

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 North Carolina’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.

Following federal precedent, North Carolina’s sexual servitude law could apply to buyers of commercial sex with minors based on the term “obtains.”¹ N.C. Gen. Stat. § 14-43.13(a) (Sexual servitude) states, “A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects, maintains, or obtains another for the purposes of sexual servitude.” N.C. Gen. Stat. § 14-43.10(a)(5) (Definitions) defines “sexual servitude” as follows:

- a. Any sexual activity as defined in G.S. 14-190.13 [Definitions for certain offenses concerning minors] for which anything of value is directly or indirectly given, promised to, or received by any person, which

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.

- conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or
- b. Any sexual activity as defined in G.S. 14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.

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 N.C. Gen. Stat. § 14-43.13(a) (Sexual servitude) to clarify that buyer conduct is included as a violation of N.C. Gen. Stat. § 14-43.13.

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

North Carolina law criminalizes both purchasing and soliciting commercial sex with a minor. Under N.C. Gen. Stat. § 14-205.2(a) (Patronizing a prostitute),

Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

- (1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.20 [Definitions], or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification with a prostitute.
- (2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification.

Further, N.C. Gen. Stat. § 14-205.1(a) (Solicitation of prostitution) states, in part, “Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony.”

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

N.C. Gen. Stat. § 14-205.3(b) (Promoting prostitution) addresses an array of trafficker conduct, stating,

Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor . . . :

- (1) Advances prostitution² as defined in G.S. 14-203 [Definition of terms], where a minor . . . engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor . . . at the time of the offense.

² N.C. Gen. Stat. § 14-203(1) defines “advance prostitution” as

- a. Soliciting for a prostitute by performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:
 1. Soliciting another for the purpose of prostitution.
 2. Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

- (2) Profits from prostitution³ by any means where the prostitute is a minor . . . at the time of the offense.
- (3) Confines a minor . . . against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor . . . , without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:
- a. Compels the minor . . . to engage in prostitution.
 - b. Arranges a situation in which the minor . . . may practice prostitution.
 - c. Profits from prostitution by the minor
- For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor . . . , as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes

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

North Carolina law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to both N.C. Gen. Stat. § 14-43.13(b1) (Sexual servitude) and N.C. Gen. Stat. § 14-43.11(c1) (Human trafficking), “Mistake of age is not a defense to prosecution under this section.” Similarly, N.C. Gen. Stat. § 14-205.3(b) (Promoting prostitution) prohibits the defense in cases involving promoting prostitution of a minor, stating, “Mistake of age is not a defense to prosecution under this subsection.”

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

Although the trafficking law does not expressly prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor, North Carolina’s criminal attempt statute, N.C. Gen. Stat. § 14-2.5 (Punishment for attempt to commit a felony or misdemeanor), could provide prosecutors with an alternative avenue to prosecute those cases by holding an offender accountable for attempting to commit a child sex trafficking offense even if the offender was prevented from completing the offense since the intended victim was a law enforcement decoy rather than an actual minor.⁴ Pursuant to N.C. Gen. Stat. § 14-2.5,

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3. Directing another to a place knowing the direction is for the purpose of prostitution.
 4. Using the Internet, including any social media Web site, to solicit another for the purpose of prostitution.
- b. Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:
1. Knowingly granting or permitting the use of the place for the purpose of prostitution.
 2. Granting or permitting the use of the place under circumstances from which the person should reasonably know that the place is used or is to be used for purposes of prostitution.
 3. Permitting the continued use of the place after becoming aware of facts or circumstances from which the person should know that the place is being used for the purpose of prostitution.

³ N.C. Gen. Stat. § 14-203(3) defines “profit from prostitution” as “[w]hen acting as other than a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.”

⁴ Further, N.C. Gen. Stat. § 15-170 (Conviction for a less degree or an attempt) states, “Upon the trial of any indictment the prisoner may be convicted of the crime charged therein or of a less degree of the same crime, or of an attempt to commit the crime so charged, or of an attempt to commit a less degree of the same crime.”

Unless a different classification is expressly stated, an attempt to commit a misdemeanor or a felony is punishable under the next lower classification as the offense which the offender attempted to commit. An attempt to commit a Class A or Class B1 felony is a Class B2 felony, an attempt to commit a Class B2 felony is a Class C felony, an attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor.

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

North Carolina’s trafficking laws do not expressly allow for business entity liability.

- 1.6.1 Recommendation: Ensure business entities can be held liable under state trafficking laws and establish a business-specific penalty scheme.

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

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders are not required to be directed into a victim services fund.⁵

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

⁵ Regarding asset forfeiture, N.C. Gen. Stat. § 14-43.20(e) (Mandatory restitution; victim services; forfeiture) states, “A person who commits a violation of G.S. 14-43.11 [Human trafficking], . . . or 14-43.13 [Sexual servitude] is subject to the property forfeiture provisions set forth in G.S. 14-2.3.” Pursuant to N.C. Gen. Stat. § 14-2.3(a) (Forfeiture of gain acquired through criminal activity),

Except as is otherwise provided in Article 3 of Chapter 31A [Willful and unlawful killing of decedent], in the case of any violation of Article 13A [North Carolina street gang suppression act] of Chapter 14, or a general statute constituting a felony other than a nonwillful homicide, any money or other property or interest in property acquired thereby shall be forfeited to the State of North Carolina, including any profits, gain, remuneration, or compensation directly or indirectly collected by or accruing to any offender.

However, state asset forfeiture laws do not direct a percentage of a sex trafficking offender’s forfeited assets into a victim services fund nor do those laws apply to CSEC offenders.



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. N.C. Gen. Stat. § 14-43.10(a)(6) (Definitions) defines “victim” as “a person subjected to the practices set forth in G.S. . . . 14-43.13 [Sexual servitude].” N.C. Gen. Stat. § 14-43.13 does not require third party control because it can apply directly to buyers of commercial sex with minors based on federal precedent.⁶

Accordingly, third party control is not required to establish the crime of sexual servitude 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.

North Carolina law provides policy guidance that facilitates access to services and benefits for trafficked foreign national children. Specifically, N.C. Gen. Stat. § 14-43.11(d) (Human trafficking) affords child sex trafficking victims access to state-provided services and benefits regardless of immigration status, stating,

A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law.

Further, N.C. Gen. Stat. § 14-43.20(d) (Mandatory restitution; victim services; forfeiture) provides,

Certification. – The Attorney General, a district attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article for a violation of G.S. 14-43.11 [Human trafficking], 14-43.12 [Involuntary servitude], or 14-43.13 [Sexual servitude] has begun and the individual who is a likely victim of one of those crimes is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.

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

North Carolina 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.

⁶ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under N.C. Gen. Stat. § 14-43.13.

- 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.

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

North Carolina 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.

North Carolina law prohibits the prosecution of minors for prostitution and prostitution-related offenses; however, minors may still be subject to detention and charges for engagement in commercial sex. Further, the process for taking a child sex trafficking victim into temporary custody tracks more closely with temporary custody measures for minors accused of committing status offenses rather than more protective measures provided for in cases of abuse or neglect.

Pursuant to N.C Gen. Stat. § 14-204 (Prostitution),

(a) Offense. – Any person who willfully engages in prostitution is guilty of a Class 1 misdemeanor.

...

(c) Immunity from Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes [Temporary Custody; Secure and Nonsecure Custody; Custody hearings]. Pursuant to the provisions of G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment] a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 [Human trafficking; Definitions] and G.S. 14-43.13 [Sexual servitude] to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302 [Assessment by director; military affiliation; access to confidential information; notification of persons making the report].

Further, N.C. Gen. Stat. § 14-205.1 (Solicitation of prostitution) provides immunity protections for minors, stating,

(a) Except as otherwise provided in this section, any person who solicits another for the purpose of prostitution is guilty of a Class 1 misdemeanor

(b) Immunity From Prosecution for Minors.—Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor is soliciting as a prostitute, that person shall be immune from prosecution under this section and instead be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302.

Under N.C. Gen. Stat. § 14-204 and N.C. Gen. Stat. 14-205, law enforcement officers are permitted to take a minor into “temporary protective custody as an undisciplined juvenile” as provided for under N.C. Gen. Stat. § 7B-1900(2) [Taking a juvenile into temporary custody], which provides,

Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary protective custody without a court under the following circumstances;

.....

(2) By a law enforcement officer or a juvenile court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.⁷

Consequently, while commercially sexually exploited children may be subject to punitive processes, including secure custody, North Carolina law prohibits the prosecution of minors for prostitution offenses.

2.5.1 Recommendation: Amend state law to clearly prohibit the use of arrest or detention in response to minors engaged in commercial sex.

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.

North Carolina 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.

Although North Carolina 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, an affirmative defense may be available to trafficking charges. Specifically, N.C. Gen. Stat. § 14-43.16(a) (Affirmative defenses) provides,

⁷ N.C. Gen. Stat. § 7B-1501(27) (Definitions) defines “undisciplined juvenile” as,

(a) A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient and beyond the disciplinary control of the juvenile’s parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

(b) A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

Affirmative Defense. – It is an affirmative defense to a prosecution under this Article [Human trafficking] that the person charged with the offense was a victim at the time of the offense and was coerced or deceived into committing the offense as a direct result of the person's status as a victim.

- 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.

North Carolina 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.

North Carolina law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While North Carolina law extends juvenile court original jurisdiction to all minors under 18 years of age, governing state statute establishes a minimum age of eight years for juvenile court jurisdiction, permits automatic transfers for minors charged with certain offenses or previously convicted in criminal court, 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 | 8. | 17. | Yes. Minors: (1) 16+ years of age charged with a Class A, B1, B2, C, D, E, F, or G felony offense; (2) 13-15 years of age charged with a Class A felony offense; (3) previously transferred or convicted in criminal court; and (4) who have been emancipated. | Yes. Minors: (1) 13-15 years of age who commit a felony offense, except a Class A felony; and (2) 16+ years of age charged with a Class H or I felony offense. | No. |
| Relevant Statute(s) | N.C. Gen. Stat. § 7B-1501(7) (Definitions) | N.C. Gen. Stat. § 7B-1501(7)(a)–(b) (Definitions) | N.C. Gen. Stat. § 7B-2200.5 (Transfer of jurisdiction of a | N.C. Gen. Stat. § 7B-2200 (Transfer of jurisdiction of a juvenile under the | N.C. Gen. Stat. § 7B-2204(b) (Right to pretrial |

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| | | | juvenile at least 16 years of age to superior court); N.C. Gen. Stat. § 7B-1604(b) (Limitations on juvenile court jurisdiction); N.C. Gen. Stat. § 7B-2200 (Transfer of jurisdiction of a juvenile under the age of 16 to superior court) | age of 16 to superior court); N.C. Gen. Stat. § 7B-2200.5 (Transfer of jurisdiction of a juvenile at least 16 years of age to superior court) | release; detention) |
|--|--|--|---|---|---------------------|

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

- 2.9.1 Recommendation: 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.

North Carolina law clearly defines “abused juvenile” to include child sex trafficking. Pursuant to N.C. Gen. Stat. § 7B-101(1) (Definitions),

Abused juveniles. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker:

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- d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: . . . unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14 . . . promoting the prostitution of the juvenile as provided in G.S. 14-205.3(b) . . .
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- g. Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child.

EXTRA CREDIT



Child labor trafficking is included in the definition of “abused juveniles” under N.C. Gen. Stat. § 7B-101(1)(g).

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.

North Carolina law provides for a child welfare response to non-familial child sex trafficking cases but does not outline a specialized protocol for responding to child sex trafficking cases. N.C. Gen. Stat. § 7B-101(1)(g) (Definitions) defines “abused juveniles” as “[a]ny juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 *or* (ii) whose parent, guardian, custodian, or caretaker . . . [c]ommits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child,” allowing for a child welfare response regardless of whether the child was trafficked by a caregiver or a non-familial trafficker. However, North Carolina law does not statutorily provide for a trafficking-specific protocol for responding to non-familial child sex trafficking cases.

- 2.11.1 Recommendation: Strengthen existing law to statutorily outline a child sex trafficking-specific protocol for responding to non-familial child sex trafficking cases that does not hinge on caregiver fault.



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 North Carolina 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. Under N.C. Gen. Stat. § 14-204(c) (Prostitution), a law enforcement officer must report an allegation of child sex trafficking and sexual servitude to the Department of Social Services. Specifically, N.C. Gen. Stat. § 14-204(c) states,

Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to the provisions of G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment], a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 [Human trafficking] and G.S. 14-43.13 [Sexual servitude] to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment] and G.S. 7B-302 [Assessment by director].

Similarly, N.C. Gen. Stat. § 14-205.1(b) (Solicitation of prostitution) states,

Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor who is soliciting as a prostitute, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302.

Upon referral from law enforcement, the Department of Social Services shall conduct an assessment in accordance with N.C. Gen. Stat. § 7B-302(a) (Assessment by director; access to confidential information; notification of person making the report) to determine whether general child welfare services are necessary.

3.1.1 Recommendation: Statutorily mandate 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.

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

3.2.1 Recommendation: Enact legislation requiring a multi-disciplinary team response to child sex trafficking victims.

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

North Carolina 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.

North Carolina law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement. However, these services are not extended to youth under 23 years of age as permitted under federal law.⁸ Specifically, N.C. Gen. Stat. § 108A-48(c) (State Foster Care Benefits Program) provides,

The Department may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing the educational or employment requirements of this subsection due to a medical condition or disability.

- 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 North Carolina 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 North Carolina 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.

⁸ 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).



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 North Carolina law,⁹ 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 North Carolina'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, N.C. Gen. Stat. § 15B-2(2) (Definitions) defines "claimant" to include the following:

a. A victim;

....

e. A person who was convicted of a first offense under G.S. 14-204 [Prostitution] and whose participation in the offense was a result of having been a trafficking victim under G.S. 14-43.11 [Human trafficking] or G.S. 14-43.13 [Sexual servitude] or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

"Victim" is further defined under N.C. Gen. Stat. § 15B-2(13) as "[a] person who suffers personal injury or death proximately caused by criminally injurious conduct." In turn, N.C. Gen. Stat. § 15B-2(5) defines "criminally injurious conduct" to include the following:

Conduct that by its nature poses a substantial threat of personal injury or death, and is punishable by fine or imprisonment or death, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this State

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to N.C. Gen. Stat. § 15B-11(a)–(c1) (Grounds for denial of claim or reduction of award),

(a) An award of compensation shall be denied if:

⁹ Some trafficking victims may benefit from protection under N.C. Gen. Stat. § 50C-2 (Commencement of action; filing fees not permitted; assistance); however, the definition of "sexual conduct" under N.C. Gen. Stat. § 50C-1(4) (Definitions) does not expressly include trafficking victimization."

- (1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;
- (2) The economic loss¹⁰ is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;
- (3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause¹¹ for the delay;
-
- (6) The victim was participating in a felony at or about the time that the victim's injury occurred.
- (b) A claim may be denied or an award of compensation may be reduced if:
 - (1) The victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred; or
 - (2) The claimant or a victim through whom the claimant claims engaged in contributory misconduct.
- (b1) The Commission or Director, whichever has the authority to decide a claim under G.S. 15B-10, shall exercise discretion in determining whether to deny a claim under subsection (b) of this section. In exercising discretion, the Commission or Director shall consider whether any proximate cause exists between the injury and the misdemeanor or contributory misconduct, when applicable. The Director or Commission shall deny claims upon a finding that there was contributory misconduct that is a proximate cause of becoming a victim. However, contributory misconduct that is not a proximate cause of becoming a victim shall not lead to an automatic denial of a claim.
-
- (c1) A claim may be denied upon a finding that the claimant has been convicted of any felony classified as a Class A, B1, B2, C, D, or E felony under the laws of the State of North Carolina and that such felony was committed within 3 years of the time the victim's injury occurred.

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

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

Although North Carolina law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to N.C. Gen. Stat. § 15A-1415(b)(10) (Grounds for appropriate relief which may be asserted by defendant after verdict; limitation as to time), a victim of human trafficking may seek to have a conviction vacated if:

The defendant was convicted of a nonviolent offense as defined in G.S. 15A-145.9 [Expunctions of certain offenses committed by human trafficking victims]; the defendant's participation in the offense was a result of having been a victim of human trafficking under G.S. 14-43.11, sexual servitude under

¹⁰ N.C. Gen. Stat. § 15B-4 (Award of compensation) states that “[c]ompensation shall only be paid for economic loss and not for noneconomic detriment.” N.C. Gen. Stat. § 15B-2(10) defines “economic loss” as follows:

Economic detriment consisting only of allowable expense, work loss, replacement services loss, and household support loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement service loss. Noneconomic detriment is not economic loss, but economic loss may be caused by pain and suffering or physical impairment.

¹¹ N.C. Gen. Stat. § 15B-11 does not explain what constitutes “good cause” for purposes of this section.

G.S. 14-43.13, or the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)); and the defendant seeks to have the conviction vacated.

The petition must be made in accordance with N.C. Gen. Stat. § 15A-1416.1 (Motion by the defendant to vacate a nonviolent offense conviction for human trafficking victim), which states,

- (a) A motion for appropriate relief seeking to vacate a conviction for a nonviolent offense based on the grounds set out in G.S. 15A-1415(b)(10) shall be filed in the court where the conviction occurred. The motion may be filed at any time following the entry of a verdict or finding of guilty
- (b) The court may grant the motion if, in the discretion of the court, the defendant has demonstrated, by the preponderance of the evidence, that the violation was a direct result of the defendant having been a victim of human trafficking or sexual servitude and that the offense would not have been committed but for the defendant having been a victim of human trafficking or sexual servitude
- (c) If the court grants a motion under this section, the court must vacate the conviction and may take such additional action as is appropriate in the circumstances.
- (d) A previous or subsequent conviction shall not affect a person's eligibility for relief under this section.

However, N.C. Gen. Stat. § 15A-1415 and N.C. Gen. Stat. § 15A-1416.1 apply specifically to “convictions,” and N.C. Gen. Stat. § 7B-2412 (Legal effect of adjudication of delinquency) states, “An adjudication that a juvenile is delinquent . . . shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship right.” Accordingly, delinquency adjudications are ineligible for vacatur under these laws. Further, vacatur is limited to nonviolent offenses, which fails to recognize the array of crimes trafficking victims may be induced to commit 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.

North Carolina law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to N.C. Gen. Stat. § 14-43.20(b) (Mandatory restitution; victim services; forfeiture),

Restitution for a victim is mandatory under this Article [Human trafficking]. At a minimum, the court shall order restitution in an amount equal to the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA). In addition, the judge may order any other amount of loss identified, including the gross income or value to the defendant of the victim's labor or services and any costs reasonably certain to be incurred by or on behalf of the victim for medical care, psychological treatment, temporary housing, transportation, funeral services, and any other services designed to assist a victim recover from any injuries or loss resulting from an offense committed under G.S. 14-43.11 [Human trafficking], 14-43.12 [Involuntary servitude], or 14-43.13 [Sexual servitude].

Restitution is available more generally to victims of other crimes under N.C. Gen. Stat. § 15A-1340.34(b) (Restitution generally), which states,

If the defendant is being sentenced for an offense for which the victim is entitled to restitution under Article 46 of this Chapter [Crime Victims' Rights Act], the court shall, in addition to any penalty authorized by law, require that the defendant make restitution to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant. If the defendant is placed on probation or post-release supervision, any restitution ordered under this subsection shall be a condition of probation as provided in G.S. 15A-1343(d) [Conditions of probation] or a condition of post-

release supervision as provided in G.S. 148-57.1 [Restitution as a condition of parole or post-release supervision].

Pursuant to N.C. Gen. Stat. § 15A-834 (Restitution), codified under the Crime Victims' Rights Act, "A victim has the right to receive restitution as ordered by the court . . ." N.C. Gen. Stat. § 15A-830(7) (Definitions) defines "victim" as "A person against whom there is probable cause to believe an offense against the person . . . has been committed." "Offense against the person" is defined under N.C. Gen. Stat. § 15A-830(6a)(a)–(c) (Definitions) to include the following:

An offense against or involving the person of the victim which constitutes a violation of one of the following:

- a. Subchapter III of Chapter 14 of the General Statutes [(Offenses against the person), including violations of the Human Trafficking Article].
- b. Subchapter VII of Chapter 14 of the General Statutes [(Offenses against public morality and decency), including violations of the Prostitution Article, which houses North Carolina's CSEC offenses].
- c. Article 39 of Chapter 14 of the General Statutes [Protection of minors].

Accordingly, victims of North Carolina's CSEC offenses are entitled to restitution under N.C. Gen. Stat. § 15A-1340.34(b).

To determine the amount of restitution, N.C. Gen. Stat. § 15A-1340.35(a)(1) (Basis for restitution) provides,

[T]he court shall consider the following:

- (1) In the case of an offense resulting in bodily injury to a victim:
 - a. The cost of necessary medical and related professional services and devices or equipment relating to physical, psychiatric, and psychological care required by the victim;
 - b. The cost of necessary physical and occupational therapy and rehabilitation required by the victim; and
 - c. Income lost by the victim as a result of the offense.

EXTRA CREDIT



North Carolina law mandates restitution for victims of child labor trafficking under N.C. Gen. Stat. § 14-43.20(b), which requires offenders convicted of any violation of the Human Trafficking Article, including human trafficking and involuntary servitude, to pay victim restitution.

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

North Carolina law allows victims of child sex trafficking to pursue civil remedies against their exploiters. N.C. Gen. Stat. § 14-43.18(a)–(c) (Civil cause of action; damages and attorneys' fees; limitation) states,

- (a) Cause of Action. – An individual who is a victim may bring a civil action against a person who violates this Article [Human trafficking] or a person who knowingly benefits financially or by receiving anything of value from participation in a venture which that person knew or should have known violates this Article.

(b) Relief and Damages. – The victim may seek and the court may award any or all of the following types of relief:

- (1) An injunction to enjoin continued violation of this Article.
- (2) Compensatory damages, which includes the following:
 - a. The greater of (i) the gross income or value to the defendant of the victim's labor; or (ii) value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA).
 - b. Any costs reasonably incurred by the victim for medical care, psychological treatment, temporary housing, transportation, and any other services designed to assist a victim in recovering from any injuries or loss resulting from a violation of this Article.
- (3) General damages for noneconomic losses.

(c) Attorneys' Fees. – The court may award to the plaintiff and assess against the defendant the reasonable costs and expenses, including attorneys' fees, of the plaintiff in bringing an action pursuant to this section. If the court determines that the plaintiff's action is frivolous, it may award to the defendant and assess against the plaintiff the reasonable costs and expenses, including attorneys' fees, of the defendant in defending the action brought pursuant to this section.

EXTRA CREDIT



North Carolina law provides sex trafficked youth with a trafficking-specific civil remedy under N.C. Gen. Stat. § 14-43.18, which applies broadly to any violation of the Human Trafficking Article, including sex trafficking of both minor and adult victims.



North Carolina law provides child labor trafficking victims with a trafficking-specific civil remedy under N.C. Gen. Stat. § 14-43.18, which applies broadly to any violation of the Human Trafficking Article, including labor trafficking.

Policy Goal 4.6

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

Prosecutions for child sex trafficking and CSEC offenses may commence at any time; however, the statute of limitation for trafficking-specific civil actions is not lengthened or eliminated.

North Carolina does not have statutes of limitation for felony prosecutions.¹² Regarding civil actions, N.C. Gen. Stat. § 14-43.18(d), (e) (Civil cause of action; damages and attorneys' fees; limitation) provides,

¹²State v. Hardin, 75 N.C. Ct. App. 1973 (“In North Carolina, there is no statute of limitations barring the prosecution of a felony.”)

(d) Stay Pending Criminal Action. – Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the plaintiff is the victim. The term “criminal action” includes investigation and prosecution and is pending until final adjudication in the trial court.

(e) Statute of Limitations. – No action may be maintained under subsection (a)¹³ of this section unless it is commenced no later than either of the following:

- (1) Ten years after the cause of action arose.
- (2) Ten years after the victim reaches 18 years of age if the victim was a minor at the time of the alleged offense.

Notably, the general civil statute of limitation for personal injury actions is also 10 years. N.C. Gen. Stat. § 1-52(5), (16) (Three years) states,

Within three years an action. –

....

(5) For . . . any other injury to the person or rights of another, not arising on contract and not hereafter enumerated, except as provided by G.S. 1-17(d) and (e) [Disabilities].

....

(16) Unless otherwise provided by law, for personal injury . . . , the cause of action . . . shall not accrue until bodily harm to the claimant . . . becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Except as provided in . . . G.S. 1-17(d) and (e), no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.

Accordingly, North Carolina law does not lengthen or eliminate the civil statute of limitation for trafficking-related actions under N.C. Gen. Stat. § 14-43.18 as both it and the general statute of limitation under N.C. Gen. Stat. § 1-52(16) are 10 years.

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

¹³ N.C. Gen. Stat. § 14-43.18(a) (Civil cause of action; damages and attorneys’ fees; limitation) states, “An individual who is a victim may bring a civil action against a person who violates this Article [Human trafficking] or a person who knowingly benefits financially or by receiving anything of value from participation in a venture which that person knew or should have known violates this Article.”



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.

North Carolina law does not allow non-testimonial, out-of-court statements made by a commercially sexually exploited child to be admitted into evidence in lieu of, or for the purpose of corroborating, the child’s testimony.

5.1.1 Recommendation: Enact a hearsay exception that applies to non-testimonial evidence in cases involving commercial sexual exploitation of children under 18 years of age.

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

North Carolina law allows child sex trafficking victims who are under 16 years of age to testify by an alternative method regardless of the prosecuted offense. Specifically, N.C. Gen. Stat. § 15A-1225.1(b), (e) (Child witnesses; remote testimony) states,

(b) Remote Testimony Authorized. – In a criminal proceeding, a child¹⁴ witness who has been found competent to testify may testify, under oath or affirmation, other than in an open forum when the court determines:

- (1) That the child witness would suffer serious emotional distress, not by the open forum in general, but by testifying in the defendant's presence, and
- (2) That the child's ability to communicate with the trier of fact would be impaired.

.....
(e) Testimony. – The method used for remote testimony¹⁵ shall allow the judge, jury, and defendant or juvenile respondent to observe the demeanor of the child as the child testifies in a similar manner as if the child were in the open forum. The court shall ensure that the defense counsel, except a pro se defendant, is physically present where the child testifies, has a full and fair opportunity for cross-examination of the child witness, and has the ability to communicate privately with the defendant or juvenile respondent during the remote testimony

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

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

¹⁴ N.C. Gen. Stat. § 15A-1225.1(a)(1) defines “child” as “a minor who is under the age of 16 years old at the time of the testimony.”

¹⁵ N.C. Gen. Stat. § 15A-1225.1(a)(3) defines “remote testimony” as “[a] method by which a child witness testifies in a criminal proceeding outside the physical presence of the defendant.”

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 | Not statutorily required. | When a minor child is called as a witness, the parent or guardian may be present while the child is testifying even if the parent will be called as a witness. | Information that could lead to the identification of a victim is protected from disclosure in public records. |
| Relevant Statute(s) | None. | N.C. Gen. Stat. § 15A-1225 (Exclusion of witnesses) | N.C. Gen. Stat. § 14-43.17(a)(1) (Victim confidentiality; penalty for unlawful disclosure) |

5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate.

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

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

5.4.1 Recommendation: Enact a child sex trafficking-specific caseworker privilege law that protects 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.

North Carolina law authorizes trafficking-specific training for social service providers. Pursuant to N.C. Gen. Stat. § 7A-354(c) (North Carolina Human Trafficking Commission), the North Carolina Human Trafficking Commission “shall have the following powers: . . . (3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by child welfare. However, North Carolina law does not statutorily require individuals employed by child welfare to receive such training.

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.

North Carolina 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.

North Carolina law mandates training on human trafficking for law enforcement officers as part of their basic training course;¹⁶ however, officers are not required to receive ongoing in-service training on human trafficking. Pursuant to 12 N.C. Admin. Code § 9B.0205 (Basic law enforcement training),

¹⁶ Further, Law enforcement training on human trafficking is authorized in North Carolina. Under 2007 Sess. Laws 547, sec. 11, North Carolina law directs the North Carolina Justice Academy to:

[E]stablish protocols suitable for the training of State and local law enforcement officers. The protocols shall be made available to all State and local law enforcement agencies so that the agencies may conduct training on:

- (1) The phenomenon of human trafficking and State and federal laws on human trafficking.
- (2) How to recognize and identify victims of one or more of the practices set forth in G.S. 14-43.11 [Human trafficking], G.S. 14-43.12 [Involuntary servitude], or G.S. 14-43.13 [Sexual servitude].

- (a) The basic training course for law enforcement officers shall consist of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.
- (b) The course entitled “Basic Law Enforcement Training” shall consist of a minimum of 640 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

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- (4) INVESTIGATION UNIT
 - (A) Fingerprinting and Photographing Arrestee 6 Hours
 - (B) Field Note-taking and Report Writing 12 Hours
 - (C) Criminal Investigation 34 Hours
 - (D) Interviews 16 Hours
 - (E) Human Trafficking 2 Hours
- UNIT TOTAL 70 Hours
-

In addition, N.C. Gen. Stat. § 7A-354(c) (North Carolina Human Trafficking Commission) states that the North Carolina Human Trafficking Commission “shall have the following powers: . . . (3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services”

- 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.

North Carolina 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.

North Carolina law mandates trafficking-specific training for school personnel. Pursuant to N.C. Gen. Stat. § 115C-375.20(b) (Child sexual abuse and sex trafficking training program required),

- (3) Methods for protecting trafficking victims and possible trafficking victims, and advising them of their rights.
- (4) Procedures and techniques for handling specialized needs of victims who may face cultural, language, and other barriers that impede ability to request and obtain available services.

Nothing in this section shall be construed to require the North Carolina Justice Academy to conduct training of State or local law enforcement officers.

This provision is listed in the editor’s notes to N.C. Gen. Stat. § 14-43.11 (Human trafficking) but does not appear to be codified in the North Carolina General Statutes.

Each employing entity shall adopt and implement a child sexual abuse and sex trafficking training program for school personnel¹⁷ who work directly with students in grades kindergarten through 12 that provides education and awareness training related to child sexual abuse and sex trafficking, including, but not limited to, best practices from the field of prevention, the grooming process of sexual predators, the warning signs of sexual abuse and sex trafficking, how to intervene when sexual abuse or sex trafficking is suspected or disclosed, legal responsibilities for reporting sexual abuse or sex trafficking, and available resources for assistance. This training may be provided by local nongovernmental organizations with expertise in these areas, local law enforcement officers, or other officers of the court. All school personnel who work with students in grades kindergarten through 12 shall receive two hours of training consistent with this section in even-numbered years beginning in 2020.

N.C. Gen. Stat. § 115C-238.66 (Board of directors; powers and duties) requires each regional school board of directors to “adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20.” Further, N.C. Gen. Stat. § 115C-47(64) (Powers and duties generally) requires each local board of education to “adopt and implement a child sexual abuse and sex trafficking training program for school personnel who work directly with students in grades kindergarten through 12, as required by G.S. 115C-375.20.” Similarly, N.C. Gen. Stat. § 115C-218.75(g) states, “A charter school shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20.”

Lastly, N.C. Gen. Stat. § 115C-376.5(b)(1) (School-based mental health plan required) provides,

The State Board of Education shall adopt a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K-12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K-12 school units. Consistent with this section, the model mental health training program and model suicide risk referral protocol shall meet all of the following requirements:

- (1) The model mental health training program shall be provided to school personnel who work with students in grades kindergarten through 12 and address the following topics:
 - a. Youth mental health.
 - b. Suicide prevention.
 - c. Substance abuse.
 - d. Sexual abuse prevention.
 - e. Sex trafficking prevention.
 - f. Teenage dating violence.

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

Child sex trafficking prevention education is mandated to commence in 7th grade. Pursuant to N.C. Gen. Stat. § 115C-81.30(a), (b) (Reproductive health and safety education provided by local school administrative units),

(a) Each local school administrative unit shall provide a reproductive health and safety education program commencing in the seventh grade. Materials used in this instruction shall be age-appropriate for use with students. Law enforcement agencies, criminal justice agencies, and nongovernmental organizations with experience in sex-trafficking prevention and awareness may provide materials and information. Information conveyed during the instruction shall be objective and based upon scientific research that is peer reviewed and accepted by professionals and credentialed experts in any of the following fields: sexual health

¹⁷ N.C. Gen. Stat. § 115C-375.20(a)(1) defines “school personnel” as “[t]eachers, instructional support personnel, principals, and assistant principals. This term may also include, in the discretion of the employing entity, other school employees who work directly with students in grades kindergarten through 12.”

education, adolescent psychology, behavioral counseling, medicine, human anatomy, biology, ethics, or health education. Reproductive health and safety instruction provided by the local school administrative units shall do the following:

-
- (13) Teach about sex trafficking prevention and awareness. Each local school administrative unit shall:
 - a. Collaborate with a diverse group of outside consultants where practical, including law enforcement with expertise in sex-trafficking prevention education, to address the threats of sex trafficking.
 - b. Collaborate with a diverse group of outside consultants, including law enforcement with expertise in sex trafficking, on a referral protocol for high-risk pupils and minors.
 - (b) Each local board of education shall adopt a policy and provide a mechanism to allow a parent or a legal guardian to withdraw his or her child from instruction required under subdivisions (10) through (13) of subsection (a) of this section.

State Laws Addressing Child Sex Trafficking

1. N.C. Gen. Stat. § 14-43.11(a), (b) (Human trafficking) states,

(a) A person commits the offense of human trafficking when that person (i) knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in . . . sexual servitude¹⁸ or (ii) willfully or in reckless disregard of the consequences of the action causes a minor to be held in . . . sexual servitude.

(b) A person who violates this section is guilty of a Class B2 felony if the victim of the offense is a minor.

A Class B2 felony is punishable by a presumptive sentence of 125–157 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level).

2. N.C. Gen. Stat. § 14-43.13(a), (b) (Sexual servitude) states,

(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects, maintains, or obtains another for the purposes of sexual servitude.¹⁹

(b) A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

A Class C felony is punishable by a presumptive sentence of 58–73 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level).

3. N.C. Gen. Stat. § 14-43.14(a), (b) (Unlawful sale, surrender, or purchase of a minor)²⁰ states,

(a) A person commits the offense of unlawful sale, surrender, or purchase of a minor when that person, acting with willful or reckless disregard for the life or safety of a minor, participates in any of the following: the acceptance, solicitation, offer, payment, or transfer of any compensation, in money, property, or other thing of value, at any time, by any person in connection with the unlawful acquisition or transfer of the

¹⁸ N.C. Gen. Stat. § 14-43.10(a)(5) (Definitions) defines “sexual servitude” as

a. Any sexual activity as defined in G.S. 14-190.13 [Definitions for certain offenses concerning minors] for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or

b. Any sexual activity as defined in G.S. 14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.

¹⁹ See *supra* note 18 for the definition of “sexual servitude.”

²⁰ Although N.C. Gen. Stat. § 14-43.14 does not specify the sale, surrender, or purchase of a minor for the purpose of engaging the minor in commercial sexual activity, subsection (d) states, “A violation of this section is a lesser included offense of G.S. 14-43.11 [Human trafficking],” which includes trafficking for sexual servitude, indicating the intent that this offense could apply in cases involving child sex trafficking.

physical custody of a minor, except as ordered by the court. This section does not apply to actions that are ordered by a court, authorized by statute, or otherwise lawful.

(b) A person who violates this section is guilty of a Class F felony and shall pay a minimum fine of five thousand dollars (\$ 5,000)

A Class F felony is punishable by a presumptive sentence of 13–16 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level).

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. N.C. Gen. Stat. § 14-205.1(a) (Solicitation of prostitution) states, in part, “Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony.”

A Class G felony is punishable by a presumptive sentence of 10–13 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level).

2. N.C. Gen. Stat. § 14-205.2(a), (c) (Patronizing a prostitute) states,

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

(1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.20 [Definitions], or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification with a prostitute.

(2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification.

....

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

A Class F felony is punishable by a presumptive sentence of 13–16 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level).

3. N.C. Gen. Stat. § 14-205.3(b), (d) (Promoting prostitution) states,

(b) Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor . . . :

(1) Advances prostitution²¹ as defined in G.S. 14-203 [Definition of terms], where a minor . . . engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor . . . at the time of the offense.

²¹ N.C. Gen. Stat. § 14-203(1) defines “advance prostitution” as

- a. Soliciting for a prostitute by performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:
 1. Soliciting another for the purpose of prostitution.
 2. Arranging or offering to arrange a meeting of persons for the purpose of prostitution.
 3. Directing another to a place knowing the direction is for the purpose of prostitution.
 4. Using the Internet, including any social media Web site, to solicit another for the purpose of prostitution.
- b. Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:
 1. Knowingly granting or permitting the use of the place for the purpose of prostitution.
 2. Granting or permitting the use of the place under circumstances from which the person should reasonably know that the place is used or is to be used for purposes of prostitution.
 3. Permitting the continued use of the place after becoming aware of facts or circumstances from which the person should know that the place is being used for the purpose of prostitution.

(2) Profits from prostitution²² by any means where the prostitute is a minor . . . at the time of the offense.

(3) Confines a minor . . . against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor . . . , without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:

- a. Compels the minor . . . to engage in prostitution.
- b. Arranges a situation in which the minor . . . may practice prostitution.
- c. Profits from prostitution by the minor

For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor . . . , as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes

....

(d) Unless a higher penalty applies, a violation of subdivision (1) or (2) of subsection (b) of this section is a Class D felony. A violation of subdivision (3) of subsection (b) of this section is a Class C felony

A Class D felony is punishable by a presumptive sentence of 51–64 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c) (Punishment limits for each class of offense and prior record level). A Class C felony is punishable by a presumptive sentence of 58–73 months imprisonment. N.C. Gen. Stat. § 15A-1340.17(c).

²²N.C. Gen. Stat. § 14-203(3) defines “profit from prostitution” as “[w]hen acting as other than a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.”