

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 Wisconsin’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.

Wis. Stat. § 948.051(1) (Trafficking of a child) expressly applies to buyers of commercial sex with minors based on the term “patronizes.” It states,

Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts,² as defined in s. 940.302 (1) (a) [Human trafficking], is guilty of a Class C felony.

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

² Wis. Stat. § 940.302(1)(a) defines “commercial sex act” as follows:

[A]ny of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person:

1. Sexual contact.
2. Sexual intercourse.
3. Except as provided in sub. (2) (c), any of the following:
 - a. Sexually explicit performance.
 - b. Any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification.

Further, Wis. Stat. § 948.051(1) can apply to buyers based on the terms “solicits” and, following federal precedent, “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.

Wisconsin law criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Wis. Stat. § 948.08 (Soliciting a child for prostitution), “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

Further, Wis. Stat. § 948.081 (Patronizing a child) states,

An actor who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation, or sexual contact with a person is guilty of a Class G felony if the person is a child

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

Wisconsin’s CSEC laws address an array of trafficker conduct. Pursuant to Wis. Stat. § 948.08 (Soliciting a child for prostitution), “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

Further, Wis. Stat. § 948.07 (Child enticement) states,

Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

- (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02 [Sexual assault of a child], 948.085 [Sexual assault of a child placed in substitute care], or 948.095 [Sexual assault of a child by a school staff person who works or volunteers with children].
- (2) Causing the child to engage in prostitution.

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.

- (3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.
- (4) Recording the child engaging in sexually explicit conduct.

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

Wisconsin law prohibits a mistake of age defense in prosecutions for child sex trafficking and CSEC. Pursuant to Wis. Stat. § 939.43(2) (Mistake), “A mistake as to the age of a minor or as to the existence or constitutionality of the section under which the actor is prosecuted or the scope or meaning of the terms used in that section is not a defense.” Because Wis. Stat. § 939.43(2) applies generally to Wisconsin’s Criminal Code, a mistake of age defense appears to be prohibited for violations of Wisconsin’s child sex trafficking and CSEC laws, including Wis. Stat. § 948.051 (Trafficking of a child), Wis. Stat. § 948.08 (Soliciting a child for prostitution), and Wis. Stat. § 948.07 (Child enticement), which are otherwise silent regarding the permissibility of the defense. In contrast, Wis. Stat. § 948.081 (Patronizing a child) expressly eliminates the defense for prosecutions under that section, stating, “In a prosecution under this section, it need not be proven that the actor knew the age of the person and it is not a defense that the actor reasonably believed that the person was not a child.”

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

Wisconsin law does not prohibit a defense to prosecution based on the use of a law enforcement decoy posing as a minor to investigate trafficking crimes.

- 1.5.1 Recommendation: Statutorily prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor to investigate a child sex trafficking crime.

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

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

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

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

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders⁴ are not required to be directed into a victim services fund.⁵

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

⁴ While not specific to child sex trafficking and CSEC offenders, Wis. Stat. § 973.045 (Crime victim and witness assistance surcharge) directs all offenders who are sentenced or put on probation to pay a crime victim and witness surcharge on each count. Those payments are then directed into an appropriation account under Wis. Stat. § 20.455(5)(g).

⁵ Regarding asset forfeiture, Wis. Stat. § 973.075(1) (Forfeiture of property derived from crime and certain vehicles) provides,

[T]he following are subject to seizure and forfeiture . . . :

- (a) All property, real or personal, including money, used in the course of, intended for use in the course of, or directly or indirectly derived from or realized through the commission of any crime.
- (b) All vehicles, . . . which are used in any of the following ways:
 - 1. To transport any property or weapon used or to be used or received in the commission of any felony.
. . . .
 - 3. In the commission of a crime in violation of s. . . . 948.051 [Trafficking of a child], . . . 948.07 [Child enticement], 948.08 [Soliciting a child for prostitution], 948.081 [Patronizing a child]
. . . .
 - 8. In the commission of a crime under s. 948.07.
- (bg) Any property used or to be used in the commission of a crime under s. . . . 948.07.
. . . .

Disposition of forfeited property is governed by Wis. Stat. § 973.075(4), which states,

When property is forfeited under ss. 973.075 to 973.077, the agency seizing the property shall do one of the following:

- (a) If the property is a vehicle, retain it for official use for a period of up to one year. Before the end of that period, the agency shall do one of the following:
 - 1. Sell the property and use a portion, not to exceed 50 percent, of the amount received for payment of forfeiture expenses if the agency produces an itemized report of actual forfeiture expenses and submits the report to the department of administration to make it available on the department's website. The remainder shall be deposited in the school fund as proceeds of the forfeiture
 - 2. Continue to retain the property, if the agency deposits 30 percent of the value of the vehicle, as determined by the department of revenue, in the school fund as proceeds of the forfeiture
- (b) Sell the property that is not required by law to be destroyed or transferred to another agency. The agency seizing the property may use a portion, not to exceed 50 percent, of the amount received for administrative expenses of seizure, maintenance of custody, advertising, and court costs and the costs of investigation and prosecution reasonably incurred The remainder shall be deposited in the school fund as the proceeds of the forfeiture.
- (c) If the property forfeited is money, deposit all the money in the school fund.

However, a percentage of a sex trafficking or CSEC offender's forfeited assets is not directed into a victim services fund.



ISSUE 2: Identification of & Response to Victims

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

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Wis. Stat. § 948.051(1) (Trafficking of a child) expressly applies to buyers of commercial sex with minors based on the term “patronizes,”⁶ 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.

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

2.2.1 Recommendation: Statutorily provide policy guidance that facilitates access to services and assistance for trafficked foreign national children.

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

Wisconsin 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.

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.

Wisconsin 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.

⁶ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Wis. Stat. § 948.051.

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.

Wisconsin law does not prohibit the criminalization of minors for prostitution offenses, nor does it establish a protocol requiring law enforcement to refer impacted children to a direct services organization or child-serving agency in lieu of arrest. While the core prostitution offense provides an alternative juvenile justice process for commercially sexually exploited children, minors are not protected from arrest, detention, charges, and the possibility of prosecution. Wis. Stat. § 944.30(1m), (2m) (Prostitution) provides,

- (1m) Any person who intentionally does any of the following is guilty of a Class A misdemeanor:
 - (a) Has or offers to have or requests to have nonmarital sexual intercourse for anything of value.
 - (b) Commits or offers to commit or requests to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another for anything of value.
 - (c) Is an inmate of a place of prostitution.
 - (d) Masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value.
 - (e) Commits or offers to commit or requests to commit an act of sexual contact for anything of value.
- (2m) If the person under sub. (1m) has not attained the age of 18 years and if the court determines that the best interests of the person are served and society will not be harmed, the court may enter a consent decree . . . or a deferred prosecution agreement

Consequently, while some commercially sexually exploited children may be insulated from a traditional juvenile or criminal justice response, Wisconsin law permits minors to be criminalized for prostitution.

- 2.5.1 Recommendation: Amend state law to prohibit the criminalization of all minors for prostitution offenses and establish a services-referral protocol in response to minors engaged in commercial sex.

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

Although Wisconsin law does not prohibit the criminalization of child sex trafficking victims for status offenses or for misdemeanors or non-violent felonies committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

- 2.6.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for status offenses, and misdemeanors and non-violent felonies committed as a result of their trafficking victimization.

Policy Goal 2.7 State law prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

Although Wisconsin law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

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

Policy Goal 2.8 State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

Wisconsin law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

EXTRA CREDIT



Wis. Stat. § 939.46(1m) makes the affirmative defense available to victims of Wis. Stat. § 940.302, which criminalizes trafficking individuals 18 years of age and older. Accordingly, the affirmative defense provided for under Wis. Stat. § 939.46(1m) extends to youth who are charged with offenses as a result of their victimization.



Wis. Stat. § 939.46(1m) makes the affirmative defense available to victims of Wis. Stat. § 940.302, which criminalizes both sex trafficking and labor trafficking. Accordingly, the affirmative defense provided for under Wis. Stat. § 939.46(1m) extends to child labor trafficking victims who are charged with offenses as a result of their victimization.

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

Wisconsin law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. In addition to setting a low minimum age for purposes of juvenile court jurisdiction, Wisconsin law excludes 17-year-olds from the court's jurisdiction. Further, governing state statute permits direct file and automatic transfers to criminal court for minors charged with certain offenses and fails to require the court to consider the impact of trauma of 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	10; “Delinquent” is defined as, “a juvenile who is 10 years of age or older who has violated any state or federal criminal law”	16	Yes. Minors: (1) charged with 1 st degree intentional homicide or 1 st degree reckless homicide; (2) charged with battery against prison employee while in custody on prior adjudication; (3) charged with battery to probation or supervision employee following a prior adjudication; (4) previously transferred to and convicted in criminal court; or (5) transferred to and awaiting adjudication in criminal court.	Yes. Minors: (1) 14+ years of age charged with felony murder, 2 nd degree reckless homicide, sexual assault in the 1 st or 2 nd degree, taking hostages, kidnapping, Class E felony burglary, Class C felony robbery, robbery of financial institution, or manufacturing, distributing or delivering controlled substances; (2) 14+ years charged with a felony committed in furtherance of gang activity; or (3) 15+ years of age.	No.
Relevant Statute(s)	Wis. Stat. § 938.02(3m) (Definitions); Wis. Stat. § 938.12(1) (Jurisdiction over juveniles alleged to be delinquent)	Wis. Stat. § 938.02(10m) (Definitions); Wis. Stat. § 938.12(1) (Jurisdiction over juveniles alleged to be delinquent)	Wis. Stat. § 938.183(1) (Original adult court jurisdiction for criminal proceedings)	Wis. Stat. § 938.18(1) (Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing)	Wis. Stat. § 938.18(5) (Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing)

Consequently, some minors may still be subjected to inappropriate juvenile court responses due to state laws that: (1) does not establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) fails to extend juvenile court jurisdiction to all minors under 18 years of age; (3) allows some juvenile cases to be subject to direct file or automatically transferred to criminal court; and (4) do not require the juvenile court to consider past 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.

Wisconsin’s Children’s Code defines “abuse” to include child sex trafficking and commercial sexual exploitation of children. Specifically, Wis. Stat. § 48.02(1)(cm), (d) (Definitions) defines “abuse” to include “(cm) A violation of s. 948.051 [Trafficking of a child]. (d) Permitting, allowing or encouraging a child to violate s. 944.30 [Prostitution].”

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

Wisconsin’s Children’s Code does not expressly allow for a child welfare response in non-familial trafficking cases regardless of caregiver fault. Under Wis. Stat. § 48.02(1) (Definitions), the definition of “abuse” is silent regarding the child’s relationship to the perpetrator when a child is deemed abused as the result of being a victim of child sex trafficking or commercial sexual exploitation. Similarly, Wis. Stat. § 48.13(3), (3m) (Jurisdiction over children alleged to be in need of protection or services) does not expressly require parent or caregiver fault for abuse or neglect in order to find that the court has jurisdiction over “a child alleged to be in need of protection or services.” Conversely, Wisconsin’s Children’s Code also does not expressly clarify that a child welfare response to child sex trafficking victims need not hinge on caregiver liability. Further, a specialized investigation is not statutorily required for children reported to child welfare due to trafficking victimization perpetrated by a non-familial trafficker.

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



ISSUE 3: Continuum of Care

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

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

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

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

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing MDT, Wisconsin law does not require an MDT response to child sex trafficking cases. Pursuant to Wis. Stat. § 48.24(1)–(5) (Receipt of jurisdictional information; intake inquiry),

(1) Information indicating that a child or an unborn child should be referred to the court as in need of protection or services shall be referred to the intake worker, who shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the child or unborn child and of the public with regard to any action to be taken.

(1m) As part of the intake inquiry, the intake worker shall inform the child and the child's parent, guardian and legal custodian that they, or the adult expectant mother of an unborn child that she, may request counseling from a person designated by the court

(2)

(a) As part of the intake inquiry the intake worker may conduct multidisciplinary screens and intake conferences with notice to the child, parent, guardian and legal custodian or to the adult expectant mother of the unborn child. If sub. (2m) applies, the intake worker shall conduct a multidisciplinary screen under s. 48.547 [Alcohol and other drug abuse program] if the child or expectant mother has not refused to participate under par. (b).

(b) No child or other person may be compelled to appear at any conference, participate in a multidisciplinary screen, produce any papers or visit any place by an intake worker.

(2m)

(a) In counties that have an alcohol and other drug abuse program under s. 48.547, a multidisciplinary screen shall be conducted for:

2. Any child alleged to be in need of protection and services who has at least 2 prior adjudications .

...

....

6. Any expectant mother 12 years of age or over who requests and consents to a multidisciplinary screen.

(b) The multidisciplinary screen may be conducted by an intake worker for any reason other than those specified in the criteria under par. (a).

(3) If the intake worker determines as a result of the intake inquiry that the child or unborn child should be referred to the court, the intake worker shall request that the district attorney, corporation counsel or other official specified in s. 48.09 [Representation of the interests of the public] file a petition.

- (4) If the intake worker determines as a result of the intake inquiry that the case should be subject to an informal disposition, or should be closed, the intake worker shall so proceed. If a petition has been filed, informal disposition may not occur or a case may not be closed unless the petition is withdrawn by the district attorney, corporation counsel or other official specified in s. 48.09, or is dismissed by the court.
- (5) The intake worker shall request that a petition be filed, enter into an informal disposition, or close the case within 60 days after receipt of referral information If the case is closed or an informal disposition is entered into, the district attorney, corporation counsel, or other official under s. 48.09 shall receive written notice of that action. If a law enforcement officer has made a recommendation concerning the child, or the unborn child and the expectant mother of the unborn child, the intake worker shall forward this recommendation to the district attorney, corporation counsel, or other official under s. 48.09

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

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

Wisconsin law does not require child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims.

- 3.3.1 Recommendation: Statutorily require child welfare to provide access to specialized services for child sex trafficking victims.

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

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

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

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

Wisconsin law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement. However, these services are not extended to youth under 23 years of age as permitted under federal law.⁷ Wis. Stat. § 48.57(3m)(a) (Powers and duties of department and county departments providing child welfare services) defines “child” as follows:

[A] person under 18 years of age. “Child” also includes a person 18 years of age or over, if any of the following applies:

- a. The person is under 19 years of age, is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, and is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.

⁷ For more information, see Shared Hope Int’l, *Issue Brief 3.5: Continuum of Care*, <https://reportcards.sharedhope.org/wp-content/uploads/2022/10/2022-Issue-Briefs-3.5.pdf> (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

b. The person is under 21 years of age, [the person] is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, an individualized education program under s. 115.787 is in effect for the person, and the person is placed in the home of the kinship care relative under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3).

Wis. Stat. § 48.366(3)(a) (Extended out-of-home care) provides for voluntary transition-to-independent-living agreement, stating,

On termination of an order described in sub. (1) (a) or (b), the person who is the subject of the order, or the person's guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition-to-independent-living agreement under which the person continues in out-of-home care and continues to be a full-time student at a secondary school or its vocational or technical equivalent under an individualized education program under s. 115.787 until the date on which the person reaches 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement as provided in par. (b), whichever occurs first, and the agency provides services to the person to assist him or her in transitioning to independent living.

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

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

The Wisconsin state legislature did not appropriate funds to support the development and provision of specialized, community-based services and care to child and youth survivors.⁸

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

⁸ While not specifically directed toward community-based services, funding appropriated to child-serving agencies could be used for that purpose. Pursuant to Wis. Stat. § 20.437(1)(e) (Children and families, department of),

There is appropriated to the department of children and families for the following programs:

(1) Children and family services.

.....

(e) Services for sex-trafficking victims. Biennially, the amounts in the schedule for treatment and services for sex-trafficking victims under s. 48.48 (19).

In turn, Wis. Stat. § 48.48(19) (Authority of department) provides,

The department shall have authority:

.....

(19) To purchase or provide treatment and services for children who are the victims of trafficking, as defined in s. 940.302 (1) (d), for purposes of a commercial sex act, as defined in s. 940.302 (1) (a). Within the availability of funding under s. 20.437 (1) (e), the department shall ensure that that treatment and those services are available to children in all geographic areas of the state, including both urban and rural communities.



ISSUE 4: Access to Justice for Trafficking Survivors

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

Wisconsin law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to Wis. Stat. § 813.122(4)(a) (Child abuse restraining orders and injunctions),

Temporary restraining order.

(a) A judge or circuit court commissioner shall issue a temporary restraining order ordering the respondent to avoid the child victim's residence or any premises temporarily occupied by the child victim or both, to avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the judge or circuit court commissioner agrees that the contact is in the best interests of the child victim, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, and to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, if all of the following occur:

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (6) (a).⁹
2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the child victim and the respondent may engage in, abuse of the child victim.

Wis. Stat. § 813.122(1)(a) states that "'Abuse' has the meaning given in s. 48.02 (1) (a) and (b) to (gm) and, in addition, includes a threat to engage in any conduct under s. 48.02 (1), other than conduct under s. 48.02 (1) (am)."
Wis. Stat. § 48.02(1)(cm) (Definitions) defines "abuse" to include "[a] violation of s. 948.051 [Trafficking of a child]." Accordingly, emergency orders of protection are available to victims of child sex trafficking.

Further, Wis. Stat. § 813.122(4)(b) allows those orders to be granted on an ex parte basis, stating, "Notice need not be given to the respondent before issuing a temporary restraining order under this subsection" Wis. Stat. § 813.025(2) (Ex parte restraining orders; right of review of certain orders) explains,

⁹ Under Wis. Stat. § 813.122(6)(a),

The petition shall allege facts sufficient to show the following:

1. The name of the petitioner and the child victim.
2. The name of the respondent.
3. That the respondent engaged in, or based on prior conduct of the respondent and the child victim may engage in, abuse of the child victim.
4. If the payment of child support is requested, that the payment of child support is reasonable or necessary based on criteria provided under s. 767.511.
5. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:
 - a. The name or type of the court proceeding.
 - b. The date of the court proceeding.
 - c. The types of provisions regarding contact between the petitioner and respondent.

[I]f the court is of the opinion that irreparable loss or damage will result to the applicant unless a temporary restraining order is granted, the court may grant such temporary restraining order at any time before such hearing and determination of the application for an interlocutory injunction. However, such temporary restraining order shall be effective only for 5 days unless extended after notice and hearing thereon, or upon written consent of the parties or their attorneys, and in no event shall such temporary restraining order remain in force beyond the time of the determination of the application for an interlocutory injunction.

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

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

For purposes of accessing crime victims' compensation, Wis. Stat. § 949.01(6) (Definitions) defines "victim" as "a person who is injured or killed by . . . any act or omission of any other person that is within the description of any of the offenses listed in s. 949.03 (1) (b)" Wisconsin's child sex trafficking law and most of its CSEC laws are included among the offenses enumerated in Wis. Stat. § 949.03(1)(b) (Compensable acts).¹⁰ Accordingly, victims of child sex trafficking and CSEC fall under the definition of "victim" for purposes of receiving compensation.

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Wis. Stat. § 949.08(1)–(2m) (Limitations on awards),

(1) No order for the payment of an award may be made unless the application was made within 1 year after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense which had been reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made. The department may waive the requirements under this subsection in the interest of justice.¹¹

(1m)

(a) Except as provided in par. (b), the department may not make an award of more than \$40,000 for any one injury or death and the department may not make any award for expenses incurred after 4 years from the date of the injury or death.

(b) If an applicant was a child at the time of the injury, the department may consider for payment eligible expenses that the applicant incurred not more than 1 year before he or she submitted an application for an award under this subchapter. The department may not make any award after 4 years have passed since the date the person made the application or after 4 years have passed since the date on which the person incurred the expense prior to submitting the application, whichever occurs first.

(2) No award may be ordered if the victim:

(a) Engaged in conduct which substantially contributed to the infliction of the victim's injury or death or in which the victim could have reasonably foreseen could lead to the injury or death

(b) Committed a crime which caused or contributed to the victim's injury or death.

(d) Has not cooperated with appropriate law enforcement agencies.

. . . .

(f) Has not cooperated with the department in the administration of the program.

¹⁰ Specifically, Wis. Stat. § 949.03(1)(b) includes Wis. Stat. § 948.051 (Trafficking of a child), Wis. Stat. § 948.08 (Soliciting a child for prostitution), and Wis. Stat. § 948.07 (Child enticement). However, Wis. Stat. § 948.081 (Patronizing a child) is not among the enumerated offenses, leaving victims of this crime without access to crime victims' compensation.

¹¹ Wis. Stat. § 949.08 does not explain what constitutes "in the interest of justice" for purposes of this section.

- (g) Is included on the statewide support lien docket under s. 49.854 (2) (b) [Liens against property for delinquent support payments], unless the victim provides to the department a payment agreement that has been approved by the county child support agency under s. 59.53 (5) [Health and human services] and that is consistent with rules promulgated under s. 49.858 (2) (a) [General provisions related to administrative support enforcement].
- (2m) If a claimant other than a victim has not cooperated with the department in the administration of the program, no award may be ordered for the claimant.

Because child sex trafficking and CSEC victims are not expressly exempt from the ineligibility factors noted above, some commercially sexually exploited children may not have access to an award.

- 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.

Wisconsin 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 prostitution offenses. Pursuant to Wis. Stat. § 973.015(2m)(a)–(d) (Special disposition),

At any time after a person has been convicted, adjudicated delinquent, or found not guilty by reason of mental disease or defect for a violation of s. 944.30 [Prostitution], a court may, upon the motion of the person, vacate the conviction, adjudication, or finding, or may order that the record of the violation of s. 944.30 be expunged, if all of the following apply:

- (a) The person was a victim of trafficking for the purposes of a commercial sex act, as defined in s. 940.302 (1) (a), under s. 940.302 [Human trafficking] or 948.051 [Trafficking of a child] or under 22 USC 7101 to 7112.
- (b) The person committed the violation of s. 944.30 as a result of being a victim of trafficking for the purposes of a commercial sex act.
- (c) The person submitted a motion that complies with s. 971.30 [Motion defined], that contains a statement of facts and, if applicable, the reason the person did not previously raise an affirmative defense under s. 939.46 [Coercion] or allege that the violation was committed as a result of being a victim of trafficking for the purposes of a commercial sex act, and that may include any of the following:
1. Certified records of federal or state court proceedings.
 2. Certified records of approval notices, law enforcement certifications, or similar documents generated from federal immigration proceedings.
 3. Official documentation from a federal, state, or local government agency.
 4. Other relevant and probative evidence of sufficient credibility in support of the motion.
- (d) The person made the motion with due diligence subject to reasonable concern for the safety of himself or herself, family members, or other victims of trafficking for the purposes of a commercial sex act or subject to other reasons consistent with the safety of persons.

As noted above, however, vacatur is limited to prostitution 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.

Wisconsin law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Wis. Stat. § 973.20(1r) (Restitution),

When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record.

Wis. Stat. § 973.20(4m), (4o) provides for restitution orders specific to trafficking and CSEC cases, stating,

(4m) If the defendant violated s. . . . 948.051 [Trafficking of a child], . . . 948.07 [Child enticement], 948.08 [Soliciting a child for prostitution], . . . or s. 940.302 (2) [Human trafficking], if the court finds that the crime was sexually motivated,¹² as defined in s. 980.01 (5) [Definitions], and sub. (3) (a)¹³ does not apply, the restitution order may require that the defendant pay an amount, not to exceed \$10,000, equal to the cost of necessary professional services relating to psychiatric and psychological care and treatment. The \$10,000 limit under this subsection does not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.

(4o) If the defendant violated s. 940.302 (2) or 948.051, and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:

- (a) The costs of necessary transportation, housing, and child care for the victim.
- (b) The greater of the following:
 - 1. The gross income gained by the defendant due to the services of the victim.
 - 2. The value of the victim's services as provided under the state minimum wage.
- (c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.
- (d) The costs of relocating the victim to his or her city, state, or country of origin.

Further, Wis. Stat. § 973.20(5)(a), (b) states,

In any case, the restitution order may require that the defendant do one or more of the following:

- (a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of a crime considered at sentencing.
- (b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.

¹² Wis. Stat. § 980.01(5) (Definitions) defines “sexually motivated” to mean “that one of the purposes for an act is for the actor's sexual arousal or gratification or for the sexual humiliation or degradation of the victim.”

¹³ Pursuant to Wis. Stat. § 973.20(3)(a),

If a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:

- (a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment.

EXTRA CREDIT



Wisconsin law mandates restitution for victims of child labor trafficking under Wis. Stat. § 973.20(1r), which applies broadly to any offense.

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

Wisconsin law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Wis. Stat. § 948.051(3) (Trafficking of a child) states,

Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.

EXTRA CREDIT



Wisconsin law provides sex trafficked youth with a trafficking-specific civil remedy under Wis. Stat. § 940.302(c) (Human trafficking), which states, “Any person who incurs an injury or death as a result of a violation of sub. (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” Wis. Stat. § 940.302(2)(a)(1)(b) criminalizes trafficking for the purposes of a commercial sex act” regardless of the victim’s age.



Wisconsin law provides child labor trafficking victims with a trafficking-specific civil remedy under Wis. Stat. § 940.302(c) (Human trafficking), which states, “Any person who incurs an injury or death as a result of a violation of sub. (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” Wis. Stat. § 940.302(2)(a)(1)(a) criminalizes trafficking for the purposes of labor or services.”

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.

Wisconsin law lengthens, but does not eliminate, statutes of limitation for criminal actions related to child sex trafficking and CSEC; however, the statute of limitation for filing trafficking-specific civil actions is not lengthened or eliminated. Pursuant to Wis. Stat. § 939.74(2)(c), (cm) (Time limitations on prosecutions),

(c) A prosecution for violation of s. . . . 948.051 [Trafficking of a child], . . . 948.07 (1), (2), (3), or (4) [Child enticement], . . . 948.08 [Soliciting a child for prostitution], 948.081 [Patronizing a child] . . . shall be commenced before the victim reaches the age of 45 years or be barred, except as provided in sub. (2d).¹⁴
(cm) A prosecution for violation of s. . . . 948.07 (5) or (6) [Child enticement] shall be commenced before the victim reaches the age of 26 years or be barred, except as provided in sub. (2d).

In contrast, Wis. Stat. § 939.74(1) establishes a general 6-year statute of limitation for prosecutions of felony offenses and a general 3-year statute of limitation for prosecutions of misdemeanor offenses.

Regarding civil actions, Wis. Stat. § 948.051(3) (Trafficking of a child) does not specify a statute of limitation for claims filed under that section. Accordingly, actions filed under Wis. Stat. § 948.051(3) are likely subject to the general 3-year statute of limitation for personal injury actions provided for under Wis. Stat. § 893.54(1) (Injury to the person).

- 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.

¹⁴ Wis. Stat. § 939.74(2d) states, (2d)(c) provides,

If, before the applicable time limitation under sub. (1) or (2) (am), (ar), (c), or (cm) for commencing prosecution of a felony under ch. . . . 948, other than a felony specified in sub. (2) (a), expires, the state collects biological material that is evidence of the identity of the person who committed the felony, identifies a deoxyribonucleic acid profile from the biological material, and compares the deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons, the state may commence prosecution of the person who is the source of the biological material for the felony or a crime that is related to the felony or both within 12 months after comparison of the deoxyribonucleic acid profile relating to the felony results in a probable identification of the person or within the applicable time under sub. (1) or (2), whichever is latest.



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.

Wisconsin law does not allow non-testimonial, out-of-court statements made by a commercially sexually exploited child to be admitted into evidence in lieu of, or for the purpose of corroborating, the child's testimony.

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

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

Wisconsin law allows child sex trafficking victims who are under 12 years of age (or under 16 years of age if the interest of justice so requires) to testify by an alternative method regardless of the prosecuted offense. Specifically, Wis. Stat. § 972.11(2m)(a) (Evidence and practice; civil rules applicable) states,

At a trial in any criminal prosecution, the court may, on its own motion or on the motion of any party, order that the testimony of any child witness be taken in a room other than the courtroom and simultaneously televised in the courtroom by means of closed-circuit audiovisual equipment if all of the following apply:

1. The court finds all of the following:
 - a. That the presence of the defendant during the taking of the child's testimony will result in the child suffering serious emotional distress such that the child cannot reasonably communicate.
 - b. That taking the testimony of the child in a room other than the courtroom and simultaneously televising the testimony in the courtroom by means of closed-circuit audiovisual equipment is necessary to minimize the trauma to the child of testifying in the courtroom setting and to provide a setting more amenable to securing the child witness's uninhibited, truthful testimony.
2. The trial in which the child may be called as a witness will commence:
 - a. Prior to the child's 12th birthday; or
 - b. Prior to the child's 16th birthday and, in addition to its finding under subd. 1., the court finds that the interests of justice warrant that the child's testimony be taken in a room other than the courtroom and simultaneously televised in the courtroom by means of closed-circuit audiovisual equipment.¹⁵

¹⁵ Pursuant to Wis. Stat. § 972.11(2m)(b),

Among the factors which the court may consider in determining the interests of justice under par. (a) 2. b. are any of the following:

1. The child's chronological age, level of development and capacity to comprehend the significance of the events and to verbalize about them.
2. The child's general physical and mental health.

Notably, older minors 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 a right to be accompanied by a victim advocate at interviews and proceedings at which he or she is requested or allowed to attend that are related to the crime committed against him or her, including prosecution interviews, department of corrections proceedings, court proceedings, and postconviction proceedings.	Not statutorily required.	Not statutorily required.
Relevant Statute(s)	Wis. Stat. § 950.04(c) (Basic bill of rights for victims and witnesses); Wis. Stat. 950.045(2)(a)	None.	None.

3. Whether the events about which the child will testify constituted criminal or antisocial conduct against the child or a person with whom the child had a close emotional relationship and, if the conduct constituted a battery or a sexual assault, its duration and the extent of physical or emotional injury thereby caused.
4. The child’s custodial situation and the attitude of other household members to the events about which the child will testify and to the underlying proceeding.
5. The child’s familial or emotional relationship to those involved in the underlying proceeding.
6. The child’s behavior at or reaction to previous interviews concerning the events involved.
7. Whether the child blames himself or herself for the events involved or has ever been told by any person not to disclose them; whether the child’s prior reports to associates or authorities of the events have been disbelieved or not acted upon; and the child’s subjective belief regarding what consequences to himself or herself, or persons with whom the child has a close emotional relationship, will ensue from providing testimony.
8. Whether the child manifests or has manifested symptoms associated with posttraumatic stress disorder or other mental disorders, including, without limitation, reexperiencing the events, fear of their repetition, withdrawal, regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood changes, compulsive behaviors, school problems, delinquent or antisocial behavior, phobias or changes in interpersonal relationships.
9. The number of separate investigative, administrative and judicial proceedings at which the child’s testimony may be required.

	(Accompaniment by a victim advocate)		
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5.3.1 Recommendation: Statutorily require that child sex trafficking victims are provided courtroom supports when testifying against their exploiter and their identifying information is protected from disclosure in court records.

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

Wisconsin law provides for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim’s communications with their caseworker from being disclosed. Under Wis. Stat. § 905.045(2)–(4) (Domestic violence or sexual assault advocate-victim privilege),

- (2) General rule of privilege. A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications¹⁶ made or information obtained or disseminated among the victim, a victim advocate¹⁷ who is acting in the scope of his or her duties as a victim advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.
- (3) Who may claim the privilege. The privilege may be claimed by the victim, by the victim’s guardian or conservator, or by the victim’s personal representative if the victim is deceased. The victim advocate may claim the privilege on behalf of the victim. The victim advocate’s authority to do so is presumed in the absence of evidence to the contrary.
- (4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child abuse that a victim advocate is required to make . . . or concerning a threat of violence in or targeted at a school that a victim advocate is required to make

Wis. Stat. § 905.045(1)(d) defines “victim” as “an individual who has been the subject of abusive conduct or who alleges that he or she has been the subject of abusive conduct” The definition of “abusive conduct” under Wis. Stat. § 905.045(1)(a) includes the following:

[A]buse, as defined in s. 813.122 (1) (a) [Child abuse restraining orders and injunctions], of a child, as defined in s. 813.122 (1) (b), interspousal battery, as described under s. 940.19 [Battery; substantial battery; aggravated battery] or 940.20 (1m) [Battery: special circumstances], domestic abuse, as defined in s. 813.12 (1) (am) [Domestic abuse restraining orders and injunctions], sexual exploitation by a therapist under s. 940.22 [Sexual exploitation by a therapist; duty to report], sexual assault under s. 940.225 [Sexual assault],

¹⁶ Wis. Stat. § 905.045(1)(c) defines “confidential information” as follows:

A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than persons present to further the interest of the person receiving counseling, assistance, or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, including family members of the person receiving counseling, assistance, or support services and members of any group of individuals with whom the person receives counseling, assistance, or support services.

¹⁷ Wis. Stat. § 905.045(1)(e) defines “victim advocate” as “an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.”

human trafficking involving a commercial sex act under s. 940.302 [Human trafficking], or child sexual abuse under s. 948.02 [Sexual assault of a child], 948.025 [Engaging in repeated acts of sexual assault of the same child], or 948.05 to 948.11 [including Sexual exploitation of a child; Trafficking of a child; Causing a child to view or listen to sexual activity; Incest with a child; Child enticement; Use of a computer to facilitate a child sex crime; Soliciting a child for prostitution; Patronizing a child; etc.].

Accordingly, victims of child sex trafficking are expressly included within the definition of “victim” for purposes of protection under Wis. Stat. § 905.045.

EXTRA CREDIT



Wisconsin law prevents disclosure of confidential communications made between a sex trafficked youth and their caseworker under Wis. Stat. § 905.045. For purposes of protection, Wis. Stat. § 905.045(1)(d) defines “victim” to include individuals who have been subjected to “abusive conduct,” including a violation of Wis. Stat. § 940.302 (Human trafficking), which applies to cases involving the sex trafficking of adult victims.



Wisconsin law prevents disclosure of confidential communications made between a child labor trafficking victim and their caseworker under Wis. Stat. § 905.045. For purposes of protection, Wis. Stat. § 905.045(1)(d) defines “victim” to include individuals who have been subjected to “abusive conduct,” including a violation of Wis. Stat. § 940.302 (Human trafficking), which applies to cases involving sex or labor trafficking.



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.

Wisconsin 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.

Wisconsin 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.

Wisconsin law does not mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

6.3.1 Recommendation: Statutorily mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

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

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

6.4.1 Recommendation: Statutorily mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

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

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

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

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

Wisconsin 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. Wis. Stat. § 948.051(1), (2) (Trafficking of a child) states,

(1) Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts,¹⁸ as defined in s. 940.302 (1) (a) [Human trafficking], is guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

A Class C felony is punishable by imprisonment for up to 40 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(c) (Classification of felonies).

¹⁸ Wis. Stat. § 940.302(1)(a) defines “commercial sex act” as

any of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person:

1. Sexual contact.
2. Sexual intercourse.
3. Except as provided in sub. (2) (c), any of the following:
 - a. Sexually explicit performance.
 - b. Any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification.

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Wis. Stat. § 948.08 (Soliciting a child for prostitution) states, “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

A Class D felony is punishable by imprisonment for up to 25 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(d) (Classification of felonies).

2. Wis. Stat. § 948.07 (Child enticement) states,

Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

- (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02 [Sexual assault of a child], 948.085 [Sexual assault of a child placed in substitute care], or 948.095 [Sexual assault of a child by a school staff person who works or volunteers with children].
- (2) Causing the child to engage in prostitution.
- (3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.
- (4) Recording the child engaging in sexually explicit conduct.

....

A Class D felony is punishable by imprisonment for up to 25 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(d) (Classification of felonies).

3. Wis. Stat. § 948.081 (Patronizing a child) states,

An actor who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation, or sexual contact with a person is guilty of a Class G felony if the person is a child

A Class G felony is punishable by imprisonment for up to 10 years, a fine up to \$25,000, or both. Wis. Stat. § 939.50(3)(g) (Classification of felonies).