

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



ISSUE 1: Criminal Provisions

Policy Goal 1.1 The child sex trafficking law is expressly applicable to buyers of commercial sex with any minor under 18.

Wash. Rev. Code Ann. § 9A.40.100 (Trafficking) expressly applies to buyers of commercial sex with minors based on the terms “buys” and “purchases.” Wash. Rev. Code Ann. § 9A.40.100(1), (3)(a) states,

- (1) A person is guilty of trafficking in the first degree when:
 - (a) Such person:
 - (i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact,
.....
(B) that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act;² or
 - (ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection; and
 - (b) The acts or venture set forth in (a) of this subsection:
 - (i) Involve committing or attempting to commit kidnapping;
 - (ii) Involve a finding of sexual motivation under RCW 9.94A.835 [Special allegation – Sexual motivation – Procedures];
 - (iii) Involve the illegal harvesting or sale of human organs; or
 - (iv) Result in a death.
-
(3)
 - (a) A person is guilty of trafficking in the second degree when such person:

¹ Evaluations of state laws are based on legislation enacted as of August 1, 2022.

² Wash. Rev. Code Ann. § 9A.40.100(6)(a) defines “commercial sex act” as “any act of sexual contact or sexual intercourse . . . for which something of value is given or received by any person.”

- (i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact, that . . . the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or
- (ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection.

Further, following federal precedent, Wash. Rev. Code Ann. § 9A.40.100(1), (3)(a) could apply to buyers based on the term “obtains.”³

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

Washington law criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Wash. Rev. Code Ann. § 9.68A.100(1) (Commercial sexual abuse of a minor),

A person is guilty of commercial sexual abuse of a minor if:

- (a) He or she provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;
- (b) He or she provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or
- (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for anything of value.

Further, Wash. Rev. Code Ann. § 9.68A.090(2) (Communication with minor for immoral purposes) states,

A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person . . . communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.

³ See *United States v. Jungers*, 702 F.3d 1066 (8th Cir. 2013). In this case, the Eighth Circuit specifically addressed whether the federal sex trafficking law, 18 U.S.C. § 1591 (Sex trafficking of children or by force, fraud, or coercion) applies to buyers of sex with minors. Reversing a District of South Dakota ruling that Congress did not intend the string of verbs constituting criminal conduct under 18 U.S.C. § 1591(a)(1) (“recruits, entices, harbors, transports, provides, obtains, or maintains”) to reach the conduct of buyers (*United States v. Jungers*, 834 F. Supp. 2d 930, 931 (D.S.D. 2011)), the Eighth Circuit concluded that 18 U.S.C. § 1591 does not contain a “latent exemption for purchasers” because buyers can “engage in at least some of the prohibited conduct.” *Jungers*, 702 F. 3d 1066, 1072. Congress codified *Jungers* clarifying that the federal sex trafficking law is intended to apply to buyers in the Justice for Victims of Trafficking Act (JVTA) of 2015 Pub. L. No. 114-22, 129 Stat 227, enacted on May 29, 2015. The JVTA adds the terms “patronize” and “solicit” to the list of prohibited conduct and expressly states, “section 108 of this title amends section 1591 of title 18, United States Code, to add the words ‘solicits or patronizes’ to the sex trafficking statute making absolutely clear for judges, juries, prosecutors, and law enforcement officials that criminals who purchase sexual acts from human trafficking victims may be arrested, prosecuted, and convicted as sex trafficking offenders when this is merited by the facts of a particular case.” *Id.* at Sec. 109. The Eighth Circuit decision in *United States v. Jungers* and the federal sex trafficking law as amended by the Justice for Victims of Trafficking Act establish persuasive authority when state courts interpret the string of verbs constituting prohibited conduct in state sex trafficking laws (in particular, the term “obtains”) to the extent such interpretation does not conflict with state case law.

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

Washington’s CSEC laws address an array of trafficker conduct. Pursuant to Wash. Rev. Code Ann. § 9.68A.101(1) (Promoting commercial sexual abuse of a minor),

A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse⁴ or a sexually explicit act⁵ of a minor or profits⁶ from a minor engaged in sexual conduct or a sexually explicit act.

Further, Wash. Rev. Code Ann. § 9.68A.090(2) (Communication with minor for immoral purposes) provides,

A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person . . . communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.

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

Washington law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Wash. Rev. Code Ann. § 9A.40.100(4)(a) (Trafficking),

In any prosecution under this chapter [Kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, and coercion of involuntary servitude] in which the offense or degree of the offense depends on

⁴ Wash. Rev. Code Ann. § 9.68A.101(3)(a) defines “advances commercial sexual abuse of a minor” as

acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

⁵ Wash. Rev. Code Ann. § 9.68A.101(3)(c) defines “advances a sexually explicit act of a minor” as

caus[ing] or aid[ing] a sexually explicit act of a minor, procur[ing] or solicit[ing] customers for a sexually explicit act of a minor, provid[ing] persons or premises for the purposes of a sexually explicit act of a minor, or engag[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.

Wash. Rev. Code Ann. § 9.68A.101(3)(d) defines “sexually explicit act” as “a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons and for which anything of value is given or received.”

⁶ Wash. Rev. Code Ann. § 9.68A.101(3)(b) defines “profits from commercial sexual abuse of a minor” as

acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or anything of value pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

the victim's age, it is not a defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be.

Regarding Washington's CSEC offenses, Wash. Rev. Code Ann. § 9.68A.110(3) (Certain defenses barred, permitted) states,

In a prosecution under RCW . . . 9.68A.090 [Communication with minor for immoral purpose], 9.68A.100 [Commercial sexual abuse of a minor], 9.68A.101 [Promoting commercial sexual abuse of a minor], or 9.68A.102 [Promoting travel for commercial sexual abuse of a minor], it is not a defense that the defendant did not know the alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

Policy Goal 1.5 Use of a law enforcement decoy is not an available defense in child sex trafficking cases.

Washington law allows for the use of a law enforcement decoy when the defendant uses electronic means to commit various sex offenses, including child sex trafficking. Wash. Rev. Code Ann. § 9.68A.090(2) (Communication with minor for immoral purposes – Penalties) states,

A person who communicates with a minor for immoral purposes is guilty of a class C felony . . . if the person communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.

Further, Washington's criminal attempt statute, Wash. Rev. Code Ann. § 9A.28.020 (Criminal attempt), could provide prosecutors with an alternative avenue to prosecute decoy cases. Wash. Rev. Code Ann. § 9A.28.020(1), (2) states,

- (1) A person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime.
- (2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

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.

Washington's trafficking law does not expressly allow for business entity liability.

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

Policy Goal 1.7 State law mandates that financial penalties are levied on sex trafficking and CSEC offenders and are directed to a victim services fund.

Washington law levies financial penalties, including fees and asset forfeiture, on sex trafficking and CSEC offenders and directs certain financial penalties into a victim services fund.

Regarding fees, Wash. Rev. Code Ann. § 9A.40.100 (Trafficking) imposes a \$10,000 fee on sex trafficking offenders to be used for prevention efforts. Specifically, Wash. Rev. Code Ann. § 9A.40.100(4)(b)–(d)(i) states,

(b) A person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for a violation of a trafficking crime shall be assessed a ten thousand dollar fee.

....

(d) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(i) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

Further, Wash. Rev. Code Ann. § 9.68A.105(1), (2) (Additional fee assessment) imposes a \$5,000 fine on CSEC offenders to be used for prevention efforts, stating,

(1)

(a) In addition to penalties set forth in RCW 9.68A.100 [Commercial sexual abuse of a minor], 9.68A.101 [Promoting commercial sexual abuse of a minor], or 9.68A.102 [Promoting travel for commercial sexual abuse of a minor], an adult offender who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.

....

(2) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(a) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(b) Two percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

....

Wash. Rev. Code Ann. § 9.68A.106 (Additional fee assessment – Internet advertisement) imposes an additional \$5,000 fee on trafficking and CSEC offenders who commit an offense using an internet advertisement and directs those funds to the Prostitution Prevention and Intervention Account. Wash. Rev. Code Ann. § 9.68A.106 states,

(1) In addition to all other penalties under this chapter, an adult offender convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.

.....
(3) Amounts collected as penalties under this section shall be deposited in the [Prostitution Prevention and Intervention Account] established under RCW 43.63A.740.

Under Wash. Rev. Code Ann. § 43.63A.740 (Prostitution prevention and intervention account), funds deposited into the Prostitution Prevention and Intervention Account will be used, in part, for victim services:

Expenditures from the account may be used in the following order of priority:

- (1) Funding the statewide coordinating committee on sex trafficking;
- (2) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213 [Juveniles alleged to have committed a prostitution loitering offense – Diversion];
- (3) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 [Definitions – Regulating leave from semi-secure facility] in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;
- (4) Funding for services specified in RCW *74.14B.060 [Sexually abuse children – Treatment services] and 74.14B.070 [Child victims of sexual assault, sexual abuse; or commercial sexual exploitation – Identification, treatment, and services – Report – Work group] for sexually exploited children; and
- (5) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720 [Prostitution prevention and intervention services – Grant program].

In addition to the trafficking and CSEC specific assessments noted above, Wash. Rev. Code Ann. § 7.68.035(1), (4) (Penalty assessments in addition to fine or bail forfeiture – Distribution – Establishment of crime victim and witness programs in county – Contribution required from cities and towns) provides,

- (1)
 - (a) When any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section [related to motor vehicle crimes], there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.
 - (b) When any juvenile is adjudicated of an offense that is a most serious offense as defined in RCW 9.94A.030 [Definitions], or a sex offense under chapter 9A.44 RCW [Sex offenses], there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action.

.....

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer. Each county shall deposit one hundred percent of the money it receives per case or cause of action under subsection (1) of this section, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 [Disposition of monetary payments] and the money it retains under chapter 3.62 RCW [Income of court], and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered “comprehensive” only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

- (a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;
- (b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;
- (c) Make a reasonable effort to inform the known victim or his or her surviving dependents of the existence of this chapter and the procedure for making application for benefits;
- (d) Assist victims in the restitution and adjudication process; and
- (e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

Regarding asset forfeiture, CSEC offenders face forfeiture under Wash. Rev. Code Ann. § 9A.88.150(1)⁷ (Seizure and forfeiture), which provides,

The following are subject to seizure and forfeiture and no property right exists in them:

- (a) Any property or other interest acquired or maintained in violation of RCW 9.68A.100, 9.68A.101 [Promoting commercial sexual abuse of a minor] . . . to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9.68A.100, 9.68A.101 . . . ;
- (b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate a violation of RCW 9.68A.100, 9.68A.101 . . . ;
- (c) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9.68A.100, 9.68A.101 . . . ;
- (d) All proceeds traceable to or derived from an offense defined in RCW 9.68A.100, 9.68A.101 . . . and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense;
- (e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of RCW 9.68A.100, 9.68A.101 . . . ;
- (f) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a violation of RCW 9.68A.100, 9.68A.101 . . . , all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101 . . . , and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of RCW 9.68A.100, 9.68A.101
- (g) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for a violation of RCW 9.68A.100, 9.68A.101 . . . , or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101 . . . , if a substantial nexus exists between the violation and the real property

⁷ The text of Wash. Rev. Code Ann. § 9A.88.150 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 5728 during the 2021–2022 Regular Session of the Washington state legislature (effective July 1, 2022).

Disposition of forfeited property under Wash. Rev. Code Ann. § 9A.88.150(1) is governed by Wash. Rev. Code Ann. § 9A.88.150(7), (9)(a), which states,

- (7) When property is forfeited under this chapter, the seizing law enforcement agency may:
 - (a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9.68A RCW;
 - (b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or
 - (c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.
-
- (9)
 - (a) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.

Further, sex trafficking and CSEC offenders face asset forfeiture under Wash. Rev. Code Ann. § 10.105.010(1)⁸ (Seizure and forfeiture), which broadly provides for forfeiture of the following:

The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony

Disposition of forfeited property under Wash. Rev. Code Ann. § 10.105.010(1) is governed by Wash. Rev. Code Ann. § 10.105.010(6), (7), which states,

- (6) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:
 - (a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;
 - (b) Sell that which is not required to be destroyed by law and which is not harmful to the public.
- (7) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.
 - (a) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.
 - (b) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index The value of destroyed property and retained firearms or illegal property is zero.

⁸ The text of Wash. Rev. Code Ann. § 10.105.010 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 5728 during the 2021–2022 Regular Session of the Washington state legislature (effective July 1, 2022).

(c) Retained property and net proceeds not required to be remitted to the state, or otherwise required to be spent under this section, shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity

Lastly, Wash. Rev. Code Ann. § 9A.82.100(4), (5) (Remedies and procedures) provides,

(4) Following a determination of liability, orders may include, but are not limited to:

. . . .

(f) Ordering forfeiture first as restitution to any person damaged . . . by an offense defined in RCW 9A.40.100, then to the state general fund or antiprofitereing revolving fund of the county, as appropriate, to the extent not already ordered to be paid in other damages, of the following:

. . . .

(iii) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.

. . . .

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the state general fund or antiprofitereing revolving fund of the county, as appropriate, to the extent not already ordered pursuant to this section, of the following:

. . . .

(c) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate the commission of the offense.



ISSUE 2: Identification of & Response to Victims

Policy Goal 2.1 The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control.

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Specifically, Wash. Rev. Code Ann. § 9A.40.100 (Trafficking) expressly applies to buyers of commercial sex with minors based on the terms “buys” and “purchases,”⁹ meaning a buyer can be charged regardless of whether a trafficker is involved or identified. As such, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

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

Washington law provides policy guidance that facilitates access to services and benefits for trafficked foreign national children. Specifically, Wash. Rev. Code Ann. § 74.04.820 (Victims of human trafficking eligibility) provides, “Victims of human trafficking, as defined in RCW 74.04.005 [Definitions – Eligibility], are eligible for state family assistance programs as provided in rule on February 1, 2022, who otherwise meet program eligibility requirements.” Wash. Rev. Code Ann. § 74.04.005(16)(a) defines “victim of human trafficking” as follows:

- [A] noncitizen and any qualifying family members who have:
- (i) Filed or are preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T), as it existed on January 1, 2020;
 - (ii) Filed or are preparing to file an application with the appropriate federal agency for status pursuant to 8 U.S.C. Sec. 1101(a)(15)(U), as it existed on January 1, 2020; or
 - (iii) Been harmed by either any violation of chapter 9A.40 [Kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, and coercion of involuntary servitude] or 9.68A [Sexual exploitation of children] RCW, or both, or by substantially similar crimes under federal law or the laws of any other state, and who:
 - (A) Are otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105, as it existed on January 1, 2020; or
 - (B) Have filed or are preparing to file an application with the appropriate federal agency for status under 8 U.S.C. Sec. 1158.

Policy Goal 2.3 State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking.

Washington law does not require child welfare to conduct trauma-informed CSEC screening of system-involved children and youth who are at risk of sex trafficking. However, Wash. Rev. Stat. Ann. § 7.68.380 (Commercially sexually exploited children receiving center programs) requires the Department of Children, Youth, and Families to fund two receiving centers for commercially sexually exploited children, which are mandated to conduct a short-term evaluation for determining the immediate needs of child victims. Wash. Rev. Stat. Ann. § 7.68.380(3)(a) states,

⁹ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Wash. Rev. Code Ann. § 9A.40.100.

The receiving center programs established under this section shall . . . [i]nclude a short-term evaluation function that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children ages twelve through seventeen and either meet those needs or refer those children to the appropriate services

- 2.3.1 Recommendation: Enact a state law requiring child welfare to screen system-involved children and youth at risk of sex trafficking for experiences of commercial sexual exploitation.

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

Washington 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.

Washington law prohibits the criminalization of minors for prostitution offenses and establishes a protocol requiring law enforcement to refer impacted children to a direct services organization in lieu of arrest. The prostitution offense, Wash. Rev. Code Ann. § 9A.88.030(1) (Prostitution), is inapplicable to minors, stating, “a person age eighteen or older is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.”

Further, pursuant to Wash. Rev. Stat. Ann. § 43.185C.260(7), (8) (Youth services – Officer taking child into custody – Authorization – Duration of custody – Transporting to crisis residential center – Report on suspected abuse or neglect), law enforcement must refer commercially sexually exploited children to a specialized receiving center or another youth-serving entity; it states,

- (7) If a law enforcement officer takes a juvenile into custody pursuant to subsection (1)(b)¹⁰ of this section and reasonably believes that the juvenile may be the victim of sexual exploitation, the officer shall:
 - (a) Transport the child to:
 - (i) An evaluation and treatment facility as defined in RCW 71.34.020 [Definitions], including the receiving centers established in RCW 7.68.380 [Commercially sexually exploited children receiving center programs], for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW [Behavioral health services for minors], including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment; or
 - (ii) Another appropriate youth-serving entity or organization including, but not limited to:

¹⁰ Pursuant to Wash. Rev. Code Ann. § 43.185C.260(1)(b),

A law enforcement officer shall take a child into custody:

. . . .

- (b) If a law enforcement officer reasonably believes, considering the child’s age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child’s safety or that a child is violating a local curfew ordinance

- (A) A HOPE Center as defined under RCW 43.185C.010 [Definitions];
- (B) A foster-family home as defined under RCW 74.15.020 [Definitions];
- (C) A crisis residential center as defined under RCW 43.185C.010 [Definitions]; or
- (D) A community-based program that has expertise working with adolescents in crisis; or
- (b) Coordinate transportation to one of the locations identified in (a) of this subsection, with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 [Child victims of sexual assault, sexual abuse, or commercial sexual exploitation – Identification, treatment, and services – Report – Work group] or a community service provider.
- (8) Law enforcement shall have the authority to take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individual or individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in RCW 7.68.380, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

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

Policy Goal 2.6 State law prohibits the criminalization of child sex trafficking victims for status offenses, and misdemeanor and non-violent felony offenses committed as a result of their trafficking victimization.

Washington 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.

Washington 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.

Washington 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.

Washington law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While Washington law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute does not establish a minimum age for jurisdictional purposes and permits automatic transfers for older minors charged with certain felonies or those previously convicted in criminal court. Additionally, the juvenile court is not required to consider the impact of trauma or past trafficking victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	None. “Juvenile,” “youth,” and “child” are defined as, “any individual who is under the chronological age of 18 years”	17	Yes. Minors: (1); 16+ years charged with a serious violent offense, a violent offense following a prior adjudication for certain felony offenses, or rape of a child; (2) previously convicted in criminal court in a prior matter; or (3) who, while serving a minimum sentence to age 21, escape from custody.	Yes. Minors: (1) 15+ years of age charged with a serious violent offense; (2) under 15 years of age charged with 1 st or 2 nd degree murder; or (3) serving a minimum juvenile sentence to age 21 and subsequently charged with custodial assault.	No.
Relevant Statute(s)	Wash. Rev. Code Ann. § 13.40.020(16) (Definitions); Wash. Rev. Code Ann. § 13.04.011(5) (Definitions)	Wash. Rev. Code Ann. § 13.40.020(16) (Definitions); Wash. Rev. Code Ann. § 13.04.011(5) (Definitions)	Wash. Rev. Stat. Ann. § 13.04.030(1)(e) (Juvenile court – Exclusive original jurisdiction – Exceptions); Wash. Rev. Stat. Ann. § 13.40.020(16) (Definitions); Wash. Rev. Code Ann. § 13.40.110(2) (Hearing on question of declining jurisdiction – Held, when – Findings)	Wash. Rev. Stat. Ann. § 13.40.110(1) (Hearing on question of declining jurisdiction – Held, when – Findings)	Wash. Rev. Stat. Ann. § 13.40.110(5) (Hearing on question of declining jurisdiction – Held, when – Findings)

Consequently, some minors may still be subjected to age-inappropriate juvenile court responses due to state laws that: (1) fail to establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) allow some juvenile cases to be automatically filed in or transferred to criminal court; and (3) do not require the juvenile court to consider previous trafficking victimization or trauma in 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.

Washington’s child welfare laws define “abuse” to include conduct amounting to trafficking victimization. Pursuant to Wash. Rev. Code Ann. § 26.44.020(1),

“Abuse or neglect” means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child’s health, welfare, or safety An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

Wash. Rev. Code Ann. § 26.44.020(25)(a) defines “sexual exploitation” to include “[a]llowing, permitting, or encouraging a child to engage in prostitution by any person”

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.

Washington’s child welfare code allows for a child welfare response to non-familial child sex trafficking cases because the definition of abuse is not limited to the conduct of a parent or caregiver in the context of sexual exploitation; however, the code does not provide for a specialized investigation in those cases. Pursuant to Wash. Rev. Code Ann. § 26.44.020(1), “abuse or neglect” is defined to include “sexual exploitation . . . of a child by any person under circumstances which cause harm to the child’s health, welfare, or safety,” and Wash. Rev. Code Ann. § 26.44.020(25)(a) defines “sexual exploitation” to include “[a]llowing, permitting, or encouraging a child to engage in prostitution by any person”

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.

Washington law provides child sex trafficking victims with access to specialized, community-based services and establishes a clear process for connecting victims with those services. Specifically, Wash. Rev. Stat. Ann. § 7.68.380(1)–(5) (Commercially sexually exploited children receiving center programs) provides for the establishment of and response by a receiving center, stating,

- (1) Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families shall administer funding for two receiving center programs for commercially sexually exploited children. One of these programs must be located west of the crest of the Cascade mountains and one of these programs must be located east of the crest of the Cascade mountains. Law enforcement and service providers may refer children to these programs or children may self-refer into these programs.
- (2) The receiving center programs established under this section shall:
 - (a) Begin providing services by January 1, 2021;
 - (b) Utilize existing facilities and not require the construction of new facilities; and
 - (c) Provide ongoing case management for all children who are being served or were served by the programs.
- (3) The receiving centers established under this section shall:
 - (a) Include a short-term evaluation function that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children ages twelve through seventeen and either meet those immediate needs or refer those children to the appropriate services;
 - (b) Assess children for mental health and substance use disorder needs and provide appropriate referrals as needed; and
 - (c) Provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.
-
- (5) For the purposes of this section, the following definitions apply:
 - (a) “Receiving center” means a trauma-informed, secure location that meets the multidisciplinary needs of commercially sexually exploited children ages twelve through seventeen located in a behavioral health agency licensed or certified under RCW 71.24.037 to provide inpatient or residential treatment services; and
 - (b) “Short-term evaluation function” means a short-term emergency shelter that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children under age eighteen and either meet those immediate needs or refer those children to the appropriate services.

Wash. Rev. Stat. Ann. § 7.68.390(1) (Commercially sexually exploited children receiving center programs – Referrals) allows the following individuals and entities to refer a commercially sexually exploited child to a receiving center:

- (a) Law enforcement, who shall:
 - (i) Transport a child eligible for receiving center services to a receiving center; or
 - (ii) Coordinate transportation with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider;

- (b) The department of children, youth, and families;
- (c) Juvenile courts;
- (d) Community service providers;
- (e) A parent or guardian; and
- (f) A child may self-refer.

However, Wash. Rev. Stat. Ann. § 7.68.390(2) limits “[e]ligibility for placement in a receiving center [to] children ages twelve through seventeen, of all genders, who have been, or are at risk for being commercially sexually exploited.”

Lastly, Enacted House Bill 1571, § 3 (2022)¹¹ establishes a pilot program for services specific to indigenous persons who are survivors of trafficking; it states,

- (1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce's office of crime victims advocacy shall award grant funding to establish a pilot project providing wraparound services to indigenous persons who are survivors of trafficking.
- (2) The department shall establish a competitive grant program to award funding for the pilot project by September 1, 2022.
- (3) Public agencies, federally recognized tribes, nonprofit community groups, and nonprofit treatment providers, including organizations which provide services such as shelter, counseling, and case management, are eligible to compete for grant funding.
- (4) The grant recipient shall use the grant funds to develop or maintain a center capable of providing wraparound services to at least 50 indigenous persons who are survivors of trafficking, including:
 - (a) Short-term and long-term shelter;
 - (b) Food;
 - (c) Nonemergency health care;
 - (d) Mental health counseling and treatment;
 - (e) Substance abuse prevention, assessment, and treatment;
 - (f) Case management and care coordination;
 - (g) Education and special education services;
 - (h) Vocational training;
 - (i) Legal services, protection, and advocacy; and
 - (j) Transportation.
-
- (6) This section expires January 1, 2024.

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

Washington law requires a multi-disciplinary team response to child sex trafficking cases. Pursuant to Wash. Rev. Code Ann. § 26.44.180 (Multidisciplinary child protection teams – Investigation of child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, child fatality, child physical abuse, and criminal child neglect cases – Protocols),

- (1) Each agency involved in investigating child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, as well as investigations of child fatality, child physical abuse, and criminal child neglect cases, shall document its role in handling cases and how it will coordinate with other local

¹¹ House Bill 1571, § 3 cited here and elsewhere in this report was enacted during the 2021–2022 Regular Session of the Washington state legislature (effective June 9, 2022).

agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2)

(a) Each county shall develop a written protocol for handling investigations of criminal child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, and child fatality, child physical abuse, and criminal child neglect cases. The protocol shall address the coordination of such criminal investigations among multidisciplinary child protection team members, identified as representatives from the prosecutor's office, law enforcement, children's protective services, children's advocacy centers where available, local advocacy groups, community sexual assault programs as defined in RCW 70.125.030, licensed physical and mental health practitioners that are involved with child sexual abuse victims, and any other local agency involved in such criminal investigations, including those investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(b) County protocol for handling investigations of online sexual exploitation and commercial sexual exploitation of minors must be implemented by July 1, 2021.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date. Beginning on July 28, 2019, local protocols under . subsection (1) of this section must be reviewed every two years to determine whether modifications are needed.

Further, Wash. Rev. Code Ann. § 26.44.175(1)–(4) (Multidisciplinary child protection teams – Information sharing – Confidentiality – Immunity from liability) notes the protective function of the MDT, stating,

(1) The legislature finds that the purpose of multidisciplinary child protection teams as described in RCW 26.44.180 (1) and (2) is to ensure the protection and well-being of the child and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect to reduce the trauma of any child victim.

(2)

(a) When a case as described in RCW 26.44.180 (1) or (2) is referred to the team, records pertaining to the case must be made available to team members. Any member of the team may use or disclose records made available by the team members under this subsection only as necessary for the performance of the member's duties as a member of the multidisciplinary child protection team.

(b) Team members may share information about criminal child abuse investigations and case planning following such investigations with other participants in the multidisciplinary coordination to the extent necessary to protect a child from abuse or neglect. . . .

....

(4) As convened by the county prosecutor, or his or her designee, a multidisciplinary child protection team should meet regularly, at least monthly, unless the needs and resources of each team dictate less frequent meetings. . . .

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

Washington law requires child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims. Pursuant to Wash. Rev. Stat. Ann. § 74.14B.070(2)(a) (Child victims of sexual assault, sexual abuse, or commercial sexual exploitation – Identification, treatment, and services – Report – Work group),

The department shall provide services to support children it suspects have been commercially sexually exploited. The child may decide whether to voluntarily engage in the services offered by the department.

(a) To provide services supporting children it suspects have been commercially sexually exploited, the department may provide:

- (i) At least one liaison position in each region of the department where receiving center programs are established under section 2 of this act who are dedicated to serving commercially sexually exploited children and who report directly to the statewide program manager under (a)(ii) of this subsection;
- (ii) One statewide program manager;
- (iii) A designated person responsible for supporting commercially sexually exploited children, who may be assigned other duties in addition to this responsibility, in regions of the department where there is not a dedicated liaison position as identified under (a)(i) of this subsection; and
- (iv) Coordinate appropriate, available, community-based services for children following discharge from an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in section 2 of this act.

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 services may be available to child sex trafficking victims who are referred to a specialized receiving center,¹² Washington law does not mandate access to specialized services for all identified sex trafficked children and youth in the juvenile justice system. Specifically, Wash. Rev. Stat. Ann. § 7.68.390(1) (Commercially sexually exploited children receiving center programs – Referrals) allows the following individuals and entities to refer a commercially sexually exploited child to a receiving center for services and support:

- (a) Law enforcement, who shall:
 - (i) Transport a child eligible for receiving center services to a receiving center; or
 - (ii) Coordinate transportation with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider;
- (b) The department of children, youth, and families;
- (c) Juvenile courts;
- (d) Community service providers;
- (e) A parent or guardian; and
- (f) A child may self-refer.

3.4.1 Recommendation: Strengthen existing law to mandate access to specialized services for identified sex trafficked children and youth in the juvenile justice system.

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

Washington law extends foster care services to youth under 25 years of age. Wash. Rev. Code Ann. § 43.63A.307(2)(a)¹³ (Independent youth housing program – Definitions) defines “eligible youth” as “an individual who: (a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time before his or her eighteenth birthday, and has not yet reached the age of 25.”

Wash. Rev. Code Ann. § 74.13.031(11)–(12), (16) (Duties of department – Child welfare services – Children’s services advisory committee) extends foster care services to eligible youth as follows:

¹² See *supra* Policy Goal 3.1 for a full discussion of receiving centers.

¹³ The text of Wash. Rev. Code Ann. § 43.63A.307 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 5566 during the 2021–2022 Regular Session of the Washington state legislature (effective June 9, 2022).

(11)

.....

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

.....

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

.....

(16) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-three years of age, who are or have been in the department's care and custody, or who are or were nonminor dependents.

Additionally, extended services can be provided under Wash. Rev. Code Ann. § 74.13.336 (Extended foster care services), which provides access to a voluntary placement agreement, Wash. Rev. Code Ann. § 74.13.540 (Independent living services), which provides access to independent living services, Wash. Rev. Code Ann. § 43.216.205¹⁴ (Youth and young adults exiting publicly funded system of care – Rapid response team), which provides access to a rapid response team for assistance with housing and other services, and Wash. Rev. Code Ann. § 43.330.723¹⁵ (Youth and young adults exiting publicly funded system of care – Flexible funding), which provides support and funding for safe housing, transportation, and other basic needs.

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 Washington state legislature made appropriations during the 2021-2022 Regular Session to support the development and provision of community-based specialized services for child and youth survivors of sex trafficking. Additionally, appropriations were made to support child-serving agencies in addressing the needs of child and youth survivors of sex trafficking.

¹⁴ The text of Wash. Rev. Code Ann. § 43.216.250 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1905 during the 2021–2022 Regular Session of the Washington state legislature (effective June 9, 2022).

¹⁵ The text of Wash. Rev. Code Ann. § 43.330.723 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1905 during the 2021–2022 Regular Session of the Washington state legislature (effective June 9, 2022).

2021-2022 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
SB 5092	Department of Children, Youth and Families	\$1,003,000	To implement HB 1775 (2019-2020), which provided non-criminalization protections and access to specialized services for commercially sexually exploited children.	FY 2021-2023 (Non-recurring)
2021-2022 Regular Session				
SB 5092/ SB 5693	Department of Commerce	\$60,000	To extend job readiness services and employment opportunities for survivors of human trafficking and persons at risk for human trafficking, in near-airport communities.	FY 2022
2021-2022 Regular Legislative Session				July 1st to June 30th
SB 5693	Department of Commerce	\$3,000,000	For housing assistance for victims of human trafficking, including funds for rental payments to landlords and other program operation costs such as services addressing barriers to acquiring housing that are common for victims of human trafficking (the department must allocate funding through contracts with service providers that have current contracts with the office of crime victims advocacy to provide services for victims of human trafficking).	FY 2023
2021-2022 Regular				July 1st to June 30th
SB 5092	Department of Children, Youth and Families	\$1,003,000	To implement HB 1775 (2019-2020), which provided non-criminalization protections and access to specialized services for commercially sexually exploited children.	FY 2021-2023 (Non-recurring)
2021-2022 Regular Session				July 1st to June 30th

EXTRA CREDIT



The Washington state Legislature appropriated funds for FY 2021 and 2022 to support the development and provision of community-based specialized services for child and youth survivors of sex trafficking.



The Washington state Legislature appropriated funds for FY 2021 and 2022 to support the development and provision of community-based specialized services for survivors of sex and labor trafficking.



ISSUE 4: Access to Justice for Trafficking Survivors

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

While civil orders of protection exist under Washington law, this protection is not expressly available to victims of child sex trafficking and CSEC.

- 4.1.1 Recommendation: Enact legislation expressly allowing victims of trafficking and CSEC to obtain ex parte civil orders of protection against their exploiters.

Policy Goal 4.2 Ineligibility factors for crime victims' compensation do not prevent victims of child sex trafficking and commercial sexual exploitation of children (CSEC) from accessing compensation.

Washington's crime victims' compensation laws exempt victims of child sex trafficking and CSEC from some, but not all, ineligibility factors, leaving some commercially sexually exploited children without access to an award.

For purposes of accessing crime victims' compensation, Wash. Rev. Code Ann. § 7.68.020(16) (Definitions) defines victim as "a person who suffers bodily injury or death as a proximate result of a criminal act of another person" "Criminal act" is defined under Wash. Rev. Code Ann. § 7.68.020(6) as follows:

[A]n act committed or attempted in this state which is: (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or gross misdemeanor under the laws of this state; (c) an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state and the crime occurred in a state which does not have a crime victims' compensation program, for which the victim is eligible as set forth in the Washington compensation law; or (d) trafficking as defined in RCW 9A.40.100

Despite this broad definition—and its express inclusion of trafficking victims—certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Wash. Rev. Code Ann. § 7.68.060(2)–(4) (Application for benefits – Accrual of rights),

- (2) No person . . . is eligible for benefits under this chapter when the injury for which benefits are sought was:
- (a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;
 - (b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or
 - (c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.
- (3) No person . . . is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim.
- (4) A victim is not eligible for benefits under this chapter if the victim:

- (a) Has been convicted of a felony offense within five years preceding the criminal act for which the victim is applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after the criminal act for which the victim is applying; and
- (b) Has not completely satisfied all legal financial obligations owed.

Notably, Washington law carves out exceptions to other ineligibility factors. In determining when rights accrue, Wash. Rev. Code Ann. § 7.68.060(1), (5)–(6)(a) provides,

(1) Except for applications received pursuant to subsection (6) of this section, no compensation of any kind shall be available under this chapter if:

- (a) An application for benefits is not received by the department within three years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of beneficiaries accrued, unless the director has determined that "good cause" exists to expand the time permitted to receive the application. "Good cause" shall be determined by the department on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of beneficiaries accrued; or
- (b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

.....

(5) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.

(6)

- (a) Benefits under this chapter are available to any victim of a person against whom the state initiates proceedings under chapter 71.09 RCW. The right created under this subsection shall accrue when the victim is notified of proceedings under chapter 71.09 RCW or the victim is interviewed, deposed, or testifies as a witness in connection with the proceedings. An application for benefits under this subsection must be received by the department within two years after the date the victim's right accrued unless the director determines that good cause exists to expand the time to receive the application. The director shall determine "good cause" on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the right of the victim accrued. Benefits under this subsection shall be limited to compensation for costs or losses incurred on or after the date the victim's right accrues for a claim allowed under this subsection.

Further, Wash. Rev. Code Ann. § 7.68.060(6)(b) states,

A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

- 4.2.1 Recommendation: Statutorily exempt victims of child sex trafficking and CSEC from ineligibility factors for crime victims' compensation.

Policy Goal 4.3

Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

Washington law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for offenses arising from their victimization; however, relief is limited to certain offenses. Pursuant to Wash. Rev. Code Ann. § 9.94A.648 (Victims of certain offenses – Vacating records of conviction for a class B or class C felony),

- (1)
 - (a) A victim of sex trafficking, prostitution, or commercial sexual abuse of a minor . . . as defined in RCW 9.94A.030 [Definitions] may apply to the sentencing court or the sentencing court’s successor to vacate the victim’s record of conviction for a class B or class C felony offense.
 - (b) The prosecutor of the county in which a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor . . . was sentenced for a class B or class C offense may exercise discretion to apply to the court on behalf of the state recommending that the court vacate the victim’s record of conviction
- (2) In order to vacate a record of conviction for a class B or class C felony offense committed as a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor . . . the applicant must meet the following requirements:
 - (a) Provide an affidavit under penalty of perjury stating the specific facts and circumstances proving, by a preponderance of evidence, that the offense was committed as a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse¹⁶
.....
- (3) An applicant may not have a record of conviction for a class B or class C felony offense vacated if:
 - (a) The offense was a violent offense as defined in RWA 9.9A.030 or crime against persons as defined in RCW 43.43.830, except the following offenses may be vacated if the conviction did not include a firearm, deadly weapon, or sexual motivation enhancement: (i) Assault in the second degree under RCW 9A.36.021; (ii) assault in the third degree under RCW 9A.36.031 when not committed against a law enforcement officer or peace officer; and (iii) robbery in the second degree under RCW 9A.56.210;
 - (b) The offense was a felony described in RCW 46.61.502, 46.61.504, or 46.61.505; or
 - (c) The offense was promoting prostitution in the first or second degree as described in RCW 9A.88.070 and 9A.88.080.

Similarly, Wash. Rev. Code Ann. § 9.96.080 (Victims of certain crimes vacating records of conviction) provides,

- (1)
 - (a) A victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence, as defined in RCW 9.94A.030 may apply to the sentencing court or the sentencing court’s successor to vacate the applicant’s record of conviction for the offense; or
 - (b) The prosecutor of a county or municipality in which a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence was sentenced for a misdemeanor or gross misdemeanor offense may exercise discretion to apply to the court on behalf of

¹⁶ Wash. Rev. Code Ann. § 9.94A.648(2)(c)-(f) also provides,

- (c) If the victim’s offense a class C felony, the offender has not been convicted of a new offense in this state, another state, or federal or tribal court in the five years prior to the vacation application;
- (d) If the victim’s offense is a class B felony, the offender has not been convicted of a new offense in this state, another state, or federal or tribal court in the 10 years prior to the vacation application;
- (e) Provide proof that the crime victim penalty assessment, RCW 7.68.035, has been paid in full.
- (f) If applicable, restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full.

- the state recommending that the court vacate the victim’s record of conviction by submitting the information required in subsection (2) of this section. If the court finds the application meets the requirements of subsection (2) of this section, the court may decide whether to grant the application to vacate the record.
- (2) In order to vacate a record of conviction for a gross misdemeanor or misdemeanor offense committed as a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, the applicant must meet the following requirements:
- (a) Provide an affidavit, under penalty of perjury, stating the specific facts and circumstances proving, by a preponderance of evidence that the offense was committed as a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030;
 - (b) There are no criminal charges against the applicant pending in any court of this state or another state, or in any federal court for any crime other than prostitution;
 - (c) If the offense is a misdemeanor, the offender has not been convicted of a new crime in this state, another state, or federal or tribal court in the three years prior to the vacation application;
 -
- (3) An applicant may not have a record of conviction for a gross misdemeanor or misdemeanor offense vacated if:
- (a) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;
 - (b) The offense was a conviction as described in RCW 46.61.5055; or
 - (c) The offense was patronizing a prostitute as described in RCW 9A.88.110.

Although Wash. Rev. Code Ann. § 9.94A.648 and Wash. Rev. Code Ann. § 9.96.080 apply specifically to “convictions,” Wash. Rev. Code Ann. § 9.94A.030 (Definitions) clarifies their applicability to juvenile adjudications. Wash. Rev. Code Ann. § 9.94A.030(9) states, “[c]onviction’ means an adjudication of guilt pursuant to Title 10 [Criminal procedure] or 13 [Juvenile courts and juvenile offenders] RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilt.” Further, relief under Wash. Rev. Code Ann. § 9.94A.648 and Wash. Rev. Code Ann. § 9.96.080 is extended to victims of commercial sexual abuse of a minor, demonstrating a clear intention to include child victims convicted or adjudicated delinquent with an applicable offense. However, Wash. Rev. Code Ann. § 9.94A.648 and Wash. Rev. Code Ann. § 9.96.080 apply only to certain offenses, which fails to recognize the array of crimes trafficking victims are charged with and leaves many survivors without any avenue for relief.

- 4.3.1 Recommendation: Strengthen existing law by allowing sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

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

Washington law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Wash. Rev. Code Ann. § 9.94A.753(5), (7) (Restitution – Application dates),

(5) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property¹⁷ . . . unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

. . . .
(7) Regardless of the provisions of subsections (1) through (6) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW

EXTRA CREDIT



Washington law mandates restitution for victims of child labor trafficking under Wash. Rev. Code Ann. § 9.94A.753, which applies broadly to any offense.

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

Washington law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Wash. Rev. Code Ann. § 9A.82.100(1), (4)(d) (Remedies and procedures) states,

- (1)
 - (a) A person who sustains injury to his or her person, business, or property . . . by an offense defined in RCW 9A.40.100 [Human trafficking], 9.68A.100 [Commercial sexual abuse of a minor], 9.68A.101 [Promoting commercial sexual abuse of a minor], or 9A.88.070 [Promoting prostitution in the first degree] may file an action in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.
 - (b) The attorney general or county prosecuting attorney may file an action: (i) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or (ii) to prevent, restrain, or remedy . . . an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070

¹⁷ Pursuant to Wash. Rev. Code Ann. § 9.94A.753(3)(a),

[R]estitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime.

The text of Wash. Rev. Code Ann. § 9.94A.753 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1412 during the 2021–2022 Regular Session of the Washington state legislature (effective January 1, 2023).

(c) An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(d) In an action filed to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070 . . . , the court, upon proof of the violation, may impose a civil penalty not exceeding two hundred fifty thousand dollars, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

....
(4) Following a determination of liability, orders may include, but are not limited to:

....
(d) Ordering the payment of actual damages sustained to those persons injured by . . . an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, . . . and in the court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.

EXTRA CREDIT



Washington law provides sex trafficked youth with a trafficking-specific civil remedy under Wash. Rev. Code Ann. § 9A.82.100(1), which expressly includes victims of sex trafficking under Wash. Rev. Code Ann. § 9A.40.100 (Human trafficking) regardless of their age.



Washington law provides child labor trafficking victims with a trafficking-specific civil remedy under Wash. Rev. Code Ann. § 9A.82.100(1), which expressly includes victims of Wash. Rev. Code Ann. § 9A.40.100 (Human trafficking), which criminalizes both sex and labor trafficking.

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.

Washington law lengthens, but does not eliminate, statutes of limitation for prosecuting child sex trafficking and CSEC offenses or for filing trafficking-specific civil actions. Pursuant to Wash. Rev. Code Ann. § 9A.04.080(1)(c)(v), (d)(i)–(iii) (Limitation of action),

(c) The following offenses may not be prosecuted more than ten years after its commission:

....
(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

- (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
- (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);
- (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

In contrast, Wash. Rev. Code Ann. § 9A.04.080(i)–(k) provides for the following general statutes of limitation:

- (i) No other felony may be prosecuted more than three years after its commission
- (j) No gross misdemeanor may be prosecuted more than two years after its commission.
- (k) No misdemeanor may be prosecuted more than one year after its commission.

Regarding civil actions, Wash. Rev. Code Ann. § 9A.82.100(7) (Remedies and procedures) provides,

The initiation of civil proceedings under this section shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered or, in the case of an offense that is defined in RCW 9A.40.100 [Human trafficking], within three years after the final disposition of any criminal charges relating to the offense, whichever is later.

Otherwise, Wash. Rev. Code Ann. § 4.16.080(2) (Actions limited to three years) establishes a general 3-year statute of limitation for personal injury actions, which begins to run once “the cause of action has accrued.” Wash. Rev. Code Ann. § 4.16.080(2), 4.16.005.

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



ISSUE 5: Tools for a Victim-Centered Criminal Justice Response

Policy Goal 5.1 State law provides a child sex trafficking-specific hearsay exception that applies to non-testimonial evidence to reduce reliance on victim testimony.

Washington law allows out-of-court statements made by a commercially sexually exploited child under 16 years of age to be admitted into evidence in lieu of, or for the purpose of corroborating, the child’s testimony. Specifically, Wash. Rev. Code Ann. § 9A.44.120(1) (Admissibility of child’s statement – Conditions) states,

A statement not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

- (a)
- (ii) It is made by a child when under the age of sixteen describing any of the following acts or attempted acts performed with or on the child: Trafficking under RCW 9A.40.100; commercial sexual abuse of a minor under RCW 9.68A.100; promoting commercial sexual abuse of a minor under RCW 9.68A.101; or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102;
- (b) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and
- (c) The child either:
 - (i) Testifies at the proceedings; or
 - (ii) Is unavailable as a witness, except that when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

Notably, child victims who are 16 years of age or older are not protected by this hearsay exception, thereby increasing their risk of re-traumatization from testifying.

- 5.1.1 Recommendation: Amend Wash. Rev. Code Ann. § 9A.44.120 (Admissibility of child’s statement – Conditions) to extend the hearsay exception to any case involving the commercial sexual exploitation of children under 18 years of age.

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

Washington law allows child sex trafficking victims who are under 14 years of age to testify by an alternative method regardless of the prosecuted offense. Specifically, Wash. Rev. Code Ann. § 9A.44.150(1) (Testimony of child by closed-circuit television) states,

On motion of the prosecuting attorney in a criminal proceeding, the court may order that a child under the age of fourteen may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child’s testimony into another room so the defendant and the jury can watch and hear the child testify if:

- (a) The testimony will:
 -

(iii) Describe a violation of [RCW 9A.40.100](#) (trafficking) or any offense identified in chapter 9.68A RCW (sexual exploitation of children); or

-
- (b) The testimony is taken during the criminal proceeding;
- (c) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that requiring the child witness to testify in the presence of the defendant will cause the child to suffer serious emotional or mental distress that will prevent the child from reasonably communicating at the trial¹⁸

.....

Notably, child victims who are 14 years of age or older are not permitted to testify by an alternative method, thereby increasing their 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
Summary	Victims have the right to a crime victim advocate from a crime victim/witness program or any other support person of the victims choosing, present at any prosecutorial or defense interviews with the victim and at any judicial proceedings related to criminal acts committed against the victim. Further, a child victim of sex or violent crimes has a right to have a crime victim advocate from a crime	Washington law allows an advocate or any other support person to be present in the court while the child testifies in order to provide emotional support to the child.	Not statutorily required.

¹⁸ Pursuant to Wash. Rev. Code Ann. § 9A.44.150(3),

The court shall make particularized findings on the record articulating the factors upon which the court based its decision to allow the child witness to testify via closed-circuit television pursuant to this section. The factors the court may consider include, but are not limited to, a consideration of the child’s age, physical health, emotional stability, expressions by the child of fear of testifying in open court or in front of the defendant, the relationship of the defendant to the child, and the court’s observations of the child’s inability to reasonably communicate in front of the defendant or in open court. The court’s findings shall identify the impact the factors have upon the child’s ability to testify in front of the jury or the defendant or both and the specific nature of the emotional or mental trauma the child would suffer. The court shall determine whether the source of the trauma is the presence of the defendant, the jury, or both, and shall limit the use of the closed-circuit television accordingly.

	victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the child victim		
Relevant Statute(s)	Wash. Rev. Code Ann. § 7.69.030(10) (Rights of victims, survivors, and witnesses)	Wash. Rev. Code Ann. § 7.69A.030(8) (Rights of child victims and witnesses)	None.

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims' identifying information is protected from disclosure in court records.

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

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

- 5.4.1 Recommendation: Enact a child sex trafficking-specific caseworker privilege law that protects a child sex trafficking victim's communications with a caseworker from being disclosed.



ISSUE 6: Prevention & Training

Policy Goal 6.1 State law mandates statewide training for child welfare agencies on identification and response to child sex trafficking.

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

6.1.1 Recommendation: Statutorily mandate statewide training for child welfare agencies on identification and response to child sex trafficking.

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

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

6.2.1 Recommendation: Statutorily mandate statewide training for juvenile justice agencies on identification and response to child sex trafficking.

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

Washington law mandates trafficking-specific training for law enforcement both as initial education and as ongoing in-service training. Wash. Admin. Code § 139-11-020(1)(p), (2)(p) (Requirements of training for law enforcement)

(1) Beginning December 7, 2019, all new general authority peace officers must complete a minimum of two hundred hours of initial violence de-escalation and mental health training in the basic law enforcement academy (BLEA). Violence de-escalation and mental health training will include the following topics:

....

(p) Learning about effective communication and interaction with:

(i) Youth;

(ii) Individuals who have experienced domestic violence, sexual assault, or human trafficking;

....

....

(2) All peace officers certified in Washington before December 7, 2019, and lateral peace officers certified in Washington after December 7, 2019, must complete a minimum of forty hours of continuing de-escalation and mental health training every three years after receiving their initial peace officer certification. Incumbent peace officers must complete their first cycle of continuing de-escalation and mental health training by January 1, 2028. Continuing mental health and violence de-escalation training must include the following topics:

....

(p) Learning about effective communication and interaction with:

(i) Youth;

(ii) Individuals who have experienced domestic violence, sexual assault, or human trafficking;

....

Further, trafficking-specific training is authorized under Wash. Rev. Code Ann. § 43.280.095(1)–(3) (Statewide training on Washington’s human trafficking laws –Training entity – Report), which states,

- (1) The office of crime victims advocacy shall establish a statewide training program on Washington’s human trafficking laws for criminal justice personnel.
- (2) The training shall be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on human trafficking in Washington.
- (3) The entity will provide or coordinate training for law enforcement personnel, prosecutors, and court personnel covering Washington’s state antitrafficking laws, the investigation of sex trafficking cases, and the adjudication of sex trafficking cases. The training shall encourage interdisciplinary coordination among criminal justice personnel, build cultural competency, and develop understanding of diverse victim populations including children, youth, and adults.

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

Washington law authorizes trafficking-specific training for prosecutors. Pursuant to Wash. Rev. Code Ann. § 43.280.095(1)–(3) (Statewide training on Washington’s human trafficking laws –Training entity – Report),

- (1) The office of crime victims advocacy shall establish a statewide training program on Washington’s human trafficking laws for criminal justice personnel.
- (2) The training shall be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on human trafficking in Washington.
- (3) The entity will provide or coordinate training for law enforcement personnel, prosecutors, and court personnel covering Washington’s state antitrafficking laws, the investigation of sex trafficking cases, and the adjudication of sex trafficking cases. The training shall encourage interdisciplinary coordination among criminal justice personnel, build cultural competency, and develop understanding of diverse victim populations including children, youth, and adults.

Resultingly, training regarding child sex trafficking may be, or become, available to prosecutors. However, Wash. Rev. Code Ann. § 43.280.095 does not clarify that prosecutors are required 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.

Washington law mandates CSEC-specific training for school personnel; however, training on child sex trafficking is not expressly required. Pursuant to Wash. Rev. Code Ann. § 28A.410.035 (Qualifications – Coursework on issues of abuse; sexual abuse and exploitation of a minor; and emotional or behavioral distress in students, including possible substance abuse, violence, and youth suicide),

- (1) To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical abuse, emotional abuse, sexual abuse, and substance abuse; commercial sexual abuse of a minor, as defined in RCW 9.68A.100 [Commercial sexual abuse of a minor]; sexual exploitation of a minor, as defined in RCW 9.68A.040 [Sexual exploitation of a minor – Elements of crime – Penalty]; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse; and methods for teaching students about abuse of all types and their prevention.

(2) The professional educator standards board shall incorporate into the content required for the course under this section, knowledge and skill standards pertaining to recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. To receive initial certification after August 31, 2014, an applicant must have successfully completed a course that includes the content of this subsection. The board shall consult with the office of the superintendent of public instruction and the department of health in developing the standards.

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

Washington 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

1. Wash. Rev. Code Ann. § 9A.40.100(1)–(5) (Trafficking) states,
 - (1) A person is guilty of trafficking in the first degree when:
 - (a) Such person:
 - (i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact,
.....
(B) that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act;¹⁹ or
 - (ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection; and
 - (b) The acts or venture set forth in (a) of this subsection:
 - (i) Involve committing or attempting to commit kidnapping;
 - (ii) Involve a finding of sexual motivation under RCW 9.94A.835 [Special allegation – Sexual motivation – Procedures];
 - (iii) Involve the illegal harvesting or sale of human organs; or
 - (iv) Result in a death.
 - (2) Trafficking in the first degree is a class A felony.
 - (3)
 - (a) A person is guilty of trafficking in the second degree when such person:
 - (i) Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact, that . . . the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or
 - (ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection.
 - (b) Trafficking in the second degree is a class A felony.
.....
 - (5) If the victim of any offense identified in this section is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.

A violation of Wash. Rev. Code Ann. § 9A.40.100(1) is punishable as a class A felony, seriousness level XIV, by imprisonment for 123–397 months and a possible fine up to \$50,000, while a violation of Wash. Rev. Code Ann. § 9A.40.100(3) is punishable as a class A felony, seriousness level XII, by imprisonment for 93–318 months and a possible fine up to \$50,000. Wash. Rev. Code Ann. §§ 9A.40.100(2), (3)(b), 9.94A.515, 9.94A.510, 9.94A.550.

¹⁹ Wash. Rev. Code Ann. § 9A.40.100(6)(a) defines “commercial sex act” as “any act of sexual contact or sexual intercourse . . . for which something of value is given or received by any person.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Wash. Rev. Code Ann. § 9.68A.100(1) (Commercial sexual abuse of a minor) states,

A person is guilty of commercial sexual abuse of a minor if:

- (a) He or she provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;
- (b) He or she provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or
- (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for anything of value.

A violation of Wash. Rev. Code Ann. § 9.68A.100 is punishable as a class B felony, seriousness level VIII, by imprisonment for 21 months to 10 years and a possible fine up to \$20,000. Wash. Rev. Code Ann. §§ 9.68A.100(2), 9.94A.515, 9.94A.510, 9.94A.550, 9A.20.021(1)(b).

2. Wash. Rev. Code Ann. § 9.68A.101(1) (Promoting commercial sexual abuse of a minor) states,

A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse²⁰ or a sexually explicit act²¹ of a minor or profits²² from a minor engaged in sexual conduct or a sexually explicit act.

A violation of Wash. Rev. Code Ann. § 9.68A.101 is punishable as a class A felony, seriousness level XII, by imprisonment for 93–318 months and a possible fine up to \$50,000. Wash. Rev. Code Ann. §§ 9.68A.101(2), 9.94A.515, 9.94A.510, 9.94A.550.

²⁰ Wash. Rev. Code Ann. § 9.68A.101(3)(a) defines “advances commercial sexual abuse of a minor” as

acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

²¹ Wash. Rev. Code Ann. § 9.68A.101(3)(c) defines “advances a sexually explicit act of a minor” as

caus[ing] or aid[ing] a sexually explicit act of a minor, procur[ing] or solicit[ing] customers for a sexually explicit act of a minor, provid[ing] persons or premises for the purposes of a sexually explicit act of a minor, or engag[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.

Wash. Rev. Code Ann. § 9.68A.101(3)(d) defines “sexually explicit act” as “a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons and for which anything of value is given or received.”

²² Wash. Rev. Code Ann. § 9.68A.101(3)(b) defines “profits from commercial sexual abuse of a minor” as

acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or anything of value pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

3. Wash. Rev. Code Ann. § 9.68A.102(1) (Promoting travel for commercial sexual abuse of a minor) states,

A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

A violation of Wash. Rev. Code Ann. § 9.68A.102 is punishable as a class C felony by imprisonment for up to 5 years, a possible fine up to \$10,000, or both. Wash. Rev. Code Ann. §§ 9.68A.102(2), 9A.20.021(1)(c), 9.94A.550.

4. Wash. Rev. Code Ann. § 9.68A.103(1) (Permitting commercial sexual abuse of a minor) states,

A person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.

A violation of Wash. Rev. Code Ann. § 9.68A.103 is punishable as a gross misdemeanor by imprisonment for up to 364 days, a possible fine up to \$5,000, or both. Wash. Rev. Code Ann. §§ 9.68A.103(2), 9.92.020.

5. Wash. Rev. Code Ann. § 9.68A.090(2) (Communication with minor for immoral purposes) states,

A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person . . . communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.

A violation of Wash. Rev. Code Ann. § 9.68A.090(2) is punishable as a class C felony by imprisonment for up to 5 years, a possible fine up to \$10,000, or both. Wash. Rev. Code Ann. §§ 9.68A.090(2), 9A.20.021(1)(c), 9.94A.550.