

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 D.C.’s laws related to both criminalization and victim protections while providing recommendations for addressing gaps in the law.¹



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, D.C.’s trafficking law could apply to buyers of commercial sex with minors based on the term “obtains.”² Specifically, D.C. Code § 22-1834(a) (Sex trafficking of children) states,

It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act³ knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.

¹ Evaluations of D.C.’s laws are based on legislation enacted as of August 1, 2022.

² 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.

³ D.C. Code § 22-1831(4) (Definitions) defines “commercial sex act” as “any sexual act or sexual contact on account of which or for which anything of value is given to, promised to, or received by any person.”

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 D.C. Code § 22-1834(a) (Sex trafficking of children) to clarify that buyer conduct is included as a violation of D.C. Code § 22-1834(a).

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

Although D.C. Code § 22-2705 (Pandering; inducing or compelling an individual to engage in prostitution) encompasses conduct that could apply to buyers, the offense does not specifically criminalize purchasing or soliciting a minor for sex. D.C. Code § 22-2705(a) states,

It is unlawful for any person, within the District of Columbia to:

....

(2) Cause, compel, induce, entice, or procure or attempt to cause, compel, induce, entice, or procure any individual:

....

(C) To engage in prostitution

- 1.2.1 Recommendation: Enact a CSEC law that specifically criminalizes purchasing or soliciting sex with any minor under 18.

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

District of Columbia’s CSEC laws address an array of trafficker conduct. Specifically, D.C. Code § 22-2705(a), (b) (Pandering; inducing or compelling an individual to engage in prostitution) states,

(a) It is unlawful for any person, within the District of Columbia to:

(1) Place or cause, induce, entice, procure, or compel the placing of any individual in the charge or custody of any other person, or in a house of prostitution, with intent that such individual shall engage in prostitution;

(2) Cause, compel, induce, entice, or procure or attempt to cause, compel, induce, entice, or procure any individual:

(A) To reside with any other person for the purpose of prostitution;

(B) To reside or continue to reside in a house of prostitution; or

(C) To engage in prostitution; or

....

(b) It is unlawful for any parent, guardian, or other person having legal custody of the person of an individual, to consent to the individual’s being taken, detained, or used by any person, for the purpose of prostitution or a sexual act or sexual contact.

Further, D.C. Code § 22-2707(a) (Procuring; receiving money or other valuable thing for arranging assignation) provides, “It is unlawful for any person, within the District of Columbia, to receive any money or other valuable thing for or on account of arranging for or causing any individual to engage in prostitution or a sexual act or contact.”

Lastly, pursuant to D.C. Code § 22-2704(a) (Abducting or enticing child from his or her home for purposes of prostitution; harboring such child),

It is unlawful for any person, for purposes of prostitution, to:

- (1) Persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the custody and control of the child's parents or guardian; or
- (2) Secrete or harbor any child so persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.

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

District of Columbia law expressly prohibits a mistake of age defense in prosecutions for child sex trafficking but not CSEC. Pursuant to D.C. Code § 22-1834(b) (Sex trafficking of children),

In a prosecution under subsection (a)⁴ of this section in which the defendant had a reasonable opportunity to observe the person recruited, enticed, harbored, transported, provided, obtained, or maintained, the government need not prove that the defendant knew that the person had not attained the age of 18 years.

However, by requiring that the defendant had a “reasonable opportunity to observe,” D.C. Code § 22-1834(b) leaves open an argument by the defendant that they were merely negligent regarding the victim's age.

- 1.4.1 Recommendation: Amend state law to prohibit a mistake of age defense in all cases involving child sex trafficking and CSEC.

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, District of Columbia's criminal attempt statute, D.C. Code § 22-1803 (Attempts to commit crime), could provide prosecutors with an alternative avenue to prosecute those cases by holding an offender accountable for attempting to commit a child sex trafficking offense even if the offender was prevented from completing the offense since the intended victim was a law enforcement decoy rather than an actual minor. Pursuant to D.C. Code § 22-1803,

Whoever shall attempt to commit any crime, which attempt is not otherwise made punishable by chapter 19 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321), shall be punished by a fine not more than the amount set forth in § 22-3571.01 [Fines for criminal offenses] or by imprisonment for not more than 180 days, or both. Except, whoever shall attempt to commit a crime of violence as defined in § 23-1331 [Definitions] shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 5 years, or both.

⁴ D.C. Code § 22-1834(a) states,

It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.

Policy Goal 1.6

The trafficking law expressly allows for business entity liability and establishes a business-specific penalty scheme.

District of Columbia's trafficking laws expressly allow for business entity liability and provide for a business-specific penalty scheme. Pursuant to D.C. Code § 22-1836 (Benefitting financially from human trafficking),

It is unlawful for an individual or business⁵ knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1834 [Sex trafficking of children] . . . , knowing or in reckless disregard of the fact that the venture has engaged in the violation.

Further, D.C. Code § 22-1834(a) (Sex trafficking of children) states,

It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.

D.C. Code § 22-1837 (Penalties), which specifies penalties for District of Columbia's trafficking laws, refers to D.C. Code § 22-3571.01 (Fines for criminal offenses) regarding fines. D.C. Code § 22-3571.01(c) provides,

An organization that has been found guilty of an offense punishable by imprisonment for 6 months or more may be fined not more than the greatest of:

- (1) Twice the maximum amount specified in the law setting forth the penalty for the offense;
- (2) Twice the applicable amount under subsection (b) of this section; or
- (3) Twice the applicable amount under § 22-3571.02(a) [Applicability of fine proportionality provision].

In addition, D.C. Code § 22-1838 (Forfeiture) states,

(a) In imposing sentence on any individual or business convicted of a violation of this chapter [Human Trafficking], the court shall order, in addition to any sentence imposed, that the individual or business shall forfeit to the District of Columbia:

- (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and
- (2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation.

(b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them:

- (1) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.
- (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

⁵ D.C. Code § 22-1831(2) (Definitions) defines "business" as "any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock, trust, and any legal entity through which business is conducted."

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.

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders are not required to be directed into a victim services fund.⁶

- 1.7.1 Recommendation: Statutorily direct a percentage of financial penalties levied on trafficking and CSEC offenders into a victim services fund.

⁶ Regarding asset forfeiture, D.C. Code § 22-1838 (Forfeiture) states,

- (a) In imposing sentence on any individual or business convicted of a violation of this chapter [Human trafficking], the court shall order, in addition to any sentence imposed, that the individual or business shall forfeit to the District of Columbia:
 - (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and
 - (2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation.
- (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them:
 - (1) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.
 - (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

Although forfeiture is not expressly authorized upon conviction of District of Columbia's CSEC offenses, D.C. Code § 22-2723(a) (Property subject to seizure and forfeiture) generally provides for asset forfeiture for prostitution-related offenses, stating,

The following are subject to forfeiture:

- (1) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate a violation of a prostitution-related offense; and
- (2) All money, coins, and currency which are used, or intended for use, in violation of a prostitution-related offense.

Further, an offender's vehicle could be impounded under D.C. Code § 22-2724(a) (Impoundment), which allows for impoundment of "[a]ny vehicle used in furtherance of a violation of a prostitution-related offense."

However, a percentage of assets forfeited under these laws is not directed into a victim services fund.



ISSUE 2: Identification of & Response to Victims

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. Pursuant to D.C. Code § 22-1831(12) (Definitions),

“Victim of trafficking” means:

(A) A person against whom the following offenses were committed:

.....

(iii) Sex trafficking of children under § 22-1834; or

(B) A person who has been subject to an act or practice described in section 103(9) or (10) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(9) or (10)).

D.C. Code § 22-1834 (Sex trafficking of children) does not require third party control because it can apply directly to buyers of commercial sex with minors based on federal precedent.⁷ Further, D.C. Code § 22-1831(12) expands the definition of “victim of trafficking” to include minors who fall within the federal definition of sex trafficking, which specifically includes buyers who “patronize” a minor for sex regardless of whether a trafficker is involved or identified.

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.

District of Columbia 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.

D.C. Code § 4-1303.03e(1), (2) (Behavioral health screening and assessment requirements) requires Child and Family Services to conduct a behavioral health screening of all children in the custody of the agency, including screening measures to identify children who are at risk of or have experienced sex trafficking. D.C. Code § 4-1303.03e(a) states,

⁷ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under D.C. Code § 22-1834 (Sex trafficking of children).

(1) All children in the custody of the Agency shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact with the Agency or a placement disruption. Through rulemaking, the Mayor may reduce the number of days within which a behavioral health screening and behavioral health assessment are required.

(2) As part of the behavioral health screening required by paragraph (1) of this subsection, the Agency shall identify children who are victims of, or who may be at risk for becoming victims of, sex trafficking of children under § 22-1834.

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

D.C. Code § 2-1515.04a (Behavioral health screening and assessment requirements) requires the Department of Youth Rehabilitation Services to conduct behavioral health screening of all children in contact with the department, including screening measures to identify children who are at risk of or have experienced sex trafficking. D.C. Code § 2-1515.04a(a) states,

(1) All youth in contact with the Department shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact; provided that the Mayor may, through rulemaking, require that the behavioral health screening and assessment be conducted within fewer than 30 days of the initial contact.

(2) As part of the behavioral health screening required by paragraph (1) of this subsection, the Department shall identify youth who are victims of, or who may be at risk for becoming victims of, sex trafficking of children under § 22-1834.

EXTRA CREDIT



District of Columbia law extends this mandatory CSEC screening requirement to youth under 22 years of age who are in the Department's custody. D.C. Code § 2-1515.04a(b) states, "For the purposes of this section, the term 'youth' means an individual under 18 years of age residing in the District and those individuals classified as committed¹ youth in the custody¹ of the Department who are 21 years of age or younger."

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.

District of Columbia law prohibits the criminalization of minors for prostitution and prostitution-related offenses and establishes a protocol requiring law enforcement to refer impacted children to a direct services organization. D.C. Code § 22-2701 (Engaging in prostitution or soliciting for prostitution) states,

(a) Except as provided in subsection (d) of this section, it is unlawful for any person to engage in prostitution or solicit for prostitution.

....

(d)

(1) Any child who engages in or offers to engage in a sexual act or sexual contact in return for receiving anything of value shall be immune from prosecution for a violation of subsection (a) or this section.

- (2) The Metropolitan Police Department shall refer any child suspected of engaging in or offering to engage in a sexual act or sexual contact in return for receiving anything of value to an organization that provides treatment, housing, or services appropriate for victims of sex trafficking of children under § 22-1834 [Sex trafficking of children].
- (3) For the purposes of this subsection, the term “child” means a person who has not attained the age of 18 years.

Further, D.C. Code § 16-2309 (Taking into custody) provides grounds for law enforcement and child welfare to take commercially sexually exploited children into protective custody. Pursuant to D.C. Code § 16-2309(a)(3), a law enforcement officer or Child and Family Services Agency employee is permitted to take a child into custody as follows:

[W]hen he or she has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that the removal of the child from his or her surroundings is necessary, including when he or she has reasonable grounds to believe that the child is engaging in or offering to engage in a sexual act, as defined in § 22-3001(8) [Definitions], or sexual contact, as defined in § 22-3001(9), in return for receiving anything of money”

Consequently, statutory protections safeguard minors from prosecution for prostitution offenses, establish a services-referral protocol, and provide mechanisms for taking such minors into protective custody.

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.

District of Columbia law does not prohibit the criminalization of child sex trafficking victims for status offenses nor does it prohibit charging victims with misdemeanors or non-violent felonies committed as a result of their trafficking victimization.

- 2.6.1 Recommendation: Amend District 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.

District of Columbia law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

- 2.7.1 Recommendation: Amend District law to prohibit 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.

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.

District of Columbia law does not provide child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

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

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

District of Columbia 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, D.C. law establishes a minimum age of 10 years for jurisdictional purposes, permits direct file for minors accused of certain offense, 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	None. “Child” is defined as “an individual who is under 18 years of age”	17	Yes. Minors: (1) charged with certain offenses; or (2) previously convicted or disposed in criminal court.	Yes. Minors: (1) 15+ years of age and charged with a felony; or (2) 16+ years of age with a previous adjudication.	No.
Relevant Statute(s)	D.C. Code § 16-2301(3) (Definitions)	D.C. Code § 16-2301(3) (Definitions)	D.C. Code § 16-2301(3)(A), (B) (Definitions); D.C. Code § 16-2307(h)	D.C. Code § 16-2307 (Transfer for criminal prosecution)	D.C. Code § 16-2307(e) (Transfer for criminal prosecution)

Consequently, District of Columbia law fails to provide age-appropriate juvenile court responses to all minors, including child sex trafficking victims, as governing statute: (1) does not establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) allows minors to be subject to automatic transfers; and (3) does 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.

District of Columbia law expressly includes child sex trafficking within the definition of “abused.” Pursuant to D.C. Code § 4-1301.02(1) (Definitions),

For the purposes of this subchapter:

- (1)
 - (A) “Abused”, when used in reference to a child, means:
 - (i) Abused, as that term is defined in § 16-2301(23) [Definitions]; or
 - (ii) Sexual abuse, which shall include:

- (I) Sex trafficking or severe forms of trafficking in persons, as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A));
 - (II) A commercial sex act, as that term is defined in § 22-1831(4) [Definitions]; or
 - (III) Sex trafficking of children, as described in § 22-1834 [Sex trafficking of children].
- (B) Nothing in this paragraph shall be construed as preventing or intending to prevent:
- (i) Sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes of § 16-2301(32);⁸ or
 - (ii) The Agency from offering or providing services for a child victim of sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children, including where the child was not abused or neglected by a parent, guardian, or custodian.

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.

Although child sex trafficking victims may access child welfare services regardless of parent or caregiver fault, District of Columbia law does not provide for a specialized investigation in those cases. D.C. Code § 4-1301.02(1)(B) (Definitions) states,

Nothing in this paragraph shall be construed as preventing or intending to prevent:

- (i) Sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes of § 16-2301(32);⁹ or
- (ii) The Agency from offering or providing services for a child victim of sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children, including where the child was not abused or neglected by a parent, guardian, or custodian.

2.11.1 Recommendation: Statutorily provide for a specialized investigation in non-familial child sex trafficking cases.

⁸ Pursuant to D.C. Code § 16-2301(32) (Definitions),

The term “sexual abuse” means:

- (A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;
- (B) causing or attempting to cause a child to engage in sexually explicit conduct; or
- (C) exposing a child to sexually explicit conduct.

⁹ Pursuant to D.C. Code § 16-2301(32) (Definitions),

The term “sexual abuse” means:

- (A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;
- (B) causing or attempting to cause a child to engage in sexually explicit conduct; or
- (C) exposing a child to sexually explicit conduct.



ISSUE 3: Continuum of Care

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.

District of Columbia 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.

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing child sexual abuse MDT, District of Columbia law does not require an MDT response specific to child sex trafficking cases. Pursuant to D.C. Code § 4-1301.51(a), (b) (Mandatory investigation of child abuse and neglect cases by multidisciplinary team),

- (a) Every instance of sexual abuse of a child shall be reviewed and investigated by a multidisciplinary investigation team (“MDT”), which shall focus, first, on the needs of the child, and, second, on the law enforcement, prosecution, and related civil proceedings. The MDT may handle other instances of child abuse and neglect as identified in the protocol provided in subsection (b) of this section.
 - (1) A MDT shall consist of one or more representatives of the:
 - (A) Metropolitan Police Department;
 - (B) Child and Family Services Agency; and
 - (C) Office of the Corporation Counsel.
 - (2) The Office of the United States Attorney and the Children’s Advocacy Center shall be requested to designate one or more representatives to serve on a MDT, and those designated representatives shall be included on the MDT.
 - (3) A MDT may also include:
 - (A) A representative of the District of Columbia Public Schools;
 - (B) Licensed mental health practitioners;
 - (C) Medical personnel;
 - (D) Child development specialists;
 - (E) Victim counselors; and
 - (F) Experts in the assessment and treatment of substance abuse.
- (b) The MDT shall adopt a written child abuse protocol to ensure coordination and cooperation among all agencies investigating and prosecuting cases arising from alleged child abuse or neglect to increase the efficiency and effectiveness of the agencies handling the cases and to facilitate the provision of services to children and families. The protocol shall:
 - (1) Define additional categories of abuse and neglect cases, in addition to sexual abuse, which will be handled by the MDT;
 - (2) Outline in detail the procedures to be used in investigating and prosecuting cases arising from alleged child abuse or neglect; and
 - (3) Outline in detail the methods to be used in coordinating treatment programs and other services to the child, the family, and the perpetrator.

- 3.2.1 Recommendation: Statutorily require a multi-disciplinary team response specific to child sex trafficking victims.

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

District of Columbia law authorizes, but does not require, child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims. Pursuant to D.C. Code § 4-1301.02(1)(B) (Definitions),

For the purposes of this subchapter:

(1)

....

(B) Nothing in this paragraph shall be construed as preventing or intending to prevent:

- (i) Sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes of § 16-2301(32);¹⁰ or
- (ii) The Agency from offering or providing services for a child victim of sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children, including where the child was not abused or neglected by a parent, guardian, or custodian.

- 3.3.1 Recommendation: Strengthen existing law by requiring child welfare to provide access to specialized services for child sex trafficking victims.

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

District of Columbia 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.

District of Columbia law extends foster care services to youth under 21 years of age. However, these services are not extended to youth under 23 years of age as permitted under federal law.¹¹

¹⁰ Pursuant to D.C. Code § 16-2301(32) (Definitions),

The term “sexual abuse” means:

- (A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;
- (B) causing or attempting to cause a child to engage in sexually explicit conduct; or
- (C) exposing a child to sexually explicit conduct.

¹¹ For more information, see Shared Hope Int'l, *Issue Brief 3.5: Continuum of Care*, <https://reportcards.sharedhope.org/wp-content/uploads/2022/10/2022-Issue-Briefs-3.5.pdf> (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

D.C. Code § 4-1301.02(22) (Definitions) defines “youth” as “an individual under 18 years of age residing in the District and those classified as youth in the custody of the Agency who are 21 years of age or younger,” and D.C. Code § 16-2303 (Retention of jurisdiction) provides that when the Family Division of the Superior Court of the District of Columbia takes jurisdiction of a child, such jurisdiction “shall be retained by [the court] until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time.”

Additionally, D.C. Code § 4-1303.03(a)(17), (18) (Duties and powers of the Director) sets out the following requirements for the Director of the Child and Family Services Agency:

(17) To establish and maintain the Voluntary Foster Care Registry, established pursuant to § 4-1303.08 [Voluntary foster care registry] as a post-care service, for individuals 18 years or older who were or currently are respondents in a child abuse or neglect case under Chapter 23 of Title 16 and for their immediate birth family members, as defined in § 4-1303.08(g);

(18) To offer employment counseling to foster children, as defined by § 4-342(3) [Definitions], who are ages 18 through 21 years old

- 3.5.1 Recommendation: Strengthen existing law to better support transition age youth by extending transitional foster care services to youth under 23 years of age.

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 District of Columbia City Council 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 funds to support the development of and access to specialized, community-based services to child and youth survivors of sex trafficking.



ISSUE 4: Access to Justice for Trafficking Survivors

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

District of Columbia law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to D.C. Code § 16-1003(a)–(d) (Petition for civil protection order; representation),

- (a) A person 16 years of age or older may petition the Domestic Violence Division for a civil protection order against a respondent who has allegedly committed or threatened to commit:
 -
 - (3) Trafficking in labor or commercial sex acts, as described in § 22-1833, where the petitioner is the victim; or
 - (4) Sex trafficking of children, as described in § 22-1834, where the petitioner is the victim.
- (b) A minor who is at least 13 years of age but less than 16 years of age may petition the Domestic Violence Division for a civil protection order against a respondent who has allegedly committed or threatened to commit:
 -
 - (3) Sex trafficking of children, as described in § 22-1834, where the petitioner is the victim.
- (c) A minor who is less than 13 years of age may not petition for a civil protection order on their own behalf.
- (d)
 - (1) The parent, legal guardian, or legal custodian of a minor may file a petition for a civil protection order on a minor's behalf.
 - (2) The following individuals may, at the request of a minor 13 years of age or older, file a petition for a civil protection order on the minor's behalf:
 - (A) A person 18 years of age or older to whom the minor is related by blood, adoption, legal custody, marriage, or domestic partnership; or
 - (B) A sexual assault youth victim advocate, as that term is defined in § 23-1907(14).

Further, D.C. Code § 16-1004(b), (d) (Petition; temporary protection order) allows those orders to be granted on an ex parte basis, stating,

- (b) When petitioning for a civil protection order, a petitioner or a person petitioning on the petitioner's behalf may also request that a temporary protection order be issued without notice to the respondent.
 -
- (d) The court may issue a temporary protection order if the petitioner or a person petitioning on the petitioner's behalf establishes that the safety or welfare of the petitioner, or an animal the petitioner owns, possesses, or controls, is immediately endangered by the respondent.

EXTRA CREDIT



D.C. Code § 16-1003(a)(3) expressly allows child labor trafficking victims who are 16 years of age or older to seek ex parte civil orders of protection against their exploiters.

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.

District of Columbia's crime victims' compensation laws provide victims of child sex trafficking, but not CSEC, with an exception to ineligibility based on participation in the underlying offense; however, other ineligibility factors may leave some commercially sexually exploited children without access to an award.

For purposes of accessing crime victims' compensation, D.C. Code § 4-501(14)(A) (Definitions) defines "victim" to include "a person who suffers personal injury or death in the District of Columbia . . . as a direct result of . . . [a] crime." "Crime" is defined under D.C. Code § 4-501(6), in part, as follows:

[T]he offense of, or the attempt to commit the offense of, . . . forced labor, benefitting financially from human trafficking, using a minor in a sexual performance, promoting a sexual performance by a minor, attending or possessing a sexual performance by a minor, trafficking in labor or commercial sex acts, sex trafficking of children, a felony violation of an act codified in Chapter 27 of Title 22 [Prostitution; pandering], where a person was compelled to engage in prostitution or was a minor These terms include an offense where the perpetrator and victim are members of the same family or household, an offense whether prosecuted under the District of Columbia Official Code or the United States Code A crime occurs whether or not any person is identified, arrested, prosecuted, or convicted

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to D.C. Code § 4-506(a)(2) (Eligibility for compensation), a claim must be filed "within 1 year after the crime occurred or 1 year after learning of the Program with an adequate showing that the delay in learning of the Program was reasonable." Further, D.C. Code § 4-506(a)(3) requires the crime to have been reported to law enforcement "within 7 days of its occurrence," and "[i]f the crime cannot be reasonably reported within that time period, the crime must be reported within 7 days from the time a report can reasonably be made." Many commercially sexually exploited children are slow to come forward and, thus, may become ineligible for crime victims' compensation due to these requirements.¹²

Further, claims may be denied under D.C. Code § 4-508(a)(2), (b) (Disqualification and reductions) as follows:

- (a) The Court shall not award compensation if the:
 -
 - (2) Injury or death for which compensation is sought was caused by the victim's consent, substantial provocation, or substantial incitement.
- (b) An application for assistance may be denied, in whole or in part, if the Court finds:
 - (1) Denial is appropriate due to the nature of the victim's or secondary victim's involvement in the events leading to the relevant crime; or
 - (2) The claimant failed to provide information to a requesting law enforcement agency or did not reasonably cooperate with law enforcement officials in apprehending the offender. Refusal of a victim or claimant to testify against the offender may be excused if testifying would subject the victim or claimant to a substantial risk of serious physical or emotional injury.

Notably, District of Columbia law carves out an exception to ineligibility based on the victim's participation in the offense. Because that exception is offense-specific, however, only victims of child sex trafficking, not CSEC, will be protected. D.C. Code § 4-508(a)(1) states, "The Court shall not award compensation if the . . . [c]laimant knowingly

¹² D.C. Code § 4-506(d) does state that "[t]he time limit requirements of this section may be waived for good cause shown, including compelling health or safety concerns." However, nothing in D.C. Code § 4-506 explains what constitutes "good cause" for purposes of this section.

or willingly participated in the commission of the crime which forms the basis for the claim; provided, that a claimant who was a minor and a victim of sex trafficking of children, may be awarded compensation.”

- 4.2.1 Recommendation: Statutorily 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.

Although District of Columbia law allows trafficking victims to vacate criminal convictions for certain eligible offenses, vacatur is unavailable for delinquency adjudications arising from trafficking victimization.¹³ Pursuant to D.C. Code § 22-1844(a)–(e) (Motion to vacate conviction or expunge criminal records for victims of trafficking),

- (a) A person convicted of an eligible offense¹⁴ may apply by motion to the Superior Court for the District of Columbia to vacate the judgment of conviction and expunge all records identifying the movant as having

¹³ D.C. Code § 16-2335(a) (Sealing of records) allows for vacatur if the court finds:

- (1)
(A) a neglected child has reached his majority; or
(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and
(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication.

However, “[a]ny adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.” D.C. Code § 16-2335(e). Accordingly, a delinquency adjudication may still have a negative impact even after being vacated. In any event, D.C. Code Ann. § 16-2335 does not specifically allow child sex trafficking victims to vacate delinquency adjudications arising from their victimization.

¹⁴ D.C. Code § 22-1831(a)(5A) (Definitions) defines “eligible offense” as “any criminal offense under the District of Columbia Official Code, except an ineligible offense.” In turn, D.C. Code § 22-1831(a)(5B) defines “ineligible offense” to include the following crimes:

- (A) Assault with intent to kill or poison, or to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse, under § 22-401; provided, that assault with intent to rob under § 22-401 shall constitute an eligible offense.
(B) Sex trafficking of children under § 22-1834;
(C) Murder in the first degree under § 22-2101;
(D) Murder in the first degree – Placing obstructions upon or displacement of railroads under § 22-2102;
(E) Murder in the second degree under § 22-2103;
(F) Murder of law enforcement officer under § 22-2106;
(G) Solicitation of murder under § 22-2107(a);
(H) Armed carjacking under 22-2803(b)(1);
(I) First degree sexual abuse under § 22-3002;
(J) First degree child sexual abuse under § 22-3008;
(K) First degree sexual abuse of a minor under § 22-3009.01;
(L) First degree sexual abuse of a secondary education student under § 22-3009.03;
(M) First degree sexual abuse of a ward, patient, client, or prisoner under § 22-3013;
(N) First degree sexual abuse of a patient or client under § 22-3015;
(O) An act of terrorism under § 22-3153;

been arrested, prosecuted, or convicted of the offense if the conduct of the person that resulted in the conviction was a direct result of the person having been a victim of trafficking.

(b) A person arrested but not prosecuted, or whose prosecution was terminated without conviction, for an eligible offense or an ineligible offense, may apply by motion to the Superior Court for the District of Columbia to expunge all records identifying the movant as having been arrested or prosecuted for the offense if the conduct of the person that resulted in the arrest or prosecution was a direct result of the person having been a victim of trafficking.

....

(d) A movant may file a motion under this section regardless of whether any other person, such as the person who made the movant a victim of trafficking, has been arrested, prosecuted, or convicted for an offense.

(e) A person may file a motion under this section only after:

- (1) All criminal proceedings against the person related to the offenses that are the subject of the motion have completed; and
- (2) The person completes any sentence of incarceration, commitment, probation, parole, or supervised release related to the offenses that are the subject of the motion.

After an initial review of the motion and a possible hearing, D.C. Code § 22-1845(d)–(g) (Review by court) provides,

(d) The Court shall grant a motion filed under § 22-1844(a), if the movant establishes, by clear and convincing evidence that:

- (1) The movant was convicted of an eligible offense;
- (2) The movant is a victim of trafficking; and
- (3) The conduct by the movant resulting in the conviction was a direct result of the movant having been a victim of trafficking.

(e) The Court shall grant a motion filed under § 22-1844(b), if the movant establishes, by clear and convincing evidence that:

- (1) The movant was arrested but not prosecuted, or the prosecution was terminated without conviction, for an eligible offense or an ineligible offense;
- (2) The movant is a victim of trafficking; and
- (3) The conduct by the movant resulting in the arrest or prosecution was a direct result of the movant having been a victim of trafficking.

(f) There shall be a rebuttable presumption that a movant is a victim of trafficking if the movant includes in the motion a copy of an official record from a federal, state, tribal, or local proceeding finding that the movant was a victim of trafficking, including a Certification Letter or Eligibility Letter from the U.S. Department of Health and Human Services.

(g) The Court may grant a motion under this section based solely on an affidavit or sworn testimony of the movant.

Under D.C. Code § 22-1846(b)–(c), (i) (Grants and denials of motion),

(P) Provision of material support or resources for an act of terrorism under § 22-3153(m);

(Q) Solicitation of material support or resources to commit an act of terrorism under § 22-3153(n);

(R) Manufacture or possession of a weapon of mass destruction under § 22-3154(a);

(S) Attempt or conspiracy to manufacture or possess a weapon of mass destruction under § 22-3154(b);

(T) Use, dissemination, or detonation of a weapon of mass destruction under § 22-3155(a);

(U) Attempt or conspiracy to use, disseminate, or detonate a weapon of mass destruction under § 22-3155(b); or

(V) Attempt or conspiracy to commit any of the offenses listed in this paragraph, except conspiracy to commit sex trafficking of children under § 22-1834.

(b) If the Court grants a motion filed under § 22-1844(a), the Court shall vacate the conviction, dismiss the relevant count with prejudice, and, except as provided in subsection (d)¹⁵ of this section, enter an order requiring the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order.

(c) If the Court grants a motion filed under § 22-1844(b), the Court shall, except as provided in subsection (d) of this section, enter an order requiring the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to expunge all records identifying the movant as having been arrested or prosecuted for the offenses specified in the Court's order.

....

(i) The effect of relief pursuant to this section shall be to restore the movant, in the contemplation of the law, to the status he or she occupied before being arrested, prosecuted, or convicted. No person as to whom such relief has been granted shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge his or her arrest, charge, trial, or conviction in response to any inquiry made of him or her for any purpose.

However, D.C. Code § 22-1844, D.C. Code § 22-1845, and D.C. Code § 22-1846 apply specifically to “convictions,” and D.C. Code § 16-2318 (Order of adjudication noncriminal) states that an “order of adjudication, or order of disposition in a proceeding under this subchapter [Proceedings, regarding delinquency, neglect, or need of supervision] is not a conviction of a crime” Accordingly, delinquency adjudications are ineligible for vacatur under these laws. Further, only certain offenses are eligible for vacatur, which fails to recognize the array of crimes trafficking victims are induced to commit and leaves many survivors without any avenue for relief.

- 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.

Restitution is discretionary in child sex trafficking and CSEC cases. Pursuant to D.C. Code § 16-711(a), (b) (Restitution or reparation),

(a) In criminal cases in the Superior Court, the court may, in addition to any other sentence imposed as a condition of probation or as a sentence itself, require a person convicted of any offense to make reasonable restitution or reparation.

(b) When restitution or reparation is ordered, the court shall take into consideration the number of victims, the actual damage of each victim, the resources of the defendant, the defendant's ability to earn, any obligation of the defendant to support dependents, and other matters as pertain to the defendant's ability to make restitution or reparation.

- 4.4.1 Recommendation: Statutorily mandate restitution in child sex trafficking and CSEC cases.

¹⁵ Pursuant to D.C. Code § 22-1846(d)(1),

At any time before the Court grants a motion under subsection (b) or (c) of this section, a movant may file a request that, if the movant's motion is granted, the order granting the motion filed under § 22-1844, in lieu of requiring the expungement of all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order, require the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to seal all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order.

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

District of Columbia law allows victims of child sex trafficking to pursue civil remedies against their exploiters. D.C. Code § 22-1840(a) (Civil action) states,

An individual who is a victim of an offense prohibited by § 22-1832 [Forced labor], § 22-1833 [Trafficking in labor or commercial sex acts], § 22-1834 [Sex trafficking of children], § 22-1835 [Unlawful conduct with respect to documents in furtherance of human trafficking] or § 22-1836 [Benefitting financially from human trafficking] may bring a civil action in the Superior Court of the District of Columbia. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where a defendant's acts were willful and malicious.

EXTRA CREDIT



District of Columbia law provides sex trafficked youth with a trafficking-specific civil remedy under D.C. Code § 22-1840, which expressly includes victims of sex trafficking under D.C. Code § 22-1833 (Trafficking in labor or commercial sex acts) regardless of their age.



District of Columbia law provides child labor trafficking victims with a trafficking-specific civil remedy under D.C. Code 22-1840, which expressly includes victims of D.C. Code § 22-1832 (Forced labor) and D.C. Code § 22-1833 (Trafficking in labor or commercial sex acts).

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.

District of Columbia law lengthens, but does not eliminate, statutes of limitation for prosecuting child sex trafficking and CSEC offenses or for filing trafficking-specific civil actions. Pursuant to D.C. Code § 23-113(a)(3)(J)–(M) (Limitations on actions for criminal violations),

A prosecution for the following crimes and any offense that is properly joinable with any of the following crimes is barred if not commenced within ten (10) years after it is committed:

....

(J) Trafficking in labor or commercial sex and sex trafficking of children as prohibited by [§§ 22-1833 and 22-1834], respectively;

(K) abducting or enticing child from his or her home for purposes of prostitution, or harboring such child (§ 22-2704);

(L) pandering, or inducing or compelling an individual to engage in prostitution (§ 22-2705);

(M) compelling an individual to live life of prostitution against his or her will (§ 22-2706) . . .

D.C. Code § 23-113(d) suspends the running of the statute of limitation as follows:

(2) The period of limitation shall not begin to run until the victim reaches 21 years of age for the following offenses:

.....

(G) Section [§ 22-2704 (Abducting or enticing child from his or her home for purposes of prostitution; harboring such child)];

(H) Section [§ 22-2705 (Pandering; inducing or compelling an individual to engage in prostitution)];

(I) Section [§ 22-2706 (compelling an individual to live life of prostitution against his or her will)], where the victim is a minor; and

(J) Forced labor, trafficking in labor or commercial sex, sex trafficking of children, and benefitting financially from human trafficking as prohibited by the Human Trafficking Act [D.C. Law 18-239], where the victim is a minor.

.....

(5) The period of limitation shall not begin to run for forced labor, trafficking in labor or commercial sex, sex trafficking of children, and benefitting financially from human trafficking until the victim is no longer subject to the means used to obtain or maintain his or her labor or services or commercial sex acts.

Otherwise, D.C. Code § 23-113(a)(4) provides, “a prosecution for a felony other than those crimes enumerated in paragraph (1) or paragraph (3) is barred if not commenced within six (6) years after it is committed.”

Regarding civil actions, D.C. Code § 22-1840 (Civil action) states,

(b) Any statute of limitation imposed for the filing of a civil suit under this section shall not begin to run until the plaintiff knew, or reasonably should have known, of any act constituting a violation of § 22-1832 [Forced labor], § 22-1833 [Trafficking in labor or commercial sex acts], § 22-1834 [Sex trafficking of children], § 22-1835 [Unlawful conduct with respect to documents in furtherance of human trafficking] or § 22-1836 [Benefitting financially from human trafficking], or until a minor plaintiff has reached the age of majority, whichever is later.

(c) If a person entitled to sue is imprisoned, insane, or similarly incapacitated at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the incapacity is not part of the time limited for the commencement of the action.

(d) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action.

- 4.6.1 Recommendation: Strengthen existing law to allow prosecutions for child sex trafficking and CSEC offenses to commence at any time and eliminate the statute of limitation for filing trafficking-specific civil actions.



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.

District of Columbia law does not allow non-testimonial, 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.

5.1.1 Recommendation: Statutorily provide a hearsay exception that applies to non-testimonial evidence in cases involving commercial sexual exploitation of children under 18 years of age.

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

District of Columbia law does not provide child sex trafficking victims with an alternative to live, in-court testimony.

5.2.1 Recommendation: Statutorily provide all commercially sexually exploited children with an alternative to live, in-court testimony 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.

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims' identifying information is protected from disclosure in court records
Summary	Child sex trafficking victims have access to a variety of victim advocates, including crime victim advocates, sexual assault youth victim advocates and human trafficking counselors.	Not statutorily required.	Not statutorily required.
Relevant Statute(s)	D.C. Code § 23-1909 (Sexual assault victim advocates and sexual assault youth victim advocates; sexual assault victim advocate dispatch system); D.C. Code § 23-1908 (Sexual assault victims' rights) ⁹ D.C. Code § 14-311 (Human trafficking counselors); D.C. Code § 23-1901 (Crime victims' bill of rights)	None.	None.

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims are provided courtroom supports when testifying against their exploiter and their identifying information is protected from disclosure in court records.

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

District of Columbia law provides for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim's communications with their caseworker from being disclosed. D.C. Code § 14-311(b)(1), (2) (Human trafficking counselors) states,

- (1) A human trafficking counselor¹⁶ shall not disclose a confidential communication¹⁷ except:
 - (A) As required by statute or by a court of law;
 - (B) As voluntarily authorized in writing by the victim;
 - (C) To other individuals employed at the human trafficking program and third party providers when and to the extent necessary to facilitate the delivery of services to the victim;
 - (D) To the Metropolitan Police Department or other law enforcement agency to the extent necessary to protect the victim or another individual from a substantial risk of imminent and serious physical injury or kidnapping;
 - (E) To compile statistical or anecdotal information, without personal identifying information, for research or public information purposes; or
 - (F) For any confidential communications relevant to a claim or defense if the victim files a lawsuit against a human trafficking counselor or a human trafficking program.
- (2) Unless the disclosure is public, confidential communications disclosed pursuant to paragraph (1) of this subsection shall not be further disclosed by the recipient except as authorized in paragraph (1) of this subsection.

¹⁶ D.C. Code § 14-311(a)(2) defines “human trafficking counselor” as follows:

- [A]n employee, contractor, or volunteer of a human trafficking program who:
- (A) Is rendering support, counseling, or assistance to a victim;
 - (B) Has undergone not less than 40 hours of human trafficking counselor training conducted by a human trafficking program that includes dynamics of human trafficking, trauma resulting from human trafficking, crisis intervention, personal safety, risk management, criminal and civil court processes, and resources available to victims; and
 - (C)
 - (i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or
 - (ii) Is or is under the supervision of a person who has a minimum of 5 years of experience rendering support, counseling, or assistance to persons against whom severe emotional abuse or a criminal offense has been committed or is alleged to have been committed, of which at least 2 years of experience involves human trafficking victims.

¹⁷ D.C. Code § 14-311(a)(1) defines “confidential communications” as “information exchanged between a victim and a human trafficking counselor during the course of the counselor providing counseling, support, and assistance to a victim, including all records kept by the counselor and the human trafficking program concerning the victim and services provided to the victim.”

EXTRA CREDIT



District of Columbia law prevents disclosure of confidential communications made between a sex trafficking victim and their caseworker under D.C. Code § 14-311 regardless of the victim's age. D.C. Code § 14-311(a)(6) broadly defines "victim" as "a person against whom a human trafficking offense has been committed or is alleged to have committed." Because the definition of "human trafficking offense"¹ includes offenses applicable to both child and youth victims, both populations are protected by the human trafficking caseworker privilege provided for under D.C. Code § 14-311.



District of Columbia law prevents disclosure of confidential communications made between a child labor trafficking victim and their caseworker under D.C. Code § 14-311, which applies broadly to all cases involving trafficking in labor or commercial sex. D.C. Code § 14-311(a)(3), (6).¹



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.

District of Columbia law mandates training for social workers on identification and response to child sex trafficking. Pursuant to D.C. Code § 22-1842 (Training program),

- (a) The Metropolitan Police Department (“MPD”), the Child and Family Services Agency (“CFSA”), and the Department of Youth Rehabilitation Services (“DYRS”) shall provide training on human trafficking to:
 - (1) New law enforcement officers, social workers, and case managers; and
 - (2) Current law enforcement officers, social worker employees, and case managers who have not previously received comparable training.
- (b) The training shall be a minimum of 4 hours and shall include:
 - (1) The nature and dimension of human trafficking;
 - (2) The legal rights and remedies available to a victim of human trafficking;
 - (3) The services and facilities available to a victim of human trafficking;
 - (4) The legal duties imposed on a police officer, social worker, or case manager to enforce the provisions of D.C. Law 20-276 [the “Sex Trafficking of Children Prevention Amendment Act of 2014], and to offer protection and assistance to a victim of human trafficking;
 - (5) Techniques for determining when a person may be a victim of trafficking;
 - (6) Techniques for handling a human trafficking offense that promotes the safety of the victim; and
 - (7) The particular needs of youth and minor trafficking victims;
- (c) MPD, CFSA, and DYRS shall consult with community organizations that provide training, resources, advocacy, or services to victims of human trafficking for assistance in developing and presenting training on human trafficking.

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

District of Columbia law mandates training for case managers on identification and response to child sex trafficking. Pursuant to D.C. Code § 22-1842 (Training program),

- (a) The Metropolitan Police Department (“MPD”), the Child and Family Services Agency (“CFSA”), and the Department of Youth Rehabilitation Services (“DYRS”) shall provide training on human trafficking to:
 - (1) New law enforcement officers, social workers, and case managers; and
 - (2) Current law enforcement officers, social worker employees, and case managers who have not previously received comparable training.
- (b) The training shall be a minimum of 4 hours and shall include:
 - (1) The nature and dimension of human trafficking;
 - (2) The legal rights and remedies available to a victim of human trafficking;
 - (3) The services and facilities available to a victim of human trafficking;
 - (4) The legal duties imposed on a police officer, social worker, or case manager to enforce the provisions of D.C. Law 20-276 [the “Sex Trafficking of Children Prevention Amendment Act of 2014], and to offer protection and assistance to a victim of human trafficking;
 - (5) Techniques for determining when a person may be a victim of trafficking;
 - (6) Techniques for handling a human trafficking offense that promotes the safety of the victim; and

- (7) The particular needs of youth and minor trafficking victims;
- (c) MPD, CFSA, and DYRS shall consult with community organizations that provide training, resources, advocacy, or services to victims of human trafficking for assistance in developing and presenting training on human trafficking.

Policy Goal 6.3 State law mandates ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

District of Columbia law mandates a one-time training on human trafficking for new law enforcement officers and current officers who have not received comparable training; however, officers are not required to receive ongoing in-service training. Pursuant to D.C. Code § 22-1842 (Training program),

- (a) The Metropolitan Police Department (“MPD”), the Child and Family Services Agency (“CFSA”), and the Department of Youth Rehabilitation Services (“DYRS”) shall provide training on human trafficking to:
 - (1) New law enforcement officers, social workers, and case managers; and
 - (2) Current law enforcement officers, social worker employees, and case managers who have not previously received comparable training.
- (b) The training shall be a minimum of 4 hours and shall include:
 - (1) The nature and dimension of human trafficking;
 - (2) The legal rights and remedies available to a victim of human trafficking;
 - (3) The services and facilities available to a victim of human trafficking;
 - (4) The legal duties imposed on a police officer, social worker, or case manager to enforce the provisions of D.C. Law 20-276 [the “Sex Trafficking of Children Prevention Amendment Act of 2014], and to offer protection and assistance to a victim of human trafficking;
 - (5) Techniques for determining when a person may be a victim of trafficking;
 - (6) Techniques for handling a human trafficking offense that promotes the safety of the victim; and
 - (7) The particular needs of youth and minor trafficking victims;
- (c) MPD, CFSA, and DYRS shall consult with community organizations that provide training, resources, advocacy, or services to victims of human trafficking for assistance in developing and presenting training on human trafficking.

- 6.3.1 Recommendation: Statutorily 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.

Policy goal not applicable based on District of Columbia’s status as a federal district under the jurisdiction of the U.S. Congress.¹⁸

Policy Goal 6.5 State law mandates child sex trafficking training for school personnel.

District of Columbia law does not mandate training on child sex trafficking for school personnel.

¹⁸ In the District of Columbia, the U.S. Attorney for the District of Columbia (USAO) prosecutes trafficking offenses involving adult offenders. Because USAO is a federal entity, the District of Columbia cannot impose training mandates on USAO. Instead, training mandates would have to be imposed by Congress.

- 6.5.1 Recommendation: Statutorily mandate trafficking-specific prevention education training for school personnel.

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

District of Columbia law does not mandate child sex trafficking prevention education in schools.

- 6.6.1 Recommendation: Statutorily mandate developmentally and age-appropriate child sex trafficking prevention education in schools.

District of Columbia Laws Addressing Child Sex Trafficking

1. D.C. Code § 22-1834(a) (Sex trafficking of children) states,

It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act¹⁹ knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.

A violation is punishable by imprisonment for up to 20 years, a fine up to \$50,000, or both.²⁰ D.C. Code §§ 22-1837(a)(1), 22-3571.01(b)(9).

2. D.C. Code § 22-1836 (Benefitting financially from human trafficking) states,

It is unlawful for an individual or business knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1834 [Sex trafficking of children] . . . , knowing or in reckless disregard of the fact that the venture has engaged in the violation.

A violation is punishable by “the maximum fine or term of imprisonment [as] a violation of [the] referenced section. Accordingly, a violation of D.C. Code § 22-1836 is punishable as D.C. Code § 22-1834 by imprisonment for up to 20 years, a fine up to \$50,000, or both. D.C. Code §§ 22-1837(a)(1), (2), 22-1834, 22-3571.01(b)(9).

¹⁹ D.C. Code § 22-1831(4) (Definitions) defines “commercial sex act” as “any sexual act or sexual contact on account of which or for which anything of value is given to, promised to, or received by any person.”

²⁰ Further, D.C. Code § 22-1837(a)(2) (Penalties) states,

Whoever violates sections . . . § 22-1834 when the victim is held or provides services for more than 180 days shall be fined not more than 1¹/₂ times the maximum fine authorized for the designated act, imprisoned for not more than 1¹/₂ times the maximum term authorized for the designated act, or both.

District of Columbia Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. D.C. Code § 22-2704 (Abducting or enticing child from his or her home for purposes of prostitution; harboring such child) states,
 - (a) It is unlawful for any person, for purposes of prostitution, to:
 - (1) Persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the custody and control of the child's parents or guardian; or
 - (2) Secrete or harbor any child so persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.
 - (b) A person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years, or by a fine of not more than the amount set forth in § 22-3571.01 [Fines for criminal offenses] [\$50,000], or both.
2. D.C. Code § 22-2705 (Pandering; inducing or compelling an individual to engage in prostitution) states,
 - (a) It is unlawful for any person, within the District of Columbia to:
 - (1) Place or cause, induce, entice, procure, or compel the placing of any individual in the charge or custody of any other person, or in a house of prostitution, with intent that such individual shall engage in prostitution;
 - (2) Cause, compel, induce, entice, or procure or attempt to cause, compel, induce, entice, or procure any individual:
 - (A) To reside with any other person for the purpose of prostitution;
 - (B) To reside or continue to reside in a house of prostitution; or
 - (C) To engage in prostitution; or
 -
 - (b) It is unlawful for any parent, guardian, or other person having legal custody of the person of an individual, to consent to the individual's being taken, detained, or used by any person, for the purpose of prostitution or a sexual act or sexual contact.
 - (c)
 -
 - (2) A person who violates subsection (a) or (b) of this section when the individual so placed, caused, compelled, induced, enticed, procured, taken, detained, or used or attempted to be so placed, caused, compelled, induced, enticed, procured, taken, detained, or used is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than the amount set forth in § 22-3571.01 [Fines for criminal offenses] [\$50,000], or both.
3. D.C. Code § 22-2707(a) (Procuring; receiving money or other valuable thing for arranging assignation) states,
 - (a) It is unlawful for any person, within the District of Columbia, to receive any money or other valuable thing for or on account of arranging for or causing any individual to engage in prostitution or a sexual act or contact.
 - (b)
 -
 - (2) A person who violates subsection (a) of this section when the individual so arranged for or caused to engage in prostitution or a sexual act or contact is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than the amount set forth in § 22-3571.01 [Fines for criminal offenses] [\$50,000], or both.