



2023 REPORT

IDAHO

Report Cards on Child & Youth Sex Trafficking

State Action. National Change.

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IN 2011, SHARED HOPE RELEASED THE NATION'S FIRST LEGAL FRAMEWORK THAT CHALLENGED states to enact laws that comprehensively address the crime of child sex trafficking. When we launched the Protected Innocence Challenge project—and issued the inaugural State Report Cards—the majority of states received an “F” grade, reflecting the reality that many states’ laws failed to even recognize the crime of child sex trafficking. Since then, we have been working to lay the foundation for transformational policy, practice, and cultural change by supporting state legislators and stakeholders in identifying gaps in the fabric of laws needed to address this heinous crime. By 2019, no state received an “F” grade, and a majority of the country received an “A” or “B.”

PROTECTED INNOCENCE CHALLENGE

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2019	SCORE	GRADE	7.5	21	15	5	16.5	12
	77	C	10	25	15	10	27.5	15
2011	SCORE	GRADE	5	14.5	11	3.5	8.5	10
	52.5	F	10	25	15	10	27.5	15

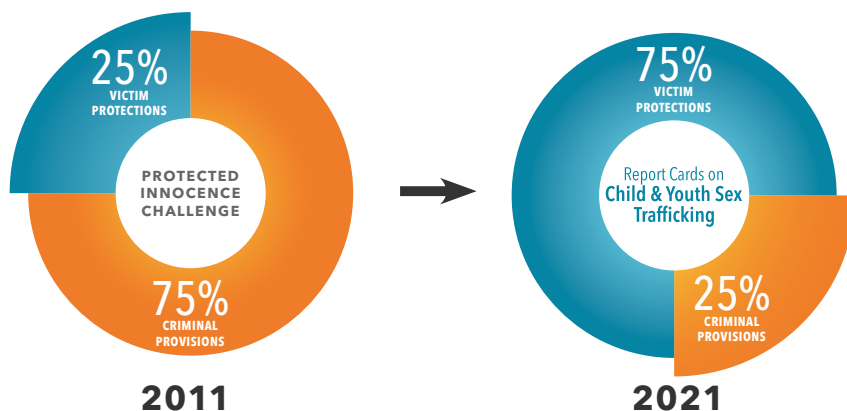
From 2011 to 2019, Idaho raised their grade under the Protected Innocence Challenge from an “F” to a “C,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Idaho’s 2019 PIC report, visit sharedhope.org/PICframe9/reportcards/PIC_RC_2019_ID.pdf

A SHIFT IN FOCUS

THE PROTECTED INNOCENCE CHALLENGE PROJECT WAS SHARED HOPE’S VISION FOR MOBILIZING collective state action to ensure national change. Building on the progress already made under that project—while preserving its most fundamental components—we released a new, advanced legislative framework in 2020 that

focuses on new policy priorities reflective of feedback and research collected from the field. This framework is meant to challenge states to take the next step in the fight against sex trafficking by focusing on the area of law where the largest gaps remain—victim protections.



ADVANCED LEGISLATIVE FRAMEWORK

6 **ISSUE AREAS** IDENTIFIED:

CRIMINAL
PROVISIONS

IDENTIFICATION OF &
RESPONSE TO VICTIMS

CONTINUUM
OF CARE

ACCESS TO JUSTICE FOR
TRAFFICKING SURVIVORS

TOOLS FOR A VICTIM-CENTERED
CRIMINAL JUSTICE RESPONSE

PREVENTION
& TRAINING

40 **POLICY GOALS** ANALYZED:

110 **TOTAL POINTS** AWARDED:

States earn up to 2.5
points per policy goal

Extra credit: Protections
for labor and youth 18+

100 possible points

plus up to 10 points

FINAL LETTER GRADES ASSIGNED:

A | 90-110 **B** | 80-89 **C** | 70-79 **D** | 60-69 **F** | <60

TIER RANKING

Another way the Report Cards on Child & Youth Sex Trafficking will measure progress is through a Tier system that will help states understand how they are doing compared to other states. Especially at this stage where grades are clustered at lower levels, the Tiers help to show states where they are on a spectrum. This provides another way for states to evaluate the progress they make beyond changes to their letter grade.

THE TIERS ARE STRUCTURED AS FOLLOWS:

- ▶ **TIER 1 = TOP 10 SCORES**
- ▶ **TIER 2 = MIDDLE 31 SCORES**
- ▶ **TIER 3 = BOTTOM 10 SCORES**

F



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2023 Report Card

TIER III

GRADES ARE BASED SOLELY ON AN ANALYSIS OF STATE STATUTES. While we recognize the critical importance of non-legislative responses to propel progress, grading on statutory law provides a clear mechanism for evaluating policy goals across all states while ensuring that survivor-centered reforms are an enduring part of states' responses.

STATE HIGHLIGHTS:

- Between 2021-2023, raised score by 5.5 points.
- Commercially sexually exploited children can be identified as child sex trafficking victims regardless of whether they have or identify a trafficker.
- Requires convicted offenders of child sex or labor trafficking or CSEC offenses to pay restitution to victims.
- Both traffickers and buyers of sex with children can be prosecuted under commercial sexual exploitation offenses.

SAFE HARBOR STATUS:

One of 21 states that fail to prohibit the criminalization of minors for prostitution offenses, thus allowing commercially sexually exploited minors to be held criminally accountable for their own victimization.

Issue			Grade	Score	Summary
1. Criminal Provisions			D	$\frac{11}{17.5}$	Policy goals accomplished related to buyer and trafficker accountability under state CSEC laws, decoy defenses, and business entity liability under the trafficking law. Gaps remain related to buyer accountability under the trafficking law, mistake of age defenses, and financial penalties.
2. Identification of and Response to Victims			F	$\frac{8}{27.5}$	Policy goals accomplished related to third party control and child abuse definitions. Gaps remain related to foreign national victims, screening through child welfare and juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, juvenile court jurisdiction, and non-caregiver trafficking cases.
3. Continuum of Care			F	$\frac{4}{15}$	Gaps remain in all areas, including community-based services, MDT responses, services through child welfare and the juvenile justice system, extended foster care services, and appropriations.
4. Access to Justice for Trafficking Survivors			F	$\frac{4.5}{15}$	Policy goal accomplished related to restitution. Gaps remain related to civil orders of protection, crime victims' compensation, vacatur, civil remedies, and statutes of limitation.
5. Tools for a Victim-Centered Criminal Justice Response			F	$\frac{5}{10}$	Gaps remain in all areas, including hearsay exceptions, alternatives to live, in-court testimony, victim-witness supports, and privileged communications.
6. Prevention and Training			F	$\frac{0}{15}$	Gaps remain in all areas, including training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education in schools.
EXTRA CREDIT	18+	Youth		0	N/A
	CLT	Child Labor Trafficking		1	Protection related to restitution is extended to child labor trafficking victims.

OVERALL GRADE
TIER III

F 33.5

WHAT IS SAFE HARBOR?

“Safe Harbor” refers to laws that insulate survivors from a punitive response and direct them toward funded, comprehensive, and protective services.










WHY SAFE HARBOR?

These laws ensure survivors of child and youth sex trafficking are not involved in the juvenile or criminal justice system and receive trauma-informed care. Appropriate identification and access to services are vital to creating a just response for survivors of child and youth sex trafficking.

SAFE HARBOR LAWS

Comprehensive Safe Harbor laws
**SHOULD PROHIBIT
ARRESTING, DETAINING,
CHARGING, & PROSECUTING**
all minors for prostitution offenses, regardless of
whether a finding of trafficking victimization is
made, and, instead, require law enforcement to
direct child and youth survivors to
SPECIALIZED SERVICES & CARE.

Safe Harbor laws
**SHOULD ALSO PROHIBIT
CRIMINALIZATION**
of child sex trafficking survivors for other crimes
committed as a result of their victimization.

Status	Safe Harbor Policy Goal
 Fully met	The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control (see Policy Goal 2.1 for further analysis and Issue Brief 2.1 for background).
 Not met	State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking (see Policy Goal 2.3 for further analysis and Issue Brief 2.3 for background).
 Not met	State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking (see Policy Goal 2.4 for further analysis and Issue Brief 2.4 for background).
 Not met	State law prohibits the criminalization of minors under 18 for prostitution offenses and establishes a services-referral protocol as an alternative to arrest (see Policy Goal 2.5 for further analysis and Issue Brief 2.5 for background).
 Partially met	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 (see Policy Goal 2.6 for further analysis and Issue Brief 2.6 for background).
 Partially met	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 (see Policy Goal 2.7 for further analysis and Issue Brief 2.7 for background).
 Not met	State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization (see Policy Goal 2.8 for further analysis and Issue Brief 2.8 for background).
 Not met	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 (see Policy Goal 3.1 for further analysis and Issue Brief 3.1 for background).
 Not met	State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement (see Policy Goal 3.6 for further analysis and Issue Brief 3.6 for background).

STATE SUMMARY:

Idaho law does not prohibit the criminalization of minors for prostitution offenses, nor does it facilitate access to, or provide funding for, community-based services, leaving survivors vulnerable to re-traumatization through punitive processes and potentially underserved or disconnected from resources that are necessary to promote healing.

SAFE HARBOR RESOURCES: For additional information, visit reportcards.sharedhope.org/safeharbor/.

SAFE HARBOR MAP: To see our map of state Safe Harbor law development, visit reportcards.sharedhope.org/wp-content/uploads/2022/11/SafeHarborMapDec2022.pdf.

This report provides a thorough analysis of Idaho’s statutes related to offender accountability and victim protections while providing recommendations for addressing gaps in those statutes.¹ This report does not analyze case law, agency rules, or regulations, nor does it analyze practices or initiatives that exist outside of statutory law. However, stakeholders were invited to share non-statutory responses to paint a fuller picture of the state’s anti-child sex trafficking response; where such responses were submitted, they are included as “Insights from the Field” under the respective policy goal but are not factored into the state’s grade.

For more information on how to use this Analysis Report, click [here](#).



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.

1 PARTIALLY MET

Idaho’s trafficking law could apply to buyers of commercial sex with minors based on the term “induced.” Specifically, Idaho Code Ann. § 18-8602(1)(a)(i) (Human trafficking defined) defines “human trafficking” as “[s]ex trafficking in which commercial sexual activity² is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age.” Although the definition of “sex trafficking”³ under Idaho Code Ann. § 18-8602(1)(c) includes prostitution as a form of commercial sexual activity for purposes of Idaho Code Ann. § 18-8602(1)(a)(i)—likely bringing conduct committed by buyers within the definition of “sex trafficking”—the trafficking law lacks clear intent that it be used to charge buyers since the term “induced” could also apply to trafficker conduct. Accordingly, the trafficking law should be amended to expressly

¹ Evaluations of state laws are based on legislation enacted as of July 1, 2023.

² Idaho Code Ann. § 18-8602(2) defines “commercial sexual activity” as “sexual conduct or sexual contact in exchange for anything of value, as defined in section 18-5610(2) (c), Idaho Code, illicit or legal, given to, received by, or promised to any person.”

³ Idaho Code Ann. § 18-8602(1)(c) defines “sex trafficking” to include the following:

[A]ll forms of commercial sexual activity, which may include the following conduct:

- (i) Sexual conduct, as defined in section 18-5610(2) (a), Idaho Code [Utilizing a person under eighteen years of age for prostitution – Penalties];
- (ii) Sexual contact, as defined in section 18-5610(2) (b), Idaho Code;
- (iii) Sexually explicit performance;
- (iv) Prostitution; or
- (v) Participation in the production of pornography.

apply to persons who patronize a minor for commercial sex to ensure buyers are held accountable as sex trafficking offenders.

- 1.1.1 Recommendation: Amend Idaho Code Ann. § 18-8602(1)(a) (Human trafficking defined) to clarify that buyer conduct is included as a violation of Idaho Code Ann. § 18-8602. (See [Issue Brief 1.1](#).)

Policy Goal 1.2 Commercial sexual exploitation of children (CSEC) laws⁴ specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

Idaho Code Ann. § 18-5610(1) (Utilizing a person under eighteen years of age for prostitution – Penalties) specifically criminalizes both purchasing and soliciting commercial sex with a minor; it states,

Every person who exchanges or offers to exchange anything of value⁵ for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$ 50,000), or by both such imprisonment and fine.

Policy Goal 1.3 Commercial sexual exploitation of children (CSEC) laws⁶ apply to traffickers and protect all minors under 18.

● FULLY MET

Idaho Code Ann. § 18-5609 (Inducing person under eighteen years of age into prostitution – Penalties) criminalizes traffickers who commercially sexually exploit children, stating,

Every person who induces or attempts to induce a person under the age of eighteen (18) years to engage in prostitution shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$ 50,000), or by both such fine and imprisonment.

Policy Goal 1.4 Mistake of age is not an available defense in child sex trafficking prosecutions.

○ NOT MET

Idaho law does not expressly prohibit a mistake of age defense in prosecutions for child sex trafficking.

⁴ The phrase “commercial sexual exploitation of children” (or “CSEC”) encompasses a variety of criminal offenses committed against a child in which the child engages, or agrees to engage, in a sex act in exchange for something of value either directly or through a third party. Appropriately crafted CSEC laws can be important, additional tools available in a prosecution of child sex trafficking conduct by supplementing available penalties under the trafficking law and providing additional options for plea negotiations without requiring prosecutors to rely on unrelated or low-level offenses in that context. For this reason, we analyze trafficking laws separately from CSEC laws—even though both involve commercial sexual exploitation. For a complete list of Idaho’s CSEC laws, see the appendix located at the end of this report.

⁵ Idaho Code Ann. § 18-5610(2)(c) defines “anything of value” to include, but not be limited to, “a fee, food, shelter, clothing, medical care or membership in a criminal gang as defined in section 18-8502, Idaho Code [Definitions].”

⁶ See *supra* note 4 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

- 1.4.1 Recommendation: Amend state law to prohibit a mistake of age defense in all cases involving child sex trafficking. (See [Issue Brief 1.4.](#))

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

● FULLY MET

Although the trafficking law does not expressly prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor, Idaho's criminal attempt statute, Idaho Code Ann. § 18-306 (Punishment for attempts), could provide prosecutors with an alternative avenue to prosecute those cases. Idaho Code Ann. § 18-306 states, "Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts" Accordingly, an offender could be found guilty of attempting to commit a child sex trafficking offense even if the offender was prevented from perpetrating the offense since the intended victim was a law enforcement decoy rather than an actual minor.

Policy Goal 1.6 Business entities can be held criminally liable for conduct that violates the trafficking law.

● FULLY MET

Idaho law allows business entities to be held criminally liable for conduct that violates the trafficking law. Specifically, Idaho Code Ann. § 18-8603 (Penalties), the penalty provision applicable to violations of Idaho Code Ann. § 18-8602 (Human trafficking defined), states,

Notwithstanding any other law to the contrary, on and after July 1, 2019, any person who commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law.

Importantly, Idaho Code Ann. § 73-114(1)(d) (Statutory terms defined) defines "person" to "include[] a corporation as well as a natural person." Accordingly, business entities can be held liable for a human trafficking violation.

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.

○ NOT MET

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders are not required to be directed into a victim services fund.⁷

⁷ Regarding asset forfeiture, Idaho Code Ann. § 18-5612(1) (Property subject to criminal forfeiture) provides for forfeiture upon conviction of Idaho Code Ann. § 18-5609 (Inducing person under eighteen years of age into prostitution – Penalties), one of Idaho's CSEC offenses. It states,

Any person who is found guilty of, who enters a plea of guilty or who is convicted of a violation of section . . . 18-5609, Idaho Code, no matter the form of the judgment or order withholding judgment, shall forfeit to the state of Idaho:

- 1.7.1 Recommendation: Statutorily direct a percentage of financial penalties levied on trafficking and CSEC offenders into a victim services fund. (See [*Issue Brief 1.7.*](#))

-
- (a) Any property constituting, or derived from, any proceeds the person obtained directly or indirectly as the result of such violation; and
 - (b) Any of the person's property used, or intended to be used, in any manner or part to commit or to facilitate the commission of such violation.

As noted above, however, state asset forfeiture laws do not direct a percentage of those forfeited assets into a victim services fund nor do they expressly provide for asset forfeiture upon conviction for child sex trafficking.



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.

● **FULLY MET**

The definition of child sex trafficking victim likely includes all commercially sexually exploited children without requiring third party control. Specifically, Idaho Code Ann. § 18-8602(1)(a)(i) (Human trafficking defined) can apply directly to buyers of commercial sex with minors based on the term “induced,”⁸ 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.

○ **NOT MET**

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

2.2.1 Recommendation: Statutorily provide policy guidance that facilitates access to services and assistance for trafficked foreign national children. (See [Issue Brief 2.2](#).)

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

○ **NOT MET**

Idaho law does not require child welfare to conduct trauma-informed CSEC screening of system-involved children and youth who are at risk of sex trafficking.

2.3.1 Recommendation: Statutorily require child welfare to screen system-involved children and youth at risk of sex trafficking for experiences of commercial sexual exploitation. (See [Issue Brief 2.3](#).)

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

○ **NOT MET**

Idaho law does not require juvenile justice agencies to conduct trauma-informed CSEC screening of children and youth who are at risk of sex trafficking.

⁸ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Idaho Code Ann. § 18-8602.

- 2.4.1 Recommendation: Statutorily require juvenile justice agencies to screen children and youth who are at risk of sex trafficking for experiences of commercial sexual exploitation. (See [Issue Brief 2.4](#).)

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.

○ NOT MET

Idaho law does not prohibit the criminalization of minors for prostitution offenses. Pursuant to Idaho Code Ann. § 18-5613(1) (Prostitution),

A person is guilty when he or she: (a) engages in or offers to engage in sexual conduct, or sexual contact with another person in return for a fee; or (b) is in an inmate house of prostitution; or (c) loiters in or within view of any public place for the purpose of being hired to engage in sexual conduct or sexual contact.

While Idaho Code Ann. § 18-5613 applies equally to minors and adults, Idaho Code Ann. § 18-8606 (Safe harbor provisions) provides some limited diversion and affirmative defense protections to commercial sexually exploited minors.⁹ However, such protections do not prohibit arresting, detaining, charging, or prosecuting minors for prostitution.

- 2.5.1 Recommendation: Enact legislation to prohibit the criminalization of all minors for prostitution offenses and establish a services-referral protocol in response to minors engaged in commercial sex. (See [Issue Brief 2.5](#).)

⁹ Idaho Code Ann. § 18-8606 (Safe harbor provisions) states,

- (1) Diversion of minor victim.
 - (a) When a minor is alleged to have committed an offense not listed in section 18-310(2) [Imprisonment – Effect on civil rights and offices], Idaho Code, a prosecutor shall divert the case if the minor committed the offense as a direct and immediate result of being a victim of human trafficking.
 - (b) If a minor has an offense diverted pursuant to paragraph (a) of this subsection, the minor shall be placed in a comprehensive rehabilitative program with access to:
 - (i) Comprehensive case management;
 - (ii) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
 - (iii) Education and employment training services; and
 - (iv) Off-site specialized services, as appropriate.
 - (c) A diversion agreement under this subsection may extend for up to twelve (12) months.
 - (d) Diversion shall only be available pursuant to this section if the minor expresses a willingness to cooperate and receive specialized services. If the minor is unwilling to cooperate with specialized services, continuation of the diversion shall be at the discretion of the court.
- (2) A person charged with any offense not identified in section 18-310(2), Idaho Code, committed as a direct and immediate result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.

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.

① **PARTIALLY MET**

Although Idaho law does not prohibit the criminalization of child sex trafficking victims for status offenses or for misdemeanors or non-violent felonies committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Idaho Code Ann. § 18-8606(2) (Safe harbor provisions) states,

A person charged with any offense not identified in section 18-310(2) [Imprisonment – Effect on civil rights and offices],¹⁰ Idaho Code, committed as a direct and immediate result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.¹¹

- 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. (See [Issue Brief 2.6.](#))

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.

① **PARTIALLY MET**

Although Idaho law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Idaho Code Ann. § 18-8606(2) (Safe harbor provisions) states,

A person charged with any offense not identified in section 18-310(2) [Imprisonment – Effect on civil rights and offices],¹² Idaho Code, committed as a direct and immediate result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.¹³

- 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. (See [Issue Brief 2.7.](#))

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.

○ **NOT MET**

Idaho law does not provide child sex trafficking victims with an affirmative defense to the vast majority of violent felonies victims would be charged with. Under Idaho Code Ann. § 18-8606(2) (Safe harbor provisions),

¹⁰ See *infra* Policy Goal 2.8 for the list of offenses included in Idaho Code Ann. § 18-310(2).

¹¹ In addition, Idaho Code Ann. § 18-8606(1)(a) requires a prosecutor to divert such cases if the accused is a minor and committed the offense as a “direct and immediate result of being a victim of human trafficking.” See *infra* Policy Goal 3.4 for a full discussion of Idaho’s diversion program as provided for in Idaho Code Ann. § 18-8606(1)(a).

¹² See *infra* Policy Goal 2.8 for the list of offenses included in Idaho Code Ann. § 18-310(2).

¹³ In addition, Idaho Code Ann. § 18-8606(1)(a) requires a prosecutor to divert such cases if the accused is a minor and committed the offense as a “direct and immediate result of being a victim of human trafficking.” See *infra* Policy Goal 3.4 for a full discussion of Idaho’s diversion program as provided for in Idaho Code Ann. § 18-8606(1)(a).

A person charged with any offense not identified in section 18-310(2) [Imprisonment – Effect on civil rights and offices], Idaho Code, committed as a direct and immediate result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.¹⁴

Therefore, trafficking victims are not provided with an affirmative defense to the following crimes identified in Idaho Code Ann. § 18-310(2) (Imprisonment – Effect on civil rights and offices):

- (a) Aggravated assault (18-905, 18-915, Idaho Code);
- (b) Aggravated battery (18-907, 18-915, Idaho Code);
- (c) Assault with intent to commit a serious felony (18-909, 18-915, Idaho Code);
- (d) Battery with intent to commit a serious felony (18-911, 18-915, Idaho Code);
- (e) Burglary (18-1401, Idaho Code);
- (f) Domestic battery, felony (18-918, Idaho Code);
- (g) Enticing of children, felony (18-1509, Idaho Code);
- (h) Forcible sexual penetration by use of a foreign object (18-6604, Idaho Code);
- (i) Indecent exposure, felony (18-4116, Idaho Code);
- (j) Injury to child, felony (18-1501, Idaho Code);
- (k) Intimidating a witness, felony (18-2604, Idaho Code);
- (l) Lewd conduct with a minor or child under sixteen (18-1508, Idaho Code);
- (m) Sexual abuse of a child under sixteen (18-1506, Idaho Code);
- (n) Sexual exploitation of a child (18-1507, Idaho Code);
- (o) Felonious rescuing prisoners (18-2501, Idaho Code);
- (p) Escape by one charged with, convicted of or on probation for a felony (18-2505, Idaho Code);
- (q) Unlawful possession of a firearm (18-3316, Idaho Code);
- (r) Degrees of murder (18-4003, Idaho Code);
- (s) Voluntary manslaughter (18-4006(1), Idaho Code);
- (t) Assault with intent to murder (18-4015, Idaho Code);
- (u) Administering poison with intent to kill (18-4014, Idaho Code);
- (v) Kidnapping (18-4501, Idaho Code);
- (w) Mayhem (18-5001, Idaho Code);
- (x) Rape (18-6101, Idaho Code);
- (y) Robbery (18-6501, Idaho Code);
- (z) Ritualized abuse of a child (18-1506A, Idaho Code);
- (aa) Cannibalism (18-5003, Idaho Code);
- (bb) Felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, Idaho Code);
- (cc) Trafficking (37-2732B, Idaho Code);
- (dd) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);
- (ee) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);
- (ff) Unlawful possession of destructive devices (18-3319, Idaho Code);
- (gg) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (hh) Attempt (18-306, Idaho Code), conspiracy (18-1701, Idaho Code), or solicitation (18-2001, Idaho Code), to commit any of the crimes described in paragraphs (a) through (gg) of this subsection.

¹⁴ Notably, Idaho Code Ann. § 18-8606(1)(a) requires a prosecutor to divert such cases if the accused is a minor and committed the offense as a “direct and immediate result of being a victim of human trafficking.” See *infra* Policy Goal 3.4 for a full discussion of Idaho’s diversion program as provided for in Idaho Code Ann. § 18-8606(1)(a).

- 2.8.1 Recommendation: Amend state law to provide child sex trafficking victims with an affirmative defense to any violent felony committed as a result of their trafficking victimization. (See [Issue Brief 2.8.](#))

Policy Goal 2.9 Juvenile court jurisdiction provides for a developmentally appropriate response.

● **PARTIALLY MET**

Idaho 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, Idaho law does not establish a minimum age for jurisdictional purposes, permits direct file and automatic transfers to criminal court for minors charged with 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	None. “Child” is defined as “a person less than eighteen years of age.”	17.	Yes. Minors 14+ years of age charged with a violent felony or controlled substance distribution offense.	Yes. Minors under 14 years of age who are charged with a violent felony or substance distribution offense.	No.
Relevant Statute(s)	Idaho Code Ann. § 20-502(12) (Definitions)	Idaho Code Ann. § 20-502(12) (Definitions)	Idaho Code Ann. § 20-509(1) (Violent offenses, controlled substances violations near schools and offenders)	Idaho Code Ann. § 20-509(1) (Violent offenses, controlled substances violations near schools and offenders)	Idaho Code Ann. § 20-508(8) (Waiver of jurisdiction and transfer to other courts)

Consequently, Idaho 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 domestic standards; (2) allows minors to be subject 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. (See [Issue Brief 2.9.](#))

Policy Goal 2.10 State law defines child abuse to include child sex trafficking to ensure access to child welfare services.

● **FULLY MET**

Idaho law expressly includes child sex trafficking within the definition of child abuse. Idaho Code Ann. § 16-1602(1)(b) (Definitions) provides in part,

For purposes of this chapter:

(1) “Abused” means any case in which a child has been the victim of:

....

(b) Sexual conduct, including . . . prostitution . . . human trafficking as defined in section 18-8602, Idaho Code, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

Policy Goal 2.11 State law allows for child welfare involvement in sex trafficking cases that do not involve caregiver fault and provides for an alternative, specialized response in those cases.

○ *NOT MET*

Idaho law does not clearly allow for a child welfare response in non-caregiver child sex trafficking. Specifically, the definition of “abused” under Idaho Code Ann. § 16-1602(1)(b) (Definitions) is silent regarding the child’s relationship to the perpetrator when a child is deemed abused as the result of being a victim of commercial sexual exploitation, creating ambiguity on child welfare’s ability to respond in child sex trafficking cases regardless of caregiver fault. Further, a specialized response is not statutorily required for children reported to child welfare due to trafficking victimization perpetrated by a non-caregiver trafficker.

2.11.1 Recommendation: Statutorily allow for child welfare involvement in child sex trafficking cases regardless of parent or caregiver fault and provide for a specialized response in those cases. (*See [Issue Brief 2.11](#).*)



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.

○ NOT MET

Idaho 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. (See [Issue Brief 3.1](#).)

Policy Goal 3.2

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

● PARTIALLY MET

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing child abuse MDT, Idaho law does not require an MDT response to child sex trafficking cases. Pursuant to Idaho Code Ann. § 16-1617(1) (Investigation by multidisciplinary teams),

The prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse¹⁵ and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, child advocacy center staff where such staff is available in the county, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to his or her special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs, persons knowledgeable about adaptive equipment and supportive services for parents or guardians with disabilities or the guardian ad litem program.

- 3.2.1 Recommendation: Statutorily require a multi-disciplinary team response in all child sex trafficking cases. (See [Issue Brief 3.2](#).)

¹⁵ Idaho Code Ann. § 16-1602(1)(b) defines “abused” to include child victims of “[s]exual conduct, including . . . prostitution, . . . human trafficking as defined in section 18-8602 [Human trafficking defined], Idaho Code, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.”

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

○ NOT MET

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

3.3.1 Recommendation: Statutorily require child welfare to provide access to specialized services for child sex trafficking victims. (See [Issue Brief 3.3](#).)

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

ⓘ PARTIALLY MET

While services may be available in conjunction with diversion, Idaho law does not provide access to specialized services for all identified sex trafficked children and youth in the juvenile justice system. Pursuant to Idaho Code Ann. § 18-8606(1) (Safe harbor provisions),

Diversion of minor victim.

- (a) When a minor is alleged to have committed any offense not listed in section 18-310(2),¹⁶ Idaho Code, a prosecutor shall divert the offense if the minor committed the offense as a direct and immediate result of being a victim of human trafficking.
- (b) If a minor has an offense diverted pursuant to paragraph (a) of this subsection, the minor shall be placed in a state-licensed residential facility, as defined in section 39-1202, Idaho Code, that provides a comprehensive rehabilitative program with access to:
 - (i) Comprehensive case management;
 - (ii) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
 - (iii) Education and employment training services; and
 - (iv) Off-site specialized services, as appropriate.
- (c) A diversion agreement under this subsection may extend for up to twelve (12) months.
- (d) Diversion shall only be available pursuant to this section if the minor expresses a willingness to cooperate and receive specialized services. If the minor is unwilling to cooperate with specialized services, continuation of the diversion shall be at the discretion of the court.

3.4.1 Recommendation: Statutorily require the juvenile justice system to provide access to specialized services for all identified sex trafficked children and youth. (See [Issue Brief 3.4](#).)

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

ⓘ PARTIALLY MET

Idaho law extends transitional 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.¹⁷ Pursuant to Idaho Code Ann. § 39-1213(c) (Licensing authority),

¹⁶ See *supra* Policy Goal 2.8 for the list of offenses included in Idaho Code Ann. § 18-310(2).

¹⁷ For more information, see Shared Hope Int'l, *Issue Brief 3.5: Continuum of Care*, <https://reportcards.sharedhope.org/issue-briefs/#IB3.5> (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

The board of health and welfare is hereby authorized to establish rules allowing for continued care for appropriate individuals eighteen (18) to twenty-one (21) years of age who have been receiving services by, through, or with the authorization of the department of health and welfare or the department of juvenile corrections prior to their eighteenth birthday.

Additionally, Idaho Code Ann. § 39-1202 (Definitions) defines “continued care” and “transitional living” as follows:

For the purposes of this chapter:

....

(9) “Continued care” means the ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

....

(24) “Transitional living” means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

- 3.5.1 Recommendation: Strengthen existing law to better support transition age youth by extending transitional foster care services to youth under 23 years of age. (See [Issue Brief 3.5](#).)

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.

○ NOT MET

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

- 3.6.1 Recommendation: Appropriate state funds to support the development of and access to specialized, community-based services to child and youth survivors of sex trafficking. (See [Issue Brief 3.6](#).)



ISSUE 4: Access to Justice for Trafficking Survivors

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

○ NOT MET

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

- 4.1.1 Recommendation: Enact legislation expressly allowing victims of trafficking and CSEC to obtain ex parte civil orders of protection against their exploiters. (See [Issue Brief 4.1](#).)

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.

① PARTIALLY MET

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

For purposes of accessing crime victims' compensation, Idaho Code Ann. § 72-1003(8)(a) (Definitions) defines "victim" as "a person who suffers injury or death as a result of . . . [c]riminally injurious conduct." "Criminally injurious conduct" is defined under Idaho Code Ann. § 72-1003(4) as follows:

[I]ntentional, knowing, or reckless conduct that:

- (a) Occurs or is attempted in this state or occurs outside the state of Idaho against a resident of the state of Idaho and which occurred in a state which does not have a crime victims' compensation program for which the victim is eligible as eligibility is set forth in this statute;
. . . .
- (c) Results in injury or death; and
- (d) Is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Idaho Code Ann. § 72-1018 (Award of compensation),

- (1) The commission shall award compensation benefits under this chapter, if satisfied by a preponderance of the evidence that the requirements for compensation have been met.
- (2) An award may be made whether or not any person is prosecuted or convicted
- (3) The commission may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent and may make a tentative award under section 72-1017 [Tentative award of compensation], Idaho Code.

Requirements for compensation are provided for under Idaho Code Ann. § 72-1016 (Limitations on awards), which states,

- (1) Compensation may not be awarded unless the claim is filed with the commission within one (1) year after the day the criminally injurious conduct occurred causing the injury or death upon which the claim is based. The time for filing a claim may be extended by the commission for good cause shown.
- (2) Compensation may not be awarded to a claimant who is the offender or an accomplice of the offender or to any claimant if the award would unjustly benefit the offender or accomplice.
- (3) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or the commission finds there was good cause for the failure to report within that time.
- (4) In order to be entitled to benefits under this chapter, a claimant must fully cooperate with all law enforcement agencies and prosecuting attorneys in the apprehension and prosecution of the offender causing the criminally injurious conduct. The commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies or prosecuting attorneys, may deny or reconsider and reduce an award of compensation.
-
- (6) Persons serving a sentence of imprisonment or residing in any other public institution that provides for the maintenance of such persons are not entitled to the benefits of this chapter.
- (7)
 - (a) Compensation may be denied or reduced if the victim contributed to the infliction of death or injury with respect to which the claim is made. Any reduction in benefits under this paragraph shall be in proportion to what the commission finds to be the victim's contribution to the infliction of death or injury.
 - (b) Compensation otherwise payable to a claimant shall be reduced by fifty percent (50%) if at the time the injury was incurred the claimant was engaged in a felony or was in violation of section 18-8004 or 67-7034, Idaho Code, and compensation otherwise payable may be further reduced pursuant to regulation of the industrial commission if the claimant's actions contributed to the injury.

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

- 4.2.1 Recommendation: Statutorily exempt victims of child sex trafficking and CSEC from ineligibility factors for crime victims' compensation. (See [Issue Brief 4.2.](#))

Policy Goal 4.3 Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

❶ PARTIALLY MET

Although Idaho law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to Idaho Code Ann. § 67-3014(1)–(10) (Expungement for Victims of Human Trafficking),

- (1) The provisions of this section shall only apply to individuals who are victims of human trafficking¹⁸ as defined in section 18-8602 [Definitions], Idaho Code, and shall only apply to arrests, criminal prosecutions and convictions that are the result of acts induced by human traffickers.

¹⁸ Idaho Code Ann. § 18-8602(1)(a) defines “human trafficking” as follows:

(2) Any person who was arrested, prosecuted and/or convicted of a violation of section 18-5613 [Prostitution], Idaho Code, or any other offense determined by the court to be appropriate, except convictions for offenses for which a defense of coercion would not be available and that was committed during a period of time when the person was a victim of human trafficking and that was the result of acts required by the human trafficker, may bring a petition under the provisions of this section to vacate such conviction and/or to expunge the criminal history records taken in connection with the conviction, including the arrest and prosecution resulting in such conviction or to expunge any criminal history records related to any arrest or prosecution that resulted in a dismissal or acquittal . . .

....

(4) Any action brought under this section shall be filed within a reasonable time after the arrest, prosecution or conviction that is the subject of the action brought under this section, except that a petition to expunge an arrest that did not result in a prosecution shall not be brought until two (2) years after the arrest.

....

(9) Evidence documenting the person's status as a victim of human trafficking at the time of the offense from a federal, state or local governmental agency shall create a rebuttable presumption that the person was a victim of human trafficking at the time of the offense but shall not be required to obtain relief under this section.

(10) If the court finds that the petitioner has demonstrated by a preponderance of the evidence that the petitioner's participation in the activities that resulted in the arrest, prosecution and/or conviction, that is the subject of the petition, occurred during a period of time when the petitioner was a victim of human trafficking and that the petitioner's participation in the activities that resulted in the arrest, prosecution and/or conviction was the result of acts required by the human trafficker, then the court shall vacate the conviction, if any, and order that the criminal history records taken in connection with the arrest, prosecution and conviction be expunged . . .

Further, vacatur is limited to violations of Idaho's prostitution offenses unless the court determines otherwise; this may foreclose the law's applicability to other offenses related to trafficking victimization, leaving many survivors without any avenue for relief. In addition, the prohibited conduct must have been required by a human trafficker, which further limits this protection to cases where a trafficker or controlling third party is identified. Lastly, Idaho Code Ann. § 67-3014(3) states that "[r]elief shall not be available under this section if the petitioner raised the affirmative defense of coercion at trial and was convicted."

- 4.3.1 Recommendation: Strengthen existing law by allowing sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization. (*See Issue Brief 4.3.*)

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

● FULLY MET

Idaho law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Idaho Code Ann. § 18-8604 (Restitution – Rehabilitation),

-
- (i) Sex trafficking in which commercial sexual activity is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or
 - (ii) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- (1) In addition to any other amount of loss resulting from a human trafficking¹⁹ violation, the court shall order restitution, as applicable, including the greater of:
- (a) The gross income or value to the defendant of the victim's labor or services; or
 - (b) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act.
- (2) In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims.

Restitution is available more generally to victims of other crimes pursuant to Idaho Code Ann. § 19-5304(2) (Restitution for crime victims), which provides,

Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

EXTRA CREDIT



Idaho law mandates restitution for victims of child labor trafficking under Idaho Code Ann. § 18-8604, which requires offenders convicted of human trafficking to pay victim restitution. Importantly, Idaho Code Ann. § 18-8602(1)(a) defines “human trafficking” to include both sex and labor trafficking.

¹⁹ Idaho Code Ann. § 18-8602(1)(a) defines “human trafficking” as follows:

- (i) Sex trafficking in which commercial sexual activity is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or
- (ii) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Policy Goal 4.5

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

○ NOT MET

Idaho law does not expressly allow victims of child sex trafficking to pursue civil remedies against their exploiters.²⁰

- 4.5.1 Recommendation: Provide child sex trafficking victims with a trafficking-specific civil remedy. (See [Issue Brief 4.5](#).)

²⁰ Although state law does not provide for a trafficking-specific civil remedy, Idaho Code Ann. § 18-103 (Civil remedies preserved) may provide some relief; it states,

The omission to specify or affirm in this code any liability to damages, penalty, forfeiture, or other remedy imposed by law and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

Further, state law expressly provides victims injured by a pattern of racketeering activity, which includes some commercially sexually exploited children, with a civil remedy. Pursuant to Idaho Code Ann. § 18-7805(a) (Racketeering – Civil remedies), “A person who sustains injury to his person, business or property by a pattern of racketeering activity may file an action in the district court for the recovery of three (3) times the actual damages proved and the cost of the suit, including reasonable attorney's fees.”

Idaho Code Ann. § 18-7803(d) (Definitions) defines “pattern of racketeering activity” to include the following conduct:

[E]ngaging in at least two (2) incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one (1) of such incidents occurred after the effective date of this act and that the last of such incidents occurred within five (5) years after a prior incident of racketeering conduct.

In turn, the definition of “racketeering” under Idaho Code Ann. § 18-7803(a)(4) includes “Prostitution (sections 18-5601 [Interstate trafficking in prostitution], 18-5602 [Procurement – Definition and penalty], 18-5603 [Receiving pay for procurement], 18-5604 [Paying for procurement], 18-5605 [Detention for prostitution], 18-5606 [Receiving proceeds of illegal sexual activity], 18-5608 [Harboring prostitutes] and 18-5609 [Inducing person under eighteen years of age into prostitution – Penalties], Idaho Code).”

Lastly, Idaho Code Ann. § 6-1701 (Tort actions in child abuse cases) provides victims of child sexual exploitation with a civil cause of action. However, such actions are limited to cases of sexual abuse or and those involving child sexual abuse material.

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.

○ NOT MET

Idaho law does not eliminate statutes of limitation for criminal actions²¹ involving child sex trafficking and CSEC or for trafficking-specific civil actions.²²

- 4.6.1 Recommendation: Allow prosecutions for child sex trafficking and CSEC offenses to commence at any time and eliminate the statute of limitation for filing trafficking-specific civil actions.²³ (See [*Issue Brief 4.6.*](#))

²¹ Regarding criminal actions, Idaho Code Ann. § 19-402 (Commencement of prosecutions for felonies) states, “A prosecution for any felony other than those specified in section 19-401 [No statute of limitations for certain felonies], Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within five (5) years after its commission” Pursuant to Idaho Code Ann. § 19-401 (No statute of limitations for certain felonies), only prosecutions for the following felonies may be commenced at any time:

- (1) Murder;
- (2) Voluntary manslaughter;
- (3) Rape pursuant to section 18-6101(3) through (10), Idaho Code;
- (4) Sexual abuse of a child or lewd conduct with a child as set forth in sections 18-1506 and 18-1508, Idaho Code; or
- (5) An act of terrorism as set forth in sections 18-8102, 18-8103, 18-3322, 18-3323 and 18-3324, Idaho Code.

Accordingly, prosecutions for child sex trafficking and CSEC offenses must commence within 5 years.

²² Regarding civil actions, state law does not provide child sex trafficking victims with a trafficking-specific civil remedy.

²³ 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

Non-testimonial evidence may be admitted through a child sex trafficking-specific hearsay exception to reduce reliance of victim testimony.

○ NOT MET

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

- 5.1.1 Recommendation: Enact a hearsay exception that applies to non-testimonial evidence in cases involving commercial sexual exploitation of children under 18 years of age. (*See [Issue Brief 5.1](#).*)

Policy Goal 5.2

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

● PARTIALLY MET

Idaho law allows child sex trafficking victims who are under 13 years of age to testify by an alternative method regardless of the prosecuted offense. Specifically, Idaho Code Ann. § 9-1805 (Standards for determining whether child witness' testimony may be presented by alternative method) states,

- (1) In a criminal proceeding,²⁴ the presiding officer may order the presentation of the testimony of a child witness²⁵ by an alternative method only in the following situations:²⁶
- (a) A child witness' testimony may be taken otherwise than in an open forum in the presence and full view of the finder of fact if the presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to testify in the open forum.

²⁴ Idaho Code Ann. § 9-1802(3) defines "criminal proceeding" as "a trial or hearing before a court in a prosecution of a person charged with violating a criminal law of this state and a juvenile delinquency proceeding involving conduct that if engaged in by an adult would constitute a violation of the criminal law of this state."

²⁵ Idaho Code Ann. § 9-1802(2) defines "child witness" as "an individual under the age of thirteen (13) years who has been or will be called to testify in a proceeding."

²⁶ Pursuant to Idaho Code Ann. § 9-1806 (Factors for determining whether to permit alternative method),

If the presiding officer determines that a standard under section 9-1805, Idaho Code, has been met, the presiding officer shall determine whether to allow the presentation of the testimony of a child witness by an alternative method and in doing so shall consider:

- (1) Alternative methods reasonably available;
- (2) Available means for protecting the interests of or reducing emotional trauma to the child without resort to an alternative method;
- (3) The nature of the case;
- (4) The relative rights of the parties;
- (5) The importance of the proposed testimony of the child;
- (6) The nature and degree of emotional trauma that the child may suffer if an alternative method is not used; and
- (7) Any other relevant factor.

- (b) A child witness' testimony may be taken other than in a face-to-face confrontation between the child and a defendant if the presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to be confronted face-to-face by the defendant.
- (2) In a noncriminal proceeding,²⁷ the presiding officer may order the presentation of the testimony of a child witness by an alternative method if the presiding officer finds by a preponderance of the evidence that presenting the testimony of the child by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. In making this finding, the presiding officer shall consider:
- (a) The nature of the proceeding;
 - (b) The age and maturity of the child;
 - (c) The relationship of the child to the parties in the proceeding;
 - (d) The nature and degree of emotional trauma that the child may suffer in testifying; and
 - (e) Any other relevant factor.

Idaho Code Ann. § 9-1802(1) (Definitions) defines “alternative method” as follows:

A method by which a child witness testifies which does not include all of the following:

- (a) Having the child present in person in an open forum;
- (b) Having the child testify in the presence and full view of the finder of fact and presiding officer; and
- (c) Allowing all of the parties to be present, to participate and to view and be viewed by the child.

Notably, child victims who are 13 years of age or older are not permitted to testify by an alternative method, thereby increasing their risk of re-traumatization from testifying.

- 5.2.1 Recommendation: Strengthen existing protections to allow all commercially sexually exploited children to testify by an alternative method regardless of the child’s age and the offense charged. (*See Issue Brief 5.2.*)

Policy Goal 5.3 Child sex trafficking victims have access to victim protections in the criminal justice system.

 **PARTIALLY MET**

	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	Not statutorily required.	Children summoned as witnesses have a right to a counselor, friend, or other support person during testimony. Child witnesses also have a right to a facility dog in the court room during testimony.	Not statutorily required.

²⁷ Idaho Code Ann. § 9-1802(4) defines “noncriminal proceeding” as “a trial or hearing before a court or an administrative agency of this state having judicial or quasi-judicial powers, other than a criminal proceeding.”

Relevant Statute(s)	None.	Idaho Code Ann. § 19-3023(1), (3) (Child summoned as witness)	None.
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- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate and their identifying information is protected from disclosure in court records. (See [Issue Brief 5.3.](#))

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

1 PARTIALLY MET

Idaho law does not provide for privileged communications between caseworkers and child sex trafficking victims specifically. However, child sex trafficking victims may benefit from privileged communications protections afforded to sexual violence victims and persons employed by or volunteer with a sexual violence program. Additionally, state law protects communications made between certain mental and behavioral health professionals and patients, broadly, allowing child sex trafficking victims who receive services from such professionals to benefit from the privilege.

Statute	Professional	Relevant Limitations
Idaho Code Ann. § 9-203(9) (Confidential relations and communications)	Employee of NGO sexual violence program	Limited to persons who receive services from sexual violence ²⁸ program.
Idaho Code Ann. § 54-2314 (Privileged communication – Confidential relations and communications between psychologist and client)	Psychologist	None.
Idaho Code Ann. § 9-203(6) (Confidential relations and communications)	School counselor, psychologist, or psychological examiner	None.
Idaho Code Ann. § 54-3213(3) (Privileged communications)	Social worker	Privilege does not apply to information obtained involving a minor victim or subject of a crime; the professional may be required to testify fully in any proceeding regarding the crime.

- 5.4.1 Recommendation: Enact a child sex trafficking-specific caseworker privilege law that protects a child sex trafficking victim's communications with a caseworker from being disclosed. (See [Issue Brief 5.4.](#))

²⁸ "Sexual violence" is not defined under this section or elsewhere in the Code but may encompass commercialized acts of sexual violence.



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.

○ NOT MET

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

6.1.1 Recommendation: Statutorily mandate statewide training for child welfare agencies on identification and response to child sex trafficking. (See [Issue Brief 6.1](#).)

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

○ NOT MET

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

6.2.1 Recommendation: Statutorily mandate statewide training for juvenile justice agencies on identification and response to child sex trafficking. (See [Issue Brief 6.2](#).)

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

○ NOT MET

Idaho law does not mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement.²⁹

6.3.1 Recommendation: Statutorily mandate ongoing, trafficking-specific training on victim-centered investigations for law enforcement. (See [Issue Brief 6.3](#).)

²⁹ However, the legislature has noted the importance of law enforcement training on human trafficking. Idaho Code Ann. § 18-8601 (Legislative intent) states in part,

In addition to the other provisions enumerated in this chapter, the legislature finds that it is appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.

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

○ *NOT MET*

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

- 6.4.1 Recommendation: Statutorily mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors. (See [*Issue Brief 6.4.*](#))

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

○ *NOT MET*

Idaho 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. (See [*Issue Brief 6.5.*](#))

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

○ *NOT MET*

Idaho law does not mandate child sex trafficking prevention education in schools.

- 6.6.1 Recommendation: Statutorily mandate developmentally and age-appropriate child sex trafficking prevention education in schools. (See [*Issue Brief 6.6.*](#))

KEYSTONE STATUTES

State Laws Addressing Child Sex Trafficking

1. Idaho Code Ann. § 18-8602(1)(a)(i) (Human trafficking defined) defines “human trafficking” as “[s]ex trafficking³⁰ in which commercial sexual activity³¹ is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age.”

A violation of Idaho Code Ann. § 18-8602 is punishable under Idaho Code Ann. § 18-8603 (Penalties), which states,

Notwithstanding any other law to the contrary, on and after July 1, 2019, any person who commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law.

³⁰ Idaho Code Ann. § 18-8602(1)(c) defines “sex trafficking” to include:

[A]ll forms of commercial sexual activity, which may include the following conduct:

- (i) Sexual conduct, as defined in section 18-5610(2) (a), Idaho Code [Utilizing a person under eighteen years of age for prostitution – Penalties];
- (ii) Sexual contact, as defined in section 18-5610(2) (b), Idaho Code;
- (iii) Sexually explicit performance;
- (iv) Prostitution; or
- (v) Participation in the production of pornography.

³¹ Idaho Code Ann. § 18-8602(2) defines “commercial sexual activity” as “sexual conduct or sexual contact in exchange for anything of value, as defined in section 18-5610(2) (c), Idaho Code, illicit or legal, given to, received by, or promised to any person.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Idaho Code Ann. § 18-5609 (Inducing person under eighteen years of age into prostitution – Penalties) states,

Every person who induces or attempts to induce a person under the age of eighteen (18) years to engage in prostitution shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$ 50,000), or by both such fine and imprisonment.

2. Idaho Code Ann. § 18-5610(1) (Utilizing a person under eighteen years of age for prostitution – Penalties) specifically criminalizes both purchasing and soliciting commercial sex with a minor; it states,

Every person who exchanges or offers to exchange anything of value³² for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$ 50,000), or by both such imprisonment and fine.

³² Idaho Code Ann. § 18-5610(2)(c) defines “anything of value” to include, but not be limited to, “a fee, food, shelter, clothing, medical care or membership in a criminal gang as defined in section 18-8502, Idaho Code [Definitions].”

RESOURCES

REPORT CARDS PROJECT: For more information on the Report Cards Project, visit reportcards.sharedhope.org.

TOOLKIT: To see how your state compares, visit reportcards.sharedhope.org/toolkit.

ISSUE BRIEFS: To better understand a policy goal, visit reportcards.sharedhope.org/issue-briefs.

SURVEY CHARTS: To see where the nation stands as a whole on a particular issue, visit reportcards.sharedhope.org/state-survey-charts.

HIGHLIGHTED RESOURCES

Community-Based Services White Paper



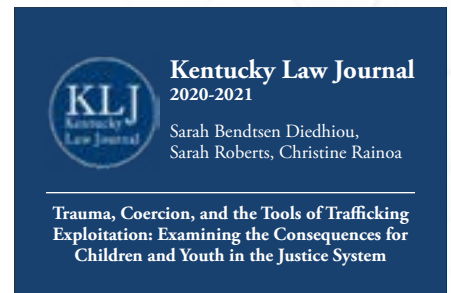
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

Victim-Offender Intersectionality Report



This report examines the phenomenon of sex trafficking survivors entering the criminal justice system for allegedly engaging in sex trafficking conduct and provides tools for criminal justice stakeholders to assist in identifying and responding to these cases in a trauma-informed manner.

Trauma, Coercion, and the Tools of Trafficking Exploitation



This law journal article examines the harms of relying on a juvenile justice-based response for serving child sex trafficking victims, the importance of enacting strong non-criminalization laws, the intertwined nature of sex trafficking victimization and criminalized conduct, and the importance of using a trauma-informed lens in response.

TECHNICAL ASSISTANCE

For legislators and policy advocates assisting elected officials in creating legislation, request a consultation with our Policy Team online at sharedhope.org/legislative-technical-assistance. We will set up a meeting to discuss your legislative goals and create a customized plan for ongoing technical assistance, bill drafting services, and legislative support.

ADVOCACY ACTION CENTER

The Advocacy Action Center is an online resource that allows individuals to join the fight against child sex trafficking either through legislator engagement or by signing a petition. For more information, visit act.sharedhope.org/actioncenter.



Contact your legislators, letting them know you want greater protections for child sex trafficking victims and increased accountability for their exploiters.



Sign a petition to show your support for issues that advance justice for child sex trafficking survivors.



Help end the criminalization of child sex trafficking survivors! Several states can still criminalize child sex trafficking victims for prostitution. Sign the petition to show your support for changing these laws.