

# ISSUE BRIEF

## COMPONENT 5.11

<b>Area of Law</b>	Protective Provisions for the Child Victims
<b>The Policy Goal</b>	Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.
<b>The Reason</b>	The effect of sex trafficking on a child is traumatic, potentially long-lasting, and extremely injurious to the person; it is a hidden crime as well. For these reasons the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes should be lengthened or eliminated. It is important to allow victims full access to justice in both civil and criminal forums and to provide adequate time for law enforcement and prosecutors to discover, investigate, and develop cases for successful prosecution.

### Examples of Legislative Solutions

#### Alaska

Alaska Stat. § 12.10.010 (General time limitations) provides that prosecutions for “felony sexual abuse of a minor;” “(5) a violation of . . . AS 11.66.110–11.66.130 [Sex trafficking in the first degree; Sex trafficking in the second degree; Sex trafficking in the third degree] . . . when committed against a person who, at the time of the offense, was under 18 years of age; . . . (7) distribution of child pornography in violation of AS 11.61.125; (8) sex trafficking in violation of AS 11.66.110–11.66.130 that is an unclassified, class A, or class B felony or that is committed against a person who, at the time of the offense, was under 20 years of age; [and] human trafficking in violation of AS 11.41.360 [Human trafficking in the first degree] or 11.41.365 [Human trafficking in the second degrees]” may be brought at any time.

For civil actions, Alaska Stat. § 09.10.065(a) (Commencement of actions for acts constituting sexual offenses) provides that “(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses: (1) felony sexual abuse of a minor; (2) felony sexual assault; (3) unlawful exploitation of a minor; (4) felony sex trafficking; or (5) felony human trafficking.”

#### Arizona

Ariz. Rev. Stat. Ann. § 13-107(A) (Time limitations) provides that a prosecution for any offense under Chapters 14 (Sexual offenses) or 35.1 (Sexual exploitation of children) that is a Class 2 felony may be commenced at any time. This includes, but is not limited to, violations of Ariz. Rev.

Stat. Ann. § 13-3552 (Commercial sexual exploitation of a minor; classification); § 13-3553 (Sexual exploitation of a minor; evidence; classification); § 13-3554 (Luring a minor for sexual exploitation; classification); § 13-3555 (Portraying adult as minor; classification); § 13-3560 (Aggravated luring a minor for sexual exploitation; classification; definitions); and § 13-3561 (Unlawful age misrepresentation; classification; definition).

Further, Ariz. Rev. Stat. Ann. § 12-511 (Civil action arising from criminal conduct; definitions) states in part, “if a defendant is charged by a criminal complaint or indictment the statute of limitations for any civil cause of action that is brought by a victim against the defendant for criminal conduct against the victim is extended for one year from the final disposition of the criminal proceedings, regardless of whether the defendant is convicted of criminal conduct against the victim.” This provision defines “criminal conduct” to include certain CSEC offenses.

#### Colorado

Pursuant to Colo. Rev. Stat. § 16-5-401(1)(a) (Limitation for commencing criminal proceedings and juvenile delinquency proceedings), there is no time limit for commencing a prosecution for “any sex offense against a child” or “attempt, conspiracy, or solicitation to commit any sex offense against a child,” defined in subsection (c)(IV) by reference to the § 18-3-411(1) definition of “unlawful sexual offense,” which includes “human trafficking of a minor for sexual servitude, as described in section 18-3-504(2), C.R.S.; sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403;

procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).”

## Texas

Tex. Code Crim. Proc. Ann. Art. 12.01(1)(B), (D), (G), (H), (I) (Felonies) eliminates the statute of limitations for prosecutions of Tex. Penal Code Ann. § 20A.02(a)(7), (8) (Trafficking of persons), § 20A.03 (Continuous trafficking of persons), and § 43.05(a)(2) (Compelling prostitution). Tex. Code Crim. Proc. Ann. Art. 12.01(2)(G), (H) imposes a 10 year statute of limitations on prosecutions for trafficking under Tex. Penal Code Ann. § 20A.02(1)–(4). Pursuant to Tex. Code Crim. Proc. Ann. art. 12.01(6)(A), (B), (C), (D), however, if the victim was under the age of 18 at the time of the offense, prosecutions under Tex. Penal Code Ann. §§ 20A.02(a)(5), (6) (Trafficking in persons) or 22.04 (Injury to a child) may be brought within “ten years from the 18th birthday of the victim of the offense.” Tex. Code Crim. Proc. Ann. art. 12.01(5)(A) imposes a 20-year statute of limitation for a prosecution of Tex. Penal Code Ann. § 43.25 (Sexual performance by a child), which that is tolled until the victim’s 18th birthday if the victim was younger than 17 years of age at the time of the offense.

Tex. Civ. Prac. & Rem. Code Ann. § 16.0045 (Limitations period for claims arising from certain offenses) extends the standard two year statute of limitations for civil actions to fifteen years for injuries resulting from Tex. Penal Code § 22.011 (Sexual assault of a child), § 22.021 (Aggravated sexual assault of a child), § 21.02 (Continuous sexual abuse of young children), § 20A.02 (Trafficking of persons), or § 43.05(a)(2) (Compelling prostitution by a child).

## Virginia

Va. Code Ann. § 8.01-42.4(B) (Civil action for trafficking in persons) states, “No action shall be commenced under this section more than seven years after the later of the date on which such person (i) was no longer subject to the conduct prohibited by clause (iii), (iv) or (v) of § 18.2-48 [Abduction with intent to extort money or for immoral purposes] or § 18.2-349 [Using vehicles to promote prostitution or unlawful sexual intercourse] 18.2-355 [Taking, detaining, etc., a person for prostitution, etc., or consenting thereto; human trafficking], 18.2-356 [Receiving money for procuring persons; penalties],

18.2-357 [Receiving money from earnings of male or female prostitute; penalties] . . . or under a felony conviction § 18.2-346 [Prostitution; commercial sexual conduct; commercial exploitation of minor; penalties] or (ii) attained 18 years of age.” Additionally, Virginia does not have a statute of limitations for criminal felony offenses, which includes Va. Code Ann. § 18.2-357.1 (Commercial sex trafficking; penalties).

## Wyoming

No statute of limitations apply for prosecutions of any crime in Wyoming. Under Wyo. Stat. Ann. § 1-3-105(a)(iv)(C), “an action for . . . [a]n injury to the rights of the plaintiff, not arising on contract and not herein enumerated” must be commenced within four years of the date the plaintiff’s cause of action accrues. For a “civil action based upon sexual assault as defined by W.S. 6-2-301(a)(v) (Definitions) against a minor” a claim “may be brought within the later of: (i) Eight (8) years after the minor’s eighteenth birthday; or (ii) Three (3) years after the discovery.” Wyo. Stat. Ann. § 1-3-105(b).