



2023 REPORT

HAWAII

Report Cards on Child & Youth Sex Trafficking

State Action. National Change.



CONTENTS

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

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

PROTECTED INNOCENCE CHALLENGE

HAWAII

Year	Score	Grade	10	17.5	15	9.5	12	11.5
2019	75.5	C	10/10	17.5/25	15/15	9.5/10	12/27.5	11.5/15
2011	40.5	F	2.5/10	4/25	10.5/15	5/10	11.5/27.5	7/15

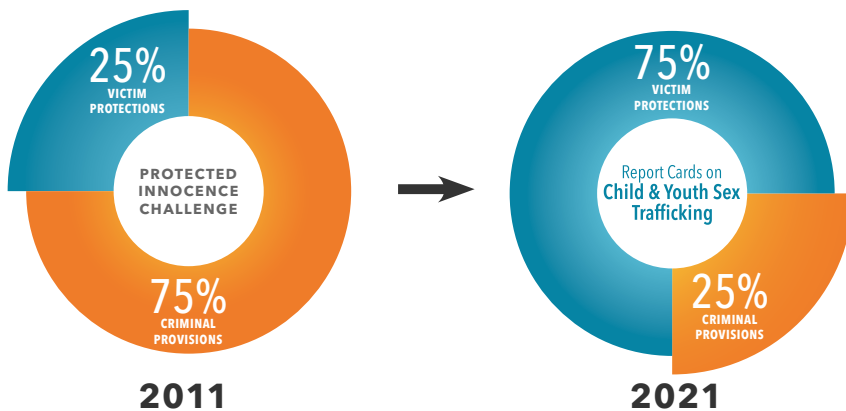
From 2011 to 2019, Hawaii raised their grade under the Protected Innocence Challenge from an “F” to a “C,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Hawaii’s 2019 PIC report, visit sharedhope.org/PICframe9/reportcards/PIC_RC_2019_HI.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

HAWAII

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 23.5 points.
- Most improved in 2023 (raised score by 20 points this year alone).
- Enacted House Bill 579, requiring the Department of the Attorney General to develop and implement a program to prevent and support survivors of human trafficking, including through training of law enforcement, educators, and mandatory reporters.
- State funds were appropriated to support the development and provision of services to survivors of human trafficking.
- Convicted offenders of sex trafficking and CSEC are required to pay fees that are deposited into a special fund to support access to specialized services for survivors.

SAFE HARBOR STATUS:

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

Issue	Grade	Score	Summary
 1. Criminal Provisions	B	15 17.5	Policy goals accomplished related to buyer and trafficker accountability under state CSEC laws, mistake of age defenses, decoy defenses, business entity liability under the trafficking law, and financial penalties. Gap remains related to buyer accountability under the trafficking law.
 2. Identification of and Response to Victims	F	3.5 27.5	Policy goal accomplished related to child abuse definitions. Gaps remain related to third party control, 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	7.5 15	Policy goal accomplished related to appropriations. Gaps remain related to community-based services, MDT responses, services through child welfare and the juvenile justice system, and extended foster care services.
 4. Access to Justice for Trafficking Survivors	C	11.5 15	Policy goals accomplished related to civil orders of protection, restitution, and civil remedies. Gaps remain related to crime victims' compensation, vacatur, and statutes of limitation.
 5. Tools for a Victim-Centered Criminal Justice Response	F	5 10	Gaps remain in all areas, including hearsay exceptions, alternatives to live, in-court testimony, victim-witness supports, and privileged communications.
 6. Prevention and Training	F	4 15	Gaps remain in all areas, including training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education in schools.
EXTRA CREDIT	 18+ Youth	2	Protections related to appropriations and civil remedies are extended to sex trafficked youth.
	 CLT Child Labor Trafficking	5	Protections related to financial penalties, child abuse definitions, appropriations, civil orders of protection, and restitution are extended to child labor trafficking victims.

OVERALL GRADE
TIER II**F 53.5**

WHAT IS SAFE HARBOR?

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










WHY SAFE HARBOR?

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

SAFE HARBOR LAWS

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

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

Status	Safe Harbor Policy Goal
 Not met	The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control (see Policy Goal 2.1 for further analysis and Issue Brief 2.1 for background).
 Not met	State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking (see Policy Goal 2.3 for further analysis and Issue Brief 2.3 for background).
 Not met	State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking (see Policy Goal 2.4 for further analysis and Issue Brief 2.4 for background).
 Not met	State law prohibits the criminalization of minors under 18 for prostitution offenses and establishes a services-referral protocol as an alternative to arrest (see Policy Goal 2.5 for further analysis and Issue Brief 2.5 for background).
 Not 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).
 Not 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).
 Fully 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:

Hawaii law does not prohibit the criminalization of minors for prostitution offenses. Further, although the state legislature made appropriations during the 2023-2024 legislative session to support the development and provision of specialized, community-based services, state law does not mandate a process for connecting sex trafficked children with those services, potentially leaving some survivors underserved or disconnected from resources that are necessary to address trauma and promote healing. Lastly, Hawaii limits the definition of child sex trafficking victim by requiring third party control, preventing commercially sexually exploited children who are unable or unwilling to identify a trafficker, as well as those who are not under the control of a trafficker, from accessing protections and relief that are specifically designed for sex trafficked children.

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 Hawaii’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.

○ **NOT MET**

Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking) specifically excludes buyers from criminal liability based on the definition of “advances prostitution.” Haw. Rev. Stat. Ann. § 712-1202(1)(b) states, “A person commits the offense of sex trafficking if the person knowingly . . . [a]dvances or profits from prostitution of a minor.” Although Haw. Rev. Stat. Ann. § 712-1201(1) (Advancing prostitution; profiting from prostitution; definition of terms) defines “advances prostitution” broadly enough to include a “person [who] knowingly causes . . . a person to commit or engage in prostitution,” Haw. Rev. Stat. Ann. § 712-1201(3) specifically excludes buyers, stating, “The definition[] in subsection[] (1) . . . do[es] not include those engaged in conduct outlined in . . . section 712- as the person engaged in commercial sexual exploitation.” Accordingly, this exception precludes buyers from being charged as sex trafficking offenders.

1.1.1 Recommendation: Amend Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking) to make the statute applicable to the actions of buyers of commercial sex with minors. (*See [Issue Brief 1.1](#)*)

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

Policy Goal 1.2

Commercial sexual exploitation of children (CSEC) laws² specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

Haw. Rev. Stat. Ann. § 712-1209.1(1) (Commercial sexual exploitation of a minor) expressly criminalizes both purchasing and soliciting commercial sex with a minor; it states,

A person eighteen years of age or older commits the offense of commercial sexual exploitation of a minor if the person intentionally, knowingly, or recklessly:

- (a) Offers or agrees to provide anything of value to a member of a police department, a sheriff, or a law enforcement officer who represents that person's self as a minor to engage in sexual conduct;
- (b) Provides anything of value to a minor or third person as compensation for having engaged in sexual conduct with a minor;
- (c) Agrees to provide or offers to provide anything of value to a minor or third person for the purpose of engaging in sexual conduct with a minor; or
- (d) Solicits, offers to engage in, or requests to engage in sexual conduct with a minor.

² 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 Hawaii’s CSEC laws, *see* the appendix located at the end of this report.

INSIGHTS FROM THE FIELD



Legislation: Over the years, Hawaii has strengthened its laws related to the Commercial Sexual Exploitation of Children (CSEC). For instance, Hawaii Revised Statutes (HRS) address the subject directly and outline penalties for those who solicit or patronize minors for commercial sex acts.

Agency Regulations: Law enforcement agencies and child welfare agencies in Hawaii have guidelines and procedures for addressing CSEC. While these may not be regulations per se, they do guide how officers and social workers respond to and investigate reports of CSEC.

Prosecution: Historically, there has been a greater focus on prosecuting suppliers/traffickers rather than buyers. However, there's a growing recognition nationally that addressing the demand side—i.e., the buyers—is crucial to curbing CSEC. Hawaii has instituted a series of law enforcement operations across the state that target individuals using the internet to solicit minors to engage in sexual activity. Since the first operation in 2019 to present, these operations have resulted in the arrest of more than 100 individuals.

Policy: Various advocacy groups and governmental agencies have pushed for policies that support a "victim-centered" approach, which acknowledges that minors engaged in commercial sex are victims rather than criminals.

In sum, while the focus on prosecuting buyers has historically been less than that of suppliers, there is momentum both in Hawaii and nationally to hold buyers accountable for their role in CSEC.^{7f}

^fThis information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

Policy Goal 1.3 Commercial sexual exploitation of children (CSEC) laws³ apply to traffickers and protect all minors under 18.

● **FULLY MET**

Haw. Rev. Stat. Ann. § 707-756 (Electronic enticement of a child in the first degree) applies to traffickers but requires use of a computer or electronic device; it states,

- (1) Any person who, using a computer or any other electronic device:
 - (a) Intentionally or knowingly communicates:
 - (i) With a minor known by the person to be under the age of eighteen years;
 - (ii) With another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or
 - (iii) With another person who represents that person to be under the age of eighteen years;
 - (b) With the intent to promote or facilitate the commission of a felony:

....

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

- (ii) That is a class A felony; or
 - (iii) That is another covered offense⁴ as defined in section 846E-1 [Definitions], agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and
 - (c) Intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time,
- is guilty of electronic enticement of a child in the first degree.

INSIGHTS FROM THE FIELD



“Hawaii has laws specifically aimed at combating Commercial Sexual Exploitation of Children (CSEC) and human trafficking in general:

1. State Statutes: Hawaii’s penal code addresses various forms of commercial sexual exploitation, including promoting prostitution and advancing prostitution. Over the years, the statutes have been updated to provide clearer definitions, stronger penalties, and to better protect minors from commercial sexual exploitation.
2. Hawaii Revised Statutes (HRS) § 712-1205 (2016): Hawaii passed HRS § 712-1205 in 2016, which significantly strengthened the state’s human trafficking laws. The law provided clearer definitions for labor trafficking and sex trafficking. More importantly, it removed the need for force, fraud, or coercion to prove sex trafficking in the case of a minor, recognizing all commercially sexually exploited children as victims of trafficking.
3. Agency Regulations & Policies: Various agencies in Hawaii have developed protocols and procedures to combat CSEC. For instance, the Hawaii Department of the Attorney General, local law enforcement agencies, and other stakeholders collaborate on task forces and a CSEC steering committee, participate in joint training initiatives, and have engaged in conducting public awareness campaigns to address and combat human trafficking and CSEC.
4. Collaboration with NGOs: Hawaii agencies, including the Department of the Attorney General and the County Prosecutors’ offices collaborate with various non-governmental organizations that specialize in assisting victims of trafficking. Specifically, the State of Hawaii contracts with the Susanna Wesley Center to provide direct services for victims. <https://www.susannahwesley.org/>[†]

†This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

⁴ Haw. Rev. Stat. Ann. § 846E-1 defines “covered offense” to include “[a] crime within the definition of ‘sexual offense’ in this section.” In turn, Haw. Rev. Stat. Ann. § 846E-1 defines “sexual offense” to include sex trafficking and CSEC crimes.

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

● FULLY MET

Hawaii law prohibits a mistake of age defense in prosecutions for child sex trafficking.⁵ Pursuant to Haw. Rev. Stat. Ann. § 712-1202(4) (Sex trafficking), “The state of mind requirement for the offense under subsection (1) (b) is not applicable to the fact that the victim was a minor. A person is strictly liable with respect to the attendant circumstances that the victim was a minor.”

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

● FULLY MET

Although the trafficking law does not expressly prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor, Hawaii’s criminal attempt statute, Haw. Rev. Stat. Ann. § 705-500 (Criminal attempt), could provide prosecutors with an alternative avenue to prosecute those cases. Haw. Rev. Stat. Ann. § 705-500(1) states,

A person is guilty of an attempt to commit a crime if the person:

- (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as the person believes them to be; or
- (b) Intentionally engages in conduct which, under the circumstances as the person believes them to be, constitutes a substantial step in a course of conduct intended to culminate in the person’s commission of the crime.

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

⁵ Similarly, Hawaii law prohibits the defense in certain CSEC prosecutions. Under Haw. Rev. Stat. Ann. § 712-1209.1(5) (Commercial sexual exploitation of a minor),

The state of mind requirement for the offense under subsection (1) (a) is not applicable to the fact that the victim was a minor. A person is strictly liable with respect to the attendant circumstance that the victim was a minor, provided that the person had a reasonable opportunity to observe the victim.

INSIGHTS FROM THE FIELD



“The Internet Crimes Against Children Taskforce, operated under the Hawaii Department of the Attorney General, conducts undercover operations and online decoys to identify and target criminals involved in child exploitation and child sex trafficking. These joint operations involve law enforcement agents posing as minors or as buyers/sellers of illicit services online and then arresting individuals who attempt to exploit the decoy. Examples of these operations are included in the following links:
https://www.kitv.com/news/crime/operation-keiki-shield-charges-nine-men-for-sexual-exploitation-crimes/article_b8baec52-dff1-11ed-a2fc-3baf7347d1aa.html#:~:text=The%20nine%20men%20charged%20are,19%2Cof%20Kihei%2C%20and%20William
<https://www.hawaiinewsnow.com/2023/01/26/operation-keiki-shield-nets-13-suspects-accused-sexual-exploitation-minors/>”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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

● FULLY MET

Hawaii law allows business entities to be held criminally liable for conduct that violates the trafficking law. Pursuant to Haw. Rev. Stat. Ann. § 712-1202(1) (Sex trafficking),

A person commits the offense of sex trafficking if the person knowingly:

- (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, coercion, or intimidation to engage in prostitution, or profits from such conduct by another; or
- (b) Advances or profits from prostitution of a minor.

Importantly, Haw. Rev. Stat. Ann. § 701-118 (General definitions) defines “person” to include, “where relevant, a corporation or an unincorporated association.” Accordingly, business entities can be held liable for a child sex trafficking violation.

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

● FULLY MET

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

Regarding mandatory fees, Haw. Rev. Stat. Ann. § 706-650.5(1)–(4) (Human trafficking victim services fee) requires offenders convicted under state trafficking and CSEC laws to pay a fee, which is to be deposited in the human trafficking victim services fund. It states,

- (1) In addition to any disposition authorized by chapter 706 [Disposition of convicted defendants], any individual who is:
 - (a) Convicted of an offense under part VIII of chapter 707 [Labor trafficking]; or

- (b) Convicted of an offense under part I of chapter 712 [Prostitution, promoting prostitution, and sex trafficking]; shall be ordered to pay a fee under subsection (2).
- (2) Fees for individuals subject to subsection (1) shall not exceed the following:
 - (a) \$5,000 when the offense is a class A felony;
 - (b) \$2,500 when the offense is a class B felony;
 - (c) \$1,000 when the offense is a class C felony;
 - (d) \$500 when the offense is a misdemeanor; or
 - (e) \$250 when the offense is a petty misdemeanor.
- (3) There is established within the state treasury a special fund to be known as the human trafficking victim services fund to be administered by the department of labor and industrial relations. The disbursement of money from the human trafficking victim services fund shall be used to supplement programs, grants, or purchase of service contracts that support or provide comprehensive services to victims of labor trafficking crimes under part VIII of chapter 707, or victims of trafficking related to crimes under part I of chapter 712. Moneys in the special fund shall be used for new or existing programs, grants, or purchase of service contracts and shall not supplant any other moneys previously allocated to these programs, grants, or purchase of service contracts.
- (4) All fees paid and interest accrued on funds collected pursuant to this section shall be deposited into the human trafficking victim services fund.

Regarding asset forfeiture, Haw. Rev. Stat. Ann. § 712A-4(b) (Covered offenses) provides for forfeiture in cases involving “promoting child abuse; promoting prostitution; sex trafficking; commercial sexual exploitation of a minor; habitual commercial sexual exploitation; or electronic enticement of a child that is chargeable as a felony offense under state law.”

Under Haw. Rev. Stat. Ann. § 712A-5(1)(A) (Property subject to forfeiture; exemption), assets subject to forfeiture include the following:

- (a) Property described in a statute authorizing forfeiture;
- (b) Property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or which facilitated or assisted such activity;
-
- (e) Any proceeds or other property acquired, maintained, or produced by means of or as a result of the commission of the covered offense;
- (f) Any property derived from any proceeds which were obtained directly or indirectly from the commission of a covered offense;
- (g) Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which has been established, participated in, operated, controlled, or conducted in order to commit a covered offense;
- (h) All books, records, bank statements, accounting records, microfilms, tapes, computer data, or other data which are used, intended for use, or which facilitated or assisted in the commission of a covered offense, or which document the use of the proceeds of a covered offense.

Disposition of forfeited assets is governed by Haw. Rev. Stat. Ann. § 712A-16(2) (Disposition of claims by court), which states,

All forfeited property and the sale proceeds thereof, up to a maximum of three million dollars per year, not previously transferred pursuant to [subsection] (1)(a) of this section, shall, after payment of expenses of administration and sale, be distributed as follows:

- (a) One quarter shall be distributed to the unit or units of state or local government [whose] officers or employees conducted the investigation and caused the arrest of the person whose property was forfeited or seizure of the property for forfeiture;
- (b) One quarter shall be distributed to the prosecuting attorney who instituted the action producing the forfeiture; and

(c) One half shall be deposited into the criminal forfeiture fund established by this chapter.

As noted above, however, a percentage of those forfeited assets is not directed into a victim services fund.

EXTRA CREDIT



Hawaii law levies financial penalties on child labor trafficking offenders and directs those financial penalties into a victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

INSIGHTS FROM THE FIELD



“Hawaii Revised Statutes (HRS) § 706-646 allows for Victim Restitution and HRS § 712A-4 (Forfeiture Statute) specifically references sex trafficking and commercial sexual exploitation of a minor as covered offenses for forfeiture. In addition, HRS § 706-6560.5 describes the Hawaii State Human Trafficking Victim Services Fund and directs how fees and fines from persons convicted of either labor or sex trafficking shall be deposited in this fund.

https://www.capitol.hawaii.gov/hrscurrent/Vol14_Ch0701-0853/HRS0712A/HRS_0712A-0004.htm
[https://www.capitol.hawaii.gov/hrscurrent/vol14_ch0701-0853/HRS0706/HRS_0706-0646.htm#:~:text=\(2\)%20The%20court%20shall%20order,when%20requested%20by%20the%20victim](https://www.capitol.hawaii.gov/hrscurrent/vol14_ch0701-0853/HRS0706/HRS_0706-0646.htm#:~:text=(2)%20The%20court%20shall%20order,when%20requested%20by%20the%20victim)

https://www.capitol.hawaii.gov/hrscurrent/Vol14_Ch0701-0853/HRS0706/HRS_0706-0650_0005.htm

Hawaii has also created a human trafficking victims services fund that is funded by fines imposed on defendants and which is used to provide victim services:

https://www.capitol.hawaii.gov/hrscurrent/Vol14_Ch0701-0853/HRS0706/HRS_0706-0650_0005.htm

In addition, Hawaii created a Crime Victim Compensation Commission to equitably and efficiently provide crime victims the services due to them under Hawaii law. In doing so, the Commission treats every victim and survivor with dignity and respect, acknowledging the tremendous impact that violent crime has upon our society.

<https://dps.hawaii.gov/cvcc/>

**This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.*



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.
- NOT MET

The definition of child sex trafficking victim does not include all commercially sexually exploited children. Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking) specifically excludes buyers from criminal liability.⁶ Accordingly, third party control is required to establish the crime of child sex trafficking, thereby excluding commercially sexually exploited children who are not under the control of a trafficker from the definition of child sex trafficking victim.

- 2.1.1 Recommendation: Amend state law to remove third party control requirements that narrow the definition of child sex trafficking victim.⁷ (See [Issue Brief 2.1.](#))

INSIGHTS FROM THE FIELD



“U.S. Federal law recognizes that any minor engaged in commercial sex is a victim of sex trafficking, regardless of the presence of a third-party exploiter or controller. This is found in the Trafficking Victims Protection Act (TVPA) and its subsequent reauthorizations. Under the TVPA, the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a minor for the purpose of commercial sex is considered sex trafficking.

In Hawaii, as in many other states, there have been efforts to align state laws with federal definitions and protections for child victims of sex trafficking. Specifically, Hawaii has enacted ACT 83 which codifies HB 579 regarding commercially sexually exploited children and which creates a framework to combat these crimes in Hawaii, to include prevention, review of existing laws and a multi-disciplinary response which is victim centered.

<https://www.capitol.hawaii.gov/sessions/session2023/bills/HB579 .HTM> [†]

[†]*This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.*

⁶ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Haw. Rev. Stat. Ann. § 712-1202.

⁷ See generally Shared Hope Int'l, *Eliminating the Third Party Control Barrier to Identifying Juvenile Sex Trafficking Victims*, JuST Response Policy Paper (August 2015), http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper_Eliminating-Third-Party-Control_Final1.pdf (discussing need to include all commercially sexually exploited children within sex trafficking definitions and the corresponding need to include buyer conduct in core sex trafficking offenses regardless of whether the victim is under control of a third party).

- Policy Goal 2.2** State law provides policy guidance to facilitate access to services and assistance for trafficked foreign national children.
- NOT MET

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

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

INSIGHTS FROM THE FIELD



“Hawaii treats and supports all victims the same under the law. In addition, under federal law, the Trafficking Victims Protection Act (provides a framework for identifying and assisting trafficking victims. Federal law also has provisions which allow for immigration relief, including both the Special Immigrant Juvenile Status or the T Visa. Hawaii also has a Department of Human Services which includes a Child Welfare Services component that provides services to trafficking victims as well as additional service providers to include the Susannah Wesley Center.

<https://humanservices.hawaii.gov/ssd/home/child-welfare-services/>

<https://www.susannahwesley.org/>”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

- 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

Hawaii 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](#).)

INSIGHTS FROM THE FIELD



“The Hawaii State Department of Human Services, through its’ Child Welfare Services Human Trafficking hotline and intake process, screen all intakes for Commercial sexual Exploitation of Children. Specifically, Child Welfare Services provides hotline numbers for child trafficking which are operable 24 hours a day, 7 days a week.

<https://humanservices.hawaii.gov/wp-content/uploads/2018/07/MANDATED-REPORTER-CHECKLIST-FOR-SUSPECTED-HUMAN-TRAFFICKING-with-website-JUNE-2018.doc>”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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

Hawaii 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.](#))

INSIGHTS FROM THE FIELD



“The Hawaii State Department of Human Services (DHS), through its Child Welfare Services (CWS) Human Trafficking (HT) hotline, includes an intake process for screening for known or suspected Commercial Sexual Exploitation of Children (CSEC). Probation Officers are also Mandated Reporters, so any time there is suspected or known trafficking, these officers will be reporting it to the CWS HT hotline.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

Policy Goal 2.5 State law prohibits the criminalization of minors under 18 for prostitution offenses and establishes a services-referral protocol as an alternative to arrest.

○ NOT MET

Hawaii law does not prohibit the criminalization of minors for prostitution offenses. Pursuant to Haw. Rev. Stat. Ann. § 712-1200 (Prostitution),

(1) A person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another in return for a fee or anything of value.

(2) As used in this section:

.....

“Minor” means a person who is less than eighteen years of age.

(3) Prostitution is a petty misdemeanor; provided that if the person who commits the offense under subsection (1) is a minor, prostitution is a violation.

.....

(6) A minor may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that the minor has violated subsection (1). The minor shall be released, referred, or transported pursuant to subsection 571-31(b) [Taking children into custody; release; notice]. The minor shall be subject to the jurisdiction of the family court pursuant to section 571-11(1) [Jurisdiction; children],⁸ including for the purpose of custody, detention, diversion, and access to services and resources.

Additionally, commercially sexually exploited minors may face punitive responses and criminal liability under Haw. Rev. Stat. Ann. § 712-1206(2) (Loitering for the purpose of engaging in or advancing prostitution), which states,

Any person who remains or wanders about in a public place or repeatedly beckons to or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of prostitution as that term is defined in section 712-1200 [Prostitution], shall be guilty of a violation.

Consequently, Haw. Rev. Stat. Ann. § 712-1200 and Haw. Rev. Stat. Ann. § 712-1206 make clear that minors engaged in commercial sex can be treated as offenders of prostitution and loitering and subject to punitive responses, including arrest, detention, charges, prosecution, and adjudication.

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

⁸ Pursuant to Haw. Rev. Stat. Ann. § 571-11(1) (Jurisdiction; children),

Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

(1) Concerning any person who is alleged to have committed an act before achieving eighteen years of age that would constitute a violation or attempted violation of any federal, state, or local law or county ordinance.

Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred;

The text of Haw. Rev. Stat. Ann. § 571-11 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 349 during the 2023-2024 Regular Session of the Hawaii state legislature (effective January 1, 2024).

INSIGHTS FROM THE FIELD



“There are no regulations, policies, or case law that support non-criminalization of minors for prostitution offenses and/or the utilization of a law enforcement services-referral protocol in lieu of arrest. However, the Department of the Attorney General and its federal, state, and local partners do not prosecute minors for prostitution offenses as a matter of discretion. Instead, children identified as engaging in prostitution offenses are provided with services through Child Welfare Services and Susannah Wesley Community Center; they are not arrested or referred for prosecution.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

- 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.
- NOT MET

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

- 2.6.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for status offenses, and misdemeanors and non-violent felonies committed as a result of their trafficking victimization. (See [Issue Brief 2.6](#).)

INSIGHTS FROM THE FIELD



“There are no regulations, policies, or case law that support non-criminalization of minors for prostitution offenses and/or the utilization of a law enforcement services-referral protocol in lieu of arrest. However, if it is determined that the criminal conduct was a direct result of the child being trafficked, law enforcement and prosecutorial entities have the ability to exercise discretion and provide the child with services in lieu of arrest or prosecution. This is evaluated on a case-by-case basis depending on the criminal conduct and whether it clearly arose from the child’s victimization.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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.

○ NOT MET

Hawaii law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization. Haw. Rev. Stat. § 712-1201(3) (Advancing prostitution; profiting from prostitution; definition) provides some protections against criminalization, stating, “[t]he definitions in subsections (1) [advances prostitution] and (2) [profits from prostitution] shall not include those engaged in conduct outlined in section 712-1200 [prostitution] as the prostituted person or section 712- [Offenses Against Public Health and Morals] as the person engaged in commercial sexual exploitation.” However, such protections are limited to persons *simultaneously* engaging in commercial sex and conduct in violation of the trafficking or promoting prostitution offenses, potentially creating a gap for sex trafficking victim-offenders who may commit sex trafficking conduct at the direction of their trafficker to avoid continued exploitation through engagement in commercial sex.

2.7.1 Recommendation: Amend state law to prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization. (See [Issue Brief 2.7](#).)

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

○ NOT MET

Hawaii 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

Hawaii 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, Hawaii law does not establish a minimum age for jurisdictional purposes, permits direct file and automatic transfers to criminal court in cases involving minors previously transferred in a prior matter, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Permits Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	None. “Child” is defined as “a person less than eighteen years of age.”	17.	Yes. Upon transfer to criminal court, juvenile court jurisdiction is terminated for any	Yes. Minors: (1) 14+ years of age who are charged with a felony; (2) any minor who is charged with 1 st or	No.

			subsequent offenses.	2 nd degree murder or attempted murder.	
Relevant Statute(s)	Haw. Rev. Stat. Ann. § 571-2 (Definitions); Haw. Rev. Stat. § 571-11(1)	Haw. Rev. Stat. Ann. § 571-11(1) (Jurisdiction; children)	Haw. Rev. Stat. Ann. § 571-22(e) (Waiver of jurisdiction; transfer to other courts)	Haw. Rev. Stat. Ann. § 571-22(a)–(b), (d) (Waiver of jurisdiction; transfer to other courts)	Haw. Rev. Stat. Ann. § 571-22(c) (Waiver of jurisdiction; transfer to other courts)

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

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

Hawaii law defines child abuse to include child sex trafficking under Chapter 587A (Child Protective Act) for purposes of child welfare intervention and services⁹ and under Chapter 350 (Child Abuse) for purposes of mandatory reporting. Specifically, Haw. Rev. Stat. Ann. § 587A-4 (Definitions) defines “harm” to include the following:

[D]amage or injury to a child's physical or psychological health or welfare, where . . . [t]he child has been the victim of sexual contact or conduct, including . . . prostitution . . . or other similar forms of sexual exploitation, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Sex trafficking].

Further, Haw. Rev. Stat. Ann. § 350-1 (Definitions) defines “child abuse or neglect” to include:

(1) The acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

. . . .

(B) When the child has been the victim of sexual contact or conduct, including but not limited to . . . prostitution . . . or other similar forms of sexual exploitation, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Sex trafficking] . . .

⁹ Pursuant to Haw. Rev. Stat. Ann. § 587A-2 (Purpose; construction),

This chapter creates within the jurisdiction of the family court a child protective act to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm. Furthermore, this chapter makes provisions for the service, treatment, and permanent plans for these children and their families.

....
(2) The acts or omissions of any person that have resulted in sex trafficking or severe forms of trafficking in persons; provided that no finding by the department pursuant to this chapter shall be used as conclusive evidence that a person has committed an offense under part VIII of chapter 707 [Labor trafficking] or section 712-1202 [Sex trafficking].

EXTRA CREDIT



Child labor trafficking is expressly included in the definitions of “harm” and “child abuse or neglect” under Haw. Rev. Stat. Ann. § 587A-4(6) and Haw. Rev. Stat. Ann. § 350-1(1)(F), respectively.

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

The child welfare response process provided for under Chapter 587A (Child protective act)¹⁰ does not allow for a child welfare response in non-caregiver child sex trafficking cases despite child abuse and neglect reporting requirements codified under Hawaii Rev. Stat. Ann. § 350-1(2) (Definitions) and Haw. Rev. Stat. Ann. § 350-1.1 (Reports), mandating a report when “[t]he acts or omissions of any person . . . have resulted in sex trafficking or severe forms of trafficking in persons,” and the definition of “harm” codified under Haw. Rev. Stat. Ann. § 587A-4 (Definitions), which includes child sex trafficking victimization. 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](#).)

¹⁰ Pursuant to Haw. Rev. Stat. Ann. § 350-2(a) (Action on reporting), “Upon receiving a report concerning child abuse or neglect, the department shall proceed pursuant to chapter 587A (Child Protective Act) and the department’s rules.” Under Haw. Rev. Stat. Ann. § 587A-5 (Jurisdiction),

[T]he court shall have exclusive original jurisdiction In a child protective proceeding concerning any child who is or was found within the State at the time specified facts and circumstances occurred, are discovered, or are reported to the department. These facts and circumstances constitute the basis for the court's finding that the child's physical or psychological health or welfare is subject to imminent harm, has been harmed, or is subject to threatened harm by the acts or omissions of the child's family”

INSIGHTS FROM THE FIELD



“Not all reports of the Commercial Sexual Exploitation Children that are received through the Child Welfare Services’ Human Trafficking hotline will result in Child Welfare Services’ involvement. Child Welfare Services will only be involved in cases in which parents or legal guardians are identified as perpetrators of harm to their children.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.



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

Hawaii law does not mandate a process for coordinating access to specialized, community-based services for child sex trafficking victims; however, the Office of Youth Services is required to establish and operate youth services centers,¹¹ including the Kawaioloa youth and family wellness center, which may include a crisis shelter for victims of human and sex trafficking. Pursuant to Haw. Rev. Stat. Ann. § 352D-7.5 (Kawaioloa youth and family wellness center; creation),

The Kawaioloa youth and family wellness center services and programs may include but shall not be limited to mental health services and programs, substance abuse treatment programs, crisis shelters for homeless youth, crisis shelters for victims of human and sex trafficking, vocational training, group homes, day treatment programs, aftercare, independent and family counseling services, educational services, and other services and programs that may be required to meet the needs of youth or young adults.

¹¹ Haw. Rev. Stat. Ann. § 352D-7 (Youth services centers; creation) states,

- (a) Beginning July 1, 1991, the office of youth services shall create, develop, and operate youth service centers throughout the State, including one or more in each county and including the Kawaioloa youth and family wellness center created pursuant to section 352D-7.5. This may be done either directly or by contract with private parties. Delinquency prevention shall be a primary objective of these centers. The population eligible for services at the centers shall be all youths in need of services and all young adults at risk. All referrals and admissions to a youth services center shall be voluntary. Centers shall also develop individualized intake capabilities, program plans, delivery of services, and a comprehensive referral network. The objectives of the youth service centers shall be to:
- (1) Develop and implement programs in delinquency prevention;
 - (2) Provide a wider range of informal dispositions, particularly alternatives to the juvenile justice system;
 - (3) Develop an improved system of intake, assessment, and follow-up for youths including youth at risk, and for young adults at risk; and
 - (4) Provide better coordination of juvenile justice and nonjuvenile justice services in order to reduce overlaps and gaps in services.
- (b) Each center shall:
- (1) Be responsible for coordinating all services, justice system or non-justice system, both public and private, to the youth and young adults referred to it; and
 - (2) Be responsive to the needs of its immediate community and offer an array of services that are tailored to the needs of its constituents.
- (c) Every youth and young adult referred to a youth services center shall be appropriately placed with a service provider and provided services as soon as possible. The center shall develop procedures that will ensure that appropriate service providers are available on a twenty-four hour basis for each youth and young adult. The center may contract with service providers for provision of services.
- (d) Each youth service center shall maintain a registry of every youth and young adult referred to it and shall monitor and supervise the follow-up services that are provided to the youth or young adult. Each center shall be primarily responsible to ensure that each youth is fully diverted from the juvenile justice system.

This center will be operated by, and on the site of, the Hawaii youth correctional center, but admittance is voluntary and “persons committed to the Hawaii youth correctional facilities shall be segregated from youth and young adults admitted to the Kawaihoa youth and family wellness center.” Haw. Rev. Stat. Ann. §§ 352D-7, 352D-7.5(a), 352-32(b).

- 3.1.1 Recommendation: Strengthen existing law by mandating 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.*)

INSIGHTS FROM THE FIELD



“The Department of Human Services, through its’ Child Welfare Services (CWS) and its contracted provider, the Susannah Wesley Community Center, provides services specific for victims of the Commercial Sexual Exploitation of Children (CSEC). These services include collaboration with other state and city agencies for supportive services for CSEC victims. If there is CWS involvement, CWS supports the CSEC victim and collaborates with other service providers. In addition, non-government organizations in Hawaii, such as the victim service facility Pearl Haven also works with the State of Hawaii in providing victim services in a residential treatment center.

<https://www.susannahwesley.org/>

[https://hoolanapua.org/the-story-of-pearl-haven-a-safe-haven-for-sex-trafficked-girls/.](https://hoolanapua.org/the-story-of-pearl-haven-a-safe-haven-for-sex-trafficked-girls/)”[†]

[†]*This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.*

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

● PARTIALLY MET

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response, Hawaii law does not require a specialized MDT response specific to child sex trafficking cases. Pursuant to Haw. Rev. Stat. Ann. § 588-1 (Children’s justice program; establishment, purpose),

- (a) There is established a children’s justice program within the judiciary. The mission of the program is to provide for the special needs of children as witnesses by promoting coordination for appropriate investigation, treatment, and legal processes, thereby reducing and preventing unnecessary trauma to children and ensuring justice for children and their families.
- (b) The purposes of the program shall be to:
 - (1) Develop, achieve, and maintain interagency and interprofessional cooperation and coordination in the investigation of and management of cases involving suspected or confirmed:
 - (A) Victims of child sex abuse, serious physical child abuse, child sex trafficking, commercial sexual exploitation of children, and other child maltreatment; and
 - (B) Child witnesses to crime or violence;
 - (2) Facilitate in an impartial manner the professional gathering of information by public and private agencies and their providers for court proceedings involving child victims and witnesses;
 - (3) Reduce to the absolute minimum the number of interviews of child victims and witnesses so as to minimize revictimization of the child;

- (4) Coordinate the therapeutic and treatment program for child victims and witnesses and their families;
- (5) Provide for a multidisciplinary team and case management approach that focuses on the needs of, first, the child victim or witness; second, family members who are supportive of the child and whose interests are consistent with the best interests of the child; and third, law enforcement and prosecuting agencies;
- (6) Provide for the training and continuing education of skilled professional interviewers of child victims and witnesses; and
- (7) Serve as the focus of information and referral for child victim and witness programs.

Further, Haw. Rev. Stat. Ann. § 588-1.5 (Coordination function) provides,

- (a) The program shall promote the sharing of information among agencies providing services to the child and family, for purposes of implementing this chapter [Child Protective Act].
- (b) All agencies and their providers that have information regarding the mental, physical health, or other information relating to the best interest of the child shall share the information among the agencies working with the child unless otherwise prohibited by federal or state statute or rule. No agency shall further disclose any confidential information unless written consent expressly authorizing further disclosure is obtained from the person who is the subject thereof, or disclosure is permitted by law.

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

INSIGHTS FROM THE FIELD



“The Department of Human Services, through its’ Child Welfare Services component, and the Children’s Justice Center have a partnership that coordinates multi-disciplinary team response to Commercial Sexual Exploitation of Children cases. The Department of Human Services also has a contracted provider, the Susannah Wesley Community Center, that is a part of the multi-disciplinary team. Also, if parents are suspected to be perpetrators of harm to their child, a Child Welfare Services case is generated for investigation. If confirmed, there will be a Child welfare Services involvement for services and oversight.

https://www.courts.state.hi.us/services/hawaii_childrens_justice_centers/hawaii_childrens_justice_centers

<https://www.susannahwesley.org/>”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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

○ NOT MET

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

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

INSIGHTS FROM THE FIELD



“The Department of Human Services has a contracted provider, the Susannah Wesley Community Center, that provides services for assessment of known or suspected victims. The Susannah Wesley Community Center also provides services for confirmed victims of the Commercial Sexual Exploitation of Children. Also, if parents are suspected to be perpetrators of harm to their child, a Child Welfare Services case is generated for investigation. If confirmed, there will be Child Welfare Services involvement for services and oversight.

<https://humanservices.hawaii.gov/ssd/files/2022/11/DHS-Purchase-of-Service-Directory-POS-Directory-FY2023-11-2022.pdf>

<https://www.susannahwesley.org/>[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

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

● PARTIALLY MET

While commercially sexually exploited children are referred to the delinquency process for access to services and resources, Hawaii law does not provide access to specialized services for identified sex trafficked children and youth in the juvenile justice system. Pursuant to Haw. Rev. Stat. Ann. § 712-1200(6) (Prostitution),

A minor may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that the minor has violated subsection (1) [Prostitution]. The minor shall be released, referred, or transported pursuant to section 571-31(b) [Taking children into custody; release; notice]. The minor shall be subject to the jurisdiction of the family court pursuant to section 571-11(1) (Jurisdiction; children), including for the purposes of custody, detention, diversion, and access to services and resources.

- 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](#).)

INSIGHTS FROM THE FIELD



“The Department of Human Services has a contracted provider, the Susannah Wesley Community Center, that provides services which includes the assessment of known or suspected victims, as well as provides services for confirmed victims of the Commercial Sexual Exploitation of Children. Different service providers can be involved at the same time in providing services for youths in the juvenile justice system.

<https://humanservices.hawaii.gov/ssd/files/2022/11/DHS-Purchase-of-Service-Directory-POS-Directory-FY2023-11-2022.pdf>¹²

¹²*This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.*

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

● PARTIALLY MET

Hawaii law extends foster care services to youth under 21 years of age. However, these services are not extended to youth under 23 years of age as permitted under federal law.¹² Haw. Rev. Stat. Ann. § 346-391(Purpose) states,

The purpose of this part is to establish the young adult voluntary foster care program, to care for and assist eligible foster youth until their twenty-first birthday. The young adult voluntary foster care program will support former foster youth in the transition to adulthood and in becoming independent and self-sufficient.

Haw. Rev. Stat. Ann. § 346-395 (Eligibility) further provides,

A young adult may continue to receive services under this part if the young adult meets the following criteria:

- (1) The young adult was:
 - (A) Under the permanent custody, foster custody, voluntary foster custody, or court-ordered temporary foster custody of the department at the time the young adult attained the age of eighteen;
 - (B) A child who was placed in guardianship after attaining the age of sixteen and the legal guardians are no longer willing to provide emotional and financial support; or
 - (C) A child who was adopted after attaining the age of sixteen and the adoptive parents are no longer willing to provide emotional and financial support;
- (2) The young adult voluntarily consents to participate in the young adult voluntary foster care program and meets the program requirements;
- (3) The court finds that exercising jurisdiction under this part is in the young adult's best interest; and
- (4) The young adult is:
 - (A) Completing secondary education or a program leading to an equivalent credential;
 - (B) Enrolled in an institution that provides post-secondary or vocational education;

¹² 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).

- (C) Participating in a program or activity designed to promote or remove barriers to employment;
- (D) Employed for at least eighty hours per month; or
- (E) Incapable of doing any of the activities described in subparagraphs (A) to (D) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.

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

INSIGHTS FROM THE FIELD



“Services for confirmed victims of the Commercial Sexual Exploitation of Children are available until the age of 21 (<https://humanservices.hawaii.gov/ssd/files/2022/11/DHS-Purchase-of-Service-Directory-POS-Directory-FY2023-11-2022.pdf>).”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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.

● FULLY MET

The Hawaii state legislature made appropriations during the 2023-2024 legislative session to support the development and provision of specialized, community-based services for trafficking victims, including survivors of child sex trafficking.

2023-2024 Legislative Session				
Bill	Recipient	Amount	Intended Purpose	Term
HB 300	Pacific Survivor Center	\$90,000	For costs associated with providing care to trafficking and domestic violence victims, general support, and social services.	FY 2023-2024
2023-2024 Legislative Session				July 1 st to June 30 th
HB 300	Ho’ōla Nā Pua	\$100,000	For costs relating to prevention education and awareness training to community members, general support, and social services.	FY 2023-2024

2023-2024 Legislative Session				July 1 st to June 30 th
-------------------------------------	--	--	--	--

EXTRA CREDIT



The Hawaii state legislature appropriated funds during the 2023-2024 legislative session to support the development and provision of specialized, community-based services for trafficking victims, including survivors of child labor trafficking.



ISSUE 4: Access to Justice for Trafficking Survivors

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

Although not specific to trafficking cases, Hawaii Rev. Stat. Ann. § 604-10.5 (Power to enjoin and temporarily restrain harassment) broadly allows for ex parte temporary restraining orders. Under Hawaii Rev. Stat. Ann. § 604-10.5(a)–(f),

(a) For the purposes of this section:

“Course of conduct” means a pattern of conduct composed of a series of acts over any period of time evidencing a continuity of purpose.

“Harassment” means:

(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault; or

(2) An intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual and serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer emotional distress.

(b) The district courts shall have the power to enjoin, prohibit, or temporarily restrain harassment.

(c) Any person who has been subjected to harassment may petition the district court for a temporary restraining order and an injunction from further harassment in the district in which:

(1) The petitioner resides or is temporarily located;

(2) The respondent resides; or

(3) The harassment occurred.

....

(e) Upon petition to a district court under this section, the court may allow a petition, complaint, motion, or other document to be filed identifying the petitioner as “jane doe” or “john doe”; provided that the court finds that the “jane doe” or “john doe” filing is reasonably necessary to protect the privacy of the petitioner and will not unduly prejudice the prosecution or the defense of the action.

In considering a petition requesting a “jane doe” or “john doe” filing, the court shall weigh the petitioner's interest in privacy against the public interest in disclosure.

The court, only after finding clear and convincing evidence that would make public inspection inconsistent with the purpose of this section, may seal from the public all documents or portions of documents, including all subsequently filed documents, that would identify the petitioner or contain sufficient information from which the petitioner's identity could be discerned or inferred. Access to identifying information may be permitted to law enforcement or other authorized authority, in the course of conducting official business, to effectuate service, enforcement, or prosecution, or as ordered by the courts.

(f) Upon petition to a district court under this section, the court may temporarily restrain the person or persons named in the petition from harassing the petitioner upon a determination that there is probable cause to believe that a past act or acts of harassment have occurred or that a threat or threats of harassment may be imminent. The court may issue an ex parte temporary restraining order either in writing or orally; provided that oral orders shall be reduced to writing by the close of the next court day following oral issuance.

EXTRA CREDIT



Hawaii Rev. Stat. Ann. § 604-10.5 broadly allows for ex parte temporary restraining orders.

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

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

For purposes of accessing crime victims' compensation, Haw. Rev. Stat. Ann. § 351-2(1), (2) (Definitions) defines "victim" to include the following:

- (1) A person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State;
- (2) Any resident of the State who is injured or killed in another state by an act or omission of another person, which act or omission is within the description of any of the crimes¹³ specified in section 351-32 [Violent crimes];

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Haw. Rev. Stat. Ann. § 351-31(c) (Eligibility for compensation),

In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused the victim's injury or death and the commission shall reduce the amount of compensation in proportion to the amount of responsibility for the crime which caused the victim's injury or death; provided that if the proportion is greater than the responsibility of the person who committed the act or omission or, in the case of more than one person, the aggregate responsibility of such persons because of whom compensation is sought, the commission shall not award any compensation to the victim.

Further, Haw. Rev. Stat. Ann. § 351-62(a) (Limitations upon award of compensation.) requires compensation to be denied "unless the application has been made within eighteen months after the date of injury, death, or property damage." Exceptions to this restriction are only provided for "good cause." Because child sex trafficking and CSEC victims are not expressly exempt from the ineligibility factors noted above, however, some commercially sexually exploited children may not have access to an award.

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

¹³ Haw. Rev. Stat. Ann. § 351-31 (Violent crimes) includes violations of Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking) but not violations of Hawaii's CSEC offenses. However, CSEC victims would still be included within the definition of "victim" if their offender "com[es] within the criminal jurisdiction of the State." Haw. Rev. Stat. Ann. § 351-2(1).

Policy Goal 4.3

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

● PARTIALLY MET

Although Hawaii law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to Haw. Rev. Stat. Ann. § 712-1209.6 (Prostitution; motion to vacate conviction),

(1) A person convicted of committing the offense of prostitution under section 712-1200, loitering for the purpose of engaging in or advancing prostitution under section 712-1206(2), street prostitution and commercial sexual exploitation in designated areas under section 712-1207(1)(a) or (2)(a), or convicted of a lesser offense when originally charged with a violation of section 712-1200, 712-1206(2), or 712-1207(1)(a) or (2)(a), may file a motion to vacate the conviction if the defendant is not subsequently convicted of any offense under the Hawaii Penal Code within three years after the date of the original conviction.

(2) The court shall hold a hearing on a motion filed under this section to review the defendant's record over the three years after the date of the original conviction under section 712-1200, 712-1206(2), or 712-1207(1)(a) or (2)(a) or conviction of a lesser offense when originally charged with a violation of any of those sections, and if the court finds that the defendant has not been convicted of any offense under the Hawaii Penal Code within this three year period, the court shall vacate the conviction.

However, Haw. Rev. Stat. Ann. § 712-1209.6 applies specifically to convictions, and Haw. Rev. Stat. Ann. § 571-1 (Construction and purpose of chapter) states, “no adjudication by the court of the status of any child under this chapter [Family Courts] shall be deemed a conviction.” Accordingly, a child sex trafficking victim would be unable to vacate a delinquency adjudication under this law. Further, vacatur is limited to prostitution offenses, which fails to recognize the array of crimes trafficking victims are charged with and leaves many survivors without any avenue for relief.

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

INSIGHTS FROM THE FIELD



“Hawaii has created laws which allows for the motion to vacate a conviction of prostitution in two ways. The following law allows for the conviction to be vacated without regard to a person’s status as a trafficking victim and involves showing that there were no further convictions in a three year period: https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=SB&billnumber=1039&year=2019.

<https://www.usnews.com/news/best-states/articles/2019-07-03/hawaii-makes-it-easier-for-sex-trafficking-victims-to-erase-prostitution-convictions>

In addition, a victim’s conviction of prostitution will be vacated per commentary listed in Hawaii Revised Statutes 712-1209: https://www.capitol.hawaii.gov/hrscurrent/vol14_ch0701-0853/HRS0712/HRS_0712-1209_0006.htm.[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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

● FULLY MET

Hawaii law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Haw. Rev. Stat. Ann. § 706-646(2) (Victim restitution), “The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant’s offense when requested by the victim”

In determining the amount of restitution, Haw. Rev. Stat. Ann. § 706-646(3) states,

[T]he court shall not consider the defendant’s financial ability to make restitution in determining the amount of restitution to order Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including but not limited to:

- (a) Full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;
- (b) Medical expenses, which shall include mental health treatment, counseling, and therapy;
- (c) Funeral and burial expenses; and
- (d) Lost earnings, which shall include paid leave.

EXTRA CREDIT



Hawaii law mandates restitution for victims of child labor trafficking under Haw. Rev. Stat. Ann. § 706-646(2), which applies broadly to any offense.

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

● FULLY MET

Hawaii law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Haw. Rev. Stat. Ann. § 663J-3 (Cause of action for coercion into prostitution or sex trafficking) states,

An individual has a cause of action against a person who:

- (1) Coerced the individual into prostitution or to remain in prostitution, or subjected the individual to sex trafficking;¹⁴
- (2) Used coercion to collect or receive any of the individual’s earnings derived from prostitution or from being the subject of sex trafficking; or
- (3) Hired, or attempted to hire the individual to engage in prostitution, when a reasonable person would believe that the individual was coerced into prostitution by another person or was being subjected to sex trafficking.

Damages are assessed pursuant to Haw. Rev. Stat. Ann. § 663J-5 (Damages), which states,

¹⁴ Haw. Rev. Stat. Ann. § 663J-2 (Definitions) defines “sex trafficking” to have the same meaning as the criminal offense, Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking).

- An individual entitled to bring an action under section 663J-3 may recover all of the following damages:
- (1) Economic damages proximately caused by coercion into prostitution or being the subject of sex trafficking;
 - (2) Noneconomic damages proximately caused by coercion into prostitution or being the subject of sex trafficking;
 - (3) Exemplary damages;
 - (4) Reasonable attorney's fees; and
 - (5) Costs of suit, including reasonable expenses for expert testimony.

Further, Haw. Rev. Stat. Ann. § 663J-9 (Other remedies preserved) provides,

The remedies provided under this chapter do not restrict the right of any individual to bring an action under other law, including common law, to recover damages arising out of the use of the individual in prostitution, or subjecting the individual to sex trafficking, or the coercion incident to the individual being used in prostitution or sex trafficking; nor does this chapter limit or restrict the liability of any person under other law.

EXTRA CREDIT



Hawaii law provides sex trafficked youth with a trafficking-specific civil remedy under Haw. Rev. Stat. Ann. § 663J-3, which allows an individual who is subjected to sex trafficking to bring a civil action against their exploiter. Haw. Rev. Stat. Ann. § 663J-2 (Definitions) defines “sex trafficking” to have the same meaning as the criminal offense, Haw. Rev. Stat. Ann. § 712-1202 (Sex trafficking), which criminalizes sex trafficking of both minor and adult victims.

INSIGHTS FROM THE FIELD



“Hawaii has enacted a Bill of Rights for Victims and Witnesses which references civil remedies for victims of crime (https://www.courts.state.hi.us/services/adult_client_services/basic_bill_of_rights_for_victims_and_witnesses).”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

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

Prosecutions for child sex trafficking may commence at any time; however, CSEC prosecutions are subject to statutes of limitation as are civil actions. Pursuant to Haw. Rev. Stat. Ann. § 701-108(1) (Time limitations), “A prosecution for . . . sex trafficking . . . may be commenced at any time.” Otherwise, Haw. Rev. Stat. Ann. § 701-108(2)(b), (d) generally provides,

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

.....

(b) A prosecution for a class A felony must be commenced within six years after it is committed;

.....

(d) A prosecution for any other felony must be commenced within three years after it is committed;

Regarding civil actions, the statute of limitation for a civil claim filed under Haw. Rev. Stat. § 663J-3 (Cause of action for coercion into prostitution or sex trafficking) is set forth in Haw. Rev. Stat. Ann. § 663J-7 (Statute of limitations), which states,

(a) A claim under this chapter may not be brought against a person more than six years after an act of promoting prostitution by coercion or sex trafficking by that person.

(b) The limitation period provided for in this chapter is tolled:

(1) During the minority of the individual who engages in prostitution; or

(2) Any time there is a criminal offense investigation being actively conducted against the defendant by a governmental agency or there is a criminal offense charge, information, or indictment pending against the defendant.

Notably, the general civil statute of limitation for personal actions is also 6 years. Haw. Rev. Stat. Ann. § 657-1(4) (Six years) provides, “Personal actions of any nature whatsoever not specifically covered by the laws of the State” must be “commenced within six years after the cause of action accrued, and not after.”¹⁵ Accordingly, Hawaii law does not lengthen or eliminate the civil statute of limitation for trafficking-related actions under Haw. Rev. Stat. Ann. § 663J-7(a) as both it and the general statute of limitation under Haw. Rev. Stat. Ann. § 657-1(4) are 6 years.

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

¹⁵ Notably, Haw. Rev. Stat. Ann. § 657-13 (Infancy, insanity, imprisonment) provides for tolling as follows:

If any person entitled to bring any action specified in this part (excepting actions against the sheriff, chief of police, or other officers) is, at the time the cause of action accrued, either:

(1) Within the age of eighteen years; or,

(2) Insane; or,

(3) Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than the person's natural life;

such person shall be at liberty to bring such actions within the respective times limited in this part, after the disability is removed or at any time while the disability exists.



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

Hawaii 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: Statutorily 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

Although Hawaii’s closed circuit television (CCTV) law, Haw. R. Evid. 616 (Televised testimony of child), does not expressly apply in cases involving commercial sexual exploitation, protections likely extend to sex trafficked children. Specifically, Haw. R. Evid. 616 provides,

In any prosecution of an abuse offense or sexual offense alleged to have been committed against a child less than eighteen years of age at the time of the testimony, the court may order that the testimony of the child be taken in a room other than the courtroom and be televised by two-way closed circuit video equipment to be viewed by the court, the accused, and the trier of fact, if the court finds that requiring the child to testify in the physical presence of the accused would likely result in serious emotional distress to the child and substantial impairment of the child’s ability to communicate. During the entire course of such a procedure, the attorneys for the defendant and for the State shall have the right to be present with the child, and full direct and cross-examination shall be available as a matter of right.

5.2.1 Recommendation: Strengthen existing protections by clarifying that all commercially sexually exploited children may testify by an alternative method. (See [Issue Brief 5.2.](#))

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

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims’ identifying information is protected from disclosure in court records
Summary	Not statutorily required.	A child less than 14 years of age, involved in a judicial proceeding, shall have the right to be accompanied by a parent, a victim-witness counselor, or other adult designated by the court. The court is also required to control the mode	Not statutorily required.

		and order of interrogation to protect witnesses from harassment or undue embarrassment.	
Relevant Statute(s)	None.	Haw. Rev. Stat. Ann. § 621-28 (Accompaniment of children at judicial proceedings); Rule 611 (Mode and order of interrogation and presentation)	None.

5.3.1 Recommendation: Statutorily ensure that child sex trafficking victims have the right to a victim advocate and their identifying information is protected from disclosure in court records. (See *Issue Brief 5.3.*)

INSIGHTS FROM THE FIELD



“Hawaii has enacted Hawaii Revised Statutes 801D-4 which created a Bill of Rights for Victims and Witnesses. This law affords many rights, including the right to be free from threats or harm as well as a separate waiting area during court proceedings so that they are not in close proximity to the defendant. https://www.capitol.hawaii.gov/hrscurrent/vol14_ch0701-0853/HRS0801D/HRS_0801D-0004.htm.

https://www.capitol.hawaii.gov/hrscurrent/vol13_ch0601-0676/HRS0626/HRS_0626-0001-0505_0005.htm

Finally, victim assistance programs in Hawaii were created to assist victims throughout the criminal justice process and includes preparation for court testimony, accompanying a victim to court, and assistance with a Victim Impact Statement. As such, Hawaii allows for access to a victim advocate during court proceedings.”[†]

[†]*This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.*

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

● **PARTIALLY MET**

Hawaii law does not provide for privileged communications between caseworkers and child sex trafficking victims specifically. However, some child sex trafficking victims may benefit from privileged communications protections afforded to child abuse victims, as child abuse is defined to include child sex trafficking. 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
Hawaii Rules of Evidence 505.5(b) (Victim-counselor privilege)	Victim counselor	Minors identified as a victim of child abuse. ¹⁶
Hawaii Rev. Stat. § 467E-15 (Privileged communications)	Licensed clinical social worker	None.
Hawaii Rules of Evidence 504.1(b) (Psychologist-client privilege)	Psychologist	None.

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

¹⁶ See *supra* Policy Goal 2.10 for a full discussion of Hawaii’s child abuse definition.



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

Hawaii 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](#).)

INSIGHTS FROM THE FIELD



“The Hawaii Child Welfare Services (CWS) Staff Development Office is responsible for providing training to new CWS staff regarding Commercial Sexual Exploitation of Children. CWS also provides Mandated Reporter training for the community when requested. This training also includes Human Trafficking reporting (<https://humanservices.hawaii.gov/wp-content/uploads/2018/07/MANDATED-REPORTER-CHECKLIST-FOR-SUSPECTED-HUMAN-TRAFFICKING-with-website-JUNE-2018.doc>).”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

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

○ NOT MET

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

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

INSIGHTS FROM THE FIELD



“Child Welfare Services does provide Mandated Reporter training for the community when requested. That information also includes Human Trafficking reporting:

<https://humanservices.hawaii.gov/ssd/files/2021/03/GUIDE-FOR-MANDATED-REPORTERS-Rev.-12-2-2020-new-logo-final0021.pdf>

<https://humanservices.hawaii.gov/wp-content/uploads/2018/07/MANDATED-REPORTER-CHECKLIST-FOR-SUSPECTED-HUMAN-TRAFFICKING-with-website-JUNE-2018.doc>”[†]

[†]*This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.*

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

🟡 PARTIALLY MET

Hawaii law authorizes trafficking-specific training for law enforcement. Pursuant to Enacted House Bill 579, § 3(a), (b)(7) (2023),¹⁷

(a) The department of the attorney general shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2026 on the State’s efforts to address the commercial sexual exploitation of children; and shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2027 on the State’s efforts to address human trafficking.

(b) Each report identified in subsection (a) shall include:

. . . .

(7) Plans for a training program for educators, community members, members of law enforcement agencies, and mandatory reporters of child abuse, including an outline of the training content and an assessment of whether training should be mandatory and in what intervals;

Further, Enacted House Bill 579, § 2¹⁸ (Human trafficking prevention program) requires “The department of the attorney general [to] develop and implement a program to prevent, and assist victims of, human trafficking. The program shall: . . . (5) Develop and provide comprehensive training on ways to prevent, identify, and address human trafficking and the commercial sexual exploitation of children”

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

¹⁷ House Bill 579, § 3 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

¹⁸ House Bill 579, § 2 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

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

INSIGHTS FROM THE FIELD



“Hawaii agencies have partnered with the Nation Criminal Justice Training Center (<https://ncjtc.fvtc.edu/>) and has hosted trainings and roundtable events to train law enforcement, prosecutors and service providers in victim-centered investigations and MDT response to child sex trafficking.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

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

○ NOT MET

Hawaii law authorizes trafficking-specific training for members of law enforcement agencies, including prosecutors. Pursuant to Enacted House Bill 579, § 3(a), (b)(7) (2023),¹⁹

- (a) The department of the attorney general shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2026 on the State's efforts to address the commercial sexual exploitation of children; and shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2027 on the State's efforts to address human trafficking.
- (b) Each report identified in subsection (a) shall include:

-
- (7) Plans for a training program for educators, community members, members of law enforcement agencies, and mandatory reporters of child abuse, including an outline of the training content and an assessment of whether training should be mandatory and in what intervals;

Further, Enacted House Bill 579, § 2²⁰ (Human trafficking prevention program) requires “The department of the attorney general [to] develop and implement a program to prevent, and assist victims of, human trafficking. The program shall: . . . (5) Develop and provide comprehensive training on ways to prevent, identify, and address human trafficking and the commercial sexual exploitation of children”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by prosecutors. However, prosecutors are not statutorily mandated 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.](#))

¹⁹ House Bill 579, § 3 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

²⁰ House Bill 579, § 2 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

INSIGHTS FROM THE FIELD



“As stated above, Hawaii agencies have partnered with the National Criminal Justice Training Center (<https://ncjtc.fvtc.edu/>) and has hosted trainings and roundtable events to train law enforcement, prosecutors and service providers in victim-centered investigations and MDT response to child sex trafficking.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor's request.

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

● PARTIALLY MET

Hawaii law authorizes training on child sex trafficking for school personnel. Pursuant to Enacted House Bill 579, § 3(a), (b)(7) (2023),²¹

(a) The department of the attorney general shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2026 on the State's efforts to address the commercial sexual exploitation of children; and shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2027 on the State's efforts to address human trafficking.

(b) Each report identified in subsection (a) shall include:

....

(7) Plans for a training program for educators, community members, members of law enforcement agencies, and mandatory reporters of child abuse, including an outline of the training content and an assessment of whether training should be mandatory and in what intervals;

Further, Enacted House Bill 579, § 222 (Human trafficking prevention program) requires “The department of the attorney general [to] develop and implement a program to prevent, and assist victims of, human trafficking. The program shall: . . . (5) Develop and provide comprehensive training on ways to prevent, identify, and address human trafficking and the commercial sexual exploitation of children”

Resultingly, resources and training regarding child sex trafficking may be, or become, available for use by school personnel. However, Hawaii law does not statutorily require school personnel to receive training on identifying and responding to child sex trafficking.

6.5.1 Recommendation: Statutorily mandate trafficking-specific prevention education training for school personnel. (See [Issue Brief 6.5](#).)

²¹ House Bill 579, § 3 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

²² House Bill 579, § 2 cited here and elsewhere in this report was enacted during the 2023-2024 Regular Session of the Hawaii state legislature (effective June 14, 2023).

INSIGHTS FROM THE FIELD



“The Department of the Attorney General is also currently engaging the Hawaii Department of Education to create an outreach strategy to provide training to educators as well as awareness of trafficking materials to parents. Specifically, the Special Investigation and Prosecution Division within the AGT is currently working on outreach, training and awareness strategies for schools (including educators, parents and students).”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

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

○ NOT MET

Hawaii law does not mandate child sex trafficking prevention education in schools.²³

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

INSIGHTS FROM THE FIELD



“The Department of the Attorney General is also currently engaging the Hawaii Department of Education to create an outreach strategy to provide training to educators as well as awareness of trafficking materials to parents. Specifically, the Special Investigation and Prosecution Division within the AGT is currently working on outreach, training and awareness strategies for schools (including educators, parents and students).”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

²³ However, Enacted House Bill 300, Part IV, § 50 (2023) did include a \$100,000 appropriation to Ho’ōla Nā Pua “for costs relating to provide prevention education and awareness training to community members, including students in 5th – 12th grade and adults of all ages for sex and human trafficking” Resultingly, resources and education on child sex trafficking prevention may be, or become, available to students.

ADDITIONAL INFORMATION FROM STATE PARTNERS



“In May of 2017, the **Commercial Sexual Exploitation of Children (CSEC) Steering Committee** was created with representatives of child serving state agencies, Department of Education, Department of Human Services (CWS), CAMHD, Family Court, Children’s Justice Center, Office of Youth Services, Missing Child Center Hawaii (MCCH), local law enforcement (Honolulu Police Department), Attorney General’s Office, Honolulu Prosecutor’s Office and federal agencies such as the US Attorney’s office, Homeland Security (HSI) and FBI.

The Hawaii Judiciary leads the **CSEC Steering Committee** and the group meets monthly. The purpose of this steering committee is to oversee the coordinated system response to child victims of sex trafficking, including enhancing response, problem-solving, and identifying gaps and concerns.

In addition, each county operates its own multidisciplinary team (**MDTs**); these teams are led by the Hawaii State Judiciary’s Children’s Justice Centers (CJC’s) located on each island (every island is its own county). The Big Island (Hawaii Island) operates two MDT’s – one for Hilo and one for Kona (two separate sides of the island). These teams consist of service providers, law enforcement, prosecutors and other stakeholders and work together to enhance a coordinated response to CSEC and Trafficking of Minors. In addition, the CJC State Director also coordinates and facilitates training provided by the National Criminal Justice Training Center on MDT Response and Coordination. It was because of this training, which is routinely provided yearly for statewide MDTs, that MDTs were created in the State of Hawaii.

The **Honolulu Trafficking Taskforce (HTTF)** is led by the City & County of Honolulu Prosecutor’s Office and conducts both a task force coordination meeting with all members (federal, state, county/city LE, prosecutors, service providers) and sub-group meetings (LE, Prosecution, Service Provider and Data sub-groups) to strengthen communication and problem solve to enhance coordination, information sharing and visibility of member agency activity).

Finally, the Department of the Attorney General (AG) created **Investigation** a new division, the **Special and Prosecution Division (SIPD)** in 2022 to focus on, among other priority crimes, human trafficking and exploitation of minors. In addition, the SIPD created a full-time State Coordinator position to coordinate all activity between prosecution, law enforcement, service providers and NGO’s to strengthen anti-trafficking efforts in the State of Hawaii. This role includes providing training, enhancing resources, conducting outreach, and identifying gaps and barriers. And, in June 2023, the Hawaii Legislature passed **House Bill 579** which mandates that the AG office create a statewide strategy to prevent human trafficking as well as develop a plan to provide increased support and assistance to victims of human trafficking and victims of the commercial sexual exploitation of children. In addition, this law requires that the AG office review existing laws and provide recommendations for new proposed legislation regarding CSEC and Sex Trafficking.”[†]

[†]This information was gathered through our Insights from the Field process and was anonymized at the contributor’s request.

State Laws Addressing Child Sex Trafficking

1. Haw. Rev. Stat. Ann. § 712-1202(1), (2) (Sex trafficking) states,
 - (1) A person commits the offense of sex trafficking if the person knowingly:
 - (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, coercion, or intimidation to engage in prostitution, or profits from such conduct by another; or
 - (b) Advances²⁴ or profits from prostitution²⁵ of a minor.
 - (2) Sex trafficking is a class A felony.

A class A felony is punishable by an indeterminate imprisonment term of 20 years, “without the possibility of suspension of sentence or probation,” and a possible fine up to \$50,000. Haw. Rev. Stat. Ann. §§ 706-659, 706-640(1)(a).

²⁴ Haw. Rev. Stat. Ann. § 712-1201(1) (Advancing prostitution; profiting from prostitution; definition of terms) defines “advances prostitution” to include an individual who does any of the following:

[C]auses or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution;

However, Haw. Rev. Stat. Ann. § 712-1201(3) states, “The definitions in subsection (1) and (2) do not include those engaged in conduct outlined in section 712-1200 as the prostituted person or section 712- as the person engaged in commercial sexual exploitation.”

²⁵ Haw. Rev. Stat. Ann. § 712-1201(2) defines “profits from prostitution” to include an individual who “accepts or receives money or other property pursuant to an agreement or understanding with any person whereby the person participates or is to participate in the proceeds of prostitution activity.” However, Haw. Rev. Stat. Ann. § 712-1201(3) states, “The definitions in subsection (1) and (2) do not include those engaged in conduct outlined in section 712-1200 as the prostituted person or section 712- as the person engaged in commercial sexual exploitation.”

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Haw. Rev. Stat. Ann. § 712-1209.1(1)–(3) (Commercial sexual exploitation of a minor) states,
 - (1) A person eighteen years of age or older commits the offense of commercial sexual exploitation of a minor if the person intentionally, knowingly, or recklessly:
 - (a) Offers or agrees to provide anything of value to a member of a police department, a sheriff, or a law enforcement officer who represents that person’s self as a minor to engage in sexual conduct;
 - (b) Provides anything of value to a minor or third person as compensation for having engaged in sexual conduct with a minor;
 - (c) Agrees to provide or offers to provide anything of value to a minor or third person for the purpose of engaging in sexual conduct with a minor; or
 - (d) Solicits, offers to engage in, or requests to engage in sexual conduct with a minor.
 - (2) Solicitation of a minor for prostitution is a class B felony.
 - (3) In addition to any other authorized disposition, a person convicted of committing the offense of commercial sexual exploitation of a minor shall be sentenced to pay a fine of no less than \$5,000.

A class B felony is punishable by imprisonment for up to 10 years and a possible fine up to \$25,000. Haw. Rev. Stat. Ann. §§ 706-660(1)(a), 706-640(1)(b).

2. Haw. Rev. Stat. Ann. § 707-756 (Electronic enticement of a child in the first degree) states,
 - (1) Any person who, using a computer or any other electronic device:
 - (a) Intentionally or knowingly communicates:
 - (i) With a minor known by the person to be under the age of eighteen years;
 - (ii) With another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or
 - (iii) With another person who represents that person to be under the age of eighteen years;
 - (b) With the intent to promote or facilitate the commission of a felony:
 -
 - (ii) That is a class A felony; or
 - (iii) That is another covered offense²⁶ as defined in section 846E-1 [Definitions], agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and
 - (c) Intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time,is guilty of electronic enticement of a child in the first degree.
 - (2) Electronic enticement of a child in the first degree is a class B felony. Notwithstanding any law to the contrary, a person convicted of electronic enticement of a child in the first degree shall be sentenced to an indeterminate term of imprisonment as provided by law.

A class B felony is punishable by imprisonment for up to 10 years and a possible fine up to \$25,000. Haw. Rev. Stat. Ann. §§ 706-660(1)(a), 706-640(1)(b).

²⁶ Haw. Rev. Stat. Ann. § 846E-1 defines “covered offense” to include “[a] crime within the definition of ‘sexual offense’ in this section.” In turn, Haw. Rev. Stat. Ann. § 846E-1 defines “sexual offense” to include sex trafficking and CSEC crimes.

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



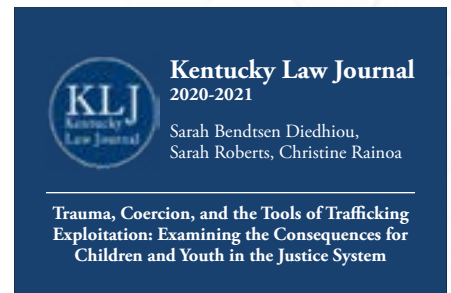
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

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.