



2023 REPORT

# SOUTH CAROLINA

## Report Cards on Child & Youth Sex Trafficking

*State Action. National Change.*



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# HISTORICAL BACKGROUND SOUTH CAROLINA

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

### SOUTH CAROLINA

Year	Score	Grade	10/10	23.5/25	13.5/15	6/10	23/27.5	12/15
2019	88	B	10/10	23.5/25	13.5/15	6/10	23/27.5	12/15
2011	48.5	F	2.5/10	13.5/25	10/15	2.5/10	12.5/27.5	7.5/15

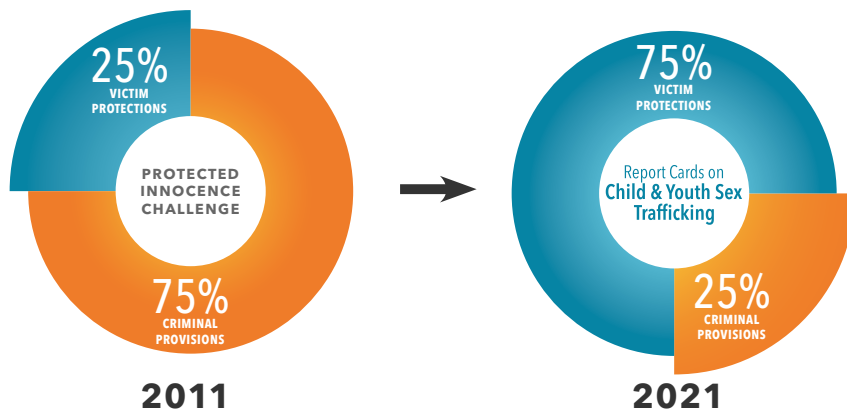
From 2011 to 2019, South Carolina raised their grade under the Protected Innocence Challenge from an “F” to a “B,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view South Carolina’s 2019 PIC report, visit [sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_SC.pdf](https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_SC.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

# D



# SOUTH CAROLINA

## 2023 Report Card

TIER II

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









### STATE HIGHLIGHTS:

- Between 2021-2023, raised score by 5.5 points.
- Currently ranked 15th in the nation.
- Allows for a child welfare response to non-caregiver child sex trafficking cases and provides for a specialized child sex trafficking response through its Child Abuse Response Protocol.
- Provides child sex trafficking victims with access to specialized, community-based services and establish-

- es a clear process for connecting child victims with those services.
- Requires the use of a multi-disciplinary team (MDT) response in all cases of child sex trafficking.
- Prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses committed as a result of their trafficking victimization.

### SAFE HARBOR STATUS:

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

Issue	Grade	Score	Summary
 <b>1. Criminal Provisions</b>	<b>B</b>	<b>15</b> 17.5	Policy goals accomplished related to buyer accountability under the trafficking law, buyer and trafficker accountability under state CSEC laws, mistake of age defenses, decoy defenses, and business entity liability under the trafficking law. Gap remains related to financial penalties.
 <b>2. Identification of and Response to Victims</b>	<b>F</b>	<b>15.5</b> 27.5	Policy goals accomplished related to foreign national victims, non-criminalization for sex trafficking offenses, affirmative defenses for violent felonies, child abuse definitions, and non-caregiver trafficking cases. Gaps remain related to third party control, screening through child welfare and the juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, and juvenile court jurisdiction.
 <b>3. Continuum of Care</b>	<b>D</b>	<b>9.5</b> 15	Policy goals accomplished related to community-based services, MDT responses, and services through child welfare. Gaps remain related to services through the juvenile justice system, extended foster care services, and appropriations.
 <b>4. Access to Justice for Trafficking Survivors</b>	<b>D</b>	<b>9</b> 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.
 <b>5. Tools for a Victim-Centered Criminal Justice Response</b>	<b>D</b>	<b>6</b> 10	Gaps remain in all areas, including hearsay exceptions, alternatives to live, in-court testimony, victim-witness supports, and privileged communications.
 <b>6. Prevention and Training</b>	<b>F</b>	<b>2</b> 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.
<b>EXTRA CREDIT</b>	 Youth	<b>2</b>	Protections related to affirmative defenses for violent felonies and civil remedies are extended to sex trafficked youth.
	 Child Labor Trafficking	<b>5</b>	Protections related to affirmative defenses for violent felonies, child abuse definitions, non-caregiver trafficking cases, community-based services, services through child welfare, restitution, and civil remedies are extended to child labor trafficking victims.

# OVERALL GRADE

TIER II

# D 64

## WHAT IS SAFE HARBOR?

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










## WHY SAFE HARBOR?

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

## SAFE HARBOR LAWS

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

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

Status	Safe Harbor Policy Goal
 Not met	The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control (see Policy Goal 2.1 for further analysis and <a href="#">Issue Brief 2.1</a> for background).
 Not met	State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking (see Policy Goal 2.3 for further analysis and <a href="#">Issue Brief 2.3</a> for background).
 Not met	State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking (see Policy Goal 2.4 for further analysis and <a href="#">Issue Brief 2.4</a> for background).
 Partially met	State law prohibits the criminalization of minors under 18 for prostitution offenses and establishes a services-referral protocol as an alternative to arrest (see Policy Goal 2.5 for further analysis and <a href="#">Issue Brief 2.5</a> for background).
 Partially met	State law prohibits the criminalization of child sex trafficking victims for status offenses, and misdemeanor and non-violent felony offenses committed as a result of their trafficking victimization (see Policy Goal 2.6 for further analysis and <a href="#">Issue Brief 2.6</a> for background).
 Fully met	State law prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization (see Policy Goal 2.7 for further analysis and <a href="#">Issue Brief 2.7</a> for background).
 Fully met	State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization (see Policy Goal 2.8 for further analysis and <a href="#">Issue Brief 2.8</a> for background).
 Fully met	State law mandates a process for coordinating access to specialized services for child sex trafficking victims that does not require involvement in child-serving systems (see Policy Goal 3.1 for further analysis and <a href="#">Issue Brief 3.1</a> for background).
 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 <a href="#">Issue Brief 3.6</a> for background).

**STATE SUMMARY:** South Carolina protects some, but not all, minors from prosecution for prostitution. Because state law hinges non-criminalization on a finding of victimization, a commercially sexually exploited child may be subject to re-traumatizing practices and adversarial processes prior to being identified as a trafficking victim, while others may never be identified and face prosecution for prostitution. Importantly, for those identified as child sex trafficking victims, non-criminalization protections extend beyond prostitution to sex trafficking and commercial sexual exploitation offenses. Further, state law establishes a clear process for connecting survivors with specialized, community-based services. However, South Carolina limits the definition of child sex trafficking victim by requiring third party control, preventing commercially sexually exploited children who are unable or unwilling to identify a trafficker, as well as those who are not under the control of a trafficker, from accessing non-criminalization protections and other relief that are specifically designed for sex trafficked children.

**SAFE HARBOR RESOURCES:** For additional information, visit [reportcards.sharedhope.org/safeharbor/](https://reportcards.sharedhope.org/safeharbor/).

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

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

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



## ISSUE 1: Criminal Provisions

**Policy Goal 1.1** The child sex trafficking law is expressly applicable to buyers of commercial sex with any minor under 18.

● FULLY MET

South Carolina’s trafficking law expressly applies to buyers of commercial sex with minors but requires the buyer to know the minor is a victim of trafficking in persons. S.C. Code Ann. § 16-3-2020(A) (Trafficking in persons; penalties; defenses) states,

A person is guilty of trafficking in persons if he:

(1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking<sup>2</sup> . . . through any

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

<sup>2</sup> S.C. Code Ann. § 16-3-2010(7) (Definitions) defines “sex trafficking” as follows:

[T]he recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person:

- (a) criminal sexual conduct pursuant to Section 16-3-651;
- (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
- (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
- (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
- (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
- (f) engaging a child for sexual performance pursuant to Section 16-3-810;
- (g) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;

means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons;

.....

(3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.

Further, S.C. Code Ann. § 16-3-2020(A) can also apply to buyers based on the terms “solicits” and, following federal precedent, “obtains.”<sup>3</sup>

**Policy Goal 1.2** Commercial sexual exploitation of children (CSEC) laws<sup>4</sup> specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

South Carolina law criminalizes both purchasing and soliciting commercial sex with a minor. Specifically, S.C. Code Ann. § 16-15-425(A) (Participating in prostitution of a minor defined; defenses; penalties) states,

An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, “patronizing a minor prostitute” means:

- (1) soliciting or requesting a minor to participate in prostitution;
- (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or
- (3) paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement.

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- (h) sexual battery pursuant to Section 16-3-651;
  - (i) sexual conduct pursuant to Section 16-3-800; or
  - (j) sexual performance pursuant to Section 16-3-800.

<sup>3</sup> 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.

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

Further, S.C. Code Ann. § 16-15-342(A) (Criminal solicitation of a minor; defense; penalties) provides,

A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity<sup>5</sup> as defined in Section 16-15-375(5) [Definitions applicable to Sections 16-15-385 through 16-15-425] or a violent crime<sup>6</sup> as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

**Policy Goal 1.3** Commercial sexual exploitation of children (CSEC) laws<sup>7</sup> apply to traffickers and protect all minors under 18.

● FULLY MET

S.C. Code Ann. § 16-15-415(A) (Promoting prostitution of a minor defined; defenses; penalties) addresses an array of trafficker conduct, stating,

An individual commits the offense of promoting prostitution of a minor if he knowingly:

- (1) entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or
- (2) supervises, supports, advises, or promotes the prostitution of or by a minor.

Further, S.C. Code Ann. § 16-15-342(A) (Criminal solicitation of a minor; defense; penalties) provides,

A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity<sup>8</sup> as defined in Section 16-15-375(5) [Definitions applicable to Sections 16-15-385 through 16-

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<sup>5</sup> S.C. Code Ann. § 16-15-375(5) (Definitions applicable to sections 16-15-385 through 16-15-425) defines “sexual activity” to include the following:

- (a) masturbation, whether done alone or with another human or animal;
- (b) vaginal, anal, or oral intercourse, whether done with another human or an animal;
- (c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;
- (d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;
- (e) excretory functions;
- (f) the insertion of any part of a person’s body, other than the male sexual organ, or of any object into another person’s anus or vagina, except when done as part of a recognized medical procedure.

<sup>6</sup> S.C. Code Ann. § 16-1-60 (Violent crimes defined) defines “violent crime” to include “trafficking in persons (Section 16-3-2020); . . . promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); . . . and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses.”

<sup>7</sup> See *supra* note 4 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

<sup>8</sup> See *supra* note 5 for the definition of “sexual activity.”



15-425] or a violent crime<sup>9</sup> as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

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

● FULLY MET

South Carolina law prohibits a mistake of age defense in prosecutions for child sex trafficking.<sup>10</sup> Pursuant to S.C. Code Ann. § 16-3-2020(I)(5) (Trafficking in persons; penalties; defenses), “Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article [Trafficking in persons], nor does the evidence preclude a finding of a violation: . . . mistake as to the victim’s age, even if the mistake is reasonable.”

**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, South Carolina’s criminal attempt statute, S.C. Code Ann. § 16-1-80 (Offense of attempt punished as principal offense), could provide prosecutors with an alternative avenue to prosecute those cases by holding an offender accountable for attempting to commit a child sex trafficking offense even if the offender was prevented from completing the offense since the intended victim was a law enforcement decoy rather than an actual minor. Pursuant to S.C. Code Ann. § 16-1-80, “A person who commits the common law offense of attempt, upon conviction, must be punished as for the principal offense.”

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

● FULLY MET

South Carolina’s trafficking chapter expressly allows for business entity liability and establishes a business-specific penalty scheme. Specifically, S.C. Code Ann. § 16-3-2030 (Criminal liability of principal owners of business; loss of profits and government contracts; penalties) provides,

(A) The principal owners of a business,<sup>11</sup> a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article [Trafficking in persons] is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both. In addition, the court may consider disgorgement of profit from activity in violation of this article and disbarment from state and local government contracts.

(B) If the principal owners of a business entity are convicted of violating a section of this article, the court or Secretary of State, when appropriate, may:

- (1) order its dissolution or reorganization;
- (2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government agency; or

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<sup>9</sup> See *supra* note 6 for the definition of “violent crime.”

<sup>10</sup> Similarly, the defense will be prohibited in certain CSEC prosecutions. Specifically, both S.C. Code Ann. § 16-15-425(B) (Participating in prostitution of a minor defined; defenses; penalties) and S.C. Code Ann. § 16-15-415(B) (Promoting prostitution of a minor defined; defenses; penalties) state, “Mistake of age is not a defense to a prosecution under this section.”

<sup>11</sup> S.C. Code Ann. § 16-3-2010(1) (Definitions) defines “business” as “a corporation, partnership, proprietorship, firm, enterprise, franchise, organization, or self-employed individual.”

(3) order the surrender of its charter if it is organized under state law or the revocation of its certificate to conduct business in the State if it is not organized under state law.

Further, for purposes of Article 19 (Trafficking in persons), S.C. Code Ann. § 16-3-2010(6) (Definitions) defines “person” as “an individual, corporation, partnership, charitable organization, or another legal entity.” Accordingly, a business entity could be held liable under S.C. Code Ann. § 16-3-2020(A)–(D) (Trafficking in persons; penalties; defenses), which states,

- (A) A person is guilty of trafficking in persons if he:
  - (1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons;
  - (2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or
  - (3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.
- (B) A person convicted of a violation of subsection (A) is guilty of a felony and, upon conviction:
  - (1) for a first offense, must be imprisoned not more than fifteen years;
  - (2) for a second offense, must be imprisoned not more than thirty years;
  - (3) for a third or subsequent offense, must be imprisoned not more than forty-five years.
- (C) If the victim of an offense contained in this section is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years. For a second or subsequent offense, if the victim is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than forty-five years.
- (D) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

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

NOT MET

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders are not required to be directed into a victim services fund.<sup>12</sup>

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<sup>12</sup> Regarding asset forfeiture, S.C. Code Ann. § 16-3-2090(A)(1) (Forfeiture) provides for forfeiture of the following property in trafficking cases:

- The following are subject to forfeiture:
- (a) all monies used, or intended for use, in violation of Section 16-3-2020 [Trafficking in persons; penalties; defenses];
  - (b) all property constituting the proceeds obtained directly or indirectly, for a violation of Section 16-3-2020;
  - (c) all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of Section 16-3-2020;
  - (d) all property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of Section 16-3-2020;

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

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- (e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of Section 16-3-2020;
  - (f) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels, which are used or intended for use unlawfully to conceal or transport or facilitate a violation of Section 16-3-2020. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 16-3-2020;
  - (g) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any kind of services under Section 16-3-2020, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange under Section 16-3-2020; and
  - (h) overseas assets of persons convicted of trafficking in persons also are subject to forfeiture to the extent they can be retrieved by the government.

Disposition of property forfeited under S.C. Code Ann. § 16-3-2090(A)(1) is governed by S.C. Code Ann. § 16-3-2090(B)(7), which states,

Disposition of forfeited property under this section must be accomplished as follows:

- (a) Property forfeited under this subsection shall first be applied to payment to the victim. The return of the victim to his home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving compensation.
- (b) The victim and the South Carolina Victim Compensation Fund shall each receive one-fourth, and law enforcement shall receive one-half of the value of the forfeited property.
- (c) If no victim is named, or reasonable attempts to locate a named victim for forfeiture and forfeiture fails, then all funds shall revert to the South Carolina Victim Compensation Fund and law enforcement to be divided equally.
- (d) If federal law enforcement becomes involved in the investigation, they shall equitably split the share local law enforcement receives under this section, if they request or pursue any of the forfeiture . . . .

However, state asset forfeiture laws do not direct a percentage of a sex trafficking offender's forfeited assets into a victim services fund nor do those laws apply to CSEC offenders.

## INSIGHTS FROM THE FIELD



“The South Carolina Victim Compensation Department, funded by the General Assembly, uses fines and assessments collected by convicted offenders of violent crimes. These funds are dispersed to victims to alleviate or eliminate costs related to injuries received because of a violent crime, including but not limited to human trafficking, sexual assault, domestic violence, stalking, and harassment. Financial compensation is provided to eligible crime victims and their families for medical or dental care; counseling; lost wages, care for a child victim or incapacitated adult; funeral/burial of a deceased victim; and transportation costs.

The funds collected also position the State Crime Victim Compensation Department to offer training and technical assistance to each municipality and county related to applying for crime victim compensation and supporting court-based victim advocates. Additionally, the funds can be transferred to the State Crime Victim Compensation Department which can be remitted to non-profit organizations that provide direct victim services.

“Act 141 Funds” – Funds Collected by Counties and Municipalities for Victim Services

SC Code of Laws, SECTION 14-1-206, 207, 208, 211

<https://www.scag.gov/documents/Proviso%2059.15.pdf>

“Act 141 Funds” – Funds Collected by Counties and Municipalities for Victim Services”

*-South Carolina Human Trafficking Task Force*



## ISSUE 2: Identification of & Response to Victims

### Policy Goal 2.1

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

○ NOT MET

The definition of child sex trafficking victim does not include all commercially sexually exploited children. S.C. Code Ann. § 16-3-2010(9) (Definitions) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons.” Although S.C. Code Ann. § 16-3-2020(A)(3) (Trafficking in persons; penalties; defenses) expressly applies to buyers of sex with minors, the buyer must “know that the other person is a victim of trafficking in persons.”<sup>13</sup> Accordingly, third party control is required to establish the crime of child sex trafficking, thereby excluding commercially sexually exploited children who are not under the control of a trafficker from the definition of child sex trafficking victim.

2.1.1 Recommendation: Remove third party control requirements that narrow the definition of child sex trafficking victim.<sup>14</sup> (See [Issue Brief 2.1](#).)

### INSIGHTS FROM THE FIELD



“The South Carolina Trafficking in Person definition statutorily includes 'Sex trafficking' as meaning the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person forced to perform the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person. (16-3-2010) State law does not require third party control of a minor considered a commercially sexually exploited child.

South Carolina has had only one conviction for a defendant who was the trafficker without a third party and that case is still in appeals. Therefore, there is no case law. The use of the definition noted above (any person instead of another person) has been used in charging, but the state is just getting to the trials. Our agencies are supposed to use the definition from the statute, but we are still training on it. 16-3-2010 (7).”

-South Carolina Human Trafficking Task Force

<sup>13</sup> See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under S.C. Code Ann. § 16-3-2020.

<sup>14</sup> See generally Shared Hope Int'l, *Eliminating the Third Party Control Barrier to Identifying Juvenile Sex Trafficking Victims*, JuST Response Policy Paper (August 2015), [http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper\\_Eliminating-Third-Party-Control\\_Final1.pdf](http://sharedhope.org/wp-content/uploads/2015/08/Policy-Paper_Eliminating-Third-Party-Control_Final1.pdf) (discussing need to include all commercially sexually exploited children within sex trafficking definitions and the corresponding need to include buyer conduct in core sex trafficking offenses regardless of whether the victim is under control of a third party).

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

● FULLY MET

South Carolina law provides policy guidance that facilitates access to services and benefits for trafficked foreign national children. Specifically, S.C. Code Ann. § 16-3-2050(A), (D)(4) (Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities; grants) establishes an interagency task force, which is required to develop a state plan that includes “policies to enable state government to work with nongovernmental organizations and other elements of civil society to prevent trafficking in persons and provide assistance to . . . foreign national victims . . . .”

### INSIGHTS FROM THE FIELD



“Under legislation, the South Carolina Human Trafficking Task Force is responsible for the coordination of the response to the crime for both US Citizens and foreign nationals. Often, the Task Force assists the US Committee on Refugees and Immigrants for referrals for foreign nationals of both labor and sex trafficking.

The South Carolina Department of Children and Families is responsible for any child who is a victim of sex trafficking or labor trafficking regardless of nationality. Additionally, they have a Refugee Resettlement Program that provides victim of human trafficking with the following services: Refugee Cash Assistance, Refugee Medical Assistance, and Refugee Social Services.”

*-South Carolina Human Trafficking Task Force*

**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

South Carolina law does not require child welfare to conduct trauma-informed CSEC screening of system-involved children and youth to identify those who are at risk of or who have experienced sex trafficking. However, pursuant to S.C. Code Ann. § 63-11-2400 (Multidisciplinary team investigation of suspected crime against a child must follow Child Abuse Response Protocol; effects of failure to comply), all multidisciplinary team members established by the Child Abuse Response Protocol,<sup>15</sup> including child welfare, are required to adhere to the Protocol in all known or suspected cases of child sex trafficking. Such requirements include an assessment of the child’s safety and service needs; however, the assessment is only conducted once trafficking victimization is known or suspected. Further, child welfare is required to develop a plan to “ensure appropriate services are being delivered [to trafficked children],” including “[i]dentifying children who need services.”<sup>16</sup> It is not clear, however, if the identification process includes a mechanism for screening children for experiences of child sex trafficking or exploitation.

<sup>15</sup> South Carolina Child Abuse Response Protocol: *A protocol the multidisciplinary team investigation & prosecution of child abuse, neglect & sexual exploitation* (2021), <https://indd.adobe.com/view/8f89c8d7-cac3-425a-9c4d-e3734fe5dced>.

<sup>16</sup> South Carolina Child Abuse Response Protocol, *supra* note 15, at 39.

- 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 South Carolina Department of Children and Families utilizes a screening tool with every child who may be a human trafficking victim. It screens for both sex trafficking and labor trafficking. Once flagged as a victim, the child’s case is referred to the human trafficking unit and DSS investigates.”

*-South Carolina Human Trafficking Task Force*

- 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**

South Carolina 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 South Carolina Department of Juvenile Justice adopted the practice of utilizing the CSE-IT (Commercial Sexual Exploitation Identification Tool) during a child’s court ordered post-adjudication evaluation. This tool is a research-based screening tool used to help improve early identification of commercially exploited youth. This tool increases visibility of youth who are at risk, have been at risk, or are currently exploited.

The CSE-IT is designed as a quick (5-7 minute) integration tool with eight key indicators—housing and caregiving; prior abuse and trauma; physical health and appearance; environment exposure; relationships and personal belongings; signs of current trauma; coercion; and exploitation. The CSE-IT is intended to serve as a universal screening tool to provide systems a common language for understanding indicators, risk factors, concrete outcomes, and allowing multiple systems to respond accordingly.

[https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/Supporting\\_Law\\_Enforcement/Human\\_Trafficking/Commercially\\_Sexually\\_Exploited\\_Children\\_Statewide\\_Coordinating\\_Committee/WCC-CSE-IT2.0andUserManual-4.25.17.pdf](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/Supporting_Law_Enforcement/Human_Trafficking/Commercially_Sexually_Exploited_Children_Statewide_Coordinating_Committee/WCC-CSE-IT2.0andUserManual-4.25.17.pdf)

*-South Carolina Human Trafficking Task Force*

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

**● PARTIALLY MET**

South Carolina law prohibits the criminalization of some, but not all, minors for prostitution offenses. While the core prostitution offense is age neutral, applying equally to children and adults, minors identified as a child sex trafficking victim are insulated from prosecution for prostitution.

Pursuant to S.C. Code Ann. § 16-15-90 (Prostitution; lewdness, assignation and prostitution generally), “It shall be unlawful to: (1) Engage in prostitution; . . . (3) Procure or solicit for the purpose of prostitution; (4) Expose indecently the private person for the purpose of prostitution or other indecency . . . .” While S.C. Code Ann. § 16-15-90 applies to minors, S.C. Code Ann. § 16-3-2020(G) (Trafficking in persons; penalties; defenses) provides,

If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted in court pursuant to this article or a prostitution offense, if it is determined after investigation that the victim committed the offense as a direct result of, or incidental or related to, trafficking.

Further, S.C. Code Ann. § 63-11-2400 (Multidisciplinary team investigation of suspected crime against a child must follow Child Abuse Response Protocol; effects of failure to comply) requires adherence to the South Carolina Child Abuse Response Protocol<sup>17</sup> in all cases involving a known or suspected crime committed against a child, including

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<sup>17</sup> South Carolina Child Abuse Response Protocol, *supra* note 15.



child sex trafficking. Pursuant to the Protocol,<sup>18</sup> law enforcement must refer impacted children to a CAC or child-serving agency for services and support. Further, the Protocol<sup>19</sup> requires the Department of Social Services to:

Coordinate with law enforcement to determine if the child needs to be taken into emergency protective custody (pursuant to S.C. Code Ann. § 63-7-260). The officer must have probable cause to believe by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger.

While South Carolina law protects identified child sex trafficking victims from prosecution for prostitution offenses and requires law enforcement to take a minor into protective custody and make a services-referral, such protections hinge on the identification of sex trafficking victimization. Consequently, minors not identified as victims may still be subject to criminalization, including arrest, detention, charges, and prosecution for engaging in a commercial sex act.

- 2.5.1 Recommendation: Strengthen existing law to expressly prohibit the criminalization of any person under 18 years of age, regardless of whether the minor is identified as a victim of child sex trafficking. (*See Issue Brief 2.5.*)

## INSIGHTS FROM THE FIELD



“The South Carolina Child Abuse Response Protocol and 16-3-2020(H). However, because a minor cannot consent to engage in commercial sex, prostitution would always be related to trafficking.”

-*South Carolina Human Trafficking Task Force*

- Policy Goal 2.6** State law prohibits the criminalization of child sex trafficking victims for status offenses, and misdemeanor and non-violent felony offenses committed as a result of their trafficking victimization.

● **PARTIALLY MET**

Although South Carolina law does not prohibit the criminalization of child sex trafficking victims for status offenses or for misdemeanors or non-violent felonies committed as a result of their trafficking victimization, an affirmative defense may be available. Pursuant to S.C. Code Ann. § 16-3-2020(F) (Trafficking in persons; penalties; defenses),

In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking . . .

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

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<sup>18</sup> South Carolina Child Abuse Response Protocol, *supra* note 15, at 16, 19–20.

<sup>19</sup> South Carolina Child Abuse Response Protocol, *supra* note 15, at 19.

## INSIGHTS FROM THE FIELD



“This is addressed in proposed legislation and affirmative defense.”

-*South Carolina Human Trafficking Task Force*

**Policy Goal 2.7** State law prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

● **FULLY MET**

South Carolina law prohibits the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses committed as a result of their trafficking victimization. Specifically, S.C. Code Ann. § 16-3-2020(G) (Trafficking in persons; penalties; defenses) provides,

If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted in court pursuant to this article [Trafficking in persons] or a prostitution offense,<sup>20</sup> if it is determined after investigation that the victim committed the offense as a direct result of, or incidental or related to, trafficking.

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<sup>20</sup> S.C. Code Ann. § 16-15-90 (Prostitution; lewdness, assignation and prostitution generally) includes conduct commonly engaged in by sex trafficking victim-offenders, stating,

It shall be unlawful to:

- (1) Engage in prostitution;
- (2) Aid or abet prostitution knowingly;
- (3) Procure or solicit for the purpose of prostitution;
- (4) Expose indecently the private person for the purpose of prostitution or other indecency;
- (5) Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;
- (6) Keep or set up a house of ill fame, brothel or bawdyhouse;
- (7) Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;
- (8) Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;
- (9) Direct, take or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure or building or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;
- (10) Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or
- (11) Aid, abet, or participate knowingly in the doing of any of the acts herein prohibited.

**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.

● FULLY MET

South Carolina law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. Pursuant to S.C. Code Ann. § 16-3-2020(F) (Trafficking in persons; penalties; defenses),

In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking . . .

**EXTRA CREDIT**



The affirmative defense provided for under S.C. Code Ann. § 16-3-2020(F) is available to sex trafficked youth. S.C. Code Ann. § 16-3-2010(9) (Definitions) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons.” Because S.C. Code Ann. § 16-3-2020 criminalizes trafficking of both minor and adult victims, the affirmative defense provided for under S.C. Code Ann. § 16-3-2020(F) extends to youth.



The affirmative defense provided for under S.C. Code Ann. § 16-3-2020(F) is available to victims of child labor trafficking. S.C. Code Ann. § 16-3-2010(9) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons.” Because S.C. Code Ann. § 16-3-2020 criminalizes both sex trafficking and labor trafficking, the affirmative defense provided for under S.C. Code Ann. § 16-3-2020(F) extends to child labor trafficking.

**INSIGHTS FROM THE FIELD**



“[There is an] unwritten general policy in family court to take this affirmative defense into consideration in charging and disposition decisions in most counties through South Carolina.”

*-South Carolina Human Trafficking Task Force*

**Policy Goal 2.9**

Juvenile court jurisdiction provides for a developmentally appropriate response.

**● PARTIALLY MET**

South Carolina law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While South Carolina law extends juvenile court jurisdiction to all minors under 18 years of age, governing state statute does not establish a minimum age for jurisdictional purposes, permits direct file for minors 17 years of age charged with certain felony offenses, and fails to require courts to consider the impact of trauma or past victimization in making discretionary transfer determinations.

	Minimum Age of Juvenile Court Jurisdiction	Maximum Age for Charging Youth in Juvenile Court	Automatic Transfers or Permits Direct File	Discretionary Transfers	Requirement for Court to Consider Trauma or Past Victimization
<b>Summary</b>	None. “Child” and “juvenile” are defined as “a person under the age of eighteen.”	17.	Yes. Minors 17 years of age charged with a Class A, B, C, or D felony or a felony carrying a term of imprisonment that is 15+ years.	Yes. Minors: (1) 17+ years of age charged with a misdemeanor, Class E or F felony, or a felony carrying a term of imprisonment that is less than 11 years; (2) 14-16 years of age charged with a Class A, B, C, or D felony or a felony carrying a term of imprisonment that is 15+ years; (3) charged with murder or criminal sexual conduct; (4) 14+ years of age charged with certain weapon or drug offenses; and (5) 14+ years of age charged with an offense carrying a term of imprisonment that is 10+ years and the minor was previously adjudicated or convicted for two prior offenses carrying the same	No.

				length of imprisonment.	
<b>Relevant Statute(s)</b>	S.C. Code Ann. § 63-19-20(1) (Definitions)	S.C. Code Ann. § 63-19-20(1) (Definitions)	S.C. Code Ann. § 63-19-20(1) (Definitions)	S.C. Code Ann. § 63-19-1210(4)–(6), (9)–(10) (Transfer of jurisdiction)	S.C. Code Ann. § 63-19-1210 (Transfer of jurisdiction)

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

### INSIGHTS FROM THE FIELD



“[There is an] unwritten general policy in family court to take this affirmative defense into consideration in charging and disposition decisions in most counties through South Carolina.”

-*South Carolina Human Trafficking Task Force*

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

● FULLY MET

South Carolina clearly defines “child abuse or neglect” or “harm” to include child sex trafficking. Pursuant to S.C. Code Ann. § 63-7-20(6)(b) (Definitions),

“Child abuse or neglect” or “harm” occurs when . . . a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child’s welfare abused, neglected, or harmed the child.

## EXTRA CREDIT



Child labor trafficking is included in the definition of “child abuse or neglect” or “harm” under S.C. Code Ann. § 63-7-20(6)(b), which expressly includes victims of “trafficking in persons.” S.C. Code Ann. § 16-3-2010(9) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons,” and S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) criminalizes both sex trafficking and labor trafficking.

## INSIGHTS FROM THE FIELD



“In South Carolina, child welfare’s jurisdiction over child sex trafficking cases was first established in 2018 when the definition of abuse and neglect was modified to include human trafficking victims. When the state Child Abuse Response Protocol bill was passed, that became another tool in defining their responsibility under state laws.”

*-South Carolina Human Trafficking Task Force*

**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.

● FULLY MET

South Carolina law allows for a child welfare response to non-caregiver child sex trafficking cases and provides for a specialized response in those cases. Specifically, S.C. Code Ann. § 63-7-20(6)(b) (Definitions) clarifies that child welfare can respond to child sex trafficking victims exploited by a non-caregiver, stating,

“Child abuse or neglect” or “harm” occurs when . . . a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child’s welfare abused, neglected, or harmed the child.

Further, S.C. Code Ann. § 63-11-2400 (Multidisciplinary team investigation of suspected crime against a child must follow Child Abuse Response Protocol; effects of failure to comply) requires child welfare to adhere to the Child Abuse Response Protocol,<sup>21</sup> which provides for a specialized response in all child sex trafficking cases, regardless of caregiver involvement. The Protocol requires that all cases of known or suspected child sex trafficking be jointly

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<sup>21</sup> South Carolina Child Abuse Response Protocol, *supra* note 15, at 39.

investigated by child welfare and law enforcement and, ultimately, referred to the respective child advocacy center for specialized assessments, support, and coordination of services.<sup>22</sup> It states,

All [DSS] caseworkers should investigate the circumstances of the human trafficking of the child and the child’s mental state carefully during the assessment phase of the case and well before making reunification plans with the parents and/or guardians. Once there is sufficient information gained that the parents are not part of any trafficking of the child, the case worker should then work closely with the parent and/or guardians in providing the appropriate resources to the child and family throughout the case.

## EXTRA CREDIT



South Carolina law allows for a child welfare involvement in non-caregiver child labor trafficking cases and provides for an alternative, specialized response in those cases as the protections provided for under S.C. Code Ann. § 63-7-20(6)(b) and the Protocol apply broadly to child trafficking victims. S.C. Code Ann. § 16-3-2010(9) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons,” and S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) criminalizes both sex trafficking and labor trafficking.

## INSIGHTS FROM THE FIELD



“The definition of child abuse and neglect in the South Carolina Children’s Code (63-7-20 (6)) indicates that a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. This positioned DSS to open investigations on non-familial trafficking cases. This legislative change also does not create the presumption that the parent, guardian, or other individual responsible for the child’s welfare neglected or harmed the child.

This change allowed both familial and non-familial child trafficking cases to be investigated by DSS and law enforcement. It also had implications on reporting from various sources, especially in light of South Carolina’s law in regard to mandated reporters.”

*-South Carolina Human Trafficking Task Force*

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<sup>22</sup> See supra at 15, page 19.



## 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.

● *FULLY MET*

South Carolina law provides child sex trafficking victims with access to specialized, community-based services and establishes a clear process for connecting victims with those services. Pursuant to S.C. Code Ann. § 16-3-2020(H) (Trafficking in persons; penalties; defenses), a minor victim may receive specialized services through “certified specialized service providers” and the Human Trafficking Acute Crisis Care and Resource Centers under the auspices of the Office of the Attorney General. S.C. Code Ann. § 16-3-2020(H) states,

The human trafficking specialized service providers must be certified by the Attorney General through criteria established by the Human Trafficking Task Force. The Attorney General, through the task force, must also establish necessary criteria for Human Trafficking Acute Crisis Care and Resource Centers to be established in the communities in South Carolina. Once the service providers are certified and the assessment centers are open, the information must be disseminated to the family court bench and bar as well as law enforcement to be utilized in carrying out the mandates of this statute. The court must determine the most appropriate way to provide specialized services to the juveniles to address the concerns relating to human trafficking.

### EXTRA CREDIT



South Carolina law mandates adherence to the Child Abuse Response Protocol under S.C. Code Ann. § 63-11-2400, which requires the provision of specialized services in cases of child labor trafficking.



## INSIGHTS FROM THE FIELD



“The South Carolina Human Trafficking Task Force, under a legislative mandate, is positioned to certify direct service providers throughout the state. In 2019, the state released the first of its kind Victim Service Provider Certification for Human Trafficking Professionals (VSP-HT). Those working directly with trafficking victims are required to complete the VSP-HT 15-hour course and maintain continuing education credits. This was the first step in the certification process to begin vetting providers and developing a coordinated process for identifying specialized services.

The State Task Force is partnering with The Safe House Project to certify residential and community-based specialized programs for human trafficking survivors, both sex and labor trafficking. The Task Force will also provide certification to supplemental providers who can contribute to the larger needs of survivors given the limited number of specialized options.

As The Safe House project certifies agencies, the organization will be added to a mandated resource directory located on the Task Force’s website. The mandate was to provide such a tool to law enforcement and members of the family court bench, but the Task Force is making it available to the public to assist in their knowledge of available resources as well as legitimate agencies to support through donations, volunteer hours, or other means. This list should also aid the child welfare system as they determine next steps in an MDT including the need for a P-SANE provider, closest Child Advocacy Center with forensic interviewers specific to human trafficking, short-term placement options, and long-term restorative care.”

*-South Carolina Human Trafficking Task Force*

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

● **FULLY MET**

State law requires the use of a multi-disciplinary team (MDT) response in all cases of child sex trafficking. S.C. Code Ann. § 63-11-2400 (Multidisciplinary team investigation of suspected crime against a child must follow Child Abuse Response Protocol; effects of failure to comply) formalizes the MDT response in all cases of child abuse, neglect, and child trafficking, and requires all MDT members created by the Child Abuse Response Protocol<sup>23</sup> to adhere to the Protocol.

Additionally, child victims of sex trafficking could receive a multi-disciplinary team (MDT) response through an existing child abuse MDT. Pursuant to S.C. Code Ann. § 63-11-310 (Children’s services agencies), Child Advocacy Centers are responsible to coordinate a multi-disciplinary service response for child abuse and neglect cases. S.C. Code Ann. § 63-11-310(A), (B),

(A) “Children’s Advocacy Centers” mean centers which must coordinate a multi-agency response to child maltreatment and assist in the investigation and assessment of child abuse. These centers must provide:

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<sup>23</sup> South Carolina Child Abuse Response Protocol, *supra* note 15.

- (1) a neutral, child-friendly facility for forensic interviews;
  - (2) the coordination of services for children reported to have been abused;
  - (3) services including, but not limited to, forensic interviews, forensic medical examinations, and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred; and
  - (4) therapeutic counseling services, support services for the child and nonoffending family members, court advocacy, consultation, and training for professionals who work in the area of child abuse and neglect, to reduce negative impact to the child and break the cycle of abuse.
- (B)
- (1) Children’s Advocacy Centers must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse . . . .
  - (2) Children’s Advocacy Centers must establish written policies and procedures for standards of care including, but not limited to, the timely intervention of services between initial contact with the child and the event which led to the child’s being referred to the center . . . .
  - (3) Children’s Advocacy Center records must be released to the Department of Social Services for purposes of investigation, assessment of allegations of child abuse or neglect, and provision of treatment services to the children or their families . . . .

## INSIGHTS FROM THE FIELD



“The South Carolina Child Abuse Response Protocol Act (SC Code of Laws, SECTION 63-11-2400) formalizes the use of Children’s Advocacy Centers and Multidisciplinary Teams (MDT) in the statewide response to child abuse in South Carolina. This includes child victims of sex trafficking. This protocol was developed by the South Carolina Children’s Justice Act Task Force and the South Carolina Network of Children’s Advocacy Centers who are legislatively mandated to develop and provide initial training on the protocol and updated trainings as needed.

The protocol is publicly available and must be annually reviewed and updated by an advisory committee known as the Child Abuse Protocol Review Committee. This committee is comprised of thirteen members including: the Director of the SC Network of Children’s Advocacy Centers, state law enforcement, county law enforcement, a solicitor’s office, Director of the Department of Social Services, a medical director of the SC Children’s Advocacy Medical Response System, the State Guardian Ad Litem Program or Richland County Court Appointed Special Advocates, a school district; a statewide organization experienced with working with children with disabilities; Director of the SC Police Chief Association; Director of the SC Sheriff’s Association; and two at-large members.

Failure to comply with the South Carolina Child Abuse Response Protocol may not be used by the defense in any prosecution and is not grounds for dismissal of any criminal charge, nor does it provide any cause of action against any state agency, political subdivision, member of a multidisciplinary team, member of any prosecutor’s office, member of any law enforcement agency, or law enforcement officer.

[Protocol - SCNCAC \(cac-sc.org\)](https://www.cac-sc.org)”

*-South Carolina Human Trafficking Task Force*

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

● FULLY MET

Child sex trafficking victims may have access to specialized services through both the South Carolina Child Abuse Response Protocol and the family court system, generally. Pursuant to S.C. Code Ann. § 63-11-2400 (Multidisciplinary team investigation of suspected crime against a child must follow Child Abuse Response Protocol; effects of failure to comply), all multidisciplinary team members created by the Child Abuse Response Protocol, including child welfare, are required to adhere to the Protocol in all known or suspected cases of child sex trafficking, which includes providing access to specialized services. The Child Abuse Response Protocol, page 39, states,

It is considered best practice for [the Department of Social Services], in consultation with law enforcement officials and the MDT, to develop a plan for the delivery of services to sexually exploited children, victims of trafficking for labor servitude, and such children and persons who are at risk of becoming victims of such offenses. In developing such plan, DSS should work with state and federal agencies, public and private entities, and other stakeholders as it deems appropriate and should periodically review such plans to ensure appropriate services are being delivered. Plans should include:

- Identifying children who need services;
- Providing assistance with applications for federal and state benefits, compensation, and services;
- Coordinating the delivery of physical and mental health, housing, education, job training, child care, legal and other services;
- .....
- Developing and maintaining community-based services;
- Providing assistance with family reunification or repatriation to at country of origin; and
- Providing law enforcement official assistance in identifying children in need of services.

According to the Child Abuse Response Protocol,<sup>24</sup> children may access such services through a law enforcement or child welfare referral to the respective child advocacy center.

**EXTRA CREDIT**



South Carolina law requires child welfare to adhere to the Child Abuse Response Protocol under S.C. Code Ann. § 63-11-2400, which requires the provision of specialized services in cases of child labor trafficking.

**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

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

<sup>24</sup> South Carolina Child Abuse Response Protocol, *supra* note 15, at 19–20.

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

## INSIGHTS FROM THE FIELD



“South Carolina Children’s Code (63-7-20 (6)) modified the definition of abuse and neglect to include minor victims of human trafficking. The code indicates that a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. This positioned DSS to be able to open investigations on non-familial trafficking cases as well as in the case of a non-identified perpetrator.

Furthermore, South Carolina is in the process of developing a specialized treatment court designed to address the unique needs of youth who have experienced human trafficking or are at high risk for exploitation. Participants may be involved with the Department of Juvenile Justice, the Department of Social Services, and/or the Department of Mental Health.”

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

● PARTIALLY MET

South Carolina 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.<sup>25</sup> Specifically, S.C. Code Ann. § 63-7-2720 (Extended foster care program) provides,

There is created within the Department of Social Services an extended foster care program for eligible children, as the term ‘child’<sup>26</sup> is defined in Section 63-7-2710 [Definitions]. An eligible child is under the

<sup>25</sup> 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).

<sup>26</sup> S.C. Code Ann. § 63-7-2710(2) (Definitions) defines “child” as follows:

- [A] person who is or was in the legal custody of the department on the person’s eighteenth birthday, who has not attained age twenty-one, and who meets at least one of the following requirements:
- (a) is completing secondary education or a program leading to an equivalent credential;
  - (b) is enrolled in an institution which provides post-secondary or vocational education;
  - (c) is participating in a program or activity designed to promote or remove barriers to employment;
  - (d) is employed for at least eighty hours a month; or
  - (e) is incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation, and the presence of the condition is supported by regularly updated information in the transition plan.

placement and care responsibility of the department while participating in the program. The department must provide placement in a licensed foster family home, childcare institution, or in an approved or licensed supervised independent living setting. The department shall adopt rules and promulgate regulations as necessary to implement the extended foster care program.

Under S.C. Code Ann. § 63-7-2730 (Continuation of court's jurisdiction over child between eighteen and twenty-one years of age),

(A) Before a child's eighteenth birthday, the child may provide written authorization to remain under the placement and care responsibility of the department after the child attains age eighteen and the court may conclude that it is in the child's best interests to remain under the placement and care responsibility of the department after the child's eighteenth birthday. In such cases, the court's jurisdiction shall continue until the court issues an order terminating its jurisdiction. In no case may the court's jurisdiction pursuant to this article continue beyond the child's twenty-first birthday.

(B) Subject to eligibility criteria established by the department, after attaining age eighteen, a child may enter into a voluntary placement agreement with the department to remain under or return to the placement and care responsibility of the department. The department must develop a transition plan for a child who remains in or returns to the placement and care responsibility of the department.

(C) A voluntary placement agreement terminates within one hundred eighty days after it is executed, unless the court determines that it is in the child's best interests to remain under the placement and care responsibility of the department.

Further, S.C. Code Regs. 114-595(A)(1) (Standards for Supervised Independent Living) provides for a continuum of services through an independent living program, stating,

The goal of an independent living program is to prepare youths, ages sixteen to twenty-one, for successful adult living through the provision of services related to daily living, problem-solving, and other skills that maximize the youth's potential to be a self-supporting, productive adult. A continuum of services shall be available and provided in accordance with the developmental readiness of youths served, in addition to their chronological age.

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.*)

## INSIGHTS FROM THE FIELD



“The South Carolina Department of Social Services allows for an 18 year old in foster care to apply for voluntary placement support. They are eligible to remain in Voluntary Placement until the age of 21. Those who agree to remain in Voluntary placement may receive Chafee funded services until 21 years of age and ETV funded services until 26 years of age.

<https://dss.sc.gov/child-well-being/foster-care/chafeeetv-program-independent-living/planning-for-the-future/#:~:text=Youth%20are%20eligible%20to%20remain,funded%20services%20until%20age%2026>”

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**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 South Carolina 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**



“The South Carolina Department of Social Services allows for an 18 year old in foster care to apply for voluntary placement support. They are eligible to remain in Voluntary Placement until the age of 21. Those who agree to remain in Voluntary placement may receive Chafee funded services until 21 years of age and ETV funded services until 26 years of age.

<https://dss.sc.gov/child-well-being/foster-care/chafeeetv-program-independent-living/planning-for-the-future/#:~:text=Youth%20are%20eligible%20to%20remain,funded%20services%20until%20age%2026>”

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## 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 South Carolina 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



“The underlying act for the human trafficking charge are all generally going to be covered by the enumerated “criminal offenses” under 16-3-1900. It would entitle them to request a Permanent Restraining Order. Under 16-3-1900 “Criminal offense” is defined as “an offense against the person of an individual when physical or psychological harm occurs” Although sex trafficking is not an enumerated offense, the charges would likely fall under this definition.”

*-South Carolina Human Trafficking Task Force*

**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 South Carolina’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, S.C. Code Ann. § 16-3-1110(A)(8) (Definitions) defines “victim” as “a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime.” “Crime” is defined under S.C. Code Ann. § 16-3-1110(A)(6) as “an act which is defined as a crime by state, federal, or common law” with the exception of some vehicular crimes. Further, S.C. Code Ann. § 16-3-2070(A) (Compensation for victims of trafficking; identity of victim and victim’s family confidential) states that trafficking victims “are entitled to all appropriate forms of compensation available pursuant to the State Crime Victim’s Compensation Fund.”

Accordingly, child sex trafficking and CSEC victims should have access to crime victims’ compensation. However, certain ineligibility factors may still limit a commercially sexually exploited child’s ability to seek crime victims’ compensation. Pursuant to S.C. Code Ann. § 16-3-1170(A) (Basis for award),

No award may be made unless:

- (1) a crime was committed;
- (2) the crime directly resulted in physical or psychic trauma to the victim;
- (3) the crime was promptly reported to the proper authority and recorded in police records; and
- (4) the claimant or other award recipient has fully cooperated with all law enforcement agencies and with the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation.

Under S.C. Code Ann. § 16-3-1170(B), barring the “showing of special circumstances or causes which justify the delay,” crimes reported after 48 hours are not considered “promptly reported.” Nothing in S.C. Code Ann. § 16-3-1170, however, explains what constitutes “special circumstances or causes” for purposes of this section.

Further, S.C. Code Ann. § 16-3-1200 (Conduct of victim or intervener contributing to infliction of injury) allows an award to be reduced or denied based on a determination that “because of his conduct the victim . . . of such crime contributed to the infliction of his injury . . . .” Similarly, under S.C. Code Ann. § 16-3-1220(1) (Persons ineligible for award), a person is ineligible if he or she “committed or aided in the commission of the crime upon which the claim is based or engaged in other unlawful activity which contributed to or aggravated the resulting injury.”

Lastly, S.C. Code Ann. § 16-3-1230(B) (Claim filed on behalf of minor or incompetent; time limitations) requires a claim to be filed within the following time period:

[O]ne hundred eighty days after the latest of the following events:

- (1) the occurrence of the crime upon which the claim is based;
- (2) the death of the victim;
- (3) the discovery by the law enforcement agency that the occurrence was the result of crime; or
- (4) the manifestation of a mental or physical injury is diagnosed as a result of a crime committed against a minor.

S.C. Code Ann. § 16-3-1230(C) provides for an extension to the filing deadline upon a showing of “good cause.” However, “good cause” is narrowly said to include “reliance upon advice of an official victim assistance specialist who either misinformed or neglected to inform a victim of rights and benefits of the Victim Compensation Fund but does not mean simply ignorance of the law.”

- 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 South Carolina Victim Compensation Department is funded by the General Assembly and fines and assessment collected by convicted offenders of violent crimes. These funds are dispersed to the victims to alleviate or eliminate costs related to injuries received because of a violent crime, including but not limited to human trafficking, sexual assault, domestic violence, stalking, and harassment. Financial compensation is provided to eligible crime victims and their families for medical or dental care; counseling; lost wages, care for a child victim or incapacitated adult; funeral/burial of a deceased victim; and transportation costs.

The funds collected are also position the State Crime Victim Compensation Department to offer training and technical assistance to each municipality and county related to applying for crime victim compensation and supporting court-based victim advocates. Additionally, the funds can be transferred to the State Crime Victim Compensation Department which can be remitted to non-profit organizations that provide direct victim services.

“Act 141 Funds” – Funds Collected by Counties and Municipalities for Victim Services  
SC Code of Laws, SECTION 14-1-206, 207, 208, 211

<https://www.scag.gov/documents/Proviso%2059.15.pdf>

“Act 141 Funds” – Funds Collected by Counties and Municipalities for Victim Services

SC Code of Laws, SECTION 14-1-206, 207, 208, 211

Crime Victim Compensation - South Carolina Attorney General (scag.gov)”

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### Policy Goal 4.3

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

**📍 PARTIALLY MET**

Although South Carolina law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to S.C. Code Ann. § 16-3-2020(F) (Trafficking in persons; penalties; defenses),

A victim of trafficking in persons convicted of a violation of this article [Trafficking in persons] or prostitution may motion the court to vacate the conviction and expunge the record of the conviction. The court may grant the motion on a finding that the person’s participation in the offense was a direct result of being a victim.

However, S.C. Code Ann. § 16-3-2020(F) applies specifically to “convictions,” and S.C. Code Ann. § 63-19-1410 (C) (Adjudication) states, “No adjudication by the court of the status of a child is a conviction . . . .” Accordingly, a child sex trafficking victim cannot vacate a delinquency adjudication under S.C. Code Ann. § 16-3-2020(F). Further, vacatur is limited to a prostitution and trafficking offenses, which fails to recognize the array of crimes trafficking

victims may be induced to commit and leaves many survivors without any avenue for relief.

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

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

● FULLY MET

South Carolina law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to S.C. Code Ann. § 16-3-2040(A)–(D) (Restitution for victims of trafficking),

- (A) An offender convicted of a violation of this article [Trafficking in persons] must be ordered to pay mandatory restitution to the victim as provided in this section.
- (B) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of the victim is eligible for restitution. If no surviving spouse exists, restitution must be paid to the victim’s issue or their descendants per stirpes. If no surviving spouse or issue or descendants exist, restitution must be paid to the victim’s estate. A person named in this subsection may not receive funds from restitution if he benefited or engaged in conduct described in this article.
- (C) If a person is unable to pay restitution at the time of sentencing, or at any other time, the court may set restitution pursuant to Section 16-3-1270 [Restitution by offender; lien against offender; filing of lien].
- (D) Restitution for this section, pursuant to Section 16-3-1270, means payment for all injuries, specific losses, and expenses, including, but not limited to, attorney’s fees, sustained by a crime victim resulting from an offender’s criminal conduct pursuant to Section 16-3-1110(12)(a). In addition, the court may order an amount representing the value of the victim’s labor or services.

Restitution is available more generally to victims of other crimes pursuant to S.C. Code Ann. § 17-25-322(A) (Restitution to crime victim by person convicted of crime; hearing; determination of method, manner, and amount; entry of order), which provides,

When a defendant is convicted of a crime which has resulted in pecuniary damages or loss to a victim, the court must hold a hearing to determine the amount of restitution due the victim or victims of the defendant’s criminal acts. The restitution hearings must be held unless the defendant in open court agrees to the amount due, and in addition to any other sentence which it may impose, the court shall order the defendant make restitution or compensate the victim for any pecuniary damages. The defendant, the victim or victims, or their representatives or the victim’s legal representative as well as the Attorney General and the solicitor have the right to be present and be heard upon the issue of restitution at any of these hearings.

**EXTRA CREDIT**



South Carolina law mandates restitution for victims of child labor trafficking under S.C. Code Ann. § 16-3-2040, which requires offenders convicted of any violation of Article 19 (Trafficking in persons) to pay victim restitution.

## INSIGHTS FROM THE FIELD



“South Carolina Code 17-25-322 allows for courts to order restitution to crime victims by persons convicted of crimes. These expenses include medical expenses; property damage; funeral expenses; and any other verifiable out-of-pocket expenses that may have resulted from the perpetration of the committed crime.

The SC Code requires that the restitution order is to specify a monthly payment schedule that will result in full payment for both restitution and collection fees by the end of eighty percent of the offender’s supervision period. The manner, method, or amount is ordered by a judge with considerations to several factors. Moreover, in the absence of a monthly payment schedule, the Department of Probation, Parole, and Pardon Services shall impose a payment schedule of equal monthly payments that will result in full restitution and collections fee being paid by the end of eighty percent of an offender’s supervision period.

Additionally, in *State v Jason Randall Morgan*, the South Carolina Court of Appeals addressed the issue of civil settlements and criminal restitution and how one affects the other. It was determined that restitution and a civil settlement are not mutually exclusive and that the trial court could order the defendant to pay restitution as an aspect of his probationary sentence despite the defendant having already resolved the defendant’s personal civil liability with the settlement and covenant.

<https://www.sccourts.org/opinions/HTMLfiles/COA/5429.pdf?>

*-South Carolina Human Trafficking Task Force*

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

● FULLY MET

South Carolina law allows victims of child sex trafficking to pursue civil remedies against their exploiters. S.C. Code Ann. § 16-3-2060(A) (Civil action for victim of trafficking; statute of limitations) states,

A person who is a victim of trafficking in persons may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney’s fees and costs. Treble damages must be awarded on proof of actual damages when the defendant’s acts were willful and malicious.

## EXTRA CREDIT



South Carolina law provides sex trafficked youth with a trafficking-specific civil remedy under S.C. Code Ann. § 16-3-2060(A), which allows a victim of trafficking in persons to file a civil action. S.C. Code Ann. § 16-3-2010(9) (Definitions) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons.” S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) criminalizes sex trafficking of both minor and adult victims.



South Carolina law provides child labor trafficking victims with a trafficking-specific civil remedy under S.C. Code Ann. § 16-3-2060(A), which allows a victim of trafficking in persons to file a civil action. S.C. Code Ann. § 16-3-2010(9) defines “victim of trafficking in persons” as “a person who has been subjected to the crime of trafficking in persons.” S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) criminalizes both sex trafficking and labor trafficking.

## INSIGHTS FROM THE FIELD



“Additionally, 16-3-2060(A) states a person who is a victim of trafficking in persons may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney’s fees and costs. Treble damages must be awarded on proof of actual damages when the defendant’s acts were willful and malicious.”

*-South Carolina Human Trafficking Task Force*

### 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

Prosecutions for child sex trafficking and CSEC offenses may commence at any time; however, the statute of limitation for filing trafficking-specific civil actions is only lengthened, not eliminated. Regarding criminal actions, “South Carolina does not have a general statute of limitations for criminal actions; however, in a few very rare

instances, a period of limitations is incorporated in specific criminal statutes.”<sup>27</sup> Regarding civil actions, S.C. Code Ann. § 16-3-2060(B)–(F) (Civil action for victim of trafficking; statute of limitations) provides,

(B) Pursuant to Section 16-3-1110, the applicable statute of limitations for a crime victim who has a cause of action against an incarcerated offender is tolled and does not expire until three years after the offender’s sentence is completed, including probation and parole, or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the victim.

(C) The statute of limitations for the filing of a civil suit does not begin to run until a minor victim has reached the age of majority.

(D) If a victim entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(E) The running of the statute of limitations may be suspended when a victim could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(F) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the victim to delay the filing of the action or placing the victim under duress.

- 4.6.1 Recommendation: Eliminate the civil statute of limitation for filing trafficking-specific claims. (*See [Issue Brief 4.6.](#)*)

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<sup>27</sup> *Summary Court Judges Bench Book—Substantive and Procedural Law*, SOUTH CAROLINA JUDICIAL DEPARTMENT <https://www.sccourts.org/summarycourtbenchbook/pdf/criminal.pdf> (last visited September 24, 2021).



## 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.

**1 PARTIALLY MET**

South Carolina law allows out-of-court statements made by a commercially sexually exploited child under 12 years of age to be admitted into evidence. Specifically, S.C. Code Ann. § 17-23-175(A) (Admissibility of out-of-court statement of child under twelve; determination of trustworthiness; notice to adverse party) states,

In a general sessions court proceeding or a delinquency proceeding in family court, an out-of-court statement of a child is admissible if:

- (1) the statement was given in response to questioning conducted during an investigative interview<sup>28</sup> of the child;
- (2) an audio and visual recording of the statement is preserved on film, videotape, or other electronic means, except as provided in subsection (F);<sup>29</sup>
- (3) the child testifies at the proceeding and is subject to cross-examination on the elements of the offense and the making of the out-of-court statement; and
- (4) the court finds, in a hearing conducted outside the presence of the jury, that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness.<sup>30</sup>

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<sup>28</sup> S.C. Code Ann. § 17-23-175(D) defines “investigative interview” as “the questioning of a child by a law enforcement officer, a Department of Social Services case worker, or other professional interviewing the child on behalf of one of these agencies, or in response to a suspected case of child abuse.”

<sup>29</sup> Pursuant to S.C. Code Ann. § 17-23-175(F),

Out-of-court statements made by a child in response to questioning during an investigative interview that is visually and auditorily recorded will always be given preference. If, however, an electronically unrecorded statement is made to a professional in his professional capacity by a child victim or witness regarding an act of sexual assault or physical abuse, the court may consider the statement in a hearing outside the presence of the jury to determine:

- (1) the necessary visual and audio recording equipment was unavailable;
- (2) the circumstances surrounding the making of the statement;
- (3) the relationship of the professional and the child; and
- (4) if the statement possesses particularized guarantees of trustworthiness.

After considering these factors and additional factors the court deems important, the court will make a determination as to whether the statement is admissible pursuant to the provisions of this section.

<sup>30</sup> Pursuant to S.C. Code Ann. § 17-23-175(B),

In determining whether a statement possesses particularized guarantees of trustworthiness, the court may consider, but is not limited to, the following factors:

- (1) whether the statement was elicited by leading questions;
- (2) whether the interviewer has been trained in conducting investigative interviews of children;
- (3) whether the statement represents a detailed account of the alleged offense;
- (4) whether the statement has internal coherence; and
- (5) sworn testimony of any participant which may be determined as necessary by the court.

S.C. Code Ann. § 17-23-175(C) defines “child” to include the following:

- (1) a person who is under the age of twelve years at the time of the making of the statement or who functions cognitively, adaptively, or developmentally under the age of twelve at the time of making the statement; and
- (2) a person who is the alleged victim of, or witness to, a criminal act for which the defendant, upon conviction, would be required to register pursuant to the provisions of Article 7, Chapter 3, Title 23 [Sex offender registry].

Because trafficking in persons is a registerable offense under S.C. Code Ann. § 23-3-430(C)(17) (Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration), child sex trafficking would fall within the definition of “child” for purposes of protection under the hearsay exception provided for under S.C. Code Ann. § 17-23-175. However, child victims who are 12 years of age or older are not protected by the hearsay exception, thereby increasing their risk of re-traumatization from testifying.

- 5.1.1 Recommendation: Amend S.C. Code Ann. § 17-23-175 (Admissibility of out-of-court statement of child under twelve; determination of trustworthiness; notice to adverse party) to extend the hearsay exception to any case involving the commercial sexual exploitation of children under 18 years of age. (*See Issue Brief 5.1.*)

**Policy Goal 5.2** State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.

○ NOT MET

Special considerations, including closed or taped testimony, may be provided to witnesses who are very young or have special needs. Pursuant to S.C. Code Ann. § 16-3-1550(E) (Restriction on employers of victims and witnesses; protection of rights of victims and witnesses), “The circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration.”

- 5.2.1 Recommendation: Strengthen existing law to provide all commercially sexually exploited children with an alternative to live, in-court testimony regardless of the child’s age and the offense charged. (*See Issue Brief 5.2.*)

## INSIGHTS FROM THE FIELD



“There is nothing specific to use of alternative to live, in court testimony for trafficking victims in South Carolina. It would fall under the normal child witness testimony exceptions.”

*-South Carolina Human Trafficking Task Force*

**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
<b>Summary</b>	Not statutorily required.	Support person or facility dog allowed to accompany and support child during testimony.	The identity of a trafficking victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.
<b>Relevant Statute(s)</b>	None.	S.C. Code Ann. § 63-11-2400 (South Carolina Child Abuse Response Protocol) requires adherence to the Protocol, which permits use of support person or facility dog. <sup>31</sup>	S.C. Code Ann. § 16-3-2070(B) (Compensation for victims of trafficking; identity of victim and victim's family confidential)

5.3.1 Recommendation: Statutorily require that child sex trafficking victims have the right to a victim advocate when testifying against their exploiter. (See *Issue Brief 5.3*.)

**INSIGHTS FROM THE FIELD**



“South Carolina’s Constitution outlines the Victims’ Bill of Rights that ensures supports for crime victims throughout the legal process.

[https://www.scstatehouse.gov/query.php?search=DOC&searchtext=bill%20of%20rights&category=CONSTITUTION&conid=37788902&result\\_pos=0&keyval=1&numrows=10](https://www.scstatehouse.gov/query.php?search=DOC&searchtext=bill%20of%20rights&category=CONSTITUTION&conid=37788902&result_pos=0&keyval=1&numrows=10).”

-South Carolina Human Trafficking Task Force

<sup>31</sup> South Carolina Child Abuse Response Protocol (2021), page 11.



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

**● PARTIALLY MET**

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

Statute	Profession	Relevant Limitations
S.C. Code Ann. § 40-63-190 (Disclosure of client information)	Social workers	None.
S.C. Code Ann. § 19-11-95 (Confidences of patients of mental illness or emotional conditions)	Licensed professional counselor, psychologists & licensed social workers	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.

○ NOT MET

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

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

### INSIGHTS FROM THE FIELD



“South Carolina was the first state in the nation to mandate the Victim Service Provider Certification for Human Trafficking Professionals (VSP-HT). A portion of the training curriculum focuses on the MDT model dictated by the Child Abuse Response Protocol that came into law in May 2021. Those who qualify for the VSP-HT are specifically working with victims of human trafficking. VSP-HT certified professionals must maintain their certification through continuing education credits related to working with victims of human trafficking as well as other Violence Against Women Act crimes.”

-South Carolina Human Trafficking Task Force

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

○ NOT MET

South Carolina 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 SC General Assembly allocated recurring funds to the State Task Force in 2022. A portion of these funds is allotted to a new Prevention Education Coordinator for system-involved youth and the professionals who support this population through state agencies, inclusive of juvenile justice. The Coordinator is tasked with providing prevention education to young people receiving services from the SC Department of Social Services, the SC Department of Juvenile Justice, and the SC Department of Mental Health as well as other state agencies.

Additionally, the Prevention Education Coordinator, in collaboration with the Program Assistant for Training and Outreach, is responsible for coordinating trainings and conferences for state agency employees specific to identifying and supporting minor victims of sex trafficking and labor trafficking in the juvenile justice system. The training topics include, but are not limited to, the MDT response dictated by state law, complex trauma, and victim-centered approaches.”

*-South Carolina Human Trafficking Task Force*

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

**● PARTIALLY MET**

South Carolina law authorizes trafficking-specific training for law enforcement. Pursuant to S.C. Code Ann. § 16-3-2050(E)(7) (Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities; grants),

The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

.....

(7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;

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

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

## INSIGHTS FROM THE FIELD



“The South Carolina Human Trafficking Task Force is supported at the state-level by the Director, Deputy Director, four Human Trafficking Program Coordinators, two Prevention Education Coordinators, a Program Assistant for Training and Outreach, a Program Assistant for Communications, and a graphic designer. It is composed of over 400 members, 12 subcommittees, 10 regional task forces (soon to be 13 with state-wide coverage), and an advisory council composed of subject matter experts. The Task Force takes a multidisciplinary approach given the complexity and diversity seen in sex and labor trafficking cases.

One of the major goals for the Task Force is to develop and maintain a yearly training calendar reflective of the Task Force’s Strategic Response Plan and the needs of sectors represented by the subcommittees. The Law Enforcement Subcommittee, led by the South Carolina Law Enforcement Division, is tasked with identifying needed training in addition to basic level sector-specific training. In addition to identifying these needs, the Task Force is also working on a Memorandum of Understanding (MOU) for law enforcement agencies. One portion of the MOU includes mandatory training with requirements including agencywide completion of an online 101 training and designated investigators completing more advanced, specialized in-person training events.

The Law Enforcement Subcommittee recently hosted a convening in Columbia of state-level law enforcement from the eight southeastern states. It offered an opportunity for those who investigate human trafficking to share successes, obstacles, and build a stronger network with neighboring state agents. Moving forward, the network should provide additional opportunities for convenings in other states to share information about trainings.”

*-South Carolina Human Trafficking Task Force*

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

**1** PARTIALLY MET

South Carolina law authorizes trafficking-specific training for prosecutors. Pursuant to S.C. Code Ann. § 16-3-2050(E)(7) (Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities; grants),

The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

.....

(7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;

Resultingly, training regarding child sex trafficking may be, or become, available to prosecutors. However, prosecutors are not statutorily mandated to receive such training.

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

## INSIGHTS FROM THE FIELD



“The South Carolina Human Trafficking Task Force supports training for prosecutors on victim-centered investigations and prosecutions of child sex trafficking. Similar to the law enforcement training, human trafficking training for prosecutors is offered periodically with opportunities held in four areas of the state to help ensure access to the events. The Task Force will also incorporate additional opportunities into its new training calendar.

Recently, the Office of the South Carolina Attorney General hosted a roundtable for prosecutors from around the state. It was a two-day event that allowed for discussions about best practices in prosecuting human trafficking cases and case reviews. Continuing education credits were offered to attendees.”

*-South Carolina Human Trafficking Task Force*

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

○ NOT MET

South Carolina law does not mandate training on child sex trafficking for school personnel.

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

## INSIGHTS FROM THE FIELD



“While the state the state of South Carolina does not mandate school personnel to be specifically trained in human trafficking, the SC Department of Education includes human trafficking in its Standards for Health and Safety. The crime is first introduced in the 8th grade standards.”

*-South Carolina Human Trafficking Task Force*

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

○ NOT MET

South Carolina 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



“In 2023, the South Carolina Human Trafficking Task Force, in partnership with South Carolina ETV, launched the first of its kind statewide prevention education initiative, TraffickProofSC. The first unit developed is for high school and middle school students and composed of four lesson plans. The lessons include an overview of human trafficking, sex trafficking, labor trafficking, and the use of social media in relation to the crime. The latter also incorporates information regarding sex extortion (also referred to as sextortion) considering Gavin's Law, a recent SC bill passed that requires schools to educate students about the dangers of sex extortion.

TraffickProofSC will be primarily offered to schools through a teacher training program and to Child Advocacy Centers that have designated prevention staff working in schools within their communities. Additionally, the State Task Force has two Prevention Education Coordinators to focus on supporting School Resource Officers, community organizations working with children and youth, and system involved youth.”

*-South Carolina Human Trafficking Task Force*

# KEYSTONE STATUTES

## State Laws Addressing Child Sex Trafficking

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1. S.C. Code Ann. § 16-3-2020(A)–(D) (Trafficking in persons; penalties; defenses) states,

(A) A person is guilty of trafficking in persons if he:

- (1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking<sup>32</sup> . . . through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons;
- (2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or
- (3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.

....

(C) If the victim of an offense contained in this section is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years

....

(D) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

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<sup>32</sup> S.C. Code Ann. § 16-3-2010(7) (Definitions) defines “sex trafficking” as follows:

the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person:

- (a) criminal sexual conduct pursuant to Section 16-3-651;
- (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
- (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
- (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
- (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
- (f) engaging a child for sexual performance pursuant to Section 16-3-810;
- (g) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;
- (h) sexual battery pursuant to Section 16-3-651;
- (i) sexual conduct pursuant to Section 16-3-800; or
- (j) sexual performance pursuant to Section 16-3-800.

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

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1. S.C. Code Ann. § 16-15-415 (Promoting prostitution of a minor defined; defenses; penalties) states,

- (A) An individual commits the offense of promoting prostitution of a minor if he knowingly:
- (1) entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or
  - (2) supervises, supports, advises, or promotes the prostitution of or by a minor.

....

(C) An individual who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence . . . .

2. S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined; defenses; penalties) states,

(A) An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, “patronizing a minor prostitute” means:

- (1) soliciting or requesting a minor to participate in prostitution;
- (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or
- (3) paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement.

....

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term . . . .

3. S.C. Code Ann. § 16-15-342 (Criminal solicitation of a minor; defense; penalties) states,

A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity<sup>33</sup> as defined in Section 16-15-375(5) [Definitions applicable to Sections 16-15-385 through 16-15-425] or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in

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<sup>33</sup> S.C. Code Ann. § 16-15-375(5) (Definitions applicable to sections 16-15-385 through 16-15-425) defines “sexual activity” to include the following:

- (a) masturbation, whether done alone or with another human or animal;
- (b) vaginal, anal, or oral intercourse, whether done with another human or an animal;
- (c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;
- (d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;
- (e) excretory functions;
- (f) the insertion of any part of a person’s body, other than the male sexual organ, or of any object into another person’s anus or vagina, except when done as part of a recognized medical procedure.



the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

. . . .

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than ten years, or both.

S.C. Code Ann. § 16-1-60 (Violent crimes defined) defines “violent crime” to include “trafficking in persons (Section 16-3-2020); . . . promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); . . . and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses.”

## RESOURCES

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

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

**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](https://reportcards.sharedhope.org/related-resources) and click on the corresponding issue brief or survey chart, respectively.

## HIGHLIGHTED RESOURCES

### Community-Based Services White Paper



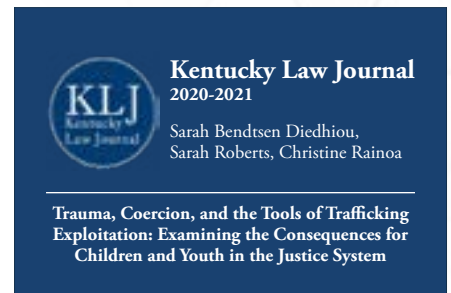
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

### 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](https://sharedhope.org/legislative-technical-assistance). We will set up a meeting to discuss your legislative goals and create a customized plan for ongoing technical assistance, bill drafting services, and legislative support.

## ADVOCACY ACTION CENTER

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



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



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



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