

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 Oklahoma’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.

Oklahoma’s trafficking law expressly applies to buyers of commercial sex with minors based on term “purchasing” used within the definition of “human trafficking for commercial sex.” Pursuant to Okla. Stat. Ann. tit. 21, § 748(B) (Human trafficking), “It shall be unlawful to knowingly engage in human trafficking.”¹ Okla. Stat. Ann. tit. 21, § 748(A)(6)(b) defines “human trafficking for commercial sex” to include “recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act.”²

Further, following federal precedent, Okla. Stat. Ann. tit. 21, § 748(B) could apply to buyers based on the term “obtaining.”³

¹ Okla. Stat. Ann. tit. 21, § 748(A)(4) defines “human trafficking” as “modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual’s commercial sex act or labor.”

² Okla. Stat. Ann. tit. 21, § 748(A)(2) defines “commercial sex” as “any form of commercial sexual activity such as sexually performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display.”

³ 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

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

Oklahoma law criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Okla. Stat. Ann. tit. 21, § 1029(A), (B) (Engaging in prostitution, etc. – Soliciting or procuring – Residing or being in place for prohibited purpose – Aiding, abetting or participating – Child prostitution – Presumption of coercion),

- A. It shall further be unlawful:
 - 1. To engage in prostitution,⁴ lewdness,⁵ or assignation;
 - 2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
 - 3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
 -
- B. Any prohibited act described in paragraph 1, 2, 3 or 4 of subsection A of this section committed with a person under eighteen (18) years of age shall be deemed child prostitution,⁶ as defined in Section 1030 of this title [Definitions], and shall be punishable as provided in Section 1031 of this title [Punishment for violation].

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

Oklahoma’s CSEC laws address an array of trafficker conduct. Okla. Stat. Ann. tit. 21, § 843.5(H) (Child abuse – Child neglect – Child sexual abuse – Child sexual exploitation – Enabling – Penalties) prohibits a person from

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.

⁴ Okla. Stat. Ann. tit. 21, § 1030(1) defines “prostitution” as

- a. the giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value, or
- b. the making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value;

⁵ Okla. Stat. Ann. tit. 21, § 1030(6) defines “lewdness” as

- a. any lascivious, lustful or licentious conduct,
- b. the giving or receiving of the body for indiscriminate sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse, or lascivious, lustful or licentious conduct with any person not his or her spouse, or
- c. any act in furtherance of such conduct or any appointment or engagement for prostitution; and

⁶ Okla. Stat. Ann. tit. 21, § 1030(2) defines “child prostitution” as “prostitution or lewdness as defined in this section with a person under eighteen (18) years of age, in exchange for money or any other thing of value.”

“willfully or maliciously engag[ing] in child sexual exploitation”⁷ while Okla. Stat. Ann. tit. 21, § 843.5(J) prohibits “[a]ny person responsible for the health, safety or welfare of a child [from] willfully or maliciously engag[ing] in enabling child sexual exploitation”⁸

Under Okla. Stat. Ann. tit. 21, § 1087(A) (Child under 18 years of age – Procuring for prostitution, lewdness or other indecent act – Punishment),

No person shall:

1. Offer, or offer to secure, a child under eighteen (18) years of age for the purpose of prostitution, or for any other lewd or indecent act, or procure or offer to procure a child for, or a place for a child as an inmate in, a house of prostitution or other place where prostitution is practiced;
2. Receive or to offer or agree to receive any child under eighteen (18) years of age into any house, place, building, other structure, vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or
3. Direct, take, or transport, or to offer or agree to take or transport, or aid or assist in transporting, any child under eighteen (18) years of age to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

Further, Okla. Stat. Ann. tit. 21, § 1088(A) (Child prostitution – Inducing, keeping, detaining or restraining for prostitution – Punishment) states,

No person shall:

1. By promise, threats, violence, or by any device or scheme, including but not limited to the use of any controlled dangerous substance prohibited pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, cause, induce, persuade, or encourage a child under eighteen (18) years of age to engage or continue to engage in prostitution or to become or remain an inmate of a house of prostitution or other place where prostitution is practiced;

⁷ Okla. Stat. Ann. tit. 21, § 843.5(O)(4) defines “child sexual exploitation” as follows:

[T]he willful or malicious sexual exploitation of a child under eighteen (18) years of age by another and includes, but is not limited to:

- a. human trafficking, as provided for in Section 748 of this title, if the offense involved child trafficking for commercial sex,
- b. trafficking in children, as provided for in Section 866 of this title, if the offense was committed for the sexual gratification of any person,
- c. procuring or causing the participation of a minor in child pornography, as provided for in Section 1021.2 of this title,
- d. purchase, procurement or possession of child pornography, as provided for in Section 1024.2 of this title,
- e. engaging in or soliciting prostitution, as provided for in Section 1029 of this title, if the offense involved child prostitution,
- f. publication, distribution or participation in the preparation of obscene material, as provided for in Section 1040.8 of this title, if the offense involved child pornography,
- g. aggravated possession of child pornography, as provided for in Section 1040.12a of this title,
- h. sale or distribution of obscene material, as provided for in Section 1040.13 of this title,
- i. soliciting sexual conduct or communication with a minor by use of technology, as provided for in Section 1043.13a of this title,
- j. offering or transporting a child for purposes of prostitution, as provided for in Section 1087 of this title, and
- k. child prostitution, as provided for in Section 1088 of this title;

⁸ Okla. Stat. Ann. tit. 21, § 843.5(O)(8) defines “enabling child sexual exploitation” as “the causing, procuring or permitting of child sexual exploitation by a person responsible for a child’s health, safety or welfare.”

2. Keep, hold, detain, restrain, or compel against his will, any child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or other place where prostitution is practiced or allowed; or
3. Directly or indirectly keep, hold, detain, restrain, or compel or attempt to keep, hold, detain, restrain, or compel a child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or any place where prostitution is practiced or allowed for the purpose of compelling such child to directly or indirectly pay, liquidate, or cancel any debt, dues, or obligations incurred, or said to have been incurred by such child.

Lastly, Okla. Stat. Ann. tit. 21, § 1040.13a(A), (B) (Facilitating, encouraging, offering, or soliciting sexual conduct or engaging in sexual communication with a minor or person believed to be a minor) states,

A. It is unlawful for any person to facilitate, encourage, offer or solicit sexual conduct with a minor, or other individual the person believes to be a minor, by use of any technology,⁹ or to engage in any communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology

B. A person is guilty of violating the provisions of this section if the person knowingly transmits any prohibited communication by use of any technology defined herein, or knowingly prints, publishes or reproduces by use of any technology described herein any prohibited communication, or knowingly buys, sells, receives, exchanges, or disseminates any prohibited communication or any information, notice, statement, website, or advertisement for communication with a minor or access to any name, telephone number, cell phone number, e-mail address, Internet address, text message address, place of residence, physical characteristics or other descriptive or identifying information of a minor, or other individual the person believes to be a minor.

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

Oklahoma law expressly prohibits a mistake of age defense in prosecutions for child sex trafficking but not CSEC. Pursuant to Okla. Stat. Ann. tit. 21, § 748(F) (Human trafficking), “Lack of knowledge of the age of the victim shall not constitute a defense to the activity prohibited by this section with respect to human trafficking of a minor.”

1.4.1 Recommendation: Prohibit a mistake of age defense in CSEC cases.

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

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, Oklahoma’s criminal attempt statute, Okla. Stat. Ann. tit. 21, § 44

⁹ Okla. Stat. Ann. tit. 21, § 1040.13a(A) defines “by use of any technology” as

the use of any telephone or cell phone, computer disk (CD), digital video disk (DVD), recording or sound device, CD-ROM, VHS, computer, computer network or system, Internet or World Wide Web address including any blog site or personal web address, e-mail address, Internet Protocol address (IP), text messaging or paging device, any video, audio, photographic or camera device of any computer, computer network or system, cell phone, any other electrical, electronic, computer or mechanical device, or any other device capable of any transmission of any written or text message, audio or sound message, photographic, video, movie, digital or computer-generated image, or any other communication of any kind by use of an electronic device.

(Attempt defined), could provide prosecutors with an alternative avenue to prosecute those cases. Okla. Stat. Ann. tit. 21, § 44(a) states,

A person is guilty of an attempt to commit a crime if, acting with the kind of culpability otherwise required for commission of the crime, he:

(a) purposely engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or,

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.

Oklahoma’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.

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.¹⁰

¹⁰ Regarding asset forfeiture, Okla. Stat. Ann. tit. 21, § 1738(A), (B) (Seizure and forfeiture proceedings – Vehicles, airplanes, vessels, etc. used in attempt or commission of certain crimes) provides for forfeiture of the following:

A.

1. Any commissioned peace officer of this state is authorized to seize any equipment, vehicle, airplane, vessel or any other conveyance that is . . . used in any manner to facilitate or participate in the commission of any human trafficking offense in violation of Section 748 [Human trafficking] of this title, or used by any defendant when such vehicle or other conveyance is used in any manner by a prostitute, pimp or panderer to facilitate or participate in the commission of any prostitution offense in violation of Sections 1028 [Setting up or operating place of prostitution], 1029 [Engaging in prostitution, etc.] or 1030 [Definitions] of this title; provided, however, that the vehicle or conveyance of a customer or anyone merely procuring the services of a prostitute shall not be included.

....

B. In addition to the property described in subsection A of this section, the following property is also subject to forfeiture pursuant to this section:

....

11. All conveyances, including aircraft, vehicles or vessels, monies, coins and currency, or other instrumentality used in any manner or part, to commit any violation of the provisions set forth in Section 748 of this title;

12. Any and all property used in any manner or part to facilitate, participate or further the commission of a human trafficking offense in violation of Section 748 of this title, and all property, including monies, real estate, or any other tangible assets or property of or derived from or used by a prostitute, pimp or panderer in any manner or part to facilitate, participate or further the commission of any prostitution offense in violation of

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

Sections 1028, 1029 or 1030 of this title; provided, however, any monies, real estate or any other tangible asset or property of a customer or anyone merely procuring the services of a prostitute shall not be included;
.....

Accordingly, both buyers and traffickers face asset forfeiture in trafficking cases; however, only traffickers face asset forfeiture in CSEC cases as Okla. Stat. Ann. tit. 21, § 1738(A), (B) expressly excludes forfeiture in CSEC cases where the offender is “a customer or anyone merely procuring the services of a prostitute.”

Disposition of forfeited assets is governed by Okla. Stat. Ann. tit. 21, § 1738(P), which states,

The proceeds of the sale of any property shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of such person's interest in the property, when the court declaring the forfeiture orders a distribution to such person;
2. To the payment of the actual reasonable expenses of preserving the property;
3. To the victim of the crime to compensate said victim for any loss incurred as a result of the act for which such property was forfeited; and
4. The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, to be distributed as follows: one-third ($\frac{1}{3}$) to the investigating law enforcement agency; one-third ($\frac{1}{3}$) of said fund to be used and maintained as a revolving fund by the district attorney to be used to defray any lawful expenses of the office of the district attorney; and one-third ($\frac{1}{3}$) to go to the jail maintenance fund, with a yearly accounting to the board of county commissioners in whose county the fund is established. If the petitioner is not the district attorney, then the one-third ($\frac{1}{3}$) which would have been designated to that office shall be distributed to the petitioner. Monies distributed to the jail maintenance fund shall be used to pay costs for the storage of such property if such property is ordered released to a bona fide or innocent owner, lien holder, mortgagee, or vendor and if such funds are available in said fund.

.....

However, state asset forfeiture laws do not direct a percentage of a sex trafficking or CSEC offender's forfeited assets into a victim services fund.



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. Okla. Stat. Ann. tit. 21, § 748(A)(9) (Human trafficking) defines “victim” as “a person against whom a violation of any provision of this section has been committed.” Okla. Stat. Ann. tit. 21, § 748(B) expressly applies to buyers of commercial sex with minors based on term “purchasing” used within the definition of “human trafficking for commercial sex,”¹¹ meaning a buyer can be charged regardless of whether a trafficker is involved or identified.

Accordingly, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

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

Oklahoma 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.

Oklahoma law requires child welfare to establish policies and procedures for identifying and responding to system-involved children who have experienced or are at risk of experiencing sex trafficking victimization. Okla. Stat. tit. 10A, § 1-9-123(A) (Children and youth at risk of sex trafficking – Department policies, procedures, protocols and reports to law enforcement) states,

1. The Department of Human Services shall, in consultation with state and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, establish policies and procedures, including relevant training for caseworkers, for identifying, documenting in agency records and determining appropriate services for children and youth at risk of sex trafficking.
2. The policies and procedures shall be developed for every child or youth over whom the Department has responsibility for placement, care or supervision and shall apply when the Department has reasonable cause to believe a child or youth is currently, or is at risk of being, a victim of sex trafficking, including a child or youth:
 - a. or whom the Department has an open case file, but who has not been removed from their home,
 - b. who has run away from foster care and who has not attained eighteen (18) years of age, or

¹¹ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Okla. Stat. Ann. tit. 21, § 748.

c. who is not in foster care but is receiving services.

Additionally, in relation to children who were previously missing from foster care placement or care, Okla. Stat. tit. 10A, § 1-9-123(C)(4) requires child welfare to “develop and implement specific protocols to . . . [d]etermine what the child or youth experienced while absent from care, that would include an appropriate screening to determine if the child or youth is a possible victim of sex trafficking.”

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

Oklahoma 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.

Oklahoma law prohibits the criminalization of some, but not all, minors for prostitution offenses. While the core prostitution offense applies equally to children and adults, minors identified as child sex trafficking victims are insulated from prosecution for prostitution.

Pursuant to Okla. Stat. Ann. tit. 21, § 1029(A)(1)–(3) (Engaging in or soliciting prostitution – Residing or remaining in place for prohibited purpose – Aiding, abetting, or participating in prohibited acts – Child prostitution – Human trafficking),

It shall further be unlawful:

1. To engage in prostitution, lewdness, or assignation;
2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation;

While Okla. Stat. Ann. tit. 21, § 1029 applies to minors, thus opening the door for arrest, detention, and prostitution charges, Okla. Stat. Ann. tit. 21, § 748.2(E) (Rights of Victims of Human Trafficking – Civil Action Against Perpetrator) provides,

Any peace officer or employee of a district court, juvenile bureau or Office of Juvenile Affairs who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection shall assume protective custody over the minor and immediately notify the Department of Human Services. The minor shall be transferred to the emergency custody of the Department pursuant to the provisions of Section 1-4-201 of Title A of the Oklahoma Statutes . . . The minor shall not be subject to juvenile delinquency proceedings for prostitution or other nonviolent misdemeanor offenses committed as a direct result of being a victim of human trafficking

Consequently, while Oklahoma law insulates identified child sex trafficking victims from prosecution for prostitution, minors not identified as victims may still be subject to criminalization, including arrest, detention, charges, and prosecution, for engaging in a commercial sex act.

- 2.5.1 Recommendation: Amend state law to expressly prohibit the criminalization of any person under 18 years of age, regardless of whether the minor is identified as a victim of child sex trafficking.

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.

Oklahoma law prohibits the criminalization of child sex trafficking victims for non-violent misdemeanor offenses; however, victims can still be charged with status offenses and non-violent felony offenses committed as a result of their trafficking victimization. Specifically, Okla. Stat. tit. 21, § 748.2(E) (Rights of Victims of Human Trafficking – Civil Action Against Perpetrator) states in part, “The minor shall not be subject to juvenile delinquency proceedings for prostitution or other nonviolent misdemeanor offenses committed as a direct result of being a victim of human trafficking.”

An affirmative defense may be available for other crimes committed as a result of trafficking victimization. Okla. Stat. tit. 21, § 748(E) further provides, “It shall be an affirmative defense to delinquency or criminal prosecution for any misdemeanor or felony offense that the offense was committed during the time of and as the direct result of the minor being the victim of human trafficking.” In addition, Okla. Stat. tit. 21, § 748(D) (Human trafficking) broadly provides for “an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.”

- 2.6.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for status offenses and non-violent felony offenses 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 Oklahoma 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. Specifically, Okla. Stat. tit. 21, § 748.2(E) (Rights of Victims of Human Trafficking – Civil Action Against Perpetrator) states in part, “It shall be an affirmative defense to delinquency or criminal prosecution for any misdemeanor or felony offense that the offense was committed during the time of and as the direct result of the minor being the victim of human trafficking.” Further, Okla. Stat. tit. 21, § 748(D) (Human trafficking) broadly provides for “an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.”

In addition, Okla. Stat. tit. 21, § 1029 (Engaging in prostitution, etc. – Soliciting or procuring – Residing or being in place for prohibited purpose – Aiding, abetting or participating – Child prostitution – Presumption of coercion) creates a presumption of coercion for certain prostitution-related conduct committed by older minors. Okla. Stat. tit. 21, § 1029(C) states,

In any prosecution of a person sixteen (16) or seventeen (17) years of age for an offense described in subsection A¹² of this section, there shall be a presumption that the actor was coerced into committing such

¹² Okla. Stat. tit. 21, § 1029(A) makes it unlawful

offense by another person in violation of the human trafficking provisions set forth in Section 748 of this title.

- 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.

Oklahoma law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. Specifically, Okla. Stat. tit. 21, § 748.2(E) (Rights of Victims of Human Trafficking – Civil Action Against Perpetrator) states in part, “It shall be an affirmative defense to delinquency or criminal prosecution for any misdemeanor or felony offense that the offense was committed during the time of and as the direct result of the minor being the victim of human trafficking.” Further, Okla. Stat. tit. 21, § 748(D) (Human trafficking) broadly provides for “an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.”

-
1. To engage in prostitution, lewdness, or assignation;
 2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
 3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
 4. To aid, abet, or participate in the doing of any of the acts prohibited in paragraph 1, 2 or 3 of this subsection.

EXTRA CREDIT



The affirmative defense provided for under Okla. Stat. tit. 21, § 748(D) applies to criminal prosecutions and does not limit availability to cases involving minors charged as adults. Okla. Stat. Ann. tit. 21, § 748(A)(9) defines “victim” as “a person against whom a violation of any provision of this section has been committed.” Because Okla. Stat. Ann. tit. 21, § 748 criminalizes trafficking of both minor and adult victims, the affirmative defense provided for under Okla. Stat. Ann. tit. 21, § 748(D) extends to youth who are charged with criminal offenses as a result of their victimization.



The affirmative defenses provided for under Okla. Stat. tit. 21, § 748.2(E) and Okla. Stat. tit. 21, § 748(D) are available to victims of child labor trafficking. Okla. Stat. tit. 21, § 748(A)(4) defines “human trafficking” as “modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual’s commercial sex act or labor.” Okla. Stat. tit. 21, § 748(A)(5). Accordingly, the inclusion of “labor” within the definition of “human trafficking” extends availability of the affirmative defenses to child labor trafficking victims who are charged with offenses as a result of their victimization.

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

Oklahoma law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While Oklahoma law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute fails to establish a minimum age for juvenile court jurisdiction, permits direct file and 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	None. “Child” or “Juvenile” is defined as, “any person under eighteen (18) years of age”	17	Yes. Minors: (1) 15+ years of age charged with 1 st degree murder or 1 st degree rape, or attempt of either (prosecuted as an adult); (2) 15+ years of age charged with other felony offenses	Yes. Minors charged with any felony offense, except those qualifying for automatic transfers or direct filing.	No.

			(prosecuted as a youthful offender) (3) 13 or 14 years of age charged with 1 st degree murder; or (4) previously convicted in criminal court.		
Relevant Statute(s)	Okla. Stat. Ann. tit. 10A, § 2-1-103(6) (Definitions)	Okla. Stat. Ann. tit. 10A, § 2-1-103(6) (Definitions)	Okla. Stat. Ann. tit. 10A § 2-5-205(B), (H) (Youthful offender certification); Okla. Stat. Ann. tit. 10A § 2-5-206(A)–(B), (G) (Acts creating youth offender status – Petition – Warrant – Preliminary hearing – Certification process – Sentencing); Okla. Stat. Ann. tit. 10A § 2-5-204(H) (Certification as adult or youthful offender)	Okla. Stat. Ann. tit. 10A § 2-2-403(A) (Child is charged offense which would be a felony if committed by an adult – Trial as adult – Certification order – Bail)	Okla. Stat. Ann. tit. 10A § 2-2-403(A) (Child is charged offense which would be a felony if committed by an adult – Trial as adult – Certification order – Bail); Okla. Stat. Ann. tit. 10A § 2-5-205(E) (Youthful offender certification)

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.

Oklahoma law defines “abuse” to include commercial sexual exploitation of children but not child sex trafficking. Pursuant to Okla. Stat. Ann. tit. 10A, § 1-1-105(2) (Definitions),

When used in the Oklahoma Children’s Code, unless the context otherwise requires:

- 2. “Abuse” means harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child’s health, safety, or welfare, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation
- a. “Harm or threatened harm to the health or safety of a child” means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including but not limited to sexual abuse, sexual exploitation, neglect, or dependency.

. . . .
c. “Sexual exploitation” includes but is not limited to allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child

2.10.1 Recommendation: Amend the definition of “child abuse” to expressly include child sex trafficking.

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.

Oklahoma law provides a specialized process for child sex trafficking victims to access emergency child welfare services without requiring parent or caregiver fault, but child sex trafficking victims may face additional barriers in accessing child welfare services after this initial emergency response.

While Oklahoma’s definition of “abuse” under Okla. Stat. Ann. tit. 10A, § 1-1-105(2) (Definitions) is specifically limited to “harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child’s health, safety, or welfare,” Oklahoma’s law providing special protections and rights to victims of human trafficking, Okla. Stat. Ann. tit. 21, § 748.2 (Rights of victims of human trafficking – Civil action against perpetrator), provides for a specialized response for all child sex trafficking victims who are taken into protective custody by law enforcement and transferred to the custody of child welfare for emergency services. Access to these services does not hinge on caregiver fault, but child welfare’s ability to provide these services is limited to the initial emergency response, and ongoing access to services may hinge on parent or caregiver fault or other limiting factors by requiring the child be deemed a “deprived child” in order to receive further child welfare services. Pursuant to Okla. Stat. Ann. tit. 21, § 748.2(E),

Any peace officer or employee of a district court, juvenile bureau or Office of Juvenile Affairs who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection shall assume protective custody over the minor and immediately notify the Department of Human Services. The minor shall be transferred to the emergency custody of the Department pursuant to the provisions of Section 1-4-201 of Title 10A of the Oklahoma Statutes.¹³ While in custody of the Department, the minor shall be provided with any necessary emergency social services which include, but shall not be limited to, medical examination or treatment, or a mental health assessment.

Law enforcement and the Department of Human Services shall conduct a joint investigation into the claim.

The minor shall remain in the custody of the Department of Human Services until the investigation has been completed, but for no longer than two (2) judicial days, for the show-cause hearing. The Department may release the minor to the custody of a parent or legal guardian if it determines the minor will not be

¹³ Pursuant to Okla. Stat. Ann. tit. 10A, § 1-4-201(A) (child taken into custody prior to filing of petition – Prepetition emergency custody orders),

[A] child may be taken into custody prior to the filing of a petition . . . [b]y a peace officer or employee of the court, without a court order if the officer or employee has reasonable suspicion that:

- a. the child is in need of immediate protection due to an imminent safety threat,
- b. the circumstances or surroundings of the child are such that continuation in the child’s home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child, or
- c. the child, including a child with a disability, is unable to communicate effectively about abuse, neglect or other safety threat or is in a vulnerable position due to the inability to communicate effectively and the child is in need of immediate protection due to an imminent safety threat

subject to further exploitation. If no such determination is made, the minor shall be subject to the deprived child provisions of the Oklahoma Children's Code and made eligible for appropriate child welfare services.

Okla. Stat. Ann. tit. 10A, § 1-1-105(21)(c) (Definitions) defines "deprived child" to include a child "who has been abused, neglected, or is dependent;" however, since the definitions of "abuse"¹⁴ and "neglect"¹⁵ hinge on caregiver fault and the definition of "dependency" is limited to children who are "homeless or without proper care or guardianship,"¹⁶ child sex trafficking victims whose parent or caregiver is available to provide support and is not otherwise at fault for the child's victimization may not be able to access services beyond initial emergency child welfare services provided pending the show cause hearing.

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

¹⁴ Okla. Stat. Ann. tit. 10A, § 1-1-105(2) (Definitions) defines "abuse" as limited to acts "by a person responsible for the child's health, safety, or welfare."

¹⁵ The definition of "neglect" under Okla. Stat. Ann. tit. 10A, § 1-1-105(49) (Definitions) focuses on acts or omissions of a "parent, legal guardian or person having custody or control of a child."

¹⁶ Okla. Stat. Ann. tit. 10A, § 1-1-105(20) defines "dependency" as "a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian."



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.

Oklahoma law provides child sex trafficking victims with access to specialized services through a non-punitive system. Pursuant to Okla. Stat. Ann. tit. 21, § 748.2(E) (Guidelines for treatment of human trafficking victims – Right to civil action), upon identifying a minor as a child sex trafficking victim who is in need of immediate protection, a law enforcement officer must assume protective custody of the child, immediately notify the Department of Human Services, and transfer the child to Department of Human Services' emergency custody.

Any peace officer or employee of a district court, juvenile bureau or Office of Juvenile Affairs who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection shall assume protective custody over the minor and immediately notify the Department of Human Services [DHS]. The minor shall be transferred to the emergency custody of [DHS] While in custody of [DHS], the minor shall be provided with any necessary emergency social services which include, but shall not be limited to, medical examination or treatment, or a mental health assessment.

Law enforcement and [DHS] shall conduct a joint investigation into the claim.

The minor shall remain in the custody of [DHS] until the investigation has been completed, but for no longer than two (2) judicial days, for the show-cause hearing. [DHS] may release the minor to the custody of a parent or legal guardian if it determines the minor will not be subject to further exploitation. If no such determination is made, the minor shall be subject to the deprived child provisions of the Oklahoma Children's Code and made eligible for appropriate child welfare services

Identified victims of child sex trafficking are entitled to a range of services and protections in accordance with Okla. Stat. Ann. tit. 21, § 748.2(A), which states,

A human trafficking victim shall:

1. Be housed in an appropriate shelter as soon as practicable;
2. Not be detained in facilities inappropriate to their status as crime victims;
3. Not be jailed, fined, or otherwise penalized due to having been trafficked;
4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;
5. Have access to legal assistance, information about their rights, and translation services, as necessary; and
6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:
 - a. Taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals, and
 - b. Ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

EXTRA CREDIT



Oklahoma law provides child labor trafficking victims with access to specialized services through a non-punitive system under Okla. Stat. Ann. tit. 21, § 748.2, which applies to victims of both sex and labor trafficking.

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 MDT, Oklahoma law does not require an MDT response specific to child sex trafficking cases. Okla. Stat. Ann. tit. 10A, § 1-9-102 (Coordinated Multidisciplinary Team – Members – Functions – Meeting – Intervention – Duties) states,

- A.
 - 1. In coordination with the Oklahoma Commission on Children and Youth, each district attorney shall develop a multidisciplinary child abuse team in each county of the district attorney or in a contiguous group of counties.
 - 2. The lead agency for the team shall be chosen by the members of the team. The team shall intervene in reports involving child sexual abuse or child physical abuse or neglect.
- B. The multidisciplinary child abuse team members shall include, but not be limited to:
 - 1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;
 - 2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse and neglect investigation;
 - 3. Medical personnel with experience in child abuse and neglect identification;
 - 4. Child protective services workers within the Department of Human Services;
 - 5. Multidisciplinary child abuse team coordinators, or Child Advocacy Center personnel; and
 - 6. The district attorney or assistant district attorney.

- 3.2.1 Recommendation: Enact legislation requiring a multi-disciplinary team response specific 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.

Oklahoma 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.

Oklahoma law extends foster care services to youth under 21 years of age by providing access to transitional planning. However, these services are not extended to youth under 23 years of age as permitted under federal law.¹⁷ Specifically, Okla. Stat. Ann. tit. 10A, § 1-9-107(G)–(J) (Successful Adulthood Act – Purpose – Eligibility – Permanency Plan – Notice of Rights – Medicaid Coverage – Information About OHLAP) provides,

G. Successful adulthood services may continue to the age of twenty-one (21), provided the individual is in the custody of the Department or a federally recognized Indian tribe due to abuse or neglect and is in an out-of-home placement at the time of the individual’s sixteenth birthday.

H. Individuals who are sixteen (16) years of age or older, who have been released from the custody of the Department or federally recognized Indian tribe due to the entry of an adoption decree or guardianship order are eligible to receive successful adulthood services until the age of twenty-one (21).

I. Individuals who are eligible for services pursuant to the Successful Adulthood Act and who are between eighteen (18) and twenty-one (21) years of age shall be eligible for Medicaid coverage, provided such individuals were also in the custody of the Department or a federally recognized Indian tribe on the date they reached eighteen (18) years of age and meet Medicaid financial eligibility guidelines.

J. The Department, in conjunction with the Oklahoma State Regents for Higher Education, shall provide parents and legal guardians of foster youth with information on the Oklahoma Higher Learning Access Program (OHLAP) including, but not limited to, eligibility, application guidelines, academic requirements, and any other information required by the Oklahoma Higher Learning Access Act for participation in the Program.

Adulthood services are available to human trafficking victims under Okla. Stat. Ann. tit. 21, § 748.2(A)(4) (Rights of Victims of Human Trafficking – Civil Action Against Perpetrator), which states that “human trafficking victims shall . . . [r]eceive prompt medical care, mental health care, food, and other assistance, as necessary.”

- 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 Oklahoma 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 Oklahoma 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.

¹⁷ 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).

- 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.

Oklahoma law allows trafficking victims to seek ex parte civil orders of protection against their exploiters under Okla. Stat. Ann. tit. 22, § 40.2 (VPO for victim of rape, forcible sodomy, sex offense, kidnapping, assault and battery with a deadly weapon – Officer not to discourage pressing charges), which applies to victims of a sex offense. Okla. Stat. Ann. tit. 22, § 40(6)(b)–(p) (Definitions – Assault and battery with a deadly weapon – Forcible sodomy – Kidnapping – Rape – Sex offenses) defines “sex offense” to include the following crimes:

- b. human trafficking for commercial sex as provided in Section 748 of Title 21 of the Oklahoma Statutes,
.....
- d. child sexual abuse or child sexual exploitation as provided in Section 843.5 of Title 21 of the Oklahoma Statutes,
.....
- n. offering or soliciting sexual conduct with a child as provided in Section 1040.13a of Title 21 of the Oklahoma Statutes,
- o. procuring a child for prostitution or other lewd acts as provided in Section 1087 of Title 21 of the Oklahoma Statutes,
- p. inducing a child to engage in prostitution as provided in Section 1088 of Title 21 of the Oklahoma Statutes, and

Accordingly, civil orders of protection are available to victims of child sex trafficking.

Under Okla. Stat. Ann. tit. 22, § 40.2(A) (VPO for victim of rape, forcible sodomy, sex offense, kidnapping, assault and battery with a deadly weapon – Officer not to discourage pressing charges), “A victim protection order for any victim of . . . a sex offense . . . shall be substantially similar to a protective order in domestic abuse cases pursuant to the Protection from Domestic Abuse Act.” Okla. Stat. Ann. tit. 22, § 60.2(G) (Protective order – Petition – Complaint requirement for certain stalking victims – Fees), codified under the Protection from Domestic Abuse Act, allows protective orders to be granted on an ex parte basis, stating, “A victim of . . . a sex offense . . . may petition for an emergency temporary order or emergency ex parte order regardless of any relationship or scenario pursuant to the provisions of this section.”

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 Oklahoma’s crime victims’ compensation laws define “victim” broadly enough to include victims of child sex trafficking and CSEC, ineligibility factors under the Oklahoma Crime Victims Compensation Act may prevent a commercially sexually exploited child from accessing an award.

For purposes of accessing crime victims’ compensation, Okla. Stat. Ann. tit. 21, § 142.3(14) (Definitions) defines “victim” as “a person who suffers personal injury or death as a result of criminally injurious conduct” “Criminally injurious conduct” is defined under Okla. Stat. Ann. tit. 21, § 142.3(5)(a) to include the following:

- [A] misdemeanor or felony which occurs or is attempted in this state, or against a resident of this state in a state that does not have an eligible crime victims’ compensation program as such term is defined in the

federal Victims of Crime Act of 1984, Public Law 98-473, that results in bodily injury, threat of bodily injury or death to a victim which:

- (1) may be punishable by fine, imprisonment or death, or
- (2) if the act is committed by a child, could result in such child being adjudicated a delinquent child.

Under Okla. Stat. Ann. tit. 21, § 142.5(A) (Powers of board relating to claims for compensation – Office and staff support), “The Crime Victims Compensation Board shall award compensation for economic loss¹⁸ arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met.” However, those requirements may limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to Okla. Stat. Ann. tit. 21, § 142.10(A)–(C) (Award of compensation – Criteria – Amount – Denial, withdrawal or reduction – Reconsideration),

A. Compensation shall not be awarded:

1. Unless the claim has been filed with the Board within one (1) year after the injury or death upon which the claim is based. If the victim is under a mental or cognitive disability or is a child under eighteen (18) years of age, the Board may use the date the criminal incident was disclosed to a responsible adult when establishing whether or not the claim was timely filed. The Board may, at its discretion, extend the filing period beyond one (1) year upon a showing of good cause¹⁹ or in all cases of child sexual assault;
2. To a claimant who was the offender, or an accomplice of the offender;
.....
4. Unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or the Board finds there was good cause for the failure to report within that time.

B. Compensation otherwise payable to a claimant shall be diminished to the extent:

-
2. Of the degree of responsibility for the cause of the injury or death attributable to the victim as determined by the Board.

C. The Board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

- 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.

Oklahoma law does not allow sex trafficked children and youth to vacate delinquency adjudications or criminal convictions for offenses arising from trafficking victimization.

- 4.3.1 Recommendation: Enact a law that allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

¹⁸ Okla. Stat. Ann. tit. 21, § 142.3(9) defines “economic loss” as “monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss.” Pursuant to Okla. Stat. Ann. tit. 21, § 142.3(1)(a), “‘Allowable expense’ means: a. charges incurred for needed products, services and accommodations, including, but not limited to, medical care, wage loss, rehabilitation, rehabilitative occupational training and other remedial treatment and care.” “Noneconomic detriment” is defined under Okla. Stat. Ann. tit. 21, § 142.3(10) as “pain, suffering, inconvenience, physical impairment and nonpecuniary damage.”

¹⁹ Okla. Stat. Ann. tit. 21, § 142.10 does not explain what constitutes “good cause” for purposes of this section.

Policy Goal 4.4 State law mandates restitution for child sex trafficking and commercial sexual exploitation of children (CSEC) offenses.

Oklahoma law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Okla. Stat. Ann. tit. 21, § 748(C) (Human trafficking), “The court shall . . . order the defendant to pay restitution²⁰ to the victim²¹ as provided in Section 991f [Definitions] of Title 22 of the Oklahoma Statutes.”

Restitution is available more generally to victims of other crimes pursuant to Okla. Stat. Ann. tit. 22, § 991f(C), which provides,

1. Upon conviction for any crime . . . wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution. Restitution may be ordered in addition to the punishments prescribed by law.
2. The court shall order full restitution based upon the following considerations:
 - a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a direct result of the crime, and may allow the crime victim to receive payment in excess of the losses sustained; provided, the excess amount of restitution shall not be more than treble the actual economic loss incurred, and
 - b. the amount of restitution shall be established regardless of the financial resources of the offender.

EXTRA CREDIT



Oklahoma law mandates restitution for victims of child labor trafficking under Okla. Stat. Ann. tit. 21, § 748(C), which requires offenders convicted of Okla. Stat. Ann. tit. 21, § 748(B), inclusive of sex and labor trafficking, to pay victim restitution.

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

Oklahoma law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Okla. Stat. Ann. tit. 21, § 748.2(B) (Guidelines for treatment of human trafficking victims – Right to civil action states) states,

Any person aggrieved by a violation of subsection B of Section 748 [Human trafficking] of this title may bring a civil action against the person or persons who committed the violation to recover actual and punitive damages and reasonable attorney fees and costs. The civil action brought under this section may be instituted in the district court in this state in the county in which the prospective defendant resides or has committed any act which subjects him or her to liability under this section. A criminal case or prosecution is not a necessary precedent to the civil action

²⁰ Okla. Stat. Ann. tit. 22, § 991f(A)(1) defines “restitution” as “the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for up to three times the amount of the economic loss suffered as a direct result of the criminal act of the defendant.”

²¹ Okla. Stat. Ann. tit. 22, § 991f(A)(2) defines “victim” as “any person, partnership, corporation or legal entity that suffers from an economic loss as a direct result of the criminal act of another person.”

EXTRA CREDIT



Oklahoma law provides sex trafficked youth with a trafficking-specific civil remedy under Okla. Stat. Ann. tit. 21, § 748.2(B), which allows “[a]ny person aggrieved by a violation of [Okla. Stat. Ann. tit. 21, § 748(B) (Human trafficking)] [to] bring a civil action” Importantly, Okla. Stat. Ann. tit. 21, § 748(B) criminalizes trafficking of both minor and adult victims.



Oklahoma law provides child labor trafficking victims with a trafficking-specific civil remedy under Okla. Stat. Ann. tit. 21, § 748.2(B), which allows “[a]ny person aggrieved by a violation of [Okla. Stat. Ann. tit. 21, § 748(B) (Human trafficking)] [to] bring a civil action” Importantly, Okla. Stat. Ann. tit. 21, § 748(B) criminalizes both sex and 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.

Although Oklahoma law does not eliminate statutes of limitation for criminal and civil actions involving child sex trafficking, it does lengthen the statutes of limitation for criminal actions related to child abuse and civil actions related to child sex trafficking. Pursuant to Okla. Stat. Ann. tit. 22, § 152(C) (Statute of limitations),

1. Prosecutions for sexual crimes against children, specifically . . . child abuse pursuant to Section 843.5 of Title 21 of the Oklahoma Statutes . . . of the Oklahoma Statutes shall be commenced by the forty-fifth birthday of the alleged victim. Prosecutions for such crimes committed against victims eighteen (18) years of age or older shall be commenced within twelve (12) years after the discovery of the crime.
2. However, prosecutions for the crimes listed in paragraph 1 of this subsection may be commenced at any time after the commission of the offense if:
 - a. physical evidence is collected and preserved that is capable of being tested to obtain a profile from deoxyribonucleic acid (DNA), and
 - b. the identity of the offender is subsequently established through the use of a DNA profile using evidence listed in subparagraph a of this paragraph.

A prosecution under this exception must be commenced within three (3) years from the date on which the identity of the suspect is established by DNA testing.

Prosecutions for child sex trafficking and Oklahoma’s other CSEC offenses must commence within 3 years; Okla. Stat. Ann. tit. 22, § 152(H) states, “In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.”

Regarding civil actions, Okla. Stat. Ann. tit. 21, § 748.2(B) (Guidelines for treatment of human trafficking victims – Right to civil action states) provides,

Any person aggrieved by a violation of subsection B of Section 748 [Human trafficking] of this title may bring a civil action against the person or persons who committed the violation The statute of limitations for the cause of action shall not commence until the latter of the victim’s emancipation from the

defendant, the victim's twenty-first birthday, or the plaintiff discovers or reasonably should have discovered that he or she was a victim of human trafficking and that the defendant caused, was responsible for or profited from the human trafficking.

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



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.

Oklahoma 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.

Oklahoma law allows child sex trafficking victims who are under 13 years of age to testify by an alternative method regardless of the prosecuted offense. Specifically, Okla. Stat. Ann. tit. 12, § 2611.7 (When child witness may testify by alternative means – Findings, factors, evidentiary standards) states,

A. In a criminal proceeding, the judge or presiding officer may allow a child witness²² to testify by an alternative method²³ only in the following situations:

1. The child may testify otherwise than in an open forum in the presence and full view of the finder of fact if the judge or presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to testify in the open forum;²⁴ and

²² Okla. Stat. Ann. tit. 12, § 2611.4(2) (Definitions) defines "child witness" as "an individual under thirteen (13) years of age who has been or will be called to testify in a proceeding."

²³ Okla. Stat. Ann. tit. 12, § 2611.4(1) defines "alternative method" as follows:

[A] method by which a child witness testifies which does not include all of the following:

- a. having the child testify in person in an open forum,
- b. having the child testify in the presence and full view of the finder of fact and presiding officer, and
- c. allowing all of the parties to be present, to participate, and to view and be viewed by the child.

²⁴ Pursuant to Okla. Stat. Ann. tit. 12, § 2611.8 (Factors affecting selection of alternate method of testifying),

[T]he judge or presiding officer shall determine whether to allow a child witness to testify by an alternative method and in doing so shall consider:

1. Alternative methods reasonably available;
2. Available means for protecting the interests of or reducing emotional trauma to the child without resort to an alternative method;
3. The nature of the case;
4. The relative rights of the parties;
5. The importance of the proposed testimony of the child;
6. The nature and degree of emotional trauma that the child may suffer if an alternative method is not used; and
7. Any other relevant factor.

2. The child may testify other than face-to-face with the defendant if the judge or presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child’s ability to communicate with the finder of fact if required to be confronted face-to-face by the defendant.
- C. In a noncriminal proceeding, the judge or presiding officer may allow a child witness to testify by an alternative method if the judge or presiding officer finds by a preponderance of the evidence that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. In making the finding, the judge or presiding officer shall consider:
1. The nature of the proceeding;
 2. The age and maturity of the child;
 3. The relationship of the child to the parties in the proceeding;
 4. The nature and degree of emotional trauma that the child may suffer in testifying; and
 5. Any other relevant factor.

Notably, child victims who are 13 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.

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.	Children (under 13) can have support person or therapy dog during testimony.	Not statutorily required.
Relevant Statute(s)	None.	Okla. Stat. Ann. tit. 11 § 2611.12(B)(C) (Use of a Certified Therapeutic Dog)	None.

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate and their identifying information is protected from disclosure in court records.

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

Oklahoma 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.

Oklahoma law mandates statewide training for caseworkers on identification and response to child sex trafficking. Pursuant to Okla. Stat. Ann. tit. 10A, § 1-9-123(A) (Children and youth at risk of sex trafficking – Department policies, procedures, protocols, and reports to law enforcement),

1. The Department of Human Services shall, in consultation with state and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, establish policies and procedures, including relevant training for caseworkers, for identifying, documenting in agency records and determining appropriate services for children and youth at risk of sex trafficking.
2. The policies and procedures shall be developed for every child or youth over whom the Department has responsibility for placement, care or supervision and shall apply when the Department has reasonable cause to believe a child or youth is currently, or is at risk of being, a victim of sex trafficking, including a child or youth:
 - a. for whom the Department has an open case file, but who has not been removed from the home,
 - b. who has run away from foster care and who has not attained eighteen (18) years of age, or
 - c. who is not in foster care but is receiving services.

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

Oklahoma 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.

Oklahoma 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.

Oklahoma 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.

Oklahoma 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.

Oklahoma 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. Okla. Stat. Ann. tit. 21, § 748(B), (C) (Human trafficking) states,

B. It shall be unlawful to knowingly engage in human trafficking.²⁵

C. . . . Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than fifteen (15) years or for life, or by a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or by both such fine and imprisonment

Okla. Stat. Ann. tit. 21, § 748(A)(6) defines “human trafficking for commercial sex” as

. . . .

b. recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act,²⁶ or

c. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex;

²⁵ Okla. Stat. Ann. tit. 21, § 748(A)(4) defines “human trafficking” as “modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual’s commercial sex act or labor.”

²⁶ Okla. Stat. Ann. tit. 21, § 748(A)(2) defines “commercial sex” as “any form of commercial sexual activity such as sexually performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Okla. Stat. Ann. tit. 21, § 1029(A), (B) (Engaging in prostitution, etc. – Soliciting or procuring – Residing or being in place for prohibited purpose – Aiding, abetting or participating – Child prostitution – Presumption of coercion) states,
 - A. It shall further be unlawful:
 1. To engage in prostitution,²⁷ lewdness,²⁸ or assignation;
 2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
 3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
 4. To aid, abet, or participate in the doing of any of the acts prohibited in paragraph 1, 2 or 3 of this subsection.
 - B. Any prohibited act described in paragraph 1, 2, 3 or 4 of subsection A of this section committed with a person under eighteen (18) years of age shall be deemed child prostitution,²⁹ as defined in Section 1030 of this title [Definitions], and shall be punishable as provided in Section 1031 of this title [Punishment for violation].

When the victim is a minor, a violation of Okla. Stat. Ann. tit. 21, § 1029 is punishable by imprisonment for up to 10 years and a fine up to \$5,000. Okla. Stat. Ann. tit. 21, §§ 1029(B), 1031(C).

2. Okla. Stat. Ann. tit. 21, § 1087(A), (B) (Child under 18 years of age – Procuring for prostitution, lewdness or other indecent act – Punishment) states,
 - A. No person shall:
 1. Offer, or offer to secure, a child under eighteen (18) years of age for the purpose of prostitution, or for any other lewd or indecent act, or procure or offer to procure a child for, or a place for a child as an inmate in, a house of prostitution or other place where prostitution is practiced;
 2. Receive or to offer or agree to receive any child under eighteen (18) years of age into any house, place, building, other structure, vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or

²⁷ Okla. Stat. Ann. tit. 21, § 1030(1) defines “prostitution” as

- a. the giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value, or
- b. the making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value;

²⁸ Okla. Stat. Ann. tit. 21, § 1030(6) defines “lewdness” as

- a. any lascivious, lustful or licentious conduct,
- b. the giving or receiving of the body for indiscriminate sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse, or lascivious, lustful or licentious conduct with any person not his or her spouse, or
- c. any act in furtherance of such conduct or any appointment or engagement for prostitution; and

²⁹ Okla. Stat. Ann. tit. 21, § 1030(2) defines “child prostitution” as “prostitution or lewdness as defined in this section with a person under eighteen (18) years of age, in exchange for money or any other thing of value.”

3. Direct, take, or transport, or to offer or agree to take or transport, or aid or assist in transporting, any child under eighteen (18) years of age to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

B.

1. Any person violating the provisions of subsection A of this section shall, upon conviction, be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than ten (10) years.

2. Any owner, proprietor, keeper, manager, conductor, or other person who knowingly permits any violation of this section in any house, building, room, or other premises or any conveyances under his control or of which he has possession shall, upon conviction for the first offense, be guilty of a misdemeanor and punishable by imprisonment in the county jail for a period of not less than six (6) months nor more than one (1) year, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00)

In addition to the term of imprisonment noted in Okla. Stat. Ann. tit. 21, 1087(B)(1), an offender also faces a possible fine up to \$10,000. Okla. Stat. Ann. tit. 21, § 64(B) (Fine in addition to imprisonment or community punishment.

3. Okla. Stat. Ann. tit. 21, § 1088(A), (B) (Child prostitution – Inducing, keeping, detaining or restraining for prostitution – Punishment) states,

A. No person shall:

1. By promise, threats, violence, or by any device or scheme, including but not limited to the use of any controlled dangerous substance prohibited pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, cause, induce, persuade, or encourage a child under eighteen (18) years of age to engage or continue to engage in prostitution or to become or remain an inmate of a house of prostitution or other place where prostitution is practiced;

2. Keep, hold, detain, restrain, or compel against his will, any child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or other place where prostitution is practiced or allowed; or

3. Directly or indirectly keep, hold, detain, restrain, or compel or attempt to keep, hold, detain, restrain, or compel a child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or any place where prostitution is practiced or allowed for the purpose of compelling such child to directly or indirectly pay, liquidate, or cancel any debt, dues, or obligations incurred, or said to have been incurred by such child.

B.

1. Any person violating the provisions of this section other than paragraph 2 of this subsection, upon conviction, shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than twenty-five (25) years, and by a fine of not less than Five Thousand Dollars (\$5,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00).

2. Any owner, proprietor, keeper, manager, conductor, or other person who knowingly permits a violation of this section in any house, building, room, tent, lot or premises under his control or of which he has possession, upon conviction for the first offense, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a period of not less than six (6) months nor more than one (1) year, and by a fine of not more than Five Thousand Dollars (\$5,000.00)

4. Okla. Stat. Ann. tit. 21, § 843.5(H)–(J) (Child abuse – Child neglect – Child sexual abuse – Child sexual exploitation – Enabling – Penalties) states,

H. Any person who shall willfully or maliciously engage in child sexual exploitation,³⁰ as defined in this section, shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment except as provided in subsection I of this section for a child victim under twelve (12) years of age

I. Any person who shall willfully or maliciously engage in child sexual exploitation, as defined in this section, of a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

J. Any person responsible for the health, safety or welfare of a child who shall willfully or maliciously engage in enabling child sexual exploitation,³¹ as defined in this section, shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

5. Okla. Stat. Ann. tit. 21, § 1040.13a(A)–(D) (Facilitating, encouraging, offering, or soliciting sexual conduct or engaging in sexual communication with a minor or person believed to be a minor) states,

A. It is unlawful for any person to facilitate, encourage, offer or solicit sexual conduct with a minor, or other individual the person believes to be a minor, by use of any technology,³² or to engage in any

³⁰ Okla. Stat. Ann. tit. 21, § 843.5(O)(4) defines “child sexual exploitation” as

the willful or malicious sexual exploitation of a child under eighteen (18) years of age by another and includes, but is not limited to:

- a. human trafficking, as provided for in Section 748 of this title, if the offense involved child trafficking for commercial sex,
- b. trafficking in children, as provided for in Section 866 of this title, if the offense was committed for the sexual gratification of any person,
- c. procuring or causing the participation of a minor in child pornography, as provided for in Section 1021.2 of this title,
- d. purchase, procurement or possession of child pornography, as provided for in Section 1024.2 of this title,
- e. engaging in or soliciting prostitution, as provided for in Section 1029 of this title, if the offense involved child prostitution,
- f. publication, distribution or participation in the preparation of obscene material, as provided for in Section 1040.8 of this title, if the offense involved child pornography,
- g. aggravated possession of child pornography, as provided for in Section 1040.12a of this title,
- h. sale or distribution of obscene material, as provided for in Section 1040.13 of this title,
- i. soliciting sexual conduct or communication with a minor by use of technology, as provided for in Section 1043.13a of this title,
- j. offering or transporting a child for purposes of prostitution, as provided for in Section 1087 of this title, and
- k. child prostitution, as provided for in Section 1088 of this title;

³¹ Okla. Stat. Ann. tit. 21, § 843.5(O)(8) defines “enabling child sexual exploitation” as “the causing, procuring or permitting of child sexual exploitation by a person responsible for a child’s health, safety or welfare.”

³² Okla. Stat. Ann. tit. 21, § 1040.13a(A) defines “by use of any technology” as

the use of any telephone or cell phone, computer disk (CD), digital video disk (DVD), recording or sound device, CD-ROM, VHS, computer, computer network or system, Internet or World Wide Web address including any blog site or

communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology

B. A person is guilty of violating the provisions of this section if the person knowingly transmits any prohibited communication by use of any technology defined herein, or knowingly prints, publishes or reproduces by use of any technology described herein any prohibited communication, or knowingly buys, sells, receives, exchanges, or disseminates any prohibited communication or any information, notice, statement, website, or advertisement for communication with a minor or access to any name, telephone number, cell phone number, e-mail address, Internet address, text message address, place of residence, physical characteristics or other descriptive or identifying information of a minor, or other individual the person believes to be a minor.

. . . .

D. Any violation of the provisions of this section shall be a felony, punishable by a fine in an amount not to exceed Ten Thousand Dollars (\$10,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years, or by both such fine and imprisonment. For purposes of this section, each communication shall constitute a separate offense

personal web address, e-mail address, Internet Protocol address (IP), text messaging or paging device, any video, audio, photographic or camera device of any computer, computer network or system, cell phone, any other electrical, electronic, computer or mechanical device, or any other device capable of any transmission of any written or text message, audio or sound message, photographic, video, movie, digital or computer-generated image, or any other communication of any kind by use of an electronic device.