

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 Minnesota’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.

Minn. Stat. Ann. § 609.322(1)(a) (Solicitation, inducement, and promotion of prostitution; sex trafficking) specifically excludes buyers from criminal liability, stating,

Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$ 50,000, or both:

- (1) solicits or induces an individual under the age of 18 years to practice prostitution;
- (2) promotes the prostitution of an individual<sup>2</sup> under the age of 18 years;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or

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

<sup>2</sup> Minn. Stat. Ann. § 609.321(7) (Prostitution and sex trafficking; definitions) defines “promotes the prostitution of an individual” as follows:

[A]ny of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute;
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

(4) engages in the sex trafficking<sup>3</sup> of an individual under the age of 18 years.

- 1.1.1 Recommendation: Amend Minn. Stat. Ann. § 609.322(1)(a) (Solicitation, inducement, and promotion of prostitution; sex trafficking) to make the statute applicable to the actions of buyers of who “patronize” a minor for commercial sex.

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

Minnesota law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, Minn. Stat. Ann. § 609.324(1) (Patrons; prostitutes; housing individuals engaged in prostitution; penalties) states,

- (a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both:
- (1) engages in prostitution with an individual under the age of 14 years;
  - (2) hires or offers or agrees to hire an individual under the age of 14 years to engage in sexual penetration or sexual contact; or
  - (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 14 years to engage in sexual penetration or sexual contact.
- (b) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:
- (1) engages in prostitution with an individual under the age of 16 years but at least 14 years;
  - (2) hires or offers or agrees to hire an individual under the age of 16 years but at least 14 years to engage in sexual penetration or sexual contact; or
  - (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.
- (c) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:
- (1) engages in prostitution with an individual under the age of 18 years but at least 16 years;
  - (2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact; or
  - (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.

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

Minn. Stat. Ann. § 609.324(1a) (Patrons; prostitutes; housing individuals engaged in prostitution; penalties) applies to traffickers but is limited in application to traffickers who provide a minor with a place of residence; it states,

Housing unrelated minor engaged in prostitution; penalties. — Any person, other than one related by blood, adoption, or marriage to the minor, who permits a minor to reside, temporarily or permanently, in

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<sup>3</sup> Minn. Stat. Ann. § 609.321(7a) defines “sex trafficking” as

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

the person's dwelling without the consent of the minor's parents or guardian, knowing or having reason to know that the minor is engaging in prostitution may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$ 3,000, or both; except that, this subdivision does not apply to residential placements made, sanctioned, or supervised by a public or private social service agency.

- 1.3.1 Recommendation: Enact a CSEC law that addresses an array of exploitive conduct engaged in by traffickers.

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

Minnesota law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Minn. Stat. Ann. § 609.325(2) (Defenses), “mistake as to age shall be no defense to prosecutions under section 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties].”

**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, Minnesota's criminal attempt statute, Minn. Stat. Ann. § 609.17 (Attempts), could provide prosecutors with an alternative avenue to prosecute those cases. Minn. Stat. Ann. § 609.17(1), (2) states,

Subdivision 1. Crime defined. – Whoever, with intent to commit a crime, does an act which is a substantial step toward, and more than preparation for, the commission of the crime is guilty of an attempt to commit that crime . . . .

Subd. 2. Act defined. – An act may be an attempt notwithstanding the circumstances under which it was performed or the means employed to commit the crime intended or the act itself were such that the commission of the crime was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

Accordingly, an offender could be found guilty of attempting to commit a child sex trafficking offense despite the use of a law enforcement decoy.

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

Minnesota's trafficking chapter expressly allows for business entity liability and establishes a business-specific penalty scheme. Specifically, Minn. Stat. Ann. § 609.284(3) (Labor or sex trafficking crimes; defenses; civil liability; corporate liability) provides,

Corporate liability. — If a corporation or other business enterprise is convicted of violating section 609.282 [Labor trafficking], 609.283 [Unlawful conduct with respect to documents in furtherance of labor or sex trafficking], or 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], in addition to the criminal penalties described in those sections and other remedies provided elsewhere in law, the court may, when appropriate:

- (1) order its dissolution or reorganization;
- (2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or

(3) order the surrender of its charter if it is organized under Minnesota law or the revocation of its certificate to conduct business in Minnesota if it is not organized under Minnesota law.

**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.

Minnesota law levies financial penalties, including a mandatory assessment and asset forfeiture, on sex trafficking and CSEC offenders and directs those financial penalties to a victim services fund. Regarding fees, Minn. Stat. Ann. § 609.3241(a), (c) (Penalty assessment authorized) imposes a mandatory assessment of \$750–\$1,000 on sex trafficking and CSEC offenders and directs those funds to the Safe Harbor for Youth Account; it states,

(a) When a court sentences an adult convicted of violating section . . . 609.283 [Unlawful conduct with respect to documents in furtherance of labor or sex trafficking], 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . the court shall impose an assessment of . . . not less than \$750 and not more than \$1,000 . . . .

(c) The assessment collected under paragraph (a) must be distributed as follows:

- (1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);
- (2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth; and
- (3) 40 percent of the assessment must be forwarded to the commissioner of health to be deposited in the safe harbor for youth account in the special revenue fund and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

Regarding asset forfeiture, Minn. Stat. Ann. § 609.5312(1)–(3) (Forfeiture of property associated with designated offenses) provides for forfeiture in trafficking and CSEC cases, stating,

Subdivision 1. Property subject to forfeiture.

(a) All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense.<sup>4</sup> All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

(b) All money used or intended to be used to facilitate the commission of a violation of section 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties] or a violation of a local ordinance substantially similar to section 609.322 or 609.324 is subject to forfeiture.

(c) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

Subd. 1a. Computers and related property subject to forfeiture.

(a) As used in this subdivision, “property” has the meaning given in section 609.87, subdivision 6.

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<sup>4</sup> Minn. Stat. Ann. § 609.531(f)(3) (Forfeitures) defines “designated offense” to include “a felony violation of, or a felony-level attempt or conspiracy to violate, section . . . 609.283; 609.322; . . . or any violation of section 609.324.”

(b) When a computer or a component part of a computer is used or intended for use to commit or facilitate the commission of a designated offense, the computer and all software, data, and other property contained in the computer are subject to forfeiture . . . .

Subd. 3. Vehicle forfeiture for prostitution offenses.

(a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense . . . .

(f) The Department of Corrections Fugitive Apprehension Unit shall not participate in paragraphs (a) to (e).

Disposition of forfeited property is governed by Minn. Stat. Ann. § 609.5315 (Disposition of forfeited property), which directs a percentage of certain forfeited assets to the Safe Harbor for Youth Account. Minn. Stat. Ann. § 609.5315(4)–(5)(c) provides,

Subd. 4. Distribution of proceeds of the offense. — Property that consists of proceeds derived from or traced to the commission of a designated offense or a violation of section 609.66, subdivision 1e, must be applied first to payment of seizure, storage, forfeiture, and sale expenses, and to satisfy valid liens against the property; and second, to any court-ordered restitution before being disbursed as provided under subdivision 5.

Subd. 5. Distribution of money.

(a) The money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

- (1) 70 percent of the money or proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency’s operating fund or similar fund for use in law enforcement, training, education, crime prevention, equipment, or capital expenses;
- (2) 20 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes, training, education, crime prevention, equipment, or capital expenses; and
- (3) the remaining ten percent of the money or proceeds must be forwarded within 60 days after resolution of the forfeiture to the state treasury and credited to the general fund. Any local police relief association organized under chapter 423 which received or was entitled to receive the proceeds of any sale made under this section before the effective date of Laws 1988, chapter 665, sections 1 to 17, shall continue to receive and retain the proceeds of these sales.

Subd. 5a. Disposition of certain forfeited proceeds; prostitution. — The proceeds from the sale of motor vehicles forfeited under section 609.5312, subdivision 3, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the vehicle, shall be distributed as follows:

- (1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency’s operating fund or similar fund for use in law enforcement;
- (2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and
- (3) the remaining 40 percent of the proceeds must be forwarded to the city treasury for distribution to neighborhood crime prevention programs.

Subd. 5b. Disposition of certain forfeited proceeds; trafficking of persons; report required. — Except as provided in subdivision 5c, for forfeitures resulting from violations of section . . . 609.283, or 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

- (1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency’s operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of health and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of trafficking offenses.

Subd. 5c. Disposition of money; prostitution. — Money forfeited under section 609.5312, subdivision 1, paragraph (b), must be distributed as follows:

(1) 40 percent must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent must be forwarded to the commissioner of health to be deposited in the safe harbor for youth account in the special revenue fund and is appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.



## 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.

For purposes of accessing services, the definition of “sexually exploited youth” includes all commercially sexually exploited children; however, this definition conflicts with the criminal code, which includes only victims who have been exploited by a trafficker. Specifically, Minn. Stat. Ann. § 260C.007(31) (Definitions) defines “sexually exploited youth” as follows:

[A]n individual who:

- (1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;
- (2) is a victim of a crime described in section 609.342 [Criminal sexual conduct in the first degree], 609.343 [Criminal sexual conduct in the second degree], 609.344 [Criminal sexual conduct in the third degree], 609.345 [Criminal sexual conduct in the fourth degree], 609.3451 [Criminal sexual conduct in the fifth degree], 609.3453 [Criminal sexual predatory conduct], 609.352 [Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children], 617.246 [Use of minors in sexual performance prohibited], or 617.247 [Possession of pornographic work involving minors];
- (3) is a victim of a crime described in United States Code, title 18, section 2260 [Production of sexually explicit depictions of a minor for importation into the United States]; 2421 [Transportation generally]; 2422 [Coercion or enticement]; 2423 [Transportation of minors]; 2425 [Use of interstate facilities to transmit information about a minor]; . . . or 2256 [Definitions for chapter]; or
- (4) is a sex trafficking victim as defined in section 609.321 [Prostitution and sex trafficking; definitions], subdivision 7b.
- (5) is a victim of commercial sexual exploitation as defined in United States Code, title 22, section 7102(11)(A) and (12) [Definitions].<sup>5</sup>

As noted above, however, this conflicts with the definition of “sex trafficking victim” under Minn. Stat. Ann. § 609.321(7b) (Prostitution and sex trafficking definitions). Minn. Stat. Ann. § 609.321(7b) defines “sex trafficking victim” as “a person subjected to the practices in subdivision 7a,” which states,

“Sex trafficking” means:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or

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<sup>5</sup> Pursuant to 22 U.S.C. § 7102(11)(A), (12) (Definitions),

- (11) Severe forms of trafficking in persons. The term “severe forms of trafficking in persons” means—
  - (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
  - . . . .
- (12) Sex trafficking. The term “sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

By requiring the offender either (1) to obtain the victim for the purpose of aiding in the victim’s exploitation—rather than to directly engage in commercial sex—or (2) to receive a profit, the definition of “sex trafficking” excludes buyer conduct. Further, Minnesota’s child sex trafficking offense, Minn. Stat. Ann. § 609.322(1)(a) (Solicitation, inducement, and promotion of prostitution; sex trafficking), also excludes buyers from criminal liability.<sup>6</sup> Accordingly, third party control is required under both the criminal code’s definition of “sex trafficking victim” and the criminal offense.

2.1.1 Recommendation: Remove third party control requirements that narrow the definition of child sex trafficking victim within the criminal code.<sup>7</sup>

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

Minnesota 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.

Minnesota law does not require child welfare to screen all referred or system-involved children at risk of sex trafficking victimization; however, Minn. Stat. Ann. § 260C.212(13) (Children in placement; protecting missing and runaway children and youth at risk of sex trafficking) requires local child welfare agencies to screen all children who were previously missing from care for experiences amounting to sex trafficking victimization. Minn. Stat. Ann. § 260C.212(13) states,

(a) The local social services agency shall expeditiously locate any child missing from foster care.

.....

(e) The local social services agency shall determine what the child experienced while absent from care, including screening the child to determine if the child is a possible sex trafficking or commercial sexual exploitation victim as defined in section 260C.007, subdivision 31.<sup>8</sup>

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<sup>6</sup> See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Minn. Stat. Ann. § 609.322.

<sup>7</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).

<sup>8</sup> Minn. Stat. Ann. § 260C.007(31) (Definitions) defines “sexually exploited youth” as follows:

[A]n individual who:



(f) The local social services agency shall report immediately, but no later than 24 hours, to the local law enforcement agency any reasonable cause to believe a child is, or is at risk of being, a sex trafficking or commercial sexual exploitation victim.

(g) The local social services agency shall determine appropriate services as described in section 145.4717 [Regional navigator grants] with respect to any child for whom the local social services agency has responsibility for placement, care, or supervision when the local social services agency has reasonable cause to believe that the child is, or is at risk of being, a sex trafficking or commercial sexual exploitation victim.

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

Minnesota 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.

Minnesota law prohibits the criminalization of all minors for prostitution offenses but does not require law enforcement to refer impacted children to a direct services organization or child-serving agency. While the state prostitution laws<sup>9</sup> apply equally to minors and adults, Minn. Stat. Ann. § 260B.007(6), (16) (Definitions) states,

(6) Delinquent child.

(a) Except as otherwise provided in paragraphs (b) and (c), “delinquent child” means a child:

.....

(c) The term delinquent child does not include a child alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

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(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342 [Criminal sexual conduct in the first degree], 609.343 [Criminal sexual conduct in the second degree], 609.344 [Criminal sexual conduct in the third degree], 609.345 [Criminal sexual conduct in the fourth degree], 609.3451 [Criminal sexual conduct in the fifth degree], 609.3453 [Criminal sexual predatory conduct], 609.352 [Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children], 617.246 [Use of minors in sexual performance prohibited], or 617.247 [Possession of pornographic work involving minors];

(3) is a victim of a crime described in United States Code, title 18, section 2260 [Production of sexually explicit depictions of a minor for importation into the United States]; 2421 [Transportation generally]; 2422 [Coercion or enticement]; 2423 [Transportation of minors]; 2425 [Use of interstate facilities to transmit information about a minor]; . . . or 2256 [Definitions for chapter]; or

(4) is a sex trafficking victim as defined in section 609.321 [Prostitution and sex trafficking; definitions], subdivision 7b.

(5) is a victim of commercial sexual exploitation as defined in United States Code, title 22, section 7102(11)(A) and (12) [Definitions].

<sup>9</sup> Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties); Minn. Stat. Ann. § 609.3243 (Loitering with the intent to participate in prostitution).

.....  
(16) Juvenile petty offender; juvenile petty offense.

.....  
(d) A child who commits a juvenile petty offense is a “juvenile petty offender.” The term juvenile petty offender does not include a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

Consequently, although minors are protected from criminalization for conduct in violation of the state prostitution laws, law enforcement officers are not required to make a referral to services.

2.5.1 Recommendation: Strengthen existing law to establish a services-referral protocol in response to minors engaged in commercial sex.

**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.

Minnesota 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.

Minnesota 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: 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.

Minnesota 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.

Minnesota law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. Minnesota’s delinquency statutes extend standard juvenile court jurisdiction to all minors under 18 years of age, and for youth designated as “extended jurisdiction juveniles,” juvenile court jurisdiction is extended to age 21. Minnesota’s Child Protection Laws establish a minimum age of 10 for delinquency court jurisdiction. Minnesota law permits automatic transfers for minors 16 years of age or older who are charged with murder in the first degree, provides for discretionary transfer for extended jurisdiction juveniles who materially violate the terms of their supervision, provides for the discretionary transfer of youth 14 and older who are charged with a felony level offense, and does not specifically require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	<b>Minimum Age of Juvenile Court Jurisdiction</b>	<b>Maximum Age for Charging Youth in Juvenile Court</b>	<b>Automatic Transfers or Direct File</b>	<b>Discretionary Transfers</b>	<b>Requirement for Court to Consider Trauma or Past Victimization in Making Transfer Decision</b>
<b>Summary</b>	10	17 for standard delinquency matters; 21 for youth designated as extended jurisdiction juveniles	Yes. Minors 16+ years of age charged with 1 <sup>st</sup> degree murder.	Yes. (1) Minors 14+ years of age charged with a felony; or (2) minors who, following conviction as an extended jurisdiction juvenile, are found to have materially violated the conditions of supervision.	No. Consideration is discretionary if the trauma is determined to be a mitigating factor under the sentencing guidelines.
<b>Relevant Statute(s)</b>	Minn. Stat. Ann. § 260C.007, subd. 6(12) (Definitions)	Minn. Stat. Ann. § 260B.007, subd. 3(6) (Definitions); Minn. Stat. Ann. § 260B.193, subd. 5 (Dispositions; general provisions)	Minn. Stat. Ann. § 260B.007, subd. 6 (Definitions); Minn. Stat. Ann. § 260B.101, subd. 2 (Jurisdiction)	Minn. Stat. Ann. § 260B.125 subd. 1 (Certification); Minn. Stat. Ann. § 260B.130 subd. 5 (Extended jurisdiction juvenile prosecutions)	Minn. Stat. Ann. § 260B.125 subd. 4(2) (Certification); Minn. Sent. Guidelines 2.D.3.a.(3), (5)

Consequently, some minors may still be subject to age-inappropriate juvenile court responses due to state laws that: (1) allow some juvenile cases to be automatically transferred or subject to direct file in criminal court; 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.

Child sex trafficking and commercial sexual exploitation are expressly included within the definition of “sexual abuse” as used within Minnesota’s Maltreatment of Minors Act. Minn. Stat. Ann. § 260E.03(20) (Definitions) states in part,

“Sexual abuse” . . . includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 [including Minn. Stat. Ann. § 609.322 (Solicitation, inducement, and promotion of prostitution; sex trafficking) and Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties)] or 617.246 [Use of minors in sexual performance prohibited]. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b<sup>10</sup> . . . .

**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 Minnesota’s Maltreatment of Minors Act clearly provides access to child welfare services for child sex trafficking victims regardless of parent or caregiver fault, state law does not provide for a specialized investigation in those cases. Specifically, Minn. Stat. Ann. § 260E.03(20) (Definitions) removes the requirement that the perpetrator be “a person responsible for the child’s care, . . . a person who has a significant relationship to the child, or . . . a person in a current or recent position of authority” in trafficking and CSEC cases, stating,

“Sexual abuse” means the subjection of a child by a person responsible for the child’s care, by a person who has a significant relationship to the child, or by a person in a current or recent position of authority, to any act that constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse, which includes the status of a parent or household member who has committed a violation that requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

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<sup>10</sup> Minn. Stat. Ann. § 609.321(7a), (7b) provides,

Subd. 7a. Sex trafficking. — “Sex trafficking” means:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

Subd. 7b. Sex trafficking victim. — “Sex trafficking victim” means a person subjected to the practices in subdivision 7a.

As noted above, however, 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 provide for a specialized investigation in non-familial child sex trafficking 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.

Minnesota law provides sex trafficked children and youth under 25 years of age with access to specialized, community-based services through their safe harbor program. Specifically, the regional navigators grant provisions set out goals for a statewide program meant to ensure that “support services are available, accessible, and adequate for sexually exploited youth.”<sup>11</sup> Minn. Stat. Ann. § 145.4718(a) (Program evaluation). Under Minn. Stat. Ann. § 145.4716(3) (Safe harbor for sexually exploited youth),

Youth 24 years of age or younger shall be eligible for all services, support, and programs provided under this section and section 145.4717 [Regional navigator grants], and all shelter, housing beds, and services provided by the commissioner of human services to sexually exploited youth and youth at risk of sexual exploitation.

Pursuant to Minn. Stat. Ann. § 145.4717 (Regional navigator grants),

The commissioner of health, through its director of child sex trafficking prevention,<sup>12</sup> established in section 145.4716, shall provide grants to regional navigators serving six regions of the state to be determined by the

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<sup>11</sup> Minn. Stat. Ann. § 260C.007(31) (Definitions) defines “sexually exploited youth” as follows:

[A]n individual who:

- (1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;
- (2) is a victim of a crime described in section 609.342 [Criminal sexual conduct in the first degree], 609.343 [Criminal sexual conduct in the second degree], 609.344 [Criminal sexual conduct in the third degree], 609.345 [Criminal sexual conduct in the fourth degree], 609.3451 [Criminal sexual conduct in the fifth degree], 609.3453 [Criminal sexual predatory conduct], 609.352 [Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children], 617.246 [Use of minors in sexual performance prohibited], or 617.247 [Possession of pornographic work involving minors];
- (3) is a victim of a crime described in United States Code, title 18, section 2260 [Production of sexually explicit depictions of a minor for importation into the United States]; 2421 [Transportation generally]; 2422 [Coercion or enticement]; 2423 [Transportation of minors]; 2425 [Use of interstate facilities to transmit information about a minor]; . . . or 2256 [Definitions for chapter]; or
- (4) is a sex trafficking victim as defined in section 609.321 [Prostitution and sex trafficking; definitions], subdivision 7b.
- (5) is a victim of commercial sexual exploitation as defined in United States Code, title 22, section 7102(11)(A) and (12) [Definitions].

<sup>12</sup> Minn. Stat. Ann. § 145.4716(2) (Safe harbor for sexually exploited youth) tasks the Director of Child Sex Trafficking Prevention with the following duties:

commissioner. Each regional navigator must develop and annually submit a work plan to the director of child sex trafficking prevention. The work plans must include, but are not limited to, the following information:

- (1) a needs statement specific to the region, including an examination of the population at risk;
- (2) regional resources available to sexually exploited youth, as defined in section 260C.007, subdivision 31;
- (3) grant goals and measurable outcomes; and
- (4) grant activities including timelines.

Further, Minn. Stat. Ann. § 145.4718 (Program evaluation) explains,

- (a) The director of child sex trafficking prevention, established under section 145.4716, must conduct, or contract for, comprehensive evaluation of the statewide program for safe harbor for sexually exploited youth. The first evaluation must be completed by June 30, 2015, and must be submitted to the commissioner of health by September 1, 2015, and every two years thereafter. The evaluation must consider whether the program is reaching intended victims and whether support services are available, accessible, and adequate for sexually exploited youth, as defined in section 260C.007 [Definitions], subdivision 31.
- (b) In conducting the evaluation, the director of child sex trafficking prevention must consider evaluation of outcomes, including whether the program increases identification of sexually exploited youth, coordination of investigations, access to services and housing available for sexually exploited youth, and improved effectiveness of services. The evaluation must also include examination of the ways in which penalties under section 609.3241 [Penalty assessment authorized] are assessed, collected, and distributed to ensure funding for investigation, prosecution, and victim services to combat sexual exploitation of youth.

#### EXTRA CREDIT



Minn. Stat. Ann. § 145.4716 (Safe Harbor for Sexually Exploited Youth) expands eligibility for services under the safe harbor program to youth who are 24 years of age or younger.

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- (1) developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals;
  - (2) collecting, organizing, maintaining, and disseminating information on sexual exploitation and services across the state, including maintaining a list of resources on the Department of Health Web site;
  - ....
  - (6) identifying best practices in serving sexually exploited youth, as defined in section 260C.007, subdivision 31 [Definitions – Sexually Exploited Youth];
  - (7) providing oversight of and technical support to regional navigators pursuant to section 145.4717 [Regional navigator grants];
  - (8) conducting a comprehensive evaluation of the statewide program for safe harbor of sexually exploited youth; and
  - (9) developing a policy, consistent with the requirements of chapter 13, for sharing data related to sexually exploited youth, as defined in section 260C.007, subdivision 31, among regional navigators and community-based advocates.

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

Minnesota law authorizes a multi-disciplinary team response to child sex trafficking cases. Pursuant to Minn. Stat. Ann. § 260E.02(3) (Multidisciplinary child protection team),

A multidisciplinary child protection team<sup>13</sup> may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for sexually exploited youth, including homeless, runaway, and truant youth who are at risk of sexual exploitation. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

- 3.2.1 Recommendation: Amend Minn. Stat. Ann. § 260E.02(3) (Multidisciplinary child protection team) to 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.

Although Minnesota law requires child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims, the response is limited to child victims who are removed from a parent's care and directed into an out-of-home placement. Minn. Stat. Ann. § 245A.25(5) (Residential program certifications for compliance with the Families First Prevention Services Act) sets standards for the specialized residential placements, stating,

Residential settings specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; certification requirements.

(a) To be certified as a residential setting specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation, a license holder must meet the requirements of this subdivision.

(b) Settings certified according to this subdivision are exempt from the requirements of section 245A.04, subdivision 11, paragraph (b).

(c) The program must use a trauma-informed model of care that meets all of the applicable requirements of subdivision 3, and that is designed to address the needs, including emotional and mental health needs, of youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation.

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<sup>13</sup> Pursuant to Minn. Stat. Ann. § 260E.02(1),

A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human services or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social services agencies, family service and mental health collaboratives, children's advocacy centers, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for the team's activities with battered women's and domestic abuse programs and services.



- (d) The program must provide high-quality care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation and must:
  - (1) offer a safe setting to each youth designed to prevent ongoing and future trafficking of the youth;
  - (2) provide equitable, culturally responsive, and individualized services to each youth;
  - (3) assist each youth with accessing medical, mental health, legal, advocacy, and family services based on the youth's individual needs;
  - (4) provide each youth with relevant educational, life skills, and employment supports based on the youth's individual needs;
  - (5) offer a trafficking prevention education curriculum and provide support for each youth at risk of future sex trafficking or commercial sexual exploitation; and
  - (6) engage with the discharge planning process for each youth and the youth's family.
- (e) The license holder must maintain a service delivery plan that describes how the program provides services according to the requirements in paragraphs (c) and (d).
- (f) The license holder must ensure that each staff person who has direct contact, as defined in section 245C.02, subdivision 11, with a youth served by the license holder's program completes a human trafficking training approved by the Department of Human Services' Children and Family Services Administration before the staff person has direct contact with a youth served by the program and annually thereafter. For programs certified prior to January 1, 2022, the license holder must ensure that each staff person at the license holder's program completes the initial training by January 1, 2022.

3.3.1 Recommendation: Strengthen existing law by requiring child welfare to provide access to specialized services for all child sex trafficking victims without requiring the child to be placed in an out-of-home setting.

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

While the court may order a child to receive “special treatment and care for reasons of physical or mental health,” that response is discretionary and Minnesota law does not clarify that sex trafficking is a physical or mental health need. Pursuant to Minn. Stat. Ann. § 260B.198(1)(a)(7) (Dispositions; delinquent child),

If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

.....

(7) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

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.

Minnesota law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement and extends Chafee services<sup>14</sup> to youth under 23. Specifically, Minn. Stat. Ann. § 260C.451 (Foster Care Benefits Past Age 18) provides,

Subd. 2. Independent living plan. – Upon the request of any child in foster care immediately prior to the child’s 18th birthday and who is in foster care at the time of the request, the responsible social services agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12), related to the child’s employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including those services that are necessary to implement the independent living plan.

Subd. 3. Eligibility to continue in foster care. – A child in foster care immediately prior to the child’s 18th birthday may continue in foster care past age 18 unless:

- (1) the child can safely return home;
- (2) the child is in placement pursuant to the agency’s duties under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child’s needs due to developmental disability or related condition, and the child will be served as an adult under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or
- (3) the child can be adopted or have permanent legal and physical custody transferred to a relative prior to the child’s 18th birthday.

Subd. 3a. Eligibility criteria. – The child must meet at least one of the following conditions to be considered eligible to continue in or return to foster care and remain there to age 21. The child must be:

- (1) completing secondary education or a program leading to an equivalent credential;
- (2) enrolled in an institution that provides postsecondary or vocational education;
- (3) participating in a program or activity designed to promote or remove barriers to employment;
- (4) employed for at least 80 hours per month; or
- (5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. Foster care benefits. – For children between the ages of 18 and 21, “foster care benefits” means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.

Subd. 6. Reentering foster care and accessing services after 18 years of age and up to 21 years of age. –

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to 18 years of age may ask to reenter foster care after age 18 and the responsible social services agency that had responsibility for planning for the individual before discharge from foster care shall provide foster care or other services to the individual for the purpose of increasing the individual’s ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(d) A child who left foster care while under guardianship of the commissioner of human services retains eligibility for foster care for placement at any time prior to 21 years of age.

Additionally, Minn. Stat. Ann. § 260C.452(4)(d) (Successful Transition to Adulthood) provides,

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<sup>14</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).

For a child who will be discharged from foster care at 18 years of age or older, the responsible social services agency must develop a personalized transition plan as directed by the child during the 90-day period immediately prior to the expected date of discharge. The transition plan must be as detailed as the child elects and include specific options, . . .”

Related to extended services for youth under 23 years of age, Minn. Stat. Ann. § 260C.452(1)(d) provides, “The responsible social services agency may provide support and case management services to a youth as defined in paragraph (a) until the youth reaches 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 Minnesota state legislature made appropriations to support the development and provision of specialized responses to child and youth survivors of sex trafficking during fiscal years 2022 and 2023.

2021-2022 Appropriations				
Bill	Recipient	Amount	Intended Purpose	Term
Laws of 2013, Chapter 108	MN Department of Health	\$475,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>• Grants for regional navigators</li> <li>• Director of child sex trafficking prevention position (Safe Harbor Director)</li> <li>• Program evaluation</li> </ul>	FY 2022
2013 Legislative Session		\$525,000		FY 2023
Laws of 2013, Chapter 108	MN Department of Human Services	\$500,000	Safe Harbor Shelter and Housing—grants for specialized outreach, shelter, and housing services for sexually exploited youth	FY 2022
2013 Legislative Session		\$500,000		FY 2023
Laws of 2014, Chapter 312	MN Department of Health	\$1,000,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>• Grants for comprehensive programs</li> <li>• Administration of grants</li> </ul>	FY 2022
2014 Legislative Session		\$1,000,000		FY 2023
Laws of 2014, Chapter 312	MN Department of Human Services	\$500,000	Safe Harbor Shelter and Housing—grants for specialized outreach, shelter, and housing services for sexually exploited youth	FY 2022

2014 Legislative Session		N/A		FY 2023
Laws of 2015, Chapter 79	MN Department of Health	\$375,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>Youth grants</li> <li>Training and protocols</li> </ul>	FY 2022
2015 Legislative Session		\$325,000		FY 2023
Laws of 2015, Chapter 71	MN Department of Human Services	\$800,000 for shelter and housing + \$150,000 for outreach	Safe Harbor Shelter and Housing—grants for specialized outreach, shelter, and housing services for sexually exploited youth	FY 2022
2015 Legislative Session		\$800,000 for shelter and housing + \$150,000 for outreach		FY 2023
Laws of 2016, Chapter 189	MN Department of Health	\$1,450,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>Youth grants</li> <li>Grants for culturally specific services</li> </ul>	FY 2022
2016 Legislative Session		\$1,450,000		FY 2023
Laws of 2017, Chapter 6	MN Department of Health	\$620,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>Services</li> <li>Technical assistance and evaluation</li> <li>Administration of program</li> <li>Statewide Strategic Plan</li> <li>Protocols</li> </ul>	FY 2022
2017 Legislative Session		\$620,000		FY 2023
Laws of 2017, Chapter 6	MN Department of Human Services	\$400,000	Safe Harbor Shelter and Housing—grants for specialized outreach, shelter, and housing services for sexually exploited youth; grants for statewide youth outreach workers connecting youth with shelter and services	FY 2022
2017 Legislative Session		\$400,000		FY 2023
Laws of 2019, Chapter 9	MN Department of Health	\$525,000	Safe Harbor for Sexually Exploited Youth program: <ul style="list-style-type: none"> <li>Additional funding for program evaluation, training and protocol implementation, and grants</li> </ul>	FY 2022
2019 Legislative Session		\$475,000		FY 2023

Laws of 2022, Chapter 99	MN Department of Human Services	\$2,000,000	Shelter-Linked Mental Health Grant to integrate mental health services into outreach, drop-in, shelter, and housing services for homeless youth and sexually exploited youth	FY 2023 (one-time)
2022 Legislative Session				

**EXTRA CREDIT**



The Minnesota Legislature appropriated funds for FY 2022 and 2023 to provide comprehensive, culturally-specific services to child and youth survivors of commercial sexual exploitation, including youth under 24 years of age.



## ISSUE 4: Access to Justice for Trafficking Survivors

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

Minnesota law does not provide for a trafficking-specific civil order of protection; however, any person, including a victim of child sex trafficking or CSEC, who otherwise meets the eligibility requirements under Minn. Stat. Ann. § 609.748 (Harassment; restraining order) can apply for a civil harassment restraining order and civil order of protection.

### **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 Minnesota'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, Minn. Stat. Ann. § 611A.52(10)(a) (Definitions) defines "victim" to include "a person who suffers personal injury<sup>15</sup> or death as a direct result of . . . a crime." "Crime" is defined under Minn. Stat. Ann. § 611A.52(6)(a) as any conduct that:

- (1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;
- (2) poses a substantial threat of personal injury or death; and
- (3) is included within the definition of "crime"<sup>16</sup> in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or (ii) the act was alleged or found to have been committed by a juvenile.

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Minn. Stat. Ann. § 611A.53(1) (Reparations Awards Prohibited),

- Subd. 2. Limitations on awards. – No reparations shall be awarded to a claimant otherwise eligible if:
- (1) the crime was not reported to the police within 30 days of its occurrence or, if it could not reasonably have been reported within that period, within 30 days of the time when a report could reasonably have been made . . . .
  - (2) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;
  - (3) the victim or claimant was the offender or an accomplice of the offender or an award to the claimant would unjustly benefit the offender or an accomplice;
  - (4) the victim or claimant was in the act of committing a crime at the time the injury occurred;

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<sup>15</sup> Minn. Stat. Ann. § 611A.52(9) defines "injury" as "actual bodily harm including pregnancy and emotional trauma."

<sup>16</sup> Minn. Stat. Ann. § 609.02(a) (Definitions) defines "crime" as "conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine."

- (5) no claim was filed with the board within three years of victim’s injury or death; except that (i) if the claimant was unable to file a claim within that period, then the claim can be made within three years of the time when a claim could have been filed; and (ii) if the victim’s injury or death was not reasonably discoverable within three years of the injury or death, then the claim can be made within three years of the time when the injury or death is reasonably discoverable . . . .
- (6) the claim is less than \$ 50.

Notably, Minn. Stat. Ann. § 611A.53(2) provides victims of “child abuse” with an exception to these eligibility criteria, stating, “The limitations contained in clauses (1) and (6) do not apply to victims of child abuse. In those cases the three-year limitation period commences running with the report of the crime to the police.” While “child abuse” is not defined for purposes of this section, the state’s general “child abuse” definition under Minn. Stat. Ann. § 260C.007(5) explicitly includes child sex trafficking victims and, thus, it is likely that child sex trafficking victims would benefit from the exception provided under this statute. However, the reporting period is only lengthened, not eliminated. Lastly, denial can still be based on contributory misconduct under Minn. Stat. Ann. § 611A.54(2) (Amount of reparations), which states that “reparations shall be denied or reduced to the extent, if any, that the board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims.”

- 4.2.1 Recommendation: Statutorily exempt victims of child sex trafficking and CSEC from all 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 Minnesota law allows crime victims to vacate criminal convictions related to their victimization, vacatur is unavailable for delinquency adjudications. Specifically, Minn. Stat. Ann. § 609A.03(6a) (Petition to expunge criminal records) allows crime victims to petition for expungement, which results in vacatur; Minn. Stat. Ann. § 609A.03(1), (6a) states,

Subdivision 1. Petition; filing fee. — An individual who is the subject of a criminal record who is seeking the expungement of the record shall file a petition under this section . . . .

. . . .  
 Subd. 6a. Order when context and circumstances of the underlying crime indicate a nexus between the criminal record to be expunged and person’s status as a crime victim. — If the court finds, under section 609A.03, subdivision 5, paragraph (c), clause (5),<sup>17</sup> that the context and circumstances of the underlying

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<sup>17</sup> Pursuant to Minn. Stat. Ann. § 609A.03(5)(a)–(c),

- (a) Except as otherwise provided by paragraph (b), expungement of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:
  - (1) sealing the record; and
  - (2) burdening the court and public authorities to issue, enforce, and monitor an expungement order.
- (b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a), clause (1) or (2), the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

crime indicate a nexus between the criminal record to be expunged and the person's status as a crime victim, then the effect of the court order to seal the record of the proceedings shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information. The person shall not be guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose. The court may request a sworn statement from a staff member of a state-funded victim services organization or a licensed health care provider as evidence to support a determination under section 609A.03, subdivision 5.

Because "the effect of the court order to seal the record of the proceeding shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information," an expungement order results in vacatur. As noted above, however, Minn. Stat. Ann. § 609A.03(6a) is only available for criminal records.

- 4.3.1 Recommendation: Strengthen existing law by allowing sex trafficked children and youth to vacate delinquency adjudications 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.

Minnesota law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Minn. Stat. Ann. § 611A.04(1)(a) (Order of restitution),

A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed . . . . A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, . . . and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section . . . .

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- (c) In making a determination under this subdivision, the court shall consider:
    - (1) the nature and severity of the underlying crime, the record of which would be sealed;
    - (2) the risk, if any, the petitioner poses to individuals or society;
    - (3) the length of time since the crime occurred;
    - (4) the steps taken by the petitioner toward rehabilitation following the crime;
    - (5) aggravating or mitigating factors relating to the underlying crime, including the petitioner's level of participation and context and circumstances of the underlying crime;
    - (6) the reasons for the expungement, including the petitioner's attempts to obtain employment, housing, or other necessities;
    - (7) the petitioner's criminal record;
    - (8) the petitioner's record of employment and community involvement;
    - (9) the recommendations of interested law enforcement, prosecutorial, and corrections officials;
    - (10) the recommendations of victims or whether victims of the underlying crime were minors;
    - (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner toward payment, and the measures in place to help ensure completion of restitution payment after expungement of the record if granted; and
    - (12) other factors deemed relevant by the court.



## EXTRA CREDIT



Minnesota law mandates restitution for victims of child labor trafficking under Minn. Stat. Ann. § 611A.04(1)(a), which applies broadly to any offense.

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

Minnesota law provides victims with a civil remedy for a broad range of conduct constituting child sex trafficking. Pursuant to Minn. Stat. Ann. § 611A.81 (Cause of action for coercion for use in prostitution),

Subdivision 1. Cause of action created. –

.....

(b) An individual has a cause of action against a person who did the following while the individual was a minor:

- (1) solicited or induced the individual to practice prostitution;
- (2) promoted the prostitution<sup>18</sup> of the individual;
- (3) collected or received the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution.

Mistake as to age is not a defense to an action under this paragraph.

Subd. 2. Damages. – A person against whom a cause of action may be maintained under subdivision 1 is liable for the following damages that resulted from the plaintiff's being used in prostitution or to which the plaintiff's use in prostitution proximately contributed:

- (1) economic loss, including damage, destruction, or loss of use of personal property; loss of past or future income or earning capacity; and income, profits, or money owed to the plaintiff from contracts with the person; and
- (2) damages for death as may be allowed under section 573.02, personal injury, disease, and mental and emotional harm, including medical, rehabilitation, and burial expenses; and pain and suffering, including physical impairment.

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<sup>18</sup> Minn. Stat. Ann. § 611A.80(3) (Definitions) defines “promotes the prostitution of an individual” to “ha[ve] the same meaning given in section 609.321 [Prostitution and sex trafficking; definitions], subdivision 7,” which states,

“Promotes the prostitution of an individual” means any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute;
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

## EXTRA CREDIT



Minnesota law provides sex trafficked youth with a trafficking-specific civil remedy under Minn. Stat. Ann. § 611A.81(1)(a), which includes a broad range of conduct constituting trafficking regardless of the victim's age. It states,

Cause of action created.

- (a) An individual has a cause of action against a person who:
  - (1) coerced the individual into prostitution;
  - (2) coerced the individual to remain in prostitution;
  - (3) used coercion to collect or receive any of the individual's earnings derived from prostitution; or
  - (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution, knowing or having reason to believe that the individual was coerced into or coerced to remain in prostitution by another person.

For purposes of clauses (1) and (2), money payment by a patron, as defined in section 609.321, subdivision 4, is not coercion under section 611A.80, subdivision 2, clause (5) or (11), or exploiting needs for food or shelter under section 611A.80 [Definitions], subdivision 2, clause (23) . . . .



Minnesota law provides child labor trafficking victims with a trafficking-specific civil remedy under Minn. Stat. Ann. § 609.284(2) (Labor or sex trafficking crimes; defenses; civil liability; corporate liability), which states,

Civil liability. – A labor trafficking victim may bring a cause of action against a person who violates section 609.282 [Labor trafficking] or 609.283 [Unlawful conduct with respect to documents in furtherance of labor or sex trafficking]. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.

### Policy Goal 4.6

Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Prosecutions for child sex trafficking may commence at any time; however, the statute of limitation for filing trafficking-specific civil actions is only lengthened, not eliminated. Pursuant to Minn. Stat. Ann. § 628.26(e) (Limitations), “Indictments or complaints for violation of section[] 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] . . . may be found or made at any time after the commission of the offense.”

Otherwise, Minn. Stat. Ann. § 628.26(k) requires “indictments or complaints [to] be found or made and filed in the proper court within three years after the commission of the offense.”

Regarding civil actions, Minn. Stat. Ann. § 611A.84 (Statute of limitations) requires actions provided for under Minn. Stat. Ann. § 611A.81 (Cause of action for coercion for use in prostitution) to be “commenced not later than six years after the cause of action arises, except that the running of the limitation period is suspended during the time that coercion as defined in section 611A.80 continues, or as otherwise provided by section 541.13 [Absence from state] or 541.15 [Periods of disability not counted].”

In contrast, Minn. Stat. Ann. § 541.07(1) (Two or three-year limitations) establishes a general 2-year statute of limitation for civil actions related to torts resulting in personal injury.

- 4.6.1 Recommendation: Strengthen existing law to allow prosecutions for 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.

Although Minnesota law does not expressly allow non-testimonial, out-of-court statements made by commercially sexually exploited children to be admitted into evidence, there is a broad hearsay exception that applies to victims of criminal conduct that encompasses the abuse experienced by child sex trafficking victims; however, this protection is only available to younger minors. Pursuant to Minn. Stat. Ann. § 595.02(3) (Testimony of witness),

An out-of-court statement made by a child under the age of ten years . . . , alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child or any act of physical abuse of the child or the person who is mentally impaired by another, not otherwise admissible by statute or rule of evidence, is admissible as substantive evidence if:

- (a) the court or person authorized to receive evidence finds, in a hearing conducted outside of the presence of the jury, that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and
- (b) the child or person mentally impaired as defined in section 609.341, subdivision 6, either:
  - (i) testifies at the proceedings; or
  - (ii) is unavailable as a witness and there is corroborative evidence of the act; and
- (c) the proponent of the statement notifies the adverse party of the proponent's intention to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence to provide the adverse party with a fair opportunity to prepare to meet the statement.

For purposes of this subdivision, an out-of-court statement includes video, audio, or other recorded statements. An unavailable witness includes an incompetent witness.

Notably, child victims who are 10 years of age or older are not protected by this hearsay exception.

- 5.1.1 Recommendation: Strengthen existing hearsay protections to expressly apply in child sex trafficking and CSEC cases.

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

Minnesota law allows a victim who is under 12 years of age to testify by an alternative method during the prosecution of an offender charged with child sex trafficking; however, this protection is offense-specific, meaning victims of Minnesota's CSEC offense are not equally protected. Specifically, Minn. Stat. Ann. § 595.02(4)(a), (c) (Testimony of witnesses) states,

- (a) In a proceeding in which a child less than 12 years of age is alleging, denying, or describing:
  - (1) an act of physical abuse or an act of sexual contact or penetration performed with or on the child or any other person by another; or
  - (2) an act that constitutes a crime of violence committed against the child or any other person, the court may, upon its own motion or upon the motion of any party, order that the testimony of the child be taken in a room other than the courtroom or in the courtroom and televised at the same time by closed-circuit equipment, or recorded for later showing to be viewed by the jury in the proceeding, to

minimize the trauma to the child of testifying in the courtroom setting and, where necessary, to provide a setting more amenable to securing the child witness’s uninhibited, truthful testimony.

- ....
- (c) The court shall permit the defendant in a criminal or delinquency matter to observe and hear the testimony of the child in person. If the court, upon its own motion or the motion of any party, finds in a hearing conducted outside the presence of the jury, that the presence of the defendant during testimony taken pursuant to this subdivision would psychologically traumatize the witness so as to render the witness unavailable to testify, the court may order that the testimony be taken in a manner that:
- (1) the defendant can see and hear the testimony of the child in person and communicate with counsel, but the child cannot see or hear the defendant; or
  - (2) the defendant can see and hear the testimony of the child by video or television monitor from a separate room and communicate with counsel, but the child cannot see or hear the defendant.

Minn. Stat. Ann. § 595.02(4)(d) defines “crime of violence” to have “the meaning given it in section 624.712, subdivision 5 . . . .” Pursuant Minn. Stat. Ann. § 624.712(5), “Crime of violence” means: felony convictions of the following offenses: . . . 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); . . . and an attempt to commit any of these offenses.

Accordingly, protections do not extend to victims of Minnesota’s CSEC offenses. Further, Minn. Stat. Ann. § 595.02(4) only protects children under 12 years of age, leaving older minors at increased risk of re-traumatization from testifying.

- 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.

	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
<b>Summary</b>	Not statutorily required.	Child victims of a crime of violence, including human trafficking, may choose to have a support person present during their testimony. The court can also exclude spectators and the public from the courtroom during testimony of minors.	Human trafficking victims’ identifying information must be kept confidential in criminal justice records, including court records.
<b>Relevant Statute(s)</b>	None.	Minn. Stat. Ann. § 631.046(1) (Authorizing Presence of Support Person for Minor Prosecuting Witness); Minn. Stat. Ann. § 631.045 (Excluding Spectators from Courtroom)	Minn. Stat. Ann. § 609.3471 (Records Pertaining to Victim Identity Confidential)

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

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

Minnesota law does not expressly provide for privileged communications between caseworkers and child sex trafficking victims.<sup>19</sup>

- 5.4.1 Recommendation: Clarify existing law to expressly provide for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim’s communications with a caseworker from being disclosed.

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<sup>19</sup> Although not expressly available in cases related to child sex trafficking, Minn. Stat. Ann. § 595.02(k), (l) (Testimony of witnesses) provides protection in cases involving sexual assault and domestic abuse, stating,

(k) Sexual assault counselors may not be allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of section 626.557 [Reporting of maltreatment of vulnerable adults] and chapter 260E [Maltreatment of minors act].

“Sexual assault counselor” for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A domestic abuse advocate may not be compelled to disclose any opinion or information received from or about the victim without the consent of the victim unless ordered by the court. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the relationship between the victim and domestic abuse advocate, and the services if disclosure occurs. Nothing in this paragraph exempts domestic abuse advocates from compliance with the provisions of section 626.557 and chapter 260E.

For the purposes of this section, “domestic abuse advocate” means an employee or supervised volunteer from a community-based battered women’s shelter and domestic abuse program eligible to receive grants under section 611A.32 [Battered women programs]; that provides information, advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse and who is not employed by or under the direct supervision of a law enforcement agency, a prosecutor’s office, or by a city, county, or state agency.

Notably, neither “sexual assault” nor “domestic abuse” is defined for purposes of this Minn. Stat. Ann. § 595.02(k), (l), leaving this section’s applicability to child sex trafficking victims unclear.



## 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.

Minnesota law mandates statewide, trafficking-specific training for child protection social workers and social services staff. Pursuant to Minn. Stat. Ann. § 260E.36(1a) (Specialized training and education required),

Sex trafficking and sexual exploitation training requirement. – As required by the Child Abuse Prevention and Treatment Act amendments through Public Law 114-22 [Justice for Victims of Trafficking Act of 2015] and to implement Public Law 115-123 [Bipartisan Budget Act of 2018], all child protection social workers and social services staff who have responsibility for child protective duties under this chapter [Maltreatment of minors act reorganization] or chapter 260C [Child protection] shall complete training implemented by the commissioner of human services regarding sex trafficking and sexual exploitation of children and youth.

Further, training is authorized under Minn. Stat. Ann. § 145.4716(2)(1) (Safe harbor for sexually exploited youth), Minn. Stat. Ann. § 299A.783 (Statewide antitrafficking investigation coordination, and Minn. Stat. Ann. § 299A.79(1), (2) (Trafficking study, analysis and use of data). Minn. Stat. Ann. § 145.4716(2)(1) states, “The director of child sex trafficking prevention is responsible for . . . developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals.”

Similarly, Minn. Stat. Ann. § 299A.783(2)(1) provides, “The [antitrafficking investigation coordinator] shall . . . develop, coordinate, and facilitate training for law enforcement officers, prosecutors, courts, child welfare workers, social service providers, medical providers, and other community members.”

Lastly, under Minn. Stat. Ann. § 299A.79(1), (2),

Subdivision 1. Data analysis. – The commissioner shall analyze the data collected in section 299A.785 [Trafficking study] to develop a plan to address the current trafficking and prevent future trafficking in this state. The commissioner may evaluate various approaches used by other state and local governments to address trafficking. The plan must include, but not be limited to:

- (1) ways to train agencies, organizations, and officials involved in law enforcement, prosecution, and social services;
- (2) ways to increase public awareness of trafficking; and
- (3) procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

Subd. 2. Training plan. – The training plan required in subdivision 1 must include:

- (1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;
- (2) methods for prosecuting traffickers;
- (3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and
- (4) methods for promoting the safety of trafficking victims.

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

Minnesota law authorizes statewide training for juvenile justice agencies on identification and response to child sex trafficking. Minn. Stat. Ann. § 145.4716(2)(1) (Safe harbor for sexually exploited youth) broadly states, “The director of child sex trafficking prevention is responsible for . . . developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals.” Resultingly, training regarding child sex trafficking may be, or become, available for use by juvenile justice agency employees. However, employees are not statutorily mandated to receive such training.

- 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.

Minnesota law authorizes trafficking-specific training for law enforcement. Pursuant to Minn. Stat. Ann. § 299A.79(1), (2) (Trafficking study, analysis and use of data),

Subdivision 1. Data analysis. – The commissioner shall analyze the data collected in section 299A.785 [Trafficking study] to develop a plan to address the current trafficking and prevent future trafficking in this state. The commissioner may evaluate various approaches used by other state and local governments to address trafficking. The plan must include, but not be limited to:

- (1) ways to train agencies, organizations, and officials involved in law enforcement, prosecution, and social services;
- (2) ways to increase public awareness of trafficking; and
- (3) procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

Subd. 2. Training plan. – The training plan required in subdivision 1 must include:

- (1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;
- (2) methods for prosecuting traffickers;
- (3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and
- (4) methods for promoting the safety of trafficking victims.

Further, Minn. Stat. Ann. § 145.4716(2)(1) (Safe harbor for sexually exploited youth) states, “The director of child sex trafficking prevention is responsible for . . . developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals.”

Similarly, Minn. Stat. Ann. § 299A.783(2)(1) (Statewide antitrafficking investigation coordination) provides, “The [antitrafficking investigation coordinator] shall . . . develop, coordinate, and facilitate training for law enforcement officers, prosecutors, courts, child welfare workers, social service providers, medical providers, and other community members.”

Funding for trafficking-specific training is provided for under Minn. Stat. Ann. § 609.3241(c)(1) (Penalty assessment authorized), which states,



The assessment collected under paragraph (a)<sup>20</sup> must be distributed as follows:

- (1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);

In addition, Minn. Stat. Ann. § 299A.71 (Combating juvenile prostitution; prevention grants) establishes a grant program to enhance training efforts; it states,

Subdivision 1. Establishment. – A grant program is established for enhanced law enforcement efforts and peace officer education and training to combat juvenile prostitution. The goal of the grants is to provide peace officers with the knowledge and skills to recognize individuals who sexually exploit youth, charge and prosecute these individuals for promotion and solicitation of prostitution, and effectively communicate with the victims of juvenile prostitution.

Subd. 2. Eligibility. – The commissioner of public safety shall make juvenile prostitution prevention grants to local law enforcement agencies to provide enhanced efforts targeted to juvenile prostitution and training and staff development relating to the prevention of juvenile prostitution. The law enforcement agency must utilize all of the grant funding received for efforts to combat juvenile prostitution.

Subd. 3. Grant application. – A local law enforcement agency must submit an application to the commissioner of public safety in the form and manner the commissioner establishes.

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

- 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.

Minnesota law authorizes trafficking-specific training for prosecutors. Pursuant to Minn. Stat. Ann. § 299A.79(1), (2) (Trafficking study, analysis and use of data),

Subdivision 1. Data analysis. – The commissioner shall analyze the data collected in section 299A.785 [Trafficking study] to develop a plan to address the current trafficking and prevent future trafficking in this state. The commissioner may evaluate various approaches used by other state and local governments to address trafficking. The plan must include, but not be limited to:

- (1) ways to train agencies, organizations, and officials involved in law enforcement, prosecution, and social services;
- (2) ways to increase public awareness of trafficking; and
- (3) procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

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<sup>20</sup> Pursuant to Minn. Stat. Ann. § 609.3241(a),

When a court sentences an adult convicted of violating section . . . 609.283 [Unlawful conduct with respect to documents in furtherance of labor or sex trafficking], 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . the court shall impose an assessment of . . . not less than \$750 and not more than \$1,000 . . .

Subd. 2. Training plan. – The training plan required in subdivision 1 must include:

- (1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;
- (2) methods for prosecuting traffickers;
- (3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and
- (4) methods for promoting the safety of trafficking victims.

Further, Minn. Stat. Ann. § 145.4716(2)(1) (Safe harbor for sexually exploited youth) states, “The director of child sex trafficking prevention is responsible for . . . developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals.”

Similarly, Minn. Stat. Ann. § 299A.783(2)(1) (Statewide antitrafficking investigation coordination) provides, “The [antitrafficking investigation coordinator] shall . . . develop, coordinate, and facilitate training for law enforcement officers, prosecutors, courts, child welfare workers, social service providers, medical providers, and other community members.”

Funding for trafficking-specific training is provided for under Minn. Stat. Ann. § 609.3241(c)(2) (Penalty assessment authorized), which states,

The assessment collected under paragraph (a)<sup>21</sup> must be distributed as follows:

- .....
- (2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth . . . .

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

- 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.

Minnesota law does not mandate training on child sex trafficking for school personnel.

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

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<sup>21</sup> Pursuant to Minn. Stat. Ann. § 609.3241(a),

When a court sentences an adult convicted of violating section . . . 609.283 [Unlawful conduct with respect to documents in furtherance of labor or sex trafficking], 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . the court shall impose an assessment of . . . not less than \$750 and not more than \$1,000 . . . .

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

Minnesota 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.

## State Laws Addressing Child Sex Trafficking

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1. Minn. Stat. Ann. § 609.322(1) (Solicitation, inducement, and promotion of prostitution; sex trafficking) states,
  - (a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$ 50,000, or both:
    - (1) solicits or induces an individual under the age of 18 years to practice prostitution;
    - (2) promotes the prostitution of an individual<sup>22</sup> under the age of 18 years;
    - (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
    - (4) engages in the sex trafficking<sup>23</sup> of an individual under the age of 18 years.
  - (b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$ 60,000, or both, if one or more of the following aggravating factors are present:
    - (1) the offender has committed a prior qualified human trafficking-related offense;
    - (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
    - (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
    - (4) the offense involved more than one sex trafficking victim.

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<sup>22</sup> Minn. Stat. Ann. § 609.321(7) (Prostitution and sex trafficking; definitions) defines “promotes the prostitution of an individual” as

any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute;
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

<sup>23</sup> Minn. Stat. Ann. § 609.321(7a) defines “sex trafficking” as

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

2. Minn. Stat. Ann. § 609.283(1), (2) (Unlawful conduct with respect to documents in furtherance of labor or sex trafficking) states,

Subdivision 1. Crime defined. – Unless the person’s conduct constitutes a violation of section 609.282 [Labor trafficking], a person who knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person:

- (1) in the course of a violation of section . . . 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking];
- (2) with intent to violate section . . . 609.322; or
- (3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, a person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a violation of section . . . 609.322;

is guilty of a crime and may be sentenced as provided in subdivision 2.

Subd. 2. Penalties. – A person who violates subdivision 1 may be sentenced as follows:

- (1) if the crime involves a victim under the age of 18, to imprisonment for not more than ten years or to payment of a fine of \$ 20,000, or both; or

....

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

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1. Minn. Stat. Ann. § 609.324(1), (1a) (Patrons; prostitutes; housing individuals engaged in prostitution; penalties) states,

Subdivision 1. Engaging in, hiring, or agreeing to hire minor to engage in prostitution; penalties.

(a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both:

- (1) engages in prostitution with an individual under the age of 14 years;
- (2) hires or offers or agrees to hire an individual under the age of 14 years to engage in sexual penetration or sexual contact; or
- (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 14 years to engage in sexual penetration or sexual contact.

(b) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

- (1) engages in prostitution with an individual under the age of 16 years but at least 14 years;
- (2) hires or offers or agrees to hire an individual under the age of 16 years but at least 14 years to engage in sexual penetration or sexual contact; or
- (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.

(c) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:

- (1) engages in prostitution with an individual under the age of 18 years but at least 16 years;
- (2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact; or
- (3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.

Subd. 1a. Housing unrelated minor engaged in prostitution; penalties. — Any person, other than one related by blood, adoption, or marriage to the minor, who permits a minor to reside, temporarily or permanently, in the person's dwelling without the consent of the minor's parents or guardian, knowing or having reason to know that the minor is engaging in prostitution may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$ 3,000, or both; except that, this subdivision does not apply to residential placements made, sanctioned, or supervised by a public or private social service agency.