

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 Florida’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.

Florida’s trafficking law expressly applies to buyers of commercial sex with minors based on the terms “purchasing” and “patronizing.” Specifically, Fla. Stat. Ann. § 787.06(3)(g) (Human trafficking) states,

Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

....

(g) For commercial sexual activity² in which any child under the age of 18 . . . is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

Fla. Stat. Ann. § 787.06(2)(d) defines “human trafficking” as “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining, another person for the purpose of exploitation of that person.”

Further, following federal precedent, Fla. Stat. Ann. § 787.06 could apply to buyers based on the term “obtaining.”³

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

² Fla. Stat. Ann. § 787.06(2)(b) defines “commercial sexual activity” as “any violation of chapter 796 [Prostitution] or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.”

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

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

Fla. Stat. Ann. § 796.001 (Offenses by adults involving minors; intent) notes the inappropriateness of charging adult offenders under the prostitution chapter when the victim is a minor and clarifies the legislature’s intent that such conduct be prosecuted under more serious offenses, including the trafficking law. It states,

It is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter [Prostitution] be prosecuted under other laws of this state, such as, but not limited to, s. 787.06 [Human trafficking], chapter 794 [Sexual Battery], chapter 800 [Lewdness; Indecent Exposure], s. 810.145 [Video voyeurism], chapter 827 [Abuse of Children], and chapter 847 [Obscenity]. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior.

As such, Fla. Stat. Ann. § 796.001 aims to ensure that commercial sex crimes committed against children are not charged as low-level offenses and that the penalty reflects the seriousness of the offense.

Despite this endeavor, Florida’s lack of buyer-applicable CSEC laws deprives prosecutors of additional tools for supplementing available penalties in child sex trafficking prosecutions. Specifically, while Fla. Stat. Ann. § 800.04(4)(a)(2) (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)—Florida’s only buyer-applicable CSEC law—encompasses conduct that could apply to buyers, the offense does not expressly criminalize purchasing or soliciting a minor for sex and only protects minors under 16 years of age. It states,

Lewd or lascivious battery. –

(a) A person commits lewd or lascivious battery by:

....

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

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

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.

Fla. Stat. Ann. § 796.001 (Offenses by adults involving minors; intent) notes the inappropriateness of charging adult offenders under the prostitution chapter when the victim is a minor and clarifies the legislature’s intent that such conduct be prosecuted under more serious offenses, including the trafficking law. It states,

It is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter [Prostitution] be prosecuted under other laws of this state, such as, but not limited to, s. 787.06 [Human trafficking], chapter 794 [Sexual Battery], chapter 800 [Lewdness; Indecent Exposure], s. 810.145 [Video voyeurism], chapter 827 [Abuse of Children], and chapter 847 [Obscenity]. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior.

As such, Fla. Stat. Ann. § 796.001 aims to ensure that commercial sex crimes committed against children are not charged as low-level offenses and that the penalty reflects the seriousness of the offense.

In addition, trafficker-applicable CSEC laws provide prosecutors with added tools for supplementing available penalties in child sex trafficking prosecutions. Problematically, although Fla. Stat. Ann. § 800.04(4)(a)(2) (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age) targets trafficker conduct, only minors under 16 years of age are protected. Fla. Stat. Ann. § 800.04(a)(2) states,

Lewd or lascivious battery. –

(a) A person commits lewd or lascivious battery by:

....

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

1.3.1 Recommendation: Amend Fla. Stat. Ann. § 800.04(4)(a)(2) (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age) to protect all minors.

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

Florida law expressly prohibits a mistake of age defense in prosecutions for child sex trafficking but not CSEC. Pursuant to Fla. Stat. Ann. § 787.06(9) (Human trafficking), “In a prosecution under this section, the defendant’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the defendant’s bona fide belief of the victim’s age cannot be raised as a defense.”

1.4.1 Recommendation: Amend state law to prohibit a mistake of age defense in CSEC cases.

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

Florida’s trafficking law prohibits a defense to prosecution based on the use of a law decoy posing as a minor. Fla. Stat. Ann. § 787.06(3)(g) (Human trafficking) states,

Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

....

(g) For commercial sexual activity in which any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age . . . is involved commits a life felony

Accordingly, use of the phrase “adult believed by the person to be a child younger than 18 years of age” allows for the use of a law enforcement decoy during trafficking investigations.

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

Florida’s trafficking law allows for business entity liability but does not provide for a business-specific penalty scheme. Pursuant to Fla. Stat. Ann. § 787.06(3)(g) (Human trafficking),

Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

. . . .

(g) For commercial sexual activity⁴ in which any child under the age of 18 . . . is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

For purposes of criminalization under Fla. Stat. Ann. § 787.06, Fla. Stat. Ann. § 1.01(3) (Definitions) defines “person” to include “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.” Accordingly, business entities can be held liable for a human trafficking violation.

Despite allowing for business entity liability, a violation of Fla. Stat. Ann. § 787.06(3)(g) is punishable as a life felony, carrying penalties most pertinent to individuals.

- 1.6.1 Recommendation: Amend Fla. Stat. Ann. § 787.06 (Human trafficking) to provide for a business-specific penalty scheme.

⁴ Fla. Stat. Ann. § 787.06(2)(b) defines “commercial sexual activity” as “any violation of chapter 796 [Prostitution] or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.”

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 offenders⁵ are not required to be directed into a victim services fund.⁶

⁵ Although penalties paid by offenders who violate Florida’s trafficking and CSEC offenses are not directed toward a victim services fund, a civil penalty will be assessed against those who engage in certain conduct in violation of the prostitution law, and part of that penalty will be directed toward a victim services fund. Fla. Stat. Ann. § 796.07(2)(f), (6) (Prohibiting prostitution and related acts) states,

(2) It is unlawful:

.....
(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.
.....

.....
(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334 [Treatment-based drug court programs]. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678 [Specialized residential options for children who are victims of commercial sexual exploitation].

⁶ Regarding asset forfeiture, Fla. Stat. Ann. § 787.06(7) (Human trafficking) states, “Any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.”

Further, the Florida Contraband Forfeiture Act, codified at Fla. Stat. Ann. §§ 932.701–932.7062, broadly allows for asset forfeiture upon violation of any felony. Fla. Stat. Ann. § 932.701(2)(a) (Short title; definitions) defines “contraband article” in part as

5. Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

Pursuant to Fla. Stat. Ann. § 932.703(1)(a) (Forfeiture of contraband article; exceptions),

A contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the Florida Contraband Forfeiture Act, or in, upon, or by means of which any violation of the Florida Contraband Forfeiture Act has taken or is taking place, may be seized and shall be forfeited subject to the Florida Contraband Forfeiture Act. A seizure may occur only if the owner of the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under s. 932.701

Disposition of seized property is governed by Fla. Stat. Ann. § 932.704(8) (Forfeiture proceedings), which states,

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

Upon proof beyond a reasonable doubt that the contraband article was being used in violation of the Florida Contraband Forfeiture Act, the court shall order the seized property forfeited to the seizing law enforcement agency. The final order of forfeiture by the court shall perfect in the law enforcement agency right, title, and interest in and to such property, subject only to the rights and interests of bona fide lienholders, and shall relate back to the date of seizure.

However, a percentage of 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. Specifically, Fla. Stat. Ann. § 787.06(3) (Human trafficking) can apply directly to buyers of commercial sex with minors based on the terms “purchasing” and “patronizing,”⁷ meaning a trafficker need not be involved or identified. Accordingly, 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.

Florida law provides policy guidance that facilitates access to services and assistance for trafficked foreign national children. Pursuant to Fla. Stat. Ann. § 39.001(5)(b)–(d) (Purposes and intent; personnel standards and screening),

(b) The Legislature establishes the following goals for the state related to the status and treatment of sexually exploited children in the dependency process:

1. To ensure the safety of children.
2. To provide for the treatment of such children as dependent children rather than as delinquents.
3. To sever the bond between exploited children and traffickers and to reunite these children with their families or provide them with appropriate guardians.
4. To enable such children to be willing and reliable witnesses in the prosecution of traffickers.

(c) The Legislature finds that sexually exploited children need special care and services in the dependency process, including counseling, health care, substance abuse treatment, educational opportunities, and a safe environment secure from traffickers.

(d) The Legislature further finds that sexually exploited children need the special care and services described in paragraph (c) independent of their citizenship, residency, alien, or immigrant status. It is the intent of the Legislature that this state provide such care and services to all sexually exploited children in this state who are not otherwise receiving comparable services, such as those under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

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

Florida law requires the Department of Children and Families to adopt and utilize at least one screening and assessment instrument to appropriately identify commercially sexually exploited minors who come to the attention of the agency, including all dependent children six years of age or older. For purposes of determining exploitation of children referred or reported to the Department, Fla. Stat. Ann. § 409.1754(1) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans) states,

⁷ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Fla. Stat. Ann. § 787.06.

Screening and assessment. –

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for child victims of commercial sexual exploitation⁸ who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of such children when developing or adopting initial screening and assessment instruments. Initial screening instruments shall assess the appropriate placement of child victims of commercial sexual exploitation, including whether placement in a safe house or safe foster home as provided in 409.1678 [Specialized residential options for children who are victims of commercial sexual exploitation] is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the child running away,
2. Risk of the child recruiting other children into the commercial sex trade,
3. Level of the child’s attachment to his or her exploiter,
4. Level and type of trauma that the child has endured,
5. Nature of the child’s interactions with law enforcement,
6. Length of time that the child was a victim of commercial sexual exploitation,
7. Extent of any substance abuse by the child.

(b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile justice assessment centers as provided in s. 985.135 [Juvenile assessment centers], and community-based lead agencies.

(c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use.

(d) The department, or a sheriff’s office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding], the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

Pertaining to children previously adjudicated dependent and within the care of the Department, Fla. Stat. Ann. § 39.524 (Safe-harbor placement) provides,

(1) Except as provided in s. 39.407 [Medical, psychiatric, and psychological examination and treatment of children; physical, mental, or substance abuse examination of person with or requesting child custody] or s. 985.801 [Interstate Compact on Juveniles; Implementing legislation; legislative findings and policy], a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 [Definitions] must be assessed, and the department or a sheriff’s office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding] must conduct a multi-disciplinary staffing pursuant to 409.1754(2) [Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans], to determine the child’s needs for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 [Specialized residential options for children who are victims of commercial sexual exploitation] using the initial screening and assessment instruments provided in s. 409.1754(1) [Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans].

⁸ Fla. Stat. Ann. § 409.016(1) (Definitions) defines “commercial sexual exploitation” as “the use of any person under the age of 18 years for sexual purposes in exchange for money, goods, or services or the promise of money, goods, or services.”

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

Florida law requires juvenile justice assessment centers to utilize initial screening and assessment instruments to identify commercially sexually exploited children and develop a plan for services. Pursuant to Fla. Stat. Ann. § 985.135 (Juvenile assessment centers),

Each center shall provide collocated central intake and screening services for youth referred to the [Department of Juvenile Justice]. The center shall provide sufficient services needed to facilitate the initial screening of and case processing for youth, including, at a minimum, delinquency intake; positive identification of the youth; detention admission screening; needs assessment; substance abuse screening and assessments; physical and mental health screening; and diagnostic testing as appropriate

As part of these intake and screening services, Fla. Stat. Ann. § 409.1754(1)(b) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans) requires juvenile justice assessment centers to utilize the CSEC screening and assessment instruments developed, or adopted, by the Department of Children and Families.⁹

Further, Fla. Stat. Ann. § 409.1754(1)(d) states,

The department, or a sheriff's office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding], the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

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.

Florida law prohibits the criminalization of minors for prostitution offenses and establishes a protocol requiring law enforcement to refer impacted children to a child-serving agency. Pursuant to Fla. Stat. Ann. § 796.07(2)(e) (Prohibited prostitution and related acts), “It is unlawful . . . [f]or a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.” Instead, an exploited child may be taken into protective custody and referred to child welfare; Fla. Stat. Ann. § 39.401(1), (2) (Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department) provides,

- (1) A child may only be taken into custody:
 -
 - (b) By a law enforcement officer, or an authorized agent of the department, if the officer or authorized agent has probable cause to support a finding:
 - 1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;
 - 2. That the parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or
 - 3. That the child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.
- (2) If the law enforcement officer takes the child into custody, that officer shall:
 - (a) Release the child to:
 - 1. The parent or legal custodian of the child;

⁹ See *supra* Policy Goal 2.3 for the substantive provisions of Fla. Stat. Ann. § 409.1754(1).

2. A responsible adult approved by the court when limited to temporary emergency situations;
 3. A responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a nonrelative placement when this is in the best interests of the child; or
 4. A responsible adult approved by the department; or
- (b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been sexually exploited, the law enforcement officer shall deliver the child to the department¹⁰

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.

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

- 2.6.1 Recommendation: Amend 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.

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

- 2.7.1 Recommendation: Amend 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.

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

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

¹⁰ See *infra* Policy Goal 3.3 for a full discussion of child welfare's service response.

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

Florida law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While juvenile court jurisdiction extends to all minors under 18 years of age, Florida law does not establish a minimum age for jurisdictional purposes, permits direct file and transfers to criminal court for minors accused of certain offenses, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Permits Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	7 generally (none for forcible felony offenses).	17.	Yes. Minors who: are 14+ and charged with certain subsequent offenses; (2) 16+ with a history of adjudications or convictions for certain offenses; or (3) have previously been adjudicated or convicted in criminal court.	Yes. Minors who: (1) petition to the court to have their case transferred; or (2) are 14+ years of age and are charged with certain offenses or have a history of specified felony adjudications.	No.
Relevant Statute(s)	Fla. Stat. Ann. § 985.031(2) (Age limitation; exception)	Fla. Stat. Ann. § 985.03(7) (Definitions)	Fla. Stat. Ann. § 985.556(3) (Waiver of juvenile court jurisdiction; hearing); Fla. Stat. Ann. § 985.557 (Direct filing of an information; discretionary criteria)	Fla. Stat. Ann. § 985.556(1)–(3) (Waiver of juvenile court jurisdiction; hearing); Fla. Stat. Ann. § 985.557 (Direct filing of an information; discretionary criteria)	Fla. Stat. Ann. § 985.556(4)(c) (Waiver of juvenile court jurisdiction; hearing)

Consequently, Florida law fails to provide age-appropriate juvenile court responses to all minors, including child sex trafficking victims, as governing state statute: (1) does not establish a minimum age for juvenile court jurisdiction that aligns with international human rights standards; (2) allows minors to be subjected to direct file and automatic transfers; and (3) does not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Statutorily require age-appropriate juvenile court responses for all children accused of engaging in juvenile or criminal conduct.

Policy Goal 2.10 State law defines child abuse to include child sex trafficking for purposes of accessing child welfare services.

For purposes of finding a child to be independent, Florida law expressly includes child sex trafficking within the definition of “abuse” through incorporation of the definition of “sexual abuse.” Specifically, Fla. Stat. Ann. § 39.01 (Definitions) states,

When used in this chapter, unless the context otherwise requires:

....
(2) “Abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. . . .

....
(77) “Sexual abuse of a child” for purposes of finding a child to be dependent means one or more of the following acts:

....
(g) The sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution;

....
3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g) [Human trafficking].

Additionally, Fla. Stat. Ann. § 39.01(15)(g) (Definitions) defines “child who is found to be dependent” to include a child who “is found by the court . . . to have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.” Further, Fla. Stat. Ann. § 39.01(35)(c)(1) (Definitions) provides that “[h]arm’ to a child’s health or welfare can occur when any person . . . [a]llows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to . . . [s]olicit for or engage in prostitution.”

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

Florida law allows for a child welfare response to non-familial trafficking cases regardless of caregiver fault and provides for a specialized investigation in those cases. Although Fla. Stat. Ann. § 39.01(15)(g) (Definitions) limits the definition of “a child found to be dependent” to circumstances where the child has “no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care,” Fla. Stat. Ann. § 39.01(35)(c)(1) (Definitions) provides that “[h]arm’ to a child’s health or welfare can occur when any person” commits commercial sexual exploitation of a child.” To ensure that all commercially sexually exploited children can access services through child welfare regardless of parent or caregiver involvement in the trafficking exploitation, Fla. Stat. Ann. § 409.1678(5) (Specialized residential options for children who are victims of commercial sexual exploitation) provides,

Scope of availability of services. – To the extent possible provided by law and with authorized funding, the services specified in this section may be available to all child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq., whether such services are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

Finally, under Fla. Stat. Ann. § 39.524(1) (Safe harbor placement),

Except as provided in s. 39.407 [Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody] or s. 985.801 [Interstate compact of juveniles; implementing legislation; legislative findings and policy], a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 [Definitions] must be assessed, and the department or a sheriff's office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding] must conduct a multidisciplinary staffing pursuant to s. 409.1754(2) [Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans], to determine the child's need for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 [Specialized residential options for children who are victims of commercial sexual exploitation] using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.



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.

Florida 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.

Florida law requires an individualized, multi-disciplinary team response to child sex trafficking cases. Pursuant to Fla. Stat. Ann. § 409.1754(2), (3) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans),

(2) Multidisciplinary Staffings and Service Plans. —

(a) The department, or a sheriff's office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding], shall conduct a multidisciplinary staffing for each child who is a suspected or verified victim of commercial sexual exploitation

(b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed

(c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:

1. Emergency shelter and runaway center services;
2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian.
3. Substance use disorder treatment services;
4. Drop-in centers or mentoring programs;
5. Commercial sexual exploitation treatment programs;
6. Child advocacy center services pursuant to s. 39.3035;
7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
8. Family foster care;
9. Therapeutic foster care;
10. Safe houses or safe foster homes;
11. Residential treatment programs;
12. Employment or workforce training.

(3) Training; Local Protocols. —

. . . .

(c) Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of commercially sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with

community-based care lead agencies, local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children’s advocacy centers, guardians ad litem, public defenders, state attorneys’ offices, safe houses, and child advocates and service providers who work directly with commercially sexually exploited children.

(d) Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with commercially sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the commercial sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a victim of commercial sexual exploitation.

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

Florida law requires child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims.¹¹ Specifically, Fla. Stat. Ann. § 409.1754(2), (3) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans) provides for a referral to services through a multidisciplinary staffing organized by child welfare; it states,

(2) Multidisciplinary Staffings and Service Plans. —

(a) The department, or a sheriff’s office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding], shall conduct a multidisciplinary staffing for each child who is a suspected or verified victim of commercial sexual exploitation

(b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed

(c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:

1. Emergency shelter and runaway center services;

¹¹ Further, Fla. Stat. Ann. § 39.001(5)(b)–(d) (Purposes and intent; personnel standards and screening) clarifies the Legislature’s intent to provide services to all commercially sexually exploited children in the dependency process, stating,

(b) The Legislature establishes the following goals for the state related to the status and treatment of sexually exploited children in the dependency process:

1. To ensure the safety of children.
2. To provide for the treatment of such children as dependent children rather than as delinquents.
3. To sever the bond between exploited children and traffickers and to reunite these children with their families or provide them with appropriate guardians.
4. To enable such children to be willing and reliable witnesses in the prosecution of traffickers.

(c) The Legislature finds that sexually exploited children need special care and services in the dependency process, including counseling, health care, substance abuse treatment, educational opportunities, and a safe environment secure from traffickers.

(d) The Legislature further finds that sexually exploited children need the special care and services described in paragraph (c) independent of their citizenship, residency, alien, or immigrant status. It is the intent of the Legislature that this state provide such care and services to all sexually exploited children in this state who are not otherwise receiving comparable services, such as those under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian.
 3. Substance use disorder treatment services;
 4. Drop-in centers or mentoring programs;
 5. Commercial sexual exploitation treatment programs;
 6. Child advocacy center services pursuant to s. 39.3035;
 7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
 8. Family foster care;
 9. Therapeutic foster care;
 10. Safe houses or safe foster homes;
 11. Residential treatment programs;
 12. Employment or workforce training.
- (3) Training; Local Protocols. —

-
- (c) Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of commercially sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with community-based care lead agencies, local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with commercially sexually exploited children.
- (d) Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with commercially sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the commercial sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a victim of commercial sexual exploitation.

Further, a dependent child who is suspected of or found to be commercially sexually exploited must be assessed for services and placement in a safe house or safe foster home pursuant to Fla. Stat. Ann. § 39.524(1) (Safe harbor placement), which states,

Except as provided in s. 39.407 [Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody] or s. 985.801 [Interstate Compact on Juveniles; implementing legislation; legislative findings and policy], a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 [Definitions]¹² must be assessed, and the department or a sheriff's office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding] must conduct a multidisciplinary staffing pursuant to s. 409.1754(2) [Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans], to determine the child's need for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 [Specialized residential options for children who are victims of commercial sexual exploitation]¹⁰⁵ using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is

¹² Fla. Stat. Ann. § 409.016(1) (Definitions) defines "commercial sexual exploitation" as "the use of any person under the age of 18 years for sexual purposes in exchange for money, goods, or services or the promise of money, goods, or services."

available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if the safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

Pursuant to Fla. Stat. Ann. § 409.1678(2) (Specialized residential options for children who are victims of commercial sexual exploitation),

(a) A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children who have endured significant trauma and are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by the department

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175 [Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption], and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
2. Serve exclusively one sex.
3. Group child victims of commercial sexual exploitation by age or maturity level.
4. Care for child victims of commercial sexual exploitation in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.
5. Have awake staff members on duty 24 hours a day, if a safe house.
6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of child victims of commercial sexual exploitation and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes must provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
2. Family counseling.
3. Behavioral health care.
4. Treatment and intervention for sexual assault.
5. Education tailored to the child's individual needs, including remedial education if necessary.
6. Life skills and workforce training.
7. Mentoring by a survivor of commercial sexual exploitation, if available and appropriate for the child.
8. Substance abuse screening and, when necessary, access to treatment.
9. Planning services for the successful transition of each child back to the community.
10. Activities structured in a manner that provides child victims of commercial sexual exploitation with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of child victims of commercial sexual exploitation, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify the contents of this training by rule and may develop or contract for a standard curriculum. The department may establish by rule additional criteria for the certification of safe houses and safe foster homes that shall address the

security, therapeutic, social, health, and educational needs of child victims of commercial sexual exploitation.

(f) The department shall inspect safe houses and safe foster homes before certification and annually thereafter to ensure compliance with the requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, or rules adopted under, this section.

(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

Additionally, Fla. Stat. Ann. § 409.1678(4)(b) requires a “community-based care lead agency [to] ensure that all child victims of commercial sexual exploitation residing in safe houses or safe foster homes or served in residential treatment centers or hospitals pursuant to subsection (3)¹³ have a case manager and a case plan, whether or not the child is a dependent child.” Notably, Fla. Stat. Ann. § 409.1678(5) states,

Scope of Availability of Services. – To the extent possible provided by law and with authorized funding, the services specified in this section may be available to all child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq., whether such services are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

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

Florida law provides access to specialized services for identified sex trafficked children involved in the juvenile justice system. Pursuant to Fla. Stat. Ann. § 409.1754(1) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans), juvenile justice assessment centers must utilize CSEC screening and assessment instruments developed, or adopted, by the Department of Children and Families for the purpose of “identify[ing], determin[ing] the needs of, [and] plan[ning] services for . . . child victims of commercial sexual exploitation.”¹⁴ The Department of Juvenile Justice may also use “additional assessment instruments in the course of serving sexually exploited children.” Fla. Stat. Ann. § 409.1754(1)(d).

Once a child is suspected of being, or has been identified as, a commercially sexually exploited child, Fla. Stat. Ann. § 409.1754(2)(a)–(c) provides for a multidisciplinary staffing and creation of a specialized service plan; it states,

Multidisciplinary Staffings and Service Plans. —

¹³ Fla. Stat. Ann. § 409.1678(3) (Specialized residential options for children who are victims of commercial sexual exploitation) states,

Services Within a Residential Treatment Center or Hospital — Residential treatment centers licensed under s. 394.875, and hospitals licensed under chapter 395 that provide residential mental health treatment, shall provide specialized treatment for commercially sexually exploited children in the custody of the department who are placed in these facilities pursuant to s. 39.407(6), s. 394.4625, or s. 394.467. The specialized treatment must meet the requirements of subparagraphs (2)(c)1. and 3.-7., paragraph (2)(d), and the department’s treatment standards adopted pursuant to this section. The facilities shall ensure that children are served in single-sex groups and that staff working with such children are adequately trained in the effects of trauma and sexual exploitation, the needs of child victims of commercial sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches.

¹⁴ See *supra* Policy Goal 2.3 for the substantive provisions of Fla. Stat. Ann. § 409.1754(1).

- (a) The department, or a sheriff's office acting under s. 39.3065, shall conduct a multidisciplinary staffing for each child who is a suspected or verified victim of commercial sexual exploitation. The department or sheriff's office shall coordinate the staffing and invite individuals involved in the child's care, including, but not limited to, the child, if appropriate; the child's family or legal guardian; the child's guardian ad litem; Department of Juvenile Justice staff; school district staff; local health and human services providers; victim advocates; and any other persons who may be able to assist the child.
- (b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed. If the child is dependent, the case plan required by s. 39.6011 may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing. If the child is not dependent, the service plan is voluntary, and the department or sheriff's office shall provide the plan to the victim and his or her family or legal guardian and offer to make any needed referrals to local service providers.
- (c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:
1. Emergency shelter and runaway center services;
 2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian;
 3. Substance use disorder treatment services;
 4. Drop-in centers or mentoring programs;
 5. Commercial sexual exploitation treatment programs;
 6. Child advocacy center services pursuant to s. 39.3035;
 7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
 8. Family foster care;
 9. Therapeutic foster care;
 10. Safe houses or safe foster homes;
 11. Residential treatment programs; and
 12. Employment or workforce training.

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

Florida law extends foster care services to youth under 21 years of age. However, these services are not extended to youth under 23 years of age as permitted under federal law.¹⁵ Pursuant to Fla. Stat. Ann. § 39.6251 (Continuing care for young adults),

- (1) As used in this section, the term "child" means an individual who has not attained 21 years of age, and the term "young adult" means an individual who has attained 18 years of age but who has not attained 21 years of age.
- (2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621 is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain in licensed care if he or she is:
 - (a) Completing secondary education or a program leading to an equivalent credential;
 - (b) Enrolled in an institution that provides postsecondary or vocational education;

¹⁵ 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).

- (c) Participating in a program or activity designed to promote or eliminate barriers to employment;
- (d) Employed for at least 80 hours per month; or
- (e) Unable to participate in programs or activities listed in paragraphs (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. . . .

(3) The permanency goal for a young adult who chooses to remain in care past his or her 18th birthday is to transition to independence.

Additionally, Fla. Stat. Ann. § 985.461(2) (Transition to adulthood) provides,

Youth served by the department who are in the custody of the Department of Children and Families and who entered juvenile justice placement from a foster care placement, if otherwise eligible, may receive independent living transition services pursuant to s. 409.1451. Court-ordered commitment or probation with the department is not a barrier to eligibility for the array of services available to a youth who is in the dependency foster care system only.

3.5.1 Recommendation: Strengthen existing statutory 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 Florida state legislature made reoccurring and non-recurring appropriations during the 2021 and 2022 sessions to support the development and provision of community-based specialized services for child and youth survivors of sex trafficking. Further, appropriations were made to support child-serving agencies in addressing the needs of that population.

2022 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
HB 5001	The Bridging Freedom Program in Pasco County	\$700,000	To provide individualized, holistic, therapeutic safe homes for children traumatized by child sex trafficking. § 4(1304).	FY 2022-2023 (Recurring)
2022 Legislative Session				July 1-June 30
HB 5001	Selah Freedom Sex Trafficking and Exploitation Victims Programs and Services	\$1,000,000	To provide grants and aids for special projects. § 4(1304A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30
HB 5001	Camillus House – Human Trafficking Recovery Program	\$250,000	To provide grants and aids to contracted services. § 3(315A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30

HB 5001	NISSI Short-term Immediate Care Facility and Response Team for Victims of Human Trafficking	\$435,000	To provide grants and aids for special projects. § 4(1304A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30
HB 5001	One More Child – Services for Human Trafficking Prevention and Recovery	\$500,000	To provide grants and aids to contracted services. § 3(315A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30
HB 5001	The NO MORE Foundation – Human Trafficking Capacity Expansion in Tampa Bay	\$500,000	To provide grants and aids for special projects. § 4(1304A).	FY 2022-2023
2022 Legislative Session				July 1-June 30
HB 5001	Transitional Housing for Survivors of Human Trafficking	\$500,000	To provide grants and aids for special projects. § 4(1304A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30
HB 5001	Devereux – Services for Sexually Exploited Youth	\$587,706	To provide grants and aids to contracted services. § 3(315A).	FY 2022-2023 (Non-recurring)
2022 Legislative Session				July 1-June 30

2021 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
SB 2500	The Bridging Freedom Program in Pasco County	\$700,000	To provide individualized, holistic, therapeutic safe homes for children traumatized by child sex trafficking. § 4(1300).	FY 2021/2022 (Reoccurring)
2021 Legislative Session				July 1-June 30
SB 2500	Selah Freedom Sex Trafficking and Exploitation Victims Programs and Services	\$500,000	To provide grants and aids to special projects. § 4(1300A).	FY 2021/2022 (Non-recurring)
2021 Legislative Session				July 1-June 30
SB 2500	Camillus House – Human Trafficking Recovery Program	\$150,000	To provide grants and aids to contracted services. § 3(310A).	FY 2021/2022 (Non-recurring)

2021 Legislative Session				July 1-June 30
SB 2500	Devereux – Services for Sexually Exploited Youth	\$587,706	To provide grants and aids to contracted services. § 3(310A).	FY 2021-2022 (Non-recurring)
2021 Legislative Session				July 1-June 30
SB 2500	One More Child – Services for Human Trafficking Prevention and Recovery	\$400,000	To provide grants and aids to contracted services. § 3(310A).	FY 2021/2022 (Non-recurring)
2021 Legislative Session				July 1-June 30
SB 2500	The NO MORE Foundation – Human Trafficking Victims Capacity Expansion in Tampa Bay	\$250,000	To provide grants and aids to special projects. § 4(1300A).	FY 2021/2022
2021 Legislative Session				July 1-June 30
SB 2500	The Lifeboat Project – Human Trafficking Victim Housing	\$80,000	To provide grants and aids to contracted services. § 3(310A).	FY 2021-2022 (nonrecurring)
2021 Legislative Session				July 1-June 30
SB 2500	Place of Hope	\$250,000	To support contracted child welfare services.	FY 2021/2022 (Non-recurring)
2021 Legislative Session				July 1-June 30
SB 2500	School districts listed	\$184,760	To provide grants for the Stay KidSafe! Elementary Safety Education and Human Trafficking Prevention. § 2(106).	FY 2021-2022 (Non-recurring)
2021 Legislative Session				July 1st to June 30th



ISSUE 4: Access to Justice for Trafficking Survivors

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

Florida law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to Fla. Stat. Ann. § 784.046(2)(c) (Action by victim of repeat violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption),

There is created a . . . cause of action for an injunction for protection in cases of sexual violence.

. . . .

(c) A person who is the victim of sexual violence or the parent or legal guardian of a minor child who is living at home who is the victim of sexual violence has standing in the circuit court to file a sworn petition for an injunction for protection¹⁶ against sexual violence on his or her own behalf or on behalf of the minor child if:

1. The person has reported the sexual violence to a law enforcement agency and is cooperating in any criminal proceeding against the respondent, regardless of whether criminal charges based on the sexual violence have been filed, reduced, or dismissed by the state attorney; or
2. The respondent who committed the sexual violence against the victim or minor child was sentenced to a term of imprisonment in state prison for the sexual violence and the respondent's term of imprisonment has expired or is due to expire within 90 days following the date the petition is filed.

Fla. Stat. Ann. § 784.046(1)(c) defines “sexual violence” to include the following:

1. Sexual battery, as defined in chapter 794;
2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;
3. Luring or enticing a child, as described in chapter 787;
4. Sexual performance by a child, as described in chapter 827; or
5. Any other forcible felony¹⁷ wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

¹⁶ Pursuant to Fla. Stat. Ann. § 784.046(7)(a), (b),

Upon notice and hearing, the court may grant such relief as the court deems proper, including an injunction:

- (a) Enjoining the respondent from committing any acts of violence.
- (b) Ordering such other relief as the court deems necessary for the protection of the petitioner, including injunctions or directives to law enforcement agencies, as provided in this section.

¹⁷ Fla. Stat. Ann. § 776.08 (Forcible felony) defines “forcible felony” as follows:

[T]reason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

Importantly, Fla. Stat. Ann. § 784.046(6)(a), (c) allows emergency orders of protection to be granted on an ex parte basis, stating,

(a) When it appears to the court that an immediate and present danger of violence exists, the court may grant a temporary injunction which may be granted in an ex parte hearing, pending a full hearing, and may grant such relief as the court deems proper, including an injunction enjoining the respondent from committing any acts of violence.

....

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days The court may grant a continuance of the ex parte injunction and the full hearing before or during a hearing, for good cause shown by any party.

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.

Florida 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, Fla. Stat. Ann. § 960.03(14)(a)–(d) (Definitions) defines “victim” as follows:

(a) A person who suffers personal physical injury or death as a direct result of a crime;

(b) A person younger than 18 years of age who was present at the scene of a crime, saw or heard the crime, and suffered a psychiatric or psychological injury because of the crime, but who was not physically injured;

....

(d) A person against whom a forcible felony was committed and who suffers a psychiatric or psychological injury as a direct result of that crime but who does not otherwise sustain a personal physical injury or death

....

“Crime” is defined under Fla. Stat. Ann. § 960.03(3)(a), (d) to include the following:

(a) A felony or misdemeanor offense committed by an adult or a juvenile which results in physical injury or death, a forcible felony committed by an adult or juvenile which directly results in psychiatric or psychological injury The term also includes a criminal act that is committed within this state but that falls exclusively within federal jurisdiction.

....

(d) A criminal act committed outside this state against a resident of this state which would have been compensable if it had occurred in this state and which occurred in a jurisdiction that does not have an eligible crime victim compensation program as the term is defined in the federal Victims of Crime Act of 1984.

However, certain ineligibility factors may still limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to Fla. Stat. Ann. § 960.13(1) (Awards),

(a) No award shall be made unless the department finds that:

1. A crime was committed;

2. Such crime directly resulted in personal injury to, psychiatric or psychological injury to, or death of, the victim or intervenor; and

3. Such crime was promptly reported to the proper authorities.

(b) In no case may an award be made when the record shows that such report was made more than:

1. Seventy-two hours after the occurrence of such crime, if the crime occurred before October 1, 2019;

or

2. Five days after the occurrence of such crime, if the crime occurred on or after October 1, 2019, unless the department, for good cause shown, finds the delay to have been justified. The department, upon finding that any claimant or award recipient has not duly cooperated with the state attorney, all law enforcement agencies, and the department, may deny, reduce, or withdraw any award, as the case may be.

Further, Fla. Stat. Ann. § 960.07(2), (3) (Filing of claims for compensation) requires claims to be filed within 3 years (1 year for claims arising from a crime that occurred prior to October 1, 2019), although filing deadlines may be extended for good cause. Further, filing deadlines can be extended under subsection (3)(b), (c), which states,

Notwithstanding the provisions of subsection (2), if the victim or intervenor was under the age of 18 at the time the crime upon which the claim is based occurred, a claim may be filed in accordance with this subsection.

....

(b) For a claim arising from a crime that occurred before October 1, 2019, when a victim or intervenor who was under the age of 18 at the time the crime occurred reaches the age of 18, the victim or intervenor has 1 year to file a claim.

(c) For a claim arising from a crime occurring on or after October 1, 2019, when a victim or intervenor who was under the age of 18 at the time the crime occurred reaches the age of 18, the victim or intervenor has 3 years to file a claim.

Lastly, under Fla. Stat. Ann. § 960.065(2)(a)–(c) (Eligibility for awards), a person is ineligible for an award if he or she:

- (a) Committed or aided in the commission of the crime upon which the claim for compensation was based;
- (b) Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based; unless the victim was engaged in prostitution as a result of being a victim of human trafficking as described in s. 787.06(3)(b), (d), (f), or (g) [Human trafficking].
- (c) Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the claim for compensation is based;

However, Florida law carves out an exception to the ineligibility factors provided for under Fla. Stat. Ann. § 960.065(2)(a)–(c). Fla. Stat. Ann. § 960.065(5) states, “A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation as defined in s. 39.01(71)(g).” Fla. Stat. Ann. § 39.01(71)(g) defines “sexual exploitation of a child” to include the following:

[T]he act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution;

....

3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g).

- 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.

Florida law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions but only for certain offenses arising from trafficking victimization. Specifically, Fla. Stat. Ann. § 943.0583(3), (8) (Human trafficking victim expunction) allows trafficking victims to petition for expungement of criminal history records, and an expunged conviction will be deemed vacated automatically; it states,

(3) A person who is a victim of human trafficking¹⁸ may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for one or more offenses committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 [Prostitution] and 847 [Obscenity], without regard to the disposition of the arrest or of any charges. However, this section does not apply to any offense listed in s. 775.084(1)(b)1 [Violent career criminals] A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings

. . . .

(8)

(a) Any criminal history record of a minor or an adult that is ordered expunged pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record, except that any criminal history record in the custody of the department must be retained in all cases.

(b) The person who is the subject of a criminal history record that is expunged under this section may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record is a candidate for employment with a criminal justice agency or is a defendant in a criminal prosecution.

(c) Subject to the exceptions in paragraph (b), a person who has been granted an expunction under this section may not be held under any law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

Further, “[o]fficial documentation of the victim's status creates a presumption that his or her participation in the offense was a result of having been a victim of human trafficking but is not required for granting a petition under this section” Fla. Stat. Ann. § 943.0583(5).

Petitions “must be initiated by the petitioner with due diligence after the victim has ceased to be a victim of human trafficking or has sought services for victims of human trafficking, subject to reasonable concerns for the safety of the victim, family members of the victim, or other victims of human trafficking that may be jeopardized by the bringing of such petition or for other reasons consistent with the purpose of this section.” Fla. Stat. Ann. § 943.0583(4).

However, vacatur is limited to non-violent offenses, which fails to recognize the array of crimes trafficking victims may be induced to commit and leaves many survivors without any avenue for relief.

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

¹⁸ Fla. Stat. Ann. § 943.0583(1)(c) defines “victim of human trafficking” as “a person subjected to coercion, as defined in s. 787.06, for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.”

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

Florida law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Fla. Stat. Ann. § 775.089(1)(a), (c)(1) (Restitution),

- (a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for:
 - 1. Damage or loss caused directly or indirectly by the defendant’s offense; and
 - 2. Damage or loss related to the defendant’s criminal episode, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution
-
- (c) The term “victim” as used in this section and in any provision of law relating to restitution means:
 - 1. Each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant’s offense or criminal episode

For purposes of determining the amount of damages, Fla. Stat. Ann. § 775.089(2), (6) provides,

- (2)
 - (a) When an offense has resulted in bodily injury to a victim, a restitution order entered under subsection (1) shall require that the defendant:
 - 1. Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.
 - 2. Pay the cost of necessary physical and occupational therapy and rehabilitation.
 - 3. Reimburse the victim for income lost by the victim as a result of the offense.
 - 4. In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.
 - (b) When an offense has not resulted in bodily injury to a victim, a restitution order entered under subsection (1) may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.
-
- (6)
 - (a) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense.
 - (b) The criminal court, at the time of enforcement of the restitution order, shall consider the financial resources of the defendant, the present and potential future financial needs and earning ability of the defendant and his or her dependents, and such other factors which it deems appropriate.

EXTRA CREDIT



Florida law mandates restitution for victims of child labor trafficking under Fla. Stat. Ann. § 775.089, which applies broadly to any offense.

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

Florida law provides child sex trafficking victims with a limited civil remedy. Pursuant to Fla. Stat. Ann. § 772.104(2), (3) (Civil cause of action),

- (2) . . . [A]ny person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 [Prohibited activities] due to sex trafficking or human trafficking shall have a cause of action for threefold the amount gained from the sex trafficking or human trafficking and in any such action is entitled to minimum damages in the amount of \$200 and reasonable attorney’s fees and court costs in the trial and appellate courts.
- (3) In no event shall punitive damages be awarded under this section

Notably, this civil remedy is only available to trafficking victims who were injured by a violation of Fla. Stat. Ann. § 772.103 (Prohibited activities) through a “pattern of criminal activity,” which may prevent some child sex trafficking victims from pursuing civil claims. Fla. Stat. Ann. § 772.103 states,

- It is unlawful for any person:
- (1) Who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of criminal activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
 - (2) Through a pattern of criminal activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
 - (3) Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity or the collection of an unlawful debt.
 - (4) To conspire or endeavor to violate any of the provisions of subsection (1), subsection (2), or subsection (3).

4.5.1 Recommendation: Statutorily provide all child sex trafficking victims with a trafficking-specific civil remedy.

Policy Goal 4.6 Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Prosecutions for human trafficking and CSEC offenses may commence at any time; in contrast, the statute of limitation for filing a trafficking-specific civil action is not lengthened or eliminated. Pursuant to Fla. Stat. Ann. § 775.15(18), (19) (Time limitations; general time limitations; exceptions),

- (18) If the offense is a violation of s. 800.04(4) or (5) [Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age]¹⁹ and the victim was under 16 years of age at the time the

¹⁹ Further, Fla. Stat. Ann. § 775.15(13)(a), (16)(a)(4) provides,

(13)

offense was committed, a prosecution of the offense may be commenced at any time, unless, at the time of the offense, the offender is less than 18 years of age and is no more than 4 years older than the victim. This subsection applies to an offense that is not otherwise barred from prosecution on or before October 1, 2014.

(19) A prosecution for a violation of s. 787.06 [Human trafficking] may be commenced at any time. This subsection applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2014.

Otherwise, Fla. Stat. Ann. § 775.15(1), (2) provides,

(1) A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony of the first degree must be commenced within 4 years after it is committed.

(b) A prosecution for any other felony must be commenced within 3 years after it is committed.

(c) A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.

(d) A prosecution for a misdemeanor of the second degree or a noncriminal violation must be commenced within 1 year after it is committed.

Regarding trafficking-specific civil actions, the statute of limitation for a civil claim filed under Fla. Stat. Ann. § 772.104(2), (3) (Civil cause of action) is set forth under Fla. Stat. Ann. § 772.17 (Limitation of actions), which states,

Notwithstanding any other provision of law, a civil action or proceeding under this chapter [Civil Remedies for Criminal Practices] may be commenced at any time within 5 years after the conduct in violation of a provision of this act terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought or intervened in by the state or by the United States to punish, prevent, or restrain any criminal activity or criminal conduct which forms the basis for a civil action under this chapter, the running of the period of limitations prescribed by this section shall be suspended during the pendency of such prosecution, action, or proceeding and for 2 years following its termination.

4.6.1 Recommendation: Strengthen existing law to eliminate the statute of limitation for filing trafficking-specific civil actions.²⁰

(a) If the victim of a violation of . . . s. 800.04 [Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age] . . . , the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier

. . . .

. . . .

(16)

(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence

. . . .

4. A lewd or lascivious offense under s. 800.04

²⁰ The recommendation in this Policy Goal is predicated upon the recommendation in Policy Goal 4.5 being simultaneously or previously enacted.



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

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

Florida law allows out-of-court statements made by a commercially sexually exploited child under 17 years of age to be admitted into evidence in lieu of, or for the purpose of corroborating, the child's testimony. Specifically, Fla. Stat. Ann. § 90.803(23)(a) (Hearsay exceptions; availability of declarant immaterial) states,

Unless the source of information or the method or circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by a child victim with a physical, mental, emotional, or developmental age of 16 or less describing any act of child abuse or neglect, any act of sexual abuse against a child, the offense of child abuse, the offense of aggravated child abuse, or any offense involving an unlawful sexual act, contact, intrusion, or penetration performed in the presence of, with, by, or on the declarant child, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if:

1. The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability. In making its determination, the court may consider the mental and physical age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, the reliability of the assertion, the reliability of the child victim, and any other factor deemed appropriate; and
2. The child either:
 - a. Testifies; or
 - b. Is unavailable as a witness, provided that there is other corroborative evidence of the abuse or offense. Unavailability shall include a finding by the court that the child's participation in the trial or proceeding would result in a substantial likelihood of severe emotional or mental harm, in addition to findings pursuant to s. 90.804(1) [Hearsay exceptions; declarant unavailable].

Notably, child victims who are 17 years of age are not protected by this hearsay exception, thereby increasing their risk of re-traumatization from testifying.

- 5.1.1 Recommendation: Strengthen state law 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.

Florida law provides commercially sexually exploited children with alternatives to live, in-court testimony. Pursuant to Fla. Stat. Ann. § 92.55(2) (Judicial or other proceedings involving victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of therapy animals or facility dogs),

Upon motion of any party, upon motion of a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court . . . for a victim or witness under the age of 18 . . . or a sexual offense victim or witness, or upon its own motion, the court may enter any order necessary to protect the victim or

witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court.²¹ Such orders must relate to the taking of testimony and include, but are not limited to:

-
- (c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 [Videotaping the testimony of a victim or witness under age 18 or who has an intellectual disability] and 92.54 [Use of closed-circuit television in proceedings involving a victim or witness under the age of 18 or who has an intellectual disability].

Regarding testimony by closed circuit television (CCTV), Fla. Stat. Ann. § 92.54(1) (Use of closed-circuit television in proceedings involving a victim or witness under the age of 18 or who has an intellectual disability) provides,

Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim or witness under the age of 18 . . . will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable²² as defined in s. 90.804(1) [Hearsay exceptions; declarant unavailable], the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed-circuit television.

Further, Fla. Stat. Ann. § 92.53(1) (Videotaping the testimony of a victim or witness under age 18 or who has an intellectual disability) allows the court to order “the video taping of the testimony of the victim or witness in a case, whether civil or criminal in nature, in which the videotaped testimony is to be used at trial in lieu of trial testimony in open court.” However, subsection (4) states that “[t]he defendant and the defendant’s counsel must be present at the videotaping unless the defendant has waived this right,” but “[t]he court may require the defendant to view the

²¹ Pursuant to Fla. Stat. Ann. § 92.55(3),

In ruling upon the motion, the court shall consider:

- (a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant’s presence, and any other fact that the court deems relevant;
- (b) The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant’s presence, and any other fact that the court deems relevant; or
- (c) The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant’s presence, and any other fact that the court deems relevant.

²² Fla. Stat. Ann. § 90.804(1) (Hearsay exceptions; declarant unavailable) defines “unavailability as a witness” to mean the declarant:

- (a) Is exempted by a ruling of a court on the ground of privilege from testifying concerning the subject matter of the declarant’s statement;
- (b) Persists in refusing to testify concerning the subject matter of the declarant’s statement despite an order of the court to do so;
- (c) Has suffered a lack of memory of the subject matter of his or her statement so as to destroy the declarant’s effectiveness as a witness during the trial;
- (d) Is unable to be present or to testify at the hearing because of death or because of then-existing physical or mental illness or infirmity; or
- (e) Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant’s attendance or testimony by process or other reasonable means.

testimony from outside the presence of the child . . . by means of a two-way mirror or another similar method”

EXTRA CREDIT



Fla. Stat. Ann. § 92.54 and Fla. Stat. Ann. § 92.53 permit victims of child labor trafficking to testify by an alternative method since those protections broadly apply to any “victim or witness under the age of 18.”

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	Provides right to victim advocate during discovery deposition and presence of victim advocates during forensic medical examination.	Court can limit the number of questions and make other accommodations to protect emotional and mental health of victim-witness. Victims under the age of 18 have a right to a support dog during their testimony.	To protect the victim’s identity, the court shall provide and use pseudonyms on all court records and files. Additionally, victim criminal information and investigation information remains confidential.
Relevant Statute(s)	Fla. Stat. § 960.001(q), (u) (Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems)	Fla. Stat. Ann. § 92.55(2), (4)–(5) (Judicial or other proceedings involving victim or witness under the age of 18, a person who has an intellectual disability, or sexual offense victim or witness; special protection; use of therapy animals or facility dogs)	Fla. Stat. Ann. § 92.56(3) (Judicial Proceedings and court records involving sexual offenses and human trafficking)

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

Florida law provides for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim’s communications with a human trafficking advocate from being disclosed. Under Fla. Stat. Ann. § 90.5037(2), (3) (Human trafficking victim advocate-victim privilege),

- (2) A communication between a human trafficking victim advocate²³ or trained volunteer and a human trafficking victim²⁴ is confidential if it is not intended to be disclosed to third persons other than:
- (a) Those persons present to further the interest of the human trafficking victim in the consultation, examination, or interview.
 - (b) Those persons necessary for the transmission of the communication.
 - (c) Those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the human trafficking victim advocate or trained volunteer is consulted.
- (3) A human trafficking victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the human trafficking victim to a human trafficking victim advocate or trained volunteer or a record made in the course of advising, counseling, or providing services to the human trafficking victim. Such confidential communication or record may be disclosed only with the prior written consent of the human trafficking victim. This privilege includes any advice given by the human trafficking victim advocate or trained volunteer to the human trafficking victim in the course of that relationship.

EXTRA CREDIT



Florida law prevents disclosure of confidential communications made between a sex trafficking victim and a human trafficking victim advocate under Fla. Stat. Ann. § 90.5037 regardless of the victim's age.



Florida law prevents disclosure of confidential communications made between a child labor trafficking victim and a human trafficking victim advocate under Fla. Stat. Ann. § 90.5037, which broadly protects individuals who experience “human trafficking exploitation.”

²³ Fla. Stat. Ann. § 90.5037(1)(c) defines “human trafficking victim advocate” as “an employee of an anti-human trafficking organization whose primary purpose is to provide advice, counseling, or services to human trafficking victims and who complies with the training requirements under subsection (5).” Fla. Stat. Ann. § 90.5037(5) requires a human trafficking victim advocate to do the following:

- (a) Complete 24 hours of human trafficking training delivered by the Office of the Attorney General, the Bureau of Criminal Justice Programs and Victim Services, and the Florida Crime Prevention Training Institute.
- (b) Within 3 years after completing the training required under paragraph (a), complete an 8-hour human trafficking update course.

²⁴ Fla. Stat. Ann. § 90.5037(1)(b) defines “human trafficking victim” as “a person who consults a human trafficking victim advocate or a trained volunteer for the purpose of securing advice, counseling, or services concerning a need arising from an experience of human trafficking exploitation.”



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.

Florida law mandates statewide training for child protective investigators and case managers on handling cases involving commercial sexual exploitation. Pursuant to Fla. Stat. Ann. § 409.1754(3)(a) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans),

Training, Local Protocols. –

- (a) The department, or a sheriff's office acting under s. 39.3065 [Sheriffs of certain counties to provide child protective investigative services; procedures; funding], and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to be a victim of commercial sexual exploitation are assigned to child protective investigators²⁵ and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department, sheriff's office, and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a commercially sexually exploited child.

As noted, however, this training requirement only applies to child protective investigators and case managers who are assigned cases involving a child who is known or suspected to be commercially sexually exploited rather than anyone in child welfare who may interact with the child.

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

Florida law mandates statewide training for juvenile probation staff and certain contractors on identification and response to child sex trafficking. Pursuant to Fla. Stat. Ann. § 409.1754(3)(b) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans),

²⁵ Pursuant to Fla. Stat. Ann. § 402.402(1), (2) (Child protection and child welfare personnel; attorneys employed by the department),

(1) Child protective investigation professional staff requirements. – The [Department of Children and Families] is responsible for recruitment of qualified professional staff to serve as child protective investigators and child protective investigation supervisors. The department shall make every effort to recruit and hire persons qualified by their education and experience to perform social work functions

(2) Specialized training. – All child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office must complete specialized training either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics. The specialized training may be used to fulfill continuing education requirements under s. 402.40(3)(e). Individuals hired on or after July 1, 2014, shall complete the specialized training within 2 years after hire. An individual may receive specialized training in multiple areas.

Training; Local Protocols. –

....

(b) The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 [Intake and case management system] receive specialized intensive training in identifying and serving commercially sexually exploited children.

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

Florida law mandates training on human trafficking for law enforcement officers as part of their initial certification and as a one-time training; however, officers are not required to receive ongoing in-service training. Pursuant to Fla. Stat. Ann. § 787.06(5) (Human trafficking),

The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. Every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

Further, Fla. Stat. Ann. § 943.17297 (Continuing employment training in identifying and investigating human trafficking) provides,

Within 1 year after beginning employment, each certified law enforcement officer must successfully complete 4 hours of training in identifying and investigating human trafficking. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer required under s. 943.135 [Requirements for continued employment]. This training component must be completed by current law enforcement officers by July 1, 2022. The training must be developed by the commission in consultation with the Department of Legal Affairs and the Statewide Council on Human Trafficking. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

Lastly, additional training is authorized under Fla. Stat. Ann. § 409.1754(4)(a) (Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans), which states,

Local response to human trafficking; training; task force. –

(a) To the extent that funds are available, the local regional director may provide training to local law enforcement officials who are likely to encounter child victims of commercial sexual exploitation in the course of their law enforcement duties. Training must address this section and how to identify and obtain appropriate services for such children. The local circuit administrator may contract with a not-for-profit agency with experience working with commercially sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

As noted above, however, law enforcement officers are not statutorily mandated to receive ongoing in-service training.

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.

Florida law mandates trafficking-specific training for prosecutors. Pursuant to Fla. Stat. Ann. § 787.06(6) (Human trafficking), “Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.” Resultingly, training regarding child sex trafficking may be, or become, available to prosecutors. However, Fla. Stat. Ann. § 787.06(6) does not clarify that all prosecutors are required to receive such training.

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

Florida 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.

State law mandates child sex trafficking prevention education in public schools. Pursuant to Fla. Stat. Ann. § 1003.42(2)(n)(1)²⁶ (Required instruction),

Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

.....

- (n) Comprehensive age-appropriate and developmentally appropriate K-12 instruction on:
 - 1. Health education that addresses concepts of community health, consumer health, environmental health, and family life, including:
 - a. Injury prevention and safety.
 - b. Internet safety.
 - c. Nutrition.
 - d. Personal health.
 - e. Prevention and control of disease.
 - f. Substance use and abuse.
 - g. Prevention of child sexual abuse, exploitation, and human trafficking.

²⁶ The text of Fla. Stat. Ann. § 1003.42 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 7 during the 2022 Regular Session of the Florida state legislature (effective July 1, 2022).

State Laws Addressing Child Sex Trafficking

1. Fla. Stat. Ann. § 787.06(3) (Human trafficking)²⁷ states,

(3) Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking,²⁸ or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

....

(f)

1. For commercial sexual activity who does so by the transfer or transport of any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age from outside this state to within this state commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082 [Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison], s. 775.083 [Fines], or s. 775.084 [Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms].

....

(g) For commercial sexual activity²⁹ in which any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age . . . is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

Fla. Stat. Ann. § 787.06(3)(g) is punishable by imprisonment for life and a fine up to \$15,000. Fla. Stat. Ann. §§ 787.06(3)(g), 775.082(3)(a)6, 775.083(1)(a). Fla. Stat. Ann. § 787.06(3)(f) is a felony of the first degree punishable by up to life imprisonment and a fine up to \$10,000. Fla. Stat. Ann. §§ 787.06(3)(f)1, 775.082(3)(b)1, 775.083(1)(b).

²⁷ Fla. Stat. Ann. § 787.06(4) applies in more narrow circumstances. It states,

(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who, for the purpose of committing or facilitating an offense under this section, permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term “permanently branded” means a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

²⁸ Fla. Stat. Ann. § 787.06(2)(d) defines “human trafficking” as “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.”

²⁹ Fla. Stat. Ann. § 787.06(2)(b) defines “commercial sexual activity” as “any violation of chapter 796 [Prostitution] or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Fla. Stat. Ann. § 800.04(4) (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age) states,

Lewd or lascivious battery. –

- (a) A person commits lewd or lascivious battery by:

....

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

- (b) . . . [A]n offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. 775.082 [Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison], s. 775.083 [Fines], or s. 775.084 [Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms].

....

Fla. Stat. Ann. § 800.04 is a felony of the second degree punishable by imprisonment for up to 15 years and a fine up to \$10,000. Fla. Stat. Ann. §§ 800.04(4)(b), 775.082(3)(d), 778.083(1)(b).