

EXTRA CREDIT

In recognition of the impact that specific policies have on youth age 18+ and/or on minors who experience sex and labor trafficking polyvictimization, several components are eligible for receiving extra credit if state law extends the same protection to youth age 18+ and/or child victims of labor trafficking.

AFTER RECEIVING FULL CREDIT FOR ACHIEVING THE POLICY GOAL SET OUT IN AN APPLICABLE policy goal, states will be eligible for extra credit if that same protective policy is extended to youth age 18+ and/or child labor trafficking victims. Extra credit only applies to the policy goals listed below. States can earn up to 1 point of extra credit per policy goal with a max of 5 points for policy goals extended to youth age 18+ and a max of 5 points for components extended to child labor trafficking victims (i.e. a max of 10 points total).



EXTENSION TO YOUTH AGE 18+

IN ITS LANDMARK DECISION IN *Roper v. Simmons*, the United States Supreme Court recognized that “[t]he qualities that distinguish juveniles from adults do not disappear when an individual turns 18.”¹ This statement shows an important acknowledgment that the transition into adulthood is not an immediate and singular moment that occurs at the point of turning 18 but, instead, a gradual transition that can take place over many years. This is supported by neurobiology, which has revealed that a person’s brain does not fully develop until their early to mid-twenties.² It is also supported by a growing body of research showing that 18 to 24-year-olds share many developmental characteristics with those under 18.³ Moreover, according to a Congressional Research Service Report, youth up to age 24 are still transitioning to adulthood due to cultural and economic trends that have extended adolescence.⁴

In recognition that youth, and in particular vulnerable youth, face barriers and continued vulnerability beyond the age of 18, federal anti-trafficking legislation and programming have created mechanisms for response to youth age 18+. The Preventing Sex Trafficking and Strengthening Families Act (2014) provided states with

the option of including any young person up to age 26 within child welfare’s policies and procedures addressing screening, documentation, and service response for child sex trafficking victims or those at risk of victimization.⁵ The Justice for Victims of Trafficking Act (2015) also allowed states to define the term “child” to include persons under the age of 24, allowing states to receive funding for child abuse prevention and treatment programs for youth of that age.⁶ Therefore, the importance of policy that specifically addresses youth age 18+ and offers support and protections to this population is acknowledged not only in federal law but also by the U.S. Supreme Court and is supported by neurobiology and research on developmental characteristics.

Further, it is particularly important for state lawmakers to consider the close connection between commercially sexually exploited children and youth. The commercial sexual exploitation of children is inherently linked with the sex trade at large.⁷ According to a national survey of survivors of child commercial sexual exploitation conducted by THORN, the majority of participants entered the commercial sex industry at age 15; one in six entered before the age of 12.⁸ Therefore, many adults active in the commercial sex industry entered as children.⁹

Vulnerabilities that increase risk of initial victimization and revictimization do not disappear at 18, and, in fact, these vulnerabilities could be exacerbated by a decrease in supports and protections for those over 18 years of age. Importantly, the trauma resulting from sex trafficking and commercial sexual exploitation also does not

stop at age 18. As a result, supports and protections that are offered to child sex trafficking and commercially sexually exploited children in state law, including screening and identification efforts, non-criminalization responses, funding, non-punitive service responses, and victim protections, should be extended to youth age 18+.

ELIGIBLE COMPONENTS:

| | |
|------------|---|
| 2.3 | State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking. |
| 2.4 | State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking. |
| 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. |
| 2.8 | State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. |
| 2.9 | Juvenile court jurisdiction aligns with international human rights standards. |
| 3.1 | State law provides child sex trafficking victims with access to specialized services through a non-punitive system. |
| 3.2 | State law provides for a survivor-centered multi-disciplinary team response to child sex trafficking cases. |
| 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. |
| 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. |
| 4.5 | State law provides child sex trafficking victims with a trafficking-specific civil remedy. |
| 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. |
| 5.1 | State law provides a child sex trafficking-specific hearsay exception that applies to non-testimonial evidence to reduce reliance on victim testimony. |
| 5.2 | State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense. |
| 5.3 | Child sex trafficking victims have access to victim protections in the criminal justice system. |
| 5.4 | State law provides for privileged communications between caseworkers and child sex trafficking victims. |



EXTENSION TO CHILD LABOR TRAFFICKING VICTIMS

THE INTERSECTION OF SEX trafficking and labor trafficking victimization is important for state law-

makers to understand and consider as they develop mechanisms for protecting and supporting vulnerable populations. One direct intersection, as multiple studies have shown, is that some minors and young adults experience sex and labor trafficking polyvictimization. Commercially sexually exploited (CSE) children have also been forced and coerced into various forms of labor, such as drug dealing, working in flea markets, commission-based sales jobs, driving other youth, and other sex-trade related labor.¹⁰ This polyvictimization often occurs simultaneously but also may occur at different points in time. A study completed on children with sex and labor trafficking allegations investigated through child welfare revealed that 14.7% of children with a history of labor or sex trafficking allegations had subsequent investigations for alleged sex trafficking victimization.¹¹ The frequent intersection between child sex and child labor trafficking highlights the importance of implementing state-level responses for both of these vulnerable populations.

States should also consider affording many of the same protections to child labor trafficking victims based on the similar dynamics between sex and labor trafficking. Factors that create vulnerability to victimization as well as trauma and the psychological impact of child labor

trafficking victimization can resemble those for child sex trafficking. Labor and sex traffickers often target people “who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities.”¹² Individual risk factors such as a history of sex abuse and mental health issues also increase risk for both forms of trafficking.¹³ In the aforementioned study on children with human trafficking allegations, data showed that, similar to CSE, children with labor trafficking allegations had extensive abuse histories but actually had higher rates of additional forms of abuse or neglect co-occurring with their trafficking victimization.¹⁴

Additionally, coercive and fraudulent recruitment tactics often look similar for both sex and labor trafficking; coercive tactics by the trafficker may also continue throughout the trafficking and victims of both labor and sex trafficking may bond with their traffickers.¹⁵ As with sex trafficking, love, community, family, and well-being can be used as mechanisms for control in some forms of labor trafficking; these coercive tactics can result in trauma and serious psychological harm.¹⁶

Accordingly, supports and protections that are offered to child sex trafficking and CSE children in state law, including non-criminalization responses, funding, non-punitive service responses, victim protections, and access to justice, should be extended to child labor trafficking victims.

ELIGIBLE COMPONENTS:

| | |
|-------------|---|
| 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. |
| 2.8 | State law provides child sex trafficking victims with an affirmative defense to violent felonies 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. |
| 3.1 | State law provides child sex trafficking victims with access to specialized services through a non-punitive system. |
| 3.5 | State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement. |
| 4.1 | State law allows trafficking victims to seek emergency civil orders of protection. |
| 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. |

| | |
|-----|---|
| 4.3 | Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization. |
| 4.4 | State law mandates restitution for child sex trafficking and commercial sexual exploitation of children (CSEC) offenses. |
| 4.5 | State law provides child sex trafficking victims with a trafficking-specific civil remedy. |
| 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. |
| 5.1 | State law provides a child sex trafficking-specific hearsay exception that applies to non-testimonial evidence to reduce reliance on victim testimony. |
| 5.2 | State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense. |
| 5.3 | Child sex trafficking victims have access to victim protections in the criminal justice system. |
| 5.4 | State law provides for privileged communications between caseworkers and child sex trafficking victims. |

-
- 1 Roper v. Simmons, 543 U.S. 551, 574 (2005).
 - 2 Frances E. Jensen, MD & Amy E. Nutt, *The Teenage Brain: A Neuroscientist's Survival Guide to Raising Adolescents and Young Adults* (1st ed. 2015).
 - 3 Karen U. Lindell, Esq. & Katrina L. Goodjoint, Esq., RETHINKING JUSTICE FOR EMERGING ADULTS: SPOTLIGHT ON THE GREAT LAKES REGION (2020) <https://jlc.org/sites/default/files/attachments/2020-09/JLC-Emerging-Adults-9-2.pdf> (last visited Nov. 11, 2020).
 - 4 Vulnerable Youth: Background and Policies, Cong. Res. Serv., RL33975 (updated Jan. 30, 2018).
 - 5 Preventing Sex Trafficking and Strengthening Families Act (PSTSFA) of 2014, Pub. L. No. 183, 128 Stat. 1919 (2014).
 - 6 Justice for Victims of Trafficking Act (JVTA) of 2015, Pub. L. No. 114-22, 129 Stat. 227 (2015).
 - 7 Debra Haak, *Re(de)fining Prostitution and Sex Work: Conceptual Clarity for Legal Thinking*, 40 Windsor Rev. Legal & Soc. Issues 67, 97 (2019).
 - 8 Dr. Vanessa Bouché, *Survivor Insights: The Role of Technology in Domestic Minor Sex Trafficking*, THORN (2018) <https://www.thorn.org/survivor-insights/> (last visited Nov. 16, 2020).
 - 9 Maureen O'Hara, *Making Pimps and Sex Buyers Visible: Recognising the Commercial Nexus in Child Sexual Exploitation*, 39 Critical Soc. Pol'y 108, 115 (2019). A review of recent studies reveals that globally, nearly half of study participants were minors when they entered the commercial sex industry. In the UK, anywhere from 32%-64% of adults had entered the commercial sex industry as minors. Maddy Coy, *Joining the Dots on Sexual Exploitation of Children and Women: A Way Forward for UK Policy Responses*, 36 Critical Soc. Pol'y 572, 574 (2016).
 - 10 Deborah A. Gibbs, Sue Aboul-Hosn & Marianne N. Kluckman, *Child Labor Trafficking Within the US: A First Look at Allegations Investigated by Florida's Child Welfare Agency*, J. OF HUMAN TRAFFICKING, Apr. 2019 at 6; Laura T. Murphy, *Labor and Sex Trafficking Among Homeless Youth 4-8* (2016).
 - 11 Gibbs et al., *supra* note 10, at 10.
 - 12 Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464.
 - 13 Murphy, *supra* note 10, at 8.
 - 14 Gibbs et al., *supra* note 10, at 10.
 - 15 Elizabeth Hopper, Ph.D. & Jose Hidalgo, M.D., *Invisible Chains: Psychological Coercion of Human Trafficking Victims*, IHRLR, June 2006, at 187. <https://www.stu.edu/Portals/Law/docs/human-rights/ihrlr/volumes/1/185-209-ElizabethHopperandJoseHidalgo-InvisibleChainsPsychologicalCoercionofHumanTraffickingVictims.pdf> (last visited Nov. 13, 2020).
 - 16 Murphy, *supra* note 10, at 28.