

National State Law Survey: Non-Criminalization of Child Sex Trafficking Victims

State ¹	Does state law prohibit the criminalization of minors for prostitution?	Statutory Non-Criminalization Approach	Limitations on Non-Criminalization
Alabama	Yes	Minors may not be prosecuted for prostitution	None
Alaska	No ²	N/A	N/A
Arizona	No	N/A	N/A
Arkansas	No	N/A	N/A
California	Yes	Prostitution laws do not apply to minors	None
Colorado	No	N/A	N/A
Connecticut	Yes	Prostitution law does not apply to minors	None
Delaware	No	N/A	N/A
DC	Yes	Minors may not be prosecuted for prostitution	None
Florida	Yes	Prostitution law does not apply to minors	None
Georgia	No	N/A	N/A
Hawaii	No	N/A	N/A
Idaho	No	N/A	N/A
Illinois	Yes	Minors may not be prosecuted for prostitution	None
Indiana	Yes	Prostitution law does not apply to minors	None
Iowa	No	N/A	N/A
Kansas	No	N/A	N/A
Kentucky	Yes	Minors may not be prosecuted for prostitution	None
Louisiana	No ³	N/A	N/A
Maine	No	N/A	N/A
Maryland	No	N/A	N/A
Massachusetts	No	N/A	N/A
Michigan	Yes (under 16 only)	Prostitution law does not apply to minors under 16	Does not eliminate criminal liability for minors who are 16–

¹ Responses in the chart are solely based on statutory law as analyzed under component 5.3 of the Protected Innocence Challenge Legislative Framework, and do not reflect regulatory or practice-based responses. Except where otherwise indicated, evaluations of state laws are based on legislation enacted as of August 1, 2017. For related policy goals, background information, and select statute highlights, please visit http://sharedhope.org/wp-content/uploads/2015/11/Issue_Briefs/Issue_Briefs_5.3.pdf.

² Alaska Stat. § 11.66.100(c) (Prostitution) provides a narrow basis for avoiding criminal penalties under the prostitution law to a person who “witnessed or was a victim of, and reported to law enforcement in good faith,” various offenses including sex trafficking. Pursuant to Alaska Stat. § 11.66.100(c)(2) and (3), this protection from criminal liability for prostitution is only available if the victim or witness provides evidence that leads to prosecution and the victim or witness cooperates with law enforcement.

³ Despite the specific exclusion in La. Child. Code Ann. art. 804(3) and (5) of prostitution offenses from the definition of “delinquent act” and “felony grade delinquent act” “for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes,” La. Child. Code Ann. art. 839(D) sets out a diversion process for minors charged with a delinquent act in violation of the prostitution laws. Thus, the exclusion of prostitution offenses from the definition of delinquent act appears to act as an affirmative defense because it only applies if the child was a victim of trafficking at the time of the offense, shifting the burden to the victim to prove that status in order to avoid prosecution. This interpretation of the Children’s Code also seems consistent with the protections provided under the criminal code. La. Rev. Stat. § 14:46.3(E) (Trafficking of children for sexual purposes) states, “No victim of trafficking as defined by the provisions of this Section shall be prosecuted for unlawful acts committed as a direct result of being trafficked.” However, Louisiana’s prostitution offenses, La. Rev. Stat. Ann. § 14:82(G) (Prostitution; definition; penalties; enhancement), § 14:83.3(D) (Prostitution by massage), and § 14:83.4 (Massage; sexual conduct prohibited), provide an affirmative defense from prosecution for prostitution offenses if “during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes” as provided in La. Rev. Stat. Ann. § 14:46.3(A), (B), or determined to be a victim of human trafficking pursuant to § 14:46.2 (F) (Human trafficking). Consequently, the prohibition on prosecution in § 14:46.3 when read together with the prostitution statutes also appears to establish an affirmative defense if a juvenile sex trafficking victim is charged as an adult.

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			17 years of age
Minnesota	Yes	Definitions of delinquent juvenile and petty delinquent juvenile specifically exclude prostitution/loitering offenses	None
Mississippi	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution	Requires an ongoing relationship and third party control
Missouri	No	N/A	N/A
Montana	Yes	Minors may not be prosecuted for prostitution	None
Nebraska	Yes	Minors may not be prosecuted for prostitution	None
Nevada	No	N/A	N/A
New Hampshire	Yes	Minors may not be prosecuted for prostitution	None
New Jersey	No	N/A	N/A
New Mexico	No	N/A	N/A
New York	No	N/A	N/A
North Carolina	Yes	Minors may not be prosecuted for prostitution or solicitation of prostitution	None
North Dakota	Yes	Prostitution law does not apply to minors	None
Ohio	No	N/A	N/A
Oklahoma	No	N/A	N/A
Oregon	No	N/A	N/A
Pennsylvania	No	N/A	N/A
Rhode Island	Yes	Minors may not be prosecuted for prostitution offenses ⁴	R.I. Gen. Laws Ann. § 11-67.1-15(a) requires third party control; subsection (b) does not place a limitation on non-criminalization
South Carolina	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution <i>if</i> the offense was committed “as a direct result of, or incidental or related to, trafficking”	Requires third party control
South Dakota	Yes (under 16 only)	Prostitution law does not apply to minors under 16.	Does not eliminate criminal liability for minors who are 16–17 years of age
Tennessee	Yes	Minors may not be prosecuted for prostitution	None

⁴ R.I. Gen. Laws Ann. § 11-67.1-15 (Immunity of a minor) contains two non-criminalization provisions, one of which applies generally to any minor under 18 years of age; the other hinges on the minor being identified as a trafficking victim. R.I. Gen. Laws § 11-67.1-15(a) states, “An individual is not criminally liable or subject to a delinquency proceeding in the family court for prostitution or solicitation to commit a sexual act if the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim.” In contrast, R.I. gen. Laws § 11-67.1-15(b) states, “An individual who has engaged in commercial sexual activity is not criminally liable or subject to delinquency proceeding in the family court for prostitution or solicitation to commit a sexual act if the individual was a minor at the time of the offense.”

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Texas	No ⁵	N/A	N/A
Utah	Yes	Minors may not be prosecuted for prostitution	None
Vermont	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution	None
Virginia	No	N/A	N/A
Washington	No	N/A	N/A
West Virginia	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution.	Requires third party control
Wisconsin	No	N/A	N/A
Wyoming	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution ⁶	Requires third party control
Totals:	23 states & DC protect minors from criminalization for prostitution.	5 states hinge non-criminalization on a minor being identified as a trafficking victim.	

⁵ While Texas caselaw prohibits prosecution of minors under 14 for prostitution, this protection is not codified in Texas' prostitution law. See *In re B.W.*, 313 S.W.3d 818, 821 (Tex. 2010) (holding that "a 13 year old child cannot consent to sex as a matter of law" and, therefore, cannot satisfy the knowledge requirement of the prostitution statute).

⁶ Wyoming law prohibits child sex trafficking victims from facing criminalization for prostitution offenses, however, because Wyoming's trafficking offense requires third party control, not all commercially sexually exploited children will qualify for immunity.