

# PROTECTED INNOCENCE INITIATIVE

Creating A Uniform Standard Across States to Combat Domestic Minor Sex Trafficking

## ANALYSIS AND RECOMMENDATIONS CONNECTICUT

### FRAMEWORK ISSUE 1: CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

#### *Legal Components:*

- 1.1 *The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.*
- 1.2 *Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.*
- 1.3 *CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.*

#### *Legal Analysis<sup>1</sup>:*

- 1.1 *The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.*

Connecticut's trafficking in persons statute does not clearly define a human trafficking victim as a minor under the age of 18 used in a commercial sex act and also requires an element of coercion. Connecticut has codified its trafficking statute in Conn. Gen. Stat. § 53a-192a (Trafficking in persons),<sup>2</sup> which states, "A person is guilty of trafficking in persons when such person commits coercion as provided in section 53a-192 and the other person is compelled or induced to (1) engage in conduct that constitutes a violation of section 53a-82 [Prostitution], or (2) provide labor or services."<sup>3</sup> Conn. Gen. Stat. § 53a-192a(a). A conviction under this

<sup>1</sup> Unless otherwise specified, all references to statutes were taken from General Statutes of Connecticut (LEXIS through 2010 legislation (2011 Supplement)), and all federal statutes were taken from United States Code (LEXIS through PL 112-54, approved 11/12/11).

<sup>2</sup> Connecticut's trafficking in persons statute is found under Connecticut Penal Code, Part XIX Coercion.

<sup>3</sup> The terms "labor" or "services" are not defined.

statute is punishable as a Class B felony by imprisonment for 1–20 years,<sup>4</sup> a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-192a(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

A conviction for trafficking in persons requires the predicate crime of coercion. Conn. Gen. Stat. § 53a-192(a) states,

A person is guilty of coercion when he compels or induces another person to engage in conduct which such other person has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which such other person has a legal right to engage, by means of instilling in such other person a fear that, if the demand is not complied with, the actor or another will: (1) Commit any criminal offense; or (2) accuse any person of a criminal offense; or (3) expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair any person’s credit or business repute; or (4) take or withhold action as an official, or cause an official to take or withhold action.

1.1.1 Recommendation: Amend Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to eliminate the requirement of proving coercion in the sex trafficking of a minor under the age of 18.<sup>5</sup>

1.2 *Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.*

Connecticut has several statutes specifically criminalizing CSEC, including the following:

1. Conn. Gen. Stat. § 53a-86(a)(2) (Promoting prostitution in the first degree) makes it a crime if a person knowingly “advances<sup>6</sup> or profits from prostitution<sup>7</sup> of a person less than eighteen years old.” A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

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<sup>4</sup> If an offender is sentenced to imprisonment, however, the court may suspend any or all portions of imprisonment, unless the convicting statute expressly provides otherwise. Specifically, Conn. Gen. Stat. § 53a-28(b) states,

Except as provided in section 53a-46a [Imposition of sentence for capital felony], when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-65a [Confinement of young and teenage women] or 18-73 [Confinement of male children and youths]; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or (9) a term of imprisonment and a period of special parole as provided in section 54-125e [Special parole].

Therefore, it should be presumed throughout this report that the penalty of imprisonment may be wholly or partially suspended unless specifically stated to the contrary.

<sup>5</sup> Subsequent recommendations in this report referring to the state human trafficking law are predicated upon the recommendation contained in Section 1.1 being previously or simultaneously implemented.

<sup>6</sup> Conn. Gen. Stat. § 53a-85(1) (Promoting prostitution: Definitions) states,

A person “advances prostitution“ when, acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

<sup>7</sup> Conn. Gen. Stat. § 53a-85(2) states, “A person ‘profits from prostitution’ when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of prostitution activity.”

2. Conn. Gen. Stat. § 53a-196a(a) (Employing a minor in an obscene performance) states,

A person is guilty of employing a minor in an obscene performance when such person (1) employs any minor, whether or not such minor receives any consideration, for the purpose of promoting<sup>8</sup> any material<sup>9</sup> or performance<sup>10</sup> which is obscene as to minors,<sup>11</sup> notwithstanding that such material or performance is intended for an adult audience, or (2) permits any such minor to be [so] employed . . . and such person is the parent or guardian of such minor or otherwise responsible for the general supervision of such minor's welfare.

A conviction under this statute is punishable as a Class A felony by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

3. Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties) makes it a crime if a person “uses an interactive computer service<sup>12</sup> to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A first conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

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<sup>8</sup> Conn. Gen. Stat. § 53a-193(12) states, “‘Promote’ means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, advertise, produce, direct or participate in.”

<sup>9</sup> Pursuant to Conn. Gen. Stat. § 53a-193(10),

“Material” means anything tangible which is capable of being used or adapted to arouse prurient, shameful or morbid interest, whether through the medium of reading, observation, sound or in any other manner. Undeveloped photographs, molds, printing plates, and the like, may be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

<sup>10</sup> “Performance” is defined as “any play, motion picture, dance or other exhibition performed before an audience.” Conn. Gen. Stat. § 53a-193(11).

<sup>11</sup> Pursuant to Conn. Gen. Stat. § 53a-193(2),

Material or a performance is “obscene as to minors” if it depicts a prohibited sexual act and, taken as a whole, it is harmful to minors. For purposes of this subdivision: (A) “Minor” means any person less than seventeen years old as used in section 53a-196 [Obscenity as to minors] and less than sixteen years old as used in sections 53a-196a and 53a-196b [Promoting a minor in an obscene performance], and (B) “harmful to minors” means that quality of any description or representation, in whatever form, of a prohibited sexual act, when (i) it predominantly appeals to the prurient, shameful or morbid interest of minors, (ii) it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (iii) taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

<sup>12</sup> “Interactive computer service” is defined as “any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” Conn. Gen. Stat. § 53a-90a(a).

4. Conn. Gen. Stat. § 53a-70c(a) (Aggravated sexual assault of a minor) states,

A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 [Injury or risk of injury to, or impairing morals of, children. Sale of children] or section 53a-70 [Sexual assault in the first degree], section 53a-70a [Aggravated sexual assault in the first degree], section 53a-71 [Sexual assault in the second degree], section 53a-86 [Promoting prostitution in the first degree], Conn. Gen. Stat. § 53a-87 [Promoting prostitution in the second degree] or section 53a-196a [Employing a minor in an obscene performance] and the victim of such offense is under thirteen years of age, and (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3) such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault.

A first conviction under this statute is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for 50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

Several other sexual offenses, while not expressly commercial in nature, may also apply in cases involving the commercial sexual exploitation of a child. Some of those statutes are as follows:

1. Conn. Gen. Stat. § 53-21(a)(2) (Injury or risk of injury to, or impairing morals of, children. Sale of children) makes it a crime if a person

has contact with the intimate parts, as defined in section 53a-65,<sup>13</sup> of a child under the age of sixteen years or subjects a child under sixteen years of age to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child . . . .

A conviction under Conn. Gen. Stat. § 53-21(a)(2) is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both, but if the victim is under the age of 13, a conviction is punishable by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53-21(a), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

2. Conn. Gen. Stat. § 53a-70(a)(2) (Sexual assault in the first degree) makes it a crime if a person “engages in sexual intercourse<sup>14</sup> with another person and such other person is under thirteen years of age and the actor is more than two years older than such person.”

A conviction under Conn. Gen. Stat. § 53a-70(a)(2) is punishable as a Class A felony by imprisonment for 10–25 years, a fine not to exceed \$20,000, or both. Conn. Gen. Stat. §§ 53a-70(b)(2), 53a-35a(4), 53a-41(1), 53a-28(b)(4), (6). If the victim is under 10 years of age, however, a conviction is punishable by

<sup>13</sup> Conn. Gen. Stat. § 53a-65(8) defines “intimate parts” as “the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks or breasts.”

<sup>14</sup> Pursuant to Conn. Gen. Stat. § 53a-65(2) (Definitions),

“Sexual intercourse” means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim’s body.

imprisonment for 10–25 years, of which all but 10 years<sup>15</sup> may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70(b)(2), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

3. Pursuant to Conn. Gen. Stat. § 53a-71(a),

A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person . . . .

A conviction under Conn. Gen. Stat. § 53a-71(a)(1) is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-71(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

4. Conn. Gen. Stat. § 53a-73a(a)(1)(A), (1)(B) (Sexual assault in the fourth degree) makes it a crime if a person

intentionally subjects another person to sexual contact<sup>16</sup> who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person . . . .

A conviction under Conn. Gen. Stat. § 53a-73a(a)(1)(A), (B) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both. Conn. Gen. Stat. §§ 53a-73a(b), 53a-41(4), 53a-35a(8), 53a-28(b)(4), (6).

1.3 *CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.*

The CSEC statutes listed above do not refer to Conn. Gen. Stat. § 53a-192a (Trafficking in persons).

1.3.1 Recommendation: Amend Conn. Gen. Stat § 53a-86(a) (Promoting prostitution in the first degree), Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor), Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties), and Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) to refer cases of commercial sexual abuse of a minor to Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to clarify the victim’s status as a human trafficking victim.

<sup>15</sup> Pursuant to Conn. Gen. Stat. § 53a-70(b)(3), the mandatory 10 year sentence is composed of both imprisonment and special parole under Conn. Gen. Stat. § 53a-28(b).

<sup>16</sup> Pursuant to Conn. Gen. Stat. § 53a-65(3) (Definitions),

“Sexual contact” means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.

**Legal Components:**

- 2.1 *The state sex trafficking law can be applied to the buyers of commercial sex acts with a victim of domestic minor sex trafficking.*
  - 2.2 *Buyers of commercial sex acts with a minor can be prosecuted under CSEC laws.*
  - 2.3 *Solicitation laws differentiate buying sex acts with an adult and buying sex acts with a minor under 18.*
  - 2.4 *Penalties for buyers of commercial sex acts with minors are as high as federal penalties.*
  - 2.5 *Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.*
  - 2.6 *No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.*
  - 2.7 *Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.*
  - 2.8 *Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.*
  - 2.9 *Buying and possessing child pornography carries penalties as high as similar federal offenses.*
  - 2.10 *Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.*
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**Legal Analysis:**

- 2.1 *The state sex trafficking law can be applied to the buyers of commercial sex acts with a victim of domestic minor sex trafficking.*

Conn. Gen. Stat. § 53a-192a (Trafficking in persons) is not specifically applicable to buyers and appears to focus solely on penalizing traffickers. Pursuant to Conn. Gen. Stat. § 53a-192a(a) “A person is guilty of trafficking in persons when such person commits coercion as provided in section 53a-192 and the other person is compelled or induced to (1) engage in conduct that constitutes a violation of section 53a-82 [Prostitution], or (2) provide labor or services.”

In order for a buyer to be convicted for trafficking in persons, the buyer must be guilty of coercion. Conn. Gen. Stat. § 53a-192(a) states,

A person is guilty of coercion when he compels or induces another person to engage in conduct which such other person has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which such other person has a legal right to engage, by means of instilling in such other person a fear that, if the demand is not complied with, the actor or another will: (1) Commit any criminal offense; or (2) accuse any person of a criminal offense; or (3) expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair any person’s credit or business repute; or (4) take or withhold action as an official, or cause an official to take or withhold action.

It is unlikely Connecticut’s coercion statute is applicable against buyers, and, therefore, it is unlikely that buyers may be prosecuted for trafficking of persons under Conn. Gen. Stat. § 53a-192a.

- 2.1.1 Recommendation: Amend Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to make the statute applicable to buyers of commercial sex with minors.

## 2.2 *Buyers of commercial sex acts with a minor can be prosecuted under CSEC laws.*

Although Connecticut does have a CSEC law prohibiting the use of the Internet to buy sex with a minor,<sup>17</sup> it does not specifically criminalize the buying of sex with minors and punishes it the same as buying sex with an adult. Pursuant to Conn. Gen. Stat. § 53a-83(a) (Patronizing a prostitute),

(a) A person is guilty of patronizing a prostitute when: (1) Pursuant to a prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him; or (2) he pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or (3) he solicits or requests another person to engage in sexual conduct with him in return for a fee.

2.2.1 Recommendation: Enact a law that expressly prohibits buying sex with minors under the age of 18 and that also refers to Conn. Gen. Stat. § 53a-192a (Trafficking in persons) in order to identify these minors as human trafficking victims.

## 2.3 *Solicitation laws differentiate buying sex acts with an adult and buying sex acts with a minor under 18.*

Connecticut's primary solicitation law, Conn. Gen. Stat. § 53a-83(a) (Patronizing a prostitute), does not differentiate between buying sex acts with an adult from buying sex acts with a minor.<sup>18</sup>

Conn. Gen. Stat § 53a-90a(a) (Enticing a minor. Penalties), does, however, specifically make it a crime if a person “uses an interactive computer service<sup>19</sup> to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

2.3.1 Recommendation: Amend Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) to distinguish between buying sex acts with an adult versus buying sex acts with a minor.

## 2.4 *Penalties for buyers of commercial sex acts with minors are as high as federal penalties.*

A buyer's first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

Because Connecticut does not have a law that specifically prohibits the purchase of sex with a minor, a buyer is likely to be prosecuted under general prostitution statutes. Convictions under Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) or Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle) are

<sup>17</sup> See *infra* Section 2.5 for a discussion of Internet solicitation provisions.

<sup>18</sup> Similar to Connecticut's primary solicitation law, Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute), Conn. Gen. Stat. § 53a-83a(a) (Patronizing a prostitute from a motor vehicle) does not differentiate between buying sex acts with an adult from buying sex acts with a minor.

<sup>19</sup> See *supra* note 12.

punishable as Class A misdemeanors by imprisonment up to 1 year, a fine not to exceed \$2,000, or both. Conn. Gen. Stat. §§ 53a-83(b), 53a-83a(b), 53a-42(1), 53a-36(1), 53a-28(b)(4).

In comparison, if the victim is under the age of 14, a conviction under the Trafficking Victims Protection Act (TVPA)<sup>20</sup> for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3). If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(2), 3559(a)(1), 3571(b)(3). A conviction is punishable by mandatory life imprisonment, however, if the buyer has a prior conviction for a federal sex offense<sup>21</sup> against a minor. 18 U.S.C. § 3559(e)(1). To the extent buyers can be prosecuted under other federal CSEC laws,<sup>22</sup> a conviction is punishable by penalties ranging from a fine not to exceed \$250,000 to life imprisonment and a fine not to exceed \$250,000.<sup>23</sup>

2.4.1 Recommendation: Upon enacting a law establishing the crime of buying sex with a minor, establish penalties comparable with federal penalties.

2.5 *Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.*

Using the Internet to entice a minor to commit unlawful sexual activity is prohibited under Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor), which prohibits a person from using “an interactive computer service<sup>24</sup> to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A buyer’s first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

<sup>20</sup> Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).

<sup>21</sup> Pursuant to 18 U.S.C. § 3559(e)(2), “federal sex offense“ is defined as

an offense under section 1591 [18 USCS § 1591] (relating to sex trafficking of children), 2241 [18 USCS § 2241] (relating to aggravated sexual abuse), 2242 [18 USCS § 2242] (relating to sexual abuse), 2244(a)(1) [18 USCS § 2244(a)(1)] (relating to abusive sexual contact), 2245 [18 USCS § 2245] (relating to sexual abuse resulting in death), 2251 [18 USCS § 2251] (relating to sexual exploitation of children), 2251A [18 USCS § 2251A] (relating to selling or buying of children), 2422(b) [18 USCS § 2422(b)] (relating to coercion and enticement of a minor into prostitution), or 2423(a) [18 USCS § 2423(a)] (relating to transportation of minors).

<sup>22</sup> 18 U.S.C. §§ 2251A(b) (Selling or buying of children), 2251(a) (Sexual exploitation of children), 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 2422(a) (Coercion and enticement), 2252(a)(2), (a)(4) (Certain activities relating to material involving the sexual exploitation of minors).

<sup>23</sup> 18 U.S.C. §§ 2251A(b) (conviction punishable by imprisonment for 30 years to life and a fine), 2251(e) (conviction punishable by imprisonment for 15–30 years and a fine), 2423(a) (conviction punishable by imprisonment for 10 years to life and a fine), 2422(a) (conviction punishable by a fine, imprisonment up to 20 years, or both), 2252(a)(2), (4) (stating that a conviction under subsection (a)(2) is punishable by imprisonment for 5–20 years and a fine, while a conviction under subsection (a)(4) is punishable by imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>24</sup> *See supra* note 12.

2.6 *No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.*

Because Conn. Gen. Stat. § 53a-82 (Prostitution) and Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute from a motor vehicle) are age neutral, a mistake of age defense is irrelevant. Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is minor specific, but it does not expressly prohibit a mistake of age defense.

2.6.1 Recommendation: Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to expressly prohibit a mistake of age defense.

2.7 *Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.*

Buying sex with a minor is punishable as a Class A misdemeanor, regardless of the age of the victim, but if the minor is under the age of 16 and an “interactive computer service”<sup>25</sup> is used, a higher penalty is authorized, and these penalties are even higher if the victim is under the age of 13. A buyer’s first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both, a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

2.7.1 Recommendation: Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to protect all minors under the age of 18.

2.8 *Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.*

Buyers are subject to possible fines up to \$15,000. Buyers convicted under Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) or Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle) are subject to a possible fine not to exceed \$2,000. Conn. Gen. Stat. §§ 53a-83(b), 53a-83a(b), 53a-42(1), 53a-28(b)(3). If the victim is under the age of 16, a buyer convicted under Conn. Gen. Stat. § 53a-90a (Enticing a minor: Penalties) is subject to a possible fine not to exceed \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for subsequent violations; if the victim is under the age of 13, however, a buyer is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(1), (2), 53a-41(2), (3), (4), 53a-35a(6).

Additionally, a court may order a buyer to pay restitution. Conn. Gen. Stat. § 53a-28(c) states,

In addition to any sentence imposed pursuant to subsection (b) of this section, if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution

<sup>25</sup> See *supra* note 12.

shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense. . . .<sup>26</sup>

Pursuant to Conn. Gen. Stat. § 54-36p(a) (Forfeiture of moneys and property related to sexual exploitation and human trafficking), a violation of Conn. Gen. Stat. § 53a-90a (Enticing a minor) subjects a buyer to asset forfeiture as follows:

- (a) The following property shall be subject to forfeiture to the state . . .
  - (1) All moneys used, or intended for use, in a violation of . . . 53a-90a [Enticing a minor. Penalties] . . .
  - . . .
  - (4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of . . . 53a-90a . . . .

2.8.1 Recommendation: Amend Conn. Gen. Stat. § 54-36p(a)(1) (Forfeiture of moneys and property related to sexual exploitation and human trafficking) to include the crime of buying sex with a minor and allow for asset forfeiture against the buyer.

## 2.9 *Buying and possessing child pornography carries penalties as high as similar federal offenses.*

Connecticut punishes the possession of child pornography in three degrees. Conn. Gen. Stat. § 53a-196d(a) (Possessing child pornography in the first degree) makes it a crime if a person “knowingly possesses (1) fifty or more visual depictions of child pornography,<sup>27</sup> or (2) one or more visual depictions<sup>28</sup> of child pornography that depict the infliction or threatened infliction of serious physical injury.” A conviction under this statute is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-196d(c), 53a-35a (6), 53a-41(2), 53a-28(b)(4).

Conn. Gen. Stat. § 53a-196e(a) (Possessing child pornography in the second degree) makes it a crime if a person “knowingly possesses twenty or more but fewer than fifty visual depictions of child pornography.” A conviction under this statute is punishable as a Class C felony by imprisonment for 2–10 years, of which all but 2 years may be suspended, and a possible fine not to exceed \$10,000. Conn. Gen. Stat. §§ 53a-196e(c), 53a-35a(7), 53a-41(3), 53a-28(b)(4).

Lastly, Conn. Gen. Stat. § 53a-196f(a) (Possessing child pornography in the third degree) makes it a crime if a person “knowingly possesses fewer than twenty visual depictions of child pornography.” A conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, of which all but 1 year may be suspended, and a possible fine not to exceed \$5,000. Conn. Gen. Stat. §§ 53a-196f(c), 53a-35a(8), 53a-41(4), 53a-28(b)(4).

<sup>26</sup> See *infra* Section 5.10 for a more detailed discussion of this restitution provision.

<sup>27</sup> Pursuant to Conn. Gen. Stat. § 53a-193(13),

“Child pornography” means any visual depiction including any photograph, film, videotape, picture or computer-generated image or picture, whether made or produced by electronic, mechanical or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under sixteen years of age engaging in sexually explicit conduct, provided whether the subject of a visual depiction was a person under sixteen years of age at the time the visual depiction was created is a question to be decided by the trier of fact.

<sup>28</sup> “‘Visual depiction’ includes undeveloped film and videotape and data, as defined in subdivision (8) of section 53a-250, that is capable of conversion into a visual image and includes encrypted data.” Conn. Gen. Stat. § 53a-193(15).

In comparison, a federal conviction for possession of child pornography<sup>29</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>30</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>31</sup>

2.10 *Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.*

Conn. Gen. Stat. § 54-251(a) (Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense)<sup>32</sup> states in part,

Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection . . . .

Conn. Gen. Stat. § 54-250(2)(A) (Definitions)<sup>33</sup> defines “criminal offense against a victim who is a minor” to include violations of Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties), § 53a-196d (Possessing child pornography in the first degree), § 53a-196e (Possessing child pornography in the second degree) or § 53a-196f (Possessing child pornography in the third degree).

- 2.10.1 Recommendation: Amend Conn. Gen. Stat. § 54-250(2)(A) (Definitions) to include Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) and Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle), if the person patronized is under the age of 18, as offenses that qualify as a “criminal offense against a victim who is a minor” and requires registration.

<sup>29</sup> 18 U.S.C. §§ 2252(a)(2), (a)(4) (Certain activities relating to material involving the sexual exploitation of minors), 2252A(a)(2)–(3) (Certain activities relating to material constituting or containing child pornography), 1466A(a), (b) (Obscene visual representations of the sexual abuse of children).

<sup>30</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(2) is punishable by imprisonment for 5–20 years and a fine, while a conviction under subsection (a)(4) is punishable by imprisonment up to 10 years, a fine, or both), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>31</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(2), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years, but if a person has a prior conviction under subsection (a)(4), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 10–20 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>32</sup> The text of Conn. Gen. Stat. § 54-251 included here and elsewhere in this report includes amendments made by the passage of House Bill 6650 during Connecticut's 2011 General Assembly. 2011 Conn. Acts 51 (Reg. Sess.) (effective July 1, 2011).

<sup>33</sup> The text of Conn. Gen. Stat. § 54-250 included here and elsewhere in this report includes amendments made by the passage of House Bill 6650 during Connecticut's 2011 General Assembly. 2011 Conn. Acts 51 (Reg. Sess.) (effective July 1, 2011).

**Legal Components:**

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.
- 3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.
- 3.3 Using the Internet to lure, entice, recruit or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.
- 3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.
- 3.5 Convicted traffickers are required to register as sex offenders.
- 3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.

**Legal Analysis:**

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

A conviction under Conn. Gen. Stat. § 53a-192a (Trafficking in persons)<sup>34</sup> is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-192a(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6). Conn. Gen. Stat. § 53a-86(a)(2) (Promoting prostitution in the first degree)<sup>35</sup> is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

A conviction under Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance)<sup>36</sup> is punishable as a Class A felony by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

A first conviction under Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as Class B felonies by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

Additionally, a trafficker’s first conviction under Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor)<sup>37</sup> is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for

<sup>34</sup> See *supra* Section 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>35</sup> See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-86(a)(2).

<sup>36</sup> See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-196a.

<sup>37</sup> See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-70c.

50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

A trafficker may also be convicted of racketeering. Pursuant to Conn. Gen. Stat. § 53-395(a)–(c) (Prohibited activities),

(a) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise.<sup>38</sup>

(b) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to receive anything of value or to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(c) It is unlawful for any person employed by, or associated with, any enterprise to knowingly conduct or participate in, directly or indirectly, such enterprise through a pattern of racketeering activity or through the collection of an unlawful debt.

Under Conn. Gen. Stat. § 53-394(e) (Definitions), “pattern of racketeering activity” is defined as

engaging in at least two incidents of racketeering activity that have the same or similar purposes, results, participants, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided the latter or last of such incidents occurred after October 1, 1982, and within five years after a prior incident of racketeering activity.

Additionally, pursuant to Conn. Gen. Stat. § 53-394(a),

“Racketeering activity” means to commit, attempt to commit, to conspire to commit, or to intentionally aid, solicit, coerce or intimidate another person to commit any crime which, at the time of its commission, was a felony chargeable by indictment or information under the following provisions of the general statutes then applicable: . . . (5) sections 53a-85 to 53a-88, inclusive, relating to prostitution; . . . (11) chapter 952, part XX, relating to obscenity and related offenses; (12) chapter 952, part XIX, relating to coercion; . . . or (19) section 53a-192a, relating to trafficking in persons.

A conviction under Conn. Gen. Stat. § 53-395 is punishable by imprisonment for 1–20 years, a fine not to exceed \$25,000 or both. Conn. Gen. Stat. § 53-397(a).

In comparison, if the victim is under the age of 14, a conviction under the Trafficking Victims Protection Act (TVPA)<sup>39</sup> for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3). If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C.

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<sup>38</sup> “Enterprise” is defined in Conn. Gen. Stat. § 53-394(c) as

any individual, sole proprietorship, corporation, business trust, union chartered under the laws of this state or other legal entity, or any unchartered union, association or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit enterprises and governmental, as well as other entities. In determining whether any unchartered union, association or group of individuals exists, factors which may be considered as evidence of association include, but are not limited to: (1) A common name or identifying sign, symbols or colors and (2) rules of behavior for individual members.

<sup>39</sup> See *supra* note 20.

§§ 1591(b)(2), 3559(a)(1), 3571(b)(3). A conviction is punishable by mandatory life imprisonment, however, if the trafficker has a prior conviction for a federal sex offense<sup>40</sup> against a minor.

### 3.2 *Creating and distributing child pornography carries penalties as high as similar federal offenses.*

Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance)<sup>41</sup> is a Class A felony punishable by imprisonment for 10–25 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-35a(4), 53a-41(1), 53a-28(b)(4).

Conn. Gen. Stat. § 53a-196b(a), (c) (Promoting a minor in an obscene performance) makes it a crime if a person “knowingly<sup>42</sup> promotes<sup>43</sup> any material<sup>44</sup> or performance in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors notwithstanding that such material or performance is intended for an adult audience.” A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

In comparison, if the victim is under the age of 14, a conviction under the TVPA for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3). If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(2), 3559(a)(1), 3571(b)(3). A conviction is punishable by mandatory life imprisonment, however, if the trafficker has a prior conviction for a federal sex offense<sup>45</sup> against a minor. Additionally, a federal conviction for distribution of child pornography<sup>46</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>47</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>48</sup> is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.<sup>49</sup> Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.<sup>50</sup>

<sup>40</sup> See *supra* note 21.

<sup>41</sup> See *supra* Section 1.2 for a full discussion of Conn. Gen. Stat. § 53a-196a.

<sup>42</sup> “[K]nowingly” is defined in Conn. Gen. Stat. § 53a-196b(b) as

having general knowledge of or reason to know or any belief or ground for belief which warrants further inspection or inquiry as to (1) the character and content of any material or performance which is reasonably susceptible of examination by such person and (2) the age of the minor employed.

<sup>43</sup> See *supra* note 8.

<sup>44</sup> See *supra* note 9.

<sup>45</sup> See *supra* note 21.

<sup>46</sup> 18 U.S.C. §§ 2252(a)(1), (a)(2), (a)(3) (Certain activities relating to material involving the sexual exploitation of minors), 2252A(a)(2), (a)(3) (Certain activities relating to material constituting or containing child pornography), 1466A(a) (Obscene visual representations of the sexual abuse of children).

<sup>47</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(1), (a)(2), or (a)(3) is punishable by imprisonment for 5–20 years and a fine), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C.

§§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>48</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(1), (a)(2), or (a)(3) or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); *see also* 18 U.S.C. §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>49</sup> 18 U.S.C. §§ 2252(b) (stating that a conviction under subsection (a)(1), (a)(2), or (a)(3) is punishable by imprisonment for 5–20 years and a fine), 2252A(b)(1) (a conviction is punishable by imprisonment for 5–20 years and a fine), 1466A(a), (b) (stating that a conviction under subsection (a) is “subject to the penalties provided in section 2252A(b)(1),” imprisonment for 5–20 years and a fine, while a conviction under subsection (b) is “subject to the penalties provided in section 2252A(b)(2),” imprisonment up to 10 years, a fine, or both); *see also* 18 U.S.C.

3.3 *Using the Internet to lure, entice, recruit or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.*

Using the Internet to entice a minor to commit unlawful sexual activity is prohibited under Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor), which states, “A person is guilty of enticing a minor when such person uses an interactive computer service<sup>51</sup> to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

A first conviction under this statute is punishable as a Class D felony by imprisonment for 1–5 years, a fine not to exceed \$5,000, or both; a second conviction is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both, while third and subsequent convictions are punishable as Class B felonies by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-90a(b)(1), 53a-41(2)–(4), 53a-35a(6)–(8), 53a-28(b)(4), (6). If the victim is under the age of 13, however, a first conviction is punishable as a Class B felony by imprisonment for 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000, while subsequent convictions are punishable as a Class B felony by imprisonment for 10–20 years, of which all but 10 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(2), 53a-41(2), 53a-35a(6), 53a-28(b)(4).

3.4 *Financial penalties for traffickers, including asset forfeiture, are sufficiently high.*

Traffickers are subject to possible fines up to \$20,000. A trafficker convicted under Conn. Gen. Stat. § 53a-192a (Trafficking in Persons) or § 53a-86(a)(2) (Promoting prostitution in the first degree) is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-192a(b), 53a-86(b), 53a-41(2), 53a-28(3). Traffickers convicted under Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) are subject to a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-196a(b), 53a-41a(4), 53a-28(3).

If the victim is under the age of 16, a trafficker convicted under Conn. Gen. Stat. § 53a-90a (Enticing a minor: Penalties) is subject to a possible fine not to exceed \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for third and subsequent violations; if the victim is under the age of 13, however, a trafficker is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-90a(b)(1), (2), 53a-41(2), (3), (4), 53a-28(3).

A trafficker is also subject to asset forfeiture. Pursuant to Conn. Gen. Stat. § 54-36p(a) (Forfeiture of moneys and property related to sexual exploitation and human trafficking),

(a) The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

(1) All moneys used, or intended for use, in a violation of . . . section 53a-86 [Promoting prostitution in the first degree], 53a-87 [Promoting prostitution in the second degree], 53a-90a [Enticing a minor. Penalties] . . . 53a-192a [Trafficking in persons], 53a-196a [Obscenity as to

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§§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>50</sup> 18 U.S.C. §§ 2252(b) (stating if a person has a prior conviction under subsection (a)(1), (a)(2), or (a)(3) or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 2252A(b)(1) (stating if a person has a prior conviction under subsection (a)(2), (a)(3), or a list of other statutes, a conviction is punishable by a fine and imprisonment for 15–40 years), 1466A(a), (b) (stating that the penalty scheme for section 2252A(b) applies); *see also* 18 U.S.C §§ 3559(a)(1) (classifying all of the above listed offenses as felonies), 3571(b)(3) (providing a fine up to \$250,000 for any felony conviction).

<sup>51</sup> *See supra* note 12.

minors], 53a-196b [Promoting a minor in an obscene performance] or 53a-196c [Importing child pornography];

(2) All property constituting the proceeds obtained, directly or indirectly, from a violation of . . . section 53a-86, 53a-87, 53a-90a . . . 53a-192a, 53a-196a, 53a-196b or 53a-196c;

(3) All property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of . . . 53a-86, 53a-87, 53a-90a . . . 53a-192a, 53a-196a, 53a-196b or 53a-196c;

(4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of . . . section 53a-86, 53a-87, 53a-90a . . . 53a-192a, 53a-196a, 53a-196b or 53a-196c.

Additionally, a court may order a trafficker to pay restitution. Pursuant to Conn. Gen. Stat. § 53a-28(c) (Authorized sentences),

In addition to any sentence imposed pursuant to subsection (b) of this section, if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense. . . .

Forfeiture may also be available for a racketeering violation under Conn. Gen. Stat. § 53-395 (Prohibited activities),<sup>52</sup> pursuant to Conn. Gen. Stat. § 53-397(a), (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver), which states,

(a) A person who violates any provision of [the Corrupt Organizations and Racketeering Activity Act<sup>53</sup>] . . . and shall forfeit to the state: (1) Any property he has acquired, maintained or used in violation of [the Corrupt Organizations and Racketeering Activity Act], including profits derived therefrom and the appreciated value thereof, or, where applicable, the proceeds from the sale thereof; and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which he has established, operated, controlled, conducted or participated in the conduct of, in violation of [the Corrupt Organizations and Racketeering Activity Act].

Lastly, pursuant to Conn. Gen. Stat. § 52-571i (Action for damages resulting from trafficking in persons) a trafficker will also be liable for civil damages. Conn. Gen. Stat. § 52-571i states,

Any person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney's fee.

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<sup>52</sup> See *supra* Section 3.1 for a full description of racketeering offenses and activities.

<sup>53</sup> Conn. Gen. Stat. §§ 53-393 to -419.

3.5 *Convicted traffickers are required to register as sex offenders.*

Conn. Gen. Stat. § 54-251(a) (Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense)<sup>54</sup> states in part,

Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection . . . .

Conn. Gen. Stat. § 54-250(2)(A) (Definitions) defines "criminal offense against a victim who is a minor" to include violations of Conn. Gen. Stat. § 53a-86 (Promoting prostitution in the first degree), § 53a-90a (Enticing a minor. Penalties), § 53a-196a (Employing a minor in an obscene performance), § 53a-196b (Promoting a minor in an obscene performance), and § 53a-196c (Importing child pornography).

- 3.5.1 Recommendation: Amend Conn. Gen. Stat. § 54-250(2)(A) (Definitions) to include Conn. Gen. Stat. § 53-192a (Trafficking in persons), if the person trafficked is under the age of 18, as an offense that qualifies as a "criminal offense against a victim who is a minor."

3.6 *Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.*

Conn. Gen. Stat. § 45a-717(g) (Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination) states that parental rights can be terminated if a court determines by clear and convincing evidence that the termination is in the best interest of the child and the child has, among other things, been sexually molested or exploited. Pursuant to Conn. Gen. Stat. § 45a-717(g),

At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a petition terminating the parental rights and may appoint a guardian of the person of the child, or, if the petitioner requests, the court may appoint a statutory parent, if it finds, upon clear and convincing evidence that (1) the termination is in the best interest of the child, and (2) (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; . . . or (G) the parent was convicted as an adult or a delinquent by a court of competent jurisdiction of sexual assault resulting in the conception of a child except for a violation of section 53a-71 or 53a-73a provided the court may terminate such parent's parental rights to such child at any time after such conviction.

- 3.6.1 Recommendation: Amend Conn. Gen. Stat. § 45a-717(g)(2) (Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination) to clearly specify that a violation of Conn. Gen. Stat. § 53-192a (Trafficking in persons) or other CSEC offenses is satisfactory grounds for termination of parental rights.

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<sup>54</sup> See *supra* note 32.

**Legal Components:**

- 4.1 *The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.*
- 4.2 *Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.*
- 4.3 *Promoting and selling child sex tourism is illegal.*
- 4.4 *Promoting and selling child pornography is illegal.*

**Legal Analysis:**

- 4.1 *The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.*

Conn. Gen. Stat. § 53a-192a (Trafficking in persons)<sup>55</sup> does not expressly make it a crime for a person to assist, enable, or financially benefit from domestic minor sex trafficking.

A facilitator may be convicted under Conn. Gen. Stat § 53a-86(a)(2) (Promoting prostitution in the first degree) if the facilitator knowingly “advances<sup>56</sup> or profits from prostitution<sup>57</sup> of a person less than eighteen years old.” A conviction under this statute is punishable as a Class B felony by imprisonment for 1–20 years, of which all but 9 months may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

Additionally, a facilitator may be convicted under Conn. Gen. Stat. § 53a-70c(a) (Aggravated sexual assault of a minor).<sup>58</sup> A first conviction under this statute is punishable as a Class A felony by imprisonment for 25–50 years, of which all but 25 years may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4). Subsequent convictions, however, are punishable by imprisonment for 50 years, none of which may be suspended, and a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-35a(3), 53a-41(1), 53a-28(b)(4).

- 4.1.1. Recommendation: Amend Conn. Gen. Stat. § 53a-192a (Trafficking in persons) to include those who have knowingly assisted, enabled, or financially benefited from domestic minor sex trafficking.

- 4.2 *Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.*

A person who facilitates the commercial sexual exploitation of a minor is subject to possible fines not to exceed \$20,000. A facilitator convicted under Conn. Gen. Stat. § 53a-86 (Promoting prostitution in the first degree) is subject to a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-86(b), 53a-41(2), 53a-28(b)(3). A facilitator convicted under Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor), however, is subject to a possible fine not to exceed \$20,000. Conn. Gen. Stat. §§ 53a-70c(b), 53a-41(b), 53a-28(b)(3).

<sup>55</sup> See *supra* Section 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

<sup>56</sup> See *supra* note 6.

<sup>57</sup> See *supra* note 7.

<sup>58</sup> See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-70c(a).

Additionally, a facilitator may be subject to asset forfeiture under Conn. Gen. Stat. § 54-36p(a) (Forfeiture of moneys and property related to sexual exploitation and human trafficking) and § 53-397 (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver), and may be required to pay restitution pursuant Conn. Gen. Stat. § 53a-28(c) (Authorized sentences).<sup>59</sup>

#### 4.3 *Promoting and selling child sex tourism is illegal.*

There is no provision in the Connecticut code prohibiting child sex tourism.

- 4.3.1 Recommendation: Enact a law that prohibits selling or offering to sell travel services in Connecticut that include or facilitate travel for the purpose of engaging in commercial sexual exploitation of a minor or prostitution of a minor.

#### 4.4 *Promoting and selling child pornography is illegal.*

Connecticut expressly prohibits the promotion of child pornography. Conn. Gen. Stat. § 53a-196b(a) (Promoting a minor in an obscene performance) states,

- (a) A person is guilty of promoting a minor in an obscene performance when he knowingly<sup>60</sup> promotes<sup>61</sup> any material<sup>62</sup> or performance<sup>63</sup> in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors<sup>64</sup> notwithstanding that such material or performance is intended for an adult audience.

A conviction under Conn. Gen. Stat. § 53a-196b(a) is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

Pursuant to Conn. Gen. Stat. § 53a-196c(a) (Importing child pornography), “A person is guilty of importing child pornography when, with intent to promote child pornography, such person knowingly imports or causes to be imported into the state three or more visual depictions of child pornography of known content and character.” A conviction under this statute is punishable as a Class B felony by 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-196c(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

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<sup>59</sup> See *supra* Section 3.4 for a full discussion of statutory provisions regarding asset forfeiture and restitution.

<sup>60</sup> See *supra* note 42.

<sup>61</sup> See *supra* note 8.

<sup>62</sup> See *supra* note 44.

<sup>63</sup> See *supra* note 10.

<sup>64</sup> See *supra* note 11.

**Legal Components:**

- 5.1 *A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.*
- 5.2 *The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.*
- 5.3 *Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.*
- 5.4 *Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.*
- 5.5 *Commercial sexual exploitation is identified as a type of abuse and neglect within child protection statutes.*
- 5.6 *The definition of "caregiver" (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into protection of child protective services.*
- 5.7 *Crime victims' compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.*
- 5.8 *Victim-friendly procedures and protections are provided in the trial process for minors under 18.*
- 5.9 *Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.*
- 5.10 *Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.*
- 5.11 *Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal actions and legal remedies.*

**Legal Analysis:**

- 5.1 *A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.*

Under Conn. Gen. Stat. § 1-1k ("Victim of crime", "crime victim", defined),

Except as otherwise provided by the general statutes, "victim of crime" or "crime victim" means an individual who suffers direct or threatened physical, emotional or financial harm as a result of a crime and includes immediate family members of a minor, incompetent individual or homicide victim and a person designated by a homicide victim in accordance with section 1-56r [Designation of person for decision-making and certain rights and obligations].

For the purposes of victim services, Conn. Gen. Stat. § 54-201(1) (Definitions) defines "victim" as "a person who is injured or killed as provided in section 54-209 [Compensation ordered, when]." Conn. Gen. Stat. § 54-209(a) states,

The Office of Victim Services or, on review, a victim compensation commissioner may order the payment of compensation in accordance with the provisions of sections 54-201 to 54-233 [Chapter 968 Victim Services], inclusive, for personal injury or death which resulted from: . . . (2) the commission or attempt to commit by another of any crime as provided in section 53a-24 [Offense defined. Application of sentencing provisions to motor vehicle and drug selling violators] . . .

Pursuant to Conn. Gen. Stat. § 53a-24(a), “The term ‘crime’ comprises felonies and misdemeanors.” Therefore, commercially sexually exploited children are included as victims.

Although Conn. Gen. Stat. § 19a-112b (Services to victims of sexual acts) provides certain benefits<sup>65</sup> for victims of Conn. Gen. Stat. § 53-21 (Injury or risk of injury to, or impairing morals of, children. Sale of children), § 53a-70 (Sexual assault in the first degree), § 53a-70a (Aggravated sexual assault in the first degree), § 53a-70b (Sexual assault in spousal or cohabiting relationship), § 53a-71 (Sexual assault in the second degree), § 53a-72a (Sexual assault in the third degree), § 53a-72b (Sexual assault in the third degree with a firearm), and § 53a-73a (Sexual assault in the fourth degree), “regardless of whether any person is convicted or adjudicated delinquent for such violation,” it does not provide those benefits to victims of Conn. Gen. Stat. § 53a-192a (Trafficking in persons) or other CSEC crimes.

5.1.1 Recommendation: Amend Conn. Gen. Stat. § 19a-112b (Services to victims of sexual acts) to include Conn. Gen. Stat. § 53a-192a (Trafficking in persons) and other CSEC offenses.

5.2 *The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.*

Conn. Gen. Stat. § 53a-192a (Trafficking in persons), Conn. Gen. Stat. § 53a-86 (Promoting prostitution in the first degree), Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance), Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties), and Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor) do not expressly prohibit or allow a defense based on a minor’s consent to the commercial sex act.

5.2.1 Recommendation: Enact a statute that expressly prohibits a consent defense to any commercial sex act against a minor under the age of 18.

5.3 *Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.*

Under Connecticut law, minors under the age of 16 are immune from prosecution for prostitution and older minors receive a presumption of coercion for violations of Conn. Gen. Stat. § 53a-82 (Prostitution). Pursuant to Conn. Gen. Stat. § 53a-82(a)–(c),

(a) A person sixteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the actor was coerced into committing such offense by another person in violation of section 53a-192a [Trafficking in persons].

(c) In any prosecution of a person sixteen or seventeen years of age for an offense under this section, there shall be a presumption that the actor was coerced into committing such offense by another person in violation of section 53a-192a.

5.3.1 Recommendation: Amend Conn. Gen. Stat. § 53a-82(a) (Prostitution) to make prostitution an offense that is inapplicable to all minors under the age of 18.

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<sup>65</sup> Pursuant to Conn. Gen. Stat. § 19a-112b, these benefits are “(1) Counseling regarding human immunodeficiency virus and acquired immune deficiency syndrome; (2) HIV-related testing; and (3) referral service for appropriate health care and support services. Such services shall be provided through counseling and testing sites funded by the Department of Public Health.”

5.4 *Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.*

Connecticut law provides for the development of response and service programs for victims of human trafficking. Conn. Gen. Stat. § 54-234 (Development of response system for victims of offense of trafficking in persons) states,

- (a) The Office of Victim Services within the Judicial Department shall, within available appropriations, contract with nongovernmental organizations to develop a coordinated response system to assist victims of the offense of trafficking in persons.
- (b) Such contracts shall be entered into for the following purposes, including, but not limited to:
  - (1) Developing a uniform curriculum to address rights and services for such victims;
  - (2) Developing information and materials on available resources and services for such victims;
  - (3) Actively seeking out quality training and other educational opportunities regarding the identification and assistance of such victims that take into consideration such victims' cultural context and needs; and
  - (4) Promoting and disseminating information on training and other educational opportunities concerning the assistance of such victims to emergency medical services, faith-based communities, sexual assault service providers, domestic violence service providers and state and local governmental agencies.

A domestic minor sex trafficking victim may be classified as an “abused” or “neglected” child, enter the juvenile justice system, or be routed to an “alternative program.” Conn. Gen. Stat. § 46b-120(6), (7) (Definitions) (effective July 1, 2012)<sup>66</sup> defines an “abused” or “neglected” child as follows:

- (6) A child<sup>67</sup> or youth may be found “neglected” who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth;
- (7) A child or youth may be found “abused” who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment.

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<sup>66</sup> The text of Conn. Gen. Stat. § 46b-120 included here and elsewhere in this report includes amendments made by the passage of Substitute Senate Bill 1199, Substitute House Bill 6638, and Senate Bill 1014 during Connecticut’s 2011 General Assembly. 2011 Conn. Acts 240 (Reg. Sess.) (varying effective dates ); 2011 Conn. Acts 157 (Reg. Sess.) (varying effective dates); 2011 Conn. Acts 71 (Reg. Sess.) (varying effective dates).

<sup>67</sup> Conn. Gen. Stat. § 46b-120(1) defines “child” as

any person under eighteen years of age who has not been legally emancipated, except that (A) for purposes of delinquency matters and proceedings, “child” means any person (i) under seventeen years of age who has not been legally emancipated, or (ii) seventeen years of age or older who, prior to attaining seventeen years of age, has committed a delinquent act or, subsequent to attaining seventeen years of age, (I) violates any order of the Superior Court or any condition of probation ordered by the Superior Court with respect to a delinquency proceeding, or (II) wilfully fails to appear in response to a summons under section 46b-133or at any other court hearing in a delinquency proceeding of which the child had notice, and (B) for purposes of family with service needs matters and proceedings, child means a person under seventeen years of age.

Effective July 1, 2012, the definition of “child” is amended by changing all of the references to “seventeen years of age” to “eighteen years of age.”

Pursuant to Conn. Gen. Stat. § 46b-129(a) (Commitment of child or youth),<sup>68</sup>

Any selectman, town manager, or town, city or borough welfare department, any probation officer, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or such child's representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared-for or abused may file with the Superior Court that has venue over such matter a verified petition plainly stating such facts as bring the child or youth within the jurisdiction of the court as neglected, uncared-for or abused . . . .

If the allegations in the petition create reasonable cause to believe that the child is seriously physically ill or injured or "is in immediate physical danger" from the child's surroundings and, as a result of those conditions, the child's "safety is endangered and immediate removal from such surroundings is necessary to ensure the child's . . . safety," the court is directed to either order a hearing on temporary care and custody of the child "pending disposition of the petition" or issue an ex parte order granting temporary care and custody to a person related to the child. Conn. Gen. Stat. § 46b-129(b). Pursuant to Conn. Gen. Stat. § 46b-129(j),

(j) Upon finding and adjudging that any child or youth is uncared-for, neglected or abused the court may commit such child or youth to the Commissioner of Children and Families. Such commitment shall remain in effect until further order of the court, except that such commitment may be revoked or parental rights terminated at any time by the court, or the court may vest such child's or youth's legal guardianship in any private or public agency that is permitted by law to care for neglected, uncared-for or abused children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage. . . .

Identification and intervention of a domestic minor sex trafficking victim could occur through Conn. Gen. Stat. § 17a-185 (Police transportation of certain minors to facility for care), which states,

Any officer of the state police or of an organized municipal police department may transport, with the sole written consent of the person transported, any person over sixteen years of age and less than eighteen years of age who appears to be away from home without permission of such person's parents or guardian or who appears to be suffering from lack of food, shelter or medical care to any public or private facility, provided institutions of the Department of Correction, the Connecticut Juvenile Training School and local police detention facilities shall not be used for such purpose. The person or organization to whom such person is transported shall, if practicable, inform such person's parent or guardian of such person's whereabouts within twelve hours. Such procedure shall be civil in nature, shall not constitute an arrest and shall be made solely for the purpose of safeguarding the interests and welfare of such person.

Notably, Conn. Gen. Stat. § 17a-201a (Commitment under sixteen restricted) states, "No court shall commit any child under sixteen years of age to any community correctional center or almshouse."

Domestic minor sex trafficking victims who are 16 or 17 years old, however, may be considered delinquents if they are not able to successfully assert an affirmative defense to a prostitution charge.<sup>69</sup> Conn. Gen. Stat. § 46b-133(c)(2) (Arrest of child. Release or detention of arrested child)<sup>70</sup> states, "Upon the arrest of any youth by an

<sup>68</sup> The text of Conn. Gen. Stat. § 46b-129 included here and elsewhere in this report includes amendments made by the passage of House Bill 1199 during Connecticut's 2011 General Assembly. 2011 Conn. Acts 51 (Reg. Sess.) (effective July 1, 2011).

<sup>69</sup> See *supra* Section 5.3 discussing the applicability of Conn. Gen. Stat. § 53a-82 to minors.

<sup>70</sup> The text of Conn. Gen. Stat. § 46b-133 included here and elsewhere in this report includes amendments made by the passage of Substitute Senate Bill 1044 and Substitute House Bill 6634 during Connecticut's 2011 General Assembly. 2011 Conn. Acts 180 (Reg. Sess.) (effective Oct. 1, 2011); 2011 Conn. Acts 154 (Reg. Sess.) (effective Oct. 1, 2011).

officer for a violation of section 53a-82 [Prostitution], such officer shall report suspected abuse or neglect to the Department of Children and Families . . . .” This report, however, does not prevent these minors from being adjudicated as delinquents.

Conn. Gen. Stat. § 46b-133(c)(1), (e) states,

(c) (1) Upon the arrest of any child by an officer, such officer may (A) release the child to the custody of the child’s parent or parents, guardian or some other suitable person or agency, (B) at the discretion of the officer, release the child to the child’s own custody, or (C) immediately turn the child over to a juvenile detention center. No child shall be placed in detention unless it appears from the available facts that there is probable cause to believe that the child has committed the acts alleged, there is no less restrictive alternative available and there is (A) a strong probability that the child will run away prior to the court hearing or disposition, (B) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or to the community prior to the court disposition, . . . (E) a need to hold the child to assure the child’s appearance before the court, in view of the child’s previous failure to respond to the court process, or (F) a finding by the court that the child has violated one or more of the conditions of a suspended detention order. No child shall be held in any detention center unless an order to detain is issued by a judge of the Superior Court.

. . . .

. . . .

(e) The court or detention supervisor may turn such child over to a youth service program created for such purpose, if such course is practicable, or such child may be detained pending a hearing which shall be held on the business day next following the child’s arrest. No child shall be detained after such hearing or held in detention pursuant to a court order unless it appears from the available facts there is probable cause to believe that the child has committed the acts alleged, there is no less restrictive alternative available and that there is (1) a strong probability that the child will run away prior to the court hearing or disposition, (2) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or to the community prior to the court disposition, (3) probable cause to believe that the child’s continued residence in the child’s home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed, (4) a need to hold the child for another jurisdiction, (5) a need to hold the child to assure the child’s appearance before the court, in view of the child’s previous failure to respond to the court process, or (6) a finding by the court that the child has violated one or more of the conditions of a suspended detention order. Such probable cause may be shown by sworn affidavit in lieu of testimony. . . .

After conviction a child may be routed into an alternative program pursuant to Conn. Gen. Stat. § 46b-141a(a) (Placement of delinquent child in alternative incarceration program), which states in part, that when “a child is convicted as delinquent, the court, in lieu of committing such child to the Department of Children and Families or to a juvenile detention center, may, in its discretion, order an assessment for placement in an alternative incarceration program” and, should the court decide “that the child shall participate in such program, the court shall suspend any commitment to the Department of Children and Families or to a juvenile detention center and shall make participation in the alternative incarceration program a condition of probation.” These alternative programs include “fines, restitution, community service, halfway houses, alternative incarceration centers, day incarceration centers, drug, alcohol and mental health programs, electronic monitoring, intensive probation, vocational probation, boot camps, structured wilderness programs, pretrial diversion options aimed at creating alternatives to unnecessary detention, and school and job training programs.” Conn. Gen. Stat. § 46b-141a(b). The statutory language relating to these programs is not specifically geared toward treatment or counseling for victims of domestic minor sex trafficking.

5.4.1 Recommendation: Establish a mandatory response law directing any minor under the age of 18 involved in prostitution or who is identified through a sex trafficking prosecution away from the juvenile justice system and into a protective system.

5.5 *Commercial sexual exploitation is identified as a type of abuse and neglect within child protection statutes.*

Pursuant to Conn. Gen. Stat. § 46b-120(6), (7) (Definitions) (effective July 1, 2012)<sup>71</sup>

(6) A child<sup>72</sup> or youth may be found “neglected” who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth;

(7) A child or youth may be found “abused” who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment.

5.6 *The definition of “caregiver” (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into protection of child protective services.*

Chapter 815t (Juvenile Matters), which addresses abused and neglected children, does not define terms related to caregiver. Throughout the chapter “person having responsibility for the care of the child or youth is utilized, but undefined.

5.6.1 Recommendation: Amend Conn. Gen. Stat. § 46b-120 (Definitions) to add the term “person having responsibility for the care of the child or youth,” which should include persons in control or custody of a minor such as those who provide food, shelter, or necessities for an extended period of time.

5.7 *Crime victims’ compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.*

For the purposes of victim services, Conn. Gen. Stat. § 54-201(1) (Definitions) defines “victim” as “a person who is injured or killed as provided in section 54-209.” Conn. Gen. Stat. § 54-209(a) (Compensation ordered, when) states,

The Office of Victim Services or, on review, a victim compensation commissioner may order the payment of compensation in accordance with the provisions of sections 54-201 to 54-233 [Chapter 968 Victim Services], inclusive, for personal injury or death which resulted from: . . . (2) the commission or attempt to commit by another of any crime as provided in section 53a-24 [Offense defined] . . . .

Pursuant to Conn. Gen. Stat. § 53a-24(a), “The term ‘crime’ comprises felonies and misdemeanors.” Therefore, commercially sexually exploited children are included as victims.

Due to several victim compensation eligibility factors, however, commercially sexually exploited children may not be eligible for victim compensation. Conn. Gen. Stat. § 54-211(a) (Time limitation on filing application for compensation. Restrictions on award of compensation. Amount of compensation) states,

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<sup>71</sup> See *supra* note 66.

<sup>72</sup> See *supra* note 67.

(1) No order for the payment of compensation shall be made under section 54-210 [Compensation ordered for expenses, loss of earnings, pecuniary loss and other losses] unless (A) the application has been made within two years after the date of the personal injury or death, (B) the personal injury or death was the result of an incident or offense listed in section 54-209, and (C) such incident or offense has been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within five days of the time when a report could reasonably have been made, except that a victim of a sexual assault shall not be ineligible for the payment of compensation by reason of failing to make a report pursuant to this subparagraph if such victim presented himself or herself to a health care facility within seventy-two hours of such sexual assault for examination and collection of evidence of such sexual assault in accordance with the provisions of section 19a-112a. (2) Notwithstanding the provisions of subdivision (1) of this subsection, any person who, before, on or after October 1, 2005, fails to make application for compensation within two years after the date of the personal injury or death as a result of physical, emotional or psychological injuries caused by such personal injury or death may apply for a waiver of such time limitation. The Office of Victim Services, upon a finding of such physical, emotional or psychological injury, may grant such waiver. (3) Notwithstanding the provisions of subdivision (1) of this subsection, any minor who, before, on or after October 1, 2005, fails to make application for compensation within two years after the date of the personal injury or death through no fault of the minor, may apply for a waiver of such time limitation. The Office of Victim Services, upon a finding that such minor is not at fault, may grant such waiver. . . . (6) Notwithstanding the provisions of subdivision (1), (2) or (3) of this subsection, the Office of Victim Services may, for good cause shown and upon a finding of compelling equitable circumstances, waive the time limitations of subdivision (1) of this subsection.

Furthermore, Conn. Gen. Stat. § 54-211(b)(2) states that no compensation will be given if “the victim violated a penal law of this state, which violation caused or contributed to his injuries or death.”

An additional possible limitation for domestic minor sex trafficking victims can be found in Conn. Gen. Stat. § 54-208(c) (Order of payment of compensation), which states,

In determining whether to make an order under this section, the Office of Victim Services or, on review, a victim compensation commissioner shall consider all circumstances determined to be relevant, including but not limited to provocation, consent or any other behavior of the victim which directly or indirectly contributed to such victim’s injury or death, the extent of the victim’s cooperation in investigating the application and the extent of the victim’s cooperation with law enforcement agencies in their efforts to apprehend and prosecute the offender, and any other relevant matters.

Pursuant to Conn. Gen. Stat. § 54-210(a) (Compensation ordered for expenses, loss of earnings, pecuniary loss and other losses), compensation may be paid for, among other things, medical costs beyond Medicaid or health insurance coverage and loss of earning ability due to incapacity of the victim. However, compensation for pain and suffering is not permitted. Conn. Gen. Stat. § 54-211(c).

5.7.1 Recommendation: Amend Conn. Gen. Stat. § 54-211 (Time limitation on filing application for compensation. Restrictions on award of compensation. Amount of compensation) and Conn. Gen. Stat. § 54-208(c) (Order of payment compensation) to make an exception from the listed ineligibility factors for commercially sexually exploited minors under the age of 18.

## 5.8 *Victim-friendly procedures and protections are provided in the trial process for minors under 18.*

Most of Connecticut’s victim-friendly criminal justice procedures and protections do not extend to or do not explicitly cover victims of domestic minor sex trafficking. Conn. Gen. Stat. § 54-86f (Admissibility of evidence of sexual conduct), which limits the introduction of a victim’s prior sexual conduct, subject to several

exceptions, does not apply to domestic minor sex trafficking victims. Conn. Gen. Stat. § 54-86f only applies “[i]n any prosecution for sexual assault under sections 53a-70 [Sexual assault in the first degree:], 53a-70a [Sexual assault in the first degree], and 53a-71 to 53a-73a, inclusive [Sexual assault in the second degree; Sexual assault in the third degree; Sexual assault in the third degree with a firearm; Sexual assault in the fourth degree].”

Children 12 years of age or younger who are victims of assault, sexual assault, or abuse are provided certain additional protections. Conn. Gen. Stat. § 54-86g(b) (Testimony of victim of child abuse. Court may order testimony taken outside courtroom. Procedure) states,

In any criminal prosecution of an offense involving assault, sexual assault or abuse of a child twelve years of age or younger, the court may, upon motion of the attorney for any party, order that the following procedures be used when the testimony of the child is taken: (1) Persons shall be prohibited from entering and leaving the courtroom during the child’s testimony; (2) an adult who is known to the child and with whom the child feels comfortable shall be permitted to sit in close proximity to the child during the child’s testimony, provided such person shall not obscure the child from the view of the defendant or the trier of fact; (3) the use of anatomically correct dolls by the child shall be permitted; and (4) the attorneys for the defendant and for the state shall question the child while seated at a table positioned in front of the child, shall remain seated while posing objections and shall ask questions and pose objections in a manner which is not intimidating to the child.

Additionally, for such victims, under Conn. Gen. Stat. § 54-86g(a), the court may order the child’s testimony taken outside the courtroom and “televised by closed circuit equipment in the courtroom or recorded for later showing before the court.” The defendant may be excluded from the room or screened from the child’s sight when the testimony is taken, “only if the state proves, by clear and convincing evidence, that the child would be so intimidated, or otherwise inhibited, by the physical presence of the defendant that a compelling need exists to take the testimony of the child outside the physical presence of the defendant in order to insure the reliability of such testimony.” If the defendant is excluded or screened, however, “the court shall ensure that the defendant is able to observe and hear the testimony of the child, but that the child cannot see or hear the defendant. The defendant shall be able to consult privately with his attorney at all times during the taking of the testimony.”

Pursuant to the 2011 Connecticut Practice Book, “All oral testimony shall be given under oath.”<sup>73</sup> If the person testifying in Superior Court is under the age of 18,<sup>74</sup> however, the court may administer a simplified age-appropriate oath or “admit the testimony of a child or youth without the imposition of a formal oath if the judicial authority finds that the oath would be meaningless to the particular child or youth, or would otherwise inhibit the child or youth from testifying freely and fully.”<sup>75</sup> Additional victim-friendly procedures include allowing a trusted adult to sit with the child or youth during testimony and requiring the attorneys to remain seated and proceed in a non-threatening manner.<sup>76</sup> If the minor who is testifying is the child of the respondent,

<sup>73</sup> THE COMMISSION ON OFFICIAL LEGAL PUBLICATIONS, CONNECTICUT PRACTICE BOOK (2011) § 32a-4(a), available at [http://www.jud.ct.gov/Publications/PracticeBook/PB\\_2011.pdf](http://www.jud.ct.gov/Publications/PracticeBook/PB_2011.pdf).

<sup>74</sup> Pursuant to THE COMMISSION ON OFFICIAL LEGAL PUBLICATIONS, CONNECTICUT PRACTICE BOOK (2011) § 26-1(a)(1), (2),

“Child” means any person under sixteen years of age, except that (A) for purposes of delinquency matters and proceedings, “child” means any person (i) under seventeen years of age who has not been legally emancipated or, (ii) seventeen years of age or older who, prior to attaining seventeen years of age, has committed a delinquent act and, subsequent to attaining seventeen years of age, (i) violates any order of a judicial authority or any condition of probation ordered by a judicial authority with respect to such delinquency proceeding; or (ii) willfully fails to appear in response to a summons under General Statutes § 46b-133, with respect to such delinquency proceeding, and (B) for purposes of family with service needs matters and proceedings, child means a person under seventeen years of age; (2) “Youth” means any person sixteen or seventeen years of age who has not been legally emancipated.

<sup>75</sup> See *supra* note 73.

<sup>76</sup> See *supra* note 73, § 32a-4(c).

the respondent may be excluded from the hearing “upon a showing by clear and convincing evidence that the child or youth witness would be so intimidated or inhibited that trustworthiness of the child or youth witness is seriously called into question.”<sup>77</sup>

5.8.1 Recommendation: Amend Conn. Gen. Stat. § 54-86f (Admissibility of evidence of sexual conduct) and Conn. Gen. Stat. § 54-86g (Testimony of victim of child abuse. Court may order testimony taken outside courtroom. Procedure) to specify that minor victims of Conn. Gen. Stat. § 53a-192a (Trafficking in persons), Conn. Gen. Stat. § 53a-86(a) (Promoting prostitution in the first degree), Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor), Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties), or Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) are entitled to victim friendly criminal justice procedures.

5.9 *Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.*

Conn. Gen. Stat. § 46b-146 (Erasure of police and court records) states,

Whenever any child has been convicted as delinquent, has been adjudicated a member of a family with service needs or has signed a statement of responsibility admitting to having committed a delinquent act, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to whom the child has been committed by the court, such child, or the child’s parent or guardian, may file a petition with the Superior Court. If such court finds (1) that at least two years or, in the case of a child convicted as delinquent for the commission of a serious juvenile offense, four years have elapsed from the date of such discharge, (2) that no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, (3) that such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such two-year or four-year period, (4) that such child has not been convicted as an adult of a felony or misdemeanor during such two-year or four-year period, and (5) that such child has reached seventeen years of age,<sup>78</sup> the court shall order all police and court records pertaining to such child to be erased. . . .

5.9.1 Recommendation: Amend Conn. Gen. Stat. § 46b-146 (Erasure of police and court records) to permit a minor who has incurred a criminal record as a result of being trafficked to expunge the records immediately or, at latest, upon turning 18 years of age.

5.10 *Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.*

Civil remedies are specifically available in cases of trafficking in persons through Conn. Gen. Stat § 52-571i (Action for damages resulting from trafficking in persons), which states.

Any person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney’s fee.

<sup>77</sup> See *supra* note 73, § 32a-4(e).

<sup>78</sup> On or after July 1, 2012, Conn. Gen. Stat. § 46b-146(5) will state the following: “that such child has reached eighteen years of age, the court shall order all police and court records pertaining to such child to be erased. . . .” 2009 Conn. Acts 7, § 88 (Spec. Sess.).

A domestic minor sex trafficking victim may also receive restitution under Conn. Gen. Stat. § 53a-28(c) which states,

In addition to any sentence imposed pursuant to subsection (b) of this section, if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense. . . .

In deciding the amount of restitution under Conn. Gen. Stat. § 53a-28(c),

the court shall consider: (A) The financial resources of the offender and the burden restitution will place on other obligations of the offender; (B) the offender's ability to pay based on installments or other conditions; (C) the rehabilitative effect on the offender of the payment of restitution and the method of payment; and (D) other circumstances, including the financial burden and impact on the victim, that the court determines make the terms of restitution appropriate. If the court determines that the current financial resources of the offender or the offender's current ability to pay based on installments or other conditions are such that no appropriate terms of restitution can be determined, the court may forego setting such terms. The court shall articulate its findings on the record with respect to each of the factors set forth in subparagraphs (A) to (D), inclusive, of this subsection.

Pursuant to Conn. Gen. Stat § 53-397(b)(1), (4) (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver), if the trafficker or facilitator was convicted under the Corrupt Organizations and Racketeering Activity Act,<sup>79</sup> he

shall forfeit to the state: (1) Any property he has acquired, maintained or used in violation of this chapter, including profits derived therefrom and the appreciated value thereof, or, where applicable, the proceeds from the sale thereof; and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which he has established, operated, controlled, conducted or participated in the conduct of, in violation of this chapter.

....

(4) The court shall order the Chief State's Attorney to convert into cash all such property seized under this chapter that is not yet cash as soon as commercially feasible, and shall make provision for the rights of any innocent person or entity, governmental, business or other, that are superior to that of the state and that are then known to the court or the state's attorney or state's attorneys involved in the case. In lieu of ordering the sale of any such property, the court may (A) if it finds that the property can be used by a state governmental agency, order the property to be delivered to such agency for such use, (B) order the property to be sold or transferred to any innocent person or entity or (C) order any equitable relief with respect to the disposition of such property as it deems appropriate.

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<sup>79</sup> See *supra* note 53.

5.11 *Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal actions and legal remedies.*

Pursuant to Conn. Gen. Stat. § 54-193(a) (Limitation of prosecution for certain offenses), “There shall be no limitation of time within which a person may be prosecuted for . . . a class A felony.” Therefore prosecutions for Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance) or § 53a-70c (Aggravated sexual assault of a minor) are not subject to a statute of limitations and may be prosecuted at any time. All offenses punishable by imprisonment for more than 1 year are subject to a 5-year statute of limitations, while all other offenses are subject to a 1-year statute of limitations. Conn. Gen. Stat. § 54-193(b), (c).

Under Conn. Gen. Stat. § 54-193a (Limitation of prosecution for offenses involving sexual abuse of minor), however,

Notwithstanding the provisions of section 54-193, no person may be prosecuted for any offense, except a class A felony, involving sexual abuse, sexual exploitation or sexual assault of a minor except within thirty years from the date the victim attains the age of majority or within five years from the date the victim notifies any police officer or state’s attorney acting in such police officer’s or state’s attorney’s official capacity of the commission of the offense, whichever is earlier . . . .

Pursuant to Conn. Gen. Stat. § 52-577d (Limitation of action for damages to minor caused by sexual abuse, exploitation or assault),

Notwithstanding the provisions of section 52-577 [Action founded upon a tort], no action to recover damages for personal injury to a minor, including emotional distress, caused by sexual abuse, sexual exploitation or sexual assault may be brought by such person later than thirty years from the date such person attains the age of majority.

## FRAMEWORK ISSUE 6: CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

### *Legal Components:*

- 6.1 *Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.*
- 6.2 *Single party consent to audiotaping is permitted in law enforcement investigations.*
- 6.3 *Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.*
- 6.4 *Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.*
- 6.5 *Using the Internet to investigate buyers and traffickers is a permissible investigative technique.*
- 6.6 *Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.*

### *Legal Analysis:*

- 6.1 *Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.*

While training is not mandated, Connecticut has developed a training program on trafficking in persons pursuant to Conn. Gen. Stat. § 46a-4b (Training program on trafficking in persons)<sup>80</sup> which states,

<sup>80</sup> The text of Conn. Gen. Stat. § 46a-4b included here and elsewhere in this report includes amendments made by the passage of House Bill 6650 during Connecticut’s 2011 General Assembly. 2011 Conn. Acts 51, § 134 (Reg. Sess.) (effective July 1, 2011).

The Permanent Commission on the Status of Women, in conjunction with the Police Officer Standards and Training Council, shall develop a training program on trafficking in persons and make such training program available, upon request, to the Division of State Police within the Department of Emergency Services and Public Protection, the office of the Chief State's Attorney, local police departments and community organizations.

- 6.1.1 Recommendation: Enact a statute that mandates the training developed under Conn. Gen. Stat. § 46a-4b (Training program on trafficking in persons) for law enforcement personnel.

6.2 *Single party consent to audiotaping is permitted in law enforcement investigations.*

Connecticut requires two-party consent for the recording of telephonic communications. Pursuant to Conn. Gen. Stat. § 52-570d(a) (Action for illegal recording of private telephonic communications),

No person shall use any instrument, device or equipment to record an oral private telephonic communication unless the use of such instrument, device or equipment (1) is preceded by consent of all parties to the communication and such prior consent either is obtained in writing or is part of, and obtained at the start of, the recording, or (2) is preceded by verbal notification which is recorded at the beginning and is part of the communication by the recording party, or (3) is accompanied by an automatic tone warning device which automatically produces a distinct signal that is repeated at intervals of approximately fifteen seconds during the communication while such instrument, device or equipment is in use.

- 6.2.1 Recommendation: Amend Conn. Gen. Stat. § 52-570d(a) (Action for illegal recording of private telephonic communications) to create an exception that allows for single-party consent to audio-taping if the offense being investigated is a trafficking in persons offense under Conn. Gen. Stat. § 53a-192a or a CSEC offense.

6.3 *Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.*

Pursuant to Conn. Gen. Stat. § 54-41d(1), (2) (Issuance of order), orders authorizing wiretapping may only be issued for crimes enumerated in Conn. Gen. Stat. § 54-41(b) (Application for order authorizing interception). Assuming the other requirements in Conn. Gen. Stat. § 54-41d and the chapter on wiretapping are met, an authorization to intercept a wire can be granted pursuant to Conn. Gen. Stat. § 54-41b states,

when such interception may provide evidence of the commission of offenses involving gambling, bribery, violations of section 53-395 [Prohibited activities in Chapter 949c Corrupt Organizations and Racketeering Activity Act], violations of section 21a-277 [Penalty for illegal manufacture, distribution, sale, prescription, dispensing], felonious crimes of violence or felonies involving the unlawful use or threatened use of physical force or violence committed with the intent to intimidate or coerce the civilian population or a unit of government.

Therefore, wiretapping for domestic minor sex trafficking cases is only authorized to the extent that these crimes fall within Conn. Gen. Stat. § 53-395 or are felonious crimes of violence.

- 6.3.1 Recommendation: Amend Conn. Gen. Stat. § 54-41b (Application for order authorizing interception to include Conn. Gen. Stat 53a-192a (Trafficking in persons), Conn. Gen. Stat § 53a-86(a) (Promoting prostitution in the first degree), Conn. Gen. Stat. § 53a-70c (Aggravated sexual assault of a minor), Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties), and Conn. Gen.

Stat. § 53a-196a (Employing a minor in an obscene performance) as crimes for which wiretapping can be authorized.

6.4 *Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.*

Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) and Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute from a motor vehicle) are silent with regard to the defense that the person solicited was actually an undercover officer.

Pursuant to Conn. Gen. Stat. § 53a-15 (Entrapment as defense),

In any prosecution for an offense, it shall be a defense that the defendant engaged in the proscribed conduct because he was induced to do so by a public servant, or by a person acting in cooperation with a public servant, for the purpose of institution of criminal prosecution against the defendant, and that the defendant did not contemplate and would not otherwise have engaged in such conduct.

- 6.4.1 Enact a law expressly permitting the use of a law enforcement decoy during the investigation or prohibiting a defense to prosecution based on the “minor” being in fact a person posing as a minor for purposes of the investigation of a violation under Conn. Gen. Stat. § 53a-192a (Trafficking in persons) and CSEC laws.

6.5 *Using the Internet to investigate buyers and traffickers is a permissible investigative technique.*

Conn. Gen. Stat. § 53a-90a (Enticing a minor) does not explicitly allow for conviction if the person the individual contacted was merely believed to be a minor, but was really an undercover officer.<sup>81</sup>

6.6 *Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.*

Conn. Gen. Stat. § 29-1e (Missing Children Information Clearinghouse. Definitions. Duties. Missing child reports)<sup>82</sup> establishes a Missing Children Information Clearinghouse within the Department of Emergency Services and Public Protection. Pursuant to Conn. Gen. Stat. § 29-1e,

(c) The clearinghouse is established as a central repository of information regarding missing children<sup>83</sup> and other missing persons. Such information shall be collected and disseminated to assist in the location of missing children. The clearinghouse shall:

- (1) Establish a system of intrastate communication of information relating to children determined to be missing by the parent, guardian or legal custodian of the child, or by a law enforcement agency;
- (2) Provide a centralized file for the exchange of information on missing children within the state;
- (3) Interface with the National Crime Information Center for the exchange of information on children suspected of interstate travel;

<sup>81</sup> *But see* State v. Nero, 1 A.3d 184, 207 (Conn. App. Ct. 2010) (affirming the conviction of an offender who was apprehended by an undercover police officer posing online as a 15-year-old girl for attempting to entice a minor to engage in noncommercial sex acts).

<sup>82</sup> The text of Conn. Gen. Stat. § 29-1e included here and elsewhere in this report includes amendments made by the passage of House Bill 6650 during Connecticut’s 2011 General Assembly. 2011 Conn. Acts 51, § 134 (Reg. Sess.) (effective July 1, 2011).

<sup>83</sup> Pursuant to Conn. Gen. Stat. § 29-1e(b)(1), “‘Missing child’ means any person who is under the age of eighteen years, whose temporary or permanent residence is in Connecticut or is believed to be in Connecticut, whose location has not been determined, and who has been reported as missing to a law enforcement agency.”

- (4) Collect, process, maintain and disseminate information on missing children and shall strive to maintain or disseminate only accurate and complete information;
- (5) Conduct investigations concerning missing children in this state and cooperate with local law enforcement agencies and other state and federal agencies in investigations concerning missing children.
- (d) All state, county and municipal law enforcement agencies shall submit to the clearinghouse all missing child reports received by any such agency.
- (e) (1) Any parent, guardian or legal custodian may submit a missing child report to the clearinghouse on any child whose whereabouts is unknown, regardless of the circumstances, subsequent to the reporting of such to the appropriate law enforcement agency within the county in which the child became missing, which shall be included in the clearinghouse data base.  
(2) The parent, guardian or legal custodian responsible for notifying the clearinghouse or a law enforcement agency of a missing child shall immediately notify such agency or the clearinghouse of any child whose location has been determined.

Additionally, Conn. Gen. Stat. § 7-282c (Filing and dissemination of reports re missing children and certain missing persons)<sup>84</sup> states, “Any municipal police department which receives a report of a missing child or missing youth under eighteen years of age . . . shall immediately accept such report for filing and inform all on-duty police officers . . . and communicate the report to other appropriate law enforcement agencies.”

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<sup>84</sup> The text of Conn. Gen. Stat. § 7-282c included here and elsewhere in this report includes amendments made by the passage of Substitute House Bill 6638 and Substitute House Bill 6113 during Connecticut’s 2011 General Assembly. 2011 Conn. Acts 102 (Reg. Sess.) (effective Oct. 1, 2011); 2011 Conn. Acts 157 (Reg. Sess.) (effective Oct. 1, 2011).