



POLICY GOAL 3.4

State law should require the juvenile justice system to provide access to specialized services for identified sex trafficked children and youth.

MANY CHILDREN WHO HAVE BEEN IDENTIFIED AS VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION (CSE) have been involved with the juvenile justice system, either preceding the CSE or as a result of CSE victimization.¹ Historically, legal systems failed to protect child victims of CSE by criminalizing such minors for acts committed during their exploitation,² but, in recent years, many states took the important step of enacting non-criminalization laws—laws that generally prevent victims from being charged with commercial sex or sex-based offenses related to their own victimization. However, CSE children may still interact with the juvenile justice system due to other crimes related to their victimization such as theft, truancy, drug-related offenses, or other petty offenses.³ Additionally, in states where there remains a lack of safe facilities for victims, law enforcement may rely on juvenile justice facilities and may charge CSE children with crimes as a mechanism for accessing safety.⁴ Therefore, juvenile justice is a key point of intervention and plays a vital role in identifying potential CSE children and ensuring provision of specialized care to all CSE children identified in its care.

The juvenile justice system may be the first point of intervention in which a CSE child can be connected to services. Many of these children have significant trauma resulting from their CSE victimization and other traumatic events.⁵ As advocates and legislators have become aware of the problems caused by criminalizing CSE children, the juvenile justice system and other stakeholders have begun to shift away from criminalization and toward a more victim-centered approach.⁶ As this shift continues, professionals within the juvenile justice system must be trained and prepared to support children who have been commercially sexually exploited.

In addition to mandating CSEC screening in the juvenile justice system, state law should also require juvenile justice to coordinate and/or provide specialized services for all CSE children currently involved with the system. This should include those awaiting adjudication, in diversion programs, on probation, and in commitment facilities such as detention centers. Such services are imperative for addressing past harm while also aiming to prevent future exploitation; however, they should be voluntary and not contingent on participating in certain judicial processes. Specialized services (e.g., specialized therapy, advocacy, prevention/awareness, or mentoring services) could be incorporated directly into juvenile justice programs or provided through partnerships with community-based service providers.

Due to the rate at which CSE children interact with the juvenile justice system, it is necessary to equip juvenile justice with the statutory guidance, training, and funding required to identify and serve CSE children. However, state law should also establish a comprehensive, coordinated response for identifying and serving CSE children in which child welfare, not juvenile justice, is the primary response agency. Effective 2017, the federal Child Abuse and Prevention Treatment Act (CAPTA) was amended to ensure that sex trafficking victims were included in the definition

of “child abuse,” thereby ensuring access to treatment and services through child welfare.⁷ Mechanisms that direct survivors to specialized services and away from the juvenile or criminal justice systems are critical to ensure survivors receive the specialized care they need. Specialized CSEC courts, for example, could establish a mechanism early in the juvenile justice process for addressing CSE victimization through a multidisciplinary decision-making process that ensures the most appropriate means for connecting the child with trauma-informed programming.⁸

DRAFTING CONSIDERATIONS:

TO ACCOMPLISH THIS POLICY GOAL, STATE LAW SHOULD...

- ▶ Require that specialized services to address CSEC victimization be provided by the juvenile justice system.
- ▶ Not place limitations around eligibility for these services, including limitations on age of entry, type of charge, type of juvenile justice program in which the youth is involved (e.g. diversion, probation, etc.).
- ▶ Ensure participation in specialized services is voluntary and access to these services is not contingent on participation in certain judicial processes.

1 Eraka P. Bath et al., *A Specialty Court for U.S. Youth Impacted by Commercial Sexual Exploitation*, 100 CHILD ABUSE & NEGLECT 1, 2 (2020).

2 Cheryl Nelson Butler, *Bridge over Troubled Water: Safe Harbor Laws for Sexually Exploited Minors*, 93 N.C. L. REV. 1281, 1283-84 (2015); see Seeking Justice: Legal Approaches to Eliminate Criminal Liability for Juvenile Sex Trafficking Victims, SHARED HOPE INT’L 6 (2018), https://sharedhope.org/wp-content/uploads/2018/08/ANALYSIS-OF-STATUTORY-APPROACHES_ver7.pdf [hereinafter Seeking Justice] (explaining how treating older minors as consenting criminals leads to further traumatization through the criminal justice process rather than providing protection and justice).

3 *Id.*

4 *Id.*

5 Brandi D. Liles, Ph.D. et al., *A California Multidisciplinary Juvenile Court: Serving Sexually Exploited and At-Risk Youth*, 34 BEHAV. SCI. & L. 234-245 (2016).

6 Butler, *supra* note 2, at 1284-85; Seeking Justice, *supra* note 2, at 4 (noting that as of 2018, 23 states and the District of Columbia eliminated criminal liability for prostitution offenses).

7 Child Welfare Information Gateway, *About Capta: A Legislative History*, CHILDREN’S BUREAU (2019), <https://www.childwelfare.gov/pubPDFs/about.pdf>.

8 Brandi D. Liles et al., *A California Multidisciplinary Juvenile Court: Serving Sexually Exploited and At-Risk Youth*, 34 BEHAV. SCI. & L. 234, 235 (2016). In Sacramento, California, the Presiding Juvenile Court Judge created a separate docket specifically for commercially sexually exploited youth. Creating the special docket has led to increased training for social workers and juvenile justice stakeholders regarding CSEC offenses and victimization, increased collaboration across various local agencies, and implementation of trauma-informed programming for youth involved with the special docket. *Id.* at 237-40.