

SAFE HARBOR LAWS

LEGAL PROTECTIONS FOR TRAFFICKED CHILDREN & YOUTH

Fact Sheet

WHAT IS SAFE HARBOR?

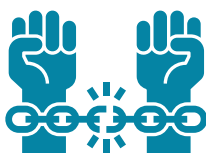
“Safe Harbor” refers to laws that insulate victims from a punitive response and direct them toward restorative and protective services.

WHY SAFE HARBOR?

These laws ensure victims 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 victims of child and youth sex trafficking.

32

states (including D.C.) have Safe Harbor laws that, at a minimum, prohibit the criminalization of child sex trafficking victims for prostitution offenses.



19

states still have laws that allow child sex trafficking victims to be prosecuted for prostitution.

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 **MANDATE ACCESS TO FUNDED, COMMUNITY-BASED SERVICES** that address the vulnerabilities to and trauma caused by exploitation.

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



FOR MORE INFORMATION, SEE OUR MAPS ON STATE SAFE HARBOR LAW DEVELOPMENT

[Safe Harbor Map – Report Cards on Child & Youth Sex Trafficking \(sharedhope.org\)](https://sharedhope.org)

Please note: Statistics found here and throughout this fact sheet are based solely on state statutes and do not reflect practices, initiatives, and policies that exist outside of law.

MYTH VERSUS FACT

Since its inception, the term “Safe Harbor” has been used as a catch-all phrase for any attempt to reduce the criminalization of minors for prostitution, creating uncertainty among stakeholders about what the term really means and what these laws do. Below are some common misconceptions (or “myths”) about Safe Harbor laws along with dispelling facts.

MYTH: Safe Harbor will hinder law enforcement's ability to prosecute trafficking offenders.

FACT: Law enforcement (LE) is able to investigate, arrest, and prosecute buyers, traffickers, and facilitators without arresting and criminalizing the victim. LE do this for all other crimes. In fact, prosecutors and LE in states that have successfully enacted Safe Harbor have strengthened their ability to prosecute offenders because providing services, not handcuffs, facilitates a trusted LE-victim relationship and victims are more likely to cooperate with that in place.

MYTH: Safe Harbor/non-criminalization laws focus on preventing trafficked kids from having a record, so arrest and booking, etc. are not problematic as long as the charges are ultimately dismissed.

FACT: This approach (1) fails to recognize the potentially re-traumatizing impact of arresting a child survivor for conduct that is intrinsically connected to their victimization, (2) reinforces the notion that the child is somehow culpable for their own exploitation, and (3) is inherently stigmatizing. Protecting these children from the direct and collateral harms associated with a punitive response at the outset alleviates confusion about victim definitions, reduces the risk of re-traumatization, and facilitates a quicker service response.

MYTH: Without the ability to arrest and detain kids, there is no way to ensure they will be safe.

FACT: Arrest and detention do not equal safety. Not only does arresting and detaining a child sex trafficking victim compound their trauma, it also fails to protect them from harm. While arrest may briefly separate a child from their trafficker, service providers and LE cannot build the rapport needed to ensure the child's long-term safety. Instead, safety for child sex trafficking victims can be achieved through less restrictive, non-punitive, protective responses, including collaborative relationships with NGOs, LE referral protocols, and, where appropriate, temporary protective custody and child welfare responses.

MYTH: Safe Harbor will radically change the state's response to the crime. If we make this change before we are ready, we will be causing harm.

FACT: Continuing to arrest kids is already doing harm. Charging victims with prostitution can also have a negative impact collectively on the overall fight against sex trafficking. The emotional toll of re-traumatizing victims through criminal justice or juvenile justice processes risks undermining relationships with those who seek to help and protect survivors, such as LE, prosecutors, child welfare, and even service providers. Many traffickers align themselves alongside their victims against LE as a control tactic; thus, criminalizing victims can strengthen trauma bonds and render victims less trusting of justice systems. The best way to address this concern is to ensure that Safe Harbor legislation prioritizes services alongside non-criminalization protections, including investment in funded access to services.

MYTH: If Safe Harbor is enacted, traffickers will be incentivized to exploit minors since it's no longer a crime to buy & sell sex with children.

FACT: Safe Harbor does not legalize commercial sex with minors. Conversely, Safe Harbor puts the criminal emphasis on the actual offenders—traffickers, buyers, and facilitators—ensuring that LE is investigating and prosecuting the actual criminals, not victims.

MYTH: Safe Harbor laws will encourage kids to sell themselves for sex.

FACT: Any minor bought or sold for sex is a victim of sex trafficking. Minors are not willing participants in their own victimization. One of the best ways to understand the harmfulness of this myth is to read survivor accounts depicting the realities of their involvement in commercial sex.

MYTH: Without the ability to arrest kids, LE cannot obtain minors' cell phones & critical evidence to investigate and build a case against the trafficker or buyer.

FACT: Evidence of sex trafficking lives in many other places besides the child's phone. Thirty states (including D.C.) are successfully responding to human trafficking without arresting the child victim for the purpose of collecting evidence. LE does not arrest victims of other crimes (e.g., domestic violence victims) to collect evidence. In the rare event that critical evidence exists solely on the victim's phone, LE can obtain a warrant to obtain that evidence. This is simply a victim-centered change in process, not a barrier to evidence collection.