

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Issue Brief

SECTION 5.7

Area of Law

Protective Provisions for the Child Victims

The Policy Point

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.

The Legislative Solution

Victims of domestic minor sex trafficking and CSEC are commonly caused to commit crimes as a result of being trafficked. This cannot be allowed to prevent them from accessing crime victims' compensation, critically needed to fund the process of restoration. At the societal level, awarding compensation acknowledges that trafficking is a crime. At the individual level, compensation acknowledges victims' pain and suffering. At the practical level, compensation can assist victims in rebuilding their lives. Crime victims' compensation programs frequently contain eligibility criteria that can foreclose a domestic minor sex trafficking victim's access to an award, such as required cooperation with law enforcement, reporting the crime within short time limits, and being deemed to have contributed to the crime for which they are claiming compensation. Statutory exceptions for victims of domestic minor sex trafficking to the ineligibility factors, beyond just "good cause" exceptions, are necessary to ensure access to these funds.

Select Statute Highlights

D.C.

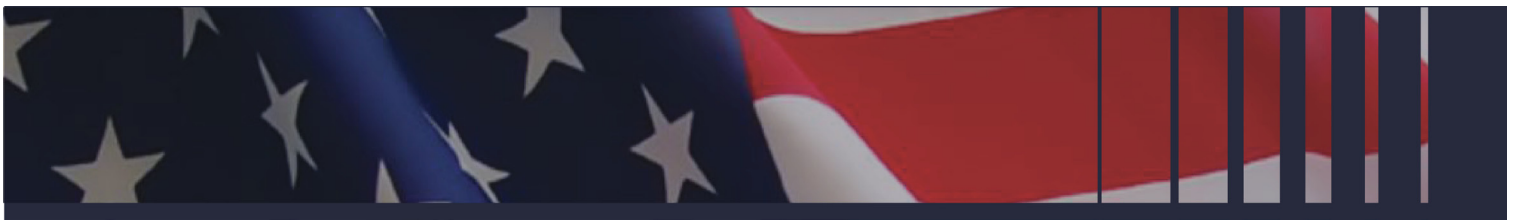
In D.C., the crime of human trafficking and sex trafficking of children are specifically listed as offenses for which the victim may seek compensation. D.C. Code § 4-501 (Definitions), defines "crime" for the crime victim's compensation statute as "the offense of, or the attempt to commit the offense of . . . benefitting financially from human trafficking, using a minor in a sexual performance, promoting a sexual performance by a minor, attending or possessing a sexual performance by a minor, trafficking in labor or commercial sex acts, sex trafficking of children, a felony violation of an act codified in Chapter 27 of Title 22 of the District of Columbia Code, where a person was compelled to engage in prostitution or was a minor . . ." Furthermore, domestic minor sex trafficking victims are specifically protected from disqualification and reductions in awards under D.C. Code § 4-508(a)(1) (Disqualification and reductions), which states, "The Court shall not award compensation if the: (1) Claimant knowingly or willingly participated in the commission of the crime which forms the basis for the claim; provided, that a claimant who was a minor and a victim of sex trafficking of children, may be awarded compensation."

Florida

Florida expressly exempts commercially sexually exploited minors from the ineligibility factors in Fla. Stat. Ann. § 960.065(2)(a), (b), (c) (Eligibility for awards). Pursuant to Fla. Stat. Ann. § 960.065(5), "A person is not ineligible for an award pursuant to paragraph (2) (a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation as defined in s. 39.01(67)(g)." Fla. Stat. Ann. § 39.01(67)(g) defines sexual exploitation of child to include "the act of a child offering to engage or engaging in prostitution, provided that the child is not under arrest or is not being prosecuted in a delinquency or criminal proceeding for a violation of any offense in chapter 796 based on such behavior; or 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]; or 3. Participate in the trade of sex trafficking as provided in s. 796.035 [Selling or buying of minors into prostitution]."

Georgia

Ga. Code Ann. § 17-15-2(3)(A) (Definitions) defines "crime" for the purposes of crime victims' compensation funds to include a vio-



lation of Ga. Code Ann. § 16-5-46 (Trafficking in persons for labor or sexual servitude). Pursuant to Ga. Code Ann. § 17-15-2(9)(D), a “victim” is defined as someone who endures at least one of the following: “Suffers a serious mental or emotional trauma as a result of being trafficked for labor or sexual servitude as defined in Code Section 16-5-46 [Trafficking in persons for labor or sexual servitude].” Additionally, Ga. Code Ann. § 17-15-2(3)(A) defines victims as those who are present during or suffer injury or emotional trauma from certain crimes, including “any act which constitutes a violation of Chapter 6 or Part 2 of Article 3 of Chapter 12 of Title 16,” which includes Ga. Code Ann. § 16-12-100 (Sexual exploitation of children; reporting violation; forfeiture; penalties) and § 16-12-100.2 (Computer or electronic pornography and child exploitation prevention). Ga. Code Ann. § 17-15-7(e) (Persons eligible for awards) ensures that human trafficking victims are specifically excluded from becoming ineligible or having awards reduced due to being considered accomplices to the crime, stating, “A person who is criminally responsible for the crime upon which a claim is based or is an accomplice of such person shall not be eligible to receive an award with respect to such claim; provided, however, that such ineligibility shall not apply if the claimant is a victim as defined in subparagraph (D) of paragraph (9) of Code Section 17-15-2.”

a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.”

Ohio

Ohio Rev. Code Ann. § 2743.60(J) states, “Nothing in [2743.60 (Grounds for denial of claim or reduction of award; limit on aggregate awarded)] shall be construed to prohibit an award to a claimant whose claim is based on the claimant’s being a victim of a violation of section 2905.32 [Compulsion to involuntary servitude] of the Revised Code if the claimant was less than eighteen years of age when the criminally injurious conduct occurred.”

Washington

Under Chapter 7.68 (Victims of crimes—compensation, assistance), Wash. Rev. Code § 7.68.070(3)(b) (Benefits—Right to and amount—Limitations) states that “[a] person identified as the ‘minor’ in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of

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.

