

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

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 *Commercial sexual exploitation of children (CSEC) or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.*
- 1.4 *The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.*

Legal Analysis¹:

- 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),² 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."³ Conn. Gen. Stat. § 53a-192a(a). A conviction under this

¹ Unless otherwise specified, all references to statutes were taken from General Statutes of Connecticut (LEXIS through 2011 legislation (2012 Supplement)), and all federal statutes were taken from United States Code (LEXIS through PL 112-173, approved 8/16/12). This report includes legislation enacted before August 1, 2012.

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

³ The terms "labor" or "services" are not defined.

statute is punishable as a Class B felony by imprisonment for 1–20 years,⁴ 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 18.⁵

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 “advances⁶ or profits from prostitution⁷ of a person less than eighteen years old.”

⁴ 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.

⁵ 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.

⁶ 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.

⁷ 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

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).

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 promoting⁸ any material⁹ or performance¹⁰ which is obscene as to minors,¹¹ 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 service¹² 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

pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of prostitution activity.”

⁸ 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.”

⁹ 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.

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

¹¹ 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.

¹² “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).

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).

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-65,¹³ 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 intercourse¹⁴ 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.”

¹³ 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.”

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

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 imprisonment for 10–25 years, of which all but 10 years¹⁵ 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 contact¹⁶ 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 *Commercial sexual exploitation of children (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). However, Conn. Gen. Stat. § 53a-82 (Prostitution) refers to the human trafficking law to provide an affirmative defense for trafficking victims. Pursuant to Conn. Gen. Stat. § 53a-82(b)–(c),

(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].

“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.

¹⁵ 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).

¹⁶ 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.

(c) In any prosecution of a person sixteen or seventeen years of age¹⁷ 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.

1.3.1 Recommendation: Amend Conn. Gen. Stat § 53a-86(a) (Promoting prostitution in the first degree), § 53a-70c (Aggravated sexual assault of a minor), § 53a-90a(a) (Enticing a minor. Penalties), and § 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.

1.4 *The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.*

Conn. Gen. Stat. § 53-395(a)–(c) (Prohibited activities) states,

(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.¹⁸

(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

¹⁷ Minors under the age of 16 are immune from prosecution for prostitution. Conn. Gen. Stat. § 53a-82(a) (Prostitution) states, “A person sixteen years of age or older is guilty of prostitution when such person engages or agrees to engage in sexual conduct with another person in return for a fee.”

¹⁸ “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.

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).

Conn. Gen. Stat. § 53-397(a), (Penalty. Forfeiture of property. Disposition of seized property. Appointment of receiver) provides for mandatory asset forfeiture and states,

(a) A person who violates any provision of [the Corrupt Organizations and Racketeering Activity Act¹⁹] . . . 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].

- 1.4.1 Recommendation: Amend Conn. Gen. Stat. § 53-394(a) to include Public Act No. 12-141²⁰ (Commercial sexual exploitation of a minor), Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties), and Conn. Gen. Stat. § 53a-196a(a) (Employing a minor in an obscene performance) in the definition of “racketeering activity.”

¹⁹ Conn. Gen. Stat. §§ 53-393 to -419.

²⁰ Here and elsewhere in this report that Public Act No. 12-141 is quoted or cited, it has been updated to reflect the amendments added by the passage of House Bill 5504. H.B. 5504, 2012 Gen. Assemb. Leg. Sess. (Conn. 2012) (effective October 1, 2012).

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 commercial sexual exploitation of children (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 under 18 are sufficiently high 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 the actions of buyers of commercial sex with minors.

2.2 *Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.*

Conn. Gen. Stat § 53a-90a(a) (Enticing a minor. Penalties) states,

(a) A person is guilty of enticing a minor when such person uses an interactive computer service 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. For purposes of this section, “interactive computer service” means 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.

(b) (1) Except as provided in subdivision (2) of this subsection, enticing a minor is a class D felony for a first offense, a class C felony for a second offense and a class B felony for any subsequent offense.

(2) Enticing a minor is a class B felony if the victim of the offense is under thirteen years of age and any person found guilty of such class B felony shall, for a first offense, be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court.

However, Conn. Gen. Stat § 53a-90a(a) can only be used to prosecute buyers when a computer is used to commit the crime of buying sex with minors under the age of 16. Where the crime of purchasing sex with a minor does not involve an “interactive computer service” or the minor victim is 16 or 17, a buyer would be prosecuted under Conn. Gen. Stat. § 53a-83(a) (Patronizing a prostitute) which states,

(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.

(b) Patronizing a prostitute is a class A misdemeanor.

2.2.1 Recommendation: Enact a law that expressly prohibits soliciting or buying sex with minors under the age of 18 by any means.

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.²¹

Conn. Gen. Stat § 53a-90a(a) (Enticing a minor. Penalties), does, however, specifically make it a crime if a person “uses an interactive computer service²² 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.

²¹ Similar to Connecticut’s primary solicitation law, Conn. Gen. Stat. § 53a-83a (Patronizing a prostitute) and § 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.

²² See *supra* note 12.

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 Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) only prohibits the purchase of sex with a minor under 16 when an “interactive computer service” is used to commit the offense, a buyer of sex with older minors or a buyer who does not use a computer will be prosecuted under general prostitution statutes. Convictions under Conn. Gen. Stat. § 53a-83 (Patronizing a prostitute) or § 53a-83a (Patronizing a prostitute from a motor vehicle) are 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)²³ 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 offense²⁴ against a minor. 18 U.S.C. § 3559(e)(1). To the extent buyers can be prosecuted under other federal CSEC laws,²⁵ a conviction is punishable by penalties ranging from a fine not to exceed \$250,000 to life imprisonment and a fine not to exceed \$250,000.²⁶

²³ 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.).

²⁴ 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).

²⁵ 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).

²⁶ 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).

2.4.1 Recommendation: Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to establish penalties comparable with federal penalties for all offenses involving a minor under 18.

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 service²⁷ 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).

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 § 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 under 18 are sufficiently high and not reduced for older minors.*

Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) only applies if the minor victim is under the age of 16 and the penalties are staggered to provide a heightened penalty if the victim is under the age of 13. A buyer’s first conviction under Conn. Gen. Stat. § 53a-90a 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 Amend Conn. Gen. Stat. § 53a-90a (Enticing a minor. Penalties) to raise the age of a minor victim to under 18 and raise the base penalty to provide sufficiently high penalties for all offenses involving a minor under the age of 18.

²⁷ See *supra* note 12.

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.*

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). 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).

Additionally, a convicted buyer is subject to mandatory restitution orders where the victim suffers injury and requests 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 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. . . .²⁸

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 discretionary, civil asset forfeiture²⁹ 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

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

- (e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction
- . . .
- (f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the General Fund.

²⁸ See *infra* Section 5.10 for a more detailed discussion of this restitution provision.

²⁹ For additional information on asset forfeiture laws and procedure, see <http://www.sharedhope.org/wp-content/uploads/2012/11/SHIStateAssetForfeitureLawsChart.pdf>.

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,³⁰ or (2) one or more visual depictions³¹ 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).

In comparison, a federal conviction for possession of child pornography³² is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.³³ Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.³⁴

³⁰ 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.

³¹ “‘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).

³² 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).

³³ 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).

³⁴ 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).

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) 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-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 require registration.

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 commercial sexual exploitation of children (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)³⁵ 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)³⁶ 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 Public Act No. 12-141³⁷ (Commercial sexual exploitation of a minor) is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both. Conn. Gen. Stat. §§ 53a-35a(7), 53a-41(3).

A conviction under Conn. Gen. Stat. § 53a-196a (Employing a minor in an obscene performance)³⁸ 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

³⁵ See *supra* Section 1.1 for the substantive provisions of Conn. Gen. Stat. § 53a-192a.

³⁶ See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-86(a)(2).

³⁷ Here and elsewhere in this report that Public Act No. 12-141 is quoted or cited, it has been updated to reflect the amendments added by the passage of House Bill 5504. H.B. 5504, 2012 Gen. Assemb., Leg. Sess. (Conn. 2012) (effective October 1, 2012).

³⁸ See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-196a.

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)³⁹ 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).

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 offense⁴⁰ against a minor. Additionally, a federal conviction for distribution of child pornography⁴¹ is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.⁴² Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.⁴³

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)⁴⁴ 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 “knowingly⁴⁵ promotes⁴⁶ any material⁴⁷ 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

³⁹ See *supra* Section 1.2 for the substantive provisions of Conn. Gen. Stat. § 53a-70c.

⁴⁰ See *supra* note **Error! Bookmark not defined.**

⁴¹ 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).

⁴² 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).

⁴³ 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).

⁴⁴ See *supra* Section 1.2 for a full discussion of Conn. Gen. Stat. § 53a-196a.

⁴⁵ “Knowingly” 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.”

⁴⁶ See *supra* note 8.

⁴⁷ See *supra* note 9.

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).

Additionally, a federal conviction for distribution of child pornography⁴⁸ is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000.⁴⁹ Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.⁵⁰

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 service⁵¹ 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).

A trafficker who uses the Internet to advertise commercial sexual exploitation of a minor may also be prosecuted under Public Act No. 12-141⁵² (Commercial sexual exploitation of a minor) which states,

⁴⁸ 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).

⁴⁹ 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).

⁵⁰ 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).

⁵¹ *See supra* note 12.

⁵² Here and elsewhere in this report that Public Act No. 12-141 is quoted or cited, it has been updated to reflect the amendments added by the passage of House Bill 5504. H.B. 5504, 2012 Gen. Assemb., Leg. Sess. (Conn. 2012) (effective October 1, 2012).

(b) A person is guilty of commercial sexual exploitation of a minor when such person knowingly purchases advertising space for an advertisement for a commercial sex act that includes a depiction of a minor.

(c) (1) In any prosecution for an offense under this section, it shall not be a defense that the defendant (A) did not know the age of the person depicted in the advertisement, (B) relied on an oral or written representation of the age of the person depicted in the advertisement, or (C) relied on the apparent age of the person depicted in the advertisement.

(2) In any prosecution for an offense under this section, it shall be an affirmative defense that the defendant, prior to purchasing advertising space for the advertisement, made a reasonable bona fide attempt to ascertain the true age of the person depicted in the advertisement by requiring the person depicted in the advertisement to produce a driver's license, marriage license, birth certificate or other government-issued or school-issued identity card that identifies the age of the person, provided the defendant retains and produces a copy or other record of the license, certificate or identity card used to ascertain the age of the person depicted in the advertisement.

A conviction under this statute is punishable as a Class C felony by imprisonment for 1–10 years, a fine not to exceed \$10,000, or both. Conn. Gen. §§ 53a-35a(7), 53a-41(3).

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). Traffickers convicted under Public Act No. 12-141⁵³ (Commercial sexual exploitation of a minor) are subject to a fine not to exceed \$10,000. Conn. Gen. §§ 53a-35a(7), 53a-41(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 discretionary, civil 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 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;

⁵³ Here and elsewhere in this report that Public Act No. 12-141 is quoted or cited, it has been updated to reflect the amendments added by the passage of House Bill 5504. H.B. 5504, 2012 Gen. Assemb., Leg. Sess. (Conn. 2012) (effective October 1, 2012).

(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.

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

(e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction

. . .

(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the General Fund.

Additionally, convicted traffickers are subject to mandatory restitution orders where their crimes cause injury and the victim requests 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. . . .

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)⁵⁴ 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).

⁵⁴ See *supra* note **Error! Bookmark not defined.**

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 commercial sexual exploitation of children (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.

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)⁵⁵ 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 “advances⁵⁶ or profits from prostitution⁵⁷ 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).⁵⁸ 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).

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

⁵⁶ See *supra* note 6.

⁵⁷ See *supra* note 7.

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

A convicted facilitator is subject to mandatory restitution orders where the victim suffers injury and requests 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 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. . . .⁵⁹

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).

Conn. Gen. Stat. § 54-36p(a) (Forfeiture of moneys and property related to sexual exploitation and human trafficking) subjects a facilitator to discretionary civil asset forfeiture and states,

(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] . . .
- (2) All property constituting the proceeds obtained, directly or indirectly, from a violation of . . . section 53a-86, 53a-87 . . .
- (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 . . .
- (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 . . .

No specific seizure provisions are provided. Disposition of the forfeited property is governed by Conn. Gen. Stat. §54-36p and shall be disbursed as follows:

(e) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction

. . .

(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the General Fund.

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

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

⁵⁹ See *infra* Section 5.10 for a more detailed discussion of this restitution provision.

- 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 knowingly⁶⁰ promotes⁶¹ any material⁶² or performance⁶³ in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors⁶⁴ 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).

⁶⁰ See *supra* note 45.

⁶¹ See *supra* note 8.

⁶² See *supra* note 47.

⁶³ See *supra* note 10.

⁶⁴ See *supra* note 11.

Legal Components:

- 5.1 *Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.*
- 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 *Child victims of sex trafficking or commercial sexual exploitation 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 commercial sexual exploitation of children (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 delinquency 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 for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.*
- 5.11 *Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.*

Legal Analysis:

- 5.1 *Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.*

Under Conn. Const., Art XXIX(b), victims are guaranteed a number of constitutional rights but the definition of “victim” is left to the discretion of the general assembly. The general assembly defined “victim” 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 for purposes of compensation. These definitions of “victim” and “crime” apply also to victim restitution under Conn. Gen. Stat. § Sec. 54-216 (Restitution services), which incorporates § 54-209 in its eligibility criteria.

Conn. Gen. Stat. § 19a-112b (Services to victims of sexual acts) requires the Department of Public Health to provide certain benefits⁶⁵ for victims of Conn. Gen. Stats. § 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.” However, it does not provide those benefits to victims of Conn. Gen. Stat. § 53a-192a (Trafficking in persons) or other CSEC crimes.

Furthermore, Conn. Gen. Stat. § 46a-170 establishes the Council for Trafficking in Persons and subsection (d) assigns the Council the responsibility to “identify criteria for providing services to adult trafficking victims [and] identify criteria for providing services to children of trafficking victims,” but does not task it with identifying criteria for providing services to child victims independent of a trafficked adult.

- 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.
- 5.1.2 Recommendation: Amend Conn. Gen. Stat. § 46a-170 (Trafficking in Persons Council. Membership. Duties. Reports) to expressly include CSEC and other child trafficking victims.

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), § 53a-86 (Promoting prostitution in the first degree), § 53a-196a (Employing a minor in an obscene performance), § 53a-90a (Enticing a minor. Penalties), and § 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),

⁶⁵ 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.”

- (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.

5.4 *Child victims of sex trafficking or commercial sexual exploitation 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) defines an “abused” or “neglected” child as follows:

- (6) A child⁶⁶ 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,

⁶⁶ 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 eighteen years of age who has not been legally emancipated, or (ii) eighteen years of age or older who, prior to attaining eighteen years of age, has committed a delinquent act or, subsequent to attaining eighteen 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) willfully fails to appear in response to a summons under section 46b-133 or 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 eighteen years of age.

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.

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

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.⁶⁷ Conn. Gen. Stat. § 46b-133(c)(2) (Arrest of child. Release or detention of arrested child) states, “Upon the arrest of any youth by an 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).

⁶⁷ See *supra* Section 5.3 discussing the applicability of Conn. Gen. Stat. § 53a-82 to minors.

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)

(6) A child⁶⁸ 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 define the term “person having responsibility for the care of the child or youth,” to include persons in control or custody of a minor regardless of legal authorization to allow for child welfare intervention when a trafficker has custody or control of a child.

5.7 *Crime victims’ compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (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.

⁶⁸ See *supra* note 66.

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,

(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 § 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."⁶⁹ If the person testifying in Superior Court is under the age of 18,⁷⁰ however, the court may administer a simplified age-

⁶⁹ 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.

⁷⁰ 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.

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.”⁷¹ 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.⁷² If the minor who is testifying is the child of the respondent, 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.”⁷³

5.8.1 Recommendation: Amend Conn. Gen. Stat. § 54-86f (Admissibility of evidence of sexual conduct) and § 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), § 53a-86(a) (Promoting prostitution in the first degree), § 53a-70c (Aggravated sexual assault of a minor), § 53a-90a(a) (Enticing a minor. Penalties), or § 53a-196a (Employing a minor in an obscene performance) are entitled to victim friendly criminal justice procedures.

5.9 *Expungement or sealing of juvenile delinquency 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 eighteen years of age, 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 for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.*

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

⁷¹ See *supra* note 69.

⁷² See *supra* note 69, § 32a-4(c).

⁷³ See *supra* note 69, § 32a-4(e).

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.

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.

5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action 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.

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 *Wiretapping is an available tool to investigate domestic minor sex trafficking.*
 - 6.4 *Using a law enforcement 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.*
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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) which states,

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 *Wiretapping is an available tool to investigate domestic minor sex trafficking.*

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), § 53a-86(a) (Promoting prostitution in the first degree), § 53a-70c (Aggravated sexual assault of a minor), § 53a-90a(a) (Enticing a minor. Penalties), and § 53a-196a (Employing a minor in an obscene performance) as crimes for which wiretapping can be authorized.

6.4 *Using a law enforcement 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 § 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.⁷⁴

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

⁷⁴ *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).

Conn. Gen. Stat. § 29-1e (Missing Children Information Clearinghouse. Definitions. Duties. Missing child reports) 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 children⁷⁵ 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;
 - (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) 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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⁷⁵ 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.”