

Policy Goal

The definition of “caregiver” or another related term in the child welfare statutes is not a barrier to a sex trafficked child accessing the protection of child welfare.

Juvenile sex trafficking victims are regularly subjected to abuse at the hands of their traffickers and buyers, but child welfare may be unable to intervene and provide ongoing services to juvenile sex trafficking victims if the definition of “caregiver” or a similar term limits child welfare’s jurisdiction to cases in which a parent, guardian, caretaker, or other person with legally provided custodial rights caused the abuse or neglect. As laws designed to protect juvenile sex trafficking victims increasingly rely on child welfare to provide services to exploited youth, and as child welfare increasingly encounters children under its care who have been commercially sexually exploited, statutory restrictions on child welfare’s jurisdiction undermine its ability to respond appropriately. To avoid this result, state statutory definitions of the term “caregiver” (or similar terms) need to be designed to avoid creating barriers to services and protection of child welfare for juvenile sex trafficking victims who are exploited by non-family members. It is also important that removing these barriers does not detrimentally impact non-offending parents and caregivers. The key is to remove statutory barriers that could prevent child welfare involvement and/or the provision of services through child welfare for child sex trafficking victims who are exploited through no fault of their parents or who are not identified as a ward of the state. For information about federal laws impacting state child welfare laws and policies, see Shared Hope International’s [State Impact Memo](#).

EXAMPLES OF LEGISLATIVE SOLUTIONS

KENTUCKY

Pursuant to Ky. Rev. Stat. § 620.029(1)(c) (Duties of cabinet relating to children who are victims of human trafficking), “the cabinet shall . . . [p]roceed in the case in accordance with applicable statutes governing cases involving dependency, neglect, or abuse regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.”

MISSISSIPPI

Pursuant to Miss. Code Ann. § 43-21-105(m) (Definitions), the definition of “abused child” includes “a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.”

SOUTH CAROLINA

S.C. Code Ann. § 63-7-20(6)(b) states, “[c]hild abuse or neglect or harm occurs when . . . (b) a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. Identifying the child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child’s welfare abused, neglected, or harmed the child.”

VIRGINIA

Va. Code Ann. § 63.2-1508(B) (Valid report or complaint) states, “A valid report or complaint regarding a child who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22) may be established if the alleged abuser is the alleged victim child’s parent, other caretaker, or any other person suspected to have caused such abuse or neglect.”