



## POLICY GOAL

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

**VICTIM-WITNESS TESTIMONY BY SEX TRAFFICKING** and commercial sexual exploitation (CSE) victims provided during a trial of their alleged exploiter can serve a key role in a successful conviction. However, the delivery of victim testimony can be a severely traumatic process for CSE minors regardless of their age at the time of testifying. Victims of child abuse often experience severe forms of trauma and stress when providing testimony in court.<sup>1</sup> This traumatic response can be severely heightened when the testimony is conducted in the presence of their exploiter<sup>2</sup> and can have long-term psychological and emotional impacts on the child.<sup>3</sup> Sex trafficking and CSE victims may experience fear deriving from potentially facing their exploiter directly or indirectly.<sup>4</sup> Further, providing testimony may mean providing sometimes vivid and “deeply personal and violent experiences of abuse” to the court, which can result in the minor being re-traumatized.<sup>5</sup>

One mechanism for mitigating the risk of re-traumatization is allowing sex trafficking and CSE victims to testify via closed circuit television (CCTV). This allows for the testimony to be provided outside of the courtroom through a secure video system and can be used to minimize the number of people in the room when the child testifies. Studies have shown that this may reduce stress and anxiety levels for some children.<sup>6</sup> Despite the possible benefits, however, a number of states currently limit the ability to utilize CCTV for providing witness testimony.<sup>7</sup> For example, some states limit use of CCTV to younger minors.<sup>8</sup> Age limitations vary; some states base it on the age of the victim at the time the crime was committed while others base it on the minors’ age when

providing testimony.<sup>9</sup> Conversely, recognizing that the majority of child sex trafficking and CSE victims identified are older minors (ages 13-17), more than a dozen states currently provide eligibility to testify via CCTV to anyone under the age of 18 who is providing witness testimony related to sex trafficking, including those that are not the alleged victim.<sup>10</sup> Following this example, states should mitigate re-traumatization by providing statutory allowances to all child sex trafficking victims, regardless of the child’s age, to testify by CCTV and also consider CCTV eligibility for all child witnesses in these cases. Further, because traffickers may be prosecuted for a variety of offenses other than sex trafficking (e.g., solicitation or promoting prostitution), state law should ensure eligibility is connected to status as a CSEC or sex trafficking victim regardless of prosecuted offense.

In addition to mitigating revictimization, providing sex trafficked and CSE minors with the ability to testify by an alternative method can be monumental in enhancing the accuracy of the testimony provided.<sup>11</sup> A minor who has experienced abuse in relation to sex trafficking may forget important details of their abuse or they may recant their testimony entirely when facing their abuser directly.<sup>12</sup> Providing the minor with the ability to utilize an alternative method, as opposed to facing their alleged exploiter in person, can offer the minor a sense of safety that may increase the accuracy of the testimony as well as the likelihood that they will willingly cooperate with the prosecution in an effort to convict their exploiter.<sup>13</sup>

## DRAFTING CONSIDERATIONS:

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

- ▶ Allow all commercially sexually exploited children to testify by an alternative method, including CCTV or videotaped testimony, regardless of the minor victim's age.
- ▶ Ensure that the ability to testify by an alternative method is based on the minor's victimization, not on the prosecuted offense.

## RELATED ISSUES:

- 5.1 State law provides a child sex trafficking-specific hearsay exception that applies to non-testimonial evidence to reduce reliance on victim testimony.
- 6.4 State law mandates trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

## SUPPORTING RESOURCES:

- ▶ Protected Innocence Challenge Framework Brief (Section 5)

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1 Yasmin Vafa & Cherice Hopkins, *Child Sex Trafficking Victim Witnesses Must be Protected*, THOMSON REUTERS FOUNDATION NEWS (Feb. 21, 2018, 14:54 GMT), <https://news.trust.org/item/20180221145440-fkal6/>; see also Jazmine Ulloa, *California Bill Would Make Testifying in Court Easier for Young Victims of Human Trafficking*, L.A. TIMES (Aug. 7, 2016, 12:05 AM), <https://www.latimes.com/politics/la-pol-sac-human-trafficking-young-witnesses-20160806-snap-story.html>.

2 SURVIVOR PROTECTION: REDUCING THE RISK OF TRAUMA TO CHILD SEX TRAFFICKING VICTIMS, RIGHTS4GIRLS (Jan. 2018) <https://rights4girls.org/wp/wp-content/uploads/r4g/2018/01/Survivor-Protection.pdf> (last visited Nov. 11, 2020).

3 *Id.*

4 *The Victim As a Witness*, OFFICE FOR VICTIMS OF CRIME, <https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/54-landing-a-successful-prosecution/the-victim-as-a-witness/>.

5 *Survivor Protection*, *supra* note 2.

6 *Id.* at 17.

7 *What is Sex Trafficking?*, SHARED HOPE INT'L, <https://sharedhope.org/the-problem/what-is-sex-trafficking/> (last visited July 15, 2020).

8 *Survivor Protection*, *supra* note 2, at 32.

9 *Id.* at 24.

10 *Id.*

11 *Id.* at 18.

12 *Id.*

13 *Id.*