

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 New Hampshire’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.

N.H. Rev. Stat. Ann. § 633:7(III-a)(a) (Trafficking in persons) expressly applies to buyers of commercial sex with minors; it states,

A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party

A heightened penalty applies if the victim is under 16 years of age; N.H. Rev. Stat. Ann. § 633:7(III-a)(b) states,

A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party

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

New Hampshire law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, N.H. Rev. Stat. Ann. § 645:2(I)(f) (Prostitution and related offenses) prohibits a person from “[p]ay[ing], agree[ing] to pay, or offer[ing] to pay another person to engage in sexual contact as defined in RSA 632-A:1, IV [Definitions] or sexual penetration as defined in RSA 632-A:1, V, with the payor or with another person.”

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

New Hampshire’s CSEC laws address an array of trafficker conduct. Pursuant to N.H. Rev. Stat. Ann. § 645:2(I)(b)–(e) (Prostitution and related offenses),

A person is guilty of a misdemeanor if the person:

....

- (b) Induces or otherwise purposely causes another to violate subparagraph (a);¹ or
- (c) Transports another into or within this state with the purpose of promoting or facilitating such other in engaging in conduct in violation of subparagraph (a); or
- (d) Not being a legal dependent incapable of self support, knowingly is supported in whole or in part by the proceeds of violation of subparagraph (a); or
- (e) Knowingly permits a place under such person's control to be used for violation of subparagraph (a)

....

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

New Hampshire law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to N.H. Rev. Stat. Ann. § 633:7(II) (Trafficking in persons), which criminalizes maintaining or making available a minor for commercial sex, “Knowledge of the individual’s actual age shall not be required as an element of this offense. Further, N.H. Rev. Stat. Ann. § 633:7(III-a), which applies to buyers of commercial sex, states in part, “Neither the actor’s lack of knowledge of the other person’s age nor consent of the other person shall constitute a defense to a charge under this paragraph.” Lastly, N.H. Rev. Stat. Ann. § 645:2(VI) (Prostitution and related offenses) provides, “In a prosecution under subparagraph II(a) [involving minor victims], the actor’s lack of knowledge of the other person’s age shall not constitute a defense.”

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, New Hampshire law broadly prohibits a defense based on mistaken belief of fact. N.H. Rev. Stat. Ann. § 626:3(I) (Effect of ignorance or mistake) states,

- A person is not relieved of criminal liability because he acts under a mistaken belief of fact unless:
- (a) The mistake negatives the culpable mental state required for commission of the offense; or
 - (b) The statute defining the offense expressly provides that such mistake is a defense; or
 - (c) Such mistake supports a defense of justification as defined in RSA 627.

Further, New Hampshire’s criminal attempt statute, N.H. Rev. Stat. Ann. § 629:1 (Attempt), could provide prosecutors with an alternative avenue to prosecute decoy cases. N.H. Rev. Stat. Ann. § 629:1(I) states,

A person is guilty of an attempt to commit a crime if, with a purpose that a crime be committed, he does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step toward the commission of the crime.

¹ N.H. Rev. Stat. Ann. § 645:2(I)(a) prohibits a person from “solicit[ing], agree[ing] to perform, or engag[ing] in sexual contact . . . or sexual penetration . . . in return for consideration.”

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

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

New Hampshire’s trafficking law does 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.

A percentage of financial penalties, including asset forfeiture, paid by convicted trafficking offenders, but not by convicted CSEC offenders, is statutorily required to be directed into a victim services fund. N.H. Rev. Stat. Ann. § 633:8 (Forfeiture of items used in connection with trafficking in persons) provides,

- I. All offenses under this section [Trafficking in persons] shall qualify as offenses for forfeiture and thereby upon petition of the attorney general, shall be subject to forfeiture to the state and said property interest shall be vested in the state:²
 - (a) All materials, products, and equipment of any kind used in violation of this section.
 - (b) Any property interest in any conveyance used in furtherance of an act which violates this section.
 - (c) Any moneys, coin, currency, negotiable instruments, securities, or other investments knowingly used or intended for use in violation of this section.
 - (d) Any books, records, ledgers, and research material, including formulae, microfilm, tapes, and any other data which are used or intended for use in felonious violation of this section.
 - (e) Any real property, including any right, title, leasehold interest, and other interest in the whole of any lot or tract of land and any appurtenances or improvements, which real property is knowingly used or intended for use, in any manner or part, in felonious violation of this section.

....
XVI. . . . Final orders for forfeiture of property under this section shall be implemented by the department of justice and shall provide for disposition of the items or property interests by the state in any manner not prohibited by law, including payment of restitution to a victim of trafficking or sale at public auction. The department of justice shall pay the reasonable expenses of the forfeiture proceeding, seizure, storage, maintenance of custody, advertising, court costs, and notice of sale from any money forfeited and from the proceeds of any sale or public auction of forfeited items. All outstanding recorded liens on said items or property interests seized shall be paid in full upon conclusion of the court proceedings from the proceeds of any sale or public auction of forfeited items.
....

² Pursuant to N.H. Rev. Stat. Ann. § 633:8(XV), in determining whether the property should be forfeited, the court must consider whether:

- (a) There is a substantial connection between the property to be forfeited and the underlying offense;
- (b) Criminal activities conducted by or through the use of the property were extensive; and
- (c) The value of the property to be forfeited greatly outweighs the cost of prosecution and the harm caused by the criminal conduct.

XVIII. After payment of costs outlined in paragraph XVI, any forfeited money and the proceeds of any sale or public auction of forfeited items shall first be used to satisfy any order of restitution or compensation imposed by the court. Any remaining funds shall go to the victims' assistance fund as defined in RSA 21-M:8-i.

Pursuant to N.H. Rev. Stat. Ann. § 21-M:8-i (Administration of Fund), money deposited in the Victims' Assistance Fund will be used for providing services to victims of crime; it states,

- I. Subject to the availability of money in the victims' assistance fund, the attorney general shall make grants for the establishment and maintenance of victim assistance programs.
- II. A victim assistance program is eligible to receive grants under this section if such program:
 - (a) is within the office of a county attorney; or
 - (b) is operated by a public agency or a private nonprofit organization or a combination of such agencies or organizations and provides services to victims of crime, and demonstrates:
 - (1) a record of providing effective services to victims of crime and financial support from sources other than the fund; or
 - (2) substantial financial support from sources other than the fund; or
 - (c) Is a program approved by the attorney general and provides services to victims of sexual assault.
- III. A victim assistance program shall expend sums received under this section only for providing services to victims of crime.
- IV. No more than 15 percent of the money in the victims' assistance fund shall be used by the attorney general for the costs of administration of the victims' assistance fund and the administrative costs of the victims' assistance commission.
- V. The remainder of the money in the victims' assistance fund shall be used by the attorney general for the compensation of victims in accordance with RSA 21-M:8-h [Claimant eligibility; compensation].

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



ISSUE 2: Identification of & Response to Victims

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

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Under N.H. Rev. Stat. Ann. § 633:7(III-a) (Trafficking in persons),

(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party

(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party

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

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

New Hampshire 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.

New Hampshire 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.

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

New Hampshire 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.

New Hampshire law clearly prohibits the prosecution of minors for prostitution; however, state law permits the limited use of detention in response to minors engaged in commercial sex. Pursuant to N.H. Rev. Stat. Ann. § 645:2 (Prostitution and related offenses),

- I. A person is guilty of a misdemeanor if the person:
 - (a) Solicits, agrees to perform, or engages in sexual contact as defined in RSA 632-A:1, IV or sexual penetration as defined in RSA 632-A:1, V, in return for consideration; or
 -
- V. A person under 18 years of age shall not be subject to a juvenile delinquency proceeding under RSA 169-B or criminal prosecution for the commission of an offense under subparagraph I(a).
....
- IX. Nothing in this section shall be construed to . . . limit or abridge the authority of a law enforcement officer to detain or place into custody a person as part of a criminal investigation . . .

Consequently, while New Hampshire law fails to expressly prohibit the use of arrest and permits the use of detention in response to commercially sexually exploited minors, statutory safeguards protect minors from facing prosecution for prostitution.

- 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.

New Hampshire law prohibits the criminalization of child sex trafficking victims for non-violent misdemeanors and non-violent class B felony offenses committed as a result of their trafficking victimization; however, victims can still be charged with status offenses.

Under N.H. Rev. Stat. Ann. § 633:7(VI)(a) (Trafficking in persons),

A victim under this section who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceeding under RSA 169-B [Delinquent children], or prosecuted for conduct chargeable as indecent exposure and lewdness under RSA 645:1, prostitution under RSA 645:2, or any other misdemeanor or class B felony, where the conduct was committed as a direct result of being

trafficked, provided that the conduct chargeable did not involve an act of violence³ as defined in RSA 625:9, VII [Classification of crimes].

- 2.6.1 Recommendation: Amend N.H. Rev. Stat. Ann. § 633:7(VI) (Trafficking in persons) to prohibit criminalization of child sex trafficking victims for status offenses.

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.

New Hampshire law prohibits the criminalization of child sex trafficking victims for prostitution-related conduct; however, victims can still be charged as sex trafficking offenders or as accomplices alongside their exploiters.

Under N.H. Rev. Stat. Ann. § 633:7(VI)(a) (Trafficking in persons),

A victim under this section who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceeding under RSA 169-B [Delinquent children], or prosecuted for conduct chargeable as indecent exposure and lewdness under RSA 645:1, prostitution under RSA 645:2, or any other misdemeanor or class B felony, where the conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence⁴ as defined in RSA 625:9, VII [Classification of crimes].

Accordingly, N.H. Rev. Stat. Ann. § 633:7(VI)(a) provides non-criminalization protections to child sex trafficking victims who commit acts amounting to promoting prostitution in violation of N.H. Rev. Stat. Ann. § 645:2 (Prostitution and related offenses), a class B felony, but not trafficking-related conduct in violation of N.H. Rev. Stat. Ann. § 633:7(II), (III), a class A felony.

- 2.7.1 Recommendation: Amend N.H. Rev. Stat. Ann. § 633:7(VI) (Trafficking in persons) to prohibit the criminalization of child sex trafficking victims for sex trafficking offenses, including accomplice and co-conspirator liability.

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.

New Hampshire 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.

³ N.H. Rev. Stat. Ann. § 625:9(VII) (Classification of crimes) defines “act of violence” as “attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.”

⁴ N.H. Rev. Stat. Ann. § 625:9(VII) (Classification of crimes) defines “act of violence” as “attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.”

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

New Hampshire law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While New Hampshire law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute fails to establish a minimum age for purposes of juvenile court jurisdiction, requires direct file in cases involving minors 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	None. “Minor” defined as, “a person under the age of 18” and “Delinquent” is defined as, “a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the criminal code of this state”	17	Yes. Minors previously convicted of an offense in criminal court.	Yes. Any minor charged with a felony offense.	No.
Relevant Statute(s)	N.H. Rev. Stat. Ann. § 169-B:2(VI), (IV) (Definitions)	N.H. Rev. Stat. Ann. § 169-B:2(IV) (Definitions)	N.H. Rev. Stat. Ann. § 169-B:27 (Treatment of juvenile as adult)	N.H. Rev. Stat. Ann. § 169-B:24(I) (Transfer to superior court)	N.H. Rev. Stat. Ann. § 169-B:24(I)(a)–(h) (Transfer to superior court)

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; 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.

New Hampshire’s Child Protection Act expressly defines “abused child” to include child sex trafficking and commercial sexual exploitation of children. Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II), (XXVII-b) (Definitions),

II. “Abused child” means any child who has been:

(a) Sexually abused; or

.....

(e) Subjected, by any person, to human trafficking as defined in RSA 633:7 [Trafficking in persons]; or

.....

.....
XXVII-b. "Sexual abuse" means the . . . prostitution, or other form of sexual exploitation of children. . .
With respect to the definition of sexual abuse, the term "child" or "children" means any individual who is
under the age of 18 years.

EXTRA CREDIT



Child labor trafficking is included in the definition of "abused child" under N.H. Rev. Stat. Ann. § 169-C:3(II)(e).

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.

New Hampshire law clearly provides access to child welfare services for child sex trafficking victims regardless of parent or caregiver fault, but it does not outline a child sex trafficking specific protocol for responding to non-familial sex trafficking cases. While the definition of "abused child" under N.H. Rev. Stat. Ann. § 169-C:3(II)(e) includes a child who has been subjected to human trafficking "by any person," there is no alternative specialized process under the Child Protection Act for responding to children reported to child welfare due to trafficking victimization perpetrated by a non-familial trafficker.

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.

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

- 3.1.1 Recommendation: Enact legislation requiring 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.

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing child abuse and neglect MDT, New Hampshire law does not require an MDT response specific to child sex trafficking cases. Under N.H. Rev. Stat. Ann. § 169-C:34-a(I), (II) (Multidisciplinary Child Protection Teams),

I. The department of health and human services may enter into formal cooperative agreements with appropriate agencies and organizations to create multidisciplinary child protection teams to assist with the investigation and evaluation of reports of abuse and neglect under this chapter.

II. Multidisciplinary child protection team members may include licensed physical and mental health practitioners, educators, law enforcement officers, representatives from the local child advocacy center, social workers, and such other individuals as may be necessary to assist with the investigation and evaluation of reports of abuse or neglect.

- 3.2.1 Recommendation: Amend N.H. Rev. Stat. Ann. § 169-C:34-a to specifically utilize a multi-disciplinary team response and specialized service provisions for child sex trafficking cases.

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

New Hampshire 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.

New Hampshire law extends foster care services to youth under 23 years of age. N.H. Rev. Stat. Ann. § 170-E:25 (Definitions) defines “child” as “any person under 21 years of age.” Further, N.H. Rev. Stat. Ann. § 170-E:53 (Extension of Foster Care Beyond the Age of 18) extends foster care services to young adults as follows:

I. The commissioner of the department of health and human services shall, not later than 6 months after the effective date of this section, submit an amendment to the state plan required by 42 U.S.C. section 671 to the United States secretary of health and human services to implement 42 U.S.C. section 675(8) to make federal payments for foster care under Title IV-E directly on behalf of any person who meets the following requirements:

- (a) The person has attained the age of 18 but not attained the age of 21.
- (b) The person was in the custody of the department of health and human services upon attaining the age of 18.
- (c) The person signs a voluntary participation agreement.
- (d) The person:
 - (1) Is completing secondary education or a program leading to an equivalent credential; or
 - (2) Is enrolled in an institution that provides postsecondary or vocational education; or
 - (3) Is participating in a program or activity designed to promote, or remove barriers to, employment; or
 - (4) Is employed for at least 80 hours per month; or
 - (5) Is incapable of doing any of the activities described in subparagraphs (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information in the person's case record or plan.

II. Any person who meets the requirements of paragraph I may apply for extended foster care payments and services pursuant to such application as the department may require. If a person who meets the requirements of paragraph I refused services at the time of the person's eighteenth birthday, such person may apply to regain services at any time prior to his or her twenty-first birthday.

III. Such services shall be in addition to any other transitional services or programs for which the individual may be eligible, including but not limited to those provided pursuant to 42 U.S.C. section 677, the John H. Chafee Foster Care Program for Successful Transition to Adulthood. Not less than 6 months after the effective date of this section, the commissioner of the department of health and human services shall submit any amendment to the state plan or certification required under 42 U.S.C. section 677(b)(3) to provide assistance and services to individuals who have aged out of foster care and have not attained 23 years of age.

N.H. Rev. Stat. Ann. § 169-C:4(II), (II-a) (Jurisdiction, Continued Jurisdiction, Modification.) extends foster care services to youth under 21 years of age through a voluntary court process, stating,

II. The court may, with the consent of the child, retain jurisdiction over any child, who, prior to his or her eighteenth birthday, was found to be neglected or abused and who is attending school until such child completes high school or until his or her twenty-first birthday, whichever occurs first; and the court is authorized to and shall make such orders relative to the support and maintenance of said child during the period after the child's eighteenth birthday as justice may require.

II-a. A child who has consented to the continued jurisdiction of the court pursuant to paragraph II, may revoke his or her consent and request that the case be closed. The revocation of consent and request to close a case shall be made in writing and filed with the court. Upon receipt of the request, the court shall forward copies to all parties of record at their last known address. If no party objects within 10 business days of the date the court forwarded copies of the request to the parties, the court shall accept the child's revocation of consent and shall close the case. If a party objects, the court may, after consideration of the objection, either grant the request and close the case without hearing or schedule the matter for hearing. If the matter is scheduled for hearing, the court shall accept the child's revocation of consent and close the case unless the court finds that immediate closure would create a risk of substantial harm to the child. If the court finds that immediate closure would create a risk of substantial harm to the child, the court shall continue the matter for a period not to exceed 30 days and direct that the department work with the child to develop an independent living plan which shall include referrals to appropriate services. If at the end of such period, the child still wishes to revoke his or her consent and to request that the case be closed, the court shall accept the revocation of consent and close the case.

Additionally, N.H. Rev. Stat. Ann. § 187-A:20-b (Tuition Waiver for Children in State Foster Care or Guardianship) provides,

- I. An eligible individual who enrolls full-time in a program leading to a certificate, associate, or bachelor degree at any public postsecondary institution within the state shall not be required to pay tuition or fees for attendance at such institution.
- II. In this section, an eligible individual is a person who is less than 23 years of age and who is or was:
 - (a) In state foster care for the immediate 6-month period prior to his or her 18th birthday;
 - (b) In state guardianship or custody at the time of his or her 18th birthday;
 - (c) Adopted while in state guardianship or adopted from the care, custody, and control of the department following a surrender of parental rights; or
 - (d) In an out-of-home placement under the supervision of the division for juvenile justice services at the time of his or her 18th birthday

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

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



ISSUE 4: Access to Justice for Trafficking Survivors

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

While civil orders of protection exist under New Hampshire 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 New Hampshire’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.H. Rev. Stat. Ann. § 21-M:8-h(I)(a)(1), (3) (Claimant eligibility; compensation) defines “victims” to include the following:

- (1) Any person who sustains personal injury as a result of a felony or misdemeanor;
-
- (4) Any person who is a victim of human trafficking and has been tattooed with an identifying mark of human trafficking by a person who has forced him or her into trafficking;

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.H. Rev. Stat. Ann. § 21-M:8-h(II), (IV),

II. The claimant, guardian ad litem or child advocate, or parent may file a claim for compensation within 2 years of the crime, unless good cause is shown.⁵

....

IV. The commission may consider the finding of innocence or guilt of the alleged offender in arriving at their determination of eligibility of the claimant. In determining eligibility and the amount of compensation to be awarded, the commission shall consider the contributory fault of the victim in causing his injury

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

⁵ N.H. Rev. Stat. Ann. § 21-M:8-h does not explain what constitutes “good cause” for purposes of this section.

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

New Hampshire law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions but only for certain offenses arising from trafficking victimization. Pursuant to N.H. Rev. Stat. Ann. § 633:7(VI)(b), (c) (Trafficking in persons),

(b) An individual convicted, or adjudicated as delinquent, for the commission of an offense set forth in subparagraph (a) which was committed as a direct result of being a victim of human trafficking may file a motion with the circuit court, district division, to vacate the conviction or adjudication. A copy of the motion shall be provided to the agency that prosecuted the offense. After a hearing, the court may grant the request upon a finding, by clear and convincing evidence, that the defendant's participation in the offense was a direct result of being trafficked.

(c) The defendant shall not be required to provide any official documentation indicating that he or she was a victim of trafficking, but such documentation, if provided, shall create the presumption that the defendant's participation in the offense was a direct result of being a victim of trafficking.

Under subsection (VI)(a), eligible offenses include "conduct chargeable as indecent exposure and lewdness under RSA 645:1, prostitution under RSA 645:2, or any other misdemeanor or class B felony, where the conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence as defined in RSA 625:9, VII [Classification of crimes]." By limiting vacatur to certain offenses, N.H. Rev. Stat. Ann. § 633:7(VI) leaves victims who are induced to commit other crimes 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 CSEC. Under N.H. Rev. Stat. Ann. § 633:10(I), (II) (Restitution and compensation),

- I. A person convicted under this section shall be ordered by the court to pay restitution to the victim. Such restitution may include but not be limited to:
- (a) Any economic loss compensable under RSA 651:62 [Definitions] . . . ; and
 - (b) The value of the victim's labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act or the state minimum wage law, whichever is greater.
- II. To the extent not included in economic loss that is compensable under paragraph I, the court may also order a person convicted under this section to pay compensation as follows:
- (a) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion;
 - (b) Costs of necessary transportation, temporary housing, and child care, at the court's discretion;
 - (c) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;
 - (d) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and
 - (e) Any and all other losses suffered by the victim as a result of an offense under this section.

Restitution is available more generally to victims of other crimes under N.H. Rev. Stat. Ann. § 651:63 (Restitution authorized); however, restitution under N.H. Rev. Stat. Ann. § 651:63 is discretionary. Subsection (I) states,

Any offender may be sentenced to make restitution in an amount determined by the court. In any case in which restitution is not ordered, the court shall state its reasons therefor on the record or in its sentencing order. Restitution may be ordered regardless of the offender's ability to pay and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury. A restitution order is not a civil judgment.

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.

New Hampshire law allows victims of child sex trafficking to pursue civil remedies against their exploiters. N.H. Rev. Stat. Ann. § 633:11(I), (II) (Civil remedy) states, “I. A victim may bring a civil action against a person that commits an offense under this subdivision for damages, injunctive relief, or other appropriate relief. II. In an action under this section, the court shall award a prevailing plaintiff reasonable attorney’s fees and costs.”

EXTRA CREDIT



New Hampshire law provides sex trafficked youth with a trafficking-specific civil remedy under N.H. Rev. Stat. Ann. § 633:11, which provides a “victim” with a civil cause of action. Although “victim” is not defined, the civil remedy is codified under the “Trafficking in Persons” chapter, which criminalizes sex trafficking of both minor and adult victims. N.H. Rev. Stat. Ann. § 633:7 (Trafficking in persons).



New Hampshire law provides child labor trafficking victims with a trafficking-specific civil remedy under N.H. Rev. Stat. Ann. § 633:11, which provides a “victim” with a civil cause of action. Although “victim” is not defined, the civil remedy is codified under the “Trafficking in Persons” chapter, which criminalizes both sex trafficking and labor trafficking. N.H. Rev. Stat. Ann. § 633:7 (Trafficking in persons).

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.

New Hampshire law lengthens, but does not eliminate, statutes of limitation for criminal and civil actions related to child sex trafficking. Pursuant to N.H. Rev. Stat. Ann. § 625:8(III)(i) (Limitations),

If the period prescribed in paragraph I has expired, a prosecution may nevertheless be commenced:

....

(i) For any offense under RSA 633:7 [Trafficking in persons], within 20 years, except where the victim was under 18 years of age when the alleged offense occurred, in which case within 20 years of the victim's eighteenth birthday.

Otherwise, N.H. Rev. Stat. Ann. § 625:8(I)(a)–(c) requires prosecutions to commence within the following time periods:

Except as otherwise provided in this section, prosecutions are subject to the following periods of limitations:

- (a) For a class A felony, 6 years;
- (b) For a class B felony, 6 years;
- (c) For a misdemeanor, one year;

Regarding civil actions, N.H. Rev. Stat. Ann. § 633:11(III) (Civil remedy) provides,

An action under this section shall be commenced not later than 10 years after the date on which the victim was released from the human trafficking situation or 10 years after the date on which the victim attains 18 years of age, whichever is later.

In contrast, N.H. Rev. Stat. Ann. § 508:4(I) (Personal actions) establishes a 3-year statute of limitation for personal actions, stating,

Except as otherwise provided by law, all personal actions . . . may be brought only within 3 years of the act or omission complained of, except that when the injury and its causal relationship to the act or omission were not discovered and could not reasonably have been discovered at the time of the act or omission, the action shall be commenced within 3 years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of.

- 4.6.1 Recommendation: Eliminate criminal and civil statutes of limitation for all cases involving child sex trafficking and CSEC.



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.

New Hampshire 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.

New Hampshire law allows for testimony by an alternative method, but limitations based on the victim's age excludes some commercially sexually exploited children from protection. Specifically, N.H. Rev. Stat. Ann. § 517:13-a(I)–(III) (Videotape trial testimony authorized) provides for the admission of videotaped testimony in lieu of a child under 16 years of age having to testify at trial in-person; it states,

I. In any criminal case, the state may move to take videotape trial testimony of any witness, including the victim, who was 16 years of age or under at the time of the alleged offense. Any victim or other witness who was 16 years of age or under at the time of the offense may also move to take videotape trial testimony. The court shall order videotape trial testimony if it finds by a preponderance of the evidence that:

(a) The child will suffer emotional or mental strain if required to testify in open court; or

(b) Further delay will impair the child's ability to recall and relate the facts of the alleged offense.

II. Videotape trial testimony taken pursuant to this section shall be conducted before the judge at such a place as ordered by the court in the presence of the prosecutors, the defendant and his attorneys, and such other persons as the court allows. Examination and cross-examination of the child shall proceed in the same manner as permitted at trial. Such testimony shall be admissible into evidence at trial in lieu of any other testimony by the child.

III. Unless otherwise ordered by the court for good cause shown, no victim or witness whose testimony is taken pursuant to this section shall be required to appear or testify at trial.

Additionally, N.H. Rev. Stat. Ann. § 632-A:8 (In camera testimony) provides for in camera testimony, stating,

In the cases where the victim is under 16 years of age, the victim's testimony shall be heard in camera unless good cause is shown by the defendant. The record of the victim's testimony shall not be sealed and all other testimony and evidence introduced during the proceeding shall be public.

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	Not statutorily required.	Not statutorily required.	The identity of victims and their families must be kept confidential during the investigation and prosecution of the offense.
Relevant Statute(s)	None.	None.	N.H. Rev. Stat. Ann. § 633:7(V) (Trafficking in persons)

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

Policy Goal 5.4

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

New Hampshire law does not provide for privileged communications between caseworkers and child sex trafficking victims.⁶

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.

⁶ Although not available in cases related to child sex trafficking, N.H. Rev. Stat. Ann. § 173-C:2(I), (I-a) (Privilege) provides protection in cases involving sexual assault, domestic abuse, sexual harassment, or stalking, stating,

I. A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a sexual assault counselor or a domestic violence counselor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the death of the victim.

- I-a. The privilege and confidentiality under paragraph I shall extend to:
- (a) A third person present to assist communication with the victim.
 - (b) A third person present to assist a victim who is physically challenged.
 - (c) Co-participants in support group counseling of the victim.

N.H. Rev. Stat. Ann. § 173-C:1 (Definitions) defines “victim” as follows:

[A]ny person alleging sexual assault under RSA 632-A, domestic abuse as defined in [RSA 173-B:1](#), stalking under [RSA 633:3-a](#), or sexual harassment as defined under state or federal law, who consults a sexual assault counselor or a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, stalking, or sexual harassment, or an alleged attempted sexual assault or domestic abuse.

N.H. Rev. Stat. Ann. § 188-H:8 (Privilege for confidential resource advisors) further provides for privileged communications between victims of sexual misconduct at an institution of higher education and a confidential resource advisor.



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.

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

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

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

New Hampshire 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.

New Hampshire law does not mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

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.

New Hampshire 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.

New Hampshire 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.

New Hampshire 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. N.H. Rev. Stat. Ann. § 633:7(II)–(III-a) (Trafficking in persons) states,

II. A person shall be guilty of a class A felony if such person maintains or makes available an individual under 18 years of age for the purpose of engaging the individual in a commercial sex act⁷ or sexually-explicit performance for the benefit of another. A person convicted under this paragraph shall be sentenced to a minimum term of imprisonment of not less than 7 years and a maximum term of not more than 30 years

III. It is a class A felony to recruit, entice, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking as defined in paragraph I or II. Notwithstanding RSA 651:2 [Sentences and limitations], a person convicted of an offense under this paragraph involving a victim under the age of 18 shall be subject to a minimum term of not less than 7 years and a maximum term of not more than 30 years, if the offender knew or believed it likely that the victim would be involved in a commercial sex act or sexually-explicit performance.

III-a.

(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party

(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party

In addition to the terms of imprisonment noted above, a fine up to \$4,000 may also be imposed. N.H. Rev. Stat. Ann. § 651:2(IV)(a).

⁷ N.H. Rev. Stat. Ann. § 633:6 (Definitions) defines “commercial sex act” as “any sex act because of which anything of value is given, promised to, or received, directly or indirectly, by any person.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. N.H. Rev. Stat. Ann. § 645:2(I), (II) (Prostitution and related offenses) states,

I. A person is guilty of a misdemeanor if the person:

.....

(b) Induces or otherwise purposely causes another to violate subparagraph (a);⁸ or

(c) Transports another into or within this state with the purpose of promoting or facilitating such other in engaging in conduct in violation of subparagraph (a); or

(d) Not being a legal dependent incapable of self support, knowingly is supported in whole or in part by the proceeds of violation of subparagraph (a); or

(e) Knowingly permits a place under such person's control to be used for violation of subparagraph (a); or

(f) Pays, agrees to pay, or offers to pay another person to engage in sexual contact as defined in RSA 632-A:1, IV [Definitions] or sexual penetration as defined in RSA 632-A:1, V, with the payor or with another person.

II. A person is guilty of a class B felony if such person violates the provisions of subparagraphs (b), (c), (d), (e), or (f) of paragraph I and the violation:

(a) Involves another person who is under the age of 18; or

(b) Involved compelling another person by force or intimidation.

A class B felony is punishable by imprisonment for up to 7 years, a fine up to \$4,000, or both. N.H. Rev. Stat. Ann. § 651:2(II)(b), (IV)(a) (Sentences and limitations).

⁸ N.H. Rev. Stat. Ann. § 645:2(I)(a) prohibits a person from “solicit[ing], agree[ing] to perform, or engag[ing] in sexual contact . . . or sexual penetration . . . in return for consideration.”