

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 Maryland’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.

Md. Code Ann., Crim. Law § 3-1102 (Human trafficking) does not contain language specifically criminalizing purchasing sex with a minor. Instead, Md. Code Ann., Crim. Law § 3-1102(a) states that an offender may not knowingly

- (i) take or cause another to be taken to any place for prostitution;
- (ii) place, cause to be placed, or harbor another in any place for prostitution;
- (iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;
- (iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- (v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or
- (vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.

1.1.1 Recommendation: Amend Md. Code Ann., Crim. Law § 3-1102 (Human trafficking) to make the statute applicable to the actions of buyers of commercial sex with minors.

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

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

Md. Code Ann., Crim. Law § 3-324(b)(1) (Sexual solicitation of minor) specifically criminalizes soliciting commercial sex with a minor; it states,

A person may not, with the intent to commit a violation of . . . § 11-306 [Procuring or solicitation of prostitution or assignation]<sup>2</sup> . . . of this article, knowingly solicit<sup>3</sup> a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under . . . § 11-303 [House of prostitution]<sup>4</sup> . . . of this article.

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

Maryland’s CSEC laws address an array of trafficker conduct. Specifically, Md. Code Ann., Crim. Law § 3-324(b)(1) (Sexual solicitation of minor) provides,

A person may not, with the intent to commit a violation of § 3-304 [Rape in the second degree] or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-303 [House of prostitution], § 11-304 [Receiving earning of prostitute], § 11-305 [Abduction of child under 16], § 11-306 [Procuring or solicitation of prostitution or assignation], or § 11-307 [Using building, structure, or conveyance for prostitution or assignation] of this article, knowingly solicit<sup>5</sup> a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304 or § 3-307 of this subtitle or § 11-303, § 11-304, § 11-305, § 11-306, or § 11-307 of this article.

Further, Md. Code Ann., Crim. Law § 11-305(a) (Abduction of child under 16) states,

(a) Prohibited. -- For the purpose of committing a crime under Title 3, Subtitle 3 of this article [Prostitution and related crimes], a person may not:

- (1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual’s home or from the custody of the individual’s parent or guardian; and
- (2) knowingly secrete or harbor or aid in the secreting or harboring of the individual who has been persuaded or enticed in the manner described in item (1) of this subsection.

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<sup>2</sup> Pursuant to Md. Code Ann., Crim. Law § 11-306(a), “A person may not knowingly procure or solicit or offer to procure or solicit prostitution or assignation.” Md. Code Ann., Crim. Law § 11-301(b) (Definitions) defines “assignation” as “making of an appointment or engagement for prostitution or any act in furtherance of the appointment or engagement.”

<sup>3</sup> Md. Code Ann., Crim. Law § 3-324(a) defines “solicit” as

to command, authorize, urge, entice, request, or advise a person by any means, including:

- (1) in person;
- (2) through an agent or agency;
- (3) over the telephone;
- (4) through any print medium;
- (5) by mail;
- (6) by computer or Internet; or
- (7) by any other electronic means.

<sup>4</sup> Pursuant to Md. Code Ann., Crim. Law § 11-303(a), “A person may not knowingly: (1) engage in prostitution or assignation by any means; or (2) occupy a building, structure, or conveyance for prostitution or assignation.”

<sup>5</sup> See *supra* note 3 for the definition of “solicit.”

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

Maryland law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Md. Code Ann., Crim. Law § 3-1102(f) (Human trafficking), “It is not a defense to a prosecution under subsection (b)(1) or (e)<sup>6</sup> of this section that the person did not know the age of the victim.” Similarly, Md. Code Ann., Crim. Law § 11-305(c) (Abduction of child under 16) states, “It is not a defense to prosecution under this section that the person did not know the age of the victim.”

**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, Maryland’s criminal attempt statute, Md. Code Ann., Crim. Law § 1-201 (Limitation on punishment for attempt), 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 Md. Code Ann., Crim. Law § 1-201, “The punishment of a person who is convicted of an attempt to commit a crime may not exceed the maximum punishment for the crime attempted.”

**Policy Goal 1.6** The trafficking law expressly allows for business entity liability and establishes a business-specific penalty scheme.

Maryland’s trafficking law does not expressly allow for business entity liability.

- 1.6.1 Recommendation: Ensure business entities can be held liable under state trafficking laws and establish 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.

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.<sup>7</sup>

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<sup>6</sup> Md. Code Ann., Crim. Law § 3-1102(b)(1), (e) criminalizes child sex trafficking as well as facilitator conduct.

<sup>7</sup> Regarding asset forfeiture, Md. Code Ann., Crim. Proc. § 13-502 (Property subject to forfeiture) states,

The following are subject to forfeiture:

- (1) except as provided in § 13-503 [Forfeiture for violations without knowledge of owner not permitted] of this subtitle, a motor vehicle used in connection with a violation of and conviction under § 3-1102 [Human trafficking] . . . of the Criminal Law Article;
- (2) money used in connection with a violation of and conviction under the human trafficking law, found in close proximity to or at the scene of the arrest for a violation of the human trafficking law; and
- (3) except as provided in § 13-503 of this subtitle, real property used in connection with a violation of and conviction under § 3-1102 . . . of the Criminal Law Article.

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

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Notably, Md. Code Ann., Crim. Proc. § 13-501(g) (Definitions) defines “human trafficking law” as “§ 3-324 [Sexual solicitation of a minor], § 3-1102 [Human trafficking], . . . § 11-207 [Child pornography], § 11-304 [Receiving earnings of a prostitute], and § 11-305 [Abduction of child under 16] of the Criminal Law Article.” Accordingly, money used in connection Maryland’s CSEC offenses is also subject to forfeiture.

In addition to the forfeiture provisions noted above, sex trafficking and CSEC offenders face asset forfeiture under several other statutes. Under Md. Code Ann., Crim. Proc. § 13-503(b)(1) (Forfeiture of property or interest in property) “A motor vehicle for hire in the transaction of business as a common carrier or a motor vehicle for hire may [] be seized or forfeited under this subtitle [if] it appears that the owner or other person in charge of the motor vehicle was a consenting party or privy to a violation of the human trafficking law.”

Further, Md. Code Ann., Crim. Proc. § 13-507(a) (Seizure of motor vehicles) provides, “A seizing authority may seize a motor vehicle used in violation of § 3-1102 . . . of the Criminal Law Article and recommend forfeiture to the forfeiting authority if the total circumstances of the case as listed in subsection (b) of this section dictate that seizure and forfeiture are justified.” In determining whether a seizure is justified, Md. Code Ann., Crim. Proc. § 13-507(b) states that the seizing authority should consider the following circumstances:

- (1) evidence that the motor vehicle was acquired by use of proceeds from a transaction involving a violation of § 3-1102 . . . of the Criminal Law Article;
- (2) the circumstances of the arrest; and
- (3) the way in which the motor vehicle was used.

Finally, under Md. Code Ann., Crim. Proc. § 13-522 (Forfeiture of real property), “an owner's interest in real property may be forfeited if the owner of the real property is convicted of violating § 3-1102 . . . of the Criminal Law Article or attempting or conspiring to violate § 3-1102 . . . of the Criminal Law Article.” Notably, this statute does not require that the real property have been used to commit human trafficking.

Disposition of forfeited assets is governed by Md. Code Ann., Crim. Proc. § 13-530 (Proceeds from sale or retention of property), which states,

- (a) In general. – The proceeds from a sale or the retention of property declared to be forfeited and any interest accrued shall be applied, first, to the proper expenses of the proceeding for forfeiture and resulting sale, including the expense of seizing and maintaining custody of the property and advertising.
- (b) Remittance to General Fund. – Any balance remaining after the distribution required under subsection (a) of this section shall be distributed to the General Fund of the State or of the political subdivision that seized the property.

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.



## 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.

To be identified as a trafficking victim under the criminal code, a child must be exploited by a trafficker; however, Maryland law expands the definition of “sex trafficking” for purposes of accessing services through the Safe Harbor Regional Navigator Grant Program. Md. Code Ann., Fam. Law § 5-704.4(a)(6) (Safe harbor regional navigator grant program) defines “sex trafficking” to have the meaning ascribed to it in Md. Code Ann., Fam. Law § 5-701(x) (Definitions), which states, “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.” Inclusion of the term “patronizing” allows for a service response in cases where a child is exploited by a buyer without trafficker-involvement.

As noted, however, this conflicts with the criminal code’s definition of trafficking victim, which requires third party control. Md. Code Ann., Crim. Law § 3-1102 (Human trafficking) does not apply to buyers of commercial sex with minors.<sup>8</sup> Accordingly, third party control is required to establish the crime of child sex trafficking, thereby excluding commercially sexually exploited children who are not under the control of a trafficker from the criminal code’s definition of child sex trafficking victim.

2.1.1 Recommendation: Remove third party control requirements that narrow the definition of child sex trafficking victim within the criminal code.<sup>9</sup>

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

Maryland 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.

Maryland law requires child welfare to conduct trauma-informed CSEC screening of system-involved children and youth who are at risk of sex trafficking. Specifically, Md. Code Ann., Fam. Law § 5-706(g) (Investigation) sets forth

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<sup>8</sup> See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Md. Code Ann., Crim. Law § 3-1102.

<sup>9</sup> See generally Shared Hope Int’l, *Eliminating the Third Party Control Barrier to Identifying Juvenile Sex Trafficking Victims*, JuST Response Policy Paper (August 2015), [http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper\\_Eliminating-Third-Party-Control\\_Final1.pdf](http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper_Eliminating-Third-Party-Control_Final1.pdf) (discussing need to include all commercially sexually exploited children within sex trafficking definitions and the corresponding need to include buyer conduct in core sex trafficking offenses regardless of whether the victim is under control of a third party).

a screening requirement to ensure commercially sexually exploited youth are identified and directed to Maryland’s Safe Harbor Regional Navigator Grant Program for services;<sup>10</sup> it states,

- (1) The agencies responsible for investigating reported cases of suspected sexual abuse, including the local department, the appropriate law enforcement agencies, and the local State’s Attorney, shall implement a joint investigation procedure for conducting joint investigations of sexual abuse under subsections (c) and (d) of this section.
- (2) The joint investigation procedure shall:
  - ....
  - (iv) include screening to determine whether a child is a victim of sex trafficking.

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

Maryland 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: Enact a state law requiring 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.

Maryland law does not prohibit the criminalization of minors for prostitution offenses. Although the core prostitution law, Md. Code Ann., Crim. Law § 11-303(a), (c)(1) (House of prostitution), acknowledges trafficking victimization as a mitigating factor, the statute applies equally to adults and minors, stating,

- (a) Prohibited.— A person may not knowingly:
  - (1) engage in prostitution or assignment by any means; or
  - (2) occupy a building, structure, or conveyance for prostitution or assignment.
- ....
- (c) Affirmative defense. —
  - (1) Subject to paragraph (2) of this subsection, in a prosecution under this section, it is an affirmative defense of duress if the defendant committed the act as a result of being a victim of an act of another in violation of Title 3, Subtitle 11 of this article or the prohibition against human trafficking under federal law.

Similarly, Md. Code Ann., Crim. Law § 11-306(a), (c)(1) (Procuring or solicitation of prostitution or assignment) provides,

- (a) In general.—A person may not knowingly procure or solicit or offer to procure or solicit prostitution or assignment.
- ....
- (c) Affirmative defense.—
  - (1) Subject to paragraph (2) of this subsection, in a prosecution under this section, it is an affirmative defense of duress if the defendant committed the act as a result of being a victim of an act of another

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<sup>10</sup> See *infra* Policy Goals 3.1 and 3.3 for a full discussion of Maryland’s Regional Navigator Grant Program.



in violation of Title 3, Subtitle 11 of this article or the prohibition against human trafficking under federal law.

While minors may assert an affirmative defense in a prosecution for an offense under Md. Code Ann., Crim. Law § 11-303 or Md. Code Ann., Crim. Law § 11-306, Maryland law does not prevent minors from being arrested, detained, charged, or prosecuted for prostitution offenses.

Although commercially sexually exploited minors may be subjected to a punitive process as outlined above, they should be referred to services. Md. Code Ann., Cts. & Jud. Proc. § 3-8A-14(d) (Taking child into custody) states,

In addition to the requirements for reporting child abuse and neglect under § 5-704 [Reporting of abuse or neglect – By health practitioner, police officer, educator, or human service worker] of the Family Law Article, if a law enforcement officer has reason to believe that a child who has been detained is a victim of sex trafficking, as defined in § 5-701 [Definitions] of the Family Law Article, the law enforcement officer shall notify any appropriate regional navigator, as defined in § 5-704.4 [Safe harbor regional navigators grant program] of the Family Law Article, for the jurisdiction where the child was taken into custody or where the child is a resident that the child is a suspected victim of sex trafficking.

- 2.5.1 Recommendation: Amend state law to prohibit the criminalization of all minors for prostitution offenses.

**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.

Maryland 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: Enact a law that prohibits 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.

Although Maryland 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, an affirmative defense may be available for certain prostitution-related conduct. Specifically, Md. Code Ann., Crim. Law § 11-307(c)(1) (Using building, structure, or conveyance for prostitution or assignment) provides,

Subject to paragraph (2) of this subsection,<sup>11</sup> in a prosecution under this section, it is an affirmative defense of duress if the defendant committed the act<sup>12</sup> as a result of being a victim of an act of another in violation of Title 3, Subtitle 11 of this article [Human trafficking] or the prohibition against human trafficking under federal law.

- 2.7.1 Recommendation: Enact a law that 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.

**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.

Maryland 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: Enact a law that provides 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.

Maryland law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. Maryland law establishes a minimum age for juvenile court jurisdiction that generally aligns with international human rights standards and appropriately extends juvenile court jurisdiction to all minors under 18 years of age. However, governing state statute permits automatic transfers for minors over 13 years of age charged with certain offenses or those previously convicted in criminal court and subsequently charged with a felony offense and fails to require courts to consider the impact of trauma or past victimization in make 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
<b>Summary</b>	13 (except 10+ years of age if	17.	Yes. Minors: (1) 14+ years of age	Yes. Minors: (1) 15+ years of age; (2)	No.

<sup>11</sup> Md. Code Ann., Crim. Law § 11-307(c)(2) states,

(2) A defendant may not assert the affirmative defense provided in paragraph (1) of this subsection unless the defendant notifies the State's Attorney of the defendant's intention to assert the defense at least 10 days prior to trial.

<sup>12</sup> Pursuant to Md. Code Ann., Crim. Law § 11-307(a), prohibited conduct includes knowingly

(1) allow[ing] a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation;  
 (2) allow[ing] or agree[ing] to allow a person into a building, structure, or conveyance for prostitution or assignation;  
 or  
 (3) keep[ing], set[ting] up, maintain[ing], or operat[ing] a building, structure, or conveyance for prostitution or assignation.



	charged with a crime of violence). <sup>13</sup>		charged with an offense that, if committed by an adult, would be punishable by life imprisonment; (2) 16+ years of age charged with certain felony offenses; or (3) charged with a felony who were previously	under 15 years of age who are charged with an offense that, if committed by an adult, would be punishable by life imprisonment; or (3) previously transferred to criminal court.	
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<sup>13</sup> However, Md. Code Ann., Cts. & Jud. Proc. § 3-8A-03(a)(1)(ii) lowers the minimum age to 10 where the child has been charged with a crime of violence. Md. Code Ann., Crim. Law § 14-101(a) (Mandatory sentences for crimes of violence) defines “crime of violence” to include the following:

- (1) abduction;
- (2) arson in the first degree;
- (3) kidnapping;
- (4) manslaughter, except involuntary manslaughter;
- (5) mayhem;
- (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- (7) murder;
- (8) rape;
- (9) robbery under § 3-402 or § 3-403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance under § 5-602(2) of this article, or other crime of violence;
- (15) child abuse in the first degree under § 3-601 of this article;
- (16) sexual abuse of a minor under § 3-602 of this article if:
  - (i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and
  - (ii) the offense involved:
    1. vaginal intercourse, as defined in § 3-301 of this article;
    2. a sexual act, as defined in § 3-301 of this article;
    3. an act in which a part of the offender’s body penetrates, however slightly, into the victim’s genital opening or anus; or
    4. the intentional touching of the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- (17) home invasion under § 6-202(b) of this article;
- (18) a felony offense under Title 3, Subtitle 11 of this article;
- (19) an attempt to commit any of the crimes described in items (1) through (18) of this subsection;
- (20) continuing course of conduct with a child under § 3-315 of this article;
- (21) assault in the first degree;
- (22) assault with intent to murder;
- (23) assault with intent to rape;
- (24) assault with intent to rob;
- (25) assault with intent to commit a sexual offense in the first degree; and
- (26) assault with intent to commit a sexual offense in the second degree.

			convicted in criminal court.		
<b>Relevant Statute(s)</b>	Md. Code Ann., Cts. & Jud. Proc. § 3-8A-03(a)(1) (Jurisdiction of court)	Md. Code Ann., Cts. & Jud. Proc. § 3-8A-01(d) (Definitions)	Md. Code Ann. Cts.& Jud. Proc. § 3-8A-03(d)(1), (4)–(5) (Jurisdiction of court)	Md. Code Ann., Cts. & Jud. Proc. § 3-8A-06(a), (h) (Waiver of jurisdiction)	Md. Code Ann., Cts. & Jud. Proc. § 3-8A-06(e) (Waiver of jurisdiction)

Consequently, some minors may still be subjected to age-inappropriate juvenile court responses due to state laws that: (1) allow minors to be subjected to automatic transfers; and (2) do not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Enact comprehensive state laws requiring 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.

Maryland law expressly includes child sex trafficking within the definition of abuse. Specifically, Md. Code Ann., Fam. Law § 5-701(b)(1)(ii) (Definitions) defines “abuse” to include “sexual abuse of a child,” which is defined under Md. Code Ann., Fam. Law § 5-701(y)(2) as “sex trafficking of a child by any individual.” Md. Code Ann., Fam. Law § 5-701(x) further defines “sex trafficking” as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.”

Additionally, “abuse” is defined to include commercial sexual exploitation through the definition of sexual abuse of a child under Md. Code Ann., Fam. Law § 5-701(y)(1), which states,

Sexual abuse. – “Sexual abuse” means any act that involves:

- (1) Sexual molestation or exploitation of a child by:
  - (i) a parent;
  - (ii) a household member or family member;
  - (iii) a person who has permanent or temporary care or custody of the child;
  - (iv) a person who has responsibility for supervision of the child; or
  - (v) a person who, because of the person's position or occupation, exercises authority over the child.

Md. Code Ann., Fam. Law § 5-701(z)(1)(iii) defines “sexual molestation or exploitation” in part as “allowing or encouraging a child to engage in . . . prostitution.”

**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.

Maryland law does not allow for a child welfare response in non-familial child sex trafficking cases regardless of caregiver fault. While Md. Code Ann., Fam. Law § 5-701(y)(2) specifically defines “sexual abuse” to include “sex trafficking of a child by any individual,” Md. Code Ann., Cts. & Jud. Proc. § 3-801(f) (Definitions) defines “child in need of assistance” as “a child who requires court intervention because: (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.”

Further, a specialized investigation is not statutorily required for children reported to child welfare due to trafficking victimization perpetrated by a non-familial trafficker.

- 2.11.1 Recommendation: Statutorily allow for child welfare involvement in child sex trafficking cases regardless of parent or caregiver fault and provide for a specialized investigation in those cases.



## 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.

Maryland law provides sex trafficked children and youth under 24 years of age with access to specialized, community-based services through their Safe Harbor Regional Navigators Grant Program. Specifically, Md. Code Ann., Fam. Law § 5-704.4(b)–(e) (Safe harbor regional navigator grant program) states,

- (b) Established; purpose.
  - (1) There is a Safe Harbor Regional Navigator Grant Program.
  - (2) The purpose of the program is to support services for youth<sup>14</sup> victims of sex trafficking by:
    - (i) creating and sustaining projects to provide services for youth victims of sex trafficking that are victim-centered and trauma-informed;
    - (ii) facilitating and coordinating among local departments, the Department of Juvenile Services, sexual assault crisis programs, child advocacy programs, local offices of the Office of the Public Defender, and other state and local agencies responding to youth victims of sex trafficking;
    - (iii) ensuring that youth victims of sex trafficking have access to services described under subsection (e) of this section;
    - (iv) increasing the State’s capacity to respond to youth sex trafficking, and
    - (v) training providers to appropriately identify and serve youth victims of sex trafficking.
- (c) A grantee under the program may include:
  - (1) a child advocacy center;
  - (2) a sexual assault crisis program; or
  - (3) a qualified community-based victim services provider.<sup>15</sup>
- (d) Grants under this section shall be awarded:
  - (1) to ensure that emergency and long-term services are available for youth victims of sex trafficking in every jurisdiction in the State by January 1, 2022, and
  - (2) to provide services in one jurisdiction or in more than one similar jurisdiction in the same region.
- (e) Services coordinated and provided by a grantee under this section shall include:
  - (1) safety planning;
  - (2) emergency response;
  - (3) basic living needs, not including housing;
  - (4) trauma counseling and mental health services;
  - (5) drug and alcohol abuse treatment;

<sup>14</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(8) (Safe harbor regional navigator grant program) defines “youth” as “an individual under the age of 24 years.”

<sup>15</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(4) defines “qualified community-based victim services provider” as follows:

- [A] non-profit organization with:
  - (i) demonstrated expertise providing direct services to victims of sex trafficking or sexually exploited youth;
  - (ii) the capacity to provide victim-centered, trauma-informed case management for youth victims of sex trafficking;
  - (iii) a demonstrated history of working in the community where services will be provided; and
  - (iv) the ability to collaborate with other agencies, including law enforcement, sexual assault crisis programs, child advocacy centers, and other direct services providers.

- (6) legal services;
- (7) victim advocacy;
- (8) case management; and
- (9) designation of regional navigators.<sup>16</sup>

## EXTRA CREDIT



Md. Code Ann., Fam. Law § 5-704.4(a)(8), (b) (Safe harbor regional navigator grant program) expands eligibility for services under the safe harbor program to youth who are under 24 years of age.

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

Maryland 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 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.

Sex trafficked children and youth under 24 years of age have access to specialized services through the Safe Harbor Regional Navigators Grant Program. Pursuant to Md. Code Ann., Fam. Law § 5-704.4(b)–(f), (h) (Safe harbor regional navigator grant program),

(b) Established; purpose.

(1) There is a Safe Harbor Regional Navigator Grant Program.

(2) The purpose of the program is to support services for youth<sup>17</sup> victims of sex trafficking by:

- (i) creating and sustaining projects to provide services for youth victims of sex trafficking that are victim-centered and trauma-informed;
- (ii) facilitating and coordinating among local departments, the Department of Juvenile Services, sexual assault crisis programs, child advocacy programs, local offices of the Office of the Public Defender, and other state and local agencies responding to youth victims of sex trafficking;
- (iii) ensuring that youth victims of sex trafficking have access to services described under subsection (e) of this section;
- (iv) increasing the State’s capacity to respond to youth sex trafficking, and
- (v) training providers to appropriately identify and serve youth victims of sex trafficking.

(c) A grantee under the program may include:

<sup>16</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(5) (Safe harbor regional navigator grant program) defines “regional navigator” as “a provider of services designated by a grantee of the Safe Harbor Regional Navigator Grant Program established under subsection (b) of this section.”

<sup>17</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(8) (Safe harbor regional navigator grant program) defines “youth” as “an individual under the age of 24 years.”

- (1) a child advocacy center;
- (2) a sexual assault crisis program; or
- (3) a qualified community-based victim services provider.<sup>18</sup>
- (d) Grants under this section shall be awarded:
  - (1) to ensure that emergency and long-term services are available for youth victims of sex trafficking in every jurisdiction in the State by January 1, 2022, and
  - (2) to provide services in one jurisdiction or in more than one similar jurisdiction in the same region.
- (e) Services coordinated and provided by a grantee under this section shall include:
  - (1) safety planning;
  - (2) emergency response;
  - (3) basic living needs, not including housing;
  - (4) trauma counseling and mental health services;
  - (5) drug and alcohol abuse treatment;
  - (6) legal services;
  - (7) victim advocacy;
  - (8) case management; and
  - (9) designation of regional navigators.<sup>19</sup>
- (f) Notwithstanding any appropriation made under subsection (h) of this section, not later than October 1, 2019, the Governor’s Office of Crime Control and Prevention shall provide grant funding for services provided by the Safe Harbor Regional Navigator Grant Program.
- .....
- (h) The Governor may annually appropriate up to \$3,000,000 for grant funding provided under this section.

Md. Code Ann., Fam. Law § 5-704.3 (Referral of child who is a suspected victim of sex trafficking) clarifies child welfare’s responsibility for connecting sex trafficked children and youth with those services, stating,

A local department that receives a report of suspected abuse or neglect under this subtitle involving a child who is a suspected victim of sex trafficking shall refer the child to any appropriate regional navigator, as defined in § 5-704.4 [Safe harbor regional navigator grant program] of this subtitle, for the jurisdiction where the trafficking occurred or where the child is a resident for services.

Importantly, although the referral required by Md. Code Ann., Fam. Law § 5-704.3 is triggered upon receipt of a report by child welfare that alleges trafficking victimization, the Regional Navigator response is not limited only to cases where there has been a formal report. Accordingly, the response appears to be available to all sex trafficked children and youth.

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<sup>18</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(4) defines “qualified community-based victim services provider” as follows:

- [A] non-profit organization with:
  - (i) demonstrated expertise providing direct services to victims of sex trafficking or sexually exploited youth;
  - (ii) the capacity to provide victim-centered, trauma-informed case management for youth victims of sex trafficking;
  - (iii) a demonstrated history of working in the community where services will be provided; and
  - (iv) the ability to collaborate with other agencies, including law enforcement, sexual assault crisis programs, child advocacy centers, and other direct services providers.

<sup>19</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(5) (Safe harbor regional navigator grant program) defines “regional navigator” as “a provider of services designated by a grantee of the Safe Harbor Regional Navigator Grant Program established under subsection (b) of this section.”



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

Maryland law provides access to specialized services for identified sex trafficked children and youth in the juvenile justice system. Pursuant to Md. Code Ann., Fam. Law § 5-704.4(b)(e) (Safe harbor regional navigator grant program),

- (b) Established; purpose.
  - (1) There is a Safe Harbor Regional Navigator Grant Program.
  - (2) The purpose of the program is to support services for youth<sup>20</sup> victims of sex trafficking by:
    - ....
    - (ii) facilitating and coordinating among local departments, the Department of Juvenile Services, sexual assault crisis programs, child advocacy programs, local offices of the Office of the Public Defender, and other state and local agencies responding to youth victims of sex trafficking;
    - (iii) ensuring that youth victims of sex trafficking have access to services described under subsection (e) of this section;
    - ....
- (e) Services coordinated and provided by a grantee under this section shall include:
  - (1) safety planning;
  - (2) emergency response;
  - (3) basic living needs, not including housing;
  - (4) trauma counseling and mental health services;
  - (5) drug and alcohol abuse treatment;
  - (6) legal services;
  - (7) victim advocacy;
  - (8) case management; and
  - (9) designation of regional navigators.

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

Maryland law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement. However, these services are not extended to youth under 23 years of age as permitted under federal law.<sup>21</sup> Specifically, Md. Code Ann., Fam. Law § 5-501(m) (Definitions) defines “voluntary placement agreement” as follows:

- [A] binding, written agreement that:
  - (1) is voluntarily entered into between a local department and:
    - (i) the parent or legal guardian of a minor child; or
    - (ii) a former CINA whose commitment to the local department was rescinded after the individual reached the age of 18 years but before the individual reached the age of 20 years and 6 months; and
  - (2) specifies, at a minimum:
    - (i) the legal status of the child or former CINA; and
    - (ii) the rights and obligations of the parent or legal guardian, the child or former CINA, and the local department while the child or former CINA is in placement.

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<sup>20</sup> Md. Code Ann., Fam. Law § 5-704.4(a)(8) (Safe harbor regional navigator grant program) defines “youth” as “an individual under the age of 24 years.”

<sup>21</sup> 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).

Additionally, Md. Code Ann., Fam. Law § 5-525(b)(3)(i) (Out-of-home placement and foster care – In general) provides,

The Administration shall establish a program of out-of-home placement for former CINAs:

1. whose commitment to a local department was rescinded after the individuals reached the age of 18 years but before the individuals reached the age of 20 years and 6 months; and
2. who did not exit foster care due to reunification, adoption, guardianship, marriage, or military duty.

Further, under Md. Code Ann., Educ. § 15-106.1 (Tuition exemption for foster care recipients or unaccompanied homeless youth), transition age foster youth are “exempt from paying any tuition at a public institution of higher education, regardless of that foster care recipient's . . . receipt of any scholarship or grant” if they enroll in the academic or vocational institution before the age of 25.

- 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 Maryland state legislature made non-reoccurring appropriations during the 2021 and 2022 sessions to support the development, coordination, and access to services to community-based specialized services for child and youth survivors of sex trafficking.

2022 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
SB 290	Victim Services Unit	\$200,000	To provide funds to support women survivors of sex trafficking and sexual exploitation through a grant to Harriet’s House.	FY 2022-2023
2022 Legislative Session				July 1 <sup>st</sup> -June 30 <sup>th</sup>
SB 290	Young Women’s Christian Association of Annapolis & Anne Arundel County	\$1,000,000	For the construction of a residential facility to provide shelter for youth affected by sexual exploitation.	FY 2022-2023
2022 Legislative Session				July 1 <sup>st</sup> -June 30 <sup>th</sup>
SB 291	Young Women’s Christian Association of Annapolis & Anne Arundel County	\$350,000	For the acquisition, planning, design, construction, repair, renovation, reconstruction, site improvement, and capital equipping of the YWCA Trafficking Safe House.	FY 2022-2023
2022 Legislative Session				July 1 <sup>st</sup> -June 30 <sup>th</sup>

2021 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
HB 590	Young Women's Christian Association of Annapolis & Anne Arundel County	\$100,000	For the acquisition, planning, design, construction, repair, renovation, reconstruction, site improvement, and capital equipping of the YWCA Domestic Violence Safe House Shelter. <sup>22</sup>	FY 2021/2022 (One time)
2021 Legislative Session				July 1 <sup>st</sup> -June 30 <sup>th</sup>

**EXTRA CREDIT**



The Maryland Legislature appropriated funds for FY 2021 and 2022 to support the development, coordination, and access to services to community-based specialized services for child and youth survivors of sex trafficking.

<sup>22</sup> See State of Maryland, *2021 Bond Initiative Fact Sheet for YWCA Domestic Violence Safe House Shelter* (October 19, 2021) [https://mgaleg.maryland.gov/2021RS/bond\\_initiatives/YWCA\\_Domestic\\_Violence\\_Safe\\_House\\_Shelter.pdf](https://mgaleg.maryland.gov/2021RS/bond_initiatives/YWCA_Domestic_Violence_Safe_House_Shelter.pdf), which states,

This project will add a second safe house to the campus specific to individuals ages 13-22 who are victims of sex trafficking . . . . Individuals residing at the safe house will be provide with onsite education through partnership with Anne Arundel County Public Schools, legal representation (YWCA legal services) and licensed therapy (YWCA counseling services).



## ISSUE 4: Access to Justice for Trafficking Survivors

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

While civil orders of protection exist under Maryland law, this protection is not expressly available to victims of child sex trafficking and CSEC.<sup>23</sup>

- 4.1.1 Recommendation: Enact legislation expressly allowing victims of trafficking and CSEC to obtain 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.

Although Maryland’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, Md. Code Ann., Crim. Proc. § 11-801(g)(1), (2) (Definitions) defines “victim” to include a person:

- (1) who suffers physical injury or death as a result of a crime or delinquent act;
- (2) who suffers psychological injury as a direct result of:
  - ....
  - (ii) a felony or a delinquent act that would be a felony if committed by an adult; or
  - (iii) physical injury or death directly resulting from a crime or delinquent act; or

“Crime” is defined under Md. Code Ann., Crim. Proc. § 11-801(d)(1) as “a criminal offense under state, federal, or common law that is committed in: 1. this State; or 2. another state against a resident of this State . . . .”

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to Md. Code Ann., Crim. Proc. § 11-808(a)(2) (Eligibility for awards), “A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award with respect to the claim.”

Further, Md. Code Ann., Crim. Proc. § 11-810(a), (d) (Conditions for awards on claims) provides,

- (a) In general. –
  - (1) The Board may make an award only if the Board finds that:
    - ....

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<sup>23</sup> Notably, Md. Code Ann., Fam. Law § 4-505.1(b)(3) (Temporary protective orders) allows a temporary protective order to be filed electronically from a human trafficking prevention or assistance program but does not expand the grounds for filing a petition. The text of Md. Code Ann., Crim. Proc. § 11-304 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 296 and Senate Bill 280 during the 2022 Regular Session of the Maryland state legislature (effective October 1, 2022).

- (iii) police, other law enforcement, or judicial records show that the crime or delinquent act or the discovery of child abuse was reported to the proper authorities within 48 hours after the occurrence of the crime or delinquent act or the discovery of the child abuse; and
  - (iv) the victim has cooperated fully with all law enforcement units.
- (2) For good cause, the Board may waive the requirements of paragraph (1)(iii) and (iv) of this subsection.<sup>24</sup>

.....  
 (d) Contributory conduct. –

- (1)
  - (i) Except as provided under subparagraph (ii) of this paragraph, in considering a claim and in determining the amount of an award, the Board shall determine whether the victim's conduct contributed to the infliction of the victim's injury, and, if so, reduce the amount of the award or reject the claim.

.....  
 (3) A claimant may not receive an award if:

- (i) the victim initiated, consented to, provoked, or unreasonably failed to avoid a physical confrontation with the offender; or
- (ii) the victim was participating in a crime or delinquent act when the injury was inflicted.

Lastly, Md. Code Ann., Crim. Proc. § 11-809(a)(1) (Filing of claims) generally requires claims for compensation to be filed within 3 years of the discovery of the crime's occurrence.<sup>25</sup>

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 Maryland law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to Md. Code Ann., Crim. Proc. § 8-302(b)–(g) (Motion to vacate judgment for prostitution committed under duress),

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<sup>24</sup> Notably, Md. Code Ann., Crim. Proc. § 11-810 does not explain what constitutes “good cause” under this section.

<sup>25</sup> Md. Code Ann., Crim. Proc. § 11-809(a)(2), (3) provides an exception to filing deadlines for cases involving child abuse and sexual assault but not child sex trafficking and CSEC.

(b) Victim of human trafficking. – A person convicted of a qualifying offense<sup>26</sup> may file a motion to vacate the judgment if the person's participation in the offense was a direct result of being a victim of human trafficking.<sup>27</sup>

(c) Requirements. – A motion filed under this section shall:

.....

(2) be made within a reasonable period of time after the conviction;

.....

(d) Ruling. –

(1) The court may grant a motion filed under this section on a finding based on a preponderance of the evidence that the movant committed the qualifying offense as a direct result of being a victim of human trafficking.

(2) When making a finding under this subsection, the court shall consider:

(i) the length of time between the offense and the trafficking of the movant;

(ii) the dynamics of the relationship between the movant and the person committing trafficking against the movant; and

(iii) any other relevant evidence.

.....

(g) Reasons granted. –

(1) If a court grants a motion filed under this section, the court shall vacate the conviction.

(2) The court shall state the reasons for its ruling on the record.

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<sup>26</sup> Md. Code Ann., Crim. Proc. § 8-302(a)(2) defines “qualifying offense” to include the following:

- (i) unnatural or perverted sexual practice under § 3-322 of the Criminal Law Article;
- (ii) possessing or administering a controlled dangerous substance under § 5-601 of the Criminal Law Article;
- (iii) possessing or purchasing a noncontrolled substance under § 5-618 of the Criminal Law Article;
- (iv) possessing or distributing controlled paraphernalia under § 5-620(a)(2) of the Criminal Law Article;
- (v) fourth-degree burglary under § 6-205 of the Criminal Law Article;
- (vi) malicious destruction of property in the lesser degree under § 6-301(c) of the Criminal Law Article;
- (vii) a trespass offense under Title 6, Subtitle 4 of the Criminal Law Article;
- (viii) misdemeanor theft under § 7-104 of the Criminal Law Article;
- (ix) misdemeanor obtaining property or services by bad check under § 8-103 of the Criminal Law Article;
- (x) possession or use of a fraudulent government identification document under § 8-303 of the Criminal Law Article;
- (xi) public assistance fraud under § 8-503 of the Criminal Law Article;
- (xii) false statement to a law enforcement officer or public official under § 9-501, § 9-502, or § 9-503 of the Criminal Law Article;
- (xiii) disturbing the public peace and disorderly conduct under § 10-201 of the Criminal Law Article;
- (xiv) indecent exposure under § 11-107 of the Criminal Law Article;
- (xv) prostitution under § 11-303 of the Criminal Law Article;
- (xvi) driving with a suspended registration under § 13-401(h) of the Transportation Article;
- (xvii) failure to display registration under § 13-409(b) of the Transportation Article;
- (xviii) driving without a license under § 16-101 of the Transportation Article;
- (xix) failure to display license to police under § 16-112(c) of the Transportation Article;
- (xx) possession of a suspended license under § 16-301(j) of the Transportation Article;
- (xxi) driving while privilege is canceled, suspended, refused, or revoked under § 16-303 of the Transportation Article;
- (xxii) owner failure to maintain security on a vehicle under § 17-104(b) of the Transportation Article;
- (xxiii) driving while uninsured under § 17-107 of the Transportation Article; or
- (xxiv) prostitution or loitering as prohibited under local law.

<sup>27</sup> Md. Code Ann., Crim. Proc. § 8-302(a)(3) defines “victim of human trafficking” as “a person who has been subjected to an act of another committed in violation of: (i) Title 3, Subtitle 11 of the Criminal Law Article [Human trafficking]; or (ii) § 1589, § 1590, § 1591, or § 1594(a) of Title 18 of the United States Code.”



Because Md. Code Ann., Crim. Proc. § 8-302 applies specifically to “convictions,” however, this protection does not clearly extend to delinquency adjudications. Further, vacatur is limited to certain qualifying offenses, which fails to recognize the array of crimes trafficking victims may be induced to commit and leaves many survivors without any avenue for relief.

- 4.3.1 Recommendation: Strengthen existing law by allowing 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 Md. Code Ann., Crim. Proc. § 11-603(a), (b) (Restitution determination),

- (a) Conditions for judgment of restitution. – A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:
- (1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
  - (2) as a direct result of the crime or delinquent act, the victim suffered:
    - (i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses;
    - (ii) direct out-of-pocket loss;
    - (iii) loss of earnings; or
    - (iv) expenses incurred with rehabilitation;
  - (3) the victim incurred medical expenses that were paid by the Maryland Department of Health or any other governmental unit;
  - (4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25-201 of the Transportation Article;
  - (5) the Criminal Injuries Compensation Board paid benefits to a victim; or
  - (6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title.
- (b) Right of victims to restitution. – A victim is presumed to have a right to restitution under subsection (a) of this section if:
- (1) the victim or the State requests restitution; and
  - (2) the court is presented with competent evidence of any item listed in subsection (a) of this section.

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

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

Maryland law does not allow victims of child sex trafficking to pursue civil remedies against their exploiters.

- 4.5.1 Recommendation: Provide child sex trafficking victims with a trafficking-specific civil remedy.

#### 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.

Maryland law does not require prosecutions for felony offenses to be commenced within any designated period of time.<sup>28</sup> Pursuant to Md. Code Ann., Cts. & Jud. Proc. § 5-106(a) (Prosecutions for misdemeanors; manslaughter by automobile, motorboat, etc.; homicide by motor vehicle), however, prosecutions for misdemeanors must commence within 1 year of the crime's occurrence, except, pursuant to subsection (b)(1), "if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary or that a person is subject to this subsection [in which case the] State may institute a prosecution for the misdemeanor at any time."

Regarding civil actions, Maryland law does not provide child sex trafficking victims with a trafficking-specific civil remedy.<sup>29</sup>

4.6.1 Recommendation: Eliminate the statute of limitation for filing trafficking-specific civil actions.<sup>30</sup>

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<sup>28</sup> Clark v. State, 774 A.2d 1136, 1144 n.8 (Md. 2001) ("Maryland has no statute of limitations on felonies or penitentiary misdemeanors beyond that imposed by the life of the offender.").

<sup>29</sup> Generally, Md. Code Ann., Cts. & Jud. Proc. § 5-101 (Civil actions) establishes a 3-year statute of limitation for civil actions.

<sup>30</sup> The recommendation in this Policy Goal is predicated upon the recommendation in Policy Goal 4.5 being simultaneously or previously enacted.



## 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.

Maryland law allows out-of-court statements made by a commercially sexually exploited child under 13 years of age to be admitted into evidence in lieu of, or for the purpose of corroborating, the child’s testimony. Pursuant to Md. Code Ann., Crim. Proc. § 11-304(b)–(e)<sup>31</sup> (Out of court statements of certain child victims),

(b) Subject to subsections (c), (d), and (e) of this section, the court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement<sup>32</sup> made by a child victim or witness who:

.....

(2)

(i) is under the age or 13 years; and

(ii) is an alleged victim or witness in a case before the court concerning a crime of violence as defined under § 14-101 [Mandatory sentences for crimes of violence]<sup>33</sup> of the criminal law article.

(c) An out of court statement may be admissible under this section only if the statement was made to and is offered by a person acting lawfully in the course of the person’s profession when the statement was made who is:

(1) a physician;

(2) a psychologist;

(3) a nurse;

(4) a social worker;

(5) a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school;

(6) a counselor licensed or certified in accordance with Title 17 of the Health Occupations Article; or

(7) a therapist licensed or certified in accordance with Title 17 of the Health Occupations Article.

(d)

(1) Under this section, an out of court statement by a child victim or witness may come into evidence in a criminal proceeding or in a juvenile court proceeding other than a child in need of assistance proceeding under Title 3, Subtitle 8 of the Courts Article to prove the truth of the matter asserted in the statement:

(i) if the statement is not admissible under any other hearsay exception; and

(ii) if the child victim or witness testifies.

.....

(3) To provide the defendant, child respondent, or alleged offender with an opportunity to prepare a response to the statement, the prosecuting attorney shall serve on the defendant, child respondent, or

<sup>31</sup> The text of Md. Code Ann., Crim. Proc. § 11-304 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 284 and Senate Bill 20 during the 2022 Regular Session of the Maryland state legislature (effective October 1, 2022).

<sup>32</sup> Md. Code Ann., Crim. Proc. § 11-304(a) defines “statement” as “(1) an oral or written assertion; or (2) nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.”

<sup>33</sup> Md. Code Ann., Crim. Law § 14-101(a)(18), (19) defines “crime of violence” to include “(18) a felony offense under Title 3, Subtitle 11 of this article [Human Trafficking]; (19) an attempt to commit any of the crimes described in items (1) through (18) of this subsection.”

- alleged offender and the attorney for the defendant, child respondent, or alleged offender within a reasonable time before the juvenile court proceeding and at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:
- (i) the State's intention to introduce the statement;
  - (ii) any audio or visual recording of the statement; and
  - (iii) if an audio or visual recording of the statement is not available, the content of the statement.
- (4)
- (i) The defendant, child respondent, or alleged offender may depose a witness who will testify under this section.
  - (ii) Unless the State and the defendant, child respondent, or alleged offender agree or the court orders otherwise, the defendant, child respondent, or alleged offender shall file a notice of deposition:
    - 1. in a criminal proceeding, at least 5 days before the date of the deposition; or
    - 2. in a juvenile court proceeding, within a reasonable time before the date of the deposition.
  - (iii) Except where inconsistent with this paragraph, Maryland Rule 4-261 applies to a deposition taken under this paragraph.
- (e)
- (1) A child victim's or witness's out of court statement is admissible under this section only if the statement has particularized guarantees of trustworthiness.
  - (2) To determine whether the statement has particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:
    - (i) the child victim's or witness's personal knowledge of the event;
    - (ii) the certainty that the statement was made;
    - (iii) any apparent motive to fabricate or exhibit partiality by the child victim or witness, including interest, bias, corruption, or coercion;
    - (iv) whether the statement was spontaneous or directly responsive to questions;
    - (v) the timing of the statement;
    - (vi) whether the child victim's or witness's young age makes it unlikely that the child victim or witness fabricated the statement that represents a graphic, detailed account beyond the child victim's or witness's expected knowledge and experience;
    - (vii) the appropriateness of the terminology of the statement to the child victim's or witness's age;
    - (viii) the nature and duration of the abuse or neglect;
    - (ix) the inner consistency and coherence of the statement;
    - (x) whether the child victim or witness was suffering pain or distress when making the statement;
    - (xi) whether extrinsic evidence exists to show the defendant or child respondent had an opportunity to commit the act complained of in the child victim's or witness's statement;
    - (xii) whether the statement was suggested by the use of leading questions; and
    - (xiii) the credibility of the person testifying about the statement.

Notably, child victims who are 13 years of age or older are not protected by this hearsay exception, thereby increasing their risk of re-traumatization from testifying.

- 5.1.1 Recommendation: Amend Md. Code Ann., Crim. Proc. § 11-304 (Out of court statements of certain child victims) to extend the hearsay exception to any case involving the 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.

Maryland law does not provide child sex trafficking victims with an alternative to live, in-court testimony. Although Md. Code Ann., Crim. Proc. § 11-303 (Testimony of child victim by closed circuit television) allows the court to order the testimony of a child be taken by closed circuit television (CCTV) during the prosecution of a specified

offense, this protection does extend to sex trafficking or CSEC prosecutions. Similarly, while the definition of “abuse” under Md. Code Ann., Fam. Law § 5-701(Definitions) includes child sex trafficking, the CCTV protection is limited to dependency proceedings. Specifically, Md. Code Ann., Crim. Proc. § 11-303 provides,

- (a) Scope of section. – This section applies to a case of abuse of a child under Title 5, Subtitle 7 of the Family Law Article or § 3-601 [Child Abuse] or § 3-602 [Sexual abuse of a minor] of the Criminal Law Article.
- (b) In general. -- A court may order that the testimony of a child victim be taken outside the courtroom and shown in the courtroom by closed circuit television if:
  - (1) the court determines that testimony by the child victim in the presence of a defendant or a child respondent will result in the child victim's suffering serious emotional distress such that the child victim cannot reasonably communicate; and
  - (2) the testimony is taken during the proceeding.
- (c) Determination by court. –
  - (1) In determining whether testimony by the child victim in the presence of the defendant or child respondent will result in the child victim's suffering such serious emotional distress that the child cannot reasonably communicate, the court may:
    - (i) observe and question the child victim inside or outside the courtroom; and
    - (ii) hear testimony of a parent or custodian of the child victim or other person, including a person who has dealt with the child victim in a therapeutic setting.
  - (2)
    - (i) Except as provided in subparagraph (ii) of this paragraph, each defendant or child respondent, one attorney for a defendant or child respondent, one prosecuting attorney, and one attorney for the child victim may be present when the court hears testimony on whether to allow a child victim to testify by closed circuit television.
    - (ii) If the court decides to observe or question the child victim in connection with the determination to allow testimony by closed circuit television:
      - 1. the court may not allow the defendant or child respondent to be present; but
      - 2. one attorney for each defendant or child respondent, one prosecuting attorney, and one attorney for the child victim may be present.
- ....
- (g) Two-way closed circuit television. – This section does not allow the use of two-way closed circuit television or other procedure that would let a child victim see or hear a defendant or child respondent.

Consequently, while CCTV protections are available to child sex trafficking victims in the context of dependency proceedings, they are not available in the context of criminal prosecutions.

5.2.1 Recommendation: Strengthen existing 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.	Use of a therapy dog is permitted to provide emotional support for child victim-witnesses.	Not statutorily required.

<b>Relevant Statute(s)</b>	None.	Md. Code Ann. Ct. & Jud. Proc. § 9-501(2) (Court dog program – Purpose – Implementation procedures)	None.
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5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate 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.

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

5.4.1 Recommendation: Enact a child sex trafficking-specific caseworker privilege law that protects 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.

Maryland law does not mandate statewide training for child welfare agencies on identification and response to child sex trafficking.

6.1.1 Recommendation: Statutorily 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.

Maryland law does not mandate statewide training for juvenile justice agencies on identification and response to child sex trafficking.

6.2.1 Recommendation: Statutorily 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.

Maryland law mandates trafficking-specific training for law enforcement both as initial education and as ongoing in-service training. Pursuant to Md. Code Ann., Pub. Safety § 3-207(a)(6)<sup>34</sup> (General powers and duties of Commission),

In general. – The [Police Training and Standards Commission] has the following powers and duties:

....

(6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of:

(i) the criminal laws concerning rape and sexual offenses, including the sexual abuse and exploitation of children and related evidentiary procedures;

(ii) the criminal laws concerning human trafficking, including services and support available to victims and the rights and appropriate treatment of victims;

....

(v) the contact with and treatment of victims of crimes and delinquent acts;

....

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<sup>34</sup> The text of Md. Code Ann., Pub. Safety § 3-207 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 134 during the 2022 Regular Session of the Maryland state legislature (effective October 1, 2022).

**Policy Goal 6.4** State law mandates trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

Maryland law does not mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

- 6.4.1 Recommendation: Statutorily 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.

Maryland law does not mandate training on child sex trafficking for school personnel.<sup>35</sup>

- 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.

Maryland law does not mandate child sex trafficking prevention education in schools.<sup>36</sup>

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

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<sup>35</sup> Although not mandated for teachers, trafficking-specific training is required for Directors of Student Services under Md. Code Ann., Educ. § 7-432 (Human trafficking awareness, training, and distribution of materials), which states,

- (a) In general. – The [State Department of Education], in collaboration with the Maryland Department of Health, shall provide awareness and training for Directors of Student Services in local education agencies on human trafficking, including strategies for the prevention of trafficking of children.
- (b) Materials to be provided by Maryland Department of Health. – The Maryland Department of Health, in consultation with experts in the field of human trafficking prevention, shall provide to the Department:
  - (1) Resource information on human trafficking, including strategies for prevention of trafficking of children, to be distributed to local school supervisors of health, counseling, and psychology; and
  - (2) Materials for distribution that describe local, State, and national resources to which students, parents, counselors, and school personnel can refer for information on human trafficking, including strategies for prevention of trafficking of children.

<sup>36</sup> However, Md. Code Ann., Educ. § 7-432(b) (Human trafficking awareness, training, and distribution of materials) does provide for the distribution of information on human trafficking to students, stating,

- Materials to be provided by Maryland Department of Health. – The Maryland Department of Health, in consultation with experts in the field of human trafficking prevention, shall provide to the Department:
  - (1) Resource information on human trafficking, including strategies for prevention of trafficking of children, to be distributed to local school supervisors of health, counseling, and psychology; and
  - (2) Materials for distribution that describe local, State, and national resources to which students, parents, counselors, and school personnel can refer for information on human trafficking, including strategies for prevention of trafficking of children.

## State Laws Addressing Child Sex Trafficking

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1. Md. Code Ann., Crim. Law § 3-1102(a)–(e) (Human trafficking) states,

(a) Prohibited -- In general. --

(1) A person may not knowingly:

- (i) take or cause another to be taken to any place for prostitution;
- (ii) place, cause to be placed, or harbor another in any place for prostitution;
- (iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;
- (iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- (v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or
- (vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

(b) Prohibited -- Minor. --

(1) A person may not violate subsection (a) of this section involving a victim who is a minor.

(2) A person may not violate subsection (a) of this section with the use of or intent to use force, threat, coercion, or fraud.

(c) Penalty. --

.....

(2) A person who violates subsection (b) of this section is guilty of the felony of sex trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$ 15,000 or both.

.....

(e) Same penalties for person benefiting or aider and abettor. --

(1) A person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) or (b) of this section is subject to the same penalties that would apply if the person had violated that subsection.

(2) A person who knowingly aids, abets, or conspires with one or more other persons to violate any subsection of this section is subject to the same penalties that apply for a violation of that subsection.

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

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1. Md. Code Ann., Crim. Law § 11-305(a), (b) (Abduction of child under 16) states,
  - (a) Prohibited. -- For the purpose of committing a crime under Title 3, Subtitle 3 of this article [Prostitution and related crimes], a person may not:
    - (1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual's home or from the custody of the individual's parent or guardian; and
    - (2) knowingly secrete or harbor or aid in the secreting or harboring of the individual who has been persuaded or enticed in the manner described in item (1) of this subsection.
  - (b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment or a fine not exceeding \$ 5,000 or both.
  
2. Md. Code Ann., Crim. Law § 3-324(b), (d)(1) (Sexual solicitation of minor) states,
  - (b) Prohibited. --
    - (1) A person may not, with the intent to commit a violation of § 3-304 [Rape in the second degree] or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-303 [House of prostitution], § 11-304 [Receiving earning of prostitute], § 11-305 [Abduction of child under 16], § 11-306 [Procuring or solicitation of prostitution or assignation], or § 11-307 [Using building, structure, or conveyance for prostitution or assignation] of this article, knowingly solicit<sup>37</sup> a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304 or § 3-307 of this subtitle or § 11-303, § 11-304, § 11-305, § 11-306, or § 11-307 of this article.
    - (2) A person may not, with the intent to commit a violation of § 3-304 or § 3-307 of this subtitle or § 11-303, § 11-304, § 11-305, § 11-306, or § 11-307 of this article, knowingly solicit the consent of a parent, guardian, or custodian of a minor, or a law enforcement officer posing as a parent, guardian, or custodian of a minor, to engage in activities with the minor that would be unlawful for the person to engage in under § 3-304 or § 3-307 of this subtitle or § 11-303, § 11-304, § 11-305, § 11-306, or § 11-307 of this article.
  - ....
  - (d) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to:
    - (1) for a first offense, imprisonment not exceeding 10 years or a fine not exceeding \$ 25,000 or both . .
    - ..

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<sup>37</sup> Md. Code Ann., Crim. Law § 3-324(a) defines “solicit” as follows:

- [T]o command, authorize, urge, entice, request, or advise a person by any means, including:
- (1) in person;
  - (2) through an agent or agency;
  - (3) over the telephone;
  - (4) through any print medium;
  - (5) by mail;
  - (6) by computer or Internet; or
  - (7) by any other electronic means.