intercourse or the causing of penetration to any extent and with any object or body part of the genital or anal opening of another.

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

Mississippi’s CSEC laws address an array of trafficker conduct. Pursuant to Miss. Code Ann. § 97-29-51(2)(a) (Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties),

A person commits the felony of promoting prostitution if the person:

- (i) Knowingly or intentionally entices, compels, causes, induces, persuades, or encourages by promise, threat, violence, or by scheme or device, another person to become a prostitute;
- (ii) Knowingly or intentionally solicits or offers or agrees to solicit, or receives or gives, or agrees to receive or give any money or thing of value for soliciting, or attempting to solicit, another person for the purpose of prostitution;
- (iii) Knowingly induces, persuades, or encourages a person to come into or leave this state for the purpose of prostitution;
- (iv) Having control over the use of a place or vehicle, knowingly or intentionally permits another person to use the place or vehicle for prostitution;
- (v) Accepts, receives, levies or appropriates money or other property of value from a prostitute, without lawful consideration, with knowledge or reasonable cause to know it was earned, in whole or in part, from prostitution; or
- (vi) Conducts, directs, takes, or transports, or offers or agrees to take or transport, or aids or assists in transporting, any person to any vehicle, conveyance, place, structure, or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution.

Further, Miss. Code Ann. § 97-5-5 (Enticing a child under 14; punishment) applies to those who “maliciously, willfully, or fraudulently lead, take, carry away, decoy or entice away, any child under the age of fourteen (14) years, with intent to detain or conceal such child from its parents, guardian, or other person having lawful charge of such child, or for the purpose 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.

Mississippi law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Miss. Code Ann. § 97-3-54.1(1)(c) (Human trafficking act; prohibited conduct; penalty), “It is not a defense in a prosecution under this section . . . that the defendant reasonably believed that the minor was eighteen (18) years of age or older.”

Further, Miss. Code Ann. § 97-29-51(2)(c) (Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties) prohibits the defense for “promoting prostitution” offenses, stating in part, “There is no requirement that the defendant have actual knowledge of the age of the person” However, the buyer-applicable subsection, which applies to “procuring the services of a prostitute,” does not contain a similar prohibition. Miss. Code Ann. § 97-29-51(1)(c).

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

Mississippi’s Human Trafficking Act expressly prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor. Miss. Code Ann. § 97-3-54.5 (Human trafficking act; use of undercover operative in detection of offense permitted) states, “The fact that an undercover operative or law enforcement officer was involved in any manner in the detection and investigation of an offense under this act shall not constitute a defense to a prosecution under this act.”

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

Mississippi’s trafficking chapter expressly allows for business entity liability and establishes a business-specific penalty scheme. Specifically, Miss. Code Ann. § 97-3-54.1(3) (Human trafficking act; prohibited conduct; penalty) provides,

An enterprise³ may be prosecuted for an offense under this chapter if:

- (a) An agent of the enterprise knowingly engages in conduct that constitutes an offense under this chapter while acting within the scope of employment and for the benefit of the entity.
- (b) An employee of the enterprise engages in conduct that constitutes an offense under this chapter and the commission of the offense was part of a pattern of illegal activity for the benefit of the enterprise, which an agent of the enterprise either knew was occurring or recklessly disregarded, and the agent failed to take effective action to stop the illegal activity.
- (c) It is an affirmative defense to a prosecution of an enterprise that the enterprise had in place adequate procedures, including an effective complaint procedure, designed to prevent persons associated with the enterprise from engaging in the unlawful conduct and to promptly correct any violations of this chapter.
- (d) The court may consider the severity of the enterprise’s offense and order penalties, including: (i) a fine of not more than One Million Dollars (\$1,000,000.00); (ii) disgorgement of profit; and (iii) debarment from government contracts. Additionally, the court may order any of the relief provided in Section 97-3-54.7 [Human trafficking act; forfeiture of assets and disposition of proceeds].

Further, Miss. Code Ann. § 97-3-54.6(1)–(3) (Human trafficking act; injunctive and other relief for victims of trafficking; confidentiality) states,

- (1) Any circuit court may, after making due provision for the rights of trafficked persons, enjoin violations of the provisions of this act by issuing appropriate orders and judgments, including, but not limited to:

³ Miss. Code Ann. § 97-3-54.4(f) (Human trafficking act; definitions) defines “enterprise” as follows:

[A]ny individual, sole proprietorship, partnership, corporation, union or other legal entity, or any association or group of individuals associated in fact regardless of whether a legal entity has been formed pursuant to any state, federal or territorial law. It includes illicit as well as licit enterprises and governmental as well as other entities.

- (a) Ordering any defendant to divest himself of any interest in any enterprise, including real property.
- (b) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which he was engaged in violation of the provisions of this act.
- (c) Ordering the dissolution or reorganization of any enterprise.
- (d) Ordering the suspension or revocation of a license or permit granted to any enterprise by any agency of the state.
- (e) Ordering the forfeiture of the charter of a corporation organized under the laws of the state, or the revocation of a certificate authorizing a foreign corporation to conduct business within the state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of this chapter and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate revoked.

....

(3) Any person who is injured by reason of any violation of the provisions of this chapter shall have a cause of action against any person or enterprise convicted of engaging in activity in violation of this chapter for threefold the actual damages sustained and, when appropriate, punitive damages. The person shall also recover attorney’s fees in the trial and appellate courts and reasonable costs of investigation and litigation.

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.

Mississippi law levies financial penalties on sex trafficking and CSEC offenders and directs those financial penalties into victim services funds. Specifically, under Miss. Code Ann. § 99-19-75(2) (Assessment on certain offenses to be deposited in Mississippi Children’s Trust Fund or Victims of Human Trafficking and Commercial Sexual Exploitation Fund), offenders must pay a \$1,000 assessment, which is to be deposited into the Victims of Human Trafficking and Commercial Sexual Exploitation Fund. Miss. Code Ann. § 99-19-75(2) states,

In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected from each person upon whom a court imposes a fine or other penalty for any violation of Section . . . 97-3-54.1 [Human trafficking act; prohibited conduct; penalty], . . . 97-5-1 et seq., [which includes Miss. Code Ann. § 97-5-5 (Enticing a child under 14; punishment),] or 97-29-51 [Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties] an assessment of One Thousand Dollars (\$1,000.00) to be deposited into the “Victims of Human Trafficking and Commercial Sexual Exploitation Fund” created in Section 97-3-54.11.

Pursuant to Miss. Code Ann. § 97-3-54.10 (Victims of Human Trafficking and Commercial Sexual Exploitation Fund; authorization to establish program to fund certain victim service providers for victims of human trafficking or commercial sexual exploitation), the purpose of the Victims of Human Trafficking and Commercial Sexual Exploitation Fund is to “fund victim service providers that offer shelter, counseling, medical needs, transitional housing and other related services to victims of human trafficking and victims of commercial sexual exploitation at no charge to the victim.”

Miss. Code Ann. § 97-3-54.11(2), (3) (Victims of Human Trafficking and Commercial Sexual Exploitation Fund; creation, funding, distribution; convening of committee to develop strategic plan to coordinate state’s response to victims; member terms) governs fund distribution, stating,

(2) The monies in the fund shall be distributed by the Office of the Attorney General, upon appropriation by the Legislature, to fund and assist human trafficking shelters, commercial sexual exploitation shelters and victim service providers Not more than ten percent (10%) of the monies from the fund may be used for administrative expenses and other expenses . . . ; however, the total amount used for

administrative and related expenses during a state fiscal year shall not exceed One Hundred Thousand Dollars (\$100,000.00).

(3) Within six (6) months of July 9, 2020, the Office of the Attorney General shall convene a committee comprised of persons described in this subsection (3) to develop a strategic plan to coordinate the state's response to victims of human trafficking and commercial sexual exploitation, to include the administration and disbursement of funds for the support and assistance of service providers

Further trafficking offenders face asset forfeiture under Miss. Code Ann. § 97-3-54.7(1)(a) (Forfeiture of assets and disposition of proceeds); it provides,

In addition to any other civil or criminal penalties provided by law, any property used in the commission of a violation of [the Mississippi Human Trafficking Act] shall be forfeited as provided herein.

(a) The following property shall be subject to forfeiture if used or intended for use as an instrumentality in or used in furtherance of a violation of this act:

(i) Conveyances, including aircraft, vehicles or vessels;

(ii) Books, records, telecommunication equipment, or computers;

(iii) Money or weapons;

(iv) Everything of value furnished, or intended to be furnished, in exchange for an act in violation and all proceeds traceable to the exchange;

(v) Negotiable instruments and securities;

(vi) Any property, real or personal, directly or indirectly acquired or received in a violation or as an inducement to violate;

(vii) Any property traceable to proceeds from a violation; and

(viii) Any real property, including any right, title and interest in the whole of or any part of any lot or tract of land used in furtherance of a violation of this act.

Distribution of forfeited assets is governed by Miss. Code Ann. § 97-3-54.7(13)–(15), which directs a percentage of forfeited assets to the Relief for Victims of Human Trafficking Fund, stating,

(13) Unless otherwise provided herein, all personal property which is forfeited under this section shall be liquidated and, after deduction of court costs and the expense of liquidation, the proceeds shall be divided as follows:

(a) If only one (1) law enforcement agency participates in the underlying criminal case out of which the forfeiture arises, fifty percent (50%) of the proceeds shall be forwarded to the State Treasurer and deposited in the Relief for Victims of Human Trafficking Fund, and fifty percent (50%) shall be deposited and credited to the budget of the participating law enforcement agency.

(b) If more than one (1) law enforcement agency participates in the underlying criminal case out of which the forfeiture arises, fifty percent (50%) of the proceeds shall be forwarded to the State Treasurer and deposited in the Relief for Victims of Human Trafficking Fund, twenty-five percent (25%) of the proceeds shall be deposited and credited to the budget of the law enforcement agency whose officers initiated the criminal case and twenty-five percent (25%) shall be divided equitably between or among the other participating law enforcement agencies, and shall be deposited and credited to the budgets of the participating law enforcement agencies. In the event that the other participating law enforcement agencies cannot agree on the division of their twenty-five percent (25%), a petition shall be filed by any one of them in the court in which the civil forfeiture case is brought and the court shall make an equitable division.

(14) All money forfeited under this section shall be divided, deposited and credited in the same manner as provided in subsection (13).

(15) All real estate forfeited under the provisions of this section shall be sold to the highest and best bidder at a public auction for cash, the auction to be conducted by the chief law enforcement officer of the initiating law enforcement agency, or his designee, at such place, on such notice and in accordance with the same procedure, as far as practicable, as is required in the case of sales of land under execution at law. The proceeds of the sale shall first be applied to the cost and expense in administering and conducting the sale,

then to the satisfaction of all mortgages, deeds of trust, liens and encumbrances of record on the property. The remaining proceeds shall be divided, forwarded and deposited in the same manner as provided in subsection (13).

Under Miss. Code Ann. § 97-3-54.8(2) (Relief for Victims of Human Trafficking Fund), the Relief for Victims of Human Trafficking Fund shall be used as follows:

The monies in the Relief for Victims of Human Trafficking Fund shall be used by the Mississippi Bureau of Investigation of the Department of Public Safety solely for the administration of programs designed to assist victims of human trafficking, to conduct training on human trafficking to law enforcement, court personnel, attorneys, and nongovernmental service providers, and to support the duties of the Statewide Human Trafficking Coordinator as set forth in this act and as otherwise provided by law.



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. Miss. Code Ann. § 97-3-54.4(q) (Human trafficking act; definitions) defines “trafficked person” as “a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’”

Miss. Code Ann. § 97-3-54.1(1)(c) (Human trafficking act; prohibited conduct; penalty) does not require third party control because it can apply directly to buyers of commercial sex with minors based on the term “causes.”⁴ It states,

A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity,⁵ sexually explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor

Accordingly, 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.

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

2.2.1 Recommendation: Enact a law requiring 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.

Mississippi 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: Enact a state law requiring child welfare to screen system-involved children and youth at risk of sex trafficking for experiences of commercial sexual exploitation.

⁴ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Miss. Code Ann. § 97-3-54.1.

⁵ Miss. Code Ann. § 97-3-54.4(e) defines “commercial sexual activity” as “any sex act on account of which anything of value is given to, promised to, or received by any person.”

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

Mississippi 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: Enact a state law requiring 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.

Mississippi law prohibits the criminalization of minors for prostitution offenses. The prostitution offense, Miss. Code Ann. § 97-29-49 (Prostitution; report to Department of Child Protection Services for suspected child sexual abuse or neglect if minor involved; immunity from prosecution if trafficked person involved), is inapplicable to minors, stating,

(1) A person who is eighteen (18) years of age or older commits the misdemeanor of prostitution if the person knowingly or intentionally performs, or offers or agrees to perform, sexual intercourse or sexual conduct for money or other property.

....

(3) In addition to the mandatory reporting provisions contained in Section 97-5-51, any law enforcement officer who encounters a minor under eighteen (18) years of age and has reasonable cause to suspect that the minor has engaged in acts described in this section may take the minor into emergency custody in accordance with the requirements of the Youth Court Act for the purpose of obtaining an order of removal of the minor, and shall contact and make a report to the Department of Child Protection Services as required in Section 43-21-353 [Duty to inform state agencies and officials ; duty to inform individual whom report has been made of specific allegations] for suspected child sexual abuse or neglect, and the department shall commence an initial investigation into suspected child sexual abuse or neglect as required in Section 43-21-353.

Consequently, Mississippi law protects minors from arrest, detention, and prosecution for conduct in violation of the prostitution law.

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.

Mississippi 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: Enact a law that prohibits 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.

Mississippi law prohibits the criminalization of child sex trafficking victims for sex trafficking and promoting prostitution offenses. Specifically, Miss. Code Ann. § 97-3-54.1(4) (Human trafficking act; prohibited conduct;

penalty) provides, “A minor who has been identified as a victim of trafficking shall not be liable for criminal activity in violation of this section.” Further, Miss. Code Ann. § 97-29-51(3) (Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties) states in part,

If it is determined that a person suspected of or charged with promoting prostitution is a minor under eighteen (18) years of age who meets the definition of a trafficked person⁶ as defined in Section 97-3-54.4 [Human trafficking act; definitions], the minor is immune from prosecution for promoting prostitution as a juvenile or adult and provisions of Section 97-3-54.1(4) shall be applicable.

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.

Mississippi 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: Enact a law that provides 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.

Mississippi law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. Mississippi law establishes a minimum age for juvenile court jurisdiction that aligns with international human rights standards and appropriately extends juvenile court jurisdiction to all minors under 18 years of age. However, governing state statute permits automatic transfers and direct file in cases involving minors charged with certain offenses and fails to require courts to consider the impact of trauma or past victimization in make discretionary transfer determinations.

	Minimum Age for Juvenile Court Jurisdiction	Maximum Age for Charging a Minor in Juvenile Court	Automatic Transfers or Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	13	17	Yes. Minors: (1) charged with an offense, which if committed by an adult, would be punishable by life imprisonment or death; (2) charged with a felony offense that includes use of a deadly weapon; or (3) who have been	Yes. Minors: (1) charged with a felony offense; or (2) charged with an offense that resulted in bodily harm.	No; however, the court is required to consider, “the child’s home situation, emotional condition and life-style”

⁶ Miss. Code Ann. § 97-3-54.4(q) (Human trafficking act; definitions) defines “trafficked person” as “a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’”

			previously transferred to criminal court.		
Relevant Statute(s)	Miss. Code Ann. § 43-21-151(3) (Jurisdiction)	Miss. Code Ann. § 43-21-151(2) (Jurisdiction)	Miss. Code Ann. § 43-21-151(1)(a), (b) (Jurisdiction); Miss. Code Ann. § 43-21-157(8), (9) (Transfer of jurisdiction to other courts)	Miss. Code Ann. § 43-21-157(1) (Transfer of jurisdiction to other courts)	Miss. Code Ann. § 43-21-151(5) (Jurisdiction)

Consequently, some minors may still be subject to age-inappropriate juvenile court responses due to state laws that: (1) allow some juvenile cases to be automatically transferred or subject to direct file in criminal court; and (2) do not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Enact comprehensive state laws requiring 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.

Mississippi law clearly defines “abused child” to include child sex trafficking. Pursuant to Miss. Code Ann. § 43-21-105(m)–(n), (hh) (Definitions),

(m) “Abused child” means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused, upon the child, sexual abuse, sexual exploitation, commercial sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment “Abused child” also means a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.

(n) “Sexual abuse” means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child’s health or welfare is harmed or threatened.

. . . .

(hh) “Commercial sexual exploitation” means any sexual act or crime of a sexual nature, which is committed against a child for financial or economic gain, to obtain a thing of value for quid pro quo exchange of property or for any other purpose.

EXTRA CREDIT



Child labor trafficking is included in the definition of “abused child” under Miss. Code Ann. § 43-21-105(m), which expressly identifies victims under the Mississippi Human Trafficking Act.

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.

Mississippi law expressly allows a child welfare response to non-familial child sex trafficking victims but does not provide an alternative trafficking-specific protocol for responding to cases involving child sex trafficking. Pursuant to Miss. Code Ann. § 43-21-105(m) (Definitions), “‘Abused child’ also means a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.” Additionally, Miss. Code Ann. § 43-21-353(9) (Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations) provides,

If a child protective investigation does not result in an out-of-home placement, a child protective investigator must provide information to the parent or guardians about community service programs that provide respite care, counseling and support for children who have experienced commercial sexual exploitation or human trafficking, voluntary guardianship or other support services for families in crisis.

However, the child welfare code does not outline a child sex trafficking specific protocol for responding to all non-familial sex trafficking cases.

- 2.11.1 Recommendation: Strengthen existing law to statutorily outline a child sex trafficking-specific protocol for responding to all non-familial child sex trafficking cases.



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.

Mississippi law provides child sex trafficking victims with access to specialized services through a non-punitive avenue. Miss. Code Ann. § 97-3-54.1(4) (Human Trafficking Act; prohibited conduct; penalty) contains special mandatory reporting requirements and procedures for assisting child sex trafficking victims; it states in part,

[A]ny person who has reasonable cause to suspect that a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Child Protection Services and to the Statewide Human Trafficking Coordinator. The Department of Child Protection Services or the Statewide Human Trafficking Coordinator, whichever is applicable, shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse neglect or trafficking occurred as required in Section 43-21-353 [Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations], and the department that received the report shall also commence an initial investigation into the suspected abuse or neglect as required in Section 43-21-353 [Reporting abuse or neglect]⁷

The prostitution law expands the applicability of this provision to any case where a minor is engaged in commercial sex. Miss. Code Ann. § 97-29-49(4) (Prostitution) states in part, “If the person suspected of engaging in the acts that would constitute prostitution is under the age of eighteen (18) the provisions of Section 97-3-54.1(4) shall be applicable.” Further, under Miss. Code Ann. § 97-29-49(3) requires law enforcement to make a report to the Department of Child Protection Services; it states,

[A]ny law enforcement officer who encounters a minor under eighteen (18) years of age and has reasonable cause to suspect that the minor has engaged in the acts described in this section may take the minor into emergency custody in accordance with the requirements of the Youth Court Act for the purposes of obtaining an order of removal of the minor, and shall contact and make a report to the Department of Child Protection Services as required in Section 43-21-353 for suspected child sexual abuse or neglect, and the department shall commence an initial investigation into suspected child sexual abuse or neglect as required in Section 43-21-353.

Commercially sexually exploited youth who are placed in foster care may receive services under Miss. Code Ann. § 43-15-13(3), (6)(A), (11)(d) (Foster care placement program; objectives; system of individualized plans and reviews; training program for persons who provide foster care and relative care; placement priorities and goals; changes in placement; rights and responsibilities of persons who provide foster care and relative care), which states,

(3) The Department of Child Protection Services shall administer a system of individualized plans, reviews and reports once every six (6) months for each child under its custody within the State of Mississippi, which

⁷ Miss. Code Ann. § 43-21-353(Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations) contains additional mandatory reporting and investigation requirements for cases related to commercial sexual exploitation or human trafficking. Further, the Mississippi Child Protection Act of 2012 mandates that sex crimes, including trafficking and exploitation of children, be reported to law enforcement. Miss. Code Ann. § 97-5-51(2) (Mississippi Child Protection Act of 2012). However, the reporting system established under this provision focuses on notification to law enforcement without mandating referrals for treatment or specialized services.

document each child who has been adjudged a neglected, abandoned or abused child, including a child alleged to have experienced commercial sexual exploitation and/or human trafficking and whose custody was changed by court order as a result of that adjudication, and each public or private facility licensed by the department [T]he department shall establish policy and procedures designed to appropriately place children in permanent homes, provide counseling services and other appropriate services to children who have been victims of commercial sexual exploitation or human trafficking. The policy shall include a system of reviews for all children in foster care, as follows: foster care counselors in the department shall provide care for victims of commercial sexual exploitation or human trafficking

. . . .
(6)

(a) The Department of Child Protection Services, with the cooperation and assistance of the State Department of Health, shall develop and implement a training program for foster care parents to indoctrinate them as to their proper responsibilities upon a child's entry into their foster care. The program shall provide a minimum of twelve (12) clock hours of training, which shall include training foster care parents about providing mental and physical support to children who have experienced commercial sexual exploitation or human trafficking

. . . .

(11) The Department of Child Protection Services shall extend the following rights to persons who provide foster care and relative care:

. . . .

(d) Support from the family protection worker or the family protection specialist⁸ in efforts to do a better day-to-day job in caring for the child and in working to achieve the agency's objectives for the child and the birth family through provision of:

. . . .

(ii) Help in using appropriate resources to meet the child's needs, including counseling or other services for victims of commercial sexual exploitation or human trafficking;

. . . .

(iv) Information regarding whether the child experienced commercial sexual exploitation or human trafficking;

Under Miss. Code Ann. § 43-21-353(9) (Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations),

If a child protective investigation does not result in an out-of-home placement, a child protective investigator must provide information to the parent or guardians about community service programs that provide respite care, counseling and support for children who have experienced commercial sexual exploitation or human trafficking, voluntary guardianship or other support services for families in crisis.

EXTRA CREDIT



While some of the responses noted above are specific to commercially sexually exploited children, victims of child labor trafficking may be able to access the services that are more broadly available to victims of human trafficking based on the definition of “trafficked person” under Miss. Code Ann. § 97-3-54.4(q) (Human trafficking act; definitions), which includes “a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’”

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

Mississippi law requires a multi-disciplinary team response to child sex trafficking cases. Specifically, Miss. Code Ann. § 43-15-51(1)–(3)(a) (Formation of multidisciplinary child protection teams to evaluate and investigate reports of child abuse and neglect; membership; order of youth court prerequisite to formation of teams; participation by experts and child advocacy centers; disclosure of information obtained from task force meetings prohibited) provides for the creation of MDTs to intervene in alleged instances of child sex trafficking and commercial sexual exploitation, stating,

- (1) The district attorneys, the Department of Human Services or the Department of Child Protection Services may initiate formal cooperative agreements with the appropriate agencies to create multidisciplinary child protection teams in order to implement a coordinated multidisciplinary team approach to intervention in reports involving alleged commercial sexual exploitation, human trafficking, or severe or potential felony child physical or sexual abuse, exploitation, or maltreatment The purpose of the team or task force shall be to assist in the evaluation and investigation of reports and to provide consultation and coordination for agencies involved in child protection cases. The agencies to be included as members of the multidisciplinary team are: the district attorney’s office, city and county law enforcement agencies, county attorneys, youth court prosecutors, the Human Trafficking Coordinator or his or her designee and other agencies as appropriate. The Department of Child Protection Services shall be included as a member of the multidisciplinary team if the department does not initiate creation of the team.
- (2) Except as otherwise provided in Section 43-26-3 [Procedures when responding to allegation of child abuse, or human trafficking or commercial sexual exploitation of a child; presumption that minor taken into custody under Section 97-29-49 is victim of human trafficking and commercial sexual exploitation,]⁹

⁹ Pursuant to Miss. Code. Ann. § 43-26-3(2),

If the child is suspected to be a victim of human trafficking or commercial sexual exploitation, the Coordinator of Services for Victims of Human Trafficking and Commercial Sexual Exploitation within the Department of Child Protection Services shall activate an emergency, separate and specialized human trafficking and commercial sexual exploitation assessment team. The team shall include, at a minimum: (a) an investigator certified by the Mississippi Human Trafficking Operational Task Force Board, (b) an investigator from the Department of Child Protection Services, and (c) a person certified by the office of the Attorney General as an advocate for victims of human trafficking and commercial sexual exploitation. Such emergency assessment team shall be created without authorization of the youth court, or designated by the Office of the Attorney General as an advocate for such victims.

to implement the multidisciplinary child abuse team, the team or task force must be authorized by court order from the appropriate youth court. The court order will designate which agencies will participate in the cooperative multidisciplinary team.

(3)

(a) Teams created under this section may invite other persons to serve on the team, who have knowledge of and experience in child abuse and neglect and commercial sexual exploitation and human trafficking matters. These persons may include licensed mental and physical health practitioners and physicians, dentists, representatives of the district attorney's office and the Attorney General's office, experts in the assessment and treatment of substance abuse or sexual abuse, the victim assistance coordinator of the district attorney's office, staff members of a child advocacy center, sexual assault nurse examiners and experts in providing services to commercial sexual exploitation and human trafficking victims

EXTRA CREDIT



Mississippi law requires a multi-disciplinary response to child labor trafficking cases under Miss. Code Ann. § 43-15-51 based on the definition of “trafficked person” under Miss. Code Ann. § 97-3-54.4(q) (Human trafficking act; definitions), which includes “a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’”

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

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

3.3.1 Recommendation: Enact legislation requiring 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.

Mississippi 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.¹⁰ Miss. Code Ann. § 43-15-13 (Foster care placement program; objectives; system of individualized plans and reviews; training program for persons who provide foster care and relative care; placement priorities and goals; changes in placement; notice to families; rights and responsibilities of persons who provide foster care and relative care) defines “children” as “persons found within the state who are under the age of twenty-one (21) years, and who were placed in the custody of the Department of Child Protection Services by the youth court of the appropriate county.” Further, Miss. Code Ann. §

¹⁰ 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).

43-15-13 indicates that “[t]he Department of Child Protection Services shall establish a foster care placement program for children whose custody lies with the department.”

- 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 Mississippi state legislature did not make an appropriation during the 2021 session to support the development, coordination, and access to services to community-based specialized services for child and youth survivors of sex trafficking.

- 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 Mississippi state legislature appropriated funds during the 2021 session to support child-serving agencies in addressing the needs of child and youth survivors of sex trafficking.

Bill	Recipient	Amount	Intended Purpose	Term
SB 2916	Bureau of Investigation in the Department of Public Safety	\$250,000	For the duties and operations of a statewide human trafficking coordinator and a data analyst within the Bureau of Investigation in the Department of Public Safety, who shall coordinate all statewide activities and work with the department of child protection services for all victims recovered.	FY 2022
2021 Legislative Session				July 1 st - June 30 th
HB 1398	Department of Human Services	\$250,000	To maintain a 24 hotline that is to be manned at all times, and for coordinating to work with the Department of Public Safety, and to contract outside agencies to service providers to organize for the provision of specialized services, including counseling services and other appropriate care to children who have been victims of commercial and sexual exploitation or human trafficking.	FY 2022
2021 Legislative Session				July 1 st -June 30 th



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 Mississippi law, this protection is not expressly available to victims of child sex trafficking and CSEC.

- 4.1.1 Recommendation: Enact legislation 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.

Although Mississippi’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.

For purposes of accessing crime victims’ compensation, Miss. Code Ann. § 99-41-5(l) (Definitions) defines “victim” as “a person who suffers personal injury or death as a result of criminally injurious conduct, regardless of whether that person was the intended victim of the criminally injurious conduct.” “Criminally injurious conduct is defined under Miss. Code Ann. § 99-41-5(d) as follows:

[A]n act occurring or attempted within the geographical boundaries of this state, or to a resident of Mississippi while that resident is within any other state of the United States or any foreign country, which state or foreign country does not provide compensation for those injuries caused by an act for which compensation would be available had the act occurred in Mississippi, and which act results in personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed. For purposes of this chapter, “criminally injurious conduct” shall also include federal offenses committed within the state that result in personal injury or death to a victim and which are punishable by fine, imprisonment or death, and delinquent acts as defined in Section 43-21-105 which result in personal injury or death to a victim and which, if committed by an adult, would be a crime punishable by fine, imprisonment or death.

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to Miss. Code Ann. § 99-41-17 (Compensation awards; conditions; exceptions; reduction),

- (1) Compensation shall not be awarded under this chapter:
.....

- (b) Unless the claim has been filed with the director within thirty-six (36) months after the crime occurred¹¹ . . . ;
 - (c) To a claimant or victim who was the offender or an accomplice to the offender, or, except in cases of children under the age of consent as specified in Section 97-3-65 [Statutory rape], 97-3-97 [Sexual battery] or 97-5-23 [Homicide], Mississippi Code of 1972, who encouraged or in any way knowingly participated in criminally injurious conduct;
 - (d) To another person, if the award would unjustly benefit the offender or accomplice;
 - (e) Unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or unless it is found that there was good cause for the failure to report within such time;¹²
 -
 - (i) To a claimant or victim who, subsequent to the injury for which application is made, is convicted of any felony, and the conviction becomes known to the director;
 - (j) To any claimant or victim who has been under the actual or constructive supervision of a department of corrections for a felony conviction within five (5) years prior to the injury or death for which application has been made;
 - (k) To any claimant or victim who, at the time of the criminally injurious conduct upon which the claim for compensation is based, engaged in conduct unrelated to the crime upon which the claim for compensation is based that either was (i) a felony, or (ii) a delinquent act which, if committed by an adult, would constitute a felony;
 - (l) To any claimant or victim who knowingly furnishes any false or misleading information or knowingly fails or omits to disclose a material fact or circumstance.
- (2) Compensation otherwise payable to a claimant shall be diminished to the extent:
-
 - (b) Of the degree of responsibility for the cause of injury or death attributable to the victim or claimant.
- (3) Upon a finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies and prosecuting attorneys, an award of compensation may be denied, withdrawn or reduced.
- (4) Compensation otherwise payable to a claimant or victim may be denied or reduced to a claimant or victim who, at the time of the crime upon which the claim for compensation is based, was engaging in or attempting to engage in other unlawful activity unrelated to the crime upon which the claim for compensation is based.

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

¹¹ Miss. Code Ann. § 99-41-5(1)(b) does provide exceptions for cases involving child sexual abuse or where good cause is shown, stating that compensation will be denied:

Unless the claim has been filed with the director . . . in cases of child sexual abuse, within thirty-six (36) months after the crime was reported to law enforcement or the Department of Human Services, but in no event later than the victim's twenty-fifth birthday. For good cause, the director may extend the time period allowed for filing a claim for an additional period not to exceed twelve (12) months.

However, Chapter 41 (Mississippi Crime Victims' Compensation Act) does not define "child sexual abuse" or "good cause" for purposes of this chapter, so it is unclear whether the exception would apply in all cases involving child sex trafficking and CSEC.

¹² As with the filing deadline, "good cause" is not defined under Chapter 41. *See supra* note 11.

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

Although Mississippi law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to Miss. Code Ann. § 97-3-54.6(5) (Human trafficking Act; injunctive relief and other relief for victims of trafficking; confidentiality),

At any time after a conviction under this act [Human Trafficking Act], the court in which the conviction was entered may, upon appropriate motion, vacate the conviction if the court finds the defendant's participation in the offense was the result of being a victim. Official documentation from a federal, state or local government agency as to the defendant's status as a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a result of being a victim, but official documentation is not required to grant a motion under this subsection.

However, Miss. Code Ann. § 97-3-54.6(5) applies specifically to "convictions," and Miss. Code Ann. § 43-21-561(5) (Adjudication of status, standard of proof, and findings) states, "No adjudication upon the status of any child shall operate to impose any of the civil disabilities ordinarily imposed on an adult because of a criminal conviction, nor shall any child be deemed a criminal by reason of adjudication, nor shall that adjudication be deemed a conviction." Accordingly, a child sex trafficking victim would be unable to vacate a delinquency adjudication under Miss. Code Ann. § 97-3-54.6(5).

Further, Miss. Code Ann. § 97-3-54.6(5) limits applicability to convictions under the Human Trafficking Act, 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: Strengthen existing law by allowing 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 for cases involving CSEC, which are codified under separate chapters of the code. Under Miss. Code Ann. § 97-3-54.6(2), (4) (Human Trafficking Act; injunctive and other relief for victims of trafficking; confidentiality),

(2) Notwithstanding any provisions to the contrary in Section 99-37-1 et seq., the court shall order restitution to the victim for any offense under this chapter [Crimes against the person]. The order of restitution under this section shall direct the defendant to pay the victim, through the appropriate court mechanism, the full amount of the victim's pecuniary damages. For the purposes of determining restitution, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under eighteen (18) years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian. The court may order restitution even if the victim is absent from the jurisdiction or unavailable.

....
(4) The application of one (1) civil remedy under any provision of this act shall not preclude the application of any other remedy, civil or criminal, under this act or any other provision of law. Civil remedies under this act are supplemental.

Restitution is available more generally to victims of other crimes under Miss Code Ann. § 99-37-3 (Imposition and amount of restitution); however, restitution under Miss. Code Ann. § 99-37-3 is discretionary. It states,

(1) When a person is convicted of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court may order that the defendant make restitution to the victim; provided, however, that the justice court shall not order restitution in an amount exceeding Five Thousand Dollars (\$5,000.00).

(2) In determining whether to order restitution which may be complete, partial or nominal, the court shall take into account:

(a) The financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;

(b) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and

(c) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(3) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall, at the time of sentencing, allow him to be heard on such issue.

(4) If the court determines that restitution is inappropriate or undesirable, an order reciting such finding shall be entered, which should also state the underlying circumstances for such determination.

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.

Mississippi law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Miss. Code Ann. § 97-3-54.6(3), (4) (Human Trafficking Act; injunctive and other relief for victims of trafficking; confidentiality) states,

(3) Any person who is injured by reason of any violation of the provisions of this chapter [Crimes against the person] shall have a cause of action against any person or enterprise convicted of engaging in activity in violation of this chapter for threefold the actual damages sustained and, when appropriate, punitive damages. The person shall also recover attorney's fees in the trial and appellate courts and reasonable costs of investigation and litigation.

(4) The application of one (1) civil remedy under any provision of this act shall not preclude the application of any other remedy, civil or criminal, under this act or any other provision of law. Civil remedies under this act are supplemental.

EXTRA CREDIT



Mississippi law provides sex trafficked youth with a trafficking-specific civil remedy under Miss. Code Ann. § 97-3-54.6(2), which expressly includes victims of sex trafficking under Miss. Code Ann. § 97-3-54.1 (Human Trafficking Act; prohibited conduct; penalty) regardless of their age.



Mississippi law provides child labor trafficking victims with a trafficking-specific civil remedy under Miss. Code Ann. § 97-3-54.6(3), which expressly includes victims of Miss. Code Ann. § 97-3-54.1(4) (Human Trafficking Act; prohibited conduct; penalty).

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 trafficking and certain CSEC offenses may commence at any time; however, related civil actions are subject to a general statute of limitation. Miss. Code Ann. § 99-1-5 (Limitations; exceptions) states in part,

The passage of time shall never bar prosecution against any person for the offenses . . . promoting prostitution under Section 97-29-51(2) [Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties] when the person involved is a minor, or for any human trafficking offense described in Section 97-3-54.1(1)(a), (1)(b) or (1)(c) [Human trafficking act; prohibited conduct; penalty], Section 97-3-54.2 [Human trafficking act; destruction, concealment, or confiscation of passport or other immigration document for purpose of preventing person's freedom of movement or ability to travel; penalties], or Section 93-3-54.3 [Human trafficking act; aiding, abetting, or conspiring to violate human trafficking provisions].

Otherwise, Miss. Code Ann. § 99-1-5 establishes a general 2-year statute of limitation for prosecutions, stating, “A person shall not be prosecuted for any other offense not listed in this section unless the prosecution for the offense is commenced within two (2) years next after the commission thereof.”

Regarding civil actions, claims filed under Miss. Code Ann. § 97-3-54.6(3), (4) (Human Trafficking Act; injunctive and other relief for victims of trafficking; confidentiality) are subject to the general statute of limitation provided from under Miss. Code Ann. § 15-1-49(1) (Limitations applicable to actions not otherwise specifically provided for), which states, “All actions for which no other period of limitation is prescribed shall be commenced within three (3) years next after the cause of such action accrued, and not after.”

4.6.1 Recommendation: Eliminate the civil statute of limitation for all cases involving child sex trafficking.



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 Mississippi 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 Miss. Code Ann. § 13-1-403(1) (Admissibility of child's out-of-court statements),

An out-of-court statement made by a child under the age of twelve (12) describing any act of child abuse, sexual abuse or any other offense involving an unlawful sexual act, contact, intrusion or penetration performed in the presence of, with, by or on the declarant child, not otherwise admissible, is admissible in evidence to prove the contents thereof, if:

- (a) Such statement is made for the purpose of receiving assistance or advice in order to prevent or mitigate the recurrence of the offenses, or in order to obtain advice about the psychological, social or familial consequences associated with the offenses; and
- (b) Such statement is made to a person on whom the child should reasonably be able to rely for assistance, counseling or advice; and
- (c) The child either:
 - (i) Is available to testify; or
 - (ii) Is unavailable as a witness, provided that there is other corroborative evidence of the abuse or offense. A finding of unavailability, except in those situations specified by Rule 804 of the Mississippi Rules of Evidence, shall require a finding by the court, based on the specific behavioral indicators described in Section 13-1-411, that the child's participation in the trial would result in a substantial likelihood of traumatic emotional or mental distress; and
- (d) The court finds in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient guarantees of trustworthiness. In determining the trustworthiness of the statement, the court may consider the age and maturity of the child, the nature and duration of the abuse or offense alleged, factors which may detract from the declarant's credibility, information provided about the child's reliability based on the specific behavioral indicators described in Section 13-1-411, or any other factor deemed appropriate.

Notably, child victims who are 12 years of age or older are not protected by this hearsay exception.

- 5.1.1 Recommendation: Strengthen existing 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.

Although Mississippi's closed circuit television (CCTV) law does not expressly apply in trafficking cases, it applies to criminal conduct that encompasses the abuse experienced by child sex trafficking victims; however, this protection is only available to younger minors. Specifically, Miss. Code Ann. § 13-1-405(1)–(4) (Use of closed circuit television to show child's testimony) permits the court to order the testimony of a child under 16 years of age who is the victim of a sexual offense to be taken by CCTV stating,

(1) Upon motion and hearing in camera, the trial court may order that the testimony of a child under the age of sixteen (16) that an unlawful sexual act, contact, intrusion, penetration or other sexual offense was committed upon him or her, or that he or she witnessed its perpetration upon another child, be taken outside of the courtroom and shown in the courtroom by means of closed circuit television, upon a finding based on specific behavioral indicators described in Section 13-1-411 [Behavioral indicators used to determine applicability of evidentiary provisions], that there is a substantial likelihood that the child will suffer traumatic emotional or mental distress if compelled to testify in open court.

....
 (4) Closed circuit television testimony may be taken by any method not inconsistent with the Mississippi Rules of Civil Procedure and the Mississippi Uniform Criminal Rules of Circuit Court Practice. After a determination that the defendant's presence would cause a substantial likelihood of traumatic emotional or mental distress to the child, the judge may exclude the defendant from the room where the testimony is taken. In any case in which the defendant is so excluded, arrangements must be made for the defense attorney to be in continual contact with the defendant by any appropriate private electronic or telephonic method throughout the questioning. The defendant and the jury must be able to observe the demeanor of the child witness at all times during the questioning.

As noted above, however, child victims who are 16 years of age or older are not permitted to testify by an alternative, thereby increasing their risk of re-traumatization from testifying.

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

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

	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	Child victims of trafficking and CSEC have a statutory right to a certified victim advocate provided through the Attorney General's office.	Children who testify have a range of protections available during their testimony, including an advocate or support person, a facility dog, and a secure and child-friendly waiting area.	Identifying and contact information of crime victims are not public record. The court is also specifically prohibited from publicly disclosing identifying information involving a child victim.
Relevant Statute(s)	Miss. Code Ann. § 43-26-3(2) (Procedures when responding to allegation of child abuse, or human trafficking or commercial sexual exploitation of a child; presumption that minor taken into custody under Section 97-29-49 is victim of human trafficking and commercial sexual exploitation)	Miss. Code Ann. § 99-43-101(i) (Rights of children testifying in criminal proceedings)	Miss. Code Ann. § 99-43-25(2) (Victim residence and identification information; petition, hearing and confidentiality); Miss. Code Ann. § 99-43-101(4)(b) (Rights of children testifying in criminal proceedings)

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

Mississippi law provides for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim’s communications with their caseworker from being disclosed. Under Miss. Code Ann. § 93-21-125(2)(a) (Communications of victims of domestic violence, sexual assault, stalking and human trafficking with advocates deemed confidential),

No advocate¹³ shall disclose any confidential victim communication¹⁴ or personally identifying information of a victim¹⁵ or be compelled to testify to or surrender any confidential victim communications or personally identifying information in any civil or criminal proceeding or in any legislative or administrative proceeding, without the prior informed, written and time-limited consent of the victim, except in the following circumstances:

- (i) where disclosure is mandated under Section 43-21-353 [Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations], Section 43-47-7 [Reporting abuse, neglect, or exploitation; establishment of central register; confidentiality], Section 43-47-37 [Reporting of abuse and exploitation of patients and residents of care facilities], Section 97-3-54.1(4) [Human trafficking act; prohibited conduct; penalty], Section 97-5-51 [Mandatory reporting of

¹³ Miss. Code Ann. § 93-21-125(1)(a) defines “advocate” as follows:

[A]n employee, contractor, agent or volunteer of a victim service provider whose primary purpose is to render services to victims of domestic violence, sexual assault, stalking, or human trafficking and who has completed a minimum of twenty (20) hours of training in the areas of dynamics of victimization, substantive laws relating to domestic violence, sexual assault, stalking and human trafficking, crisis intervention techniques, communications skills, working with diverse populations, an overview of the state’s criminal and civil justice systems, information regarding pertinent hospital procedures, victim compensation, and information regarding state and community resources for victims of domestic violence, sexual assault, stalking, human trafficking, or mandatory training required by the Office Against Interpersonal Violence, whichever is greater. “Advocate” also means a person employed by a victim service provider who supervises any employee, contractor, agent or volunteer rendering services. The term advocate also means a third party (i) present to further the interest of the victim in receiving services; (ii) necessary for the transmission of the communication; or (iii) to whom disclosure is reasonably necessary to accomplish the purposes for the victim seeking services.

“Victim service provider” is defined under Miss. Code Ann. § 93-21-125(1)(j) as follows:

[A]n organization whose primary purpose or mission is to provide services to victims of domestic violence, sexual assault, stalking, or human trafficking. This term includes umbrella organizations that have specific victim service programs as part of its organization. Any provisions regarding confidentiality only extend to the specific program providing victim services and not to the entire organization.

¹⁴ Miss. Code Ann. § 93-21-125(1)(b) defines “confidential victim communications” as follows:

[A]ll information, whether written or oral, collected, transmitted or shared between a victim and an advocate in the course of that relationship and maintained by the victim service program in connection with services requested, utilized or denied. “Confidential victim communications” includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history, and statistical data that contain personally identifying information.

¹⁵ Miss. Code Ann. § 93-21-125(1)(i) defines “victim” as “a person alleging domestic violence, sexual assault, stalking, or human trafficking, who consults a victim advocate for the purpose of obtaining, for the person, advice, counseling, or other services concerning mental, emotional, or physical injuries suffered as a result of the offense, whether or not services are actually received.” “Human trafficking” is defined under Miss. Code Ann. § 93-21-125(1)(d) as “any alleged criminal act in violation of Section 97-3-54.1 [Human trafficking act; prohibited conduct; penalty], whether or not a civil or criminal action arises as a result of the alleged violation.”

sex crimes against minors; definitions; procedure; report contents; forensic samples; penalties], Section 97-29-49 [Prostitution; report to department of child protection services for suspected child sexual abuse or neglect if minor involved; immunity from prosecution if trafficked person involved], or any other applicable provision of state or federal law;

(ii) where failure to disclose is likely to result in imminent risk of serious bodily harm or death of the victim or another person, or when the victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceedings regarding the cause of the victim's death or incapacitation; or

(iii) where disclosure is required pursuant to a valid court order.

However, Miss. Code Ann. § 93-21-125(2)(b) allows for disclosure under the following circumstances:

Upon motion of a party in a civil action or of the defendant in a criminal action, the court may compel disclosure of certain confidential victim communications or personally identifying information, if the court determines, after in-camera review, that all of the following conditions are met: (i) the information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding; (ii) the probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the advocacy relationship and provision and receipt of services; and (iii) the information cannot be obtained by reasonable means from any other source

EXTRA CREDIT



Mississippi law prevents disclosure of confidential communications made between a sex trafficking victim and their caseworker under Miss. Code Ann. § 93-21-125 based on the definition of “victim” under Miss. Code Ann. § 93-21-125(1)(i) together with the definition of “human trafficking” under Miss. Code Ann. § 93-21-125(1)(d).



Mississippi law prevents disclosure of confidential communications made between a child labor trafficking victim and their caseworker under Miss. Code Ann. § 93-21-125 based on the definition of “victim” under Miss. Code Ann. § 93-21-125(1)(i) together with the definition of “human trafficking” under Miss. Code Ann. § 93-21-125(1)(d).



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.

Mississippi law requires child welfare to receive training on identifying and responding to cases of child sex trafficking. Miss. Code Ann. § 43-26-1(8)(c) (Department of Child Protection Services created; Commissioner of Child Protection Services; department shall be subagency of Department of Human Services; transfer of programs and services under certain statutes from Office of Family and Children’s Services to Department of Child Protection Services; employment of Coordinator of Services for Victims of Human Trafficking and Commercial Sexual Exploitation; duties; standard operating procedures for investigation, custody and services provided alleged victims of human trafficking and commercial sexual exploitation) states,

The Commissioner [of Child Protection Services] shall require two (2) hours of training regarding the subject of identifying, assessing, and providing comprehensive services to a child who has experienced or is alleged to have experienced commercial sexual exploitation or human trafficking. The training must be incorporated into the pre-service training requirements of all Mississippi Department of Child Protection Services family specialists, adoption specialists, licensure specialists, direct supervisors of family protection specialists, direct supervisors of adoption specialists, and direct supervisors of licensure specialists.

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

Mississippi 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.

Mississippi law mandates trafficking-specific training for law enforcement both as initial education and as advanced courses of study. Pursuant to Miss. Code Ann. § 45-6-7(b), (e) (Powers of board),

In addition to the powers conferred upon the [Board on Law Enforcement Officer Standards and Training] elsewhere in this chapter [Law enforcement officers training program], the board shall have power to:

.....

- (b) Establish minimum educational and training standards for admission to employment or appointment as a law enforcement officer or a part-time law enforcement officer: (i) in a permanent position; and (ii) in a probationary status. The minimum educational and training standards for any law enforcement officer assigned to field or investigative duties shall include at least two (2) hours of training related to handling complaints of human trafficking and commercial sexual exploitation of children as defined in Section 43-21-105 [Definitions], communicating with such victims, and requiring the officer to contact the Department of Child Protection Services when human trafficking or commercial sexual exploitation is suspected.

....

(e) Establish minimum curriculum requirements for basic and advanced courses and programs for schools operated by or for the state or any political subdivision thereof for the specific purpose of training police and other law enforcement officers, both full- and part-time, which shall include a minimum of two (2) hours of training in a course or courses related to the identification of and support for victims of human trafficking and commercial sexual exploitation.

Funding for trafficking-specific training is available under Miss. Code Ann. § 97-3-54.8 (Relief for victims of human trafficking fund), which states,

(1) There is hereby created in the State Treasury a special fund to be known as the “Relief for Victims of Human Trafficking Fund.” The fund shall be a continuing fund, not subject to fiscal-year limitations

(2) The monies in the Relief for Victims of Human Trafficking Fund shall be used by the Mississippi Bureau of Investigation of the Department of Public Safety solely for the administration of programs designed to assist victims of human trafficking, to conduct training on human trafficking to law enforcement, court personnel, attorneys, and nongovernmental service providers, and to support the duties of the Statewide Human Trafficking Coordinator as set forth in this act and as otherwise provided by law.

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

Mississippi law authorizes trafficking-specific training for prosecutors. Pursuant to Miss. Code Ann. § 97-3-54.8 (Relief for victims of human trafficking fund),

(1) There is hereby created in the State Treasury a special fund to be known as the “Relief for Victims of Human Trafficking Fund.” The fund shall be a continuing fund, not subject to fiscal-year limitations

(2) The monies in the Relief for Victims of Human Trafficking Fund shall be used by the Mississippi Bureau of Investigation of the Department of Public Safety solely for the administration of programs designed to assist victims of human trafficking, to conduct training on human trafficking to law enforcement, court personnel, attorneys, and nongovernmental service providers, and to support the duties of the Statewide Human Trafficking Coordinator as set forth in this act and as otherwise provided by law.

Resultingly, training regarding child sex trafficking may be, or become, available to prosecutors. However, prosecutors are not statutorily mandated to receive such training.

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.

Mississippi 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.

Mississippi 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

1. Miss. Code Ann. § 97-3-54.1(1)(c) (Human trafficking act; prohibited conduct; penalty) states,

A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity,¹⁶ sexually explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not less than twenty (20) years nor more than life in prison, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both

2. Miss. Code Ann. § 97-3-54.3 (Human trafficking act; aiding, abetting, or conspiring to violate human trafficking provisions) states,

A person who knowingly aids, abets or conspires with one or more persons to violate the Mississippi Human Trafficking Act shall be considered a principal in the offense and shall be indicted and punished as such whether the principal has been previously convicted or not.

¹⁶ Miss. Code Ann. § 97-3-54.4(e) (Human trafficking act; definitions) defines “commercial sexual activity” as “any sex act on account of which anything of value is given to, promised to, or received by any person.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Miss. Code Ann. § 97-29-51(1)–(4) (Prostitution; misdemeanor procuring services of prostitute; felony promoting prostitution; penalties) states,

(1)

(a) A person commits the misdemeanor of procuring the services of a prostitute if the person knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or sexual conduct with the person or with any other person. “Sexual conduct” includes cunnilingus, fellatio, masturbation of another, anal intercourse or the causing of penetration to any extent and with any object or body part of the genital or anal opening of another.

....

(c) However, in all cases, if the person whose services are procured in violation of this subsection (1) is a minor under eighteen (18) years of age, the person convicted shall be guilty of a felony and shall, upon conviction, be punished by imprisonment for not less than five (5) years, nor more than thirty (30) years, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both.

....

(2)

(a) A person commits the felony of promoting prostitution if the person:

(i) Knowingly or intentionally entices, compels, causes, induces, persuades, or encourages by promise, threat, violence, or by scheme or device, another person to become a prostitute;

(ii) Knowingly or intentionally solicits or offers or agrees to solicit, or receives or gives, or agrees to receive or give any money or thing of value for soliciting, or attempting to solicit, another person for the purpose of prostitution;

(iii) Knowingly induces, persuades, or encourages a person to come into or leave this state for the purpose of prostitution;

(iv) Having control over the use of a place or vehicle, knowingly or intentionally permits another person to use the place or vehicle for prostitution;

(v) Accepts, receives, levies or appropriates money or other property of value from a prostitute, without lawful consideration, with knowledge or reasonable cause to know it was earned, in whole or in part, from prostitution; or

(vi) Conducts, directs, takes, or transports, or offers or agrees to take or transport, or aids or assists in transporting, any person to any vehicle, conveyance, place, structure, or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution.

....

(c) However, in all cases, if the person whose services are promoted in violation of this subsection (2) is a minor under eighteen (18) years of age, the person convicted shall be guilty of a felony and shall, upon conviction, be punished by imprisonment for not less than five (5) years, nor more than thirty (30) years, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both

....

(4) Any partnership, association, corporation or other entity violating any provision of subsection (2) against the promotion of prostitution shall, upon conviction, be punished by a fine not exceeding Fifty Thousand Dollars (\$50,000.00). If the person whose services are promoted is under eighteen (18) years of age, the partnership, association, corporation or other legal entity convicted shall be punished by a fine not exceeding One Million Dollars (\$1,000,000.00)

2. Miss. Code Ann. § 97-5-5 (Enticing a child under 14; punishment) states,

Every person who shall maliciously, willfully, or fraudulently lead, take, carry away, decoy or entice away, any child under the age of fourteen (14) years, with intent to detain or conceal such child from its parents, guardian, or other person having lawful charge of such child, or for the purpose of prostitution, concubinage, or marriage, shall, on conviction, be imprisoned in the custody of the Department of Corrections for not less than two (2) years nor more than ten (10) years, or fined not more than Ten Thousand Dollars (\$10,000.00), or both