



## POLICY GOAL

**State law provides child sex trafficking victims with access to specialized services through a non-punitive system.**

**SURVIVORS OF CHILD SEX TRAFFICKING OF-**ten have complex needs that cannot be addressed by a single agency or service provider; instead, survivors need support from a number of service providers addressing various needs, including physical health, mental health, reproductive health, malnutrition, substance use, and self-destructive behaviors.<sup>1</sup> While some of their needs are shared by other children who have experienced abuse or trauma, it is important that child sex trafficking victims not only receive a broad array of treatment but also that treatment is specialized to the unique trauma associated with commercial sexual exploitation.<sup>2</sup> These services should be provided through a non-punitive system, meaning that they are not meant to simply serve as diversion programs or referrals in lieu of arrest.<sup>3</sup> When punitive measures remain, survivors continue to bear the burden of unjust interactions with a juvenile or criminal system that continues to victimize, rather than serve, them. Fear of a punitive response may also be a barrier to connecting the child to services.<sup>4</sup>

Because commercially sexually exploited and sex trafficked children are identified by service providers at various points of entry, clear statutory mechanisms that direct survivors to specialized services and away from the juvenile or criminal justice systems are critical to ensuring survivors receive the specialized care they need. It is important to note that commercially sexually

exploited children have often experienced a range of Adverse Childhood Experiences<sup>5</sup> that, in addition to the commercial sexual exploitation, may lead to Posttraumatic Stress Disorder and other severe mental health diagnoses.<sup>6</sup> As a result, medical or clinical recommendations may necessitate restrictive placements. In such cases, guidance should provide that service and placement determinations opt for the least restrictive setting appropriate for meeting the child's needs.

Legislation can achieve specialized service provision and a coordinated response for commercially sexually exploited children through a variety of means, including requiring social services agencies to provide resources such as emergency housing, medical care, counseling, or crisis intervention for commercially sexually exploited children.<sup>7</sup> States can also use legislation to direct law enforcement on where to refer or take commercially sexually exploited children, rather than arresting and detaining them, and to ensure these service responses apply to all identified victims regardless of current system-involvement.<sup>8</sup> Such measures, however, will require adequate funding to ensure that the services can actually be provided as well as statewide training initiatives addressing victim identification and response or referral options<sup>9</sup>

## DRAFTING CONSIDERATIONS:

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

- ▶ Provide a clear process for connecting victims to services through a non-punitive system.
- ▶ Require that the provided services be specialized.
- ▶ Appropriate funding to ensure these efforts can be implemented.

## 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.
- 2.5 State law prohibits the criminalization of minors under 18 for prostitution offenses.
- 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.
- 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.
- 2.10 State law defines child abuse to include child sex trafficking for purposes of accessing child welfare services.
- 3.5 State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.
- 3.6 State funding is appropriated to support child-serving agencies with providing specialized services and a continuum of care for sex trafficked children.
- 6.1 State law mandates statewide training for child welfare agencies on identification and response to child sex trafficking.

## SUPPORTING RESOURCES:

- ▶ Protective Response Model
- ▶ Nat'l Colloquium: 2012 Final Report
- ▶ Defining a JuST Response Webinar: Trauma-Informed Care

1 U.S. Department of Health and Human Services (n.d.) *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States*, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, [https://www.acf.hhs.gov/sites/default/files/cb/acyf\\_human\\_trafficking\\_guidance.pdf](https://www.acf.hhs.gov/sites/default/files/cb/acyf_human_trafficking_guidance.pdf) (last visited Oct. 16, 2020) [hereinafter *Guidance to States*].

2 *Id.*

3 Shared Hope International, *Seeking Justice Report* (2018), [https://sharedhope.org/wp-content/uploads/2018/07/ANALYSIS-OF-STATUTORY-APPROACHES\\_ver4.pdf](https://sharedhope.org/wp-content/uploads/2018/07/ANALYSIS-OF-STATUTORY-APPROACHES_ver4.pdf).

4 Elizabeth Barnert, MD, MPH, MS et. al, *Commercial Sexual Exploitation and Sex Trafficking of Children and Adolescents: A Narrative Review*, ACADEMIC PEDIATRICS (2017).

5 Joan A. Reid et al., *Human Trafficking of Minors and Childhood Adversity in Florida*, RESEARCH AND PRACTICE, Dec. 20, 2016.

6 *Guidance to States*, *supra* note 1.

7 Ellen B. Fichtelman, *The Double Entendre of Juvenile Prostitution: Victim versus Delinquent and the Necessity of State Uniformity*, 65 JUV. & FAM. CT. J. 27, 37-39 (2014).

8 *Id.* at 39.

9 *Id.*