



2023 REPORT

ARKANSAS

Report Cards on Child & Youth Sex Trafficking

State Action. National Change.



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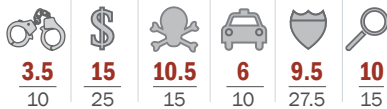
HISTORICAL BACKGROUND ARKANSAS

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

ARKANSAS

	SCORE	GRADE	10	22	15	10	18	14.5
2019	89.5	B	10	25	15	10	27.5	15
2011	54.5	F	3.5	15	10.5	6	9.5	10



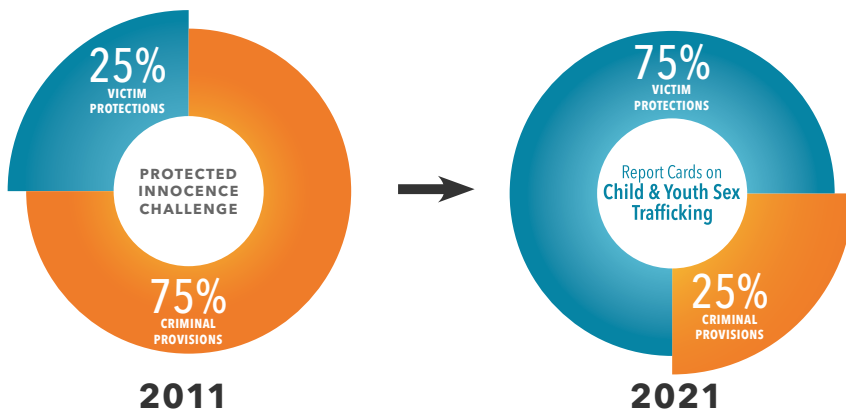
From 2011 to 2019, Arkansas raised their grade under the Protected Innocence Challenge from an “F” to a “B,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Arkansas’s 2019 PIC report, visit sharedhope.org/PICframe9/reportcards/PIC_RC_2019_AR.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

ARKANSAS

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 14 points.
- Tenth most improved in 2023 (raised score by 9.5 points this year alone).
- Currently ranked 24th in the nation.
- One of only 9 states to achieve full credit for its criminal provisions.
- Enacted House Bill 1502, creating a new CSEC law that criminalizes sexual solicitation of a minor.
- Enacted Senate Bill 294, mandating prevention education in schools.

SAFE HARBOR STATUS:

State law protects some, but not all minors, from being criminalized for prostitution offenses; minors who are not identified as child sex trafficking victims may still be subjected to arrest and prosecution for their own victimization. One of only 4 states to expand this protection to adult victims of sex trafficking.

Issue	Grade	Score	Summary
 1. Criminal Provisions	A	17.5 17.5	Policy goals accomplished in all areas, including buyer accountability under the trafficking law, buyer and trafficker accountability under state CSEC laws, mistake of age defenses, decoy defenses, business entity liability under the trafficking law, and financial penalties.
 2. Identification of and Response to Victims	F	11 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 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	5 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	7.5 15	Policy goal accomplished related to civil remedies. Gaps remain related to civil orders of protection, crime victims' compensation, vacatur, restitution, and statutes of limitation.
 5. Tools for a Victim-Centered Criminal Justice Response	D	6 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	8 15	Policy goals accomplished related to training for school personnel and prevention education in schools. Gaps remain related to training for child welfare, juvenile justice agencies, law enforcement, and prosecutors.
EXTRA CREDIT	 18+ Youth	1	Protection related to civil remedies is extended to sex trafficked youth.
	 CLT Child Labor Trafficking	2	Protections related to child abuse definitions and civil remedies are extended to child labor trafficking victims.

OVERALL GRADE
TIER II**F 58**

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).
 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 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).
 Partially 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:

Arkansas protects some, but not all, minors from prosecution for prostitution. Because Arkansas hinges non-criminalization on a finding of victimization, a commercially sexually exploited child may be subject to re-traumatizing practices and adversarial processes prior to being identified as a trafficking victim, while others may never be identified and face prosecution for prostitution. Further, state law does not mandate a process for connecting sex trafficked children with community-based services, nor did the state legislature specifically appropriate funds for that purpose. This may leave some survivors underserved or disconnected from resources that are necessary to address trauma and 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 Arkansas’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.

● **FULLY MET**

Arkansas’s core sex trafficking offense, Ark. Code Ann. § 5-18-103(a)(4)² (Trafficking of persons), criminalizes buyer conduct, stating, “A person commits the offense of trafficking in persons if he or she knowingly . . . [r]ecruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity . . .” Subsection (d) clarifies that this section was intended to apply to buyers by imposing an additional fine on those who violated “this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity” Ark. Code Ann. § 5-18-104(a)³ (Patronizing a victim of human trafficking) also applies to buyers of commercial sex but only to the extent that the buyer knew or should have known the patronized person had a trafficker. It states, “A person commits the offense of patronizing a victim of human trafficking if he or she knowingly engages in commercial sexual activity with another person who he or she knows or reasonably should know is a victim of human trafficking.”

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

² The text of Ark. Code. Ann. § 5-18-103 cited here and elsewhere in this report includes amendments made by the enactment of House Bills 1459 and 1637 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

³ The text of Ark. Code. Ann. § 5-18-104 cited here and elsewhere in this report includes amendments made by the enactment of House Bills 1459 and 1637 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

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

Arkansas law criminalizes purchasing and soliciting commercial sex with a minor. Specifically, Ark. Code Ann. § 5-70-107(a)⁵ (Sexual solicitation of a minor) provides,

A person commits the offense of sexual solicitation of a minor if he or she:

- (1) Offers or agrees to pay a fee or provide a thing of value to a person who he or she knows or reasonably should know is a minor to engage in sexual activity with the person who he or she knows or reasonably should know is a minor;
- (2) Offers or agrees to pay a fee or provide a thing of value to another person for the purpose of engaging in sexual activity with a person who he or she knows or reasonably should know is a minor;
-
- (4) Pays a fee or provides a thing of value to a person who he or she knows or reasonably should know is a minor or another person for the purpose of engaging in sexual activity with the person who he or she knows or reasonably should know is a minor.

Further, Ark. Code Ann. § 5-18-107(b)⁶ (Traveling for the purpose of an unlawful sex act with a minor) criminalizes traveling for the purpose of committing an unlawful sex act with a minor, stating,

A person commits traveling for the purpose of an unlawful sex act with a minor if the person is eighteen (18) years of age or older and knowingly travels⁷ for the purpose of engaging in an unlawful sex act with a minor or a person he or she believes is a minor.

Importantly, Ark. Code Ann. § 5-18-107(f) clarifies that this section was intended to penalize those who “offer[] to pay, agree[] to pay, or pay[] a fee to engage in sexual activity” with a minor.

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 Arkansas’s CSEC laws, *see* the appendix located at the end of this report.

⁵ The text of Ark. Code. Ann. § 5-70-107 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1502 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

⁶ The text of Ark. Code. Ann. § 5-18-107 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1459 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

⁷ Ark. Code Ann. § 5-18-107(a) defines “travels” as “leav[ing] one’s residence or locality to go away on a trip, tour, or journey.”

Policy Goal 1.3 Commercial sexual exploitation of children (CSEC) laws⁸ apply to traffickers and protect all minors under 18.

● FULLY MET

Arkansas’s CSEC laws address an array of trafficker conduct. Specifically, Ark. Code Ann. § 5-70-104(a) (Promoting prostitution in the first degree) criminalizes “advance[ing] prostitution⁹ or profit[ing] from prostitution¹⁰ of a person less than eighteen (18) years of age.” Further, under Ark. Code Ann. § 5-70-107(a)(3)¹¹ (Sexual solicitation of a minor),

A person commits the offense of sexual solicitation of a minor if he or she:

....

(3) Solicits, offers, or agrees to accept a fee or a thing of value from another person for the purpose of allowing the other person to engage in sexual activity with a person who he or she knows or reasonably should know is a minor; or

Ark. Code Ann. § 5-27-305(a) (Transportation of minors for prohibited sexual conduct) applies to traffickers who transport minors, stating,

A person commits the offense of transportation of a minor for prohibited sexual conduct if the person transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of any minor, and the actor:

- (1) Knows or has reason to know that prostitution or sexually explicit conduct involving the minor will be commercially exploited by any person; and
- (2) Acts with the purpose that the minor will engage in:
 - (A) Prostitution; or
 - (B) Sexually explicit conduct.

⁸ See *supra* note 4 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

⁹ Pursuant to Ark. Code Ann. § 5-70-101(1) (Definitions),

‘Advances prostitution’ means a person if, acting other than as a prostitute or a patron of a prostitute, that person knowingly:

- (A) Causes or aids a person to commit or engage in prostitution;
- (B) Procures or solicits a patron for prostitution;
- (C) Provides a person or premises for prostitution purposes;
- (D) Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or
- (E) Engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

¹⁰ Pursuant to Ark. Code Ann. § 5-70-101(3) (Definitions),

‘Profits from prostitution’ means a person if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, the person accepts or receives money or other property pursuant to an agreement or understanding with any person in which the person participates or is to participate in the proceeds of prostitution.”

¹¹ See *supra* note 5.

Lastly, Ark. Code Ann. § 5-18-106(a)¹² (Grooming a minor for future sex trafficking) provides, “A person commits grooming a minor for future sex trafficking if the person knowingly grooms¹³ a minor with a purpose to make it more likely that the minor can be enticed or induced into a future sex trafficking act with a person.”

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

● FULLY MET

Although Arkansas law expressly prohibits a mistake of age defense in prosecutions of its core child sex trafficking offense, the defense is not likewise prohibited under the buyer-applicable trafficking law. Specifically, Ark. Code Ann. § 5-18-103(b) (Trafficking of persons) states, “It is not a defense to prosecution under subdivision (a)(4)¹⁴ of this section that the actor: (1) Did not have knowledge of a victim's age; or (2) Mistakenly believed a victim was not a minor.” Conversely, Ark. Code Ann. § 5-18-104¹⁵ (Patronizing a victim of human trafficking) does not prohibit a defendant from asserting a defense based on mistake of age and further limits criminalization to buyers who knew or should have known the person patronized was a victim of human trafficking.

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

● FULLY MET

Although state trafficking laws do not expressly prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor, Arkansas’s criminal attempt statute, Ark. Code Ann. § 5-3-201 (Conduct constituting attempt), could provide prosecutors with an alternative avenue to prosecute those cases. Ark. Code Ann. § 5-3-201(a) states,

A person attempts to commit an offense if he or she purposely engages in conduct that:

- (1) Would constitute an offense if the attendant circumstances were as the person believes them to be; or
- (2) Constitutes a substantial step in a course of conduct intended to culminate in the commission of an offense whether or not the attendant circumstances are as the person believes them to be.

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

● FULLY MET

Arkansas’s trafficking chapter expressly allows for business entity liability and establishes a business-specific penalty scheme. Specifically, Ark. Code Ann. § 5-18-105 (Enhanced liability of an organization) provides,

¹² The text of Ark. Code. Ann. § 5-18-106 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1459 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

¹³ Ark. Code Ann. § 5-18-102(6) (Definitions) defines “grooms” as “expos[ing] a minor to sexually explicit language or to a visual or print medium depicting sexually explicit conduct with the purpose [of] gain[ing] the trust of the minor.”

¹⁴ Ark. Code Ann. § 5-18-103(a)(4) states,

A person commits the offense of trafficking of persons if he or she knowingly:

-
- (4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity;

¹⁵ See *supra* note 3.

In addition to any other statutorily authorized sentence or fine, an organization convicted of an offense under this chapter [Human Trafficking Act of 2013] is subject to any combination of the following:

- (1) A suspension or revocation of a license, permit, or prior approval granted to the organization by a state or local government agency;
- (2) A court order to dissolve or reorganize; and
- (3) Other relief as is equitable.

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.

● FULLY MET

Arkansas law levies financial penalties on sex trafficking and CSEC offenders; although the mandatory fees will be directed into victim services funds, a percentage of forfeited assets is not.

Regarding mandatory fees, Ark. Code Ann. § 5-18-103(d)¹⁶ (Trafficking of persons) requires offenders convicted under the trafficking law to pay a fee as follows:

- (1) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of not less than five thousand dollars (\$5,000) nor more than fifteen thousand dollars (\$15,000).
- (2) Fine payments received under subdivision (d)(1) of this section shall be deposited as follows:
 - (A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children;¹⁷ and
 - (B) Fifty percent (50%) into the Human Trafficking Victim Support Fund.¹⁸

Similarly, Ark. Code Ann. § 5-18-104(c)¹⁹ (Patronizing a victim of human trafficking), Ark. Code Ann. § 5-18-106(c)²⁰ (Grooming a minor for future sex trafficking), Ark. Code § 5-18-107(f)²¹ (Traveling for the purpose of an unlawful sex act with a minor), Ark. Code Ann. § 5-70-104(c)²² (Promoting prostitution in the first degree), and Ark. Code Ann. § 5-70-107(e)²³ (Sexual solicitation of a minor) require offenders convicted of violating those offenses to pay fees up to \$2,500 or up to \$15,000 (depending on the offense). Such fees are also to be split equally between the Safe Harbor Fund for Sexually Exploited Children and the Human Trafficking Victim Support Fund. Ark. Code Ann. §§ 5-18-104(c)(2), 5-18-106(c)(2), 5-18-107(f)(2), 5-70-104(c)(2), 5-70-107(e)(2).

¹⁶ See *supra* note 2.

¹⁷ Pursuant to Ark. Code Ann. § 19-5-1252(c)(2) (Safe harbor fund for sexually exploited children – Definition), funds will be used to provide the following:

- (A) Services and treatment, such as securing residential housing, health services, and social services for sexually exploited children;
- (B) Grants to service providers working with sexually exploited children; and
- (C) For the management and operation of the fund.

¹⁸ Pursuant to Ark. Code Ann. § 19-5-1261(c)(2)(A) (Human trafficking victim support fund – Definition), funds will be used, in part, to provide “[g]rants to nonprofit, religious, and other third-party organizations that provide services and treatment, such as securing residential housing, health services, and social services for victims of human trafficking.”

¹⁹ See *supra* note 3.

²⁰ See *supra* note 12.

²¹ See *supra* note 6.

²² The text of Ark. Code Ann. § 5-70-104 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1459 and Senate Bill 495 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

²³ See *supra* note 5.

Further, Ark. Code Ann. § 5-4-703 (Additional fine – Offenses committed against a child) requires sex trafficking and CSEC offenders to pay a \$100 fee to be deposited in the Arkansas Children’s Advocacy Center Fund, stating,

(a) In addition to any other sentence, the court shall assess an additional fine of one hundred dollars (\$100) for the following offenses if the finder of fact determines that the offense was committed against a child or in the presence of a child:

....

(9) Trafficking of persons, § 5-18-103, or patronizing a victim of human trafficking, § 5-18-104;

....

(12) . . . [T]ransportation of minors for prohibited sexual conduct, § 5-27-305 . . . ;

....

(b)

(1) A fine assessed and collected under this section shall be remitted on or before the fifteenth day of the following month to the Arkansas Children’s Advocacy Center Fund under § 19-5-1260.

....

Regarding asset forfeiture, Ark. Code Ann. § 5-5-201(a)(2) (Forfeiture requirement – Exceptions) provides for forfeiture in trafficking cases; it states, “Upon conviction, any conveyance, including an aircraft, motor vehicle, or vessel, is subject to forfeiture under this subchapter if it is used in the commission or attempt of . . . Trafficking of persons, § 5-18-103.” Ark. Code Ann. § 5-5-202 (Seizure of conveyances) governs seizure of those conveyances while Ark. Code Ann. § 5-5-204 (Use or sale of conveyances – Disposition of sale proceeds) provides for their sale and distribution. Pursuant to Ark. Code Ann. § 5-5-204(a)(1)(B), the proceeds from such sale will first be directed toward satisfying any outstanding victim restitution. If no restitution is owed or proceeds remain, Ark. Code Ann. § 5-5-204(b) distributes proceeds as follows:

(1) Forty percent (40%) to be deposited into the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund;

(2)

(A) Forty percent (40%) to the law enforcement agency that perfected the arrest.

(B) However, if a federal agency perfected the arrest, the forty percent (40%) under subdivision

(b)(2)(A) of this section shall be distributed to the county sheriff’s office of the county responsible for the prosecution; and

(3) Twenty percent (20%) to the county sheriff’s office of the county responsible for the prosecution.

As noted above, however, state asset forfeiture laws do not direct a percentage of a sex trafficking offender’s forfeited assets into a victim services fund.



ISSUE 2: Identification of & Response to Victims

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

● **FULLY MET**

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Ark. Code Ann. § 5-18-102(15) (Definitions) defines “victim of human trafficking”²⁴ to include victims under Arkansas’s core sex trafficking offense, Ark. Code Ann. § 5-18-103 (Trafficking of persons). Ark. Code Ann. § 5-18-103(a)(4) does not require third party control because it applies directly to buyers of sex with minors.²⁵ Accordingly, third party control is not required to identify a commercially sexually exploited child as a trafficking victim or to establish the crime of trafficking of persons under Ark. Code Ann. § 5-18-103.

Notably, however, the definition of “victim of trafficking” does not include a person who has been subjected to Ark. Code Ann. § 5-18-104²⁶ (Patronizing a victim of human trafficking), which hinges criminalization on whether the buyer knew or reasonably should have known the person patronized was a victim of human trafficking.²⁷ Consequently, the victim must be under the control of a trafficker to establish the crime of patronizing a victim of human trafficking under Ark. Code Ann. § 5-18-104.

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

● **PARTIALLY MET**

Policy guidance on responding to foreign national victims of child sex trafficking may be developed through the Arkansas State Attorney General’s Task Force for the Prevention of Human Trafficking, which includes representatives from various child-serving entities.²⁸ Specifically, Ark. Code Ann. § 12-19-101(a), (d)(6) (State task force for the prevention of human trafficking) states,

²⁴ Ark. Code Ann. § 5-18-102(15) defines “victim of human trafficking” as “a person who has been subjected to trafficking of persons, § 5-18-103.”

²⁵ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Ark. Code Ann. § 5-18-103(a)(4).

²⁶ See *supra* note 3.

²⁷ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Ark. Code Ann. § 5-18-104.

²⁸ Ark. Code Ann. § 12-19-101(b), (c) governs appointment of task force members, stating,

(b) If established, representatives on the task force shall be appointed by the Attorney General and may include representatives from:

- (1) The office of the Attorney General;
- (2) The office of the Governor;
- (3) The Department of Labor and Licensing;
- (4) The Department of Health;
- (5) The Department of Human Services;
- (6) The Arkansas Association of Chiefs of Police;
- (7) The Arkansas Sheriffs' Association;

- (a)
 - (1) The Attorney General may establish a State Task Force for the Prevention of Human Trafficking.
 - (2) The task force shall address all aspects of human trafficking, including sex trafficking and labor trafficking of both United States citizens and foreign nationals.
-
- (d) If the task force is created by the Attorney General, the task force shall:
 -
 - (6) Establish policies to enable state government to work with nongovernmental organizations and other elements of the private sector to prevent human trafficking and provide assistance to victims of human trafficking who are United States citizens or foreign nationals;

Accordingly, while Arkansas law mandates the development of policy guidance that facilitates access to services and assistance for trafficked foreign national children, such development hinges upon the creation of the task force, which is discretionary.

- 2.2.1 Recommendation: Statutorily provide policy guidance that facilitates access to services and assistance for trafficked foreign national children without hinging its provision on the discretionary creation of a task force. (*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

Arkansas 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.*)

-
- (8) The Division of Arkansas State Police;
 - (9) The Arkansas Prosecuting Attorneys Association;
 - (10) Local law enforcement; and
 - (11) Nongovernmental organizations such as:
 - (A) Those specializing in the problems of human trafficking;
 - (B) Those representing diverse communities disproportionately affected by human trafficking;
 - (C) Agencies devoted to child services and runaway services; and
 - (D) Academic researchers dedicated to the subject of human trafficking.
 - (c) If the task force is created by the Attorney General, he or she may invite federal agencies that operate in the state to be members of the task force, including without limitation:
 - (1) The Federal Bureau of Investigation;
 - (2) United States Immigration and Customs Enforcement; and
 - (3) The United States Department of Labor.

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

Arkansas 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: 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.

● PARTIALLY MET

Arkansas law prohibits the criminalization of some, but not all, minors for prostitution offenses. While protections exist, they are limited to individuals identified as trafficking victims, potentially allowing individuals who are not identified as victims under Ark. Code § 5-18-103 (Trafficking in persons) to be prosecuted for prostitution. Ark. Code Ann. § 5-70-102(a), (c) (Prostitution) states,

(a) A person commits prostitution if in return for or in expectation of a fee he or she engages in or agrees or offers to engage in sexual activity with any other person.

....

(c) It is not an offense under this section if at the time of the person's commission of or arrest for act that meets the elements of the offense of prostitution, the person was a victim of trafficking of persons, § 5-18-103.

Ark. Code Ann. § 5-70-102 further fails to establish a protocol requiring law enforcement to refer impacted children to a direct services organization or child-serving agency in lieu of arrest. Instead, Ark. Code Ann. § 5-70-102(d) only requires law enforcement to make a determination of trafficking victimization and, if identifying the minor as a trafficking victim, to notify the prosecuting attorney. Ark. Code Ann. § 5-70-102(d) states,

(1) If a law enforcement agency is investigating an offense under this section that has allegedly been committed by a minor, the law enforcement agency shall make every effort to determine whether the minor, at the time of the offense, was a victim of trafficking in persons, § 5-18-103 [Trafficking in persons].

(2) If a determination under subdivision (d)(1) of this section is made that the minor was a victim of trafficking of persons, § 5-18-103, the law enforcement agency investigating the offense shall immediately notify the prosecuting attorney.

Notably, minors may also be subject to criminalization under Ark. Code Ann. § 5-70-103(a)(2) (Sexual solicitation), which criminalizes persons who “[s]olici[t] or reques[t] a person to engage in sexual activity with a him or her in return for a fee.” Some minors may be able to assert an affirmative defense to charges pursuant Ark. Code Ann. § 5-70-103(c), which states, “It is an affirmative defense to prosecution under this section that the person engaged in an act of sexual solicitation as a result of being a victim of trafficking of persons, § 5-18-103.” Similarly, Ark. Code Ann. § 5-2-210(b), (c)(3) (Human trafficking – Affirmative defense) allows trafficking victims to assert an affirmative defense to any prostitution offense, stating,

(b) It is an affirmative defense to an offense listed under subsection (c) of this section if at the time a person engaged in the conduct charged to constitute the offense the person was:

- (1) A victim of trafficking of persons;²⁹ and
- (2) Engaged in the offense as a result of the trafficking of persons.
- (c) The affirmative defense under this section may be raised only in a prosecution for one (1) or more of the following offenses:
 -
 - (3) A prostitution offense under § 5-70-101 et seq.;

However, these affirmative defense laws do not prohibit minors from being arrested, charged, detained, or prosecuted for engaging in conduct in violation of the law.

- 2.5.1 Recommendation: Strengthen existing law to expressly prohibit the criminalization of any person under 18 years of age, regardless of whether the minor is identified as a victim of child sex trafficking, and establish a services-referral protocol 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

Although state 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. Pursuant to Ark. Code Ann. § 5-2-210(b), (c) (Human trafficking – Affirmative defense),

- (b) It is an affirmative defense to an offense listed under subsection (c) of this section if at the time a person engaged in the conduct charged to constitute the offense the person was:
 - (1) A victim of trafficking of persons;³⁰ and
 - (2) Engaged in the offense as a result of the trafficking of persons.
- (c) The affirmative defense under this section may be raised only in a prosecution for one (1) or more of the following offenses:
 - (1) Forgery, § 5-37-201;
 - (2) Defrauding a prospective adoptive parent, § 5-37-216;
 - (3) A prostitution offense under § 5-70-101 et seq.;
 - (4) Obscene performance at a live public show, § 5-68-305; or
 - (5) A controlled substance offense under § 5-64-401 et seq. that is not a Class Y felony.

- 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.*)

²⁹ Ark. Code Ann. § 5-2-210(a) defines “victim of trafficking of persons” as “a person who has been subjected to trafficking of persons, § 5-18-103.”

³⁰ See *supra* note 29 for the definition of “victim of trafficking of persons.”

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.

● **PARTIALLY MET**

Although state law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, an affirmative defense may be available for promoting prostitution charges. Pursuant to Ark. Code Ann. § 5-2-210(b), (c)(3) (Human trafficking – Affirmative defense),

- (b) It is an affirmative defense to an offense listed under subsection (c) of this section if at the time a person engaged in the conduct charged to constitute the offense the person was:
 - (1) A victim of trafficking of persons;³¹ and
 - (2) Engaged in the offense as a result of the trafficking of persons.
- (c) The affirmative defense under this section may be raised only in a prosecution for one (1) or more of the following offenses:
 - ...
 - (3) A prostitution offense under § 5-70-101 et seq.;

2.7.1 Recommendation: Amend state law to expressly 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**

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

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

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

● **PARTIALLY MET**

Arkansas 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, Arkansas law establishes a minimum age of 10 years for purposes of juvenile court jurisdiction, permits direct file and transfers to criminal court for minors accused of certain offenses, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Permits Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization

³¹ See *supra* note 29 for the definition of “victim of trafficking of persons.”

Summary	10. “Delinquent juvenile” is defined as “a juvenile ten (10) years of age or older”	17.	Yes. Minors 16+ years old who have been charged with felony offenses and minors previously convicted in criminal court.	Yes. 14 and 15 year olds charged with certain offenses may be transferred to criminal court.	No.
Relevant Statute(s)	Ark. Code Ann. § 9-27-303(15)(A) (Definitions); Ark.. Code Ann. § 9-27-306(a)(1)(A)(i) (Jurisdiction)	Ark. Code Ann. § 9-27-306(a)(1)(A)(i) (Jurisdiction)	Ark. Code Ann. § 9-27-318(a) (Filing and transfer to criminal division of circuit court)	Ark. Code Ann. § 9-27-318(b) (Filing and transfer to criminal division of circuit court)	Ark. Code Ann. § 9-27-318(g) (Filing and transfer to criminal division of circuit court)

Consequently, some minors may still be subjected to age-inappropriate juvenile court responses due to state laws that: (1) fail to establish a minimum age for juvenile court jurisdiction that aligns with domestic standards; (2) allow some juvenile cases to be automatically transferred to criminal court; and (3) do 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

Child sex trafficking is included in the definition of “sexual abuse” under Title 12, Chapter 18 (Child Maltreatment Act) as well as in the definition of “sexual abuse” and the definition of “dependent juvenile” under Title 9, Chapter 27 (Juvenile Courts and Proceedings).

Pursuant to Ark. Code Ann. § 12-18-103(20)(F) (Definitions),

“Sexual abuse” means:

....

(F) By a person eighteen (18) years of age or older to a person who is younger than eighteen (18) years of age, the recruiting, harboring, transporting, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act;

Additionally, Ark. Code Ann. § 9-27-303(17)(G) (Definitions) defines “dependent juvenile” as follows:

- (i) A child who has been a victim of human trafficking.
- (ii) If the parent knew or should have known the child was a victim of human trafficking, the child is not a dependent juvenile but may be dependent-neglected;

Further, Ark. Code Ann. § 9-27-303(18)(A) defines “dependent-neglected juvenile” to include child sex trafficking through the definition of “sexual abuse.” Ark. Code Ann. § 9-27-303(18) states,

- (A) “Dependent-neglected juvenile” means any juvenile who is at substantial risk of serious harm as a result of the following acts or omissions to the juvenile, a sibling, or another juvenile:
- (i) Abandonment;

- (ii) Abuse;
- (iii) Sexual abuse;
- (iv) Sexual exploitation;³²
- (v) Neglect;
-

(B) “Dependent-neglected juvenile” includes dependent juveniles.

Ark. Code Ann. § 9-27-303(53)(F) provides:

“Sexual abuse” means:

.....

By a person eighteen (18) years of age or older to a person who is younger than eighteen (18) years of age, the recruiting, harboring, transporting, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.³³

EXTRA CREDIT



Child labor trafficking is included in the definitions of “sexual abuse” under Ark. Code Ann. § 9-27-303(3)(A) (Definitions) and “dependent juvenile” under Ark. Code Ann. § 9-27-303(17).

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

Arkansas’s child welfare code does not allow for a child welfare response in non-caregiver child sex trafficking cases. While the definitions of “dependent juvenile” and “dependent-neglected juvenile” under Ark. Code Ann. § 9-27-303(17) and (18) are not limited to acts committed by a caregiver, the inclusion of these definitions in Chapter 27 of Title 9, which governs the dependency process, results in a requirement of caregiver fault in order for a child to access child welfare services. 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](#).*)

³² Additionally, the definition of dependent-neglected child includes commercial sexual exploitation of children (CSEC) through the definition of “sexual exploitation.” Ark. Code Ann. § 9-27-303(54)(A)(i) defines “sexual exploitation” to include “[a]llowing, permitting, or encouraging participation or depiction of the juvenile in . . . Prostitution.”

³³ Regarding the definition of “sexual abuse” in the Child Maltreatment Act, Ark. Code Ann. § 12-18-103(20)(F) also includes:

By a person eighteen (18) years of age or older to a person who is younger than eighteen (18) years of age, the recruiting, harboring, transporting, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.



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.

1 PARTIALLY MET

Arkansas law does not mandate a process for coordinating access to specialized, community-based services for child sex trafficking victims; however, state law requires the development of a state plan for delivering appropriate services to child victims. Pursuant Ark. Code Ann. § 9-27-323(k) (Diversion – Conditions – Agreement – Completion – Definition),

- (1) The Department of Human Services shall develop a statewide referral protocol for helping to coordinate the delivery of services to sexually exploited children.
- (2) As used in this section, “sexually exploited child” means a person less than eighteen (18) years of age who has been subject to sexual exploitation because the person:
 - (A) Is a victim of trafficking of persons under § 5-18-103;
 - (B) Is a victim of child sex trafficking under 18 U.S.C. § 1591, as it existed on January 1, 2013; or
 - (C) Engages in an act of prostitution under § 5-70-102 or sexual solicitation under § 5-70-103.

3.1.1 Recommendation: Strengthen existing law to 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.

1 PARTIALLY MET

Arkansas law may provide a multi-disciplinary team (MDT) response to child sex trafficking cases; however, the response hinges on development of the MDT protocol, and the MDT protocol may include, but is not specific to, child sex trafficking cases. Pursuant to Ark. Code Ann. § 20-82-209(b), (c) (Multidisciplinary teams – Protocols created – Responsibilities – Definitions),

- (b) The [Multidisciplinary Team Oversight Committee] shall:
 - (1)
 - (A) Prepare and issue a statewide model protocol for multidisciplinary teams regarding cases of child abuse and the provision of safety and services to victims of child abuse, who may include child victims of human trafficking.
 - (B) The statewide model protocol shall describe coordinated investigation or coordinated services, or both, of state and local law enforcement, the Department of Human Services, and medical, mental health, and child safety centers; and
 - (2) Review and approve a protocol prepared by each multidisciplinary team.
- (c) Each multidisciplinary team³⁴ shall:
 - (1) Develop a protocol consistent with the statewide model protocol issued by the committee;

³⁴ Ark. Code Ann. § 20-82-209(a) defines “multidisciplinary team” as “a local team operating under a statewide model protocol developed by the Multidisciplinary Team Oversight Committee.”

- (2) Submit the protocol to the Children's Advocacy Centers of Arkansas for review and approval; and
- (3) Ensure the timely exchange of relevant information.

3.2.1 Recommendation: Statutorily require a multi-disciplinary team response in cases of child sex trafficking. (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.

● PARTIALLY MET

Child sex trafficking victims who are adjudicated dependent-neglected and placed in the custody of the Department of Human Services (DHS) may have access to specialized services through a “child welfare agency.”³⁵ Ark. Code Ann. § 9-27-334(a)(1)–(2)(B) (Disposition – Dependent-neglected – Generally) states,

If a juvenile is found to be dependent-neglected, the circuit court may enter an order making any of the following dispositions:

- (1) Order family services;
- (2)
 - (A) If it is in the best interest of the juvenile, transfer custody of the juvenile to the Department of Human Services, to another licensed agency responsible for the care of juveniles, or to a relative or other individual.
 - (B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency³⁶ as defined at § 9-28-402 [Definitions].

³⁵ Further, Ark. Code Ann. § 9-27-323(k) (Diversion – Conditions – Agreement – Completion – Definition) mandates the development of a state plan for delivering appropriate services to child victims. *See supra* Policy Goal 3.1 for the substantive provisions of Ark. Code Ann. § 9-27-323(k).

³⁶ Ark. Code Ann. § 9-28-402(12) defines “exempt child welfare agency” as follows:

[A]ny person, corporation, partnership, voluntary association or other entity, whether established for profit or otherwise, that otherwise fits the definition of a child welfare agency but that is specifically exempt from the requirement of obtaining a license under this subchapter. Those agencies specifically exempt from the license requirement are:

- (A) A facility or program owned or operated by an agency of the United States Government;
- (B)
 - (i) Any agency of the State of Arkansas that is statutorily authorized to administer or supervise child welfare activities.
 - (ii) In order to maintain exempt status, the state child welfare agency shall state every two (2) years in written form signed by the persons in charge that their agency is in substantial compliance with published state agency child welfare standards.
 - (iii) Visits to review and advise exempt state agencies shall be made as deemed necessary by the Child Welfare Agency Review Board to verify and maintain substantial compliance with the standards;
- (C) A facility or program owned or operated by or under contract with the Division of Correction;
- (D) A hospital providing acute care licensed pursuant to § 20-9-201 et seq.;
- (E) Any facility governed by the Department of Human Services State Institutional System Board or its successor;
- (F) Human development centers regulated by the Board of Developmental Disabilities Services pursuant to the Location Act for Community Homes for Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

....

Pursuant to Arkansas’s Child Welfare Agency Licensing Act, the definitions of “child welfare agency” and “child placement agency” include entities that house or assist in the placement of juvenile sex trafficking victims. Specifically, Ark. Code Ann. § 9-28-402(8)(D) defines “child welfare agency” to include the following:

[A]ny person, corporation, partnership, voluntary association, or other entity or identifiable group of entities having a coordinated ownership of controlling interest, whether established for profit or otherwise, that . . . [r]eceives, places, plans or assists in the placement of a child victim of human trafficking in a home or any type of shelter or facility.

Further, Ark. Code Ann. § 9-28-402(7)(D) defines “child placement agency” to include “a child welfare agency . . . that . . . [p]laces, plans for the placement or assists in the placement of a child victim of human trafficking in a home or any type of shelter or facility.”³⁷

Accordingly, Ark. Code Ann. § 9-27-334(a)(2)(B) allows DHS to refer child sex trafficking victims to specialized entities that serve child sex trafficking victims provided that those entities have been licensed in their jurisdiction. However, requiring a child sex trafficking victim to be adjudicated as “dependent-neglected” to receive services through child welfare could unjustly involve non-offending parents in the family court system and result in harmful, albeit unintentional, consequences for the child and family.

- 3.3.1 Recommendation: Strengthen existing law by requiring child welfare to provide access to specialized services for child sex trafficking victims without requiring that the child be adjudicated as dependent-neglected or placed outside of the home. (*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

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

-
- (G) Any facility licensed as a family home pursuant to the Location Act for Community Homes for Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;
 - (H) Any boarding school as defined in this section;
 - (I) Any temporary camp as defined in this section;
 - (J) Any state-operated facility to house juvenile delinquents or any serious offender program facility operated by a state designee to house juvenile delinquents. Those facilities shall be subject to program requirements modeled on nationally recognized correctional facility standards that shall be developed, administered, and monitored by the Division of Youth Services;
 - (K) Any child welfare agency operated solely by a religious organization that elects to be exempt from licensing and that complies within the conditions of the exemption for church-operated agencies as set forth in this subchapter;
 - (L) The Division of Developmental Disabilities Services; and
 - (M) Any intellectual or other developmental disabilities services waiver provider licensed under § 20-48-208 or the Location Act for Community Homes for Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

³⁷ Such facilities may include regulated facilities, which are required to provide “[t]rauma-informed programming and clinical services and, when applicable, evidence-based treatments.” Ark. Code Ann. § 9-28-1302 (Quality of care – Quality assurance review). The text of Ark. Code Ann. § 9-28-1302 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1446 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

- 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.

● PARTIALLY MET

Arkansas law allows extended foster care services to be provided to youth under 21 years of age through extended court jurisdiction. However, these services are not extended to youth under 23 years of age as permitted under federal law.³⁸ Specifically, Ark. Code Ann. § 9-27-306(a)(1)(B) (Jurisdiction) allows for extended juvenile court jurisdiction over youth over 18 and under 21 years of age as follows:

- (a)
- (1) The circuit court shall have exclusive original jurisdiction of and shall be the sole court for the following proceedings governed by this subchapter, including without limitation:
-
- (B) Proceedings in which a juvenile is alleged to be dependent or dependent-neglected from birth to eighteen (18) years of age, except for the following:
- (i)
- (a) A juvenile who has been adjudicated dependent or dependent-neglected before eighteen (18) years of age may request the court to continue jurisdiction over the juvenile until twenty-one (21) years of age so long as the juvenile is:
- (1) Completing secondary education or a program leading to an equivalent credential;
 - (2) Enrolled in an institution providing post-secondary or vocational education;
 - (3) Participating in a program or activity designed to promote or remove barriers to employment;
 - (4) Employed for at least eighty (80) hours per month; or
 - (5) Incapable of completing school or work requirements due to a documented medical condition.
- (b) The court shall retain jurisdiction only if the juvenile meets the requirements of subdivision (a)(1)(B)(i)(a) of this section or has a viable plan to meet the requirements.
-
- (ii) A juvenile may contact his or her attorney ad litem to petition the court to return to the court's jurisdiction if the juvenile:
- (a) Was adjudicated dependent or dependent-neglected;
 - (b) Was in foster care at eighteen (18) years of age; and
 - (c) Left foster care but desires to submit to the jurisdiction of the court before reaching twenty-one (21) years of age to benefit from extended foster care

Additionally, Ark. Code Ann. § 9-27-306(a)(1)(D)(i)³⁹ provides for extended juvenile court jurisdiction over “[p]roceedings in which a family is alleged to be in need of services” as follows:

³⁸ For more information, see Shared Hope Int’l, *Issue Brief 3.5: Continuum of Care*, <https://reportcards.sharedhope.org/related-resources/#3.5> (discussing federal laws that allow for funded foster care services to be extended to youth under 23 years of age).

³⁹ The text of Ark. Code Ann. § 9-27-306 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 346 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

A juvenile whose family has been adjudicated as a family in need of services and who is in foster care before 18 years of age may request that the court continue jurisdiction until 21 years of age the requirements in subdivision (a)(1)(B)(i)(a)⁴⁰ of this section are met

Lastly, both Ark. Code Ann. § 9-27-363 (Foster youth transition),⁴¹ codified under the Arkansas Juvenile Code, and Ark. Code Ann. § 9-28-114 (Foster youth transition),⁴² codified under the Children and Family Services subchapter, set out a range of duties of the department in relation to providing services to transition age foster youth.

⁴⁰ Pursuant to Ark. Code Ann. § 9-27-306(a)(1)(B)(i)(a),

A juvenile who has been adjudicated dependent or dependent-neglected before eighteen (18) years of age may request the court to continue jurisdiction over the juvenile until twenty-one (21) years of age so long as the juvenile is:

- (1) Completing secondary education or a program leading to an equivalent credential;
- (2) Enrolled in an institution providing postsecondary or vocational education;
- (3) Participating in a program or activity designed to promote or remove barriers to employment;
- (4) Employed for at least eighty (80) hours per month; or
- (5) Incapable of completing school or work requirements due to a documented medical condition.

⁴¹ Pursuant to Ark. Code Ann. § 9-27-363(a)(3), (j),

(a) The General Assembly finds that:

....

(3) The Department of Human Services shall:

- (A) Include the juvenile in the process of developing a plan to transition the child into adulthood;
- (B) Empower the juvenile with information about all of the options and services available;
- (C) Provide the juvenile with the opportunity to participate in services tailored to his or her individual needs and designed to enhance his or her ability to receive the skills necessary to enter adulthood;
- (D) Assist the juvenile in developing and maintaining healthy relationships with nurturing adults who can be a resource and positive guiding influences in his or her life after he or she leaves foster care; and
- (E) Provide the juvenile with basic information and documentation regarding his or her biological family and personal history.

....

(j) A circuit court shall continue jurisdiction over a juvenile who has reached eighteen (18) years of age to ensure compliance with § 9-28-114.

⁴² Pursuant to Ark. Code Ann. § 9-28-114(a)(3)(F),

The General Assembly finds that:

....

(3) The Department of Human Services shall:

....

(F) Offer an extended foster care program that provides:

- (i) Case management services and supports; and
- (ii) Financial assistance with room and board costs for a juvenile who:
 - (a) Was adjudicated dependent or dependent-neglected;
 - (b) Was in foster care at eighteen (18) years of age but is not yet twenty-one (21) years of age or such other age as may be required under federal law;
 - (c) Wishes to participate in extended foster care to benefit from the program; and
 - (d) Either:
 - (1) Is completing secondary education or a program leading to an equivalent credential;
 - (2) Is enrolled in an institution that provides postsecondary or vocational education;

- 3.5.1 Recommendation: Amend state 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 Arkansas 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.](#))

-
- (3) Is participating in a program or activity designed to promote or remove barriers to employment;
 - (4) Is employed for at least eighty (80) hours per month;
 - (5) Has a viable plan to meet the requirements of subdivisions (a)(3)(F)(ii)(d)(1)-(4) of this section; or
 - (6) Is incapable of doing any of the activities listed in subdivisions (a)(3)(F)(ii)(d)(1)-(5) of this section due to a medical condition, which incapability is supported by regularly updated information in the case plan of the juvenile;



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 Arkansas law, this protection is not expressly available to victims of child sex trafficking and CSEC.

- 4.1.1 Recommendation: Amend state law to 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.

● PARTIALLY MET

Arkansas's crime victims' compensation laws exempt victims of child sex trafficking and CSEC, from some, but not all, ineligibility factors, leaving some commercially sexually exploited children without access to an award. For purposes of accessing crime victims' compensation, Ark. Code Ann. § 16-90-703(11)(A) (Definitions.) defines "victim" as follows:

[A] person who suffers personal injury or death as a result of criminally injurious conduct⁴³ committed either within the State of Arkansas or against any Arkansas resident who suffers personal injury as the result of criminally injurious conduct which occurs in states presently not having crime victims reparations programs for which the victim is eligible, and further includes any Arkansas resident who is injured or killed by an act of terrorism committed outside of the United States, as defined in 18 U.S.C. § 2331.

As noted above, however, several ineligibility factors may prevent victims of child sex trafficking and CSEC from accessing an award. Pursuant to Ark. Code Ann. § 16-90-712(a)(1)–(6) (Conditions for reparations – Changes in awards),

Reparations shall not be awarded:

- (1) Unless the claim has been filed with the Crime Victims Reparations Board within one (1) year after the injury or death upon which the claim is based, unless the board finds good cause for the failure to file a timely claim;
- (2) To a claimant who was the offender or an accomplice of the offender;
-
- (5) To any claimant who has been convicted of a felony involving criminally injurious conduct;
- (6) Unless the criminally injurious conduct resulting in injury or death was reported to the proper authorities within seventy-two (72) hours after its occurrence, or the board finds there was good cause for the failure to report within that time;

⁴³ Ark. Code Ann. § 16-90-703 (5)(A)(i) defines "criminally injurious conduct" as "an act which occurs or is attempted in this state that results in personal injury or death to a victim, which act is punishable by fine, imprisonment, or death."

Further, Ark. Code Ann. § 16-90-712(b)(2) states that “[r]eparations otherwise payable to a claimant shall be diminished to the extent . . . of the degree of responsibility for the cause of the injury or death attributable to the victim, as determined by the board.”

Notably, Arkansas law does carve out an exception to ineligibility based on cooperation requirements. Under Ark. Code Ann. § 16-90-712(c),⁴⁴

(1) Except as provided in subdivision (c)(2) of this section, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, the board may deny, withdraw, or reduce an award of reparations.

(2) This subsection does not apply if the claimant or victim is a victim of human trafficking or a minor victim of a sex offense, as defined in § 12-12-903 [Definitions].⁴⁵

4.2.1 Recommendation: Amend state law to exempt victims of child sex trafficking and CSEC from all 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.

○ NOT MET

Arkansas law does not allow sex trafficked children and youth to vacate delinquency adjudications or criminal convictions for offenses arising from trafficking victimization.

4.3.1 Recommendation: Amend state law to allow 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.

● PARTIALLY MET

Restitution is discretionary in child sex trafficking and CSEC cases. Pursuant to Ark. Code Ann. § 5-4-205(a)(1) (Restitution), “A defendant who is found guilty or who enters a plea of guilty or nolo contendere to an offense may

⁴⁴ The text of Ark. Code. Ann. § 16-90-712 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1470 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

⁴⁵ Ark. Code Ann. § 12-12-903(13)(A)(i), (ii) defines “sex offense” as follows:

“Sex offense” includes, but is not limited to:

(i) The following offenses:

....

(i) Transportation of minors for prohibited sexual conduct, § 5-27-305;

....

(m) Promoting prostitution in the first degree, § 5-70-104;

....

(cc) Trafficking of persons under § 5-18-103(a)(4);

(dd) Patronizing a victim of human trafficking, § 5-18-104; and

....

(ii) An attempt, solicitation, or conspiracy to commit any of the offenses enumerated in subdivision (13)(A)(i) of this section;

be ordered to pay restitution.” Ark. Code Ann. § 5-4-205(b) further provides that restitution is based on the “actual economic loss caused to a victim⁴⁶ by the offense,” and if bodily injury has occurred, the restitution order may require the defendant to pay for the following:

- (A) Pay the cost of a necessary medical or related professional service or device relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing;
- (B) Pay the cost of necessary physical and occupational therapy and rehabilitation;
- (C)
 - (i) Reimburse the victim for income lost by the victim as a result of the offense.
 - (ii) The maximum that a victim may recover for lost income is fifty thousand dollars (\$50,000); and
- (D) Pay an amount equal to the cost of a necessary funeral and related services in the case of an offense that resulted in bodily injury that also resulted in the death of a victim.

4.4.1 Recommendation: Amend state law to require restitution in child sex trafficking and 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

Arkansas law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Ark. Code Ann. § 16-118-109(b)–(g)⁴⁷ (Civil cause of action for human trafficking victims) states,

- (b) An individual who is a victim of human trafficking⁴⁸ may bring a civil action in any appropriate state court against a person or entity who:
 - (1) Knew or should have known that the individual was or would be subjected to any form of trafficking or persons pursuant to § 5-18-103 [Trafficking of persons]; and
 - (2) Caused, was responsible for, or benefitted financially or received anything of value from the human trafficking incident.
- (c) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.
- (d) A prevailing plaintiff shall also be awarded attorney's fees and costs.
- (e) Three (3) times actual damages shall be awarded on proof of actual damages when a defendant's acts were willful and malicious.
-
- (g) In a civil action brought under this section:
 - (1) Fault of a victim of human trafficking shall not be apportioned against the victim of human trafficking; and
 - (2) The comparative fault provisions under § 16-64-122 [Comparative fault] do not apply.

Civil remedies are available more generally to victims of other crimes under Ark. Code Ann. § 16-118-107(a)(1) (Civil action by crime victim), which states, “Any person injured or damaged by reason of conduct of another

⁴⁶ Ark. Code Ann. § 5-4-205(c)(1) defines “victim” as “any person, partnership, corporation, or governmental entity or agency that suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode.”

⁴⁷ The text of Ark. Code. Ann. § 16-118-109 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 282 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

⁴⁸ Pursuant to Ark. Code Ann. § 16-118-109(a), “victim of human trafficking” has the same meaning as set forth under Ark. Code Ann. § 5-18-102 (Definitions), which defines “victim of human trafficking” as “a person who has been subjected to trafficking of persons, § 5-18-103 [Trafficking of persons].”

person that would constitute a felony under Arkansas law may file a civil action to recover damages based on the conduct.”

EXTRA CREDIT



Arkansas law provides sex trafficked youth with a trafficking-specific civil remedy under Ark. Code Ann. § 16-118-109(b), which allows “[a]n individual who is a victim of human trafficking [to] bring a civil action in any appropriate state court” This protection applies to victims of Ark. Code Ann. § 5-18-103 (Trafficking of persons), including both minor and adult victims.



Arkansas law provides child labor trafficking victims with a trafficking-specific civil remedy under Ark. Code Ann. § 16-118-109(b), which allows “[a]n individual who is a victim of human trafficking [to] bring a civil action in any appropriate state court” This protection applies to victims of Ark. Code Ann. § 5-18-103 (Trafficking of persons), including both sex and labor trafficking victims.

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.

 PARTIALLY MET

Although Arkansas law allows prosecutions for one of its CSEC offenses to commence at any time, prosecutions for child sex trafficking and the state’s other CSEC offenses are still subject to a statute of limitation, and the statute of limitation for filing a trafficking-specific civil action is only lengthened, not eliminated. Pursuant to Ark. Code Ann. § 5-1-109(a)(1)(J) (Statute of limitations), “A prosecution for the following offenses may be commenced at any time: . . . (J) Transportation of minors for prohibited sexual conduct, § 5-27-305.” Otherwise, Ark. Code Ann. § 5-1-109(b) generally requires a prosecution to commence within 6 years or less depending on the classification of the offense.

Regarding civil actions, Ark. Code Ann. § 16-118-109(f)⁴⁹ (Civil cause of action for victims of human trafficking – Definition) provides,

- (1) A statute of limitation period imposed for the filing of a civil action under this section will not begin to run until the plaintiff discovers that the human trafficking incident occurred and that the defendant caused, was responsible for, or benefited financially or received anything of value from the human trafficking incident.
- (2) If the plaintiff is a minor, the limitation period will not begin until he or she is eighteen (18) years of age.
- (3) If the plaintiff is under a disability at the time the cause of action accrues so that it is impossible or impracticable for him or her to bring an action, the time of the disability will not be part of the time limited for the commencement of the action.

⁴⁹ See *supra* note 47.

(4) If the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant, the time period during which the threats, intimidation, manipulation, or fraud occurred will not be part of the statute of limitations for the commencement of this action.

(5) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute of limitations is due to conduct by the defendant that induced the plaintiff to delay the filing of the action or placed the plaintiff under duress.

- 4.6.1 Recommendation: Strengthen existing law to allow prosecutions for any child sex trafficking or CSEC offense 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

Arkansas 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: Amend state law to provide 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

Arkansas 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, Ark. Code Ann. § 16-43-1001(a)(1) (Closed-circuit television) states,

In any criminal proceeding, on motion of the prosecutor after notice to the defendant or on motion of the defense attorney, the court may, upon a showing of clear and convincing evidence that testifying in open court would be harmful or detrimental to the child,⁵⁰ order that the testimony of a victim or witness who is

⁵⁰ Ark. Code Ann. § 16-43-1001(b) states,

In ruling on the motion, the court shall consider the following factors:

- (1) The age and maturity of the child;
- (2) The possible effect that testimony in person may have on the child;
- (3) The extent of the trauma the child has already suffered;
- (4) The nature of the testimony to be given by the child;
- (5) The nature of the offense, including, but not limited to, the use of a firearm or any other deadly weapon during the commission of the crime or the infliction of serious bodily injury upon the victim during the commission of the crime;
- (6)
 - (A) Threats made to the child or the child's family in order to prevent or dissuade the child from attending or giving testimony at any trial or court proceeding or to prevent the child from reporting the alleged offense or from assisting in criminal prosecution.
 - (B) Threats under this subdivision (b)(6) may include, but not be limited to, threats of serious bodily injury to be inflicted on the child or a family member, threats of incarceration or deportation of the child or a family member, or threats of removal of the child from the family or dissolution of the family;
- (7) Conduct on the part of the defendant or the defendant's attorney which causes the child to be unable to continue his testimony; and
- (8) Any other matter which the court considers relevant.

a child twelve (12) years of age or under be taken outside the courtroom and the presence of the defendant and communicated to the courtroom by closed-circuit television.

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. Further, Ark. Code Ann. § 16-43-1001(f) states, “Nothing in this section creates a right of a child witness to a closed-circuit television procedure in lieu of testifying in open court and the intent of this section is that testimony by closed-circuit television be used in limited circumstances.”

- 5.2.1 Recommendation: Amend state law to 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
Summary	Crime victims and their families have access to technical assistance and support through the Victim/Witness Coordinator program. Additionally, county prosecutors’ offices must provide a range of services to crime victims and may hire victim of crimes case coordinators for this purpose.	Victim/witness coordinator can petition court to allow minors under 12 to have support items or support persons during court proceedings, and victims under 18 can have support dog during testimony.	Not statutorily required.
Relevant Statute(s)	Ark. Code Ann. § 16-21-107(b) (Victim/Witness Coordinator); Ark. Code Ann. § 16-21-106 (Assistance to victims and witnesses of crimes – Victim of crimes case coordinator)	Ark. Code Ann. § 16-43-1202(5), (6) (Safeguards for Child victims testifying in judicial and administrative proceedings); Ark. Code Ann. § 16-43-1002(d) (Certified facility dogs for children and vulnerable witnesses – Definitions); Ark. Code Ann. § 16-21-204(b)(6)(A) (Prosecutor coordinator)	None.

- 5.3.1 Recommendation: Amend state law to ensure that child sex trafficking victims’ 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.

● PARTIALLY MET

Arkansas law does not provide for privileged communications between caseworkers and child sex trafficking victims specifically. However, child sex trafficking victims may benefit, albeit limitedly, from privileged communication protections afforded to domestic violence victims. 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
Ark. Code Ann. § 9-6-112(b)(1) (Privilege communications made by victim of domestic violence – Definitions)	Domestic violence advocate	Protection available to minors under 16 years of age who receive services from an authorized domestic violence center. ⁵¹
Ark. Code Ann. § 17-97-105 (Privileged communications)	Psychologist, psychological examiner	None.
Ark. Code Ann. § 17-103-107(a)(1) (Privileged communications)	Licensed certified social worker, licensed master social worker, licensed social worker (or secretary, stenographer, or clerk working on behalf of the 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](#).)

⁵¹ For purposes of accessing the privilege, Ark. Code Ann. § 9-6-112(a)(4)(C) (Privilege communications made by victim of domestic violence—Definitions) defines “domestic violence” to include “[s]exual abuse against a person by another person,” not requiring a familial or household relationship. Ark. Code Ann. § 9-6-112(a)(8)(B)(iv) defines “sexual abuse” to include, “[s]exual intercourse, deviate sexual activity, or sexual contact with a person who is: . . . [l]ess than sixteen (16) years of age, if the age of the other person committing the sexual intercourse, sexual deviate activity, or sexual contact is twenty (20) years of age or older.” The protection is further limited to communications made to an “advocate for victims of domestic violence,” which is defined narrowly under Ark. Code Ann. § 9-6-112(a)(1) as, “an employee, supervisor, administrator, or volunteer of a shelter or center for victims of domestic violence authorized or regulated under this chapter.”



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

Arkansas 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.
● PARTIALLY MET

Arkansas law authorizes statewide training for juvenile justice agencies on identification and response to child sex trafficking. Pursuant to Ark. Code Ann. § 12-18-1202 (Training regarding sexually exploited children),

The Arkansas Juvenile Officers Association, the Division of Law Enforcement Standards and Training, or the Prosecutor Coordinator may provide training to intake officers, law enforcement, prosecutors, and any other appropriate staff concerning how to identify a sexually exploited child and how to obtain appropriate services for a sexually exploited child.

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by juvenile justice agencies. However, Arkansas law does not statutorily require individuals employed by juvenile justice agencies to receive such training.

- 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.
● PARTIALLY MET

Arkansas law authorizes trafficking-specific training for law enforcement.⁵² Pursuant to Ark. Code Ann. § 12-18-1202 (Training regarding sexually exploited children),

⁵² Importantly, Ark. Code Ann. § 19-5-1261 (Human trafficking victim support fund – Definition) establishes a funding source, permitting monies deposited into the Human Trafficking Victim and Support Fund to be used, in part, to provide “[t]raining and education related to human trafficking to law enforcement.” The text of Ark. Code Ann. § 19-5-1261 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1459 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

The Arkansas Juvenile Officers Association, the Division of Law Enforcement Standards and Training, or the Prosecutor Coordinator may provide training to intake officers, law enforcement, prosecutors, and any other appropriate staff concerning how to identify a sexually exploited child and how to obtain appropriate services for a sexually exploited child.

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by law enforcement. However, Arkansas law does not statutorily require law enforcement officers to receive such training nor is the training required to be ongoing.

- 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.

● PARTIALLY MET

Arkansas law authorizes trafficking-specific training for prosecutors. Pursuant to Ark. Code Ann. § 12-18-1202 (Training regarding sexually exploited children),

The Arkansas Juvenile Officers Association, the Division of Law Enforcement Standards and Training, or the Prosecutor Coordinator may provide training to intake officers, law enforcement, prosecutors, and any other appropriate staff concerning how to identify a sexually exploited child and how to obtain appropriate services for a sexually exploited child.

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by prosecutors. However, state law does not statutorily require prosecutors to receive such training.

- 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.

● FULLY MET

Arkansas law mandates trafficking-specific training for school personnel.⁵³ Pursuant to Ark. Code Ann. § 6-17-709(e)(3)⁵⁴ (Professional development schedule),

⁵³ Further, Ark. Code Ann. § 12-19-105 (Training and educational materials on human trafficking) provides for the distribution of training materials, stating,

(a) The Department of Education and the Department of Human Services shall collaborate on providing awareness and training materials to local school districts on human trafficking that include without limitation strategies for the prevention of the trafficking of children.

(b) The training materials required under subsection (a) of this section shall describe local, state, and national resources to which a student, a parent, a counselor, or school personnel may consult for information on human trafficking that includes without limitation strategies for the prevention of the trafficking of children.

⁵⁴ The text of Ark. Code Ann. § 6-17-709 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 1538 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

(A) Upon the issuance of an initial teaching license by the Division of Elementary and Secondary Education, an applicant shall obtain training in the following areas within his or her first two (2) years of initial employment as a licensed teacher in this state:

.....

(v) Human trafficking under § 6-17-710.

(B) However, an applicant who has obtained the training required under subdivision (e)(3)(A) of this section in a separate educator preparation program or in another state and who has provided the division with verification of the obtainment of the training shall not be subject to the additional training required under subdivision (e)(3)(A) of this section.

(C) For a teaching license issued under the state's reciprocity provisions to an out-of-state teacher, the Division of Elementary and Secondary Education shall issue a provisional license until the licensee obtains the professional development identified in subdivision (e)(3)(A) of this section.

Under Ark. Code Ann. § 6-17-710 (Human trafficking professional development), trafficking-specific training will address issues related to identifying child victims and reporting their exploitation. Ark. Code Ann. § 6-17-710 states,

(a) Each year, a school district shall make available to licensed personnel thirty (30) minutes of professional development, or professional learning credit as determined by the Division of Elementary and Secondary Education, on:

(1) Recognizing the warning signs that a child is a victim of human trafficking; and

(2) Reporting a suspicion that a child is a victim of human trafficking.

(b) The Division of Elementary and Secondary Education or another person, firm, or corporation designated by the division shall develop and administer the professional development under subsection (a) of this section.

(c) The professional development under this section shall count toward the satisfaction of requirements for professional development in the Standards for Accreditation of Arkansas Public Schools and School Districts and for licensure requirements for licensed personnel.

Further, Ark. Code Ann. § 6-15-1303(3)(C)(ii)⁵⁵ (Safe schools initiation act) provides,

The training provided by the Arkansas Center for School Safety of the Criminal Justice Institute may include without limitation the training and education needs to assist a public school or private school in:

.....

(ii) Addressing public safety and legal topics such as . . . human trafficking . . . ”

Lastly, under Ark. Code Ann. § 6-16-157(b)(2)⁵⁶ (Child sexual abuse and human trafficking prevention – Instruction required),

Each public school district and open-enrollment charter school shall:

.....

(2) Provide training for teachers employed by the public school district or open-enrollment public charter school on child sexual abuse and assault and human trafficking:

(A) Awareness;

(B) Reporting requirements; and

(C) Prevention.

⁵⁵ The text of Ark. Code. Ann. § 6-15-1303 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 294 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

⁵⁶ The text of Ark. Code. Ann. § 6-16-157 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 294 during the 2023 Regular Session of the Arkansas state legislature (effective July 31, 2023).

Policy Goal 6.6

State law mandates child sex trafficking prevention education in schools.

● FULLY MET

Arkansas law mandates child sex trafficking prevention education in schools. Pursuant to Ark. Code Ann. § 6-16-157⁵⁷ (Child sexual abuse and human trafficking prevention – Instruction required),

- (a) The Division of Elementary and Secondary Education shall:
 - (1)
 - (A) Enhance or adapt curriculum materials to assist public school personnel in providing instruction through a multidisciplinary approach on the detection, intervention, prevention, and treatment of child sexual abuse and human trafficking.
 - (B) The curriculum materials developed under subdivision (a)(1)(A) of this section shall be:
 - (i) Geared toward a sequential program of instruction from kindergarten through grade twelve (K-12); and
 - (ii) Include strategies for utilizing the curriculum in schools; and
 - (2) Ensure that curriculum materials developed under subdivision (a)(1)(A) of this section are incorporated into the Health and Safety and Physical Education Standards developed by the Department of Education in an age-appropriate manner.
- (b) Each public school district and open-enrollment charter school shall:
 - (1) Implement a child sexual abuse and human trafficking prevention program that meets the standards and requirements established by the division;
 -
 -
- (c) Before grade five (5), a public school teacher shall not provide classroom instruction on the following topics:
 - (1) Sexually explicit materials;
 - (2) Sexual reproduction;
 - (3) Sexual intercourse;
 - (4) Gender identity; or
 - (5) Sexual orientation.

⁵⁷ See *supra* note 56.

State Laws Addressing Child Sex Trafficking

1. Ark. Code Ann. § 5-18-103(a)–(c)⁵⁸ (Trafficking of persons) states,

(a) A person commits the offense of trafficking in persons if he or she knowingly:

(1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person when he or she knows or reasonably should know that the person will be subjected to involuntary servitude;

(2) Benefits financially or benefits by receiving anything of value from participation in a venture that he or she knows or reasonably should know is engaged in conduct prohibited under subdivision (a)(1) of this section;

(3) Subjects a person to involuntary servitude;

(4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity;⁵⁹

(5) Sells or offers to sell travel services that he or she knows or reasonably should know include an activity prohibited under subdivisions (a)(1)–(4) of this section;

....

....

(c)

....

(2) Trafficking of persons is a Class Y felony if a victim was a minor at the time of the offense.

A Class Y felony is punishable by imprisonment for 10–40 years or life. Ark. Code Ann. § 5-4-401(a)(1) (Sentence). Further, Ark. Code Ann. § 5-4-104(c)(2)(B) states,

A defendant who was eighteen (18) years of age or older at the time of the offense and who was convicted of one (1) or more of the following Class Y felonies in which the victim was less than fourteen (14) years of age at the time of the offense shall be sentenced to life without the possibility of parole:

....

(B) Trafficking of persons, § 5-18-103;

2. Ark. Code Ann. § 5-18-104(a), (b)⁶⁰ (Patronizing a victim of human trafficking) states,

(a) A person commits the offense of patronizing a victim of human trafficking if he or she knowingly engages in commercial sexual activity with another person who he or she knows or reasonably should know is a victim of human trafficking.

(b)

....

(2) Patronizing a victim of human trafficking is a Class A felony if the victim was a minor at the time of the offense.

A Class A felony is punishable by imprisonment for 6–30 years and a possible fine up to \$15,000. Ark. Code Ann. §§ 5-4-401(a)(2), 5-4-201(a)(1).

⁵⁸ See *supra* note 2.

⁵⁹ Ark. Code Ann. § 5-18-102(1) (Definitions) defines “commercial sexual activity” as “a sexual act or sexually explicit performance for which anything of value is given, promised, or received, directly or indirectly, by a person.”

⁶⁰ See *supra* note 3.

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Ark. Code Ann. § 5-70-104(a), (b) (Promoting prostitution in the first degree) states,

(a) A person commits the offense of promoting prostitution in the first degree if he or she knowingly:

.....

(2) Advances prostitution⁶¹ or profits from prostitution⁶² of a person less than eighteen (18) years of age.

(b) Promoting prostitution in the first degree is a:

.....

(2) Class B felony under subdivision (a)(2) of this section.

A Class B felony is punishable by imprisonment for 5–20 years and a possible fine up to \$15,000. Ark. Code Ann. §§ 5-4-401(a)(3), 5-4-201(a)(1).

2. Ark. Code Ann. § 5-70-107(a), (d)⁶³ (Sexual solicitation of a minor) states,

(a) A person commits the offense of sexual solicitation of a minor if he or she:

(1) Offers or agrees to pay a fee or provide a thing of value to a person who he or she knows or reasonably should know is a minor to engage in sexual activity with the person who he or she knows or reasonably should know is a minor;

(2) Offers or agrees to pay a fee or provide a thing of value to another person for the purpose of engaging in sexual activity with a person who he or she knows or reasonably should know is a minor;

(3) Solicits, offers, or agrees to accept a fee or a thing of value from another person for the purpose of allowing the other person to engage in sexual activity with a person who he or she knows or reasonably should know is a minor; or

(4) Pays a fee or provides a thing of value to a person who he or she knows or reasonably should know is a minor or another person for the purpose of engaging in sexual activity with the person who he or she knows or reasonably should know is a minor.

.....

(d) Sexual solicitation of a minor is a Class B felony.

⁶¹ Pursuant to Ark. Code Ann. § 5-70-101(1) (Definitions),

‘Advances prostitution’ means a person if, acting other than as a prostitute or a patron of a prostitute, that person knowingly:

(A) Causes or aids a person to commit or engage in prostitution;

(B) Procures or solicits a patron for prostitution;

(C) Provides a person or premises for prostitution purposes;

(D) Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or

(E) Engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

⁶² Pursuant to Ark. Code Ann. § 5-70-101(3) (Definitions),

‘Profits from prostitution’ means a person if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, the person accepts or receives money or other property pursuant to an agreement or understanding with any person in which the person participates or is to participate in the proceeds of prostitution.’

⁶³ See *supra* note 5.

A Class B felony is punishable by imprisonment for 5–20 years and a possible fine up to \$15,000. Ark. Code Ann. §§ 5-4-401(a)(3), 5-4-201(a)(1).

3. Ark. Code Ann. § 5-27-305 (Transportation of minors for prohibited sexual conduct) states,

(a) A person commits the offense of transportation of a minor for prohibited sexual conduct if the person transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of any minor, and the actor:

- (1) Knows or has reason to know that prostitution or sexually explicit conduct involving the minor will be commercially exploited by any person; and
- (2) Acts with the purpose that the minor will engage in:
 - (A) Prostitution; or
 - (B) Sexually explicit conduct.

(b) Transportation of a minor for prohibited sexual conduct is a Class Y felony.

A Class Y felony is punishable by imprisonment for 10–40 years or life. Ark. Code Ann. § 5-4-401(a)(1) (Sentence). Further, Ark. Code Ann. § 5-4-104(c)(2)(D) states,

A defendant who was eighteen (18) years of age or older at the time of the offense and who was convicted of one (1) or more of the following Class Y felonies in which the victim was less than fourteen (14) years of age at the time of the offense shall be sentenced to life without the possibility of parole:

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- (D) Transportation of minors for prohibited sexual conduct, § 5-27-305;

4. Ark. Code Ann. § 5-18-107⁶⁴ (Traveling for the purpose of an unlawful sex act with a minor) states,

(b) A person commits traveling for the purpose of an unlawful sex act with a minor if the person is eighteen (18) years of age or older and knowingly travels for the purpose of engaging in an unlawful sex act with a minor or a person he or she believes is a minor.

(c) Traveling for the purpose of an unlawful sex act with a minor is a Class B felony.

A Class B felony is punishable by imprisonment for 5–20 years and a possible fine up to \$15,000. Ark. Code Ann. §§ 5-4-401(a)(3), 5-4-201(a)(1).

5. Ark. Code Ann. § 5-18-106(a), (b) (Grooming a minor for future sex trafficking) states,

(a) A person commits grooming a minor for future sex trafficking if the person knowingly grooms⁶⁵ a minor with a purpose to make it more likely that the minor can be enticed or induced into a future sex trafficking act with a person.

(b) Grooming a minor for future sex trafficking is a Class B felony.

A Class B felony is punishable by imprisonment for 5–20 years and a possible fine up to \$15,000. Ark. Code Ann. §§ 5-4-401(a)(3), 5-4-201(a)(1).

⁶⁴ See *supra* note 6.

⁶⁵ Ark. Code Ann. § 5-18-102(6) (Definitions) defines “grooms” as “expos[ing] a minor to sexually explicit language or to a visual or print medium depicting sexually explicit conduct with the purpose [of] gain[ing] the trust of the minor.”

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.

RELATED RESOURCES: To better understand a policy goal or to see where the nation stands as a whole on a particular issue, visit reportcards.sharedhope.org/related-resources and click on the corresponding issue brief or survey chart, respectively.

HIGHLIGHTED RESOURCES

Community-Based Services White Paper



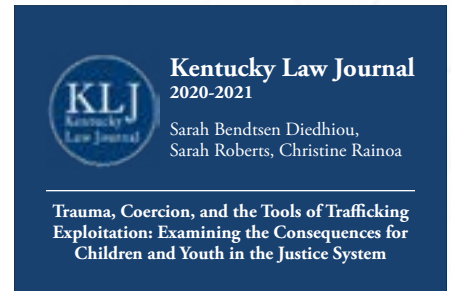
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

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.