

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 Colorado’s laws related to both criminalization and victim protections while providing recommendations for addressing gaps in the law.<sup>1</sup>



## 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.

Following federal precedent, Colorado’s human trafficking law could apply to buyers of commercial sex with minors based on the term “obtains.”<sup>2</sup> Specifically, Colo. Rev. Stat. Ann. § 18-3-504(2)(a)(I) (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude) states, “A person commits human trafficking of a minor for sexual servitude if the person . . . [k]nowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity.” Pursuant to Colo. Rev. Stat. Ann. § 18-3-504(3), “A person does not need to receive any of the proceeds of any commercial sexual activity to commit an offense described in this section,” indicating that the Colorado General Assembly intended to apply the statute to any person involved in a trafficking offense.

<sup>1</sup> Evaluations of state laws are based on legislation enacted as of August 1, 2022.

<sup>2</sup> 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 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.

However, to ensure buyers are held accountable as sex trafficking offenders, the trafficking law should be amended to expressly apply to persons who “patronize” a minor for commercial sex.

- 1.1.1 Recommendation: Amend Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude) to clarify that buyer conduct is included as a violation of Colo. Rev. Stat. Ann. § 18-3-504.

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

Colorado law criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Colo. Rev. Stat. Ann. § 18-7-406(1) (Patronizing a prostituted child),

Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child:

- (a) Engages in an act which is prostitution of a child<sup>3</sup> or by a child,<sup>4</sup> as defined in section 18-7-401 (6) or (7) [Definitions]; or
- (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child, as defined in section 18-7-401 (6) or (7).

Additionally, Colo. Rev. Stat. Ann. § 18-7-402(1) (Soliciting for child prostitution) states,

A person commits soliciting for child prostitution if he:

- (a) Solicits another for the purpose of prostitution of a child or by a child;
- (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or
- (c) Directs another to a place knowing such direction is for the purpose of prostitution of a child or by a child.

Lastly, Colo. Rev. Stat. Ann. § 18-7-405.5(1) (Inducement of child prostitution) states, “Any person who by word or action, other than conduct specified in section 18-7-403 (1)(a) [Pandering of a child], induces a child to engage in an act which is prostitution by a child, as defined in section 18-7-401 (6) [Definitions], commits inducement of child prostitution.”

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<sup>3</sup> Colo. Rev. Stat. Ann. § 18-7-401(7) (Definitions) defines “prostitution of a child” as follows:

[E]ither inducing a child to perform or offer or agree to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not the child’s spouse by coercion or by any threat or intimidation or inducing a child, by coercion or by any threat or intimidation or in exchange for money or other thing of value, to allow any person not the child’s spouse to perform or offer or agree to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with or upon such child. Such coercion, threat, or intimidation need not constitute an independent criminal offense and shall be determined solely through its intended or its actual effect upon the child.

<sup>4</sup> Colo. Rev. Stat. Ann. § 18-7-401(6) defines “prostitution by a child” as follows:

[E]ither a child performing or offering or agreeing to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not the child’s spouse in exchange for money or other thing of value or any person performing or offering or agreeing to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any child not the person’s spouse in exchange for money or other thing of value.

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

Colorado’s CSEC laws address an array of trafficker conduct. Pursuant to Colo. Rev. Stat. Ann. § 18-7-403.5 (Procurement of a child), “Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of prostitution of the child commits procurement of a child, which is a class 3 felony.”

Further, Colo. Rev. Stat. Ann. § 18-7-405 (Pimping of a child) states, “Any person who knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution commits pimping of a child, which is a class 3 felony.”

Colo. Rev. Stat. Ann. § 18-7-403 (Pandering of a child) prohibits a person from doing “any of the following for money or other thing of value . . . : (a) Inducing a child by menacing or criminal intimidation to commit prostitution; or (b) Knowingly arranging or offering to arrange a situation in which a child may practice prostitution.” Additionally, Colo. Rev. Stat. Ann. § 18-7-405.5(1) (Inducement of child prostitution) states, “Any person who by word or action, other than conduct specified in section 18-7-403 (1)(a) [Pandering of a child], induces a child to engage in an act which is prostitution by a child, as defined in section 18-7-401 (6) [Definitions], commits inducement of child prostitution.”

Colo. Rev. Stat. Ann. § 18-7-402(1) (Soliciting for child prostitution) provides,

A person commits soliciting for child prostitution if he:

- (a) Solicits another for the purpose of prostitution of a child or by a child;
- (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or
- (c) Directs another to a place knowing such direction is for the purpose of prostitution of a child or by a child.

Lastly, Colo. Rev. Stat. Ann. § 18-5.5-102(1)(h) (Cybercrime) states, “A person commits cybercrime if the person knowingly . . . [s]olicits or offers to arrange a situation in which a minor may engage in prostitution, by means of using a computer, computer network, computer system, or any part thereof.”

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

Colorado law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Colo. Rev. Stat. Ann. § 18-3-504(c) (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude),

In any prosecution under this subsection (2),<sup>5</sup> it is not a defense that:

- .....
- (III) The defendant did not know the minor's age or reasonably believed the minor to be eighteen years of age or older; or
- (IV) The minor or another person represented the minor to be eighteen years of age or older.

Further, Colo. Rev. Stat. Ann. § 18-7-407 (Criminality of conduct) states, “In any criminal prosecution under sections 18-7-402 to 18-7-407 [including soliciting for child prostitution, pandering of a child, procurement of a

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<sup>5</sup> Colo. Rev. Stat. Ann. § 18-3-504(2) criminalizes human trafficking of a minor for sexual servitude.

child, keeping a place of child prostitution, pimping of a child, and patronizing a prostituted child], it shall be no defense that the defendant did not know the child's age or that he reasonably believed the child to be eighteen years of age or older.”

**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, Colorado’s criminal attempt statute, Colo. Rev. Stat. Ann. § 18-2-101 (Criminal attempt), could provide prosecutors with an alternative avenue to prosecute those cases. Colo. Rev. Stat. Ann. § 18-2-101(1) states in part, “Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be . . . .” 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.

Colorado’s trafficking law allows for business entity liability but does not provide for a business-specific penalty scheme. Pursuant to Colo. Rev. Stat. Ann. § 18-3-504(2)(a) (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude),

A person commits human trafficking of a minor for sexual servitude if the person:

- (I) Knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity; or
- (II) Knowingly advertises, offers to sell, or sells travel services that facilitate an activity prohibited pursuant to subsection (2)(a)(I) of this section.

For purposes of criminalization under Colo. Rev. Stat. § 18-3-504, Colo. Rev. Stat. § 18-3-502(9) (Definitions) defines “person” as having the same meaning as set forth in Colo. Rev. Stat. § 2-4-401(8) (Definitions), which states, “‘Person’ means any individual, corporation, government or governmental subdivision or agency, business trust, limited liability company, partnership, association, or other legal entity.” Accordingly, business entities can be held liable for a human trafficking violation.

Despite allowing for business entity liability, a violation of Colo. Rev. Stat. § 18-3-504(2) is punishable as a class 2 felony, carrying penalties most pertinent to individuals. Colo. Rev. Stat. § 18-3-504(b).

- 1.6.1 Recommendation: Amend state law to provide for 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.

Colorado law levies financial penalties on sex trafficking and CSEC offenders; although a mandatory surcharge will be directed into a victim services fund, a percentage of forfeited assets is not.

Colo. Rev. Stat. Ann. § 18-24-102 (Surcharge) imposes a mandatory surcharge on offenders convicted of a crime against a child, stating,

- (1) Each person who is convicted of a crime against a child<sup>6</sup> shall be required to pay a surcharge to the clerk of the court for the judicial district in which the conviction occurs.
- (2) Surcharges pursuant to subsection (1) of this section are in the following amounts:
  - (a) For each class 2 felony of which a person is convicted, except as described in subsection (3) of this section, one thousand five hundred dollars;
  - (b) For each class 3 felony of which a person is convicted, one thousand dollars;
  - (c) For each class 4 felony of which a person is convicted, five hundred dollars;
  - (d) For each class 5 felony of which a person is convicted, three hundred seventy-five dollars;
  - (e) For each class 6 felony of which a person is convicted, two hundred fifty dollars;
  - (f) For each class 1 misdemeanor of which a person is convicted, two hundred dollars;
  - (g) For each class 2 misdemeanor of which a person is convicted, one hundred fifty dollars; and
  - (h) For each class 3 misdemeanor of which a person is convicted, seventy-five dollars.
- (3) For the purposes of subsection (2)(a) of this section, if the class 2 felony of which the person is convicted is for human trafficking of a minor for involuntary servitude, as described in section 18-3-503, or for human trafficking of a minor for sexual servitude, as described in section 18-3-504, then the person is required to pay a surcharge in the amount of three thousand dollars.

Colo. Rev. Stat. Ann. § 18-24-103 (Collection and distribution of funds – Child abuse investigation surcharge fund – Creation) directs the surcharge, in part, to the Child Abuse Investigation Surcharge Fund for training, technical assistance, and/or distribution to organizations the coordinate a multidisciplinary team response for child sexual abuse intervention. Specifically, Colo. Rev. Stat. Ann. § 18-24-103(1)–(2) states,

- (1) The clerk of the court shall allocate the surcharge required by section 18-24-102 as follows:
  - (a) Five percent shall be retained by the clerk of the court for administrative costs incurred pursuant to this subsection (1). Such amount retained shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6), C.R.S.
  - (b) Ninety-five percent shall be transferred to the state treasurer, who shall credit the same to the child abuse investigation surcharge fund created pursuant to subsection (2) of this section.
- (2)
  - (a) There is hereby created in the state treasury the child abuse investigation surcharge fund that shall consist of moneys received by the state treasurer pursuant to this section. The moneys in the fund shall

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<sup>6</sup> Colo. Rev. Stat. Ann. § 18-24-101(2) (Definitions) defines “crime against a child” as

any offense listed in section 18-3-411 [Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition], or criminal attempt, conspiracy, or solicitation to commit any of those offenses, and any of the following offenses, or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

- .....
- (g) Human trafficking of a minor for involuntary servitude, in violation of section 18-3-503; or
  - (h) Human trafficking of a minor for sexual servitude, in violation of section 18-3-504.

In turn, Colo. Rev. Stat. Ann. § 18-3-411 defines “unlawful sexual offense,” in part, as follows,

human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; unlawful electronic sexual communication, as described in section 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

be subject to annual appropriation by the general assembly to the division of criminal justice in the department of public safety for distribution to the state chapter of a nonprofit or not-for-profit organization that coordinates programs that offer a multidisciplinary team response for child sexual abuse intervention in child-friendly, child-appropriate facilities, referred to in this section as the "state chapter".

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(a.3) The state chapter may use a portion of the moneys that it receives pursuant to paragraph (a) of this subsection (2) for training and technical assistance to facilitate the coordination of programs that offer a multidisciplinary team response for child sexual abuse intervention in child-friendly, child-appropriate facilities. The state chapter shall distribute the remainder of the moneys directly to the programs.

(a.5) Each program that receives money from the fund must:

(I) Include in the services provided forensic interviews, therapeutic intervention, medical evaluations, victim advocacy, case tracking, and case review;

(II) Have a signed interagency agreement and protocol with the law enforcement agencies, the district attorney's office, and the county department of human or social services in the jurisdiction where the program is operating;

(III) Meet the national performance standards of a national accrediting body that requires

programs to satisfy the criteria described in subparagraphs (I) and (II) of this paragraph (a.5); and

(IV) Satisfy the accountability and performance standards established by the division pursuant to subparagraph (III) of paragraph (a.1) of this subsection (2).

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Further, Colo. Rev. Stat. Ann. § 16-13-303(1), (3) (Class 1 public nuisance) expressly provides for asset forfeiture in trafficking and CSEC cases, stating,

(1) Every building or part of a building including the ground upon which it is situate and all fixtures and contents thereof, every vehicle, and any real property shall be deemed a class 1 public nuisance when:

(a) Used as a public or private place of prostitution or used as a place where the commission of soliciting for prostitution, as defined in section 18-7-202, C.R.S.; pandering, as defined in section 18-7-203, C.R.S.; keeping a place of prostitution, as defined in section 18-7-204, C.R.S.; pimping, as defined in section 18-7-206, C.R.S.; or human trafficking, as described in section 18-3-503 or 18-3-504, C.R.S., occurs;

.....

(g) Used for prostitution of a child, as defined in section 18-7-401, C.R.S., or used as a place where the commission of soliciting for child prostitution, as defined in section 18-7-402, C.R.S., pandering of a child, as defined in section 18-7-403, C.R.S., keeping a place of child prostitution, as defined in section 18-7-404, C.R.S., pimping of a child, as defined in section 18-7-405, C.R.S., or inducement of child prostitution, as defined in section 18-7-405.5, C.R.S., occurs;

(h) Used for the sexual exploitation of children pursuant to part 4 of article 6 of title 18, C.R.S.;

.....

(i) Used in the commission of any felony not otherwise included in this section;

.....

(3)

.....

(d) All equipment of any kind, including but not limited to computers and any type of computer hardware, software, or other equipment, used in committing sexual exploitation of a child, as described in section 18-6-403, or cybercrime, as described in section 18-5.5-102.

Disposition of forfeited property is governed by Colo. Rev. Stat. Ann. § 16-13-311(1), (3)(a)<sup>7</sup> (Disposition of seized personal property), which states,

(1) Any personal property subject to seizure, confiscation, forfeiture, or destruction under the provisions of this part 3, and which is seized as a part of or incident to proceedings under this part 3 for which disposition is not provided by another statute of this state, shall be disposed of as provided in this section.

.....

(3)

(a) . . . Property forfeited pursuant to this section or proceeds therefrom must be distributed or applied in the following order:

(I) To payment of the balances due on any liens perfected on or before the date of seizure preserved by the court in the forfeiture proceedings, in the order of their priority;

(II) To compensate an innocent partial owner for the fair market value of his or her interest in the property;

(III) To any person who suffers bodily injury, property damage, or property loss as a result of the conduct constituting a public nuisance that resulted in such forfeiture, if said person petitions the court therefor prior to the hearing dividing the proceeds pursuant to this section and the court finds that such person suffered said damages as a result of the subject acts that resulted in the forfeiture;

(IV) To the law enforcement agency in possession of the property for reasonable fees and costs of sale, maintenance, and storage of the property;

(V) To the district attorney for actual and reasonable expenses related to the costs of prosecuting the forfeiture proceeding and title transfer not to exceed ten percent of the value of the property;

(VI) One percent of the value of the property to the clerk of the court for administrative costs associated with compliance with this section;

(VII) The balance must be delivered, upon order of the court, as follows:

(A) Fifty percent to the general fund of the governmental body or bodies with budgetary authority over the seizing agency for public safety purposes or, if the seizing agency was a multijurisdictional task force, fifty percent to be distributed in accordance with the appropriate intergovernmental agreement;

(B) Twenty-five percent to the managed service organization contracting with the behavioral health administration in the department of human services serving the judicial district where the forfeiture proceeding was prosecuted to fund detoxification and substance use disorder treatment. Money appropriated to the managed service organization must be in addition to, and not be used to supplant, other funding appropriated to the behavioral health administration; and

(C) Twenty-five percent to the law enforcement community services grant program fund, created pursuant to section 24-32-124 (5) [Law enforcement community services grant program – Committee – Legislative declaration – Definitions – Repeal].

As noted above, 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.

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<sup>7</sup> The text of Colo. Rev. Stat. Ann. § 16-13-311 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1278 during the 2022 Regular Session of the Colorado state legislature (effective August 10, 2022).



## ISSUE 2: Identification of & Response to Victims

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**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. Colo. Rev. Stat. Ann. § 18-3-502(12) (Definitions) defines “victim” as “a person who is alleged to have been, or who has been, subjected to human trafficking, as described in . . . section 18-3-504 [Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude].” Colo. Rev. Stat. Ann. § 18-3-504 does not require third party control because it can apply directly to buyers of commercial sex with minors based on federal precedent.<sup>8</sup>

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

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

Colorado law does not provide policy guidance that facilitates appropriate responses to foreign national child sex trafficking victims.

2.2.1 Recommendation: Statutorily provide policy guidance that facilitates 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.

Colorado law requires child welfare to conduct trauma-informed CSEC screening of system-involved children and youth who are at risk of sex trafficking. Colo. Rev. Stat. Ann. § 19-3-317 (Screening tool – Human trafficking) states,

On and after January 1, 2017, pursuant to the federal “Preventing Sex Trafficking and Strengthening Families Act”, Pub.L. 113-183, the department and each county department, as defined in section 19-1-103, shall implement a uniform screening tool that includes questions that are intended to identify children who are victims of human trafficking of a minor for sexual servitude, as described in section 18-3-504, or commercial sexual exploitation of a child, or who are at risk of being such victims.

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<sup>8</sup> See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Colo. Rev. Stat. Ann. § 18-3-504.



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

Colorado 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: Statutorily require 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 and establishes a services-referral protocol as an alternative to arrest.

Colorado law prohibits the criminalization of some, but not all, minors for prostitution offenses. While the core prostitution offense, Colo. Rev. Stat. Ann. § 18-7-201 (Prostitution prohibited), is age neutral, applying equally to minors and adults, Colo. Rev. Stat. Ann. § 18-7-209 (Immunity from prostitution-related offenses – Victim – Human trafficking of a minor for involuntary servitude – Human trafficking of a minor for sexual servitude)<sup>9</sup> provides,

If probable cause exists to believe that the minor charged with a prostitution-related activity pursuant to section 18-7-201, 18-7-202 [Soliciting for prostitution], 18-7-204 [Keeping a place of prostitution], or 18-7-207 [Prostitute making display] or a prostitution-related offense pursuant to a county or municipal ordinance was a victim of human trafficking of a minor for involuntary servitude, pursuant to 18-3-503(2), or human trafficking of a minor for sexual servitude, pursuant to section 18-3-504(2), at the time of the offense being charged, the minor is immune from criminal liability or juvenile delinquency proceedings for such charges.

In addition to the protections provided under Colo. Rev. Stat. Ann. § 18-7-209, Colorado law requires law enforcement officers to refer all suspected cases of child sex trafficking to child welfare for services and support. Colo. Rev. Stat. Ann. § 18-7-201.4 (Victim of human trafficking of a minor for sexual servitude – Provision of services – Reporting) states,

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<sup>9</sup> In addition to the protections provided under Colo. Rev. Stat. Ann. § 18-7-209, Colo. Rev. Stat. Ann. § 18-1-712.5(2) (Immunity for sex workers and persons who are victims of human trafficking for sexual servitude and who suffer or report an assault – Definition) extends non-criminalization protections to persons who, in the course of engaging in conduct that violates the prostitution law, seeks assistance from law enforcement or a medical provider. It states,

A person is immune from arrest and prosecution for prostitution as described in section 18-7-201, soliciting for prostitution as described in section 18-7-202, and a prostitute making display as described in section 18-7-207, if the person seeks assistance from a law enforcement officer, the 911 system, or a medical provider and if the evidence for the charge of prostitution, soliciting prostitution, or a prostitute making display was obtained as a result of the person seeking assistance, as a result of the need for assistance, or as a result of the reporting of assistance. This subsection (2) also applies to equivalent municipal charges and arrests.

Colo. Rev. Stat. Ann. § 18-1-712.5(1) defines “person” as follows:

- (a) A person who is the victim of an offense set forth in subsection (3) of this section [including both sex and labor trafficking];
- (b) A person who is a victim of human trafficking of a minor for sexual servitude pursuant to section 18-3-504; or
- (c) A witness to an offense set forth in subsection (3) of this section.

The text of Colo. Rev. Stat. Ann. § 18-1-712.5 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1288 during the 2022 Regular Session of the Colorado state legislature (effective May 2, 2022).

If a law enforcement officer encounters a person who is under eighteen years of age and who is engaging in any conduct that would be a violation of section 18-7-201, 18-7-202, 18-7-204, 18-7-207 or a prostitution-related offense pursuant to a county or a municipal ordinance and there is probable cause to believe that the minor is a victim of human trafficking for sexual servitude pursuant to section 18-3-504, the law enforcement officer or agency shall immediately report a suspected violation of human trafficking of a minor for sexual servitude to the appropriate county department of human or social services or the child abuse reporting hotline system created pursuant to section 26-5-111. The county department of human or social services shall subsequently follow the reporting requirements set forth in section 19-3-308(4)(c) [Action upon report of intrafamilial, institutional, or third-party abuse – Investigations – Child protection team – Rules].

Further, law enforcement officers are permitted to take suspected child sex trafficking victims into protective custody following a child welfare investigation. Colo. Rev. Stat. Ann. § 19-3-308(4)(c) provides,

If, at any time after the commencement after an investigation, the county department has reasonable cause to suspect that the child or any other child under the same care is a victim of human trafficking, the county department shall notify the local law enforcement as soon as it is reasonably practicable to do so. If immediate removal is necessary to protect the child or other children under the same care from further abuse, the child or children may be placed in protective custody in accordance with sections 19-3-401(1)(a) [Taking children into custody] and 19-3-405 [Temporary protective custody] . . . .

However, Colorado law limits protections afforded under Colo. Rev. Stat. Ann. § 18-7-209, Colo. Rev. Stat. Ann. § 18-7-201.4, and Colo. Rev. Stat. Ann. § 19-3-308(4)(c) to identified child sex trafficking victims, thus potentially precluding unidentified commercially sexually exploited minors from accessing non-criminalization, temporary protective custody, and service referral responses.

- 2.5.1 Recommendation: Strengthen existing 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.

Although Colorado law does not prohibit the criminalization of child sex trafficking victims for status offenses or for misdemeanors or non-violent felonies committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Colo. Rev. Stat. Ann. § 18-1-713(1) (Victims of human trafficking of a minor for involuntary servitude or sexual servitude – Affirmative defenses) provides,

Except as provided in section 18-7-209 [Immunity from prostitution-related offenses – Victims – Human trafficking of a minor for involuntary servitude – Human trafficking of a minor for sexual servitude], it is an affirmative defense to any charge, other than a class 1 felony, if the minor being charged proves, by a preponderance of the evidence, that he or she was, at the time of the offense:

- (a) A victim of human trafficking of a minor for involuntary servitude pursuant to section 18-3-503 or human trafficking of a minor for sexual servitude pursuant to section 18-3-504; and
  - (b) Forced or coerced into engaging in the criminal act charged.
- 2.6.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for status offenses, and misdemeanors and non-violent felonies 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.

Colorado law prohibits the criminalization of child sex trafficking victims for certain prostitution-related offenses; however, victims can still be charged as sex trafficking offenders or as accomplices alongside their exploiters.

Under Colo. Rev. Stat. Ann. § 18-7-209 (Immunity from prostitution-related offenses – Victims – Human trafficking of a minor for involuntary servitude – Human trafficking of a minor for sexual servitude),

If probable cause exists to believe that a minor charged with a prostitution-related activity pursuant to section . . . 18-7-202 [Soliciting for prostitution],<sup>10</sup> 18-7-204 [Keeping a place of prostitution],<sup>11</sup> or 18-7-207 [Prostitute making display]<sup>12</sup> or a prostitution-related offense pursuant to a county or municipal ordinance was a victim of human trafficking of a minor for involuntary servitude, pursuant to section 18-3-503 (2), or human trafficking of a minor for sexual servitude, pursuant to section 18-3-504 (2), at the time of the offense being charged, the minor is immune from criminal liability or juvenile delinquency proceedings for such charges.

While Colo. Rev. Stat. Ann. § 18-7-209 shields child sex trafficking victims from charges for certain prostitution-related activity, it does not prohibit criminalizing the child for sex trafficking or prostitution-related CSEC offenses committed as a result of their victimization. Victims charged with one or more of those crimes must rely on one of the following affirmative defense laws.

First, Colo. Rev. Stat. Ann. § 18-1-713(1) (Victims of human trafficking of a minor for involuntary servitude or sexual servitude – Affirmative defenses) broadly provides an affirmative defense to any charge except class 1 felonies, stating,

Except as provided in section 18-7-209 [Immunity from prostitution-related offenses – Victims – Human trafficking of a minor for involuntary servitude – Human trafficking of a minor for sexual servitude], it is an affirmative defense to any charge, other than a class 1 felony, if the minor being charged proves, by a preponderance of the evidence, that he or she was, at the time of the offense:

- (a) A victim of human trafficking of a minor for involuntary servitude pursuant to section 18-3-503 or human trafficking of a minor for sexual servitude pursuant to section 18-3-504; and
- (b) Forced or coerced into engaging in the criminal act charged.

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<sup>10</sup> Pursuant to Colo. Rev. Code Ann. § 18-7-202(1) (Soliciting for prostitution),

A person commits soliciting for prostitution if he:

- (a) Solicits another for the purpose of prostitution; or
- (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (c) Directs another to a place knowing such direction is for the purpose of prostitution.

<sup>11</sup> Pursuant to Colo. Rev. Code Ann. § 18-7-204 (Keeping a place of prostitution),

Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of prostitution if he:

- (a) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (b) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

<sup>12</sup> Pursuant to Colo. Rev. Code Ann. § 18-7-207 (Prostitute making display), “Any person who by word, gesture, or action endeavors to further the practice of prostitution in any public place or within public view commits a class 1 petty offense.”

Second, Colo. Rev. Stat. Ann. § 18-3-504(2.5) (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude) provides victims with an affirmative defense to trafficking charges, stating,

It is an affirmative defense to a charge pursuant to subsection (2) of this section if the person being charged can demonstrate by a preponderance of the evidence that, at the time of the offense, he or she was a victim of human trafficking for sexual servitude who was forced or coerced into engaging in the human trafficking of minors for sexual servitude pursuant to subsection (2) of this section.

- 2.7.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for sex trafficking and other commercial sexual exploitation offenses, including accomplice and co-conspirator liability.

**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.

Colorado law provides child sex trafficking victims with an affirmative defense to some, but not all, violent felonies committed as a result of their trafficking victimization. Specifically, Colo. Rev. Stat. Ann. § 18-1-713(1) (Victims of human trafficking of a minor for involuntary servitude or sexual servitude – Affirmative defenses) applies to any charge except a class 1 felony; it states,

Except as provided in section 18-7-209 [Immunity from prostitution-related offenses – Victims – Human trafficking of a minor for involuntary servitude – Human trafficking of a minor for sexual servitude], it is an affirmative defense to any charge, other than a class 1 felony, if the minor being charged proves, by a preponderance of the evidence, that he or she was, at the time of the offense:

- (a) A victim of human trafficking of a minor for involuntary servitude pursuant to section 18-3-503 or human trafficking of a minor for sexual servitude pursuant to section 18-3-504; and
- (b) Forced or coerced into engaging in the criminal act charged.

Colo. Rev. Stat. Ann. § 18-1.3-406(2)(a), (2)(b) (Mandatory sentences for violent crimes – Definitions) defines “crime of violence” as follows:

- (a)
  - (I) “Crime of violence” means any of the crimes specified in subparagraph (II) of this paragraph (a) committed, conspired to be committed, or attempted to be committed by a person during which, or in the immediate flight therefrom, the person:
    - (A) Used, or possessed and threatened the use of, a deadly weapon; or
    - (B) Caused serious bodily injury or death to any other person except another participant.
  - (II) Subparagraph (I) of this paragraph (a) applies to the following crimes:
    - (A) Any crime against an at-risk adult or at-risk juvenile;
    - (B) Murder;
    - (C) First or second degree assault;
    - (D) Kidnapping;
    - (E) A sexual offense pursuant to part 4 of article 3 of this title;
    - (F) Aggravated robbery;
    - (G) First degree arson;
    - (H) First degree burglary;
    - (I) Escape;
    - (J) Criminal extortion; or
    - (K) First or second degree unlawful termination of pregnancy.
- (b)
  - (I) “Crime of violence” also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. For

purposes of this subparagraph (I), “unlawful sexual offense”<sup>13</sup> shall have the same meaning as set forth in section 18-3-411 (1), and “bodily injury” shall have the same meaning as set forth in section 18-1-901 (3)(c).

(II) The provisions of subparagraph (I) of this paragraph (b) shall apply only to felony unlawful sexual offenses.

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<sup>13</sup> Colo. Rev. Stat. Ann. § 18-3-411(1) (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition) defines “unlawful sexual offense” to include sex trafficking, CSEC, and sexual offenses, stating,

As used in this section, “unlawful sexual offense” means enticement of a child, as described in section 18-3-305; sexual assault, as described in section 18-3-402, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the first degree, as described in section 18-3-402, as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the second degree, as described in section 18-3-403 (1)(a), (1)(b), (1)(c), (1)(d), (1)(g), or (1)(h), as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age, or as described in section 18-3-403 (1)(e), as it existed prior to July 1, 2000, when the victim is less than fifteen years of age and the actor is at least four years older than the victim; unlawful sexual contact, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), or (1)(g), when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the third degree, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), or (1)(g), as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault on a child, as described in section 18-3-405; sexual assault on a child by one in a position of trust, as described in section 18-3-405.3; aggravated incest, as described in section 18-6-302; human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; indecent exposure, as described in section 18-7-302; soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; unlawful electronic sexual communication, as described in section 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

(c) As used in this section, “at-risk adult”<sup>14</sup> has the same meaning as set forth in section 18-6.5-102 (2), and “at-risk juvenile”<sup>15</sup> has the same meaning as set forth in section 18-6.5-102 (4).

Accordingly, Colo. Rev. Stat. Ann. § 18-1-713(1) provides child sex trafficking victims with an affirmative defense to any violent felony listed in Colo. Rev. Stat. Ann. § 18-1.3-406(2) except those designated as class 1 felonies.

2.8.1 Recommendation: Amend state law to provide child sex trafficking victims with an affirmative defense to any violent felony committed as a result of their trafficking victimization.

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

Colorado law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While juvenile court jurisdiction extends to all minors under 18 years of age, Colorado law does not establish a minimum age for jurisdictional purposes, permits direct file and transfers to adult criminal court for minors accused of certain offenses or those previously adjudicated or convicted in the adult criminal justice system, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	10 <sup>16</sup>	17	Yes. Minors 16+ years old charged with certain felony offenses or who	Yes. Minors 12+ years old charged with certain offenses.	No.

<sup>14</sup> Colo. Rev. Stat. Ann. § 18-6.5-102(2) (Definitions) defines “at-risk adult” as “any person who is seventy years of age or older or any person who is eighteen years of age or older and is a person with a disability as said term is defined in subsection (11) of this section.” Colo. Rev. Stat. Ann. § 18-6.5-102(11) defines “person with a disability” as follows:

- (a) Is impaired because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness;
- (b) Is unable to walk, see, hear, or speak;
- (c) Is unable to breathe without mechanical assistance;
- (d) Is a person with an intellectual and developmental disability . . . ;
- (e) Has a mental health disorder . . . ;
- (f) Is mentally impaired . . . ;
- (g) Is blind . . . ; or
- (h) Is receiving care and treatment for a developmental disability . . . .

The text of Colo. Rev. Stat. Ann. § 18-6.5-102 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1256 during the 2022 Regular Session of the Colorado state legislature (effective August 10, 2022).

<sup>15</sup> Colo. Rev. Stat. Ann. § 18-6.5-102(4) defines “at-risk juvenile” as “any person who is under the age of eighteen years and is a person with a disability as said term is defined in subsection (11) of this section.” See *supra* note 14 for the definition of “person with a disability.”

<sup>16</sup> However, Colo. Rev. Stat. Ann. § 19-3-304.4 (Pre-adolescent services task force – Duties – Report – Repeal) creates the Pre-adolescent Services Task Force to review service response through the juvenile justice system for purposes of working toward raising the minimum age for juvenile court jurisdiction to 13 years of age. The text of Colo. Rev. Stat. Ann. § 19-3-304.4 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1131 during the 2022 Regular Session of the Colorado state legislature (effective July 1, 2023).

			have a prior felony adjudication or conviction.		
<b>Relevant Statute(s)</b>	Colo. Rev. Stat. Ann. § 19-2.5-103(1) (Jurisdiction)	Colo. Rev. Stat. Ann. § 19-2.5-103 (Jurisdiction)	Colo. Rev. Stat. Ann. § 19-2.5-801 (Direct filing)	Colo. Rev. Stat. Ann. § 19-2.5-802(1)(a) (Transfers)	Colo. Rev. Stat. Ann. § 19-2.5-802(4)(b) (Transfers)

Consequently, some minors may still be subjected to age-inappropriate juvenile court responses due to state laws that: (1) fail to establish a minimum age for juvenile court jurisdiction that aligns international human rights standards; (2) allow some juvenile cases to be 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: Statutorily require 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.

Colorado law defines “abuse” and “child abuse or neglect” to include child sex trafficking. Pursuant to Colo. Rev. Stat. Ann. § 19-1-103(1)(a)(VIII) (Definitions),

“Abuse” or “child abuse or neglect”, as used in part 3 of article 3 of this title 19, means an act or omission in one of the following categories that threatens the health or welfare of a child:

....

(VIII) Any case in which a child is subjected to human trafficking of a minor for involuntary servitude, as described in section 18-3-503 [Human trafficking for involuntary servitude] or human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2) [Human trafficking for sexual servitude].

**EXTRA CREDIT**



Child labor trafficking is included in the definitions of “abuse” and “child abuse or neglect” under Colo. Rev. Stat. Ann. § 19-1-103(1)(a)(VIII), which expressly includes victims of Colo. Rev. Stat. Ann. § 18-3-503 (Human trafficking for involuntary servitude – Human trafficking of a minor for involuntary servitude).

**Policy Goal 2.11** State law allows for child welfare involvement in non-familial child sex trafficking cases without hinging involvement on caregiver fault and provides for an alternative, specialized investigation in those cases.

Colorado’s Children’s Code allows for a child welfare response to non-familial child sex trafficking cases regardless of caregiver fault and provides for a specialized investigation in those cases . Pursuant to Colo. Rev. Stat. Ann. § 19-

3-308(4)(c) (Action upon report of intrafamilial, institutional, or third-party abuse – Investigations – Child protection team – Rules – Report),

Upon the receipt of a report, if the county department assessment concludes that a child has been a victim of intrafamilial, institutional, or third-party abuse or neglect in which he or she has been subjected to human trafficking of a minor for sexual servitude, as described in section 18-3-504, or commercial sexual exploitation of a child, it shall, when necessary and appropriate, immediately offer social services to the child who is the subject of the report and to his or her family, and it may file a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child. If, at any time after the commencement of an investigation, the county department has reasonable cause to suspect that the child or any other child under the same care is a victim of human trafficking, the county department shall notify the local law enforcement agency as soon as it is reasonably practicable to do so. If immediate removal is necessary to protect the child or other children under the same care from further abuse, the child or children may be placed in protective custody in accordance with sections 19-3-401 (1)(a) and 19-3-405. In instances of third-party abuse or neglect as it relates to human trafficking, a county department of human or social services may, but is not required to, interview the person alleged to be responsible for the abuse or neglect or prepare an investigative report pursuant to subsection (5.3)(a) of this section. If a county department elects to interview the third-party individual, it shall first confer with its local law enforcement agency.





## ISSUE 3: Continuum of Care

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**Policy Goal 3.1** State law mandates a process for coordinating access to specialized services for child sex trafficking victims that does not require involvement in child-serving systems.

Colorado law does not mandate a process for coordinating access to specialized, community-based services for child sex trafficking victims that does not require involvement in a child-serving system.

3.1.1 Recommendation: Statutorily mandate a process for coordinating access to specialized services for child sex trafficking victims that does not require involvement in child-serving systems.

**Policy Goal 3.2** State law provides for a survivor-centered multi-disciplinary team response to child sex trafficking cases.

Colorado does not statutorily require a multi-disciplinary team response to child sex trafficking cases.

3.2.1 Recommendation: Statutorily require a multi-disciplinary team response in all cases involving child sex trafficking.

**Policy Goal 3.3** State law requires child welfare to provide access to specialized services for identified sex trafficked children and youth.

Although Colorado law requires child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims, the response is triggered upon receipt of a report alleging trafficking victimization, potentially leaving children who are already system-involved and later disclose or experience commercial sexual exploitation without access to those specialized services if a formal report is not generated. Pursuant to Colo. Rev. Stat. Ann. § 19-3-308(4)(c) (Action upon report of intrafamilial, institutional, or third-party abuse – Investigations – Child protection team – Rules),

Upon the receipt of a report, if the county department assessment concludes that a child has been a victim of intrafamilial, institutional, or third-party<sup>17</sup> abuse or neglect in which he or she has been subjected to human trafficking of a minor for sexual servitude, as described in section 18-3-504, or commercial sexual exploitation of a child,<sup>18</sup> it shall, when necessary and appropriate, immediately offer social services to the child who is the subject of the report and to his or her family, and it may file a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child . . . .

In addition to the response outlined above, foster care prevention services may also be available in familial trafficking cases under Colo. Rev. Stat. Ann. § 19-3-308(13), which states,

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<sup>17</sup> Colo. Rev. Stat. Ann. § 19-1-103(140) (Definitions) defines “third-party abuse” as “a case in which a child is subjected to abuse, as defined in subsection (1) of this section, by any person who is not a parent; stepparent; guardian; legal custodian; spousal equivalent, as defined in subsection (130) of this section, or any other person not included in the definition of ‘intrafamilial abuse’, as defined in subsection (87) of this section.”

<sup>18</sup> Colo. Rev. Stat. Ann. § 19-1-103(28) (Definitions) defines “[c]ommercial sexual exploitation of a child” as “a crime of a sexual nature committed against a child for financial or other economic reasons.”

Upon the receipt of a report of intrafamilial abuse or neglect or human trafficking, or a report that a family may be eligible for foster care prevention services,<sup>19</sup> as defined in section 26-5.4-102(1) [Definitions], the county department may provide foster care prevention services for a child and the parents or kin caregivers of the child when the needs of the child are directly related to the safety, permanent placement, or well-being of the child or to prevent the child from entering the foster care system.

- 3.3.1 Recommendation: Strengthen existing law by requiring child welfare to provide access to specialized services for all child sex trafficking victims without hinging access on whether or not a formal report has been filed.

**Policy Goal 3.4** State law requires the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

Colorado law does not provide access to specialized services for identified sex trafficked children and youth in the juvenile justice system.

- 3.4.1 Recommendation: Statutorily require the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

**Policy Goal 3.5** State law extends foster care services to older foster youth.

Colorado law extends foster care services to youth under 23 years of age under the Foster Youth Successful Transition to Adulthood Grant Program. Colo. Rev. Stat. Ann. § 19-7-314(1), (2) (Foster youth successful transition to adulthood grant program – Creation — Standards – Application –Fund –Advisory board – Duties) provides,

- (1)
- (a) The foster youth successful transition to adulthood grant program is created within the state department. The purpose of the grant program is to create and administer programs that support eligible youth in making a successful transition to adulthood.
  - (b) The state department shall ensure that services are available to eligible youth throughout Colorado and, in order to do so, administer a merit-based application process to select service providers . . . .
  - (c) Youth who meet the following criteria are eligible for services from a program that has received a grant from the grant program:
    - (I) The youth is eighteen years of age or older but less than twenty-three years of age, or the upper age limit established in the federal “Social Security Act”, 42 U.S.C. sec. 677 (a), whichever is greater;
    - (II) The youth was in foster care or adjudicated dependent and neglected on or after the youth’s fourteenth birthday; and
    - (III) The youth voluntarily agrees to participate in the program that is receiving a grant from the grant program.
- (2) There is created in the state treasury the Colorado foster youth successful transition to adulthood grant program fund, referred to in this section as the “fund”. The fund consists of any money that the general assembly may appropriate to the fund. Money in the fund is subject to annual appropriation by the general

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<sup>19</sup> Colo. Rev. Stat. Ann. § 26-54-102(1) (Definitions) defines “foster care prevention services” as

mental health and substance prevention and treatment services, in-home parent skill-based programs, kinship navigator programs, and other programs eligible for reimbursement under the federal “Family First Prevention Services Act” that are trauma-informed, promising, supported or well-supported, and provided to prevent foster care placement.

assembly to the state department for the purpose of providing grants pursuant to this section and for the direct and indirect costs associated with the implementation of this section . . . .

Further, foster care youth under 21 years of age may have access to additional services. Colo. Rev. Stat. Ann. § 26-5-113 (Extended services for former foster care youth) sets out a range of services that former foster care youth can request to support them in becoming self-sufficient adults.<sup>20</sup> Colo. Rev. Stat. Ann. § 26-5-101(4.7)<sup>21</sup> (Definitions) defines “former foster care youth” as follows:

[A] youth at least eighteen years of age but younger than twenty-one years of age who was formerly in the legal custody or legal authority of a county department and who was placed in a certified or noncertified kinship care placement, as defined in section 26-6-903 [Definitions]; a certified or licensed facility; or a foster care home, as defined in section 26-6-903 and certified pursuant to part 9 of article 6 of this title 26.

In addition, Colo. Rev. Stat. Ann. § 19-7-303 establishes the Foster Youth in Transition Program “to provide extended child welfare services to eligible youth eighteen years of age or older but less than twenty-one years of age, or such greater age of foster care eligibility as required by federal law.” Colo. Rev. Stat. Ann. § 19-7-303 further states that “[e]ach county department shall make the transition program available to eligible youth on a voluntary basis” and that “[t]he child welfare services provided through the transition program must be client-directed and developmentally appropriate . . . .”<sup>22</sup>

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<sup>20</sup> Colo. Rev. Stat. Ann. § 26-5-113 (Extended services for former foster care youth) provides,

- (1) A county department may coordinate certain services to former foster care youth who request such services in order to support such former foster care youth in becoming self-sufficient adults. This section is not meant to replace services for foster care youth who remain in the custody of a county department. The determination of whether a youth who is in foster care is ready to leave the custody of the county department remains under the jurisdiction of the court.
- (2) A county department may opt to serve former foster care youth who have been in the custody of the division of youth services if such youth are included in the plan for services for a successful adulthood.
- (3) The department of local affairs may assist a county department in securing available housing vouchers through programs offered by the department of local affairs, such as the homeless solutions program, the housing choice voucher program, or any other appropriate supportive housing program for former foster care youth, specifically between the ages of eighteen and twenty-one, who are experiencing homelessness or imminent risk of homelessness. If appropriations are available, the department of local affairs may assist former foster care youth with security deposits related to housing.
- (4) The managed care entity contracted with for the department of health care policy and financing's statewide managed care system shall assist a county department that opts to serve former foster care youth who are enrolled in medicaid.
- (5) State institutions of higher education and community colleges shall work with the county departments to explore ways to support former foster care youth both financially and through other supportive services. This support includes reviewing the ability to provide tuition assistance and other fee waivers to former foster care youth.
- (6) A county department may support former foster care youth pursuant to this section by developing a plan for services for a successful adulthood and transferring an amount of money out of the county's core services funding and into a fund for services for a successful adulthood.

<sup>21</sup> The text of Colo. Rev. Stat. Ann. § 26-5-101 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1295 during the 2022 Regular Session of the Colorado state legislature (effective July 1, 2022).

<sup>22</sup> Under Colo. Rev. Stat. Ann. § 19-7-305(1) (Available services and supports), the following services and supports must be offered:

- (a) Assistance with enrolling in the appropriate category of medicaid for which the participating youth is eligible;

Pursuant to Colo. Rev. Stat. Ann. § 19-7-304(1), (2)<sup>23</sup> (Eligibility and enrollment), youth will be eligible to participate in the Foster Youth Transition Program as follows:

- (1) An eligible youth is an individual who:
  - (a) Is at least eighteen years of age or older, but less than twenty-one years of age, or such greater age of foster care eligibility as required by federal law;
  - (b) Has a current dependency and neglect case or recent prior foster care or kinship care involvement in at least one of the following ways:
    - (I) The youth was in foster care, as defined in section 19-1-103 [Definitions], on or after the youth's sixteenth birthday;
    - (II) The youth was in noncertified kinship care, as defined in section 19-1-103, on or after the youth's sixteenth birthday and was adjudicated dependent and neglected pursuant to article 3 of this title 19; or
    - (III) The youth turned eighteen years of age when the youth was a named child or youth in a dependency and neglect case open though article 3 of this title 19.
  - (c)
    - (I) Except as provided in subsection (1)(c)(II) of this section, or except as such requirements may be waived by federal law, is engaged in, or intends to engage in, at least one of the following:
      - (A) Completing secondary education or an educational program leading to an equivalent credential;
      - (B) Attending an institution that provides postsecondary or vocational education;
      - (C) Working part- or full-time for at least eighty hours per month; or
      - (D) Participating in a program or activity designed to promote employment or remove barriers to employment.
    - (II) The requirement described in subsection (1)(c)(I) of this section does not apply to a youth who is incapable of engaging in any of the activities described in subsection (1)(c)(I) of this section as a

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- (b) Assistance with securing safe, affordable, and stable housing . . . .
  - (c) Case management services, including the development of a case plan with a roadmap to success for the participating youth, as well as assistance in the following areas, as appropriate, and with the agreement of the participating youth:
    - (I) Provision of resources to assist the participating youth in the transition to adulthood;
    - (II) Obtaining employment or other financial support and enhancing financial literacy;
    - (III) Obtaining a driver's license or other government-issued identification card;
    - (IV) Obtaining appropriate community resources and public benefits;
    - (V) Upon request, and if services are available, referral to services satisfying any juvenile or criminal justice system requirements and assisting with expunging the participating youth's court records, as appropriate, pursuant to section 19-1-306 [Expungement of juvenile delinquent records – Definition];
    - (VI) Pursuing educational goals and applying for financial aid, if necessary;
    - (VII) Upon request, and if services are available, referral to services for obtaining the necessary state court findings and applying for special immigrant juvenile status pursuant to federal law, as applicable, or applying for other immigration relief for which the participating youth may be qualified;
    - (VIII) Obtaining copies of health and education records;
    - (IX) Maintaining and building relationships with individuals who are important to the participating youth, including searching for individuals with whom the participating youth has lost contact; and
    - (X) Accessing information about maternal and paternal relatives, including any siblings.

The text of Colo. Rev. Stat. Ann. § 19-7-305 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1245 during the 2022 Regular Session of the Colorado state legislature (effective August 10, 2022).  
<sup>23</sup> The text of Colo. Rev. Stat. Ann. § 19-7-304 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1245 during the 2022 Regular Session of the Colorado state legislature (effective August 10, 2022).

result of a medical condition that is supported by regularly updated documentation in the youth’s case plan; and

(d) Seeks to enter into or has entered into and is substantially fulfilling the youth’s obligations pursuant to a voluntary services agreement with the appropriate county department.

(2) An individual who is no longer under the jurisdiction of the juvenile court and believes he or she may be an eligible youth may request to participate in the transition program by making a request to the county department where the youth self-attests that the youth resides . . . .

Further, Colo. Rev. Stat. Ann. § 19-7-309.5(2)(b)<sup>24</sup> (Initial hearing) ensures that youth may re-enter services, stating, “If the youth chooses to leave the transition program but later decides support is needed, the youth has the right to begin receiving child welfare services again through the transition program . . . .”

**Policy Goal 3.6** State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.

The Colorado state legislature did not appropriate funds to support the development and provision of specialized, community-based services and care to child and youth survivors.

3.6.1 Recommendation: Appropriate state funds to support the development of and access to specialized, community-based services to child and youth survivors of sex trafficking.

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<sup>24</sup> The text of Colo. Rev. Stat. Ann. § 19-7-309.5 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 22-1245 during the 2022 Regular Session of the Colorado state legislature (effective August 10, 2022).



## ISSUE 4: Access to Justice for Trafficking Survivors

### Policy Goal 4.1 State law allows trafficking victims to seek emergency civil orders of protection.

Colorado law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to Colo. Rev. Stat. Ann. § 13-14-103(1)(c) (Emergency protection orders),

In cases involving a minor child, the juvenile court and the district court have the authority to issue emergency protection orders<sup>25</sup> to prevent an unlawful sexual offense, as defined in section 18-3-411 (1), . . . when requested by the local law enforcement agency, the county department of human or social services, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a minor child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense . . . based upon an allegation of a recent actual unlawful sexual offense . . . or threat of the same . . . .

Colo. Rev. Stat. Ann. § 18-3-411(1) (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition) defines “unlawful sexual offense” to include the following offenses:

[H]uman trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; unlawful electronic sexual communication, as described in section 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

Accordingly, civil orders of protection are available to victims of child sex trafficking. Further, Colo. Rev. Stat. Ann. § 13-14-104.5(4), (7)(a) (Procedure for temporary civil protection order) allows those orders to be granted on an ex parte basis, stating,

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<sup>25</sup> Pursuant to Colo. Rev. Stat. Ann. § 13-14-103(1)(b),

An emergency protection order issued pursuant to this subsection (1) may include:

- (I) Restraining a party from contacting, harassing, injuring, intimidating, threatening, molesting, touching, stalking, sexually assaulting or abusing any other party, a minor child of either of the parties, or a minor child who is in danger in the reasonably foreseeable future of being a victim of an unlawful sexual offense or domestic abuse;
- (II) Excluding a party from the family home or from the home of another party upon a showing that physical or emotional harm would otherwise result;
- (III) Awarding temporary care and control of any minor child of a party involved;
- (IV) Enjoining an individual from contacting a minor child at school, at work, or wherever he or she may be found;
- (V) Restraining a party from molesting, injuring, killing, taking, transferring, encumbering, concealing, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or
- (VI) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult.

(4) A motion for a temporary civil protection order shall be set for hearing at the earliest possible time, which hearing may be ex parte, and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

.....

(7)

(a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider all relevant evidence concerning the safety and protection of the persons seeking the protection order. The court shall not deny a petitioner the relief requested because of the length of time between an act of abuse or threat of harm and the filing of the petition for a protection order . . .

**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 Colorado's crime victims' compensation laws define "victim" broadly enough to include victims of child sex trafficking and CSEC, ineligibility factors may prevent a commercially sexually exploited child from accessing an award.

For purposes of accessing crime victims' compensation, Colo. Rev. Stat. Ann. § 24-4.1-102(10)(a) (Definitions) defines "victim" as follows:

[A]ny of the following persons who suffer property damage, economic loss, injury, or death as a result of a compensable crime<sup>26</sup> perpetrated or attempted in whole or in part in this state:

- (I) Any person against whom a compensable crime is perpetrated or attempted. Such person shall be referred to as a "primary victim".
- (II) Any person who attempts to assist or assists a primary victim;
- (III) Any person who is a relative of a primary victim.

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Colo. Rev. Stat. Ann. § 24-4.1-108(1)(b), (f) (Awarding compensation), to receive an award, a victim must have reported the crime to law enforcement within 72 hours of the crime's commission and file a claim for compensation within 1 year of the crime unless the board finds good cause for failure to do so. Further, Colo. Rev. Stat. Ann. § 24-4.1-108(1)(c) requires the victim to have "cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant [unless] the board has found good cause exists for the failure to cooperate." Lastly, Colo. Rev. Stat. Ann. § 24-4.1-108(1)(e) requires that "[t]he death of or injury to the victim was not substantially attributable to [the victim's] wrongful act or substantial provocation of his assailant."

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<sup>26</sup> Colo. Rev. Stat. Ann. § 24-4.1-102(4)(a)(I) defines "compensable crime" to include the following:

An intentional, knowing, reckless, or criminally negligent act of a person . . . that results in residential property damage to or bodily injury or death of another person or results in loss of or damage to eyeglasses, dentures, hearing aids, or other prosthetic or medically necessary devices and which, if committed by a person of full legal capacity, is punishable as a crime in this state . . .

Colo. Rev. Stat. Ann. § 24-4.1-102(8) defines "injury" as "impairment of a person's physical or mental condition and includes pregnancy."

Despite these ineligibility factors, Colo. Rev. Stat. Ann. § 24-4.1-108(2) authorizes the board to waive any of the requirements for compensation if justice so requires. Because child sex trafficking and CSEC victims are not expressly exempt from the ineligibility factors noted above, however, some commercially sexually exploited children may not have access to an award.

- 4.2.1 Recommendation: Amend state law to 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.

Colorado 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: Amend state law to allow sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

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

Colorado law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Colo. Rev. Stat. Ann. § 18-1.3-603(1) (Assessment of restitution – Corrective orders),

Every order of conviction of a felony, misdemeanor, petty offense, or traffic misdemeanor offense, except any order of conviction for a state traffic misdemeanor offense issued by a municipal or county court in which the prosecuting attorney is acting as a special deputy district attorney pursuant to an agreement with the district attorney's office, shall include consideration of restitution.<sup>27</sup> Each such order shall include one or more of the following:

- (a) An order of a specific amount of restitution be paid by the defendant;
- (b) An order that the defendant is obligated to pay restitution, but that the specific amount of restitution shall be determined within the ninety-one days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined;
- (c) An order, in addition to or in place of a specific amount of restitution, that the defendant pay restitution covering the actual costs of specific future treatment of any victim of the crime; or
- (d) Contain a specific finding that no victim of the crime suffered a pecuniary loss and therefore no order for the payment of restitution is being entered.

Colo. Rev. Stat. Ann. § 18-1.3-602(4)(a) (Definitions) defines victim to “any person aggrieved by the conduct of an offender” but excludes those who are “accountable for . . . a crime arising from the same conduct, criminal episode,

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<sup>27</sup> Colo. Rev. Stat. Ann. § 18-1.3-602(3)(a) (Definitions) defines “restitution” as follows:

[A]ny pecuniary loss suffered by a victim and includes but is not limited to all out-of-pocket expenses, interest, loss of use of money, anticipated future expenses, rewards paid by victims, money advanced by law enforcement agencies, money advanced by a governmental agency for a service animal, adjustment expenses, and other losses or injuries proximately caused by an offender's conduct and that can be reasonably calculated and recompensed in money. “Restitution” does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages.



or plan . . . .” Importantly, Colo. Rev. Stat. Ann. § 18-1.3-602(4)(e) removes this limitation in trafficking cases, stating,

Notwithstanding any other provision of this section, “victim” includes a person less than eighteen years of age who has been trafficked by an offender, as described in section 18-3-503 [Human trafficking for involuntary servitude – Human trafficking of a minor for involuntary servitude] or 18-3-504 [Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude].

Further, Colo. Rev. Stat. Ann. § 18-1.3-603(9) provides, “For a conviction for human trafficking for involuntary servitude, as described in section 18-3-503, or for human trafficking for sexual servitude, as described in section 18-3-504, the court shall order restitution, if appropriate, pursuant to this section even if the victim is unavailable to accept payment of restitution.”

Under Colo. Rev. Stat. Ann. § 16-18.5-109(1), (2) (Declined or unclaimed restitution), even if the victim initially declines restitution or cannot be located when an order for restitution is entered, the victim can receive restitution within 2 years of the final determination of the case.

In addition to the protections noted above, Colo. Rev. Stat. Ann. § 18-3-414(1) (Payment of treatment costs for the victim or victims of a sexual offense against a child) states that, when the victim is under 15 years of age, the offender convicted of an unlawful sexual offense<sup>28</sup> may be required to pay for all or part of the victim’s treatment.

#### EXTRA CREDIT



Colorado law mandates restitution for victims of child labor trafficking under Colo. Rev. Stat. Ann. § 18-1.3-603, which requires offenders convicted of any felony, including a violation of Colo. Rev. Stat. Ann. § 18-3-503 (Human trafficking for involuntary servitude – Human trafficking of a minor for involuntary servitude) to pay victim restitution.

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

Colorado law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Colo. Rev. Stat. Ann. § 13-21-127 (Civil damages for human trafficking and voluntary servitude) states,

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<sup>28</sup> Colo. Rev. Stat. Ann. § 18-3-411 (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition) defines “unlawful sexual offense” to include the following:

[H]uman trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; unlawful electronic sexual communication, as described in section 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

(1) In addition to all other remedies, a victim, as defined in section 18-3-502 (12), C.R.S., is entitled to recover damages proximately caused by any person who commits human trafficking for involuntary servitude, as described in section 18-3-503, C.R.S., or human trafficking for sexual servitude, as described in section 18-3-504, C.R.S.

(2) A conviction for human trafficking for involuntary servitude, as described in section 18-3-503, C.R.S., or human trafficking for sexual servitude, as described in section 18-3-504, C.R.S., is not a condition precedent to maintaining a civil action pursuant to the provisions of this section.

Further, Colo. Rev. Stat. Ann. § 13-20-1202 (Civil cause of action for sexual misconduct against a minor – Exceptions) provides,

(1) A person who is a victim of sexual misconduct<sup>29</sup> that occurred when the victim was a minor may bring a civil action for damages against:

- (a) An actor who committed the sexual misconduct; and
- (b) A managing organization that knew or should have known that an actor or youth-related activity or program posed a risk of sexual misconduct against a minor and the sexual misconduct occurred while the victim was participating in the youth-related activity or program operated or managed by the organization.

(2) The civil action described in this section is in addition to, and does not limit or affect, other actions available by statute or common law, before or after January 1, 2022, and must be pleaded as a separate claim for relief if a complaint also asserts a common law claim for relief.

Notably, for actions filed under Colo. Rev. Stat. Ann. § 13-20-1202, Colo. Rev. Stat. Ann. § 13-20-1205(1) (No contributory negligence – Interest on damages – Limitation on damages) states that “a court or jury shall not allocate any damages awarded in an action brought pursuant to this part 12 in any proportion against a victim of sexual misconduct.”

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<sup>29</sup> Colo. Rev. Stat. Ann. § 13-20-1201(8) (Definitions) defines “sexual misconduct” as follows:

[A]ny conduct that is engaged in for the purpose of the sexual arousal, gratification, or abuse of any person, and that constitutes any of the following:

- (a) A first degree misdemeanor or a felony offense described in part 3 [Kidnapping] or 4 [Unlawful sexual behavior] of article 3 of title 18 or a felony offense described in article 6 [Offenses involving the family relations] or 7 [Offenses relating to morals] of title 18;
- (b) Human trafficking for sexual servitude, as described in section 18-3-504;
- (c) A federal sex offense as defined in the federal “Sex Offender Registration and Notification Act”, 34 U.S.C. sec. 20911 (5)(A)(iii);
- (d) Obscene visual representations of the sexual abuse of children, as described in 18 U.S.C. sec. 1466A;
- (e) Transfer of obscene material to minors, as described in 18 U.S.C. sec. 1470; or
- (f) Attempt or conspiracy to commit sex trafficking of children or by force, fraud, or coercion, as described in 18 U.S.C. sec. 1594.

## EXTRA CREDIT



Colorado law provides sex trafficked youth with a trafficking-specific civil remedy under Colo. Rev. Stat. Ann. § 13-21-127, which expressly applies to all cases involving human trafficking for sexual servitude regardless of the victim's age.



Colorado law provides child labor trafficking victims with a trafficking-specific civil remedy under Colo. Rev. Stat. Ann. § 13-21-127, which expressly applies to cases involving involuntary servitude.

**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.

Prosecutions for child sex trafficking and certain CSEC offenses may commence at any time, and the statute of limitation for filing a trafficking-related civil action is eliminated. Pursuant to Colo. Rev. Stat. Ann. § 16-5-401(1)(a) (Limitation for commencing criminal proceedings and juvenile delinquency proceedings), no criminal statute of limitation applies to “any sex offense against a child” or any “attempt, conspiracy, or solicitation to commit any sex offense against a child.” Colo. Rev. Stat. Ann. § 16-5-401(1)(c)(IV) defines “sex offense against a child” to have the same meaning as “unlawful sexual offense” under Colo. Rev. Stat. Ann. § 18-3-411(1) (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition), which includes the following:

[H]uman trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; unlawful electronic sexual communication, as described in section 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

Regarding civil actions, Colo. Rev. Stat. Ann. § 13-80-103.7(1)–(6)(a) (General limitation of actions – Sexual misconduct – Third-party liability – Definition) provides,

- (1)
  - (a) Notwithstanding any other statute of limitations specified in this article 80 [Limitations of actions], or any other provision of law that can be construed to limit the time period to commence an action described in this section, any civil action based on sexual misconduct, including any derivative claim, may be commenced at any time without limitation.

....

(2) As used in this section, unless the context otherwise requires, “sexual misconduct” means any conduct that forms the basis of a civil action that is engaged in for the purpose of the sexual arousal, gratification, or abuse of any person, and that constitutes any of the following:

- (a) A first degree misdemeanor or a felony offense described in part 3 [Kidnapping] or 4 [Unlawful sexual behavior] of title 18 or a felony offense described in article 6 or 7 of title 18;
- (b) Human trafficking for sexual servitude, as described in section 18-3-504;
- (c) A federal sex offense as defined in the federal “Sex Offender Registration and Notification Act”, 34 U.S.C. sec. 20911 (5)(a)(III);
- (d) Obscene visual representations of the sexual abuse of children, as described in 18 U.S.C. sec. 1466a;
- (e) Transfer of obscene material to minors, as described in 18 U.S.C. sec. 1470; or
- (f) Attempt or conspiracy to commit sex trafficking of children or by force, fraud, or coercion, as described in 18 U.S.C. sec. 1594.

....

- (6)
  - (a) This section also applies to any cause of action arising from factual circumstances that include sexual misconduct that is brought against a person or entity that is not the perpetrator of the sexual misconduct.

Further, under Colo. Rev. Stat. Ann. § 13-20-1203 (Limitation on action – Retroactive application),

- (1) Notwithstanding any other provision of law, a person who was the victim of sexual misconduct that occurred when the victim was a minor and that occurred on or after January 1, 2022, may bring an action pursuant to this part 12 [Actions for sexual misconduct against minors] at any time without limitation.
- (2) A person who was the victim of sexual misconduct that occurred when the victim was a minor and that occurred on or after January 1, 1960, but before January 1, 2022, may bring an action pursuant to this part 12. An action described in this subsection (2) must be commenced before January 1, 2025.



## 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.

Colorado law allows 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. Specifically, Colo. Rev. Stat. Ann. § 18-3-411(3) (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition) states,

An out-of-court statement made by a child, as “child” is defined under the statutes that are the subject of the action, or a person under fifteen years of age if “child” is undefined under the statutes that are the subject of the action, describing all or part of an offense of unlawful sexual behavior, as defined in section 16-22-102 (9) [Definitions], performed or attempted to be performed with, by, on, or in the presence of the child declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the hearsay objection, may be admissible pursuant to section 13-25-129 (2) [Statement of a child – Hearsay exception].

Colo. Rev. Stat. Ann. § 13-25-129(2) (Statement of a child – Hearsay exception) reinforces this protection, stating,

An out-of-court statement made by a child, as child is defined under the statutes that are the subject of the action, or a person under fifteen years of age if child is undefined under the statutes that are the subject of the action, describing all or part of an offense of unlawful sexual behavior, as defined in section 16-22-102 (9), performed or attempted to be performed with, by, on, or in the presence of the child declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the hearsay objection, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

For purposes of protection under Colo. Rev. Stat. Ann. § 18-3-411(3) and Colo. Rev. Stat. Ann. § 13-25-129(2), Colo. Rev. Stat. Ann. § 16-22-102(9) (Definitions) defines “unlawful sexual behavior” as follows:

[A]ny of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

- .....
- (j) Human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2), C.R.S.;
- (j.5) Human trafficking for sexual servitude, as described in section 18-3-504 (1);
- .....
- (n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.;
- (o) Pandering of a child, in violation of section 18-7-403, C.R.S.;
- (p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.;
- (q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.;
- (r) Pimping of a child, in violation of section 18-7-405, C.R.S.;
- (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.;
- (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.;
- .....

Accordingly, a child sex trafficking-specific hearsay exception applies to out-of-court statements. However, the following circumstances set forth under Colo. Rev. Stat. Ann. § 13-25-129(5) must be met:

- (a) The exceptions to the hearsay objection described in subsections (1) to (4) of this section apply only if the court finds in a pretrial hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
- (b) The child either:
  - (I) Testifies at the proceedings; or
  - (II) Is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

**Policy Goal 5.2** State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.

Colorado law allows for testimony by an alternative method, but limitations based on the victim’s age exclude some commercially sexually exploited children from protection. Specifically, Colo. Rev. Stat. Ann. § 16-10-402(1)(a) (Use of closed-circuit television – Child or witness with intellectual and developmental disabilities) allows child sex trafficking victims who are under 12 years of age to testify by closed circuit television (CCTV) regardless of the prosecuted offense, stating,

When a witness at the time of a trial is a child less than twelve years of age . . . , the court may, upon motion of a party or upon its own motion, order that the witness's testimony be taken in a room other than the courtroom and be televised by closed-circuit television in the courtroom if:

- (I) The testimony is taken during the proceeding;
- (II) The judge determines that testimony by the witness in the courtroom and in the presence of the defendant would result in the witness suffering serious emotional distress or trauma such that the witness would not be able to reasonably communicate; and
- (III) Closed-circuit television equipment is available for such use.

Alternatively, in cases involving an unlawful sexual offense, Colo. Rev. Stat. Ann. § 18-3-413(1), (4) (Video tape depositions – Children – Victims of sexual offenses) allows the deposition of a child victim under 15 years of age to be videotaped, and “[i]f the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning of rule 804 (a) of the Colorado rules of evidence, the court may admit the video tape of the victim’s deposition as former testimony under rule 804 (b)(1) of the Colorado rules of evidence.”

Colo. Rev. Stat. Ann. § 18-3-411(1) (Sex offenses against children – Limitation for commencing proceedings – Evidence – Statutory privilege – Definition) defines “unlawful sexual offense” to include the following trafficking and CSEC crimes:

[H]uman trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; . . . or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

Accordingly, victims of child sex trafficking and CSEC may be able to have a videotaped deposition admitted into evidence in lieu of testifying.

However, Colo. Rev. Stat. Ann. § 16-10-402 and Colo. Rev. Stat. Ann. § 18-3-413 only protect children under 12 and 15 years of age, respectively, leaving older minors at increased risk of re-traumatization from testifying.

- 5.2.1 Recommendation: Strengthen existing statutory 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.

	<b>Child sex trafficking victims have the right to a victim advocate</b>	<b>Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom</b>	<b>Child sex trafficking victims’ identifying information is protected from disclosure in court records</b>
<b>Summary</b>	Not statutorily required.	Testifying witnesses may be accompanied by a court facility dog.	Identifying information of child victims of human trafficking and CSEC is protected from disclosure in criminal justice records.
<b>Relevant Statute(s)</b>	None.	Colo. Rev. Stat. Ann. § 16-10-404 (Use of a court facility dog – Definitions)	Colo. Rev. Stat. Ann § 24-72-304(4), (4.5)(a) (Inspection of criminal records)

- 5.3.1 Recommendation: Amend state law to require that child sex trafficking victims have the right to a victim advocate.

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

Colorado law does not provide for privileged communications between caseworkers and child sex trafficking victims.

- 5.4.1 Recommendation: Statutorily provide child sex trafficking-specific caseworker privilege to protect 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.

Colorado law authorizes, but does not mandate, trafficking-specific training for any agency, which would include child welfare; however, such training is contingent on funding. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-523 (Human trafficking prevention training – Repeal),

- (1) The division shall serve as an additional resource to provide training related to human trafficking. The training may include:
  - (a) Train-the-trainer programs;
  - (b) Direct trainings; and
  - (c) Online training programs.
- (2) Upon request, the following entities may receive training from the division:
  - (a) Law enforcement agencies;
  - (b) Organizations that provide direct services to victims of human trafficking;
  - (c) School personnel and parents or guardians of students; and
  - (d) Any other organization, agency, or group that would benefit from such training.
- (3) Training curricula provided by the division must be developed in collaboration with the Colorado human trafficking council created in section 18-3-505 [Human trafficking council – Created – Duties – Repeal].
- ....
- (6) . . . The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.
- (7) This section is repealed, effective September 1, 2023. Before its repeal, this section is scheduled for review in accordance with section 24-34-104 [General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment – Legislative declaration – Repeal].

Further, Colo. Rev. Stat. Ann. § 18-3-505(4)(e) (Human trafficking council – Created – Duties – Repeal) tasks the Colorado Human Trafficking Council with “[d]evelop[ing] training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies.”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by child welfare. However, Colorado law does not statutorily require individuals employed by child welfare to receive such training, and training is contingent on funding.

- 6.1.1 Recommendation: Amend state law to mandate statewide training for child welfare agencies on identification and response to child sex trafficking.

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

Colorado law authorizes, but does not mandate, trafficking-specific training for any agency, which would include juvenile justice agencies; however, such training is contingent on funding. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-523 (Human trafficking prevention training – Repeal),



- (1) The division shall serve as an additional resource to provide training related to human trafficking. The training may include:
  - (a) Train-the-trainer programs;
  - (b) Direct trainings; and
  - (c) Online training programs.
- (2) Upon request, the following entities may receive training from the division:
  - (a) Law enforcement agencies;
  - (b) Organizations that provide direct services to victims of human trafficking;
  - (c) School personnel and parents or guardians of students; and
  - (d) Any other organization, agency, or group that would benefit from such training.
- (3) Training curricula provided by the division must be developed in collaboration with the Colorado human trafficking council created in section 18-3-505 [Human trafficking council – Created – Duties – Repeal].
- ....
- (6) . . . The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.
- (7) This section is repealed, effective September 1, 2023. Before its repeal, this section is scheduled for review in accordance with section 24-34-104 [General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment – Legislative declaration – Repeal].

Further, Colo. Rev. Stat. Ann. § 18-3-505(4)(e) (Human trafficking council – Created – Duties – Repeal) tasks the Colorado Human Trafficking Council with “[d]evelop[ing] training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies.”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by juvenile justice agencies. However, Colorado law does not statutorily require individuals employed by juvenile justice agencies to receive such training, and training is contingent on funding.

- 6.2.1 Recommendation: Amend state law to 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.

Colorado law authorizes, but does not mandate, trafficking-specific training for law enforcement; however, such training is contingent on funding. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-523 (Human trafficking prevention training – Repeal),

- (1) The division shall serve as an additional resource to provide training related to human trafficking. The training may include:
  - (a) Train-the-trainer programs;
  - (b) Direct trainings; and
  - (c) Online training programs.
- (2) Upon request, the following entities may receive training from the division:
  - (a) Law enforcement agencies;
  - (b) Organizations that provide direct services to victims of human trafficking;
  - (c) School personnel and parents or guardians of students; and
  - (d) Any other organization, agency, or group that would benefit from such training.
- (3) Training curricula provided by the division must be developed in collaboration with the Colorado human trafficking council created in section 18-3-505 [Human trafficking council – Created – Duties – Repeal].

....

(6) . . . The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.

(7) This section is repealed, effective September 1, 2023. Before its repeal, this section is scheduled for review in accordance with section 24-34-104 [General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment – Legislative declaration – Repeal].

Further, Colo. Rev. Stat. Ann. § 18-3-505(4)(e) (Human trafficking council – Created – Duties – Repeal) tasks the Colorado Human Trafficking Council with “[d]evelop[ing] training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies.”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by law enforcement. However, law enforcement officers are not statutorily mandated to receive such training nor is the training required to be ongoing, and training is contingent on funding.

- 6.3.1 Recommendation: Amend state law to 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.

Colorado law authorizes, but does not mandate, trafficking-specific training for any group that would benefit from such training, which would include prosecutors; however, such training is contingent on funding. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-523 (Human trafficking prevention training – Repeal),

(1) The division shall serve as an additional resource to provide training related to human trafficking. The training may include:

- (a) Train-the-trainer programs;
- (b) Direct trainings; and
- (c) Online training programs.

(2) Upon request, the following entities may receive training from the division:

- (a) Law enforcement agencies;
- (b) Organizations that provide direct services to victims of human trafficking;
- (c) School personnel and parents or guardians of students; and
- (d) Any other organization, agency, or group that would benefit from such training.

(3) Training curricula provided by the division must be developed in collaboration with the Colorado human trafficking council created in section 18-3-505 [Human trafficking council – Created – Duties – Repeal].

....

(6) . . . The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.

(7) This section is repealed, effective September 1, 2023. Before its repeal, this section is scheduled for review in accordance with section 24-34-104 [General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment – Legislative declaration – Repeal].

Further, Colo. Rev. Stat. Ann. § 18-3-505(4)(e) (Human trafficking council – Created – Duties – Repeal) tasks the Colorado Human Trafficking Council with “[d]evelop[ing] training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies.”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by prosecutors. However, prosecutors are not statutorily mandated to receive such training, and training is contingent on funding.

- 6.4.1 Recommendation: Amend state law to 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.**

Colorado law authorizes trafficking-specific training for school personnel. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-1803(1), (3)(l) (School safety resource center – Created – Duties),

- (1) There is hereby created within the department the school safety resource center to assist schools in preventing, preparing for, responding to, and recovering from emergencies and crisis situations and to foster positive learning environments . . . .  
.....
- (3) The center has the following duties:  
.....
  - (l) To provide materials and training as described in section 24-33.5-1809 [Prevention of child sexual abuse and assault – Resource bank – Training] to personnel in school districts and charter schools, parents, and students regarding the awareness and prevention of child sexual abuse and assault, including human trafficking;

Further, Colo. Rev. Stat. Ann. § 24-33.5-523 (Human trafficking prevention training – Repeal) provides,

- (1) The [Division of Criminal Justice] shall serve as an additional resource to provide training related to human trafficking. The training may include:
  - (a) Train-the-trainer programs;
  - (b) Direct trainings; and
  - (c) Online training programs.
- (2) Upon request, the following entities may receive training from the division:  
.....
  - (c) School personnel and parents or guardians of students; and  
.....
- (3) Training curricula provided by the division must be developed in collaboration with the Colorado human trafficking council created in section 18-3-505 [Human trafficking council – Created – Duties – Repeal].
- (4) When evaluating requests for training, the division shall give priority to requests from areas of the state that have limited access to other training resources.  
.....
- (6) . . . The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.
- (7) This section is repealed, effective September 1, 2023. Before its repeal, this section is scheduled for review in accordance with section 24-34-104 [General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment – Legislative declaration – Repeal].

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by school personnel. However, Colorado law does not statutorily require school personnel to receive such training.

- 6.5.1 Recommendation: Amend state law to mandate trafficking-specific prevention education training for school personnel.

**Policy Goal 6.6** State law mandates child sex trafficking prevention education in schools.

Colorado law authorizes child sex trafficking prevention education in schools. Pursuant to Colo. Rev. Stat. Ann. § 24-33.5-1803(1), (3)(l) (School safety resource center – Created – Duties),

(1) There is hereby created within the department the school safety resource center to assist schools in preventing, preparing for, responding to, and recovering from emergencies and crisis situations and to foster positive learning environments . . . .

. . . .

(3) The center has the following duties:

. . . .

(l) To provide materials and training as described in section 24-33.5-1809 [Prevention of child sexual abuse and assault – Resource bank – Training] to personnel in school districts and charter schools, parents, and students regarding the awareness and prevention of child sexual abuse and assault, including human trafficking;

Resultingly, resources and education on child sex trafficking prevention may be available to students; however, Colorado law does not mandate the provision of child sex trafficking prevention education in schools.

6.6.1 Recommendation: Amend state law to mandate developmentally and age-appropriate child sex trafficking prevention education in schools.

## State Laws Addressing Child Sex Trafficking

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1. Colo. Rev. Stat. Ann. § 18-3-504(2) (Human trafficking for sexual servitude – Human trafficking of a minor for sexual servitude) states,
  - (a) A person commits human trafficking of a minor for sexual servitude if the person:
    - (I) Knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity; or
    - (II) Knowingly advertises, offers to sell, or sells travel services that facilitate an activity prohibited pursuant to subsection (2)(a)(I) of this section.
  - (b) Human trafficking of a minor for sexual servitude is a class 2 felony. The court shall sentence a person convicted of such a class 2 felony to the department of corrections for a term of at least the minimum of the presumptive range for a class 2 felony, as set forth in section 18-1.3-401.

A class 2 felony is punishable by imprisonment for 8–24 years, a fine of \$5,000–\$1,000,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

## State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

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### 1. Colo. Rev. Stat. Ann. § 18-7-406 (Patronizing a prostituted child) states,

(1) Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child:

- (a) Engages in an act which is prostitution of a child<sup>30</sup> or by a child,<sup>31</sup> as defined in section 18-7-401 (6) or (7) [Definitions]; or
  - (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child, as defined in section 18-7-401 (6) or (7).
- (2) Patronizing a prostituted child is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties). However, as a sex offense under Colo. Rev. Stat. Ann. § 18-1.3-1003(5) (Definitions), convictions are punishable by up to life imprisonment and a possible fine of \$3,000–\$750,000, which may not be imposed in lieu of a prison sentence. Colo. Rev. Stat. Ann. §§ 18-1.3-401(1)(a)(V.5)(C), (1)(b)(II.5), 18.1.3-1003(5)(a)(X), 18-1.3-1004(1)(a).

### 2. Colo. Rev. Stat. Ann. § 18-7-402 (Soliciting for child prostitution) states,

(1) A person commits soliciting for child prostitution if he:

- (a) Solicits another for the purpose of prostitution of a child or by a child;
  - (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or
  - (c) Directs another to a place knowing such direction is for the purpose of prostitution of a child or by a child.
- (2) Soliciting for child prostitution is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

### 3. Colo. Rev. Stat. Ann. § 18-7-403 (Pandering of a child) states,

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<sup>30</sup> Colo. Rev. Stat. Ann. § 18-7-401(7) (Definitions) defines “prostitution of a child” as follows:

[E]ither inducing a child to perform or offer or agree to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not the child’s spouse by coercion or by any threat or intimidation or inducing a child, by coercion or by any threat or intimidation or in exchange for money or other thing of value, to allow any person not the child’s spouse to perform or offer or agree to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with or upon such child. Such coercion, threat, or intimidation need not constitute an independent criminal offense and shall be determined solely through its intended or its actual effect upon the child.

<sup>31</sup> Colo. Rev. Stat. Ann. § 18-7-401(6) defines “prostitution by a child” as follows:

[E]ither a child performing or offering or agreeing to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not the child’s spouse in exchange for money or other thing of value or any person performing or offering or agreeing to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any child not the person’s spouse in exchange for money or other thing of value.

(1) Any person who does any of the following for money or other thing of value commits pandering of a child:

- (a) Inducing a child by menacing or criminal intimidation to commit prostitution; or
  - (b) Knowingly arranging or offering to arrange a situation in which a child may practice prostitution.
- (2) Pandering under paragraph (a) of subsection (1) of this section is a class 2 felony. Pandering under paragraph (b) of subsection (1) of this section is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties). A class 2 felony is punishable by imprisonment for 8–24 years, a fine of \$5,000–\$1,000,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

4. Colo. Rev. Stat. Ann. § 18-7-403.5 (Procurement of a child) states,

Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of prostitution of the child commits procurement of a child, which is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

5. Colo. Rev. Stat. Ann. § 18-7-404 (Keeping a place of child prostitution) states,

(1) Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of child prostitution if he:

- (a) Knowingly grants or permits the use of such place for the purpose of prostitution of a child or by a child; or
  - (b) Permits the continued use of such place for the purpose of prostitution of a child or by a child after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of such prostitution.
- (2) Keeping a place of child prostitution is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

6. Colo. Rev. Stat. Ann. § 18-7-405 (Pimping of a child) states,

Any person who knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution commits pimping of a child, which is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

7. Colo. Rev. Stat. Ann. § 18-7-405.5(1) (Inducement of child prostitution) states,

- (1) Any person who by word or action, other than conduct specified in section 18-7-403 (1)(a) [Pandering of a child], induces a child to engage in an act which is prostitution by a child, as defined in section 18-7-401 (6) [Definitions],<sup>32</sup> commits inducement of child prostitution.
- (2) Inducement of child prostitution is a class 3 felony.

A class 3 felony is punishable by imprisonment for 4–12 years, a fine of \$3,000–\$750,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

8. Colo. Rev. Stat. Ann. § 18-5.5-102(1)(h), (3)(b.5) (Cybercrime) states,

- (1) A person commits cybercrime if the person knowingly:

.....

(h) Solicits or offers to arrange a situation in which a minor may engage in prostitution, by means of using a computer, computer network, computer system, or any part thereof; or

.....

.....

- (3)

.....

(b.5) Cybercrime committed in violation of subsection (1)(h), (1)(i), or (1)(j) of this section is a class 5 felony.

A class 5 felony is punishable by imprisonment for 1–3 years, a fine of \$1,000–\$100,000, or both. Colo. Rev. Stat. Ann. § 18-1.3-401(1)(a)(V.5)(A), (1)(a)(III)(A) (Felonies classified – Presumptive penalties).

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<sup>32</sup> See *supra* note 31 for definition of “prostitution by a child.”