



## POLICY GOAL

State law defines child abuse to include child sex trafficking for purposes of accessing child welfare services.

### THE JUSTICE FOR VICTIMS OF TRAFFICKING

Act (JVTA) amended the federal definition of child abuse to include human trafficking and the production of child sexual abuse material.<sup>1</sup> Through child welfare guidelines, care workers are mandated to report instances of child abuse; however, up until this addition to the federal definition, agencies were not mandated to extend treatment and services to child sex trafficking victims.<sup>2</sup> As a result, state and local child welfare systems have historically been prohibited or underutilized in coordinating and/or providing a specialized response in child sex trafficking cases. The JVTA allowed for the provisions outlined in the Preventing Sex Trafficking and Strengthening Families Act of 2014 to be accessible to all children interacting with the child welfare system, not just those under state child welfare supervision.<sup>3</sup> By law, states must: develop policies to identify, document, screen, and determine services for children that are victims of sex trafficking, require child welfare agencies to report sex trafficking victims to law enforcement, and abide by additional screening and data collection measures.<sup>4</sup> As a result of these changes, all commercial sexually exploited (CSE) minors and sex trafficking victims are entitled to a specialized response through child welfare. To ensure that all reports of child sex trafficking are investigated and that all victims are afforded access to child welfare services, states should expressly identify child sex trafficking as a form of child abuse regardless of the child's relationship to the perpetrator.

Additionally, it is imperative that state law not limit child protective responses to situations where a commercially sexually exploited child is exploited by a third party or readily-identifiable trafficker. Limiting response to

those cases in which a child is exploited by a third party excludes the most vulnerable populations, including homeless and runaway youth and LGBTQ youth. These populations are disproportionately vulnerable to engaging in a form of commercial sex directly with a buyer known as transactional, or survival, sex in order to have basic needs met. Accordingly, if the state's definition of child sex trafficking is limited (e.g., contains a third party control requirement or excludes buyers as sex trafficking offenders), states should include child sex trafficking *as defined by federal law* as a form of child abuse to ensure all commercially sexually exploited children have access to services through child welfare.

Recognizing the differences in responding to child sex trafficking in comparison to other forms of child abuse is key to successful implementation. The primary purpose of modifying statute to expressly identify child sex trafficking as a form of child abuse is to ensure that all child sex trafficking and CSE victims have access to a specialized, non-punitive response that facilitates coordination of services and support for each child. Child welfare policy and training addressing this population should foster a trauma-informed response that encourages connection to services and limits system involvement when appropriate. While states should ensure that the specialized service process is mandatory for child welfare in cases of sex trafficking, the process should be optional for the child survivor and their family.

Finally, the JVTA also required that states develop procedures for providing training on the sex trafficking and CSE of children to child protective services workers, including areas such as identification, assessment,

provision of comprehensive services, and multidisciplinary service responses with other child-serving agencies and service providers.<sup>6</sup> Any section of state law that addresses child welfare's response to sex trafficking

should include statewide training initiatives addressing victim identification and response protocols as well as adequate funding to ensure that the alternative response can be implemented.

## DRAFTING CONSIDERATIONS:

TO ACCOMPLISH THIS POLICY GOAL, STATE LAW SHOULD...

- ▶ Expressly include child sex trafficking within the definition of child abuse.
- ▶ Ensure services are not limited to situations where a commercially sexually exploited child is exploited by a third party or readily identifiable trafficker.
- ▶ Ensure services are available to a commercially sexually exploited child regardless of the child's relationship to the perpetrator.

## RELATED ISSUES:

- 2.1 The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control.
- 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.
- 3.1 State law provides child sex trafficking victims with access to specialized services through a non-punitive system.
- 6.1 State law mandates statewide training for child welfare agencies on identification and response to child sex trafficking.

## SUPPORTING RESOURCES:

- ▶ State Impact Memo

1 34 U.S.C. § 20302(5).

2 CHILD WELFARE INFORMATION GATEWAY, ABOUT CAPTA: A LEGISLATIVE HISTORY (2019).

3 *Preventing Sex Trafficking and Strengthening Families Act of 2014*, NAT'L CONF. STATE LEGISLATURES (Oct. 6 2016), <https://www.ncsl.org/research/human-services/preventing-sex-trafficking-and-strengthening-families-act-of-2014.aspx>.

4 *Id.*

5 LAURA T. MURPHY, LABOR AND SEX TRAFFICKING AMONG HOMELESS YOUTH 8 (2016).

6 Justice for Victims of Trafficking Act of 2015, Pub. L. No: 114-22, 129 Stat 227 (2015).