

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Issue Brief

SECTION 5.5

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.
The Legislative Solution	Child protective services are often unable to respond to or investigate cases of child sex trafficking or commercial sexual exploitation when such victimization is not included in the definition of “abuse and neglect.” Broadening the definition of “abuse and neglect” in child protection statutes to include sex trafficking and commercial sexual exploitation will permit child protective services to investigate and intervene in situations of domestic minor sex trafficking. Also, states that include commercial sexual exploitation in their statutory definitions of “abuse and neglect” can offer domestic sex trafficking victims services through child welfare rather than involving them in the criminal justice process and burdening law enforcement with child welfare matters.

Select Statute Highlights

Florida

Fla. Stat. Ann. § 39.01(2) (Definitions) defines “abuse” as “any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired” Additionally, “harm” is defined in subsection (32) in part as the following: “‘Harm’ to a child’s health or welfare can occur when any person: (c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]. . . .”

Idaho

Idaho Code § 16-1602(1)(b) (Definitions) defines “abuse,” in part, as including “[s]exual conduct, including . . . prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child’s health or welfare or mental injury to the child.”

Illinois

Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vi) (Neglected or abused minor) and § 325 ILCS 5/3(h) (Definitions) defines “abused child,” in part, as “a child whose parent or immediate family member, or any person responsible for the child’s welfare, or any indi-

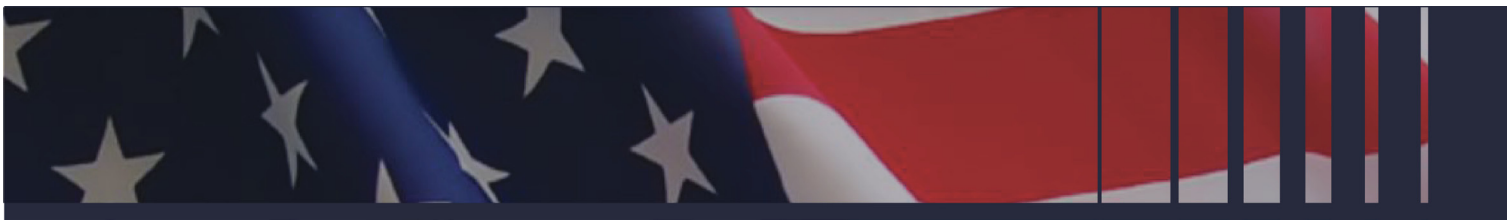
vidual residing in the same home as the child, or a paramour of the child’s parent . . . commits or allows to be committed the offense of . . . involuntary sexual servitude of a minor . . . as defined in [720 ILCS 5/10-9] against the child.” Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vii) (Neglected or abused minor) adds that an “abused” child includes a minor encouraged or required to “commit any act of prostitution . . . and extending those definitions to include minors under 18 years of age.”

Iowa

Iowa Code § 232.68(2)(c), (e) (Definitions) defines “child abuse” or “abuse” as the “commission of a sexual offense with or to a child pursuant to chapter 709 [Sexual abuse] . . . or section 728.12 [Sexual exploitation of a minor], . . .with or to a person under the age of eighteen years” and “[t]he acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1 [Prostitution] . . . with or to a person under the age of eighteen years.”

Kentucky

Pursuant to Ky. Rev. Stat. Ann. § 600.020(1)(e), (f) (Definitions) an “abused or neglected child” includes “a child whose health or welfare is harmed or threatened with harm when his or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child: . . . ; (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; (f) Creates or allows to be created a risk



that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; . . .” Under Ky. Rev. Stat. Ann. § 600.020(1)(b), an “abused or neglected child” also includes “a child whose health or welfare is harmed or threatened with harm when...[a] person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age.” “Sexual exploitation” is further defined as behavior that “includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law.” Ky. Rev. Stat. Ann. § 600.020(56).

Maryland

Pursuant to Md. Code Ann., Fam. Law § 5-701(x)(2) (Definitions), “Sexual abuse” includes: (I) allowing or encouraging a child to engage in: 1. obscene photography, films, poses, or similar activity; 2. pornographic photography, films, poses, or similar activity; or 3. prostitution; (II) human trafficking . . .”

Minnesota

Minn. Stat. Ann. § 260C.007(5) (Definitions) defines “child abuse,” in part, as “an act that involves a minor victim that constitutes a violation of section . . . 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . 617.246 [Use of minors in sexual performance prohibited].”

New Hampshire

Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II)(a) (Definitions) an “abused child” is defined as “any child who has been sexually abused.” N.H. Rev. Stat. Ann. § 169-C:3(XXVII-a) defines “sexual

abuse” as including: “the following activities under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose or producing any visual depiction of such conduct; or the . . . prostitution, or other form of sexual exploitation of children, . . . who is under the age of 18 years.”

Rhode Island

R.I. Gen. Laws § 40-11-2(1) defines an “abused and/or neglected child,” in part, as one “whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare: . . . (vii) Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions in § 11-34.1-1 [Commercial sexual activity] et seq., entitled “Commercial Sexual Activity”; or (viii) Sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under eighteen years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality.”

Tennessee

Tenn. Code Ann. § 37-1-102(12)(I) (Definitions) defines a “dependent and neglected child” to include a child “[w]ho is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity.”

Wisconsin

Wis. Stat. § 48.02(1)(c),(d) (Definitions) of the Children’s Code defines “abuse” as including a “violation of s. 948.05 [Sexual exploitation of a child]” or “[p]ermitting, allowing or encouraging a child to violate s. 944.30 [Prostitution].”

Issues Briefs are derived from the 41 legal components contained in the Protected Innocence Legislative Framework, an analysis of state laws performed by Shared Hope International, under the Protected Innocence Challenge. This initiative is designed to set a national standard of protection against domestic minor sex trafficking.

To access the Protected Innocence Legislative Framework Methodology, and Report Cards, foundational analysis and recommendations for each state, please visit: www.sharedhope.org.

