

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

State ¹	Does state law prohibit the criminalization of minors for prostitution?	Statutory Non-Criminalization Approach
Alabama	Yes	Minors may not be prosecuted for prostitution
Alaska	No ²	N/A
Arizona	No	N/A
Arkansas	No	N/A
California	Yes ³	Prostitution laws do not apply to minors
Colorado	No	N/A
Connecticut	Yes	Prostitution law does not apply to minors
Delaware	No	N/A
DC	Yes	Minors may not be prosecuted for prostitution
Florida	Yes	Prostitution law does not apply to minors
Georgia	No	N/A
Hawaii	No	N/A
Idaho	No	N/A
Illinois	Yes	Minors may not be prosecuted for prostitution
Indiana	No	N/A
Iowa	No	N/A
Kansas	No	N/A
Kentucky	Yes	Minors may not be prosecuted for prostitution
Louisiana	No ⁴	N/A
Maine	No	N/A
Maryland	No	N/A
Massachusetts	No	N/A
Michigan	Yes (under 16 only)	Prostitution law does not apply to minors under 16
Minnesota	Yes	Definitions of delinquent juvenile and petty delinquent juvenile specifically exclude prostitution/loitering offenses
Mississippi	Yes	Child sex trafficking victims may not be prosecuted for

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, 2016. 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(e) (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(e)(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 This response includes amendments made by the enactment of Senate Bill 1322 during the 2015-2016 Session of the California Legislature, which was enacted on September 26, 2016 (effective January 1, 2017).

⁴ 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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		prostitution ⁵
Missouri	No	N/A
Montana	Yes	Minors may not be prosecuted for prostitution
Nebraska	Yes	Minors may not be prosecuted for prostitution
Nevada	No	N/A
New Hampshire	Yes	Minors may not be prosecuted for prostitution
New Jersey	No	N/A
New Mexico	No	N/A
New York	No	N/A
North Carolina	Yes	Minors may not be prosecuted for prostitution or solicitation of prostitution
North Dakota	Yes	Prostitution law does not apply to minors
Ohio	No	N/A
Oklahoma	No	N/A
Oregon	No	N/A
Pennsylvania	No	N/A
Rhode Island	No	N/A
South Carolina	Yes	Child sex trafficking victims may not be prosecuted for prostitution <i>if</i> the offense was committed “as a direct result of, or incidental or related to, trafficking” ⁶
South Dakota	No	N/A
Tennessee	Yes	Minors may not be prosecuted for prostitution
Texas	No ⁷	N/A
Utah	Yes	Minors may not be prosecuted for prostitution
Vermont	Yes	Child sex trafficking victims may not be prosecuted for prostitution
Virginia	No	N/A
Washington	No	N/A
West Virginia	No	N/A
Wisconsin	No	N/A
Wyoming	Yes	Child sex trafficking victims may not be prosecuted for prostitution ⁸
Totals:	19 states & DC protect minors from criminalization for prostitution	

⁵ Mississippi law does not prohibit the criminalization of all commercially sexually exploited children for prostitution, however, because Mississippi’s trafficking offense requires that a controlling third party be identified.

⁶ South Carolina law does not prohibit the criminalization of all commercially sexually exploited children for prostitution, however, because South Carolina’s trafficking offense requires that a controlling third party be identified.

⁷ 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.)

⁸ 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.