



2023 REPORT

# NEW HAMPSHIRE

## Report Cards on Child & Youth Sex Trafficking

*State Action. National Change.*

### CONTENTS

HISTORICAL BACKGROUND  
LEGISLATIVE FRAMEWORK  
REPORT CARD  
SAFE HARBOR SCORECARD  
ANALYSIS REPORT  
RESOURCES

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

### NEW HAMPSHIRE

2019	SCORE	GRADE	7.5	24	15	5	24	9
	84.5	B	10	25	15	10	27.5	15
2011	SCORE	GRADE	7	10	13	2.5	11.5	7
	51	F	10	25	15	10	27.5	15

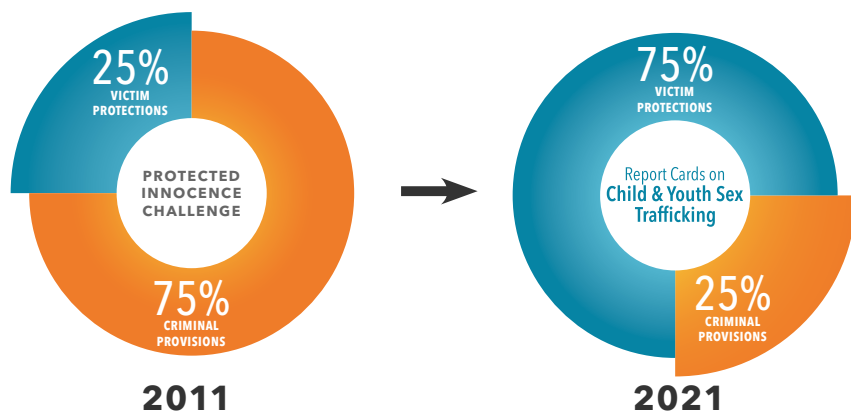
From 2011 to 2019, New Hampshire raised their grade under the Protected Innocence Challenge from an “F” to a “B,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view New Hampshire’s 2019 PIC report, visit [sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_NH.pdf](https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_NH.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



# NEW HAMPSHIRE

## 2023 Report Card

TIER II

**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 11 points.
- Currently ranked 23rd in the nation.
- Extended foster care services are available to youth under 23 years of age, providing an especially vulnerable

- group of young people access to services and care that may mitigate risk factors to harm, including exploitation.
- Buyers of sex with trafficking can be held criminally liable under the child sex trafficking and CSEC laws.

### SAFE HARBOR STATUS:

One of 30 states that statutorily prohibit the criminalization of minors for prostitution; expands the Safe Harbor law to provide child sex trafficking victims with protections against criminalization for other offenses committed as a direct result of trafficking victimization.

Issue		Grade	Score	Summary
	1. Criminal Provisions	A	$\frac{17}{17.5}$	Policy goals accomplished related to buyer accountability under the trafficking law, buyer and trafficker accountability under state CSEC laws, mistake of age defenses, decoy defenses, and business entity liability under the trafficking law. Gap remains related to financial penalties.
	2. Identification of and Response to Victims	F	$\frac{14.5}{27.5}$	Policy goals accomplished related to third party control, non-criminalization for non-violent offenses, and child abuse definitions. Gaps remain related to foreign national victims, screening through child welfare and the juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, juvenile court jurisdiction, and non-caregiver trafficking cases.
	3. Continuum of Care	F	$\frac{5.5}{15}$	Policy goal accomplished related to extended foster care services. Gaps remain related to community-based services, MDT responses, services through child welfare and the juvenile justice system, and appropriations.
	4. Access to Justice for Trafficking Survivors	C	$\frac{11.5}{15}$	Policy goals accomplished related to crime victims' compensation, vacatur, and civil remedies. Gaps remain related to civil orders of protection, restitution, 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	 Youth		1	Protection related to civil remedies is extended to sex trafficked youth.
	 Child Labor Trafficking		4	Protections related to child abuse definitions, crime victims' compensation, vacatur, and civil remedies are extended to child labor trafficking victims.

**OVERALL GRADE**  
TIER II

**F 58.5**

## 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 <a href="#">Issue Brief 2.1</a> 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 <a href="#">Issue Brief 2.3</a> 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 <a href="#">Issue Brief 2.4</a> for background).
 Partially 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 <a href="#">Issue Brief 2.5</a> 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 <a href="#">Issue Brief 2.6</a> for background).
 Fully 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 <a href="#">Issue Brief 2.7</a> 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 <a href="#">Issue Brief 2.8</a> 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 <a href="#">Issue Brief 3.1</a> for background).
 Partially 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 <a href="#">Issue Brief 3.6</a> for background).

## STATE SUMMARY:

New Hampshire prohibits the criminalization of all minors for prostitution offenses and extends non-criminalization protections to prohibit the criminalization of trafficking victims for any offense, a progressive step toward a survivor-centered, anti-child sex trafficking response. However, child sex trafficking victims may still be charged with status offenses and are not afforded an affirmative defense in prosecutions for violent felony offenses. Further, state law does not facilitate access to, or specifically allocate funding for, community-based services, potentially leaving some survivors underserved or disconnected from resources that are necessary to promote healing.

**SAFE HARBOR RESOURCES:** For additional information, visit [reportcards.sharedhope.org/safeharbor/](https://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](https://reportcards.sharedhope.org/wp-content/uploads/2022/11/SafeHarborMapDec2022.pdf).



This report provides a thorough analysis of New Hampshire's statutes related to offender accountability and victim protections while providing recommendations for addressing gaps in those statutes.<sup>1</sup> 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.

● **FULLY MET**

N.H. Rev. Stat. Ann. § 633:7(III-a)(a) (Trafficking in persons) expressly applies to buyers of commercial sex with minors; it states,

A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party . . . .

A heightened penalty applies if the victim is under 16 years of age; N.H. Rev. Stat. Ann. § 633:7(III-a)(b) states,

A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party . . . .

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<sup>1</sup> Evaluations of state laws are based on legislation enacted as of July 1, 2023.

## Policy Goal 1.2

Commercial sexual exploitation of children (CSEC) laws<sup>2</sup> specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

New Hampshire law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, N.H. Rev. Stat. Ann. § 645:2(I)(f) (Prostitution and related offenses) prohibits a person from “[p]ay[ing], agree[ing] to pay, or offer[ing] to pay another person to engage in sexual contact as defined in RSA 632-A:1, IV [Definitions] or sexual penetration as defined in RSA 632-A:1, V, with the payor or with another person,” and subsection (II)(a) provides for a heightened penalty when the victim is a minor.

## Policy Goal 1.3

Commercial sexual exploitation of children (CSEC) laws<sup>3</sup> apply to traffickers and protect all minors under 18.

● FULLY MET

New Hampshire’s CSEC laws address an array of trafficker conduct. Pursuant to N.H. Rev. Stat. Ann. § 645:2(I)(b)–(e), (II) (Prostitution and related offenses),

(I) A person is guilty of a misdemeanor if the person:

....

- (b) Induces or otherwise purposely causes another to violate subparagraph (a);<sup>4</sup> or
- (c) Transports another into or within this state with the purpose of promoting or facilitating such other in engaging in conduct in violation of subparagraph (a); or
- (d) Not being a legal dependent incapable of self support, knowingly is supported in whole or in part by the proceeds of violation of subparagraph (a); or
- (e) Knowingly permits a place under such person's control to be used for violation of subparagraph (a)

....

II. A person is guilty of a class B felony if such person violates the provisions of subparagraphs (b), (c), (d), (e), or (f) of paragraph I and the violation:

- (a) Involves another person who is under the age of 18; or
- (b) Involved compelling another person by force or intimidation.

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<sup>2</sup> 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 New Hampshire’s CSEC laws, *see* the appendix located at the end of this report.

<sup>3</sup> *See supra* note 2 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

<sup>4</sup> N.H. Rev. Stat. Ann. § 645:2(I)(a) prohibits a person from “solicit[ing], agree[ing] to perform, or engag[ing] in sexual contact . . . or sexual penetration . . . in return for consideration.”

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

● FULLY MET

New Hampshire law prohibits a mistake of age defense in prosecutions for child sex trafficking.<sup>5</sup> Pursuant to N.H. Rev. Stat. Ann. § 633:7(II) (Trafficking in persons), which criminalizes maintaining or making available a minor for commercial sex, “Knowledge of the individual’s actual age shall not be required as an element of this offense. Further, N.H. Rev. Stat. Ann. § 633:7(III-a), which applies to buyers of commercial sex, states in part, “Neither the actor’s lack of knowledge of the other person’s age nor consent of the other person shall constitute a defense to a charge under this paragraph.”

**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, New Hampshire law broadly prohibits a defense based on mistaken belief of fact. N.H. Rev. Stat. Ann. § 626:3(I) (Effect of ignorance or mistake) states,

A person is not relieved of criminal liability because he acts under a mistaken belief of fact unless:

- (a) The mistake negatives the culpable mental state required for commission of the offense; or
- (b) The statute defining the offense expressly provides that such mistake is a defense; or
- (c) Such mistake supports a defense of justification as defined in RSA 627.

Further, New Hampshire’s criminal attempt statute, N.H. Rev. Stat. Ann. § 629:1 (Attempt), could provide prosecutors with an alternative avenue to prosecute decoy cases. N.H. Rev. Stat. Ann. § 629:1(I) states,

A person is guilty of an attempt to commit a crime if, with a purpose that a crime be committed, he does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step toward the commission of the crime.

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

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

● FULLY MET

New Hampshire law allows business entities to be held criminally liable for conduct that violates the trafficking law. Pursuant to N.H. Rev. Stat. Ann. § 633:7(II), (III) (Trafficking in persons),

II. A person shall be guilty of a class A felony if such person maintains or makes available an individual under 18 years of age for the purpose of engaging the individual in a commercial sex act or sexually-explicit performance for the benefit of another . . . .

III. It is a class A felony to recruit, entice, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking . . . .

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<sup>5</sup> Similarly, the defense is prohibited in certain CSEC prosecutions. Under N.H. Rev. Stat. Ann. § 645:2(VI) (Prostitution and related offenses), “In a prosecution under subparagraph II(a) [involving minor victims], the actor’s lack of knowledge of the other person’s age shall not constitute a defense.”



Importantly, N.H. Rev. Stat. Ann. § 625:11(II) (General definitions) defines “person” to include “any natural person and, a corporation or an unincorporated association.” Accordingly, business entities can be held liable for a 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.

● PARTIALLY MET

A percentage of financial penalties, including asset forfeiture, paid by convicted trafficking offenders, but not by convicted CSEC offenders, is statutorily required to be directed into a victim services fund. N.H. Rev. Stat. Ann. § 633:8 (Forfeiture of items used in connection with trafficking in persons) provides,

I. All offenses under this section [Trafficking in persons] shall qualify as offenses for forfeiture and thereby upon petition of the attorney general, shall be subject to forfeiture to the state and said property interest shall be vested in the state:<sup>6</sup>

- (a) All materials, products, and equipment of any kind used in violation of this section.
- (b) Any property interest in any conveyance used in furtherance of an act which violates this section.
- (c) Any moneys, coin, currency, negotiable instruments, securities, or other investments knowingly used or intended for use in violation of this section.
- (d) Any books, records, ledgers, and research material, including formulae, microfilm, tapes, and any other data which are used or intended for use in felonious violation of this section.
- (e) Any real property, including any right, title, leasehold interest, and other interest in the whole of any lot or tract of land and any appurtenances or improvements, which real property is knowingly used or intended for use, in any manner or part, in felonious violation of this section.

....  
XVI. . . . Final orders for forfeiture of property under this section shall be implemented by the department of justice and shall provide for disposition of the items or property interests by the state in any manner not prohibited by law, including payment of restitution to a victim of trafficking or sale at public auction. The department of justice shall pay the reasonable expenses of the forfeiture proceeding, seizure, storage, maintenance of custody, advertising, court costs, and notice of sale from any money forfeited and from the proceeds of any sale or public auction of forfeited items. All outstanding recorded liens on said items or property interests seized shall be paid in full upon conclusion of the court proceedings from the proceeds of any sale or public auction of forfeited items.

....  
XVIII. After payment of costs outlined in paragraph XVI, any forfeited money and the proceeds of any sale or public auction of forfeited items shall first be used to satisfy any order of restitution or compensation imposed by the court. Any remaining funds shall go to the victims’ assistance fund as defined in RSA 21-M:8-i.

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<sup>6</sup> Pursuant to N.H. Rev. Stat. Ann. § 633:8(XV), in determining whether the property should be forfeited, the court must consider whether:

- (a) There is a substantial connection between the property to be forfeited and the underlying offense;
- (b) Criminal activities conducted by or through the use of the property were extensive; and
- (c) The value of the property to be forfeited greatly outweighs the cost of prosecution and the harm caused by the criminal conduct.

Pursuant to N.H. Rev. Stat. Ann. § 21-M:8-i<sup>7</sup> (Administration of Fund), money deposited in the Victims' Assistance Fund will be used for providing services to victims of crime; it states,

- I. Subject to the availability of money in the victims' assistance fund, the attorney general shall make grants for the establishment and maintenance of victim assistance programs.
  - II. A victim assistance program is eligible to receive grants under this section if such program:
    - (a) is within the office of a county attorney; or
    - (b) is operated by a public agency or a private nonprofit organization or a combination of such agencies or organizations and provides services to victims of crime, and demonstrates:
      - (1) a record of providing effective services to victims of crime and financial support from sources other than the fund; or
      - (2) substantial financial support from sources other than the fund; or
    - (c) Is a program approved by the attorney general and provides services to victims of sexual assault.
  - III. A victim assistance program shall expend sums received under this section only for providing services to victims of crime.
  - IV. No more than 30 percent of the money in the victims' assistance fund shall be used by the attorney general for the costs of administration of the victims' assistance fund and the administrative costs of the victims' assistance commission.
  - V. The remainder of the money in the victims' assistance fund shall be used by the attorney general for the compensation of victims in accordance with RSA 21-M:8-h [Claimant eligibility; compensation].
- 1.7.1 Recommendation: Statutorily direct a percentage of financial penalties levied on CSEC offenders into a victim services fund. (See [\*Issue Brief 1.7.\*](#))

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<sup>7</sup> The text of N.H. Rev. Stat. Ann. § 21-M:8-i cited here and elsewhere in this report includes amendments made by the enactment of House Bill 2 during the 2023-2024 Regular Session of the New Hampshire state legislature (effective June 30, 2023).



## ISSUE 2: Identification & 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 includes all commercially sexually exploited children without requiring third party control. Under N.H. Rev. Stat. Ann. § 633:7(III-a) (Trafficking in persons),

(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party . . . .

(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party . . . .

Accordingly, New Hampshire's trafficking in persons law expressly applies to buyers of sex with minors, meaning a buyer can be charged regardless of whether a trafficker is involved or identified. As such, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

### Policy Goal 2.2

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

○ **NOT MET**

New Hampshire 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**

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

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

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

- 2.4.1 Recommendation: Enact a state law requiring juvenile justice agencies to screen children and youth who are at risk of sex trafficking for experiences of commercial sexual exploitation. (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.

● PARTIALLY MET

New Hampshire law prohibits the criminalization of minors for prostitution offenses; however, the Safe Harbor law does not require law enforcement to refer impacted children to a direct services organization or child-serving agency in lieu of arrest and, instead, permits the use of detention in response to minors engaged in commercial sex, albeit for the limited purpose of obtaining evidence against the child's exploiter. Pursuant to N.H. Rev. Stat. Ann. § 645:2 (Prostitution and related offenses),

I. A person is guilty of a misdemeanor if the person:

- (a) Solicits, agrees to perform, or engages in sexual contact as defined in RSA 632-A:1, IV or sexual penetration as defined in RSA 632-A:1, V, in return for consideration; or

....

V. A person under 18 years of age shall not be subject to a juvenile delinquency proceeding under RSA 169-B or criminal prosecution for the commission of an offense under subparagraph I(a).

....

IX. Nothing in this section shall be construed to . . . limit or abridge the authority of a law enforcement officer to detain or place into custody a person as part of a criminal investigation . . .

Consequently, although minors are protected from criminalization for conduct in violation of the state prostitution law, such protections are undermined by law enforcement's ability to detain commercially sexually exploited children instead of referring them to services.

- 2.5.1 Recommendation: Strengthen existing law to establish a services-referral protocol in response to minors engaged in commercial sex and prohibit the use of detention in response to minors engaged in commercial sex. (See [Issue Brief 2.5.](#))

**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.

● PARTIALLY MET

New Hampshire law prohibits the criminalization of child sex trafficking victims for non-violent offenses committed as a result of their trafficking victimization; however, victims can still be charged with status offenses. Under N.H. Rev. Stat. Ann. § 633:7(VI), (VII) (Trafficking in persons),

(VI) No victim of human trafficking shall be prosecuted for any offense, where the otherwise chargeable conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence<sup>8</sup> or a threat of violence<sup>9</sup> as defined in RSA 625:9, VII [Classification of crimes].  
(VII) A victim of human trafficking who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceedings under RSA 169-B [Delinquent children] for any otherwise chargeable offense, where the conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence or a threat of violence as defined in RSA 625:9, VII.

- 2.6.1 Recommendation: Strengthen existing protections to prohibit criminalization of child sex trafficking victims for status offenses. (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.

● **FULLY MET**

New Hampshire law prohibits the criminalization of child sex trafficking victims for any offense that did not involve an act or threat of violence, which could include sex trafficking and commercial sexual exploitation offenses. Under N.H. Rev. Stat. Ann. § 633:7(VI), (VII) (Trafficking in persons),

(VI) No victim of human trafficking shall be prosecuted for any offense, where the otherwise chargeable conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence<sup>10</sup> or a threat of violence<sup>11</sup> as defined in RSA 625:9, VII [Classification of crimes].  
(VII) A victim of human trafficking who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceedings under RSA 169-B [Delinquent children] for any otherwise chargeable offense, where the conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence or a threat of violence as defined in RSA 625:9, VII.

**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**

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

- 2.8.1 Recommendation: Enact a law that provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. (See [Issue Brief 2.8.](#))

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<sup>8</sup> N.H. Rev. Stat. Ann. § 625:9(VII) (Classification of crimes) defines “act of violence” as “attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.”

<sup>9</sup> N.H. Rev. Stat. Ann. § 625:9(VII) defines “threat of violence” as “placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other.”

<sup>10</sup> N.H. Rev. Stat. Ann. § 625:9(VII) (Classification of crimes) defines “act of violence” as “attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.”

<sup>11</sup> N.H. Rev. Stat. Ann. § 625:9(VII) defines “threat of violence” as “placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other.”



**Policy Goal 2.9**

Juvenile court jurisdiction provides for a developmentally appropriate response.

① **PARTIALLY MET**

New Hampshire law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While New Hampshire law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute fails to establish a minimum age for purposes of juvenile court jurisdiction, requires direct file in cases involving minors previously convicted in criminal court, and fails to require courts to consider the impact of trauma or past victimization in make 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
<b>Summary</b>	None. “Minor” defined as “a person under the age of 18” and “delinquent” is defined as “a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the criminal code of this state . . . .”	17.	Yes. Minors previously convicted of an offense in criminal court.	Yes. Any minor charged with a felony offense.	No.
<b>Relevant Statute(s)</b>	N.H. Rev. Stat. Ann. § 169-B:2(VI), (IV) (Definitions)	N.H. Rev. Stat. Ann. § 169-B:2(IV) (Definitions)	N.H. Rev. Stat. Ann. § 169-B:27 (Treatment of juvenile as adult)	N.H. Rev. Stat. Ann. § 169-B:24(I) (Transfer to superior court)	N.H. Rev. Stat. Ann. § 169-B:24(I)(a)–(h) (Transfer to superior court)

Consequently, some minors may still be subject to age-inappropriate juvenile court responses due to state laws that: (1) fail to establish a minimum age for juvenile court jurisdiction that aligns with domestic standards; (2) allow some juvenile cases to be subject to direct file; and (3) do not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Enact comprehensive state laws requiring age-appropriate juvenile court responses for all children accused of engaging in juvenile or criminal conduct. (*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

New Hampshire's Child Protection Act expressly defines "abused child" to include child sex trafficking and commercial sexual exploitation of children. Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II), (XXVII-b) (Definitions),

II. "Abused child" means any child who has been:

(a) Sexually abused; or

....

(e) Subjected, by any person, to human trafficking as defined in RSA 633:7 [Trafficking in persons]; or

....

....  
XXVII-b. "Sexual abuse" means the . . . prostitution, or other form of sexual exploitation of children. . .  
With respect to the definition of sexual abuse, the term "child" or "children" means any individual who is under the age of 18 years.

#### EXTRA CREDIT



Child labor trafficking is included in the definition of "abused child" under N.H. Rev. Stat. Ann. § 169-C:3(II)(e).

**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.

● PARTIALLY MET

Although child sex trafficking victims may access child welfare services regardless of parent or caregiver fault, New Hampshire law does not provide for a specialized response in those cases. Specifically, while the definition of "abused child" under N.H. Rev. Stat. Ann. § 169-C:3(II)(e) includes a child who has been subjected to human trafficking "by any person," 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 provide for a specialized response in non-caregiver child sex trafficking 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

New Hampshire 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 and neglect MDT, New Hampshire law does not require an MDT response specific to child sex trafficking cases. Under N.H. Rev. Stat. Ann. § 169-C:34-a(I), (II) (Multidisciplinary Child Protection Teams),

I. The department of health and human services may enter into formal cooperative agreements with appropriate agencies and organizations to create multidisciplinary child protection teams to assist with the investigation and evaluation of reports of abuse and neglect under this chapter.

II. Multidisciplinary child protection team members may include licensed physical and mental health practitioners, educators, law enforcement officers, representatives from the local child advocacy center, social workers, and such other individuals as may be necessary to assist with the investigation and evaluation of reports of abuse or neglect.

3.2.1 Recommendation: Amend N.H. Rev. Stat. Ann. § 169-C:34-a to specifically utilize a multi-disciplinary team response and specialized service provisions for child sex trafficking cases. (See [Issue Brief 3.2](#).)

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

○ NOT MET

New Hampshire 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.

○ **NOT MET**

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

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

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

● **FULLY MET**

New Hampshire law extends foster care services to youth under 23 years of age. N.H. Rev. Stat. Ann. § 170-E:25 (Definitions) defines “child” as “any person under 21 years of age.” Further, N.H. Rev. Stat. Ann. § 170-E:53 (Extension of foster care beyond the age of 18) extends foster care services to young adults as follows:

I. The commissioner of the department of health and human services shall, not later than 6 months after the effective date of this section, submit an amendment to the state plan required by 42 U.S.C. section 671 to the United States secretary of health and human services to implement 42 U.S.C. section 675(8) to make federal payments for foster care under Title IV-E directly on behalf of any person who meets the following requirements:

- (a) The person has attained the age of 18 but not attained the age of 21.
- (b) The person was in the custody of the department of health and human services upon attaining the age of 18.
- (c) The person signs a voluntary participation agreement.
- (d) The person:
  - (1) Is completing secondary education or a program leading to an equivalent credential; or
  - (2) Is enrolled in an institution that provides postsecondary or vocational education; or
  - (3) Is participating in a program or activity designed to promote, or remove barriers to, employment; or
  - (4) Is employed for at least 80 hours per month; or
  - (5) Is incapable of doing any of the activities described in subparagraphs (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information in the person’s case record or plan.

II. Any person who meets the requirements of paragraph I may apply for extended foster care payments and services pursuant to such application as the department may require. If a person who meets the requirements of paragraph I refused services at the time of the person’s eighteenth birthday, such person may apply to regain services at any time prior to his or her twenty-first birthday.

III. Such services shall be in addition to any other transitional services or programs for which the individual may be eligible, including but not limited to those provided pursuant to 42 U.S.C. section 677, the John H. Chafee Foster Care Program for Successful Transition to Adulthood. Not less than 6 months after the effective date of this section, the commissioner of the department of health and human services shall submit any amendment to the state plan or certification required under 42 U.S.C. section 677(b)(3) to provide assistance and services to individuals who have aged out of foster care and have not attained 23 years of age.

N.H. Rev. Stat. Ann. § 169-C:4(II), (II-a) (Jurisdiction, continued jurisdiction, modification) extends foster care services to youth under 21 years of age through a voluntary court process, stating,

II. The court may, with the consent of the child, retain jurisdiction over any child, who, prior to his or her eighteenth birthday, was found to be neglected or abused and who is attending school until such child completes high school or until his or her twenty-first birthday, whichever occurs first; and the court is authorized to and shall make such orders relative to the support and maintenance of said child during the period after the child's eighteenth birthday as justice may require.

II-a. A child who has consented to the continued jurisdiction of the court pursuant to paragraph II, may revoke his or her consent and request that the case be closed. The revocation of consent and request to close a case shall be made in writing and filed with the court. Upon receipt of the request, the court shall forward copies to all parties of record at their last known address. If no party objects within 10 business days of the date the court forwarded copies of the request to the parties, the court shall accept the child's revocation of consent and shall close the case. If a party objects, the court may, after consideration of the objection, either grant the request and close the case without hearing or schedule the matter for hearing. If the matter is scheduled for hearing, the court shall accept the child's revocation of consent and close the case unless the court finds that immediate closure would create a risk of substantial harm to the child. If the court finds that immediate closure would create a risk of substantial harm to the child, the court shall continue the matter for a period not to exceed 30 days and direct that the department work with the child to develop an independent living plan which shall include referrals to appropriate services. If at the end of such period, the child still wishes to revoke his or her consent and to request that the case be closed, the court shall accept the revocation of consent and close the case.

Additionally, N.H. Rev. Stat. Ann. § 187-A:20-b(I), (II)<sup>12</sup> (Tuition waiver for children in state foster care or guardianship or guardianship after being in state foster care) provides,

I. An eligible individual who enrolls full-time in a program leading to a certificate, associate, or bachelor degree at any public postsecondary institution within the state shall not be required to pay tuition or fees for attendance at such institution.

II. In this section, an eligible individual is a person who is less than 26 years of age and who is or was:

- (a) In state foster care for the immediate 6-month period prior to his or her 18th birthday;
- (b) In state guardianship or custody at the time of his or her 18th birthday;
- (c) In guardianship, after being in state foster care or guardianship, at the time of their 18th birthday;
- (d) In placement out-of-state, through the interstate compact for the placement of children, at the time of their 18th birthday;
- (e) Adopted while in state guardianship or adopted from the care, custody, and control of the department following a surrender of parental rights; or
- (f) In an out-of-home placement under the supervision of the division for juvenile justice services at the time of his or her 18th birthday.

**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.

🟡 PARTIALLY MET

While New Hampshire has appropriated funding to support a human trafficking response generally, which potentially includes provision of services, the legislature did not require that any portion of the funds be allocated specifically to provide access to specialized, community-based services to child and youth sex trafficking victims.

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<sup>12</sup> The text of N.H. Rev. Stat. Ann. § 187-A:20-b cited here and elsewhere in this report includes amendments made by the enactment of House Bill 2 during the 2023-2024 Regular Session of the New Hampshire state legislature (effective June 30, 2023).



2023-2024 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
HB 2	Department of Justice	\$500,000	To support functions identified by the assessment to combat human trafficking in the state, including but not limited to investigation, prosecution, and victim services. Funds may be utilized for grants made to state agencies, municipalities, or non-governmental recipients.	FY 2023-2025 (non-recurring)
2023-2024 Regular Session				July 1-June 30

- 3.6.1 Recommendation: Ensure state funds will be used to support the provision of specialized, community-based services to child and youth survivors of sex trafficking by requiring that at least some portion of appropriated funds be used for this purpose. (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 New Hampshire 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.

● FULLY MET

Under New Hampshire law, ineligibility factors for crime victims' compensation do not prevent victims of child sex trafficking and CSEC from accessing an award.

For purposes of accessing crime victims' compensation, N.H. Rev. Stat. Ann. § 21-M:8-h(I)(a)(1)–(4) (Claimant eligibility; compensation) defines “victims” to include the following:

- (1) Any person who sustains personal injury as a result of a felony or misdemeanor;
- ....
- (3) Any person who is a victim of sexual abuse or human trafficking and is under the age of 18 at the time of the offense;
- (4) Any person who is a victim of human trafficking and has been tattooed with an identifying mark of human trafficking by a person who has forced him or her into trafficking;

Further, commercially sexually exploited children are exempt from burdensome ineligibility factors that are incompatible with the realities of trafficking victimization. Pursuant to N.H. Rev. Stat. Ann. § 21-M:8-h(II)–(IV),

II. The claimant, guardian ad litem or child advocate, or parent may file a claim for compensation within 2 years of the crime, unless good cause is shown. A claimant who was the victim of sexual abuse or human trafficking under subparagraph I(a)(3), or a guardian ad litem, child advocate, or parent on behalf of such claimant, may file a claim at any time.

III. A claimant shall not be deemed ineligible for compensation based solely upon failure to apprehend the offender, or based upon failure of the state to obtain a conviction against the offender, providing there is reasonable evidence to sustain the claim that a crime had been committed which resulted in injury to the victim.

IV. The commission may consider the finding of innocence or guilt of the alleged offender in arriving at their determination of eligibility of the claimant. In determining eligibility and the amount of compensation to be awarded, the commission shall consider the contributory fault of the victim in causing his injury. If compensation is paid to members of the accused's immediate family, or persons who reside with or who have maintained a continuous relationship with the accused, the accused shall receive no benefit or enrichment as a result of payment of such compensation. The commission shall not consider contributory fault in determining the amount of compensation to be awarded if the claimant was a victim of sexual abuse or human trafficking under subparagraph I(a)(3).

## EXTRA CREDIT



Ineligibility factors for crime victims' compensation do not prevent victims of child labor trafficking from accessing an award. N.H. Rev. Stat. Ann. § 21-M:8-h(II)–(IV) extends exceptions to all child victims of human trafficking, and N.H. Rev. Stat. Ann. § 633:6(VII) (Definitions) defines “victim of human trafficking” to include victims of both sex and labor trafficking.

### Policy Goal 4.3

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

● **FULLY MET**

New Hampshire law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization. Pursuant to N.H. Rev. Stat. Ann. § 633:7(VIII), (X)(b) (Trafficking in persons),

#### VIII.

(a) This paragraph shall apply to:

- (1) An individual convicted for an offense which was committed as a direct result of being trafficked;
- (2) An individual who was under 18 years of age at the time of the offense, who was adjudicated as delinquent for an offense which was committed as a direct result of being trafficked; or
- (3) An individual who entered into a diversion agreement in lieu of further criminal proceedings for an offense which was committed as a direct result of being trafficked.

(b) A victim of human trafficking who was subject to adjudication as specified in subparagraph (a), may, at any time, file a motion with the circuit court, district division or superior court to vacate a conviction, adjudication of delinquency, or diversion agreement, and the related court records and arrest records, for any offense . . . .

(c) After a hearing, the court shall grant the motion to vacate the conviction, adjudication of delinquency, or diversion agreement upon a finding by a preponderance of the evidence that the petitioner's participation in the offense underlying the conviction, delinquency adjudication, or diversion agreement was the direct result of being trafficked. A finding by the court that the petitioner was a victim of human trafficking at the time of the offense<sup>13</sup> shall be a prima facie evidence that the petitioner's participation in the offense was a direct result of being trafficked.

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<sup>13</sup> Pursuant to N.H. Rev. Stat. Ann. § 633:7(VIII)(e),

In determining whether the petitioner was a victim of human trafficking at the time of the offense, the court may consider any other evidence the court finds has sufficient credibility and probative value. Such evidence may include, but is not limited to:

- (1) The affidavit or sworn testimony of the petitioner;
- (2) Branding or other tattoos on the body of the petitioner that identify the petitioner as having had a trafficker;

(d) The petitioner shall not be required to provide any official documentation<sup>14</sup> indicating that he or she was a victim of human trafficking at the time of the offense. However, if such documentation is provided, it shall be prima facie evidence that the petitioner's participation in the offense was a direct result of being trafficked . . . .

....

....  
X.

- (a) An order vacating a conviction, adjudication of delinquency, or diversion agreement shall:
  - (1) Nullify the conviction, delinquency adjudication, or diversion agreement;
  - (2) Vacate the conviction, delinquency adjudication, or diversion agreement due to a substantive defect in the underlying criminal proceedings;
  - (3) Remove all civil disabilities and disqualifications imposed as a result of the conviction, delinquency adjudication, or diversion agreement; and
  - (4) Place the petitioner in the position of never having been investigated, arrested, convicted, deemed delinquent, or diverted for the offense.
- (b) Upon a finding that the petitioner's participation in the offense underlying the conviction, delinquency adjudication, or diversion agreement was a direct result of being trafficked and an entry of an order vacating the conviction, delinquency's adjudication, or diversion agreement the court shall:
  - (1) Order the conviction, delinquency adjudication, or diversion agreement and any related court records expunged and purged from all applicable state and federal systems. The court shall enter this order regardless of whether the petitioner had any criminal record prior or subsequent to the conviction, delinquency adjudication, or diversion agreement being vacated.
  - (2) Order the division of state police to purge the conviction, delinquency adjudication, or diversion agreement, and any related court records or arrest records from the criminal history record information repository and all applicable state and federal databases. The clerk of the court shall send a certified copy of the order to the division of state police, which shall carry out the order and shall notify the following of the court's order: the Federal Bureau of Investigation, the New Hampshire department of corrections, and any other criminal justice agency that may have a record of the conviction, adjudication of delinquency, or diversion agreement and related court records or arrest records.

- 
- (3) Photographic evidence of branding or other tattoos on the body of the petitioner that identify the petitioner as having or having had a trafficker;
  - (4) Affidavits or sworn testimony of police, police interview notes, or police reports;
  - (5) Affidavits or sworn testimony from any person with firsthand knowledge of the petitioner's involvement in the trafficking or any person who indicates that he or she was trafficked or exploited by the same individual or group of individuals who trafficked the petitioner;
  - (6) Financial records showing revenues or expenses from the trafficking;
  - (7) Internet listings, print advertisements, or business cards used to promote the petitioner for services; or
  - (8) Email, text messages, or voicemail records between the petitioner, the trafficker, or solicitors of sex that reveal aspects of the trafficking, such as examples of trafficker exerting control over the petitioner, evidence of behavior patterns of the trafficker or the petitioner, or discussion of meeting times or payments.

<sup>14</sup> N.H. Rev. Stat. Ann. § 633:7(VIII)(d) defines "official documentation" as follows:

- (1) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the petitioner was a victim of human trafficking; or
- (2) An affidavit or sworn testimony from a member of the clergy, a medical professional, a trained professional staff member of a victim services organization, or other professional from whom the petitioner has sought legal counselor other assistance in addressing the trauma and other challenges associated with being a victim of human trafficking.

## EXTRA CREDIT



Vacatur is available to victims of child labor trafficking under N.H. Rev. Stat. Ann. § 633:7, which applies broadly to victims of human trafficking. N.H. Rev. Stat. Ann. § 633:6(VII) (Definitions) defines “victim of human trafficking” to include victims of both sex and labor trafficking.

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

#### **● PARTIALLY MET**

Restitution is mandatory in cases involving child sex trafficking but not CSEC. Under N.H. Rev. Stat. Ann. § 633:10(I), (II) (Restitution and compensation),

- I. A person convicted under this section shall be ordered by the court to pay restitution to the victim. Such restitution may include but not be limited to:
  - (a) Any economic loss compensable under RSA 651:62 [Definitions] . . . ; and
  - (b) The value of the victim’s labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act or the state minimum wage law, whichever is greater.
- II. To the extent not included in economic loss that is compensable under paragraph I, the court may also order a person convicted under this section to pay compensation as follows:
  - (a) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court’s discretion;
  - (b) Costs of necessary transportation, temporary housing, and child care, at the court’s discretion;
  - (c) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;
  - (d) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and
  - (e) Any and all other losses suffered by the victim as a result of an offense under this section.

Restitution is available more generally to victims of other crimes under N.H. Rev. Stat. Ann. § 651:63 (Restitution authorized); however, restitution under N.H. Rev. Stat. Ann. § 651:63 is discretionary. Subsection (I) states,

Any offender may be sentenced to make restitution in an amount determined by the court. In any case in which restitution is not ordered, the court shall state its reasons therefor on the record or in its sentencing order. Restitution may be ordered regardless of the offender's ability to pay and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury. A restitution order is not a civil judgment.

#### **4.4.1** Recommendation: Statutorily mandate restitution in CSEC cases. (*See [Issue Brief 4.4.](#)*)



#### Policy Goal 4.5

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

● FULLY MET

New Hampshire law allows victims of child sex trafficking to pursue civil remedies against their exploiters. N.H. Rev. Stat. Ann. § 633:11(I), (II) (Civil remedy) states, “I. A victim may bring a civil action against a person that commits an offense under this subdivision for damages, injunctive relief, or other appropriate relief. II. In an action under this section, the court shall award a prevailing plaintiff reasonable attorney’s fees and costs.”

#### EXTRA CREDIT

18+

New Hampshire law provides sex trafficked youth with a trafficking-specific civil remedy under N.H. Rev. Stat. Ann. § 633:11, which provides a “victim” with a civil cause of action. Although “victim” is not defined, the civil remedy is codified under the “Trafficking in Persons” chapter, which criminalizes sex trafficking of both minor and adult victims. N.H. Rev. Stat. Ann. § 633:7 (Trafficking in persons).

CLT

New Hampshire law provides child labor trafficking victims with a trafficking-specific civil remedy under N.H. Rev. Stat. Ann. § 633:11, which provides a “victim” with a civil cause of action. Although “victim” is not defined, the civil remedy is codified under the “Trafficking in Persons” chapter, which criminalizes both sex trafficking and labor trafficking. N.H. Rev. Stat. Ann. § 633:7 (Trafficking in persons).

#### 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.

❶ PARTIALLY MET

New Hampshire law lengthens, but does not eliminate, statutes of limitation for criminal and civil actions related to child sex trafficking. Pursuant to N.H. Rev. Stat. Ann. § 625:8(III)(i) (Limitations),

If the period prescribed in paragraph I has expired, a prosecution may nevertheless be commenced:

.....

(i) For any offense under RSA 633:7 [Trafficking in persons], within 20 years, except where the victim was under 18 years of age when the alleged offense occurred, in which case within 20 years of the victim’s eighteenth birthday.

Otherwise, N.H. Rev. Stat. Ann. § 625:8(I)(a)–(c) requires prosecutions to commence within the following time periods:

Except as otherwise provided in this section, prosecutions are subject to the following periods of limitations:

- (a) For a class A felony, 6 years;
- (b) For a class B felony, 6 years;
- (c) For a misdemeanor, one year;

Regarding civil actions, N.H. Rev. Stat. Ann. § 633:11(III) (Civil remedy) provides,

An action under this section shall be commenced not later than 10 years after the date on which the victim was released from the human trafficking situation or 10 years after the date on which the victim attains 18 years of age, whichever is later.

In contrast, N.H. Rev. Stat. Ann. § 508:4(I) (Personal actions) establishes a 3-year statute of limitation for personal actions, stating,

Except as otherwise provided by law, all personal actions . . . may be brought only within 3 years of the act or omission complained of, except that when the injury and its causal relationship to the act or omission were not discovered and could not reasonably have been discovered at the time of the act or omission, the action shall be commenced within 3 years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of.

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



## 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

New Hampshire 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.

① PARTIALLY MET

New Hampshire law allows for testimony by an alternative method, but limitations based on the victim's age exclude some commercially sexually exploited children from protection. Specifically, N.H. Rev. Stat. Ann. § 517:13-a(I)–(III) (Videotape trial testimony authorized) provides for the admission of videotaped testimony in lieu of a child under 17 years of age having to testify at trial in-person; it states,

I. In any criminal case, the state may move to take videotape trial testimony of any witness, including the victim, who was 16 years of age or under at the time of the alleged offense. Any victim or other witness who was 16 years of age or under at the time of the offense may also move to take videotape trial testimony. The court shall order videotape trial testimony if it finds by a preponderance of the evidence that:

- (a) The child will suffer emotional or mental strain if required to testify in open court; or
- (b) Further delay will impair the child's ability to recall and relate the facts of the alleged offense.

II. Videotape trial testimony taken pursuant to this section shall be conducted before the judge at such a place as ordered by the court in the presence of the prosecutors, the defendant and his attorneys, and such other persons as the court allows. Examination and cross-examination of the child shall proceed in the same manner as permitted at trial. Such testimony shall be admissible into evidence at trial in lieu of any other testimony by the child.

III. Unless otherwise ordered by the court for good cause shown, no victim or witness whose testimony is taken pursuant to this section shall be required to appear or testify at trial.

Additionally, N.H. Rev. Stat. Ann. § 632-A:8 (In camera testimony) provides for in camera testimony, stating,

In the cases where the victim is under 16 years of age, the victim's testimony shall be heard in camera unless good cause is shown by the defendant. The record of the victim's testimony shall not be sealed and all other testimony and evidence introduced during the proceeding shall be public.

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.

① **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
<b>Summary</b>	Not statutorily required.	Not statutorily required.	The identity of victims and their families must be kept confidential during the investigation and prosecution of the offense.
<b>Relevant Statute(s)</b>	None.	None.	N.H. Rev. Stat. Ann. § 633:7(V) (Trafficking in persons)

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate and are provided courtroom supports when testifying against their exploiter. (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**

New Hampshire 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 provided to certain behavioral and mental health professionals and clients if the victim received care or services from such professionals.

Statute	Profession	Relevant Limitations
N.H. Rev. Stat. Ann. § 330-A:32 (Privileged communications)	Psychologist, clinical social workers, school social workers, licensed social workers, clinical mental health counselors	None.

- 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](#).)



## ISSUE 6: Prevention & Training

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

○ **NOT MET**

New Hampshire 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**

New Hampshire 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**

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

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

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

○ **NOT MET**

New Hampshire 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

New Hampshire 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

New Hampshire 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

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1. N.H. Rev. Stat. Ann. § 633:7(II)–(III-a) (Trafficking in persons) states,

II. A person shall be guilty of a class A felony if such person maintains or makes available an individual under 18 years of age for the purpose of engaging the individual in a commercial sex act<sup>15</sup> or sexually-explicit performance for the benefit of another. A person convicted under this paragraph shall be sentenced to a minimum term of imprisonment of not less than 7 years and a maximum term of not more than 30 years . . . .

III. It is a class A felony to recruit, entice, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking as defined in paragraph I or II. Notwithstanding RSA 651:2 [Sentences and limitations], a person convicted of an offense under this paragraph involving a victim under the age of 18 shall be subject to a minimum term of not less than 7 years and a maximum term of not more than 30 years, if the offender knew or believed it likely that the victim would be involved in a commercial sex act or sexually-explicit performance.

III-a.

(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 [Definitions] or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party . . . .

(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party . . . .

In addition to the terms of imprisonment noted above, a fine up to \$4,000 may also be imposed. N.H. Rev. Stat. Ann. § 651:2(IV)(a).

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<sup>15</sup> N.H. Rev. Stat. Ann. § 633:6 (Definitions) defines “commercial sex act” as “any sex act because of which anything of value is given, promised to, or received, directly or indirectly, by any person.”

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

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1. N.H. Rev. Stat. Ann. § 645:2(I), (II) (Prostitution and related offenses) states,

I. A person is guilty of a misdemeanor if the person:

....

- (b) Induces or otherwise purposely causes another to violate subparagraph (a);<sup>16</sup> or
- (c) Transports another into or within this state with the purpose of promoting or facilitating such other in engaging in conduct in violation of subparagraph (a); or
- (d) Not being a legal dependent incapable of self support, knowingly is supported in whole or in part by the proceeds of violation of subparagraph (a); or
- (e) Knowingly permits a place under such person's control to be used for violation of subparagraph (a); or
- (f) Pays, agrees to pay, or offers to pay another person to engage in sexual contact as defined in RSA 632-A:1, IV [Definitions] or sexual penetration as defined in RSA 632-A:1, V, with the payor or with another person.

II. A person is guilty of a class B felony if such person violates the provisions of subparagraphs (b), (c), (d), (e), or (f) of paragraph I and the violation:

- (a) Involves another person who is under the age of 18; or
- (b) Involved compelling another person by force or intimidation.

A class B felony is punishable by imprisonment for up to 7 years, a fine up to \$4,000, or both. N.H. Rev. Stat. Ann. § 651:2(II)(b), (IV)(a) (Sentences and limitations).

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<sup>16</sup> N.H. Rev. Stat. Ann. § 645:2(I)(a) prohibits a person from “solicit[ing], agree[ing] to perform, or engag[ing] in sexual contact . . . or sexual penetration . . . in return for consideration.”

## RESOURCES

**REPORT CARDS PROJECT:** For more information on the Report Cards Project, visit [reportcards.sharedhope.org](https://reportcards.sharedhope.org).

**TOOLKIT:** To see how your state compares, visit [reportcards.sharedhope.org/toolkit](https://reportcards.sharedhope.org/toolkit).

**ISSUE BRIEFS:** To better understand a policy goal, visit [reportcards.sharedhope.org/issue-briefs](https://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](https://reportcards.sharedhope.org/state-survey-charts).

## HIGHLIGHTED RESOURCES

### Community-Based Services White Paper



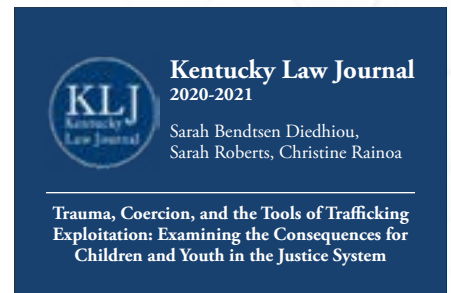
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

### 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](https://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](https://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.