



2023 REPORT

WISCONSIN

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

WISCONSIN

Year	SCORE	GRADE	7.5 10	25 25	15 15	7.5 10	17.5 27.5	11.5 15
2019	84	B						
2011	65	D	5 10	21.5 25	10.5 15	6 10	14.5 27.5	7.5 15

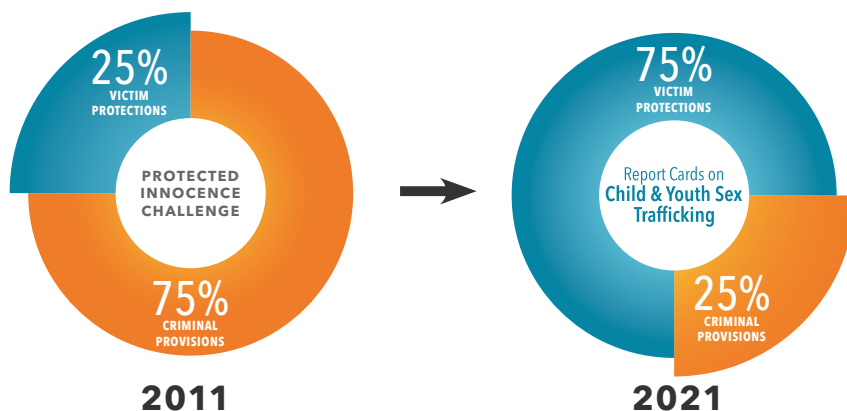
From 2011 to 2019, Wisconsin raised their grade under the Protected Innocence Challenge from a “D” to a “B,” enacting legislation aimed at holding offenders accountable and protecting survivors.

To view Wisconsin’s 2019 PIC report, visit sharedhope.org/PICframe9/reportcards/PIC_RC_2019_WI.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



WISCONSIN

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 3.5 points.
- Criminal laws address all perpetrators and correctly define child sex trafficking to include any commercially sexually exploited child.
- One of the only states to provide an affirmative defense to any crime, including violent crimes, when the crime was committed as a result of trafficking victimization.
- Ensures trafficking survivors have access to a critical victim protection by allowing survivors to seek ex parte civil orders of protection against their exploiters.

SAFE HARBOR STATUS:

Year after year, Wisconsin introduces legislation aimed at preventing minors from being criminalized for prostitution; however, such legislation has been unsuccessful, and Wisconsin remains one of 21 states that permit children to be arrested and prosecuted for prostitution offenses, thus allowing commercially sexually exploited minors to be held accountable for their own victimization.

Issue	Grade	Score	Summary
 1. Criminal Provisions	C	12.5 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, and business entity liability under the trafficking law. Gaps remain related to decoy defenses and financial penalties.
 2. Identification of and Response to Victims	F	9.5 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.
 3. Continuum of Care	F	3 15	Gaps remain in all areas, including community-based services, MDT responses, services through child welfare and the juvenile justice system, extended foster care services, and appropriations.
 4. Access to Justice for Trafficking Survivors	C	11.5 15	Policy goals accomplished related to civil orders of protection, restitution, and civil remedies. Gaps remain related to crime victims' compensation, vacatur, and statutes of limitation.
 5. Tools for a Victim-Centered Criminal Justice Response	F	5.5 10	Policy goal accomplished related to privileged communications. Gaps remain related to hearsay exceptions, alternatives to live, in-court testimony, and victim-witness supports.
 6. Prevention and Training	F	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.
EXTRA CREDIT	 Youth	3	Protections related to affirmative defenses for violent felonies, civil remedies, and privileged communications are extended to sex trafficked youth.
	 Child Labor Trafficking	4	Protections related to affirmative defenses for violent felonies, restitution, civil remedies, and privileged communications are extended to child labor trafficking victims.

OVERALL GRADE
TIER II

F 49

WHAT IS SAFE HARBOR?

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










WHY SAFE HARBOR?

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

SAFE HARBOR LAWS

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

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

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

STATE SUMMARY:

Wisconsin law does not prohibit the criminalization of minors for prostitution offenses, nor does it facilitate access to, or provide funding for, community-based services, leaving 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/.

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

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

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



ISSUE 1: Criminal Provisions

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

Wis. Stat. § 948.051(1) (Trafficking of a child) expressly applies to buyers of commercial sex with minors based on the term “patronizes.” It states,

Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts,² as defined in s. 940.302 (1) (a) [Human trafficking], is guilty of a Class C felony.

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

² Wis. Stat. § 940.302(1)(a) defines “commercial sex act” as follows:

[A]ny of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person:

1. Sexual contact.
2. Sexual intercourse.
3. Except as provided in sub. (2) (c), any of the following:
 - a. Sexually explicit performance.
 - b. Any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification.

Further, Wis. Stat. § 948.051(1) can apply to buyers based on the terms “solicits” and, following federal precedent, “obtains.”³

Policy Goal 1.2 Commercial sexual exploitation of children (CSEC) laws⁴ specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

● FULLY MET

Wisconsin law criminalizes both purchasing and soliciting commercial sex with a minor. Pursuant to Wis. Stat. § 948.08 (Soliciting a child for prostitution), “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

Further, Wis. Stat. § 948.081 (Patronizing a child) states,

An actor who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation, or sexual contact with a person is guilty of a Class G felony if the person is a child

Policy Goal 1.3 Commercial sexual exploitation of children (CSEC) laws⁵ apply to traffickers and protect all minors under 18.

● FULLY MET

Wisconsin’s CSEC laws address an array of trafficker conduct. Pursuant to Wis. Stat. § 948.08 (Soliciting a child for prostitution), “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

³ 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.

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

⁵ See *supra* note 4 for a full discussion on the purpose of analyzing trafficking laws separately from CSEC laws throughout this report.

Further, Wis. Stat. § 948.07 (Child enticement) states,

Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

- (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02 [Sexual assault of a child], 948.085 [Sexual assault of a child placed in substitute care], or 948.095 [Sexual assault of a child by a school staff person who works or volunteers with children].
- (2) Causing the child to engage in prostitution.
- (3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.
- (4) Recording the child engaging in sexually explicit conduct.

....

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

● FULLY MET

Wisconsin law prohibits a mistake of age defense in prosecutions for child sex trafficking. Pursuant to Wis. Stat. § 939.43(2) (Mistake), “A mistake as to the age of a minor or as to the existence or constitutionality of the section under which the actor is prosecuted or the scope or meaning of the terms used in that section is not a defense.” Because Wis. Stat. § 939.43(2) applies generally to Wisconsin’s Criminal Code, a mistake of age defense appears to be prohibited for violations of Wisconsin’s child sex trafficking law., which is otherwise silent regarding the permissibility of the defense.⁶

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

○ NOT MET

Wisconsin law does not prohibit a defense to prosecution based on the use of a law enforcement decoy posing as a minor to investigate trafficking crimes.

- 1.5.1 Recommendation: Statutorily prohibit an offender from raising a defense based on the use of a law enforcement decoy posing as a minor to investigate a child sex trafficking crime. (*See Issue Brief 1.5.*)

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

● FULLY MET

Wisconsin law allows business entities to be held criminally liable for conduct that violates the trafficking law. Pursuant to Wis. Stat. § 948.051(1), (2) (Trafficking of a child),

- (1) Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for

⁶ Likewise, the prohibition provided for under Wis. Stat. § 939.43(2) should extend to violations of Wisconsin’s CSEC laws, including Wis. Stat. § 948.08 (Soliciting a child for prostitution) and Wis. Stat. § 948.07 (Child enticement), which are also silent regarding the permissibility of the defense. In contrast, Wis. Stat. § 948.081 (Patronizing a child) expressly eliminates the defense for prosecutions under that section, stating, “In a prosecution under this section, it need not be proven that the actor knew the age of the person and it is not a defense that the actor reasonably believed that the person was not a child.”

the purpose of commercial sex acts, as defined in s. 940.302 (1) (a) [Human trafficking], is guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

Importantly, Wis. Stat. § 990.01(26) (Construction of laws; words and phrases) defines “person” to include “all partnerships, associations and bodies politic or corporate.” Accordingly, business entities can be held liable for a trafficking violation.

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

○ NOT MET

Financial penalties, including criminal fines, fees, and asset forfeiture, paid by convicted trafficking and CSEC offenders⁷ are not required to be directed into a victim services fund.⁸

⁷ While not specific to child sex trafficking and CSEC offenders, Wis. Stat. § 973.045 (Crime victim and witness assistance surcharge) directs all offenders who are sentenced or put on probation to pay a crime victim and witness surcharge on each count. Those payments are then directed into an appropriation account under Wis. Stat. § 20.455(5)(g).

⁸ Regarding asset forfeiture, Wis. Stat. § 973.075(1) (Forfeiture of property derived from crime and certain vehicles) provides,

[T]he following are subject to seizure and forfeiture . . . :

- (a) All property, real or personal, including money, used in the course of, intended for use in the course of, or directly or indirectly derived from or realized through the commission of any crime.
- (b) All vehicles, . . . which are used in any of the following ways:
 - 1. To transport any property or weapon used or to be used or received in the commission of any felony.
 -
 - 3. In the commission of a crime in violation of s. . . . 948.051 [Trafficking of a child], . . . 948.07 [Child enticement], 948.08 [Soliciting a child for prostitution], 948.081 [Patronizing a child]
 -
 - 8. In the commission of a crime under s. 948.07.
- (bg) Any property used or to be used in the commission of a crime under s. . . . 948.07.
-

Disposition of forfeited property is governed by Wis. Stat. § 973.075(4), which states,

When property is forfeited under ss. 973.075 to 973.077, the agency seizing the property shall do one of the following:

- (a) If the property is a vehicle, retain it for official use for a period of up to one year. Before the end of that period, the agency shall do one of the following:
 - 1. Sell the property and use a portion, not to exceed 50 percent, of the amount received for payment of forfeiture expenses if the agency produces an itemized report of actual forfeiture expenses and submits the report to the department of administration to make it available on the department’s website. The remainder shall be deposited in the school fund as proceeds of the forfeiture
 - 2. Continue to retain the property, if the agency deposits 30 percent of the value of the vehicle, as determined by the department of revenue, in the school fund as proceeds of the forfeiture
- (b) Sell the property that is not required by law to be destroyed or transferred to another agency. The agency seizing the property may use a portion, not to exceed 50 percent, of the amount received for administrative expenses of seizure, maintenance of custody, advertising, and court costs and the costs of investigation and prosecution reasonably incurred The remainder shall be deposited in the school fund as the proceeds of the forfeiture.
- (c) If the property forfeited is money, deposit all the money in the school fund.

However, a percentage of a sex trafficking or CSEC offender’s forfeited assets is not 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

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. Wis. Stat. § 948.051(1) (Trafficking of a child) expressly applies to buyers of commercial sex with minors based on the term “patronizes,”⁹ meaning a buyer can be charged regardless of whether a trafficker is involved or identified. As such, 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**

Wisconsin 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](#).)

⁹ See *supra* Policy Goal 1.1 for a full discussion of buyer-applicability under Wis. Stat. § 948.051.

INSIGHTS FROM THE FIELD



“The Wisconsin Department of Justice publishes [Human Trafficking: A Guide for Criminal Justice Professionals](#), which contains resources related to the treatment of trafficked foreign national children. The guide includes an overview of federal mandates with links to resources to facilitate access to appropriate services and resources. See Section VII. Victims and Immigration Issues.

The Wisconsin Anti-Human Trafficking Task Force (WAHTTF) is a USDOJ OVC-funded enhanced collaborative model (ECM) task force that includes Project Respect as lead victim service provider (VSP) along with lead law enforcement agency Wisconsin Department of Justice Division of Criminal Investigation (DCI). Project Respect regularly receives referrals for both adult and minor foreign national victims of trafficking through the Trafficking Victims Assistance Program (TVAP) and ASPIRE program and works to coordinate services and, when appropriate, a potential law enforcement response, with task force membership. Project Respect is also working to become an approved victim service provider of the TVAP and ASPIRE programs to enhance their ability to serve trafficking foreign national children. Part of WAHTTF’s referral protocol between law enforcement and victim service providers includes a coordinated response to facilitate access to services for this population and coordination amongst law enforcement agencies.”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*

- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

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

Wisconsin 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

Wisconsin 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.](#))

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

Wisconsin law does not prohibit the criminalization of minors for prostitution offenses. While the core prostitution offense provides an alternative juvenile justice process for commercially sexually exploited children, minors are not protected from arrest, detention, charges, and the possibility of prosecution. Wis. Stat. § 944.30(1m), (2m) (Prostitution) provides,

- (1m) Any person who intentionally does any of the following is guilty of a Class A misdemeanor:
- (a) Has or offers to have or requests to have nonmarital sexual intercourse for anything of value.
 - (b) Commits or offers to commit or requests to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another for anything of value.
 - (c) Is an inmate of a place of prostitution.
 - (d) Masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value.
 - (e) Commits or offers to commit or requests to commit an act of sexual contact for anything of value.
- (2m) If the person under sub. (1m) has not attained the age of 18 years and if the court determines that the best interests of the person are served and society will not be harmed, the court may enter a consent decree . . . or a deferred prosecution agreement

Consequently, while some commercially sexually exploited children may be insulated from a traditional juvenile or criminal justice response, Wisconsin law permits minors to be criminalized for prostitution.

- 2.5.1 Recommendation: Amend state 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.](#))

INSIGHTS FROM THE FIELD



“The Wisconsin Department of Justice widely distributes information about the statutory requirement to refer suspected prostituted minors to local child protection agencies for services. A practice tip sheet describing the requirement is linked [here](#) and on the WI DOJ website.

The Wisconsin DOJ Division of Criminal Investigation (DCI) Human Trafficking Bureau implements and promotes practices to treat prostituted minors as victims of crime. The Bureau’s Human Trafficking Operational and Investigative Guidelines contain the statutory requirement that law enforcement refer all instances in which they suspect a child is being permitted, allowed or encouraged to violate prostitution offenses to child protection agencies within 12 hours regardless of whether such encouragement comes from a caregiver or non-caregiver. The guidelines refer law enforcement agencies to the tool linked below which provides further information about the statutory mandate. In addition to the investigative guidelines available to law enforcement, DCI partners with victim service providers and completes training throughout the state to law enforcement personnel as well as other entities to include the referral of minors for services in lieu of arrest.”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*

- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

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.

1 PARTIALLY MET

Although Wisconsin 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. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

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

INSIGHTS FROM THE FIELD



“The Wisconsin Department of Justice Human Trafficking: A Guide for Criminal Justice Professionals, which is widely distributed and used in training, contains information about the availability of the state’s affirmative defense and the dynamics of forced criminality. Training and policy discussions routinely promote non-criminalization of child sex trafficking victims.

Further, the Division of Criminal Investigation Human Trafficking Bureau implements and promotes practices that prioritize victim services for victims of sex trafficking. The Bureau’s Human Trafficking Operational and Investigative Guidelines inform law enforcement agencies that the state’s affirmative defense for victims of sex trafficking applies to prostitution, stressing that the primary goal should be to identify and recover sex trafficking victims and get them help through social services or reliable victim advocate groups.”

- Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice

- Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice

- Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice

- Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice

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.

1 PARTIALLY MET

Although Wisconsin law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization, an affirmative defense may be available. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

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

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

● FULLY MET

Wisconsin law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization. Specifically, Wis. Stat. § 939.46(1m) (Coercion) states,

A victim of a violation of s. 940.302 (2) [Human trafficking] or 948.051 [Trafficking of child] has an affirmative defense for any offense committed as a direct result of the violation of s. 940.302 (2) or 948.051 without regard to whether anyone was prosecuted or convicted for the violation of s. 940.302 (2) or 948.051.

EXTRA CREDIT

18+

Wis. Stat. § 939.46(1m) makes the affirmative defense available to victims of Wis. Stat. § 940.302, which criminalizes trafficking individuals 18 years of age and older. Accordingly, the affirmative defense provided for under Wis. Stat. § 939.46(1m) extends to youth who are charged with offenses as a result of their victimization.

CLT

Wis. Stat. § 939.46(1m) makes the affirmative defense available to victims of Wis. Stat. § 940.302, which criminalizes both sex trafficking and labor trafficking. Accordingly, the affirmative defense provided for under Wis. Stat. § 939.46(1m) extends to child labor trafficking victims who are charged with offenses as a result of their victimization.

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

○ NOT MET

Wisconsin law does not provide age-appropriate juvenile court responses for all minors accused of engaging in juvenile or criminal conduct. In addition to setting a low minimum age for purposes of juvenile court jurisdiction, Wisconsin law excludes 17-year-olds from the court’s jurisdiction. Further, governing state statute permits direct file and automatic transfers to criminal court for minors charged with certain offenses and fails to require the court to consider the impact of trauma of 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
Summary	10. “Delinquent” is defined as “a juvenile who is 10 years of age or	16.	Yes. Minors: (1) charged with 1 st degree intentional homicide or 1 st	Yes. Minors: (1) 14+ years of age charged with felony murder, 2 nd	No.

	older who has violated any state or federal criminal law”		degree reckless homicide; (2) charged with battery against prison employee while in custody on prior adjudication; (3) charged with battery to probation or supervision employee following a prior adjudication; (4) previously transferred to and convicted in criminal court; or (5) transferred to and awaiting adjudication in criminal court.	degree reckless homicide, sexual assault in the 1 st or 2 nd degree, taking hostages, kidnapping, Class E felony burglary, Class C felony robbery, robbery of financial institution, or manufacturing, distributing or delivering controlled substances; (2) 14+ years charged with a felony committed in furtherance of gang activity; or (3) 15+ years of age.	
Relevant Statute(s)	Wis. Stat. § 938.02(3m) (Definitions); Wis. Stat. § 938.12(1) (Jurisdiction over juveniles alleged to be delinquent)	Wis. Stat. § 938.02(10m) (Definitions); Wis. Stat. § 938.12(1) (Jurisdiction over juveniles alleged to be delinquent)	Wis. Stat. § 938.183(1) (Original adult court jurisdiction for criminal proceedings)	Wis. Stat. § 938.18(1) (Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing)	Wis. Stat. § 938.18(5) (Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing)

Consequently, some minors may still be subjected to inappropriate juvenile court responses due to state laws that: (1) does not establish a minimum age for juvenile court jurisdiction that aligns with domestic standards; (2) fails to extend juvenile court jurisdiction to all minors under 18 years of age; (3) allows some juvenile cases to be subject to direct file or automatically transferred to criminal court; and (4) do not require the juvenile court to consider past 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

Wisconsin’s Children’s Code defines “abuse” to include child sex trafficking and commercial sexual exploitation of children. Specifically, Wis. Stat. § 48.02(1)(cm), (d) (Definitions) defines “abuse” to include “(cm) A violation of s. 948.051 [Trafficking of a child]. (d) Permitting, allowing or encouraging a child to violate s. 944.30 [Prostitution].”

INSIGHTS FROM THE FIELD



“Per Wisconsin State Statutes, suspected child sex trafficking cases are referred to local child protection agencies within 12 hours of a report. The Department includes this mandate in multidisciplinary training and in materials online. It is included in the DOJ Criminal Investigation Bureau’s Human Trafficking Operational and Investigative Guidelines to facilitate child welfare involvement when a child is engaged in commercial sex acts. The state statute also requires child protection agencies to report incidences of this nature to law enforcement within 12 hours of receipt. This statute facilitates communication and encourages collaboration amongst these entities to better serve child victims.”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*

- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

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

○ NOT MET

Wisconsin’s Children’s Code does not expressly allow for a child welfare response in non-caregiver trafficking cases. Under Wis. Stat. § 48.02(1) (Definitions), the definition of “abuse” is silent regarding the child’s relationship to the perpetrator when a child is deemed abused as the result of being a victim of child sex trafficking or commercial sexual exploitation. Similarly, Wis. Stat. § 48.13(3), (3m) (Jurisdiction over children alleged to be in need of protection or services) does not expressly require parent or caregiver fault for abuse or neglect in order to find that the court has jurisdiction over “a child alleged to be in need of protection or services.” Conversely, Wisconsin’s Children’s Code also does not expressly clarify that a child welfare response to child sex trafficking victims need not hinge on caregiver liability. Further, a specialized response is not statutorily required for children reported to child welfare due to trafficking victimization perpetrated by a non-caregiver trafficker.

2.11.1 Recommendation: Statutorily allow for child welfare involvement in child sex trafficking cases regardless of parent or caregiver fault and provide for a specialized response in those cases. (*See [Issue Brief 2.11](#).*)

INSIGHTS FROM THE FIELD



“Per Wisconsin State Statutes, suspected child sex trafficking cases must be referred to local child protection agencies within 12 hours of a report regardless of whether it is familial or non-familial trafficking. The Wisconsin Department of Justice widely distributes information about this requirement. This information is included in training and on the WI DOJ website. The DOJ Criminal Investigation Bureau’s Human Trafficking Operational and Investigative Guidelines notes this requirement so that local agencies are aware that non-familial cases must be referred to child welfare.”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*

- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

INSIGHTS FROM THE FIELD



“Wisconsin has aligned state statutes (2015 Wisconsin Act 367) and policies with federal requirements. There is no specialized investigation, but specific guidance is provided in Appendix 9 of the [Child Protective Services Access & Initial Assessment Standards](#).”^{*}

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



ISSUE 3: Continuum of Care

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

○ NOT MET

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

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

INSIGHTS FROM THE FIELD



“The Wisconsin Anti-Human Trafficking Task Force (WAHTTF) led by the Wisconsin Department of Justice Division of Criminal Investigation and community-based victim service provider, Project Respect, is dedicated to improving the state’s response to survivors of human trafficking through multidisciplinary coordination with justice system and community-based service providers. Coordination through WAHTTF aims to support and increase access to specialized services, as well as build capacity throughout the state to serve child sex trafficking victims. In addition to WAHTTF, the Division of Criminal Investigation Human Trafficking Bureau also partnered in a multi-disciplinary team with community-based victim advocate United Migrant Opportunity Services (UMOS) to serve migrant and underserved victims of various forms of human trafficking and/or labor trafficking throughout Wisconsin.

Link: WAHTTF Task Force Announcement (<https://www.doj.state.wi.us/news-releases/ag-kaul-announces-wisconsin-anti-human-trafficking-task-force>)

Link: DOJ and UMOS MDT Announcement (<https://milwaukeeenns.org/2023/04/11/umos-partners-launch-new-effort-to-stop-labor-trafficking-in-wisconsin/>)”

- Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice

- Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice

- Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice

- Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice

Policy Goal 3.2

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

1 PARTIALLY MET

Although child sex trafficking victims could receive a multi-disciplinary team (MDT) response through an existing MDT, Wisconsin law does not require an MDT response to child sex trafficking cases. Pursuant to Wis. Stat. § 48.24(1)–(5) (Receipt of jurisdictional information; intake inquiry),

(1) Information indicating that a child or an unborn child should be referred to the court as in need of protection or services shall be referred to the intake worker, who shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the child or unborn child and of the public with regard to any action to be taken.

(1m) As part of the intake inquiry, the intake worker shall inform the child and the child’s parent, guardian and legal custodian that they, or the adult expectant mother of an unborn child that she, may request counseling from a person designated by the court

(2)

(a) As part of the intake inquiry the intake worker may conduct multidisciplinary screens and intake conferences with notice to the child, parent, guardian and legal custodian or to the adult expectant mother of the unborn child. If sub. (2m) applies, the intake worker shall conduct a multidisciplinary screen under s. 48.547 [Alcohol and other drug abuse program] if the child or expectant mother has not refused to participate under par. (b).

(b) No child or other person may be compelled to appear at any conference, participate in a multidisciplinary screen, produce any papers or visit any place by an intake worker.

(2m)

(a) In counties that have an alcohol and other drug abuse program under s. 48.547, a multidisciplinary screen shall be conducted for:

2. Any child alleged to be in need of protection and services who has at least 2 prior adjudications .

. . .

. . . .

6. Any expectant mother 12 years of age or over who requests and consents to a multidisciplinary screen.

(b) The multidisciplinary screen may be conducted by an intake worker for any reason other than those specified in the criteria under par. (a).

(3) If the intake worker determines as a result of the intake inquiry that the child or unborn child should be referred to the court, the intake worker shall request that the district attorney, corporation counsel or other official specified in s. 48.09 [Representation of the interests of the public] file a petition.

(4) If the intake worker determines as a result of the intake inquiry that the case should be subject to an informal disposition, or should be closed, the intake worker shall so proceed. If a petition has been filed, informal disposition may not occur or a case may not be closed unless the petition is withdrawn by the district attorney, corporation counsel or other official specified in s. 48.09, or is dismissed by the court.

(5) The intake worker shall request that a petition be filed, enter into an informal disposition, or close the case within 60 days after receipt of referral information If the case is closed or an informal disposition is entered into, the district attorney, corporation counsel, or other official under s. 48.09 shall receive written notice of that action. If a law enforcement officer has made a recommendation concerning the child, or the unborn child and the expectant mother of the unborn child, the intake worker shall forward this recommendation to the district attorney, corporation counsel, or other official under s. 48.09

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

INSIGHTS FROM THE FIELD



“The Wisconsin Anti-Human Trafficking Task Force (WAHTTF) led by the Wisconsin Department of Justice Division of Criminal Investigation and community-based victim service provider, Project Respect, is dedicated to creating a robust multidisciplinary response to child sex trafficking cases throughout the state. WAHTTF is funded through a multi-year USDOJ Office for Victims of Crime (OVC) competitive enhanced collaborative model (ECM) grant that supports and encourages a collaborative effort among local, state, tribal, and federal law enforcement, prosecutors, and victim service providers to combatting human trafficking. In addition to WAHTTF, the Division of Criminal Investigation Human Trafficking Bureau also partnered in a multi-disciplinary team with community-based victim advocate, United Migrant Opportunity Services (UMOS), to serve migrant and underserved victims of various forms of human trafficking and/or labor trafficking throughout Wisconsin.

Link: WAHTTF Task Force Announcement (<https://www.doj.state.wi.us/news-releases/ag-kaul-announces-wisconsin-anti-human-trafficking-task-force>)

Link: DOJ and UMOS MDT Announcement (<https://milwaukeeens.org/2023/04/11/umos-partners-launch-new-effort-to-stop-labor-trafficking-in-wisconsin/>)”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*
- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*
- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*
- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

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

○ NOT MET

Wisconsin 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

Wisconsin 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.

1 PARTIALLY MET

Wisconsin law extends foster care services to youth under 21 years of age through a voluntary extended foster care agreement. However, these services are not extended to youth under 23 years of age as permitted under federal law.¹⁰ Wis. Stat. § 48.57(3m)(a) (Powers and duties of department and county departments providing child welfare services) defines “child” as follows:

[A] person under 18 years of age. “Child” also includes a person 18 years of age or over, if any of the following applies:

- a. The person is under 19 years of age, is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, and is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.
- b. The person is under 21 years of age, [the person] is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, an individualized education program under s. 115.787 is in effect for the person, and the person is placed in the home of the kinship care relative under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3).

Wis. Stat. § 48.366(3)(a) (Extended out-of-home care) provides for voluntary transition-to-independent-living agreement, stating,

On termination of an order described in sub. (1) (a) or (b), the person who is the subject of the order, or the person’s guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition-to-independent-living agreement under which the person continues in out-of-home care and continues to be a full-time student at a secondary school or its vocational or technical equivalent under an individualized education program under s. 115.787 until the date on which the person reaches 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement as provided in par. (b), whichever occurs first, and the agency provides services to the person to assist him or her in transitioning to independent living.

- 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.*)

¹⁰ 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).

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 Wisconsin state legislature did not appropriate funds to support the development and provision of specialized, community-based services and care to child and youth survivors.¹¹

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



“State funding is appropriated for youth who have experienced sex trafficking through the Department of Children and Families. WI Statute 48.48(19) outlines the requirements for funding.”[†]

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

¹¹ While not specifically directed toward community-based services, funding appropriated to child-serving agencies could be used for that purpose. Pursuant to Wis. Stat. § 20.437(1)(e) (Children and families, department of),

There is appropriated to the department of children and families for the following programs:

(1) Children and family services.

.....

(e) Services for sex-trafficking victims. Biennially, the amounts in the schedule for treatment and services for sex-trafficking victims under s. 48.48 (19).

In turn, Wis. Stat. § 48.48(19) (Authority of department) provides,

The department shall have authority:

.....

(19) To purchase or provide treatment and services for children who are the victims of trafficking, as defined in s. 940.302 (1) (d), for purposes of a commercial sex act, as defined in s. 940.302 (1) (a). Within the availability of funding under s. 20.437 (1) (e), the department shall ensure that that treatment and those services are available to children in all geographic areas of the state, including both urban and rural communities.



ISSUE 4: Access to Justice for Trafficking Survivors

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

● FULLY MET

Wisconsin law allows trafficking victims to seek ex parte civil orders of protection against their exploiters. Pursuant to Wis. Stat. § 813.122(4)(a) (Child abuse restraining orders and injunctions),

Temporary restraining order.

(a) A judge or circuit court commissioner shall issue a temporary restraining order ordering the respondent to avoid the child victim's residence or any premises temporarily occupied by the child victim or both, to avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the judge or circuit court commissioner agrees that the contact is in the best interests of the child victim, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, and to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, if all of the following occur:

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (6) (a).¹²
2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the child victim and the respondent may engage in, abuse of the child victim.

Wis. Stat. § 813.122(1)(a) states that “‘Abuse’ has the meaning given in s. 48.02 (1) (a) and (b) to (gm) and, in addition, includes a threat to engage in any conduct under s. 48.02 (1), other than conduct under s. 48.02 (1) (am).” Wis. Stat. § 48.02(1)(cm) (Definitions) defines “abuse” to include “[a] violation of s. 948.051 [Trafficking of a child].” Accordingly, emergency orders of protection are available to victims of child sex trafficking.

Further, Wis. Stat. § 813.122(4)(b) allows those orders to be granted on an ex parte basis, stating, “Notice need not be given to the respondent before issuing a temporary restraining order under this subsection” Wis. Stat. § 813.025(2) (Ex parte restraining orders; right of review of certain orders) explains,

¹² Under Wis. Stat. § 813.122(6)(a),

The petition shall allege facts sufficient to show the following:

1. The name of the petitioner and the child victim.
2. The name of the respondent.
3. That the respondent engaged in, or based on prior conduct of the respondent and the child victim may engage in, abuse of the child victim.
4. If the payment of child support is requested, that the payment of child support is reasonable or necessary based on criteria provided under s. 767.511.
5. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:
 - a. The name or type of the court proceeding.
 - b. The date of the court proceeding.
 - c. The types of provisions regarding contact between the petitioner and respondent.

[I]f the court is of the opinion that irreparable loss or damage will result to the applicant unless a temporary restraining order is granted, the court may grant such temporary restraining order at any time before such hearing and determination of the application for an interlocutory injunction. However, such temporary restraining order shall be effective only for 5 days unless extended after notice and hearing thereon, or upon written consent of the parties or their attorneys, and in no event shall such temporary restraining order remain in force beyond the time of the determination of the application for an interlocutory injunction.

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.

1 PARTIALLY MET

Although Wisconsin's crime victims' compensation laws define "victim" 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, Wis. Stat. § 949.01(6) (Definitions) defines "victim" as "a person who is injured or killed by . . . any act or omission of any other person that is within the description of any of the offenses listed in s. 949.03 (1) (b) . . ." Wisconsin's child sex trafficking law and most of its CSEC laws are included among the offenses enumerated in Wis. Stat. § 949.03(1)(b) (Compensable acts).¹³ Accordingly, victims of child sex trafficking and CSEC fall under the definition of "victim" for purposes of receiving compensation.

However, certain ineligibility factors may still limit a commercially sexually exploited child's ability to seek crime victims' compensation. Pursuant to Wis. Stat. § 949.08(1)–(2m) (Limitations on awards),

(1) No order for the payment of an award may be made unless the application was made within 1 year after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense which had been reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made. The department may waive the requirements under this subsection in the interest of justice.¹⁴

(1m)

(a) Except as provided in par. (b), the department may not make an award of more than \$40,000 for any one injury or death and the department may not make any award for expenses incurred after 4 years from the date of the injury or death.

(b) If an applicant was a child at the time of the injury, the department may consider for payment eligible expenses that the applicant incurred not more than 1 year before he or she submitted an application for an award under this subchapter. The department may not make any award after 4 years have passed since the date the person made the application or after 4 years have passed since the date on which the person incurred the expense prior to submitting the application, whichever occurs first.

(2) No award may be ordered if the victim:

(a) Engaged in conduct which substantially contributed to the infliction of the victim's injury or death or in which the victim could have reasonably foreseen could lead to the injury or death . . .

(b) Committed a crime which caused or contributed to the victim's injury or death.

(d) Has not cooperated with appropriate law enforcement agencies.

¹³ Specifically, Wis. Stat. § 949.03(1)(b) includes Wis. Stat. § 948.051 (Trafficking of a child), Wis. Stat. § 948.08 (Soliciting a child for prostitution), and Wis. Stat. § 948.07 (Child enticement). However, Wis. Stat. § 948.081 (Patronizing a child) is not among the enumerated offenses, leaving victims of this crime without access to crime victims' compensation.

¹⁴ Wis. Stat. § 949.08 does not explain what constitutes "in the interest of justice" for purposes of this section.

....

(f) Has not cooperated with the department in the administration of the program.

(g) Is included on the statewide support lien docket under s. 49.854 (2) (b) [Liens against property for delinquent support payments], unless the victim provides to the department a payment agreement that has been approved by the county child support agency under s. 59.53 (5) [Health and human services] and that is consistent with rules promulgated under s. 49.858 (2) (a) [General provisions related to administrative support enforcement].

(2m) If a claimant other than a victim has not cooperated with the department in the administration of the program, no award may be ordered for the claimant.

Because child sex trafficking and CSEC victims are not expressly exempt from the ineligibility factors noted above, some commercially sexually exploited children may not have access to an award.

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

Policy Goal 4.3 Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.

1 PARTIALLY MET

Wisconsin law allows sex trafficked children and youth to vacate delinquency adjudications and criminal convictions for offenses arising from their victimization; however, relief is limited to prostitution offenses. Pursuant to Wis. Stat. § 973.015(2m)(a)–(d) (Special disposition),

At any time after a person has been convicted, adjudicated delinquent, or found not guilty by reason of mental disease or defect for a violation of s. 944.30 [Prostitution], a court may, upon the motion of the person, vacate the conviction, adjudication, or finding, or may order that the record of the violation of s. 944.30 be expunged, if all of the following apply:

- (a) The person was a victim of trafficking for the purposes of a commercial sex act, as defined in s. 940.302 (1) (a), under s. 940.302 [Human trafficking] or 948.051 [Trafficking of a child] or under 22 USC 7101 to 7112.
- (b) The person committed the violation of s. 944.30 as a result of being a victim of trafficking for the purposes of a commercial sex act.
- (c) The person submitted a motion that complies with s. 971.30 [Motion defined], that contains a statement of facts and, if applicable, the reason the person did not previously raise an affirmative defense under s. 939.46 [Coercion] or allege that the violation was committed as a result of being a victim of trafficking for the purposes of a commercial sex act, and that may include any of the following:
 1. Certified records of federal or state court proceedings.
 2. Certified records of approval notices, law enforcement certifications, or similar documents generated from federal immigration proceedings.
 3. Official documentation from a federal, state, or local government agency.
 4. Other relevant and probative evidence of sufficient credibility in support of the motion.
- (d) The person made the motion with due diligence subject to reasonable concern for the safety of himself or herself, family members, or other victims of trafficking for the purposes of a commercial sex act or subject to other reasons consistent with the safety of persons.

As noted above, however, vacatur is limited to prostitution offenses, which fails to recognize the array of crimes trafficking victims are charged with and leaves many survivors without any avenue for relief.

- 4.3.1 Recommendation: Strengthen existing law 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

Wisconsin law requires an offender convicted of a child sex trafficking or CSEC offense to pay restitution. Pursuant to Wis. Stat. § 973.20(1r) (Restitution),

When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record.

Wis. Stat. § 973.20(4m), (4o) provides for restitution orders specific to trafficking and CSEC cases, stating,

(4m) If the defendant violated s. . . . 948.051 [Trafficking of a child], . . . 948.07 [Child enticement], 948.08 [Soliciting a child for prostitution], . . . or s. 940.302 (2) [Human trafficking], if the court finds that the crime was sexually motivated,¹⁵ as defined in s. 980.01 (5) [Definitions], and sub. (3) (a)¹⁶ does not apply, the restitution order may require that the defendant pay an amount, not to exceed \$10,000, equal to the cost of necessary professional services relating to psychiatric and psychological care and treatment. The \$10,000 limit under this subsection does not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.

(4o) If the defendant violated s. 940.302 (2) or 948.051, and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:

- (a) The costs of necessary transportation, housing, and child care for the victim.
- (b) The greater of the following:
 - 1. The gross income gained by the defendant due to the services of the victim.
 - 2. The value of the victim's services as provided under the state minimum wage.
- (c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.
- (d) The costs of relocating the victim to his or her city, state, or country of origin.

Further, Wis. Stat. § 973.20(5)(a), (b) states,

In any case, the restitution order may require that the defendant do one or more of the following:

¹⁵ Wis. Stat. § 980.01(5) (Definitions) defines “sexually motivated” to mean “that one of the purposes for an act is for the actor's sexual arousal or gratification or for the sexual humiliation or degradation of the victim.”

¹⁶ Pursuant to Wis. Stat. § 973.20(3)(a),

If a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:

- (a) Pay an amount equal to the cost of necessary (a) medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment.

- (a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of a crime considered at sentencing.
- (b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.

EXTRA CREDIT



Wisconsin law mandates restitution for victims of child labor trafficking under Wis. Stat. § 973.20(1r), which applies broadly to any offense.

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

● FULLY MET

Wisconsin law allows victims of child sex trafficking to pursue civil remedies against their exploiters. Wis. Stat. § 948.051(3) (Trafficking of a child) states,

Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.

EXTRA CREDIT



Wisconsin law provides sex trafficked youth with a trafficking-specific civil remedy under Wis. Stat. § 940.302(c) (Human trafficking), which states, “Any person who incurs an injury or death as a result of a violation of sub. (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” Wis. Stat. § 940.302(2)(a)(1)(b) criminalizes trafficking for the purposes of a commercial sex act” regardless of the victim’s age.



Wisconsin law provides child labor trafficking victims with a trafficking-specific civil remedy under Wis. Stat. § 940.302(c) (Human trafficking), which states, “Any person who incurs an injury or death as a result of a violation of sub. (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” Wis. Stat. § 940.302(2)(a)(1)(a) criminalizes trafficking for the purposes of labor or services.”

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

Wisconsin law lengthens, but does not eliminate, statutes of limitation for criminal actions related to child sex trafficking and CSEC; however, the statute of limitation for filing trafficking-specific civil actions is not lengthened or eliminated. Pursuant to Wis. Stat. § 939.74(2)(c), (cm) (Time limitations on prosecutions),

(c) A prosecution for violation of s. . . . 948.051 [Trafficking of a child], . . . 948.07 (1), (2), (3), or (4) [Child enticement], . . . 948.08 [Soliciting a child for prostitution], 948.081 [Patronizing a child] . . . shall be commenced before the victim reaches the age of 45 years or be barred, except as provided in sub. (2d).¹⁷

¹⁷ Wis. Stat. § 939.74(2d) states, (2d)(c) provides,

If, before the applicable time limitation under sub. (1) or (2) (am), (ar), (c), or (cm) for commencing prosecution of a felony under ch. . . . 948, other than a felony specified in sub. (2) (a), expires, the state collects biological material that is evidence of the identity of the person who committed the felony, identifies a deoxyribonucleic acid profile from the biological material, and compares the deoxyribonucleic acid profile to deoxyribonucleic acid profiles of known persons, the state may commence prosecution of the person who is the source of the biological material for the felony or a crime that is related to the felony or both within 12 months after comparison of the deoxyribonucleic acid profile relating to the felony results in a probable identification of the person or within the applicable time under sub. (1) or (2), whichever is latest.

(cm) A prosecution for violation of s. . . . 948.07 (5) or (6) [Child enticement] shall be commenced before the victim reaches the age of 26 years or be barred, except as provided in sub. (2d).

In contrast, Wis. Stat. § 939.74(1) establishes a general 6-year statute of limitation for prosecutions of felony offenses and a general 3-year statute of limitation for prosecutions of misdemeanor offenses.

Regarding civil actions, Wis. Stat. § 948.051(3) (Trafficking of a child) does not specify a statute of limitation for claims filed under that section. Accordingly, actions filed under Wis. Stat. § 948.051(3) are likely subject to the general 3-year statute of limitation for personal injury actions provided for under Wis. Stat. § 893.54(1) (Injury to the person).

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



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

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

○ NOT MET

Wisconsin 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.

● PARTIALLY MET

Wisconsin law allows child sex trafficking victims who are under 12 years of age (or under 16 years of age if the interest of justice so requires) to testify by an alternative method regardless of the prosecuted offense. Specifically, Wis. Stat. § 972.11(2m)(a) (Evidence and practice; civil rules applicable) states,

At a trial in any criminal prosecution, the court may, on its own motion or on the motion of any party, order that the testimony of any child witness be taken in a room other than the courtroom and simultaneously televised in the courtroom by means of closed-circuit audiovisual equipment if all of the following apply:

1. The court finds all of the following:
 - a. That the presence of the defendant during the taking of the child's testimony will result in the child suffering serious emotional distress such that the child cannot reasonably communicate.
 - b. That taking the testimony of the child in a room other than the courtroom and simultaneously televising the testimony in the courtroom by means of closed-circuit audiovisual equipment is necessary to minimize the trauma to the child of testifying in the courtroom setting and to provide a setting more amenable to securing the child witness's uninhibited, truthful testimony.
2. The trial in which the child may be called as a witness will commence:
 - a. Prior to the child's 12th birthday; or
 - b. Prior to the child's 16th birthday and, in addition to its finding under subd. 1., the court finds that the interests of justice warrant that the child's testimony be taken in a room other than the courtroom and simultaneously televised in the courtroom by means of closed-circuit audiovisual equipment.¹⁸

¹⁸ Pursuant to Wis. Stat. § 972.11(2m)(b),

Among the factors which the court may consider in determining the interests of justice under par. (a) 2. b. are any of the following:

Notably, older minors are not permitted to testify by an alternative method, thereby increasing their risk of re-traumatization from testifying.

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

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

● PARTIALLY MET

	Child sex trafficking victims have the right to a victim advocate	Child sex trafficking victims testifying against their exploiter are provided supports in the courtroom	Child sex trafficking victims’ identifying information is protected from disclosure in court records
Summary	Victims have a right to be accompanied by a victim advocate at interviews and proceedings at which he or she is requested or allowed to attend that are related to the crime committed against him or her, including prosecution interviews, department of corrections proceedings, court proceedings, and postconviction proceedings.	Not statutorily required.	Not statutorily required.

1. The child’s chronological age, level of development and capacity to comprehend the significance of the events and to verbalize about them.
2. The child’s general physical and mental health.
3. Whether the events about which the child will testify constituted criminal or antisocial conduct against the child or a person with whom the child had a close emotional relationship and, if the conduct constituted a battery or a sexual assault, its duration and the extent of physical or emotional injury thereby caused.
4. The child’s custodial situation and the attitude of other household members to the events about which the child will testify and to the underlying proceeding.
5. The child’s familial or emotional relationship to those involved in the underlying proceeding.
6. The child’s behavior at or reaction to previous interviews concerning the events involved.
7. Whether the child blames himself or herself for the events involved or has ever been told by any person not to disclose them; whether the child’s prior reports to associates or authorities of the events have been disbelieved or not acted upon; and the child’s subjective belief regarding what consequences to himself or herself, or persons with whom the child has a close emotional relationship, will ensue from providing testimony.
8. Whether the child manifests or has manifested symptoms associated with posttraumatic stress disorder or other mental disorders, including, without limitation, reexperiencing the events, fear of their repetition, withdrawal, regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood changes, compulsive behaviors, school problems, delinquent or antisocial behavior, phobias or changes in interpersonal relationships.
9. The number of separate investigative, administrative and judicial proceedings at which the child’s testimony may be required.

Relevant Statute(s)	Wis. Stat. § 950.04(c) (Basic bill of rights for victims and witnesses); Wis. Stat. 950.045(2)(a) (Accompaniment by a victim advocate)	None.	None.
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- 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.

● FULLY MET

Wisconsin law provides for a child sex trafficking-specific caseworker privilege that protects a child sex trafficking victim’s communications with their caseworker from being disclosed. Under Wis. Stat. § 905.045(2)–(4) (Domestic violence or sexual assault advocate-victim privilege),

(2) General rule of privilege. A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications¹⁹ made or information obtained or disseminated among the victim, a victim advocate²⁰ who is acting in the scope of his or her duties as a victim advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.

(3) Who may claim the privilege. The privilege may be claimed by the victim, by the victim’s guardian or conservator, or by the victim’s personal representative if the victim is deceased. The victim advocate may claim the privilege on behalf of the victim. The victim advocate’s authority to do so is presumed in the absence of evidence to the contrary.

(4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child abuse that a victim advocate is required to make . . . or concerning a threat of violence in or targeted at a school that a victim advocate is required to make . . .

Wis. Stat. § 905.045(1)(d) defines “victim” as “an individual who has been the subject of abusive conduct or who alleges that he or she has been the subject of abusive conduct” The definition of “abusive conduct” under Wis. Stat. § 905.045(1)(a) includes the following:

[A]buse, as defined in s. 813.122 (1) (a) [Child abuse restraining orders and injunctions], of a child, as defined in s. 813.122 (1) (b), interspousal battery, as described under s. 940.19 [Battery; substantial battery;

¹⁹ Wis. Stat. § 905.045(1)(c) defines “confidential information” as follows:

A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than persons present to further the interest of the person receiving counseling, assistance, or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, including family members of the person receiving counseling, assistance, or support services and members of any group of individuals with whom the person receives counseling, assistance, or support services.

²⁰ Wis. Stat. § 905.045(1)(e) defines “victim advocate” as “an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.”

aggravated battery] or 940.20 (1m) [Battery: special circumstances], domestic abuse, as defined in s. 813.12 (1) (am) [Domestic abuse restraining orders and injunctions], sexual exploitation by a therapist under s. 940.22 [Sexual exploitation by a therapist; duty to report], sexual assault under s. 940.225 [Sexual assault], human trafficking involving a commercial sex act under s. 940.302 [Human trafficking], or child sexual abuse under s. 948.02 [Sexual assault of a child], 948.025 [Engaging in repeated acts of sexual assault of the same child], or 948.05 to 948.11 [including Sexual exploitation of a child; Trafficking of a child; Causing a child to view or listen to sexual activity; Incest with a child; Child enticement; Use of a computer to facilitate a child sex crime; Soliciting a child for prostitution; Patronizing a child; etc.].

Accordingly, victims of child sex trafficking are expressly included within the definition of “victim” for purposes of protection under Wis. Stat. § 905.045.

Additionally, 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
Wis. Stat. § 905.04 (Privilege between certain health-care providers and patients)	Psychologists & social workers	Does not protect information obtained by juvenile court intake and disposition staff (if they are professionals falling under § 905.04) in juvenile proceedings/matters.

EXTRA CREDIT



Wisconsin law prevents disclosure of confidential communications made between a sex trafficked youth and their caseworker under Wis. Stat. § 905.045. For purposes of protection, Wis. Stat. § 905.045(1)(d) defines “victim” to include individuals who have been subjected to “abusive conduct,” including a violation of Wis. Stat. § 940.302 (Human trafficking), which applies to cases involving the sex trafficking of adult victims.



Wisconsin law prevents disclosure of confidential communications made between a child labor trafficking victim and their caseworker under Wis. Stat. § 905.045. For purposes of protection, Wis. Stat. § 905.045(1)(d) defines “victim” to include individuals who have been subjected to “abusive conduct,” including a violation of Wis. Stat. § 940.302 (Human trafficking), which applies to cases involving sex or labor trafficking.



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

Wisconsin 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



“CPS Access and Initial Assessment county staff and supervisors are required by policy to participate in a web-based course titled ‘Understanding Child Sex Trafficking in Wisconsin’ per DSP Numbered Memo Series 2017-07.”[†]

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

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

○ NOT MET

Wisconsin 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

Wisconsin 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](#).)

INSIGHTS FROM THE FIELD



“The Wisconsin Department of Justice publishes [Human Trafficking: A Guide for Criminal Justice Professionals](#), which promotes a victim-centered response to human trafficking for partners, including law enforcement. It is presented as a tool for agencies to assess their readiness and improve their practices.

The WI DOJ Division of Criminal Investigation Human Trafficking Bureau implements and promotes victim-centered investigative strategies in its Human Trafficking Operational and Investigative Guidelines for law enforcement agencies. The guidelines prioritize the welfare of victims and collaboration with victim advocates, stating: “The priority when opening an investigation is to identify and recover human sex trafficking victims and get them help through social services or reliable victim advocate groups.”

Additionally, the Human Trafficking Bureau partners with WAHTTF victim service provider members United Migrant Opportunity Services (UMOS) and Project Respect to deliver a five-day law enforcement training which focuses on conducting victim centered investigations, utilizing trauma-informed interviewing techniques, and supporting the work of best practice protocol training. A link to the 2023 law enforcement training agenda is attached here.”

- *Shira Phelps, Executive Director, Office of Crime Victim Services/ Wisconsin Department of Justice*

- *Jake Jansky, Director, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Melissa Fus, Special Agent in Charge, Human Trafficking Bureau, Division of Criminal Investigation, Wisconsin Department of Justice*

- *Alexandra Stanley, Wisconsin Anti-Human Trafficking Task Force Coordinator, Wisconsin Department of Justice*

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

NOT MET

Wisconsin 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

Wisconsin 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



“The Department of Children and Families has created a documentary that tells the true stories of sex trafficking in Wisconsin titled ‘It Happens Here’. This documentary conveys how easy it is to be drawn into the life. This project is part of a statewide effort to inform youth and adults about the risk factors and warning signs of trafficking and what they can do to assist individuals who may be at risk of, or affected by, trafficking. Multiple screenings of this documentary have taken place across Wisconsin. To date, over 600 school professionals have been trained on how to facilitate this film and discussion guide within schools.”[†]

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

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

○ NOT MET

Wisconsin 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



“The Department of Children and Families has created a documentary that tells the true stories of sex trafficking in Wisconsin titled ‘It Happens Here’. This documentary conveys how easy it is to be drawn into the life. This project is part of a statewide effort to inform youth and adults about the risk factors and warning signs of trafficking and what they can do to assist individuals who may be at risk of, or affected by, trafficking. Multiple screenings of this documentary have taken place across Wisconsin. To date, over 600 school professionals have been trained on how to facilitate this film and discussion guide within schools.”[†]

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

State Laws Addressing Child Sex Trafficking

1. Wis. Stat. § 948.051(1), (2) (Trafficking of a child) states,

(1) Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts,²¹ as defined in s. 940.302 (1) (a) [Human trafficking], is guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

A Class C felony is punishable by imprisonment for up to 40 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(c) (Classification of felonies).

²¹ Wis. Stat. § 940.302(1)(a) defines “commercial sex act” as follows:

any of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person:

1. Sexual contact.
2. Sexual intercourse.
3. Except as provided in sub. (2) (c), any of the following:
 - a. Sexually explicit performance.
 - b. Any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification.

State Laws Addressing Commercial Sexual Exploitation of Children (CSEC)

1. Wis. Stat. § 948.08 (Soliciting a child for prostitution) states, “Whoever intentionally solicits or causes any child to engage in an act of prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.”

A Class D felony is punishable by imprisonment for up to 25 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(d) (Classification of felonies).

2. Wis. Stat. § 948.07 (Child enticement) states,

Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

- (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02 [Sexual assault of a child], 948.085 [Sexual assault of a child placed in substitute care], or 948.095 [Sexual assault of a child by a school staff person who works or volunteers with children].
- (2) Causing the child to engage in prostitution.
- (3) Exposing genitals, pubic area, or intimate parts to the child or causing the child to expose genitals, pubic area, or intimate parts in violation of s. 948.10.
- (4) Recording the child engaging in sexually explicit conduct.

....

A Class D felony is punishable by imprisonment for up to 25 years, a fine up to \$100,000, or both. Wis. Stat. § 939.50(3)(d) (Classification of felonies).

3. Wis. Stat. § 948.081 (Patronizing a child) states,

An actor who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation, or sexual contact with a person is guilty of a Class G felony if the person is a child

A Class G felony is punishable by imprisonment for up to 10 years, a fine up to \$25,000, or both. Wis. Stat. § 939.50(3)(g) (Classification of felonies).

RESOURCES

REPORT CARDS PROJECT: For more information on the Report Cards Project, visit reportcards.sharedhope.org.

TOOLKIT: To see how your state compares, visit reportcards.sharedhope.org/toolkit.

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

HIGHLIGHTED RESOURCES

Community-Based Services White Paper



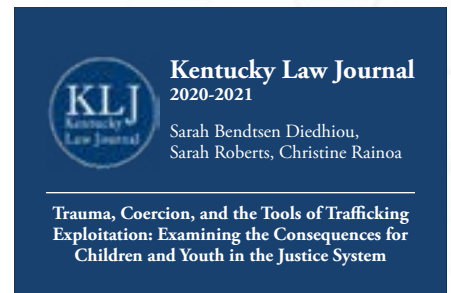
This white paper discusses the importance of providing comprehensive, trauma-informed services to all child sex trafficking victims, regardless of system involvement, and provides examples of state statutory responses.

Victim-Offender Intersectionality Report



This report examines the phenomenon of sex trafficking survivors entering the criminal justice system for allegedly engaging in sex trafficking conduct and provides tools for criminal justice stakeholders to assist in identifying and responding to these cases in a trauma-informed manner.

Trauma, Coercion, and the Tools of Trafficking Exploitation



This law journal article examines the harms of relying on a juvenile justice-based response for serving child sex trafficking victims, the importance of enacting strong non-criminalization laws, the intertwined nature of sex trafficking victimization and criminalized conduct, and the importance of using a trauma-informed lens in response.

TECHNICAL ASSISTANCE

For legislators and policy advocates assisting elected officials in creating legislation, request a consultation with our Policy Team online at sharedhope.org/legislative-technical-assistance. We will set up a meeting to discuss your legislative goals and create a customized plan for ongoing technical assistance, bill drafting services, and legislative support.

ADVOCACY ACTION CENTER

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



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



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



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