

ADVANCED LEGISLATIVE FRAMEWORK

1. CRIMINAL PROVISIONS

Clear criminal laws, including those that criminalize buyers of sex with children, are needed to ensure all sex trafficking offenders can be held accountable.

POLICY GOAL 1.1: The child sex trafficking law is expressly applicable to buyers of commercial sex with any minor under 18.

Mirroring the federal law, state child sex trafficking statute(s) should unequivocally apply to the conduct of buyers by criminalizing the act of “purchasing” or “patronizing” a minor for sex, regardless of the child’s age. States with existing ambiguous language (i.e. “obtains,” “causes,” or “procures”) should mitigate the risk of prosecutorial or judicial misinterpretation and add clear buyer conduct to the child sex trafficking statute(s).

POLICY GOAL 1.2: Commercial sexual exploitation of children (CSEC) laws specifically criminalize purchasing or soliciting commercial sex with any minor under 18.

In addition to using the child sex trafficking law to prosecute buyers, law enforcement and prosecutors should also be able to investigate and charge a wide range of buyer conduct under state CSEC laws. These laws must clearly apply to buyers by criminalizing the act or attempt to solicit, purchase, or patronize a minor for sex without requiring an additional and limiting actus reus (e.g., use of computer to solicit the minor, transporting the minor). Historically, CSEC laws did not provide protections for older minors; to ensure this inadequacy is addressed, states should not limit buyer-applicable CSEC laws to younger minors.

POLICY GOAL 1.3: Commercial sexual exploitation of children (CSEC) laws apply to traffickers and protect all minors under 18.

Child sex trafficking cases are complicated to investigate and prosecute, making it imperative for law enforcement and prosecutors to have a variety of offenses in addition to the trafficking offense that cover an array of exploitive conduct. State CSEC laws should protect all minors under 18 without requiring an additional and limiting actus reus (e.g., use of computer to solicit the minor, transporting the minor).

POLICY GOAL 1.4: Mistake of age is not an available defense in child sex trafficking prosecutions.

The harm caused by buyers and traffickers is not mitigated by the offender’s apparent ignorance regarding the child victim’s age, and the offender, not the child victim, should bear the risk of that

mistake. As such, state law should clearly prohibit buyers and traffickers from asserting a mistake of age defense in prosecutions for child sex trafficking involving victims who are under 18 years of age.

POLICY GOAL 1.5: Use of a law enforcement decoy is not an available defense in child sex trafficking cases.

Permitting law enforcement to pose as a minor for the purpose of investigating sex trafficking is essential to fighting the crime without risking actual harm to children. Child sex trafficking laws should expressly prohibit buyers and traffickers from raising a defense that the person solicited was not an actual minor.

POLICY GOAL 1.6: Business entities can be held criminally liable for conduct that violates the trafficking law.

Laws that clearly provide for business entity liability support law enforcement and prosecutors' ability to investigate and prosecute offending entities that may not be directly involved in trafficking conduct but, instead, aid, assist, or enable the trafficking enterprise for purposes of financial gain.

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.

Financial penalties may function as both a deterrent for offenders and a victim services funding stream, the latter providing a valuable resource for ensuring much needed services are adequately funded and available statewide. Accordingly, state asset forfeiture laws should direct a percentage of a sex trafficking or CSEC offender's forfeited assets toward a victim services fund. Additionally, states should assess a mandatory fee against sex trafficking and CSEC offenders that is also directed toward a victim services fund.

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2. IDENTIFICATION OF & RESPONSE TO VICTIMS

States' laws must identify all commercially sexually exploited children as victims of trafficking and provide for a protective, rather than punitive, response.

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.

It is imperative that all CSE minors are rightfully identified as victims of child sex trafficking. This legal designation importantly facilitates a victim's ability to access opportunities for protection, services, and justice that are specifically designed for child sex trafficking victims. As such, the core child sex trafficking law should include all minors who experience commercial sex, regardless of whether the minor has, or identifies, a third party controller.

POLICY GOAL 2.2: State law provides policy guidance to facilitate access to services and assistance for trafficked foreign national children.

State statutory responses to child sex trafficking should protect all victims regardless of immigration status; however, foreign national victims of child sex trafficking are regularly barred from accessing critical services, benefits, and protections provided for under state law. As such, state law should provide policy guidance for stakeholders who interact with and serve foreign national children to facilitate access to care and benefits and mitigate the collateral consequences of working with this population (e.g., under-identification, punitive immigration proceedings).

POLICY GOAL 2.3: State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking.

Under federal law, child sex trafficking victims fall under the definition of abuse and neglect and are entitled to specialized services through child welfare. Additionally, children already involved in the child welfare system are disproportionately more likely to have experienced or be at risk of experiencing commercial sexual exploitation. To ensure identification of victimization and the provision of specialized care, as well as the prevention of future harm, child welfare agencies should adopt trauma-informed CSEC screening measures to screen children at risk of sex trafficking.

POLICY GOAL 2.4: State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking.

Commercially sexually exploited minors are disproportionately more likely to be involved in the juvenile justice system for offenses related to their trafficking victimization or offenses committed as a result of other life circumstances. Juvenile justice, as a rehabilitation and child serving entity,

plays an important role in identifying and providing an appropriate, service-based response to all CSE children in its care. To ensure identification of victimization and the provision of specialized care, as well as the prevention of future harm, juvenile justice agencies should be mandated to adopt trauma-informed CSEC screening measures to screen children at risk of sex trafficking.

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.

Commercially sexually exploited minors are not prostitution offenders; contrarily, all minors who experience commercial sex are victims of sex trafficking and should be identified and responded to as such. The state prostitution statute should be clearly inapplicable to persons under 18 years of age, regardless of whether a finding of trafficking victimization is made. Instead, state law should establish a protocol that prohibits punitive forms of custody, such as arrest, and requires law enforcement to direct the child to specialized services.

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.

Recognizing that many child sex trafficking victims are forced or compelled to engage in other criminal conduct as a result of their victimization, state non-criminalization laws should extend to offenses beyond prostitution, including status offenses as well as misdemeanor and non-violent felony offenses committed pursuant to trafficking victimization.

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.

Aligning with their underlying victimization, child sex trafficking victims should not be charged as sex trafficking offenders or as accomplices alongside their exploiters. Prohibiting the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses committed as a result of their trafficking victimization accounts for the actual dynamics of trafficking, the nature and extent of control exerted by sex traffickers, and the influence of trauma on the decision-making process and behavior of sex trafficking survivors.

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.

A sex trafficking-specific affirmative defense allows sex trafficking victims accused of engaging in criminal conduct as a result of their victimization to assert a defense to prosecution and potentially avoid criminal liability if successful. Due to the forceful nature of violent felonies and the oftentimes severe harm caused to the crime victim, an affirmative defense is likely a more appropriate route than providing non-criminalization protections because an affirmative defense would shift the bur-

den to the accused to establish that they should not be held criminally liable for the harm caused. Accordingly, a child sex trafficking victim would need to establish their victimization and prove the nexus between the violent felony and their own victimization to benefit from this protection.

POLICY GOAL 2.9: Juvenile court jurisdiction provides for a developmentally appropriate response.

To ensure the provision of a developmentally appropriate response, all minors under 18 should be afforded the child-centered and rehabilitative-focused services that are connected to the juvenile justice system. This policy further protects CSE minors who have disproportionately higher rates of juvenile justice involvement for offenses related to their victimization or offenses committed as a result of other life circumstances.

POLICY GOAL 2.10: State law defines child abuse to include child sex trafficking to ensure access to child welfare services.

Federal law requires that child sex trafficking be defined and treated as a form of child abuse. However, state and local child welfare systems have historically been prohibited or underutilized in coordinating and/or providing a specialized response in child sex trafficking cases. To ensure that all reports of child sex trafficking are investigated or assessed and that all victims are afforded access to child welfare services, states should expressly identify child sex trafficking as a form of child abuse.

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.

Child welfare's ability to respond in child sex trafficking and CSEC cases should not hinge on whether a parent, guardian, or other person responsible for the child's welfare is responsible for, or fails to prevent, the child's harm. Further, state law should provide for an alternative, specialized response in non-caregiver trafficking cases to ensure appropriate handling of these cases and the safety of the child.

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3. CONTINUUM OF CARE

To break the cycle of exploitation, state laws must provide victims access to funded, trauma-informed services.

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.

Survivors of child sex trafficking often have complex needs that cannot be addressed by a single agency or service provider; instead, survivors need support from a number of service providers addressing various needs. It is important that child sex trafficking victims not only receive a broad array of treatment but also that treatment is specialized to the unique trauma associated with commercial sexual exploitation. Further, these services should be provided through a number of entry points, including those that do not require involvement in child-serving systems, such as child welfare or juvenile justice. As such, the process for connecting child victims with community-based services should be statutorily mandated to ensure consistent, ongoing, comprehensive, statewide access to services for all impacted children and youth.

POLICY GOAL 3.2: State law provides for a survivor-centered multi-disciplinary team response to child sex trafficking cases.

A specialized multi-disciplinary team (MDT) approach in child sex trafficking cases ensures a coordinated response that addresses the holistic needs of survivors throughout the criminal justice and service response processes. Through MDTs, law enforcement, service providers, advocates, and other professionals work collaboratively to prioritize the wellbeing of the survivor and provide trauma-informed support and services.

POLICY GOAL 3.3: State law requires child welfare to provide access to specialized services for identified sex trafficked children and youth.

Child welfare has an important and unescapable role in responding to child maltreatment involving commercial sexual exploitation. As such, it is imperative that child welfare is prepared to complement community-based service responses. Ideally, state law should require child welfare to ensure access to comprehensive services and support for all child and youth survivors while eliminating barriers to ensure services are impactful and accessible. Accordingly, state law should ensure that child welfare is positioned—through mandates and adequate funding—to provide access to comprehensive services for all child and youth survivors.

POLICY GOAL 3.4: State law requires the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

State law should ensure juvenile justice-involved trafficking victims have access to specialized services and care. Such services are imperative for addressing past harm while ideally preventing future exploitation. Additionally, specialized services and care should be accessible to all identified victims, regardless of whether they participate in a diversion process.

POLICY GOAL 3.5: State law extends foster care services to older foster youth.

Youth age 18-22 years old are acutely vulnerable to exploitation. Frequently barred from accessing services and care specific to children, youth are forced, oftentimes overnight, to coordinate the provision of their own basic needs with little support. To mitigate vulnerabilities, ensure a continuum of care, and provide a bridge between adolescence and adulthood, state law should extend foster care services 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.

Over the years, state legislatures have made significant changes to state laws addressing care and protection for child sex trafficking victims. However, such advancements cannot be fully implemented without adequate funding; as such, state legislatures should make appropriations to specifically support specialized CSEC services and a continuum of care through community-based services or non-governmental organizations.

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4. ACCESS TO JUSTICE FOR TRAFFICKING SURVIVORS

A range of civil and criminal justice remedies must be available for victims under the law.

POLICY GOAL 4.1: State law allows trafficking victims to seek emergency civil orders of protection.

Presently, most states provide opportunities for victims of intimate partner violence and sexual assault to seek emergency orders of protection against their offenders. These protections are imperative for documenting violence, identifying offenders, and insulating victims from future harm, regardless of whether there are criminal charges pending against their offenders. To ensure this same opportunity for justice and protection, state law should allow victims of sex trafficking to pursue and receive *ex parte* civil orders of protection.

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.

Crime victim compensation (CVC) is a valuable tool for receiving support to offset the financial impact experienced by crime victims, including costs associated with receiving physical and mental health care or lost income. However, many states' CVC laws prohibit the provision of financial awards or reduce the amount based upon a number of factors, including the timeliness of a victim's report to law enforcement and cooperation in a related investigation, the victim's contributory fault, and CVC filing deadlines. However, these factors are incompatible with the realities of trafficking victimization. To ensure CSE minors have access to critical financial support to increase stabilization and healing, CVC laws should provide specific exceptions to all ineligibility factors for victims of sex trafficking and CSEC.

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

Sex trafficked children and youth are commonly compelled to commit juvenile and criminal offenses. In addition to harms caused by criminalization, related records present detrimental challenges and barriers to seeking safe housing, meaningful employment, and educational opportunities. To prevent ongoing discrimination and harm, state law should allow sex trafficked children and youth to seek vacatur relief for adjudications or convictions received as a result of their trafficking victimization.

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

Restitution is critical for survivors' attainment of justice and for providing a meaningful form of punishment for offenders. In addition to serving as a financial penalty, requiring restitution orders as a part of child sex trafficking and CSEC sentences can support survivors' ability to obtain comprehensive services without being left with significant out-of-pocket costs.

POLICY GOAL 4.5: State law provides child sex trafficking victims with a trafficking-specific civil remedy.

The ability to pursue civil remedies against trafficking perpetrators is an important and practical aspect of justice. State law should provide victims of child sex trafficking with a specific opportunity to pursue civil relief to support full restoration for damages suffered.

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.

Eliminating both criminal and civil statute of limitations (SoL) for child sex trafficking and CSEC offenses is a necessary and trauma-informed approach to supporting survivors' access to justice. Importantly, the elimination of SoLs recognizes the complexity of identifying and reporting victimization as well as the challenges of investigating and building successful cases against offenders.

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5. TOOLS FOR A VICTIM-CENTERED CRIMINAL JUSTICE RESPONSE

Criminal justice procedures for the benefit and protection of victims must be provided under the law.

POLICY GOAL 5.1: Non-testimonial evidence may be admitted through a child sex trafficking-specific hearsay exception to reduce reliance on victim testimony.

Child sex trafficking cases present an array of evidentiary challenges, including the difficulty of corroborating allegations of a crime that is oftentimes hidden. However, child victims often make out-of-court statements to trusted adults in their lives that, per states' evidentiary rules, may be barred from being admitted in proceedings against their offenders. To overcome this challenge, states should enact hearsay exceptions, allowing a victim's non-testimonial out-of-court statements to be admitted into evidence.

POLICY GOAL 5.2: State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.

Oftentimes, victim-witness testimony is the link between an allegation of sex trafficking and a successful conviction of the offender. Yet, the act of testifying, particularly in the presence of the perpetrator, can be a highly traumatic process. To mitigate the risk of re-traumatization and support the child's ability to provide accurate testimony regarding their exploitation insulated from the influence of fear, state law should allow all child sex trafficking victims, regardless of the prosecuted offense or the child's age, with alternatives to live, in-court testimony, including testimony by closed circuit television or videotaped deposition.

POLICY GOAL 5.3: Child sex trafficking victims have access to victim protections in the criminal justice system.

Reporting a crime and participating in a resulting investigation and prosecution can be daunting for any crime victim; however, it is particularly intimidating for child victims of sexual violence, including child sex trafficking. To lessen the presence and impact of fear, state law should ensure that child sex trafficking victims are afforded access to victim protections during the criminal justice process, including court record confidentiality, courtroom supports, and a victim advocate. The availability of these victim protections can also play an important role in supporting a positive rapport between the child victim and law enforcement, ultimately contributing towards more successful investigations and prosecutions.

POLICY GOAL 5.4: State law provides for privileged communications between caseworkers and child sex trafficking victims.

Trust is an essential component of a productive child-case worker relationship. When trust is established, child victims often disclose aspects of their victimization that, if made available to others, could adversely impact the child, including disclosure of criminal conduct. However, that trust can be broken when caseworkers are compelled to divulge to law enforcement, or in the course of a prosecution, sensitive and/or potentially incriminating statements made by the child. To protect the child, foster productive child-caseworker relationships, and ultimately promote healing, states should enact child sex trafficking-specific caseworker privilege laws that protect a child sex trafficking victim's communications with a caseworker from being disclosed during the prosecution related to the child's trafficking victimization.

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6. PREVENTION AND TRAINING

To help prevent trafficking and promote more just responses to child sex trafficking victims, training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education for students, must be required by law.

POLICY GOAL 6.1: State law mandates statewide training for child welfare agencies on identification and response to child sex trafficking.

Child welfare agencies play an important role in identifying exploitation, caring for victims, and preventing future harm. However, statewide training on child sex trafficking is critical for empowering a strong and appropriate child welfare response. At a minimum, and in compliance with federal law, state law should require the provision of statewide training on child sex trafficking identification and response for all child welfare employees.

POLICY GOAL 6.2: State law mandates statewide training for juvenile justice agencies on identification and response to child sex trafficking.

Research demonstrates that child sex trafficking victims are over-represented in the juvenile justice system, oftentimes unbeknownst to the agencies themselves. To facilitate identification and the provision of appropriate care, state law should mandate the provision of training on identification and appropriate responses to child sex trafficking for all juvenile justice agency personnel.

POLICY GOAL 6.3: State law mandates ongoing, trafficking-specific training on victim-centered investigations for law enforcement.

Law enforcement's response to child sex trafficking has a tremendous impact on the well-being of the child victim and the trajectory of the case. Law enforcement are often the first to encounter a child sex trafficking victim, making it critically important that they have the knowledge, skills, and resources to deliver a safe and trauma-informed response. Law enforcement can facilitate strong prosecutions when equipped with the information and tools necessary for conducting a comprehensive, victim-centered trafficking investigation. As such, state law should mandate the provision of training on child sex trafficking at both the academy and continued in-service training levels.

POLICY GOAL 6.4: State law mandates trafficking-specific training on victim-centered investigations and prosecutions for prosecutors.

Prosecutors have an enormous potential to positively impact the lives of child victims and secure justice against their offenders. Prosecutors also face particular challenges as they may be both in the position of working with child sex trafficking victims as victim-witnesses and also in the position of prosecuting child sex trafficking victims for crimes committed as a result of sex trafficking vic-

timization. To support prosecutors' role in ensuring child victims' access to justice in the criminal justice process, state law should mandate the provision of training on child sex trafficking to facilitate appropriate charging and plea-bargaining decisions and support victim-centered prosecutions.

POLICY GOAL 6.5: State law mandates child sex trafficking training for school personnel.

School personnel, including teachers and school counselors, who understand the dynamics of child sex trafficking are more likely to identify trafficking exploitation and will be better equipped to respond appropriately. State law should require the provision of such prevention education training in all public schools.

POLICY GOAL 6.6: State law mandates child sex trafficking prevention education in schools.

A developmentally and age-appropriate child sex trafficking curriculum can serve as a valuable tool for supporting students' ability to recognize and safely report suspected or known personal exploitative experiences or the experiences of their peers. State law should require the provision of such prevention education in all public schools.

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EXTRA CREDIT

In recognition of the impact that specific policies have on youth age 18+ and/or on minors who experience sex and labor trafficking polyvictimization, several policy goals are eligible for receiving extra credit if state law extends the same protection to youth age 18+ and/or child victims of labor trafficking.

AFTER RECEIVING FULL CREDIT FOR ACHIEVING THE POLICY GOAL SET OUT IN AN APPLICABLE policy goal, states will be eligible for extra credit if that same protective policy is extended to youth age 18+ and/or child labor trafficking victims. Extra credit only applies to the policy goals listed below. States can earn up to 1 point of extra credit per policy goal with a max of 5 points for policy goals extended to youth age 18+ and a max of 5 points for policy goals extended to child labor trafficking victims (i.e. a max of 10 points total).

EXTENSION TO YOUTH AGE 18+

In its landmark decision in *Roper v. Simmons*, the United States Supreme Court recognized that “[t]he qualities that distinguish juveniles from adults do not disappear when an individual turns 18.”¹ This statement shows an important acknowledgment that the transition into adulthood is not an immediate and singular moment that occurs at the point of turning 18 but, instead, a gradual transition that can take place over many years. This is supported by neurobiology, which has revealed that a person’s brain does not fully develop until their early to mid-twenties.² It is also supported by a growing body of research showing that 18 to 24-year-olds share many developmental characteristics with those under 18.³ Moreover, according to a Congressional Research Service Report, youth up to age 24 are still transitioning to adulthood due to cultural and economic trends that have extended adolescence.⁴

In recognition that youth, and in particular vulnerable youth, face barriers and continued vulnerability beyond the age of 18, federal anti-trafficking legislation and programming have created mechanisms for response to youth age 18+. The Preventing Sex Trafficking and Strengthening Families Act (2014) provided states with the option of including any young person up to age 26 within child welfare’s policies and procedures addressing screening, documentation, and service response for child sex trafficking victims or those at risk of victimization.⁵ The Justice for Victims of Trafficking Act (2015) also allowed states to define the term “child” to include persons under the age of 24, allowing states to receive funding for child abuse prevention and treatment programs for youth of that age.⁶ Therefore, the importance of policy that specifically addresses youth age 18+ and offers support and protections to this population is acknowledged not only in federal law but also by the U.S. Supreme Court and is supported by neurobiology and research on developmental characteristics.

Further, it is particularly important for state lawmakers to consider the close connection between commercially sexually exploited children and youth. The commercial sexual exploitation of children

is inherently linked with the sex trade at large.⁷ According to a national survey of survivors of child commercial sexual exploitation conducted by THORN, the majority of participants entered the commercial sex industry at age 15; one in six entered before the age of 12.⁸ Therefore, many adults active in the commercial sex industry entered as children.⁹

Vulnerabilities that increase risk of initial victimization and revictimization do not disappear at 18, and, in fact, these vulnerabilities could be exacerbated by a decrease in supports and protections for those over 18 years of age. Importantly, the trauma resulting from sex trafficking and commercial sexual exploitation also does not stop at age 18. As a result, supports and protections that are offered to child sex trafficking and commercially sexually exploited children in state law, including screening and identification efforts, non-criminalization responses, funding, non-punitive service responses, and victim protections, should be extended to youth age 18+.

ELIGIBLE POLICY GOALS:

2.1	The definition of child sex trafficking victim in the criminal code includes all commercially sexually exploited children without requiring third party control.
2.3	State law mandates child welfare agencies to conduct trauma-informed CSEC screening for children at risk of sex trafficking.
2.4	State law mandates juvenile justice agencies to conduct trauma-informed CSEC screening of children at risk of sex trafficking.
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.
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.
2.8	State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.
2.9	Juvenile court jurisdiction provides for a developmentally appropriate response.
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.
3.2	State law provides for a survivor-centered multi-disciplinary team response to child sex trafficking cases.
3.6	State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.
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.
4.5	State law provides child sex trafficking victims with a trafficking-specific civil remedy.
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.
5.1	Non-testimonial evidence may be admitted through a child sex trafficking-specific hearsay exception to reduce reliance on victim testimony.
5.2	State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.
5.4	State law provides for privileged communications between caseworkers and child sex trafficking victims.

EXTENSION TO CHILD LABOR TRAFFICKING VICTIMS

The intersection of sex trafficking and labor trafficking victimization is important for state lawmakers to understand and consider as they develop mechanisms for protecting and supporting vulnerable populations. One direct intersection, as multiple studies have shown, is that some minors and young adults experience sex and labor trafficking polyvictimization. Commercially sexually exploited (CSE) children have also been forced and coerced into various forms of labor, such as drug dealing, working in flea markets, commission-based sales jobs, driving other youth, and other sex-trade related labor.¹⁰ This polyvictimization often occurs simultaneously but also may occur at different points in time. A study completed on children with sex and labor trafficking allegations investigated through child welfare revealed that 14.7% of children with a history of labor or sex trafficking allegations had subsequent investigations for alleged sex trafficking victimization.¹¹ The frequent intersection between child sex and child labor trafficking highlights the importance of implementing state-level responses for both of these vulnerable populations.

States should also consider affording many of the same protections to child labor trafficking victims based on the similar dynamics between sex and labor trafficking. Factors that create vulnerability to victimization as well as trauma and the psychological impact of child labor trafficking victimization can resemble those for child sex trafficking. Labor and sex traffickers often target people “who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities.”¹² Individual risk factors such as a history of sex abuse and mental health issues also increase risk for both forms of trafficking.¹³ In the aforementioned study on children with human trafficking allegations, data showed that, similar to CSE, children with labor trafficking allegations had extensive abuse histories but actually had higher rates of additional forms of abuse or neglect co-occurring with their trafficking victimization.¹⁴

Additionally, coercive and fraudulent recruitment tactics often look similar for both sex and labor trafficking; coercive tactics by the trafficker may also continue throughout the trafficking and victims of both labor and sex trafficking may bond with their traffickers.¹⁵ As with sex trafficking, love, community, family, and well-being can be used as mechanisms for control in some forms of labor trafficking; these coercive tactics can result in trauma and serious psychological harm.¹⁶

Accordingly, supports and protections that are offered to child sex trafficking and CSE children in state law, including non-criminalization responses, funding, non-punitive service responses, victim protections, and access to justice, should be extended to child labor trafficking victims.

ELIGIBLE POLICY GOALS:

1.7	State law mandates that financial penalties are levied on sex trafficking and CSEC offenders and are directed to a victim services fund.
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.
2.8	State law provides child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.
2.10	State law defines child abuse to include child sex trafficking to ensure access to child welfare services.

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.
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.
3.3	State law requires child welfare to provide access to specialized services for identified sex trafficked children and youth.
3.4	State law requires the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.
3.6	State funding is appropriated to support specialized services and a continuum of care for sex trafficked children regardless of system involvement.
4.1	State law allows trafficking victims to seek emergency civil orders of protection.
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.
4.3	Sex trafficked children and youth may vacate delinquency adjudications and criminal convictions for any offense arising from trafficking victimization.
4.4	State law mandates restitution for child sex trafficking and commercial sexual exploitation of children (CSEC) offenses.
4.5	State law provides child sex trafficking victims with a trafficking-specific civil remedy.
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.
5.1	Non-testimonial evidence may be admitted through a child sex trafficking-specific hearsay exception to reduce reliance on victim testimony.
5.2	State law provides child sex trafficking victims with alternatives to live, in-court testimony regardless of the prosecuted offense.
5.4	State law provides for privileged communications between caseworkers and child sex trafficking victims.

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- 1 Roper v. Simmons, 543 U.S. 551, 574 (2005).
 - 2 Frances E. Jensen, MD & Amy E. Nutt, *The Teenage Brain: A Neuroscientist's Survival Guide to Raising Adolescents and Young Adults* (1st ed. 2015).
 - 3 Karen U. Lindell, Esq. & Katrina L. Goodjoint, Esq., RETHINKING JUSTICE FOR EMERGING ADULTS: SPOTLIGHT ON THE GREAT LAKES REGION (2020) <https://jlc.org/sites/default/files/attachments/2020-09/JLC-Emerging-Adults-9-2.pdf> (last visited Oct. 23, 2023).
 - 4 Vulnerable Youth: Background and Policies, Cong. Res. Serv., RL33975 (updated Jan. 30, 2018).
 - 5 Preventing Sex Trafficking and Strengthening Families Act (PSTSFA) of 2014, Pub. L. No. 183, 128 Stat. 1919 (2014).
 - 6 Justice for Victims of Trafficking Act (JVTA) of 2015, Pub. L. No. 114-22, 129 Stat. 227 (2015).
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