



2023 REPORT

# VERMONT

## Report Cards on Child & Youth Sex Trafficking

*State Action. National Change.*



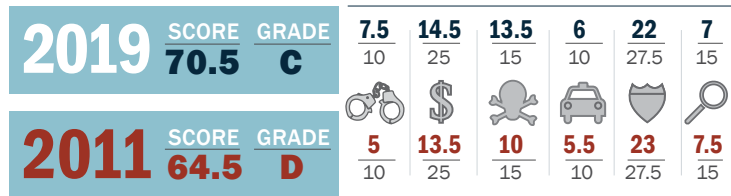
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IN 2011, SHARED HOPE RELEASED THE NATION’S FIRST LEGAL FRAMEWORK THAT CHALLENGED states to enact laws that comprehensively address the crime of child sex trafficking. When we launched the Protected Innocence Challenge project—and issued the inaugural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

## PROTECTED INNOCENCE CHALLENGE

### VERMONT



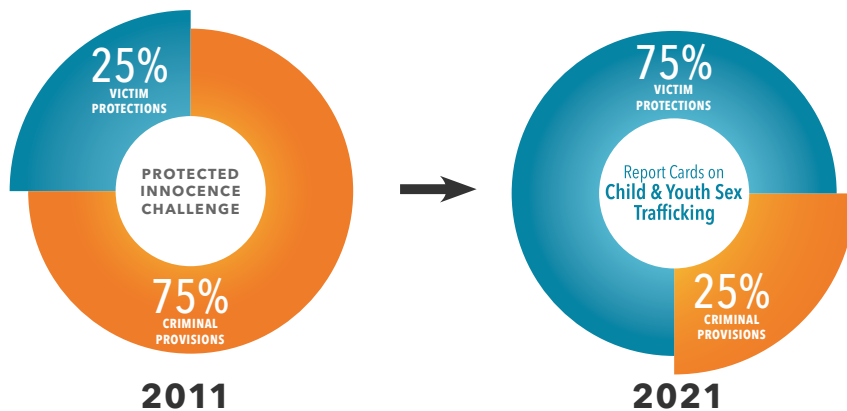
From 2011 to 2019, Vermont raised their grade under the Protected Innocence Challenge from a “D” to a “C,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Vermont’s 2019 PIC report, visit [sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_VT.pdf](https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_VT.pdf)

## A SHIFT IN FOCUS

THE PROTECTED INNOCENCE CHALLENGE PROJECT WAS SHARED HOPE’S VISION FOR MOBILIZING collective state action to ensure national change. Building on the progress already made under that project—while preserving its most fundamental components—we released a new, advanced legislative framework in 2020 that

focuses on new policy priorities reflective of feedback and research collected from the field. This framework is meant to challenge states to take the next step in the fight against sex trafficking by focusing on the area of law where the largest gaps remain—victim protections.



# ADVANCED LEGISLATIVE FRAMEWORK

**6** ISSUE AREAS IDENTIFIED:

CRIMINAL PROVISIONS

IDENTIFICATION OF & RESPONSE TO VICTIMS

CONTINUUM OF CARE

ACCESS TO JUSTICE FOR TRAFFICKING SURVIVORS

TOOLS FOR A VICTIM-CENTERED CRIMINAL JUSTICE RESPONSE

PREVENTION & TRAINING

**40** POLICY GOALS ANALYZED:

**110** TOTAL POINTS AWARDED:

States earn up to 2.5 points per policy goal

Extra credit: Protections for labor and youth 18+

100 possible points

plus up to 10 points

**FINAL LETTER GRADES ASSIGNED:**

**A** | 90-110   **B** | 80-89   **C** | 70-79   **D** | 60-69   **F** | <60

## TIER RANKING

Another way the Report Cards on Child & Youth Sex Trafficking will measure progress is through a Tier system that will help states understand how they are doing compared to other states. Especially at this stage where grades are clustered at lower levels, the Tiers help to show states where they are on a spectrum. This provides another way for states to evaluate the progress they make beyond changes to their letter grade.

### THE TIERS ARE STRUCTURED AS FOLLOWS:

- ▶ TIER 1 = TOP 10 SCORES
- ▶ TIER 2 = MIDDLE 31 SCORES
- ▶ TIER 3 = BOTTOM 10 SCORES

# F



# VERMONT

## 2023 Report Card

TIER III









**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 1 point.
- Identifies all commercially sexually exploited children as victims of child sex trafficking without requiring third party control.
- Provides both child and youth survivors of sex trafficking an affirmative defense to violent felonies committed as a result of their trafficking victimization.
- Extended foster care services are available to youth up to 22 years of age.
- Allows child and youth victims of sex or labor trafficking to hold their exploiters accountable through civil processes.

### SAFE HARBOR STATUS:

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

Issue	Grade	Score	Summary
 <b>1. Criminal Provisions</b>	<b>F</b>	$\frac{6}{17.5}$	Policy goals accomplished related to decoy defenses and business entity liability under the trafficking law. Gaps remain related to buyer accountability under the trafficking law, buyer and trafficker accountability under state CSEC laws, mistake of age defenses, and financial penalties.
 <b>2. Identification of and Response to Victims</b>	<b>F</b>	$\frac{14.5}{27.5}$	Policy goals accomplished related to third party control, affirmative defenses for violent felonies, and child abuse definitions. Gaps remain related to foreign national victims, screening through child welfare and the juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, juvenile court jurisdiction, and non-caregiver trafficking cases.
 <b>3. Continuum of Care</b>	<b>F</b>	$\frac{3.5}{15}$	Policy goal accomplished related to extended foster care services. Gaps remain related to community-based services, MDT responses, services through child welfare and the juvenile justice system, and appropriations.
 <b>4. Access to Justice for Trafficking Survivors</b>	<b>F</b>	$\frac{8.5}{15}$	Policy goal accomplished related to civil remedies. Gaps remain related to civil orders of protection, crime victims' compensation, vacatur, restitution, and statutes of limitation.
 <b>5. Tools for a Victim-Centered Criminal Justice Response</b>	<b>F</b>	$\frac{3}{10}$	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>	$\frac{0}{15}$	Gaps remain in all areas, including training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education in schools.
<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>1</b>	Protection related to civil remedies is extended to child labor trafficking victims.

**OVERALL GRADE**  
TIER III

**F 38.5**

## WHAT IS SAFE HARBOR?

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










## WHY SAFE HARBOR?

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

## SAFE HARBOR LAWS

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

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

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

Vermont law provides non-criminalization protections for trafficking victims accused of engaging in commercial sex; however, such protections are undermined by conflicting state statutes that permit minors not identified as child sex trafficking victims to be treated as delinquent youth. While state law extends non-criminalization protections to obscenity offenses and prostitution-related offenses, including aiding or abetting prostitution, child sex trafficking victims may still be prosecuted for other offenses committed as a result of their victimization. Additionally, state law does not facilitate access to, or provide funding for, community-based services, leaving some survivors vulnerable to re-traumatization through punitive processes and potentially underserved or disconnected from resources that are necessary to promote healing.

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

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

This report provides a thorough analysis of Vermont’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.

**● PARTIALLY MET**

Following federal precedent, Vermont’s trafficking law could apply to buyers of commercial sex with minors based on the term “obtain.”<sup>2</sup> Specifically, Vt. Stat. Ann. tit. 13, § 2652(a)(1) (Human trafficking) states, “No person shall knowingly . . . recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act.”<sup>3</sup>

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

<sup>2</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>3</sup> Vt. Stat. Ann. tit. 13, § 2651(3) (Definitions) defines “commercial sex act” as “any sexual act, sexual conduct, or sexually explicit performance on account of which anything of value is promised to, given to, or received by any person.”

Further, Vt. Stat. Ann. tit. 13, § 2653(a) (Aggravated human trafficking) states,

A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:

- (1) the offense involves a victim of human trafficking who is a child under the age of 18;
- (2) the person has previously been convicted of a violation of section 2652 of this title;
- (3) the victim of human trafficking suffers serious bodily injury or death; or
- (4) the actor commits the crime of human trafficking under circumstances that constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.

However, to ensure buyers are held accountable as sex trafficking offenders, the trafficking law should be amended to expressly apply to persons who “patronize” a minor for commercial sex.<sup>4</sup>

- 1.1.1 Recommendation: Amend Vt. Stat. Ann. tit. 13, § 2652(a)(1) (Human trafficking) to clarify that buyer conduct is included as a violation of Vt. Stat. Ann. tit. 13, § 2652. (See [Issue Brief 1.1.](#))

**Policy Goal 1.2** Commercial sexual exploitation of children (CSEC) laws<sup>5</sup> specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

○ NOT MET

Vermont lacks a CSEC law that criminalizes purchasing or soliciting commercial sex with a minor.

- 1.2.1 Recommendation: Enact a CSEC law that specifically criminalizes purchasing or soliciting sex with any minor under 18. (See [Issue Brief 1.2.](#))

**Policy Goal 1.3** Commercial sexual exploitation of children (CSEC) laws<sup>6</sup> apply to traffickers and protect all minors under 18.

○ NOT MET

Vermont lacks a CSEC law that addresses the exploitive conduct engaged in by traffickers.

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<sup>4</sup> Although Vt. Stat. Ann. tit. 13, § 2655(a) (Solicitation) applies to buyers who solicit a commercial sex act from a trafficking victim, the law is not specific to minors, nor does it provide for an enhanced penalty when the person solicited is a minor. It states,

- (a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.
- (b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$ 100,000.00, or both.

<sup>5</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 Vermont’s CSEC laws, see the appendix located at the end of this report.

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

- 1.3.1 Recommendation: Enact a CSEC law that addresses an array of exploitive conduct engaged in by traffickers. (See [Issue Brief 1.3.](#))

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

○ NOT MET

Vermont law does not expressly prohibit a mistake of age defense in prosecutions for child sex trafficking.

- 1.4.1 Recommendation: Prohibit a mistake of age defense in all cases involving child sex trafficking. (See [Issue Brief 1.4.](#))

**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, Vermont's criminal attempt statute could provide prosecutors with an alternative avenue to prosecute those cases. Pursuant to Vt. Stat. Ann. tit. 13, § 9(a) (Attempts),

A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is . . . human trafficking [or] aggravated human trafficking . . . , a person shall be punished as the offense attempted to be committed is by law punishable.

Accordingly, an offender could be found guilty of attempting to commit a child sex trafficking offense if the offender committed an act in furtherance of child sex trafficking but was prevented from completing the offense since the intended victim was a law enforcement decoy rather than an actual minor.

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

● FULLY MET

Vermont's trafficking chapter expressly allows for business entity liability and establishes a business-specific penalty scheme. Specifically, Vt. Stat. Ann. tit. 13, § 2656 (Human trafficking by a business entity; dissolution) provides,

If a business entity, including a corporation, partnership, association, or any other legal entity, is convicted of violating this chapter [Human trafficking], the Attorney General may commence a proceeding in the Civil Division of the Superior Court to dissolve the entity pursuant to 11A V.S.A. §§ 14.30 [Grounds for dissolution] -14.33 [Decree of dissolution].

**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.

- 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.](#))





## ISSUE 2: Identification of & Response to Victims

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

● **FULLY MET**

The definition of child sex trafficking victim includes all commercially sexually exploited children without requiring third party control. Vt. Stat. Ann. tit. 13, § 2651(13) (Definitions) defines “victim of human trafficking” as “a victim of a violation of section 2652 of this title.” Following federal precedent, Vt. Stat. Ann. tit. 13, § 2652(a)(1) (Human trafficking) can apply directly to buyers of commercial sex with minors based on the term “obtain,”<sup>7</sup> meaning a buyer can be charged regardless of whether a trafficker is involved or identified. Accordingly, third party control is not required to establish the crime of child sex trafficking or, consequently, to identify a commercially sexually exploited child as a trafficking victim.

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

○ **NOT MET**

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

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

**Policy Goal 2.3** State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking.

○ **NOT MET**

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

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

**Policy Goal 2.4** State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking.

○ **NOT MET**

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

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<sup>7</sup> See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Vt. Stat. Ann. tit. 13, § 2652.

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

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

○ NOT MET

Vermont law does not prohibit the criminalization of all minors for prostitution. While the human trafficking law provides non-criminalization protections for trafficking victims accused of engaging in commercial sex, state statute directs some child sex trafficking victims into punitive processes as a consequence for their victimization.

Pursuant to Vt. Stat. Ann. tit. 13, § 2652(c)(1) (Human trafficking),

A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

However, such protections are undermined by the alternative response provided under Vt. Stat. Ann. tit. 13, § 2652(c)(1)(B), which states,

Notwithstanding any other provision of law, a person under the age of 18 shall be immune from prosecution in the Criminal Division of the Superior Court for a violation of section 2632 of this title (prohibited acts; prostitution), may be treated as a juvenile under 33 V.S.A. chapter 52 [Delinquency Proceedings] or referred to the Department for Children and Families for treatment under 33 V.S.A. chapter 53 [Children in Need of Care or Supervision].

While minors referred to the Department for Children and Families may be insulated from a punitive response, minors treated as offenders under Vt. Stat. Ann. tit. 33, §§ 5201–5293 face a traditional juvenile justice response to their trafficking victimization.

Notably, Vermont law also extends non-criminalization protections to persons who, in the course of engaging in specified criminal conduct as a result of their victimization, observe and report certain criminal conduct to law enforcement. Pursuant to Vt. Stat. Ann. tit. 13, § 2638(b), (c) (Immunity from liability),

(b) A person who, in good faith and in a timely manner, reports to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking shall not be cited, arrested, or prosecuted for a violation of the following offenses:

- (1) section 2632 of this title (prostitution);
- (2) section 2601a of this title (prohibited conduct);
- (3) 18 V.S.A. § 4230(a)(1)-(3) (cannabis possession);
- (4) 18 V.S.A. § 4231(a)(1) and (2) (cocaine possession);
- (5) 18 V.S.A. § 4232(a)(1) and (2) (LSD possession);
- (6) 18 V.S.A. § 4233(a)(1) and (2) (heroin possession);
- (7) 18 V.S.A. § 4234(a)(1) and (2) (depressant, stimulant, and narcotic drugs possession);
- (8) 18 V.S.A. § 4234a(a)(1) and (2) (methamphetamine possession);
- (9) 18 V.S.A. § 4235(b)(1) (hallucinogenic drugs possession); and
- (10) 18 V.S.A. § 4235a(a)(1) (Ecstasy possession).

(c) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person reporting to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

As noted above, however, this protection is limited to trafficking victims who report a crime to law enforcement and only applies to the use or derivative use of evidence obtained as a result of that report.

Consequently, Vermont law allows some commercially sexually exploited minors to be arrested, detained, and prosecuted in juvenile court for engaging in conduct in violation of the prostitution law.

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

**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

Vermont law prohibits the criminalization of child sex trafficking victims for obscenity offenses;<sup>8</sup> however, victims can still be charged with status offenses or with other misdemeanors and non-violent felonies committed as a result of their trafficking victimization. Pursuant to Vt. Stat. Ann. tit. 13, § 2652(c)(1) (Human trafficking),

A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

An affirmative defense may be available to victims facing other charges. Specifically, Vt. Stat. Ann. tit. 13, § 2652(c)(2) provides,

If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59

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<sup>8</sup> Notably, Vermont law also extends non-criminalization protections to persons who, in the course of engaging in specified criminal conduct as a result of their victimization, observe and report certain criminal conduct to law enforcement. Pursuant to Vt. Stat. Ann. tit. 13, § 2638(b), (c) (Immunity from liability),

(b) A person who, in good faith and in a timely manner, reports to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking shall not be cited, arrested, or prosecuted for a violation of the following offenses:

- (1) section 2632 of this title (prostitution);
- (2) section 2601a of this title (prohibited conduct);
- (3) 18 V.S.A. § 4230(a)(1)-(3) (cannabis possession);
- (4) 18 V.S.A. § 4231(a)(1) and (2) (cocaine possession);
- (5) 18 V.S.A. § 4232(a)(1) and (2) (LSD possession);
- (6) 18 V.S.A. § 4233(a)(1) and (2) (heroin possession);
- (7) 18 V.S.A. § 4234(a)(1) and (2) (depressant, stimulant, and narcotic drugs possession);
- (8) 18 V.S.A. § 4234a(a)(1) and (2) (methamphetamine possession);
- (9) 18 V.S.A. § 4235(b)(1) (hallucinogenic drugs possession); and
- (10) 18 V.S.A. § 4235a(a)(1) (Ecstasy possession).

(c) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person reporting to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

As noted above, however, this protection is limited to trafficking victims who report a crime to law enforcement and only applies to the use or derivative use of evidence obtained as a result of that report.

(lewdness and prostitution) or 63 (obscenity) of this title that arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

- 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](#).)

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

● **PARTIALLY MET**

Vermont law prohibits the criminalization of child sex trafficking victims for prostitution-related offenses, including aiding or abetting prostitution; however, victims can still be charged as sex trafficking offenders or as accomplices alongside their exploiters. Pursuant to Vt. Stat. Ann. tit. 13, § 2652(c)(1) (Human trafficking),

A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

An affirmative defense may be available to victims facing other charges. Specifically, Vt. Stat. Ann. tit. 13, § 2652(c)(2) provides,

If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title that arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

- 2.7.1 Recommendation: Amend Vt. Stat. Ann. tit. 13, § 2652(c)(1) (Human trafficking) to prohibit the criminalization of child sex trafficking victims for sex trafficking offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization. (See [Issue Brief 2.7](#).)

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

● **FULLY MET**

Vermont law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. Pursuant to Vt. Stat. Ann. tit. 13, § 2652(c)(2) (Human trafficking),

If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title that arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

## EXTRA CREDIT



Because Vt. Stat. Ann. tit. 13, § 2652 criminalizes trafficking of both minor and adult victims, the affirmative defense provided for under Vt. Stat. Ann. tit. 13, § 2652(c)(2) extends to youth who are charged with offenses as a result of their victimization.

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

**PARTIALLY MET**

Vermont law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. While Vermont law extends juvenile court jurisdiction to all minors under 19 years of age, governing state statute establishes a low minimum age for jurisdictional purposes and permits direct file for juvenile cases involving minors charged with certain felony offenses. Additionally, the juvenile court is not required to consider the impact of trauma or past trafficking 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>	10. <sup>9</sup> “Child” is defined as “an individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age . . .”	19.	Yes. Minors 14+ years of age charged with a violent felony or a violation of a condition of release. <sup>10</sup>	Yes. Minors: (1) 16+ years of age charged with a felony offense except violent felonies; or (2) 12-13 years of age charged with a violent felony. <sup>11</sup>	No.
<b>Relevant Statute(s)</b>	Vt. Stat. Ann. tit. 33, § 5102(2)(C)	Vt. Stat. Ann. tit. 33, § 5201(d)	Vt. Stat. Ann. tit. 33, § 5204(a) <sup>12</sup>	Vt. Stat. Ann. tit. 33, § 5204(a)	Vt. Stat. Ann. tit. 33, § 5204(d)

<sup>9</sup> However, Vt. Stat. Ann. tit. 33, § 5102(2)(C) (Definitions and provisions of general application) provides an exception, stating, “an individual who is alleged to have committed an act before attaining 10 years of age which would be murder as defined in 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency proceedings.”

<sup>10</sup> Pursuant to Vt. Stat. Ann. tit. 33, § 5280 (Commencement of youthful offender proceedings in the Family Division), minors between the ages of 14-22 alleged to have committed a violent felony offense that could fall under the jurisdiction of the criminal court may, at the discretion of the prosecutor, be treated as a “youthful offender” and remain within the jurisdiction of the juvenile court.

<sup>11</sup> Notably, Vt. Stat. Ann. tit 33, § 5204(f)(3) allows the parties to “stipulate to convert the juvenile proceeding to a youthful offender proceeding.”

<sup>12</sup> The text of Vt. Stat. Ann. tit. 33, § 5204 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 4 during the 2023-2024 Regular Session of the Vermont state legislature (effective May 30, 2023).

	(Definitions and provisions of general application)	(Commencement of delinquency proceedings)	(Transfer from family division of the superior court); Vt. Stat. Ann. tit. 33, § 5201(c)(1) <sup>13</sup> (Commencement of delinquency proceedings)	(Transfer from family division of the superior court)	(Transfer from family division of the superior court)
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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 previous trafficking victimization or trauma in making a transfer determination.

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

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

● FULLY MET

Vermont’s human trafficking and child abuse statutes expressly identify child sex trafficking and commercial sexual exploitation as forms of abuse for purposes of finding a child as in need of care or supervision. Vt. Stat. Ann. tit. 13, § 2652(e) (Human trafficking) states, “If a person who is identified as a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as a subject of a child in need of care or supervision proceeding.” Additionally, for purposes of Vermont’s child abuse reporting statutes, Vt. Stat. Ann. tit. 33, § 4912(1), (15)(B), (H) (Definitions) includes the following definitions related to the abuse of a child:

(1) “Abused or neglected child” means a child whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child’s welfare. An “abused or neglected child” also means a child who is sexually abused or at substantial risk of sexual abuse by any person and a child who has died as a result of abuse or neglect.

.....

(15) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including:

.....

(B) prostitution;

.....

(H) human trafficking;

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<sup>13</sup> The text of Vt. Stat. Ann. tit. 33, § 5201 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 4 during the 2023-2024 Regular Session of the Vermont state legislature (effective May 30, 2023).

**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.

**1** PARTIALLY MET

Although child sex trafficking victims may access child welfare services regardless of parent or caregiver fault, state law does not provide for a specialized response in those cases. For purposes of Vermont’s child reporting statutes, Vt. Stat. Ann. tit. 33, § 4912(1) (Definitions) specifically provides that an “abused or neglected child” also means a child who is sexually abused or at substantial risk of sexual abuse by any person,” and Vt. Stat. Ann. tit. 33, § 4912(15) defines “sexual abuse” to include child sex trafficking and commercial sexual exploitation of children. As noted above, however, Vermont’s child welfare code does not statutorily require a specialized response for children reported to child welfare due to trafficking victimization perpetrated by a non-caregiver trafficker.

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



## ISSUE 3: Continuum of Care

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

○ NOT MET

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

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

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

● PARTIALLY MET

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing child abuse and neglect MDT, Vermont law does not require an MDT response specific to child sex trafficking cases. Pursuant to Vt. Stat. Ann. tit. 33, § 4917 (Multidisciplinary teams; empaneling),

- (a) The Commissioner or his or her designee may impanel a multidisciplinary team or a special investigative multitask force team or both wherever in the State there may be a probable case of child abuse or neglect which warrants the coordinated use of several professional services. These teams shall participate and cooperate with the local special investigation unit in compliance with 13 V.S.A. § 5415.
- (b) The Commissioner or his or her designee, in conjunction with professionals and community agencies, shall appoint members to the multidisciplinary teams which may include persons who are trained and engaged in work relating to child abuse or neglect such as medicine, mental health, social work, nursing, child care, education, law, or law enforcement. The teams shall include a representative of the Department of Corrections. Additional persons may be appointed when the services of those persons are appropriate to any particular case.
- (c) The empaneling of a multidisciplinary or special investigative multi-task force team shall be authorized in writing and shall specifically list the members of the team. This list may be amended from time to time as needed as determined by the Commissioner or his or her designee.

Further, Vt. Stat. Ann. tit. 33, § 4918 (Multidisciplinary teams; functions; guidelines) outlines the duties of the MDT, stating,

- (a) Multidisciplinary teams shall assist local district offices of the Department in identifying and treating child abuse or neglect cases. With respect to any case referred to it, the team may assist the district office by providing:
  - (1) case diagnosis or identification;
  - (2) a comprehensive treatment plan; and
  - (3) coordination of services pursuant to the treatment plan.
- (b) Multidisciplinary teams may also provide public informational and educational services to the community about identification, treatment, and prevention of child abuse and neglect. It shall also foster



communication and cooperation among professionals and organizations in its community, and provide such recommendations or changes in service delivery as it deems necessary.

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

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

○ NOT MET

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

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

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

○ NOT MET

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

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

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

● FULLY MET

Vermont law extends foster care services to youth under 23 years of age. Vt. Stat. Ann. tit. 33, § 4904 (Foster care; transitional youth services) defines “youth” as follows:

[A] person between 18 and 22 years of age who either:

- (1) attained his or her 18th birthday while in the custody of the Commissioner for Children and Families; or
- (2) while he or she was between 10 and 18 years of age, spent at least five of those years in the custody of the Commissioner for Children and Families.

Additionally, Vt. Stat. Ann. tit. 33, § 4904(b), (c) (Foster care; transitional youth services) extends foster care services to youth as follows:

(b)

- (1) The Department shall provide foster care services as described in subsection (c) of this section to:

...

- (B) any individual under the age of 22 who leaves State custody after the age of 16 and at or before the age of 18 or any youth provided he or she voluntarily requests additional support services.
- (2) The Department shall require a youth receiving services under this section to be employed, to participate in a program to promote employment or remove barriers to employment, or to attend an educational or vocational program, and, if the youth is working, require that he or she contribute to the cost of services based on a sliding scale, unless the youth meets the criteria for an exception to the

employment and educational or vocational program requirements of this section based on a disability or other good cause. The Department shall establish rules for the requirements and exceptions under this subdivision.

(c) The Commissioner shall establish by rule a program to provide a range of age-appropriate services for youth to ensure a successful transition to adulthood, including foster care and other services provided under this chapter to children as appropriate, housing assistance, transportation, case management services, assistance with obtaining and retaining health care coverage or employment, and other services. At least 12 months prior to a child attaining his or her 18th birthday, the Department shall assist the child in developing a transition plan. When developing the transition plan, the child shall be informed about the range of age-appropriate services and assistance available in applying for or obtaining these services.

**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 Vermont 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](#).)



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

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

### Policy Goal 4.2 Ineligibility factors for crime victims' compensation do not prevent victims of child sex trafficking and commercial sexual exploitation of children (CSEC) from accessing compensation.

● PARTIALLY MET

Although Vermont'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, Vt. Stat. Ann. tit. 13, § 5351(7)(A) (Definitions) defines "victim" to include "a person who sustains injury<sup>14</sup> or death as a direct result of the commission or attempted commission of a crime."

Despite this broad definition, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Vt. Stat. Ann. tit. 13, § 5353(a) (Application for compensation),

- A victim or a dependent of a victim shall, upon application, be eligible for compensation if:
- (1) a law enforcement official has filed a report concluding that a crime was committed which resulted in the injury or death of the victim; and
  - (2) the crime was committed in this State; or
  - (3) the victim is a Vermont resident, the state in which the crime occurred does not have an eligible crime Victims Compensation Program and the applicant would have been eligible for compensation under this chapter if the crime had been committed in this State; or
  - (4) the victim is a Vermont resident who is injured or killed by an act of terrorism outside the United States, to the extent that compensation is not otherwise available under federal law.

Further, Vt. Stat. Ann. tit. 13, § 5355(a), (b) (Approval or rejection of application) provides,

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<sup>14</sup> Vt. Stat. Ann. tit. 13, § 5351(4) defines "injury" as "actual bodily harm or pregnancy, or emotional harm resulting from the crime."

- (a) After review of the evidence relevant to the application for compensation, the Board shall approve the application if a preponderance of the evidence shows that as a direct result of the crime an injury occurred that resulted in a pecuniary loss<sup>15</sup> to the victim or the dependent.
- (b) An application for assistance shall be denied if any of the following apply:
  - (1) The application was not made within the period of time permitted for commencing prosecution of the crime. The Board may extend the time for filing for good cause shown.<sup>16</sup>
  - (2) The victim violated a criminal law of this State that caused or contributed to the victim's injuries or death.

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](#).)

**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 Vermont law allows trafficking victims to vacate criminal convictions, vacatur is unavailable for delinquency adjudications arising from trafficking victimization. Pursuant to Vt. Stat. Ann. tit. 13, § 2658(b)–(e) (Prostitution conviction; motion to vacate by victim of human trafficking),

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<sup>15</sup> Vt. Stat. Ann. tit. 13, § 5351(5) defines “pecuniary loss” as follows:

[I]n the case of a victim, the amount of medical or medically related expenses, loss of wages, and any other expenses that the Board feels became necessary as a direct result of the crime. Medical or medically related expenses may include, but are not limited to, the costs of individual or family psychological, psychiatric, or mental health counseling and the costs of replacing or repairing eyeglasses, hearing aids, dentures, or any prosthetic devices that were taken, lost, or destroyed during the commission of the crime . . . .

<sup>16</sup> Vt. Stat. Ann. tit. 13, § 5355 does not explain what constitutes “good cause” for purposes of this section.

(b) A person convicted of a qualifying crime<sup>17</sup> may file a motion to vacate the conviction if it was obtained as a result of the person having been a victim of human trafficking.<sup>18</sup> The motion shall be in writing, describe the supporting evidence with particularity, and include copies of any documents showing that the moving party is entitled to relief under this section.

.....

(d)

(1) The court shall grant the motion if it finds by a preponderance of the evidence that:

(A) the moving party was convicted of a qualifying crime; and

(B) the conviction was obtained as a result of the moving party's having been a victim of human trafficking.

(2) If the motion is granted, the court shall vacate the conviction, strike the adjudication of guilt, and expunge the record of the criminal proceedings. The court shall issue an order to expunge, or redact the moving party's name from, all records and files related to the moving party's arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation for the offense.

(e) Official documentation of a person's status as a victim of human trafficking provided by a federal, state, or local government agency shall create a presumption that the person's conviction was obtained as a result of having been a victim of human trafficking. Such documentation shall not be required to grant a motion under this section.

However, Vt. Stat. Ann. tit. 13, § 2658 applies specifically to “convictions,” and Vt. Stat. Ann. tit. 33, § 5202(a)(1)(A) (Order of adjudication; noncriminal) states, “An order of the Family Division of the Superior Court in proceedings under this chapter [Delinquency Proceedings] shall not . . . be deemed a conviction of crime . . . .” Accordingly, a delinquency adjudication cannot be vacated under Vt. Stat. Ann. tit. 13, § 2658. Further, vacatur is limited to certain 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](#).)

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<sup>17</sup> Vt. Stat. Ann. tit. 13, § 2658(a)(1) defines “qualifying crime” as “a criminal offense in this State that is not listed in 33 V.S.A. § 5204(a).” Vt. Stat. Ann. tit. 33, § 5204(a) (Transfer from family division of the superior court) includes the following crimes:

- (1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to commit that offense;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b) or an attempt to commit that offense;
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c) or an attempt to commit that offense;
- (4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to commit that offense;
- (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;
- (6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to commit that offense;
- (7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit that offense;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an attempt to commit that offense;
- (9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit that offense;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense;
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an attempt to commit either of those offenses; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c) or an attempt to commit that offense.

*See supra* note 12.

<sup>18</sup> Vt. Stat. Ann. tit. 13, § 2658(a)(2) defines “victim of human trafficking” as “(A) a victim of a violation of section 2652 [Human trafficking] or 2653 [Aggravated human trafficking] of this title; or (B) a victim of a severe form of trafficking” as defined by 22 U.S.C. § 7102(14)(federal Trafficking Victims Protection Act).”

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

● **PARTIALLY MET**

Restitution is mandatory in cases involving child sex trafficking but not CSEC. Pursuant to Vt. Stat. Ann. tit. 13, § 2657(a) (Restitution), “A person convicted of a violation of this subchapter [(Criminal acts) codified under Chapter 60 (Human trafficking)] shall be ordered to pay restitution to the victim pursuant to section 7043 [Restitution] of this title.”

Restitution is available more generally to victims of other crimes under Vt. Stat. Ann. tit. 13, § 7043 (Restitution); however, restitution under Vt. Stat. Ann. tit. 13, § 7043 is discretionary. Subsections (a) and (b) state,

- (a)
  - (1) Restitution shall be considered in every case in which a victim<sup>19</sup> of a crime, as defined in subdivision 5301(4) [Definitions] of this title, has suffered a material loss.
  - (2) For purposes of this section, “material loss” means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.
  - (3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title [Human trafficking], “material loss” shall also mean:
    - (A) attorney's fees and costs; and
    - (B) the greater of either:
      - (i) the gross income or value of the labor performed for the offender by the victim; or
      - (ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.
- (b)
  - (1) When ordered, restitution may include:
    - (A) return of property wrongfully taken from the victim;
    - (B) cash, credit card, or installment payments paid to the Restitution Unit; or
    - (C) payments in kind, if acceptable to the victim.
  - (2) In the event of a victim's crime-related death, the court may, at the request of the Restitution Unit, direct the Unit to pay up to \$ 10,000.00 from the Restitution Fund to the victim's estate to cover future uninsured material losses caused by the death.

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

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

● **FULLY MET**

Vermont law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Vt. Stat. Ann. tit. 13, § 2662 (Private cause of action) states,

- (a) A victim of human trafficking may bring an action against the offender in the Civil Division of the Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may include any loss for which restitution is available under section 2657 [Restitution] of this chapter.

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<sup>19</sup> Vt. Stat. Ann. tit. 13, § 5301(4) (Definitions) defines “victim” as “a person who sustains physical, emotional, or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency and shall also include the family members of a minor, a person who has been found to be incompetent, or a homicide victim.”

- (b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court, provided that the legal guardian, family member, or other representative appointed by the court has not benefited in any way from the trafficking.
- (c) In a civil action brought under this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

## EXTRA CREDIT



Vermont law provides sex trafficked youth with a trafficking-specific civil remedy under Vt. Stat. Ann. tit. 13, § 2662(a), which allows “[a] victim of human trafficking [to] bring an action against the offender . . . .” Vt. Stat. Ann. tit. 13, § 2651(13) (Definitions) defines “victim of human trafficking” as “a victim of a violation of section 2652 of this title.” Importantly, Vt. Stat. Ann. tit. 13, § 2652 (Human trafficking) criminalizes sex trafficking of both minor and adult victims.



Vermont law provides child labor trafficking victims with a trafficking-specific civil remedy under Vt. Stat. Ann. tit. 13, § 2662(a), which allows “[a] victim of human trafficking [to] bring an action against the offender . . . .” Vt. Stat. Ann. tit. 13, § 2651(13) (Definitions) defines “victim of human trafficking” as “a victim of a violation of section 2652 of this title.” Importantly, Vt. Stat. Ann. tit. 13, § 2652 (Human trafficking) criminalizes both sex and labor trafficking.

### Policy Goal 4.6

Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

PARTIALLY MET

Child sex trafficking prosecutions may commence at any time; however, the statute of limitation for trafficking-specific civil actions is not lengthened or eliminated. Pursuant to Vt. Stat. Ann. tit. 13, § 4501(a) (Limitation of prosecutions for certain crimes), “Prosecutions for . . . human trafficking [and] aggravated human trafficking . . . may be commenced at any time after the commission of the offense.” In contrast, Vt. Stat. Ann. tit. 13, § 4501(e) establishes a general 3-year statute of limitation for prosecutions of other felony and misdemeanor offenses.

Regarding civil actions, Vt. Stat. Ann. tit. 13, § 2662 (Private cause of action) does not specify a statute of limitation for filing a claim under that section. Accordingly, Vermont’s generally applicable 6-year statute of limitation for civil actions, codified under Vt. Stat. Ann. tit. 12, § 511 (Civil action), applies.

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



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

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

○ NOT MET

Vermont law does not allow non-testimonial, out-of-court statements made by a commercially sexually exploited child to be admitted into evidence in lieu of, or for the purpose of corroborating, the child's testimony.

5.1.1 Recommendation: Enact a hearsay exception that applies to non-testimonial evidence in cases involving commercial sexual exploitation of children under 18 years of age. (*See Issue Brief 5.1.*)

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

○ NOT MET

Vermont law does not provide child sex trafficking victims with an alternative to live, in-court testimony. Although Vt. R. Evid. 807 (Testimony where victim is a minor or a person with a psychiatric, intellectual, or developmental disability) permits the court to order the testimony of a child under 13 years of age be taken by closed circuit television (CCTV) during the prosecution of a specified offense, this protection does not extend to victims of sex trafficking or CSEC. Specifically, Vt. R. Evid. 807 provides,

- (a) Application. – This rule applies only to the testimony of a child age 12 or under . . . in a proceeding:
- (1) in a prosecution for sexual assault under 13 V.S.A. § 3252 or aggravated sexual assault under 13 V.S.A. § 3253 alleged to have been committed against that child . . . ;
  - (2) in a prosecution for lewd and lascivious conduct with a child under 13 V.S.A. § 2602 or incest under 13 V.S.A. § 205 alleged to have been committed against that child;
  - . . . .
  - (5) in a civil action in which one of the parties or witnesses has been an alleged victim of causes of action alleging sexual assault, lewd and lascivious conduct or sexual activity as defined in 33 V.S.A. § 6902;
  - (6) in a prosecution for domestic assault under 13 V.S.A. § 1042 or aggravated domestic assault under 13 V.S.A. § 1043 or § 1044 alleged to have been committed against that child . . . .
- (b) Who may move. – The court may, on motion of any party, on its own motion or on motion of the attorney or guardian ad litem for the child . . . order that the testimony of the child . . . be taken by two-way closed-circuit television or by recorded testimony under this rule.
- (c) Finding a trauma. – The court shall make an order for two-way closed-circuit television or recorded testimony under this rule only upon a finding that requiring the child . . . to testify in court will present a substantial risk of trauma to the child . . . which would substantially impair the ability of the child . . . to testify.
- (d) Recorded testimony. – The testimony of the child . . . may be taken outside the courtroom and recorded for showing in the courtroom before the court and the finder of fact in the proceeding . . . .
- (e) Two-way closed-circuit television. – The testimony of the child . . . may be taken in a room other than the courtroom and be televised by two-way closed-circuit equipment to be viewed by the finder of fact and others present in the courtroom . . . .
- (f) Placing of the party against whom the testimony is directed. – During the recording of testimony under subsection (d) of this rule the party shall be situated in such a way that the child . . . can hear and see the



party unless the court finds that requiring the . . . to hear and see the party presents a substantial risk of trauma to the child . . . which would substantially impair the ability of the child . . . to testify, in which case the court may order that the party be situated in such a way that the child . . . cannot hear or see the party. During the taking of testimony by two-way closed-circuit equipment under subsection (e) the party's image shall be transmitted to the witness unless the court finds that requiring the witness to hear and see the party presents a substantial risk of trauma to the witness which would substantially impair the ability of the witness to testify, in which case the image of the party shall not be transmitted to the witness.

(g) In-court testimony not required. – If the court orders the testimony of a child . . . to be taken under this rule, the child . . . may not be required to testify in court at the proceeding for which the testimony was taken, unless otherwise ordered by the court for good cause shown.

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

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

● **PARTIALLY MET**

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims’ identifying information is protected from disclosure in court records
<b>Summary</b>	Crime victims are entitled to receive assistance from a victim advocate under the Victim Advocate Program.	Not statutorily required.	Not statutorily required.
<b>Relevant Statute(s)</b>	Vt. Stat. Ann. tit. 13, § 5304 <sup>20</sup> (Victim advocate program)	None.	None.

- 5.3.1 Recommendation: Statutorily require that child sex trafficking victims are provided courtroom supports when testifying against their exploiter and their identifying information is protected from disclosure in court records. (See [Issue Brief 5.3.](#))

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

● **PARTIALLY MET**

Vermont 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.

<sup>20</sup> The text of Vt. Stat. Ann. tit. 13, § 5304 cited here and elsewhere in this report includes amendments made by the enactment of House Bill 35 during the 2023-2024 Regular Session of the Vermont state legislature (effective April 25, 2023).

Statute	Profession	Relevant Limitations
Vt. Stat. Ann. tit. 12, § 1612 (Patient's privilege)	Mental health professionals, including psychologists, licensed social workers, mental health counselors	None.

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



## ISSUE 6: Prevention & Training

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

○ NOT MET

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

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

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

○ NOT MET

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

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

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

○ NOT MET

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

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

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

○ NOT MET

Vermont law does not mandate trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

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

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

○ NOT MET

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

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

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

○ NOT MET

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

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

# KEYSTONE STATUTES

## State Laws Addressing Child Sex Trafficking

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1. Vt. Stat. Ann. tit. 13, § 2652(a), (b) (Human trafficking) states,
  - (a) No person shall knowingly:
    - (1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;<sup>21</sup>  
.....
    - (4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;  
.....
  - (b) A person who violates subsection (a) of this section shall be imprisoned for a term up to and including life or fined not more than \$ 500,000.00, or both.
  
2. Vt. Stat. Ann. tit. 13, § 2653(a), (b) (Aggravated human trafficking) states,
  - (a) A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:
    - (1) the offense involves a victim of human trafficking who is a child under the age of 18;
    - (2) the person has previously been convicted of a violation of section 2652 of this title;
    - (3) the victim of human trafficking suffers serious bodily injury or death; or
    - (4) the actor commits the crime of human trafficking under circumstances that constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.
  - (b) A person who violates this section shall be imprisoned not less than 20 years and a maximum term of life or fined not more than \$ 100,000.00, or both.
  
3. Vt. Stat. Ann. tit. 13, § 2654(a) (Patronizing or facilitating human trafficking) states,
  - (a) No person shall knowingly:
    - (1) permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking;
    - (2) receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or
    - (3) permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking.
  - (b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$ 100,000.00, or both.
  
4. Vt. Stat. Ann. tit. 13, § 2656 (Human trafficking by a business entity; dissolution) states,

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<sup>21</sup> Vt. Stat. Ann. tit. 13, § 2651(3) (Definitions) defines “commercial sex act” as “any sexual act, sexual conduct, or sexually explicit performance on account of which anything of value is promised to, given to, or received by any person.”

If a business entity, including a corporation, partnership, association, or any other legal entity, is convicted of violating this chapter, the Attorney General may commence a proceeding in the Civil Division of the Superior Court to dissolve the entity pursuant to 11A V.S.A. §§ 14.30-14.33.

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

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1. Vt. Stat. Ann. tit. 13, § 2659<sup>22</sup> (Knowingly permitting human trafficking in a dwelling) states,
  - (a) No person shall knowingly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title.
  - (b) A person who violates this section shall be imprisoned not more than two years or fined not more than \$15,000.00, or both.
  - (c) It shall not be a violation of this section if the person who owns or controls the dwelling, building, or structure takes action to address the unlawful activity.

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<sup>22</sup> The text of Vt. Stat. Ann. tit. 13, § 2659 cited here and elsewhere in this report includes amendments made by the enactment of Senate Bill 4 during the 2023-2024 Regular Session of the Vermont state legislature (effective May 30, 2023).

## 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



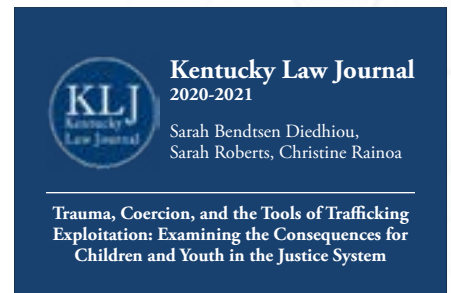
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

### 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.