



2023 REPORT

MICHIGAN

Report Cards on Child & Youth Sex Trafficking

State Action. National Change.



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

PROTECTED INNOCENCE CHALLENGE

MICHIGAN

Year	SCORE	GRADE	10 10	23 25	12.5 15	9.5 10	21.5 27.5	12.5 15
2019	89	B						
2011	44.5	F	5 10	4 25	8.5 15	5.5 10	11.5 27.5	10 15

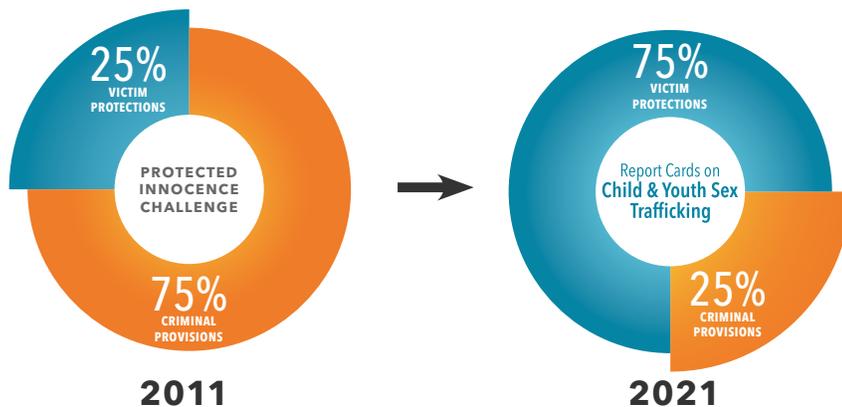
From 2011 to 2019, Michigan raised their grade under the Protected Innocence Challenge from an “F” to a “B,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Michigan’s 2019 PIC report, visit sharedhope.org/PICframe9/reportcards/PIC_RC_2019_MI.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**TIER II**

MICHIGAN

2023 Report Card

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 8.5 points.
- Commercially sexually exploited children can be identified as child sex trafficking victims regardless of whether they have or identify a trafficker.
- Requires convicted offenders of child sex or labor trafficking or CSEC offenses to pay restitution to victims.
- Allows child and youth victims of sex or labor trafficking to seek accountability for their offenders through civil processes.

SAFE HARBOR STATUS:

State law fails to prohibit the criminalization of all minors for prostitution offenses, thus allowing 16- and 17-year-old sex trafficking victims to be held criminally accountable for their own victimization.

Issue	Grade	Score	Summary
 1. Criminal Provisions	B	15.5 17.5	Policy goals accomplished related to buyer accountability under state CSEC laws, mistake of age defenses, decoy defenses, business entity liability under the trafficking law, and financial penalties. Gaps remain related to buyer accountability under the trafficking law and trafficker accountability under state CSEC laws.
 2. Identification of and Response to Victims	F	11 27.5	Policy goals accomplished related to third party control and child abuse definitions. Gaps remain related to foreign national victims, screening through child welfare and the juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, juvenile court jurisdiction, and non-caregiver trafficking cases.
 3. Continuum of Care	F	4 15	Gaps remain in all areas, including community-based services, MDT responses, services through child welfare and the juvenile justice system, extended foster care services, and appropriations.
 4. Access to Justice for Trafficking Survivors	D	10 15	Policy goals accomplished related to restitution and civil remedies. Gaps remain related to civil orders of protection, 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	6 15	Gaps remain in all areas, including training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education in schools.
EXTRA CREDIT	 Youth	1	Protection related to civil remedies is extended to sex trafficked youth.
	 Child Labor Trafficking	3	Protections related to financial penalties, restitution, and civil remedies are extended to child labor trafficking victims.

OVERALL GRADE
TIER II**F 55.5**

WHAT IS SAFE HARBOR?

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

WHY SAFE HARBOR?

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

SAFE HARBOR LAWS

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

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

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

STATE SUMMARY:

Although Michigan law prohibits the criminalization of minors under 16 years of age for prostitution and certain commercial sexual exploitation offenses, older minors engaged in commercial sex and child survivors who commit other offenses pursuant to their victimization are vulnerable to re-traumatization through punitive processes. Further, state law does not facilitate access to, or provide funding for, community-based services, potentially leaving some survivors underserved or disconnected from resources that are necessary to address trauma and promote healing.

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

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

This report provides a thorough analysis of Michigan’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.

● PARTIALLY MET

Following federal precedent, Michigan’s trafficking law could apply to buyers of sex with minors based on the term “obtain.”² Specifically, Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) states,

A person shall not do any of the following, regardless of whether the person knows the age of the minor:

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

² See *United States v. Jungers*, 702 F.3d 1066 (8th Cir. 2013). In this case, the Eighth Circuit specifically addressed whether the federal sex trafficking law, 18 U.S.C. § 1591 (Sex trafficking of children or by force, fraud, or coercion) applies to buyers of sex with minors. Reversing a District of South Dakota ruling that Congress did not intend the string of verbs constituting criminal conduct under 18 U.S.C. § 1591(a)(1) (“recruits, entices, harbors, transports, provides, obtains, or maintains”) to reach the conduct of buyers (*United States v. Jungers*, 834 F. Supp. 2d 930, 931 (D.S.D. 2011)), the Eighth Circuit concluded that 18 U.S.C. § 1591 does not contain a “latent exemption for purchasers” because buyers can “engage in at least some of the prohibited conduct.” *Jungers*, 702 F. 3d 1066, 1072. Congress codified *Jungers* clarifying that the federal sex trafficking law is intended to apply to buyers in the Justice for Victims of Trafficking Act (JVTA) of 2015 Pub. L. No. 114-22, 129 Stat 227, enacted on May 29, 2015. The JVTA adds the terms “patronize” and “solicit” to the list of prohibited conduct and expressly states, “section 108 of this title amends section 1591 of title 18, United States Code, to add the words ‘solicits or patronizes’ to the sex trafficking statute making absolutely clear for judges, juries, prosecutors, and law enforcement officials that criminals who purchase sexual acts from human trafficking victims may be arrested, prosecuted, and convicted as sex trafficking offenders when this is merited by the facts of a particular case.” *Id.* at Sec. 109. The Eighth Circuit decision in *United States v. Jungers* and the federal sex trafficking law as amended by the Justice for Victims of Trafficking Act establish persuasive authority when state courts interpret the string of verbs constituting prohibited conduct in state sex trafficking laws (in particular, the term “obtains”) to the extent such interpretation does not conflict with state case law.

- (a) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for commercial sexual activity.³
- (b) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for forced labor or services.⁴

However, to ensure buyers are held accountable as sex trafficking offenders, the trafficking law should be amended to expressly apply to persons who “patronize” a minor for commercial sex.

- 1.1.1 Recommendation: Amend Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) to clarify that buyer conduct is included as a violation of Mich. Comp. Laws Ann. § 750.462e. (See [Issue Brief 1.1.](#))

INSIGHTS FROM THE FIELD



“The Michigan DAG is currently in the process of developing partnerships and initiatives that will work on securing more prosecutions and create uniform practices regarding the investigation and reporting in this area. The Michigan DAG also currently houses the Michigan Human Trafficking Commission which works on collecting data and research to then share with policymakers and law enforcement to increase awareness, seek funding for services, and increase successful prosecutions. The Michigan DAG has also previously introduced new legislation to combat the growing problem of Human Trafficking.”[†]

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

³ Mich. Comp. Laws Ann. § 750.462a(c) defines “commercial sexual activity” as follows:

- 1 or more of the following for which anything of value is given or received by any person:
 - (i) An act of sexual penetration or sexual contact as those terms are defined in section 520a.
 - (ii) Any conduct prohibited under section 145c.
 - (iii) Any sexually explicit performance as that term is defined in section 3 of 1978 PA 33, MCL 722.673.

⁴ Mich. Comp. Laws Ann. § 750.462a(g) defines “forced labor or services” as “labor or services that are obtained or maintained by force, fraud, or coercion.” In turn, Mich. Comp. Laws Ann. § 750.462a(l) defines “services” as “an ongoing relationship between a person and an individual in which the individual performs activities under the supervision of or for the benefit of the person, including, but not limited to, commercial sexual activity and sexually explicit performances.”

Policy Goal 1.2 Commercial sexual exploitation of children (CSEC) laws⁵ specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

Michigan law specifically criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Mich. Comp. Laws Ann. § 750.449a(2) (Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness, or assignation; penalty),

A person who engages or offers to engage the services of another person, who is less than 18 years of age and who is not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration, is guilty of a crime

INSIGHTS FROM THE FIELD



“The Michigan DAG is currently in the process of developing partnerships and initiatives that will work on securing more prosecutions and create uniform practices regarding the investigation and reporting in this area. The Michigan DAG also currently houses the Michigan Human Trafficking Commission which works on collecting data and research to then share with policymakers and law enforcement to increase awareness, seek funding for services, and increase successful prosecutions. The Michigan DAG has also previously introduced new legislation to combat the growing problem of Human Trafficking.”[†]

[†]This 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) laws⁶ apply to traffickers and protect all minors under 18.

● PARTIALLY MET

Mich. Comp. Laws Ann. § 750.13 (Taking or enticing away minor under sixteen years; violation as felony; penalty) applies to traffickers but is limited in application to traffickers who take a child under 16 years of age from a legal guardian; it states,

⁵ 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 Michigan’s CSEC laws, *see* the appendix located at the end of this report.

⁶ *See supra* note 5 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

A person who takes or entices away a minor under the age of 16 years from the minor’s father, mother, guardian, or other person having the legal charge of the minor, without their consent, for the purpose of prostitution, concubinage, sexual intercourse, or marriage is guilty of a felony

As noted above, however, Mich. Comp. Laws Ann. § 750.13 only addresses a narrow form of criminal conduct and leaves older minors unprotected.

- 1.3.1 Recommendation: Enact a CSEC law that protects all minors under 18 years of age and addresses an array of exploitive conduct engaged in by traffickers. (See [Issue Brief 1.3.](#))

INSIGHTS FROM THE FIELD



“The state of Michigan charges these matters under MCL 750.462e. Currently, the Michigan DAG does have pending criminal matters charged under this statute. The Michigan AG has also previously introduced/proposed new legislation which would assist in the prosecution under these matters.”[†]

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

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

● FULLY MET

Michigan law expressly prohibits a mistake of age defense in prosecutions for child sex trafficking. Pursuant to Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as it relates to the age of minor), an offender will be held accountable for child sex trafficking “regardless of whether the person knows the age of the minor.”

INSIGHTS FROM THE FIELD



“There are also criminal jury instructions that speak to this practice and are supported by case law.”[†]

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

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, Michigan’s criminal attempt statute, Mich. Comp. Laws Ann. § 750.92 (Attempt to commit crime), could provide prosecutors with an alternative avenue to prosecute those cases. Mich.

Comp. Laws Ann. § 750.92 criminalizes, “[a]ny person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same” Accordingly, an offender could be found guilty of attempting to commit a child sex trafficking offense if the offender committed an act in furtherance of child sex trafficking but was prevented from perpetrating the offense since the intended victim was a law enforcement decoy rather than an actual minor.

INSIGHTS FROM THE FIELD



“Currently several law enforcement agencies in Michigan have created a task force "SEMTEC" that operates in this manner. This has allowed for numerous rescues of trafficked victims and successful prosecutions.”[†]

[†]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

Michigan law allows business entities to be held criminally liable for conduct that violates the trafficking law . Pursuant to Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor),

A person shall not do any of the following, regardless of whether the person knows the age of the minor:

- (a) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for commercial sexual activity.
- (b) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for forced labor or services.

Further, Mich. Comp. Laws Ann. § 750.462d (Prohibited conduct) states,

A person shall not do either of the following:

. . . .

- (b) Knowingly benefit financially or receive anything of value from participation in an enterprise, as that term is defined in section 159f [Definitions generally], if the enterprise has engaged in an act proscribed under this chapter.

Importantly, Mich. Comp. Laws Ann. § 750.10 (Sexually delinquent person, definitions) defines “person” to include “public and private corporations, copartnerships, and unincorporated or voluntary associations.” Accordingly, business entities can be held liable for a human trafficking violation.

INSIGHTS FROM THE FIELD



“Such behaviors may be charged under Michigan's Criminal Enterprise statutes if it can be shown that they have aided in the trafficking or shared in the profits.”[†]

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

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

Michigan law levies financial penalties on sex trafficking and CSEC offenders; although a percentage of the mandatory assessment will be directed toward victim services, a percentage of forfeited assets is not. Regarding the mandatory assessment. Mich. Code Ann. § 780.905(1)–(7)(a) (Payment and use of assessments; order; duties of clerk of court) states,

(1) The court shall order each person charged with an offense that is a felony, misdemeanor, or ordinance violation that is resolved by conviction, assignment of the defendant to youthful trainee status, a delayed sentence or deferred entry of judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, to pay an assessment as follows:

(a) If the offense is a felony, \$130.00.

(b) If the offense is a misdemeanor or ordinance violation, \$75.00.

....

(4) Except as otherwise provided under this act, an assessment under this section shall be used to pay for crime victim's rights services.

....

(7) The clerk of the court shall do both of the following on the last day of each month:

(a) Transmit 90% of the assessments received under this section to the department of treasury with a written report of those assessments as the department of treasury prescribes. To provide funding for costs incurred under this section and for providing crime victim's rights services, the court may retain 10% of the assessments received under this section and transmit that amount to the court's funding unit.

Mich. Code. Ann. § 780.904(1), (2) (Crime victim's rights fund; creation; investment; expenditures; use of additional excess revenue; expenditure for statewide trauma system; limitation; report; “minor crime victim” defined.) governs disposition of funds transmitted to the state treasurer; it states,

(1) The crime victim's rights fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under this act and as provided by law

(2) The fund must be expended only as provided in this act. Amounts in the fund in excess of the necessary revenue needed to pay for crime victim's rights services as determined by the commission under section 3(a) may be used for crime victim compensation under 1976 PA 223, MCL 18.351 to 18.368, including compensation to minor crime victims. Until September 30, 2022, additional excess revenue of not more than \$3,500,000.00 that has not been used for crime victim compensation may be used to provide for establishment and maintenance of a statewide trauma system, including staff support associated with trauma and related emergency medical services program activities.

Regarding asset forfeiture, Mich. Comp. Laws Ann. § 600.4702(1) (Property subject to seizure and forfeiture; exception; encumbrances; substituted proceeds of crime) states,

Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:

- (a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.
- (b) All real property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.
- (c) In the case of a crime that is a violation of . . . 750.462a to 750.462h [Human trafficking], all property described in subdivisions (a) and (b), and all real property or personal property that performed 1 of the following functions:
 - (i) Contributed directly and materially to the commission of the crime.
 - (ii) Was used to conceal the crime.
 - (iii) Was used to escape from the scene of the crime.
 - (iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime.

Mich. Comp. Laws Ann. § 600.4701(a)(viii)(A)–(B) (Definitions) defines “crime” as follows:

committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought:

-
- (viii) A violation of any of the following:
 - (A) . . . 750.459 [Transporting person for prostitution; sale of travel services for purposes of prostitution or human trafficking; conduct against minor; felony; “travel services” defined] . . .
 - (B) Chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h [Human trafficking].

However, state asset forfeiture laws do not direct a percentage of a sex trafficking or CSEC offender’s forfeited assets into a victim services fund.

EXTRA CREDIT



Michigan law levies financial penalties on child labor trafficking offenders and directs those financial penalties into a victim services fund. Mich. Code Ann. §§ 780.905, 780.904.

INSIGHTS FROM THE FIELD



“Every criminal defendant may be assessed a fine that goes to the State of Michigan for crime victims. Additionally, the Crime Victims' Rights Act does require that restitution to a victim take precedence over any fines and costs assessed by the Court.”[†]

[†]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.

● **FULLY MET**

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) can apply directly to buyers of commercial sex with minors based on federal precedent,⁷ meaning a buyer can be charged regardless of whether a trafficker is involved or identified. Accordingly, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

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

○ **NOT MET**

Michigan 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



“There are resources for trafficked children who are not citizens. MDHHS has programing in place to assist these victims in obtaining medical needs, housing, education, etc. as well as assistance with Visas and immigration support.”[†]

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

⁷ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Mich. Comp. Laws Ann. § 750.462e.

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

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

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

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]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

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

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

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]*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.

1 PARTIALLY MET

Michigan law prohibits the criminalization of some, but not all, minors for prostitution offenses, and the services-referral protocol only requires law enforcement to refer older minors to a child-serving agency. Pursuant to Mich. Comp. Laws Ann. § 750.448 (Soliciting, accosting, or inviting to commit prostitution or immoral act; crime),

A person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act, is guilty of a crime punishable as provided in section 451.

Further, Mich. Comp. Laws Ann. § 750.451(6), (7) (Violation of MCL 750.448, 750.449, 750.449a(1), 750.450, or 750.462; prior conviction; penalty; prosecution of persons under 18 years of age; presumption; report; investigation by department of human services; “prior conviction” defined) outlines the procedures for prosecuting minors who are 16 and 17 years of age and establishes a services-referral protocol; it states,

(6) In any prosecution of a person under 18 years of age for an offense punishable under this section or a local ordinance substantially corresponding to an offense punishable under this section, it shall be presumed that the person under 18 years of age was coerced into child sexually abusive activity or commercial sexual activity in violation of section 462e [Forced labor or services; prohibited conduct as it relates to age of a minor] or otherwise forced or coerced into committing that offense by another person engaged in human trafficking in violation of sections 462a to 462h [Human trafficking]. The prosecution may overcome this presumption by providing beyond a reasonable doubt that the person was not forced or coerced into committing the offense. The state may petition the court to find the person under 18 years of age to be dependent and in danger of substantial physical or psychological harm under section 2(b)(3) of chapter XIIA of the probate code [Authority and jurisdiction of the court] . . . A person under 18 years of age who fails to substantially comply with court-ordered services under section 2(b)(3) of chapter XIIA of the probate code . . . is not eligible for the presumption under this section.

(7) Excluding any reasonable period for investigation purposes, a law enforcement officer who encounters a person under 18 years of age engaging in any conduct that would be a violation of section 448 [Soliciting, accosting, or inviting to commit prostitution or immoral act; crime], 449 [Admitting to place for purposes of prostitution], 450 [Aiding, assisting, or abetting; penalty], or 462 [Female 16 years of age or less in house of prostitution; crime], or a local ordinance substantially corresponding to section 448, 449, 450, or 462, if

engaging in by a person 16 years of age or over shall immediately report to the department of health and human services as a suspected violation of human trafficking involving a person under 18 years of age in violation of sections 462a to 462h.

Consequently, children 15 years of age and younger are protected from criminalization for prostitution offenses, and 16 and 17 year olds may avoid adjudication based on a rebuttable presumption of victimization. However, Michigan law fails to prohibit arresting, detaining, or charging older minors for conduct in violation of the state prostitution laws. Further, the presumption may be overcome if a prosecutor “provid[es] beyond a reasonable doubt that the person was not forced into committing the offense.” Accordingly, this protection essentially hinges on a finding of victimization, excluding older minors who are not identified as trafficking victims from protection while adding a force or coercion requirement that is inconsistent with the definition of victim under the trafficking law, which does not require proof of force, fraud, or coercion when the victim is under 18 years of age.⁸

- 2.5.1 Recommendation: Strengthen existing law to prohibit the criminalization of all minors for prostitution offenses and establish a services-referral protocol that applies to any minor engaged in commercial sex. (See [Issue Brief 2.5](#).)

INSIGHTS FROM THE FIELD



“The Michigan AG has proposed legislation to this effect. This legislation is currently still pending.”[†]

[†]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**

Michigan 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. However, some minors engaged in delinquent conduct as a result of their trafficking victimization may be deemed “dependent” juveniles. Mich. Comp. Laws Stat. § 712A.2(B)(3)(C) states,

Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

....

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

....

⁸ Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) criminalizes child sex trafficking as follows:

A person shall not do any of the following, regardless of whether the person knows the age of the minor:

- (a) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for commercial sexual activity.
- (b) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for forced labor or services.

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

...
(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 362a of the Michigan penal code . . . or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.

- 2.6.1 Recommendation: Enact a law that prohibits 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



“The Michigan AG has proposed legislation to this effect. This legislation is currently still pending.”[†]

[†]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.

● PARTIALLY MET

Michigan law prohibits the criminalization of child sex trafficking victims for certain commercial sexual exploitation offenses; however, protection only extends to minors under 16 years of age. Further, victims can still be charged as sex trafficking offenders or as accomplices alongside their exploiters.

Specifically, Mich. Comp. Laws Ann. § 750.450 (Aiding, assisting, or abetting; penalty) does not apply to younger minors, stating, “A person 16 years of age or older who aids, assists, or abets another person to commit or offer to an act prohibited under section 448 [Soliciting, accosting, or inviting to commit prostitution or immoral act; crime], 449 [Admitting to place for purpose of prostitution; crime], or 449a [Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness, or assignation; penalty] is guilty of a crime punishable as provided in section 451.”

Additionally, a minor engaged in trafficking or CSEC conduct is presumed to be a victim of human trafficking. Mich. Comp. Laws Ann. § 750.451(7) (Violation of MCL 750.448, 750.449, 750.449a(1), 750.450, or 750.462; prior convictions; penalty; prosecution of person under 18 years of age; presumption; report; investigation by department of human services; “prior conviction” defined) provides,

Excluding any reasonable period of detention for investigation purposes, a law enforcement officer who encounters a person under 18 years of age engaging in any conduct that would be a violation of section 448, 449, 450, or 462 [Human Trafficking], or a local ordinance substantially corresponding to section 448, 449, 450, or 462, if engaged in by a person 16 years of age or older shall immediately report to the department of health and human services a suspected violation of human trafficking involving a person under 18 years of age in violation of sections 462a to 462h.

Consequently, while Michigan law fails to insulate 16- and 17-year-old minors from criminalization for sex trafficking or CSEC offenses, existing protections provide a presumption of trafficking victimization for all minors under 18 years of age and explicitly prohibit the criminalization of minors under 16 for related offenses.

- 2.7.1 Recommendation: Amend state law to prohibit the criminalization of all 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.](#))

INSIGHTS FROM THE FIELD



“The Michigan AG has proposed legislation to this effect. This legislation is currently still pending.”[†]

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

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

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

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

INSIGHTS FROM THE FIELD



“The Michigan AG has proposed legislation to this effect. This legislation is currently still pending.”[†]

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

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

● PARTIALLY MET

Michigan law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While Michigan law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute does not establish a minimum age for juvenile court jurisdiction, permits direct file for

minors 14 years of age or older who are charged with certain offenses, and fails to require courts to consider the impact of trauma or past victimization in make discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Permits Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
Summary	None. “Juvenile” is defined as, “a person who is less than 18 years of age who is the subject of a delinquency petition.”	17.	Yes. Minors 14+ years of age who are charged with “specified juvenile violation.”	Yes. Minors: (1) charged with any offense; (2) 14+ years of age who are charged with a felony; or (3) 17 years of age who have exhausted or refused voluntary services and repeatedly use substances, “associate with prostitutes, pimps, or procurers,” or “found of his or her own free will . . . in a house of prostitution.”	No.
Relevant Statute(s)	Mich. Comp. Laws Ann. § 712A.1(1)(i) (Definitions; proceedings not considered criminal proceedings; construction of chapter); Mich. Comp. Laws Ann. § 712A.2 (Authority and jurisdiction of court)	Mich. Comp. Laws Ann. § 712A.1(1)(i) (Definitions; proceedings not considered criminal proceedings; construction of chapter); Mich. Comp. Laws Ann. § 712A.2 (Authority and jurisdiction of court)	Mich. Comp. Laws Ann. § 712A.2(a)(1) (Authority and jurisdiction of court); Mich. Comp. Laws Ann. § 712A.2d(1), (9)(a)–(i) (Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; “specified juvenile violation” defined)	Mich. Comp. Laws Ann. § 712A.2d(2) (Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; “specified juvenile violation” defined); Mich. Comp. Laws Ann. § 712A.4 (Waiver of jurisdiction when child of 14 or older accused of felony);	Mich. Comp. Laws Ann. § 712A.2d(2)(a)–(f) (Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; “specified juvenile violation” defined)

				712A.2(d)(1)–(5) (Authority and jurisdiction of court)	
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Consequently, some minors may still be subject to age-inappropriate juvenile court responses due to state laws that: (1) fail to establish a minimum age for juvenile court jurisdiction that aligns with domestic standards; (2) allow some juvenile cases to be subject to direct file; and (3) do not require the juvenile court to consider past trafficking victimization or trauma when making a transfer determination.

- 2.9.1 Recommendation: Enact comprehensive state laws requiring age-appropriate juvenile court responses for all children accused of engaging in juvenile or criminal conduct. (See [Issue Brief 2.9](#).)

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

● FULLY MET

Michigan law defines “child abuse” to include commercial sexual exploitation of children. Specifically, Mich. Comp. Laws Ann. § 722.622(g) (Definitions) defines “child abuse” as “harm or threatened harm to a child’s health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, any other person responsible for the child’s health or welfare, a teacher, a teacher’s aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program,” and “confirmed sexual exploitation” is defined under Mich. Comp. Laws Ann. § 722.622(r) to include “a confirmed cause that involves allowing, permitting, or encouraging a child to engage in prostitution”

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

● PARTIALLY MET

A commercially sexually exploited juvenile⁹ may be deemed “dependent” for purposes of accessing child welfare services and protection regardless of whether the child’s parent or caregiver was the perpetrator of the harm, but Michigan law does not provide for a specialized response in those cases.

Mich. Comp. Laws Ann. § 712A.2(b)(3)(C) (Authority and jurisdiction of court) states,

Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

.....

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

.....

(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in 462a of the Michigan penal code . . . or a delinquent act that is the result of force, fraud, coercion or manipulation exercised by a parent or other adult.

⁹ For purposes of Chapter XIIA (Jurisdiction, procedure, and dispositions involving minors) (§§ 712A.1—712A.32), Mich. Comp. Laws Ann. § 712A.1(1)(i) (Definitions; proceedings not considered criminal proceedings; construction of chapter) states in part, “Beginning October 1, 2021, ‘juvenile’ means a person who is less than 18 years of age who is the subject of a delinquency petition.”

Further, Mich. Comp. Laws Ann. § 750.451(8) (Violation of MCL 750.448, 750.449, 750.449a(1), 750.450, or 750.462; prior convictions; penalty; prosecution of persons under 18 years of age; presumption; report; investigation by department of human services; “prior conviction” defined) provides,

The department of health and human services shall begin an investigation of a human trafficking violation reported to the department of health and human services under subsection (7) within 24 hours after the report is made to the department of health and human services, as provided in section 8 of the child protection law . . . MCL 722.628. The investigation shall include a determination as to whether the person under 18 years of age is dependent and in danger of substantial physical and psychological harm . . .

Despite requiring the Department of Health and Human Services to investigate reports of trafficking victimization, including those perpetrated by a non-caregiver trafficker, Mich. Comp. Laws Ann. § 750.451(8) does not require a specialized response.

2.11.1 Recommendation: Statutorily provide for a specialized response in non-caregiver child sex trafficking cases. (*See [Issue Brief 2.11.](#)*)



ISSUE 3: Continuum of Care

Policy Goal 3.1 State law mandates a process for coordinating access to specialized services for child sex trafficking victims that does not require involvement in child-serving systems.

○ NOT MET

Michigan law does not mandate a process for coordinating access to specialized, community-based services for child sex trafficking victims that does not require involvement in a child-serving system.

3.1.1 Recommendation: Statutorily mandate a process for coordinating access to specialized services for child sex trafficking victims that does not require involvement in child-serving systems. (See [Issue Brief 3.1](#).)

INSIGHTS FROM THE FIELD



“There are numerous organizations that offer assistance to child sex trafficking victims. These organizations both work independently and in cooperation with the State of Michigan and sit on numerous Boards and Commissions for the State of Michigan to offer independent insight to the specialized needs of such victims.”[†]

[†]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.

○ NOT MET

Michigan does not statutorily require a multi-disciplinary team response to child sex trafficking cases.

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

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”⁷

⁷*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.

1 PARTIALLY MET

Although Michigan law requires child welfare to provide access to services that are specialized to the unique needs of child sex trafficking victims, the response is limited to child victims who are removed from the care of their parent or guardian and placed in the Department of Health and Human Services' care. Pursuant to Mich. Comp. Laws Ann. § 722.954e (Child as victim of human trafficking; placement in setting providing mental health services, counseling, or other specialized services), the Department of Health and Human Services must consider a child's status as a human trafficking victim in making placement decisions; Mich. Comp. Laws Ann. § 722.954e states,

Before determining placement of a child in its care, a supervising agency¹⁰ shall give special consideration to information that a child may be the victim of human trafficking. If a supervising agency finds that a child is or may be a victim of human trafficking, the supervising agency shall place the child in a setting that provides mental health services, counseling, or other specialized services that are necessary or appropriate for a victim of human trafficking.

Further, Mich. Comp. Laws Ann. § 722.954c(4), (6) (Release of child's medical records; medical passport; contents; transfer; performance of assessment or psychological evaluation; medical examination; indication that child may have been victim of human trafficking; counseling) provides for psychological assessments and counseling services, stating,

....
(4) If a child under the care of a supervising agency has suffered sexual abuse, serious physical abuse, mental illness, or is alleged to be the victim of human trafficking, the supervising agency shall have an experienced and licensed mental health professional as defined under section 100b (18)(a), (b), or (d) of the mental health code, 1980 PA 299, MCL 339.1606, who is trained in children's psychological assessments perform an assessment or psychological evaluation of the child. The costs of the assessment or evaluation must be borne by the supervising agency.

¹⁰ Mich. Comp. Laws. Ann. § 722.952(m) (Definitions) defines “supervising agency” as “the [Department of Health and Human Services] if a child is placed in the department's care for foster care, or a child placing agency in whose care a child is placed for foster care.”

....

(6) If an assessment or psychological evaluation required under subsection (4) indicates that a child may have been a victim of human trafficking, the supervising agency shall provide, in addition to any reunification, adoption, or other services provided to a child under the supervising agency's care, counseling services appropriate for minor victims of human trafficking.

- 3.3.1 Recommendation: Strengthen existing law by requiring child welfare to provide access to specialized services for all child sex trafficking victims without hinging access on a child victim being removed from the care of their parent or guardian. (See [Issue Brief 3.3](#).)

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]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.

○ NOT MET

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

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

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

● PARTIALLY MET

Michigan 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.¹¹ Mich. Comp. Laws Ann. § 400.643 (Definitions) defines “youth” as “an individual who is at least 18 years of age but less than 21 years of age,” and Mich. Comp. Laws Ann. § 400.647 (Foster care; reentry; extended foster care services) provides that “[a] youth who exited foster

¹¹ 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).

care after reaching 18 years of age but before reaching 21 years of age may reenter foster care and receive extended foster care services.”

Additionally, Mich. Comp. Laws Ann. § 400.649 (Extended foster care services; conditions; eligibility) provides access to extended foster care services, stating,

[T]he youth meets 1 of the following conditions for eligibility:

- (a) The youth is completing secondary education or a program leading to an equivalent credential.
- (b) The youth is enrolled in an institution that provides postsecondary or vocational education.
- (c) The youth is participating in a program or activity designed to promote employment or remove barriers to employment.
- (d) The youth is employed for at least 80 hours per month.
- (e) The youth is incapable of doing any part of the activities in subdivisions (a) to (d) due to a medical condition. This assertion of incapacity must be supported by regularly updated information in the youth’s case plan.

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

Policy Goal 3.6 State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.

○ NOT MET

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

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

INSIGHTS FROM THE FIELD



“There are numerous organizations that offer assistance to child sex trafficking victims. These organizations both work independently and in cooperation with the State of Michigan and sit on numerous Boards and Commissions for the State of Michigan to offer independent insight to the specialized needs of such victims.”[†]

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



ISSUE 4: Access to Justice for Trafficking Survivors

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

○ NOT MET

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

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

INSIGHTS FROM THE FIELD



“There are organizations within the State of Michigan that offer free legal assistance to trafficked victims who assist in obtaining civil judgments against abusers and traffickers.”*

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

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 Michigan'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, Mich. Comp. Laws Ann. § 18.351(l) (Definitions) defines “victim” as “a person who suffers a personal injury as a direct result of a crime.” “Crime” is defined under Mich. Comp. Laws Ann. § 18.351(c)(i), (ii) to include the following:

[A]n act that is 1 of the following:

- (i) A crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state.
- (ii) An act committed in another state that if committed in this state would constitute a crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state or that causes actual bodily harm, including pregnancy or death, to a resident of this state or that poses a reasonably perceived or actual threat of injury or death to a resident of this state within a state that does not have a victim compensation program eligible for funding from the

victims of crime act of 1984, chapter XIV of title II of the comprehensive crime control act of 1984, Public Law 98-473.

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Mich. Comp. Laws Ann. § 18.354(2), (3) (Eligibility for awards; limitations; waiver),

- (2) A person is not eligible to receive an award if the person is either of the following:
 - (a) Criminally responsible for the crime.
 - (b) An accomplice to the crime.
- (3) An award must not be made on a claim unless the claimant has incurred an out-of-pocket loss of not less than \$200.00 or has lost at least 5 days' earnings or support . . .

Lastly, Mich. Comp. Laws Ann. § 18.355(2), (3) (Claim; filing; notice; pending criminal prosecution; emergency award or certain payment to health care provider not prohibited) provides,

- (2) Except as provided in subsection (3), a claim must be filed by the claimant not later than 5 years after the occurrence of the crime upon which the claim is based . . .
- (3) Upon petition by the claimant and for good cause shown, the commission may extend the period in which a claim may be filed under subsection (2).¹²

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](#).)

INSIGHTS FROM THE FIELD



“The State of Michigan does have crime victims' compensation and victims' advocates to help guide victims in obtaining compensation. The State of Michigan also has the Crime Victims Act which provides support and protections for victims of crimes in Michigan.”[†]

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

Policy Goal 4.3

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

1 PARTIALLY MET

Michigan law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions; however, relief may be limited based on the crime for which vacatur is sought, the number of offenses, or other relevant conditions.

¹² However, Mich. Comp. Laws Ann. § 18.355 does not clarify what constitutes “good cause” under Mich. Comp. Laws Ann. § 18.355(3) for a claimant's failure to file within the time limits imposed under Mich. Comp. Laws Ann. § 18.355(2).

Specifically, Mich. Comp. Laws Ann. § 712A.18e(10)(b) (Application for entry of order setting aside adjudication; filing) allows a delinquency adjudication to be set aside if:

The person was adjudicated for an offense that if committed by an adult would be a violation or an attempted violation of section 448 [Soliciting, accosting, or inviting to commit prostitution or immoral act; crime], 449 [Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty], or 450 [Aiding, assisting, or abetting; penalties] of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local ordinance substantially corresponding to section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, and he or she committed the offense as a direct result of his or her being a victim of a human trafficking violation.

Vacatur is available under this section after a minimum 1 year waiting period; Mich. Comp. Laws § 712A.18e(3) states, “An application under this section shall not be filed until the expiration of 1 year after the termination of jurisdiction.” However, relief may be barred based on the number and type of adjudications. Mich. Comp. Laws Ann. § 712A.18e(1) states in part,

A person may have only 1 adjudication for an offense that would be a felony if committed by an adult and not more than 2 adjudications for an offense that would be a misdemeanor if committed by an adult or if there is no adjudication for a felony if committed by an adult, not more than 3 adjudications for an offense that would be a misdemeanor if committed by an adult set aside under this section.

Further, under Mich. Comp. Laws Ann. § 712A.18e(10)(b), child sex trafficking victims only have the right to vacate adjudications for prostitution-related offenses. Vacatur of other offenses is a conditional privilege. Mich. Comp. Laws Ann. § 712A.18e(9).

Adjudications not vacated under Mich. Comp. Laws Ann. § 712A.18e may be eligible for automatic vacatur under Mich. Comp. Laws Ann. § 712A.18t(1), (2) (Automatic set aside of adjudication; applicability; nonpublic records; divulgement, use or publication of information concerning set aside), which states,

- (1) Except as otherwise provided in this section, beginning 2 years after the effective date of the amendatory act that added this section, an adjudication is set aside under this section without filing an application under section 18e of this chapter 2 years after the termination of court supervision or when the person becomes 18 years of age, whichever is later.
- (2) Subsection (1) does not apply to an adjudication for an offense described under section 2(a)(1)(A) to

(I)¹³ of this chapter, to a conviction or adjudication as described under section 18e(2)¹⁴ of this chapter, or to a conviction or adjudication for a violation of section 81a [Assault; infliction of serious or aggravated injury; penalties; previous convictions; “dating relationship” defined], 82 [Felonious assault; violation of subsection (1) in weapon free school zone; definitions], 90 [Sexual intercourse under pretext of medical treatment], 136b [Definitions; child abuse; degrees; penalties; exception; affirmative defense], 321 [Manslaughter], 322

¹³ Mich. Comp. Laws Ann. § 712A.2(a)(1)(A)–(I) includes the following:

(A) A violation of section 72 [Burning dwelling house], 83 [Assault with intent to commit murder], 86 [Assault with intent to maim], 89 [Assault with intent to rob and steal], 91 [Attempt to murder], 316 [First degree murder], 317 [Second degree murder], 349 [Kidnapping], 520b [Criminal sexual conduct in the first degree], 529 [Use or possession of dangerous weapon; aggravated assault], 529a [Carjacking], or 531 [Bank, safe and vault robbery] of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(B) A violation of section 84 [Assault with intent to do great bodily harm less than murder; assault by strangulation or suffocation] or 110a(2) [Definitions; home invasion] of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this paragraph, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department or a county juvenile agency.

(D) A violation of section 7401(2)(a)(i) [Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance] or 7403(2)(a)(i) [Knowingly or intentionally possessing controlled substance, controlled substance analogue, or prescription form] of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

¹⁴ Pursuant to Mich. Comp. Laws Ann. § 712A.18e(2),

A person shall not apply under this section to have set aside, and a judge shall not under this section set aside, any of the following:

(a) An adjudication for an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment.

(b) An adjudication for a traffic offense under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to that act, that involves the operation of a vehicle and at the time of the violation is a felony or misdemeanor.

(c) A conviction under section 2d of this chapter [Juvenile to be tried as adult]. This subdivision does not prevent a person convicted under section 2d of this chapter from having that conviction set aside as otherwise provided by law.

[Manslaughter; wilful killing of unborn quick child], 397 [Mayhem], 411h [Stalking; definitions; violation as misdemeanor], 411i [Definitions; aggravated stalking; circumstances; violation as felony], 520d [Criminal sexual conduct in the third degree; felony], 520g [Assault with intent to commit criminal sexual conduct; felony], or 543k [Providing material support for terrorist acts or soliciting material support for terrorism as felonies; penalty] of the Michigan penal code, 1931 PA 328, MCL 750.81a, 750.82, 750.90, 750.136b, 750.321, 750.322, 750.397, 750.411h, 750.411i, 750.520d, 750.520g, and 750.543k.

Further, Mich. Comp. Laws Ann. § 780.621(1), (3) (Application for order setting aside conviction; misdemeanor conviction; setting aside of certain convictions prohibited; victim of human trafficking violation; time and contents of application; submitting application and fingerprints to department of state police; report; application fee; contest of application by attorney general or prosecuting attorney; notice to victim; affidavits and proofs; court order; definitions) allows sex trafficked youth to vacate criminal convictions, stating,

(1) Except as otherwise provided in this act, a person who is convicted of 1 or more criminal offenses may file an application with the convicting court for the entry of an order setting aside 1 or more convictions as follows:

(a) Except as provided in subdivisions (b) and (c), a person convicted of 1 or more criminal offenses, but not more than a total of 3 felony offenses, in this state, may apply to have all of his or her convictions from this state set aside.

(b) An applicant may not have more than a total of 2 convictions for an assaultive crime set aside under this act during his or her lifetime.

(c) An applicant may not have more than 1 felony conviction for the same offense set aside under this section if the offense is punishable by more than 10 years imprisonment.

(d) A person who is convicted of a violation or an attempted violation of section 520e [Criminal sexual conduct in the fourth degree; misdemeanor] of the Michigan penal code, 1931 PA 328, MCL 750.520e, before January 12, 2015 may petition the convicting court to set aside the conviction if the individual has not been convicted of another offense other than not more than 2 minor offenses. As used in this subdivision, “minor offense” means a misdemeanor or ordinance violation to which all of the following apply:

(i) The maximum permissible term of imprisonment does not exceed 90 days.

(ii) The maximum permissible fine is not more than \$1,000.00.

(iii) The person who committed the offense is not more than 21 years old.

....

(3) A person who is convicted of a violation of section 448 [Soliciting, accosting, or inviting to commit prostitution or immoral act; crime], 449 [Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty], or 450 [Aiding, assisting, or abetting; penalties] of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local ordinance substantially corresponding to section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, may apply to have that conviction set aside if he or she committed the offense as a direct result of his or her being a victim of a human trafficking violation.¹⁵

Pursuant to Mich. Comp. Laws Ann. § 780.621d(12)–(14) (Timing of applications to set aside multiple convictions),

(12) For an application under [Mich. Comp. Laws Ann. § 780.621d(3)], if the applicant proves to the court by a preponderance of the evidence that the conviction was a direct result of his or her being a victim of human trafficking, the court may, subject to the requirements of subsection (13), enter an order setting aside the conviction.

¹⁵ Mich. Comp. Laws Ann. § 780.621(4)(e) defines “human trafficking violation” as “a violation of chapter LXVIII of the Michigan penal code [Human trafficking], 1931 PA 328, MCL 750.462a to 750.462h, or of former section 462i or 462j of that act.”

(13) If the court determines that the circumstances and behavior of an applicant under [Mich. Comp. Laws Ann. § 780.621d(1) or (3)], from the date of the applicant’s conviction or convictions to the filing of the application warrant setting aside the conviction or convictions, and that setting aside the conviction or convictions is consistent with the public welfare, the court may enter an order setting aside the conviction or convictions.

(14) The setting aside of a conviction or convictions under this act is a privilege and conditional and is not a right.

As noted above, however, limitations based on the crime for which vacatur is sought, the number of offenses, or other relevant conditions may prevent sex trafficked children and youth from obtaining relief under these laws.

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

INSIGHTS FROM THE FIELD



“The Michigan AG has proposed legislation to this effect. This legislation is currently still pending.”[†]

[†]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

Michigan law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Mich. Comp. Laws Ann. § 780.766b (Conviction of offense described in MCL 750.462a to 750.462h; restitution),

When sentencing a defendant convicted of an offense described in chapter LXVIIA [Human trafficking] of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, the court shall order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under section 16, the court may order the defendant to pay all of the following:

- (a) Lost income, calculated by whichever of the following methods results in the largest amount:
 - (i) The gross amount received by the defendant from or the value to the defendant of the victim’s labor or services.
 - (ii) The value of the victim’s labor or services as calculated under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, or the federal minimum wage, whichever results in the largest value.
 - (iii) Income loss as determined under section 16(4)(c).
- (b) The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense.
- (c) Attorney fees and other costs and expenses incurred by the victim because of the offense, including, but not limited to, costs and expenses relating to assisting the investigation of the offense and for attendance at related court proceedings as follows:
 - (i) Wages lost.

- (ii) Child care.
- (iii) Transportation.
- (iv) Parking.
- (d) Any other loss suffered by the victim as a proximate result of the offense.

Trafficking victims also have access to restitution under Mich. Comp. Laws Ann. § 750.462f(6) (Violation of MCL 750.462b, 750.462c, and 750.462d; violation of MCL 750.462e; attempting, conspiring, or soliciting another to violate chapter; violation of law arising out of same transaction; consecutive terms; restitution), which states,

In addition to any mandatory restitution applicable under section 16 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766, the court may order a person convicted of violating this section to pay restitution to the victim in the manner provided in section 16b of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766b, and to reimburse any governmental entity for its expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

Restitution is available more generally to victims of other crimes pursuant to Mich. Comp. Laws Ann. § 780.766(2) ("Victim" defined; order of restitution generally; order of restitution as condition of probation or parole), which provides,

[W]hen sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim¹⁶ of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.

To determine the amount of restitution, Mich. Comp. Laws Ann. § 780.766(4) states,

If a crime results in physical or psychological injury to a victim, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

- (a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care.
- (b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred.
- (c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the crime.
- (d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim's family actually incurred and reasonably expected to be incurred as a result of the crime.
- (e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the crime for that homemaking and child care, based on the rates in the area for comparable services.
- (f) Pay an amount equal to the cost of actual funeral and related services.

¹⁶ Mich. Comp. Laws Ann. § 780.766(1) defines "victim" as "an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime."

- (g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent's or guardian's federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.
- (h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.

EXTRA CREDIT



Michigan law mandates restitution for victims of child labor trafficking under Mich. Comp. Laws Ann. § 780.766b and Mich. Comp. Laws Ann. § 750.462f(6), which expressly make victims of Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as it related to age of minor), Michigan's child labor trafficking offense, eligible for restitution.

INSIGHTS FROM THE FIELD



“The Michigan Crime Victims Rights Act does support restitution in child sex trafficking cases.”[†]

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

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

● FULLY MET

Michigan law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Mich. Comp. Laws Ann. § 752.983 (Violation of MCL 750.462a to 750.462h; liability to victim; damages) states,

(1) A person who violates chapter LXVIIA [Human trafficking] of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, is liable to the victim of the violation for economic and noneconomic damages that result from the violation, including, but not limited to, all of the following:

- (a) Physical pain and suffering.
- (b) Mental anguish.
- (c) Fright and shock.
- (d) Denial of social pleasure and enjoyments.
- (e) Embarrassment, humiliation, or mortification.
- (f) Disability.
- (g) Disfigurement.
- (h) Aggravation of a preexisting ailment or condition.
- (i) Reasonable expenses of necessary medical or psychological care, treatment, and services.
- (j) Loss of earnings or earning capacity.

- (k) Damage to property.
- (l) Any other necessary and reasonable expense incurred as a result of the violation.
- (2) A victim is entitled to damages under subsection (1) to the extent the victim has sustained the damages, regardless of whether the victim suffered any physical injury as a result of the violation.
- (3) A victim is entitled to damages under subsection (1) regardless of whether the damages sustained were foreseeable to the violator.
- (4) A victim is entitled to damages under subsection (1) regardless of whether the violator was charged with or convicted of a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

EXTRA CREDIT



Michigan law provides sex trafficked youth with a trafficking-specific civil remedy under Mich. Comp. Laws Ann. § 752.983, which expressly applies to violations of Chapter LXVIIA (Human trafficking), including sex trafficking of both minor and adult victims.



Michigan law provides child labor trafficking victims with a trafficking-specific civil remedy under Mich. Comp. Laws Ann. § 752.983, which expressly includes victims of Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as it related to age of minor), Michigan's child labor trafficking offense.

INSIGHTS FROM THE FIELD



“There are organizations within the State of Michigan that offer free legal assistance to trafficked victims who assist in obtaining civil judgments against abusers and traffickers.”[†]

†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.

1 PARTIALLY MET

Michigan law lengthens, but does not eliminate, statutes of limitation for prosecuting child sex trafficking and CSEC offenses or for filing trafficking-specific civil actions. Pursuant to Mich. Comp. Laws Ann. § 767.24(1)(c) (Indictments; crimes; subsection (2) to be known as “Theresa Flores's Law”; subsection (4) to be known as Brandon

D'Annunzio's law; findings and filing; limitations; extension or tolling), prosecutions under Chapter 750 (Human trafficking) may be brought at any time if the crime would be punishable by life imprisonment; however, this does not include offenses under Mich. Comp. Laws Ann. § 750.462d (Prohibited conduct) and Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as it relates to age of minor), which specifically criminalize child sex trafficking. Specifically, Mich. Comp. Laws Ann. § 767.24(1)(c) states, “An indictment for any of the following crimes may be found and filed at any time: . . . A violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, that is punishable by imprisonment for life.” Instead, Mich. Comp. Laws Ann. § 767.24(2) provides,

An indictment for a violation or attempted violation of section 13, 462b, 462c, 462d, or 462e of the Michigan penal code, 1931 PA 328, MCL 750.13 [Taking or enticing away minor under sixteen years; violation as felony; penalty], . . . 750.462d [Prohibited conduct], and 750.462e [Forced labor or services; prohibited conduct as relates to age of minor], may be found and filed within 25 years after the offense is committed

Otherwise, Mich. Comp. Laws Ann. § 767.24(10) requires “[a]ll other indictments [to] be found and filed within 6 years after the offense is committed.”

Regarding civil actions, Mich. Comp. Laws Ann. § 752.984 (Action to recover damages; statute of limitations) requires civil actions based on a trafficking offense to be “filed within 3 years after the last violation that is the subject of the action occurred.” Otherwise, Mich. Comp. Laws § 600.5805(1), (2) (Injuries to persons or property; period of limitations; “dating relationship” defined) requires civil actions for personal injury to be filed within 3 years “after the claim first accrued.”

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



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

Policy Goal 5.1 Non-testimonial evidence may be admitted through a child sex trafficking-specific hearsay exception to reduce reliance of victim testimony.

● PARTIALLY MET

Although Michigan law does not expressly allow non-testimonial, out-of-court statements made by commercially sexually exploited children to be admitted into evidence, there is a broad hearsay exception that applies to victims of criminal conduct that encompasses the abuse experienced by child sex trafficking victims; however, this protection is only available to younger minors. Pursuant to Michigan Rules of Evidence Rule 803A (Hearsay exception; child's statement about sexual act),

A statement describing an incident that included a sexual act performed with or on the declarant by the defendant or an accomplice is admissible to the extent that it corroborates testimony given by the declarant during the same proceeding, provided:

- (1) the declarant was under the age of ten when the statement was made;
- (2) the statement is shown to have been spontaneous and without indication of manufacture;
- (3) either the declarant made the statement immediately after the incident or any delay is excusable as having been caused by fear or other equally effective circumstance; and
- (4) the statement is introduced through the testimony of someone other than the declarant.

If the declarant made more than one corroborative statement about the incident, only the first is admissible under this rule This rule applies in criminal and delinquency proceedings only.

Notably, child victims who are 10 years of age or older are not protected by this hearsay exception.

- 5.1.1 Recommendation: Strengthen existing hearsay protections to expressly apply in child sex trafficking and CSEC cases. (*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.

○ NOT MET

Michigan law does not provide child sex trafficking victims with an alternative to live, in-court testimony. Although Mich. Comp. Laws Ann. § 600.2163a (Definitions; prosecutions and proceedings to which section applicable; use of dolls or mannequins; support persons; notice; videorecorded statement; special arrangements to protect welfare of witness; videorecorded deposition; section additional to other protections or procedures; violation as misdemeanor; penalty) permits the court to order the testimony of a child under 16 years of age be taken by closed circuit television (CCTV) during the prosecution of a specified offense, this protection does not extend to victims of sex trafficking or CSEC. Specifically, Mich. Comp. Laws Ann. § 600.2163a(20) states,

If, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the

protections afforded the witness in subsections (3), (4), (17), and (19),¹⁷ the court must order that the witness may testify outside the physical presence of the defendant by closed circuit television or other electronic means that allows the witness to be observed by the trier of fact and the defendant when questioned by the parties.

Mich. Comp. Laws Ann. § 600.2163a(1)(g)(i) defines “witness” to include “an alleged victim of an offense listed under subsection (2) who is . . . [a] person under 16 years of age.” However, Mich. Comp. Laws Ann. § 600.2163(2)(a) only includes the following:

[P]rosecutions and proceedings under section 136b [Definitions; child abuse; degrees; penalties; exception; affirmative defense], 145c [Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; report to law enforcement agency by computer technician; applicability and uniformity of section; enactment or enforcement of ordinances, rules, or regulations prohibited], 520b to 520e [Criminal sexual conduct in the first through fourth degrees], or 520g [Assault with intent to commit criminal sexual conduct; felony] of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g.

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

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

 PARTIALLY MET

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims’ identifying information is protected from disclosure in court records
Summary	Not statutorily required.	Witnesses under 16 who testify can have a support person during testimony, and during the testimony of a witness under 16, the court may clear the room of persons not necessary to the proceeding. Minors may also have support dog in proximity during testimony.	Identifying information of minor victims of child abuse, criminal sexual conduct, assault with intent to commit criminal sexual conduct, or a similar crime is exempt from public disclosure.
Relevant Statute(s)	None.	Mich. Comp. Laws Ann. § 24.275a(1)(a), (4), (5) (Definitions; hearing where witness testifies as alleged victim of sexual, physical, or psychological abuse; use of dolls or mannequins; support	Mich. Comp. Laws Ann. § 780.758 (Motion not to compel testimony of victim or other witness; hearing; address and phone number of victim not to be in court file or documents;

¹⁷ Additional protections provided for under Mich. Comp. Laws Ann. § 600.2163a include use of dolls or mannequins, accompaniment by a support person, exclusion of non-essential persons from the courtroom, and placement of the defendant out of the child’s direct line of sight.

	<p>person; notice; ruling on objection; exclusion of persons not necessary to proceeding; section additional to other protections or procedures); Mich. Comp. Laws Ann. § 600.2163a(4) (Definitions; prosecutions and proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; special arrangements to protect welfare of witness; videorecorded deposition; section additional to other protections or procedures; violation as misdemeanor; penalty)</p>	<p>exemption from disclosure; exception)</p>
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5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate and their identifying information is protected from disclosure in court records. (See [Issue Brief 5.3.](#))

INSIGHTS FROM THE FIELD



“Each court in Michigan may have its own policies and procedures regarding what types of support a victim may have while testifying. However, all Michigan prosecutor's offices and the Michigan DAG have victim's advocates who support the victims throughout the process, including while the victim is providing testimony. Additionally, many offices and agencies offer emotional support dogs who can sit with victims before and after they testify. In limited circumstances these support dogs are permitted to be inside the actual courtroom while the victim is testifying as well.”[†]

[†]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.

1 PARTIALLY MET

Michigan law does not provide for privileged communications between caseworkers and child sex trafficking victims specifically. However, child sex trafficking victims may benefit from privileged communications protections covering certain behavioral and mental health professionals and clients if the victim received care or services from such professionals.

Statute	Professional	Relevant Limitations
Mich. Comp. Laws Ann. § 330.1750(1) (Privileged communications)	Mental health provider	None.
Mich. Comp. Laws Ann. § 333.18117 (Privileged communications; disclosure of confidential information)	Licensed counselor	None.
Mich. Comp. Laws Ann. § 600.2165 (Disclosure of students' records or communications by school teacher or employee)	Teacher, guidance counselor, school executive, school employee	None.

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



ISSUE 6: Prevention & Training

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

● PARTIALLY MET

Michigan law mandates statewide, trafficking-specific training for social services personnel; however, such training is contingent on funding. Pursuant to Mich. Comp. Laws Ann. § 752.974(c), (e) (Commission; duties),

The [human trafficking] commission shall do all of the following subject to funding:

.....

(c) Provide information and training regarding human trafficking to police officers, prosecutors, court personnel, health care providers, social services personnel, and other individuals the commission considers appropriate.

.....

(e) Identify state and local agencies within this state and other states, as well as within the federal government, that are involved with issues relating to human trafficking, and coordinate the dissemination of information regarding human trafficking in this state to those agencies.

6.1.1 Recommendation: Strengthen requirements to ensure funding will not be a barrier to the provision of training on child sex trafficking. (See [Issue Brief 6.1](#).)

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”⁷

⁷This 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

Michigan 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



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]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

Michigan law mandates trafficking-specific training for law enforcement; however, such training is contingent on funding and is not required to be ongoing. Pursuant to Mich. Comp. Laws Ann. § 752.974(c) (Commission; duties),

The [human trafficking] commission shall do all of the following subject to funding:

.....

(c) Provide information and training regarding human trafficking to police officers, prosecutors, court personnel, health care providers, social services personnel, and other individuals the commission considers appropriate.

- 6.3.1 Recommendation: Strengthen requirements to require ongoing, trafficking-specific training on victim-centered investigations for law enforcement and to ensure that funding will not be a barrier to the provision of such training. (See [Issue Brief 6.3.](#))

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]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.

● PARTIALLY MET

Michigan law mandates trafficking-specific training for prosecutors; however, such training is contingent on funding. Pursuant to Mich. Comp. Laws Ann. § 752.974(c) (Commission; duties),

The [human trafficking] commission shall do all of the following subject to funding:

.....

(c) Provide information and training regarding human trafficking to police officers, prosecutors, court personnel, health care providers, social services personnel, and other individuals the commission considers appropriate.

6.4.1 Recommendation: Strengthen requirements to ensure funding will not be a barrier to the provision of training on child sex trafficking. (See [Issue Brief 6.4](#).)

INSIGHTS FROM THE FIELD



“The Michigan Department of Health and Human Services currently has a protocol in place for how the State agencies work with and identify human trafficking in minors. They have currently created a task force to revise this task force to better meet the needs of the children in the State. This task force meets every other week for roughly 2 hours each time. Included within the task force are members from varying division of MDHHS, the Department of Attorney General, and other victim centered organizations and agencies.”[†]

[†]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.

○ NOT MET

Michigan law does not mandate child sex trafficking training for school personnel.

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

INSIGHTS FROM THE FIELD



“Part of the Michigan Human Trafficking Commission works towards increasing public awareness. This includes developing strategies to raise public awareness and outreach. As the Commission moves forward in 2024, an aspect of this awareness and outreach will be towards schools, hospitals and law enforcement agencies, to ensure organizations are aware of the growing problem and are able to identify the signs of trafficking and how to report suspected trafficking.”[†]

[†]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

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

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

INSIGHTS FROM THE FIELD



“Part of the Michigan Human Trafficking Commission works towards increasing public awareness. This includes developing strategies to raise public awareness and outreach. As the Commission moves forward in 2024, an aspect of this awareness and outreach will be towards schools, hospitals and law enforcement agencies, to ensure organizations are aware of the growing problem and are able to identify the signs of trafficking and how to report suspected 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. Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor) states,

A person shall not do any of the following, regardless of whether the person knows the age of the minor:

- (a) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for commercial sexual activity.¹⁸
- (b) Recruit, entice, harbor, transport, provide, or obtain by any means a minor for forced labor or services.¹⁹

A violation of Mich. Comp. Laws Ann. § 750.462e is a felony punishable by imprisonment up to 20 years, a fine of up to \$20,000, or both. Mich. Comp. Laws Ann. § 750.462f(2) (Violation of MCL 750.462b, 750.462c, and 750.462d; violation of MCL 750.462e; attempting, conspiring, or soliciting another to violate chapter; violation of law arising out of same transaction; consecutive terms; restitution). Further, “A person who attempts, conspires, or solicits another to violate this chapter is subject to the same penalty as a person who commits a violation of this chapter.” Mich. Comp. Laws Ann. § 750.462f(3).

2. Mich. Comp. Laws Ann. § 750.462d (Prohibited conduct) states,

A person shall not do either of the following:

....

- (b) Knowingly benefit financially or receive anything of value from participation in an enterprise, as that term is defined in section 159f [Definitions generally], if the enterprise has engaged in an act proscribed under this chapter.

A violation of Mich. Comp. Laws Ann. § 750.462d is a felony generally punishable by imprisonment up to 10 years, a fine of up to \$10,000, or both. Mich. Comp. Laws Ann. § 750.462f(2) (Violation of MCL 750.462b, 750.462c, and 750.462d; violation of MCL 750.462e; attempting, conspiring, or soliciting another to violate chapter; violation of law arising out of same transaction; consecutive terms; restitution).²⁰ Further, “A person

¹⁸ Mich. Comp. Laws Ann. § 750.462a(c) defines “commercial sexual activity” as follows:

1 or more of the following for which anything of value is given or received by any person:

- (i) An act of sexual penetration or sexual contact as those terms are defined in section 520a.
- (ii) Any conduct prohibited under section 145c.
- (iii) Any sexually explicit performance as that term is defined in section 3 of 1978 PA 33, MCL 722.673.

¹⁹ Mich. Comp. Laws Ann. § 750.462a(g) defines “forced labor or services” as “labor or services that are obtained or maintained by force, fraud, or coercion.” In turn, Mich. Comp. Laws Ann. § 750.462a(l) defines “services” as “an ongoing relationship between a person and an individual in which the individual performs activities under the supervision of or for the benefit of the person, including, but not limited to, commercial sexual activity and sexually explicit performances.”

²⁰ However, pursuant to Mich. Comp. Laws Ann. § 750.462f(1)(b)–(d), the penalty will be enhanced under the following circumstances:

who attempts, conspires, or solicits another to violate this chapter is subject to the same penalty as a person who commits a violation of this chapter.” Mich. Comp. Laws Ann. § 750.462f(3).

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- (b) If the violation results in bodily injury to an individual or results in an individual being engaged in commercial sexual activity, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$15,000.00, or both.
 - (c) If the violation results in serious bodily injury to an individual, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.
 - (d) If the violation involves kidnapping or attempted kidnapping, criminal sexual conduct in the first degree or attempted criminal sexual conduct in the first degree, or an attempt to kill or the death of an individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$50,000.00, or both.

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Mich. Comp. Laws Ann. § 750.13 (Taking or enticing away minor under sixteen years; violation as felony; penalty) states,

A person who takes or entices away a minor under the age of 16 years from the minor's father, mother, guardian, or other person having the legal charge of the minor, without their consent, for the purpose of prostitution, concubinage, sexual intercourse, or marriage is guilty of a felony punishable by imprisonment for not more than 10 years.

2. Mich. Comp. Laws Ann. § 750.449a(2) (Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness, or assignation; penalty) states,

A person who engages or offers to engage the services of another person, who is less than 18 years of age and who is not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration, is guilty of a crime punishable as provided in section 451 [Violation of MCL 750.448, 750.449, 750.449a(1), 750.450, or 750.462; prior convictions; penalty; prosecution of person under 18 years of age; presumption; report; investigation by department of human services; "prior conviction" defined].

A violation of Mich. Comp. Laws Ann. § 750.449a(2) is punishable as a felony by imprisonment for up to 5 years, a fine up to \$10,000, or both. Mich. Comp. Laws Ann. § 750.451(4).

3. Mich. Comp. Laws Ann. § 750.459(2), (3) (Transporting person for prostitution; sale of travel services for purposes of prostitution or human trafficking; conduct against minor; felony; "travel services" defined) states,

(2) A person shall not knowingly sell or offer to sell travel services²¹ that include or facilitate travel for the purpose of engaging in what would be a violation of this chapter, concerning prostitution, or of chapter LXVIIA, concerning human trafficking, if the violation occurred in this state

(3) If a person violates subsection (2) and the violation involves conduct against a minor, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00, or both.

²¹ Mich. Comp. Laws Ann. § 750.459(5) defines "travel services" as "transportation by air, sea, or ground, hotel or other lodging accommodations, package tours, or the provision of vouchers or coupons to be redeemed for future travel, or accommodations for a fee, commission, or other valuable consideration."

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



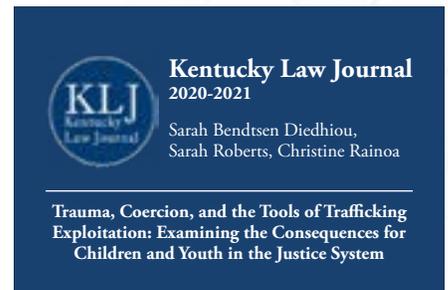
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

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.