

— 2013 —

PROTECTED INNOCENCE CHALLENGE

**A Legal Framework of Protection
for the Nation's Children**







Dear Reader,

Shared Hope's vision for the Protected Innocence Challenge is to utilize a report card system that grades the state laws dealing with domestic minor sex trafficking as motivation for state action. The Protected Innocence Initiative began with developing a framework of laws that, if in place, create a fabric of protection and justice for victims of the crime. Against this framework, we grade each state's laws and offer practical recommendations to fill critical legislative gaps. Now, after three years of this challenge and energetic response by state advocates utilizing the tools we provide, a positive trend can be clearly seen.

Starting with the inaugural release in 2011, the Protected Innocence Challenge has been a call for state action to bring national change. The legislative changes accomplished since then demonstrate that the call for change was answered. Strong momentum in the 2013 session to address domestic minor sex trafficking reflects the efforts of advocates across the country who used the Protected Innocence tools to press for change, and the state legislators who responded to the challenge and introduced laws to fix the gaps that allow trafficked children to remain vulnerable, unidentified and deprived of vital services and justice. Not only did the vast majority of states introduce legislation relating to domestic minor sex trafficking, but several states enacted legislation that tackles two of the most challenging areas of law addressed by the Protected Innocence Framework—demand and protective provisions for child victims. This year, 793 bills relating to domestic minor sex trafficking were introduced in 48 states and the District of Columbia. 47 states enacted 186 bills relating to domestic minor sex trafficking. 40 states enacted bills that impact the Protected Innocence Challenge framework. 29 states improved their 2013 Protected Innocence Challenge grade. And three have reached the grade of "A."

This year, we took a special look at the section on demand through our Demanding Justice Project. As anti-trafficking advocates labor to curb demand as the single greatest driver of the commercial sex industry, laws on paper will need to be laws in action. We are assessing the enforcement of the anti-demand laws around the country.

We are deeply grateful to the foundations, individuals, and families who have seen the importance of this initiative and whose support continues to make it possible. Shared Hope International will continue the fight to prevent, restore and bring justice to the victims of child sex slavery in our country.

Sincerely,

A handwritten signature in black ink that reads "Linda Smith". The signature is written in a cursive, flowing style.

Linda Smith
President and Founder, Shared Hope International
U.S. Congress 1995-99, Washington State Senate/House 1983-94

ACKNOWLEDGMENTS

The Protected Innocence Legislative Framework and Methodology were reviewed by several experts in the anti-trafficking field, and their comments contributed to the final analysis—thanks to Ambassador Mark Lagon (U.S. Department of State, Office to Monitor and Combat Trafficking in Persons 2007–09), Chair, International Relations and Security and Visiting Professor, Master of Science in Foreign Service Program, Georgetown University; Suzanna Tiapula, Esq., Director, National Center for Prosecution of Child Abuse, a program of the National District Attorneys Association; Howard Davidson, Esq., Director, American Bar Association (ABA) Center on Children and the Law; Mohamed Mattar, S.J.D., Executive Director, The Protection Project at Johns Hopkins University School of Advanced International Studies; Tessa Dysart, Esq., Associate Counsel, American Center for Law & Justice; Carol Smolenski, Executive Director, and Christine Fantacone, Policy Coordinator, both of ECPAT-USA; Mandi Sheridan Kimball, Director of Public Policy and Government Affairs, and Jennifer Michel Solak, Esq., Senior Staff Attorney, both of Children at Risk, Houston, Texas; and Kaffie McCullough, Campaign Director, the Juvenile Justice Fund’s A Future. Not A Past. Campaign, Atlanta, Georgia.

The original legal analysis of the 50 states and the District of Columbia that laid the foundation for the Protected Innocence Legislative Framework application and resulting Protected Innocence Challenge Report Cards was accomplished through a partnership between Shared Hope International and the American Center for Law & Justice (ACLJ), which focuses on constitutional and human rights law worldwide. The legal analysis for the 2013 Protected Innocence Challenge was implemented under the direction of Samantha Healy Vardaman, Esq., Christine Raino, Esq. and Kayleen Hartman, Esq., and was greatly assisted by Shared Hope law fellows: Amber Blak, Rachel Busick, Brooke Robinson, Danielle Gallaher, Elissa Polley, Hanyu Xie, Rose Mukhar, Hannah Doenges, Jane Lloyd, Rebecca Lawrence, Carla Halle, Amanda Walker-Rodriguez, Esq., Tabatha Mansfield, J.D. and Ryan Dalton, J.D. All Shared Hope staff members were involved in key ways in the research and writing of the Protected Innocence Challenge and the implementation of the Protected Innocence Initiative.

Advocates Gather for Maryland Lobby Day



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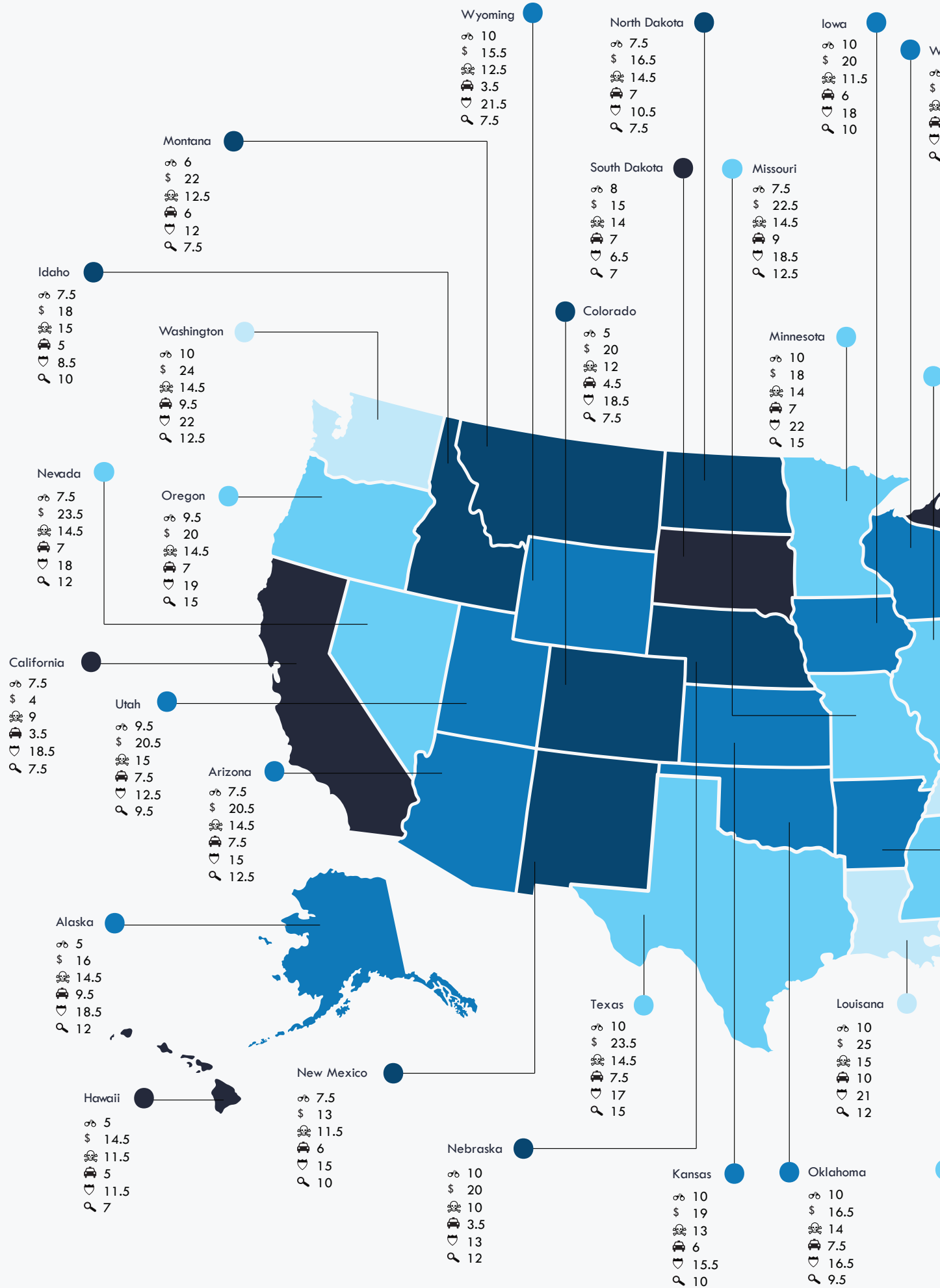
A

B

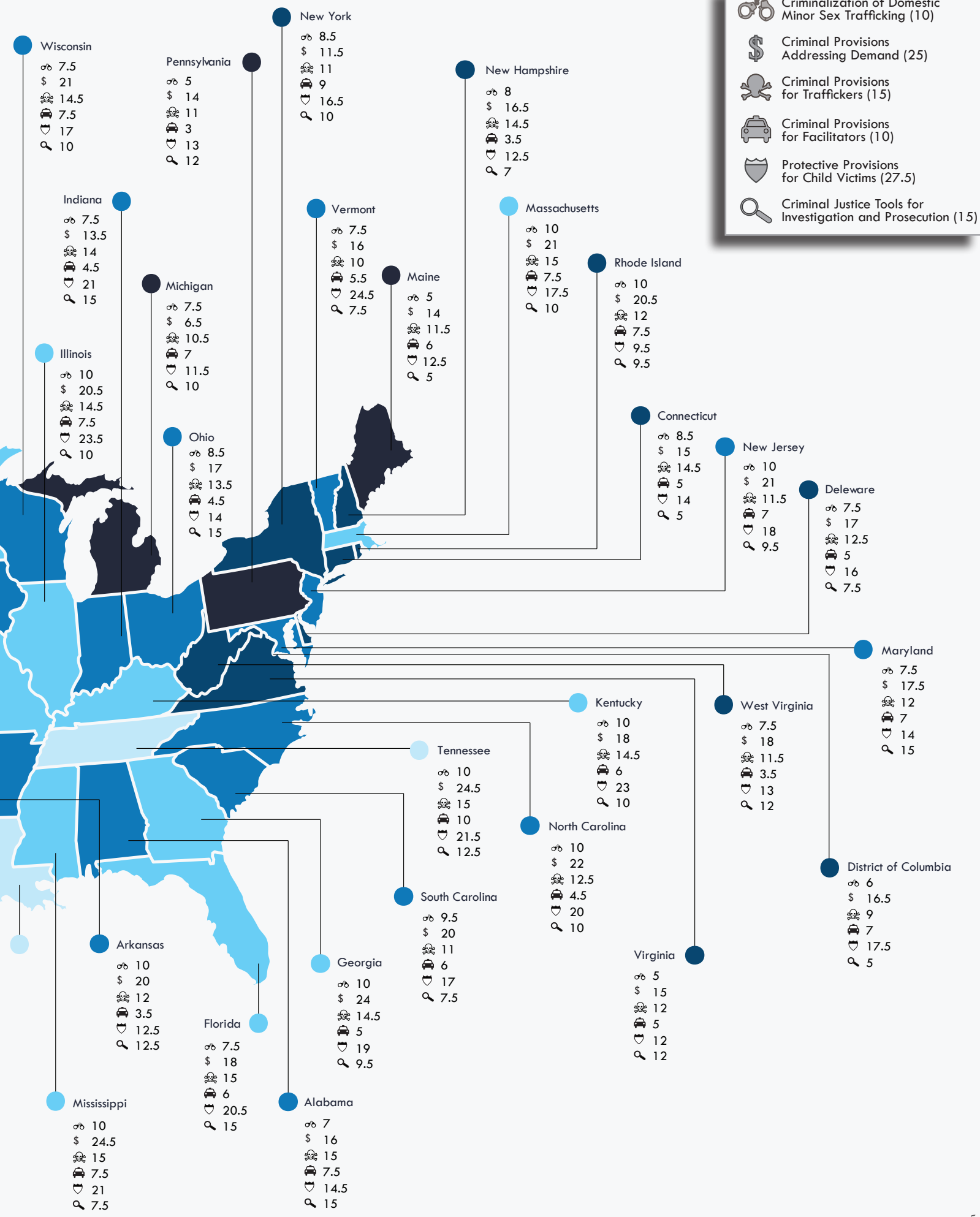
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D

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-  Criminalization of Domestic Minor Sex Trafficking (10)
-  Criminal Provisions Addressing Demand (25)
-  Criminal Provisions for Traffickers (15)
-  Criminal Provisions for Facilitators (10)
-  Protective Provisions for Child Victims (27.5)
-  Criminal Justice Tools for Investigation and Prosecution (15)



Introduction

The Protected Innocence Challenge is based on the Protected Innocence Legislative Framework which was informed by research performed by Shared Hope International and compiled in “The National Report on Domestic Minor Sex Trafficking.” Domestic minor sex trafficking is the exploitation of U.S. citizens or lawful permanent residents under the age of 18 in the United States for purposes of prostitution, pornography, or sexual performance.

Recognizing that most of the gaps in responding to domestic minor sex trafficking must be addressed at the state level, the Protected Innocence Legislative Framework sets out the basic policy principles required to create a safer environment for children. The steps necessary to create this safer environment include the following: preventing domestic minor sex trafficking through reducing demand, rescuing and restoring victims through improved training on identification, establishing protocols and facilities for victim placement, mandating appropriate services and shelter, and incorporating trauma-reducing mechanisms into the justice system. Broken systems of criminal justice and child welfare responses to victims must also be fixed to ensure that commercially sexually exploited children are treated as victims and provided with remedies through the law to recapture their lives and their futures.



WHAT IS DOMESTIC MINOR SEX TRAFFICKING?

Domestic minor sex trafficking is the commercial sexual exploitation of American children within U.S. borders and is synonymous with child sex slavery, child sex trafficking, prostitution of children, and commercial sexual exploitation of children (CSEC). Congress, in the federal Trafficking Victims Protection Act (TVPA), has made sex trafficking of a minor a crime.¹ Federal law defines sex trafficking as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”² When considering the crime of domestic minor sex trafficking, under the TVPA, the victim’s age is the critical issue—there is no requirement to prove that force, fraud, or coercion was used to secure the victim’s actions if the victim is a minor. Experts estimate that at least 100,000 American juveniles are victimized through prostitution in America each year.³

Shared Hope International first actively addressed the sex trafficking of American children by researching the demand for commercial sex that encourages the commercial sexual exploitation of women and girls. The DEMAND project investigated buyers, facilitators, and traffickers in four countries: Jamaica, Japan, the Netherlands, and the United States. The startling findings from this project highlighted the fact that sex trafficking is demand-driven and that the product for sale is most commonly local (domestic) children.⁴

Recognizing that a strategic response to sex trafficking required a comprehensive understanding of the local situation, Shared Hope International aligned with the U.S. Department of Justice human trafficking task forces to assess domestic minor sex trafficking and the access to victim services in ten U.S. locations: Dallas, Texas; San Antonio, Texas; Fort Worth, Texas; Salt Lake City, Utah; Buffalo, New York; Baton Rouge and New Orleans, Louisiana; Independence, Missouri; Las Vegas, Nevada; Clearwater, Florida; and The Commonwealth of the Northern Mariana Islands (U.S. Territory). The assessments investigated three areas identified by the TVPA and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as the key components necessary to effectively combat trafficking in persons: Prevention, Prosecution, and Protection. The assessments involved qualitative interviews of professionals who were likely to come into contact with victims of domestic minor sex trafficking, as well as quantitative data collection when available.

¹ Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).

² 22 U.S.C. § 7102(9).

³ LINDA SMITH, SAMANTHA HEALY VARDAMAN, & MELISSA A. SNOW, SHARED HOPE INTERNATIONAL, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA’S PROSTITUTED YOUTH 4 (2009) [hereinafter NATIONAL REPORT] (quoting Ernie Allen, National Center for Missing and Exploited Children in DVD: Prostituted Children in the United States: Identifying and Responding to America’s Trafficked Youth (Shared Hope International 2008) (on file with author)), available at http://www.sharedhope.org/Portals/0/Documents/SHI_National_Report_on_DMST_2009.pdf.

⁴ SHARED HOPE INT’L, DEMAND: A COMPARATIVE EXAMINATION OF SEX TOURISM AND TRAFFICKING IN JAMAICA, JAPAN, THE NETHERLANDS, AND THE UNITED STATES 2 [hereinafter DEMAND], available at <http://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf>.

KEY



Criminalization of Domestic Minor Sex Trafficking



Criminal Provisions Addressing Demand



Criminal Provisions for Traffickers



Criminal Provisions for Facilitators



Protective Provisions for Child Victims



Criminal Justice Tools for Investigation and Prosecution

The symbols below indicate the extent a component meets grading criteria.



Asset Forfeiture Available



Asset Forfeiture Not Available



OREGON



WASHINGTON



MARYLAND

Shared Hope identified and targeted for interviews seven professional groups as likely to come into contact with victims of domestic minor sex trafficking: federal, state, and local law enforcement; federal and state prosecutors; juvenile court personnel; juvenile probation and detention personnel; public defenders; child protective services personnel; and social services/non-governmental organizations. Shared Hope conducted a total of 297 interviews and requested statistics from relevant agencies, which were not always available, and where available, typically did not provide separate data on domestic minor sex trafficking—a term and crime with which many interviewees were not yet familiar. In those cases, Shared Hope reviewed the statistics to determine the numbers of suspected domestic minor sex trafficking victims. For example, juvenile detention facility statistics reflecting the number of youth detained under charges of prostitution could be properly counted toward the number of domestic minor sex trafficking victims in that facility since juveniles in prostitution are, by definition, victims of sex trafficking under the federal TVPA.⁵ The reliance on extrapolated data reflects the overall lack of effective identification of domestic minor sex trafficking victims and highlights the need for training, as well as data collection, regarding domestic minor sex trafficking.

Shared Hope documented the information gathered from each assessed location in area-specific reports outlining the problem's scope, how victims of domestic minor sex trafficking accessed the justice and social services systems, how victims were labeled, and whether, as a result of that label, victims of domestic minor sex trafficking were able to access (or were barred from accessing) services as victims of a violent crime. The findings from these ten site assessments formed the foundation of "The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children." Later, Shared Hope performed four additional rapid assessments in South Florida, Virginia, Arizona, and Washington. These findings were further substantiated at Shared Hope International's 2008 National Training Conference on the Sex Trafficking of America's Youth, which brought together nearly 200 first responders from across the nation, as well as experts on trauma-based services and shelter, to share their experiences and offer guidance as to the best practices for responding to domestic minor sex trafficking.

⁵ 18 U.S.C. § 1591(a); 22 U.S.C. § 7102(8), (14).

Based on the research findings, within an overarching framework that identifies minors exploited through sex trafficking as victims, four primary policy issues must be addressed to combat domestic minor sex trafficking: 1) eliminating demand; 2) prosecuting traffickers; 3) identifying victims; and 4) providing protection, access to services, and shelter for victims.

1. **Eliminating Demand.** Despite the fact that demand is the primary driver of the commercial sex industry and the commercial sexual exploitation of children, buyers are often not recognized as critical participants in the victimization of children through domestic minor sex trafficking.⁶ All buyers of sex with children—whether they be classified as preferential (pedophiles), opportunistic (thrill seekers), or situational (do not care about the age of the person being prostituted)—are committing a serious crime for which significant punishment is appropriate.

2. **Prosecuting Traffickers.** Frequently, the arrest and prosecution of the trafficker are based solely on the victim's cooperation in the investigation and testimony at trial.⁷ While victim cooperation with law enforcement is important, this approach can place a heavy burden on a domestic minor sex trafficking victim, who typically requires a lengthy amount of time before he or she will disclose the facts of his or her victimization. Therefore, it is critical for law enforcement officers to pursue innovative or alternative investigation techniques to corroborate the victims' allegations in domestic minor sex trafficking cases.

3. **Identifying Victims.** One of the primary barriers to victim identification is that laws often label minors engaging in commercial sex acts as criminals rather than victims. Misidentification causes a chain reaction of negative outcomes, the most significant of which is the failure to deliver the necessary services to interrupt and treat the trauma these children have endured. The problem occurs at all levels of first response from law enforcement arrests on the street, to the intake processes of homeless and runaway youth shelters, to court adjudication of victims as juvenile delinquents for offenses committed in connection with the prostitution of the child. Adjudicating the victim as delinquent and detaining him or her in a juvenile facility is a too frequent outcome and contributes to the return and retention of minors in commercial sexual exploitation. Law enforcement officers reported to Shared Hope International that another barrier to proper identification of victims is that prostituted juveniles are trained by their traffickers to lie to authorities and are provided with excellent fraudulent identification. This results in their registration in the arrest records as adults—an identification that follows them through their years as minors unless and until it is corrected by the insight of a law enforcement officer who recognizes that a victim is a minor and pursues a correct identification. Using tools to flag high risk children, such as chronic runaways and other status offenders, as well as youth who have fled from foster care, group homes, or other residential programs, as likely victims of domestic minor sex trafficking would greatly improve the identification process.

4. **Providing Protection, Access to Services and Shelter for Victims.** Law enforcement officers expressed frustration that they are often compelled to charge a domestic minor sex trafficking victim with a delinquency offense, such as prostitution, to detain the child and to keep the child safe from the trafficker. Detention, however, is detrimental to the victim in that the victim rarely receives any services in detention, much less services specific to the trauma endured through sex trafficking. Due to the unique trauma bonding that occurs between victims and their traffickers, these children often run from juvenile facilities right back to the people who exploited them. Also, in some states, a victim's entry into the delinquency system can disqualify him or her from accessing crime victim funds for services. Establishing protective responses for victims that include shelter and services would provide law enforcement officers and juvenile courts with an alternative placement for prostituted minors. Protective responses also assist in breaking the cycle of destructive trauma bonding between a victim and the trafficker and restoring a victim to the point where the victim can assist in an investigation and trial. Despite the need for shelter as part of the protective response systems, best estimates indicate fewer than 250 beds in facilities appropriate for and specializing in treating domestic minor sex trafficking victims exist across the country.⁸ Establishing these protective shelters is critical for creating an effective strategy to combat domestic minor sex trafficking.

6 DEMAND, *supra* note 4, at 3.

7 In contrast, 22 U.S.C. § 7105(b), prohibits requiring child victims of severe forms of trafficking to cooperate with law enforcement in order to receive assistance.

8 SHARED HOPE INT'L, NATIONAL COLLOQUIUM 2012 FINAL REPORT 93, available at <http://sharedhope.org/wp-content/uploads/2013/05/National-Colloquium-2012-Report-B.pdf>.

State Grades ■ Arranged Alphabetically

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
2013 Alabama	7	16	15	7.5	14.5	15	75	C
2012 Alabama	4.5	12	14.5	7	16.5	15	69.5	D
2013 Alaska	5	16	14.5	9.5	18.5	12	75.5	C
2012 Alaska	5	15.5	12.5	9	18	10	70	C
2013 Arizona	7.5	20.5	14.5	7.5	15	12.5	77.5	C
2012 Arizona	5	19	13.5	7	13.5	12.5	70.5	C
2013 Arkansas	10	20	12	3.5	12.5	12.5	70.5	C
2012 Arkansas	4.5	16	10.5	6	10.5	10	57.5	F
2013 California	7.5	4	9	3.5	18.5	7.5	50	F
2012 California	7	3	8	2	16	7.5	43.5	F
2013 Colorado	5	20	12	4.5	18.5	7.5	67.5	D
2012 Colorado	5	20	12	4.5	18.5	7.5	67.5	D
2013 Connecticut	8.5	15	14.5	5	14	5	62	D
2012 Connecticut	8.5	13	12.5	4.5	14.5	3.5	56.5	F
2013 Delaware	7.5	17	12.5	5	16	7.5	65.5	D
2012 Delaware	6	16.5	12	5	16	7.5	63	D
2013 District of Columbia	6	16.5	9	7	17.5	5	61	D
2012 District of Columbia	5	16	8.5	6.5	16.5	5	57.5	F
2013 Florida	7.5	18	15	6	20.5	15	82	B
2012 Florida	7.5	17.5	14.5	5.5	20.5	15	80.5	B
2013 Georgia	10	24	14.5	5	19	9.5	82	B
2012 Georgia	10	23.5	14	4.5	20	8	80	B
2013 Hawaii	5	14.5	11.5	5	11.5	7	54.5	F
2012 Hawaii	4.5	5	10.5	5	11.5	7	43.5	F
2013 Idaho	7.5	18	15	5	8.5	10	64	D
2012 Idaho	7	15.5	11	3.5	8.5	10	55.5	F
2013 Illinois	10	20.5	14.5	7.5	23.5	10	86	B
2012 Illinois	10	17	14	7	24.5	10	82.5	B
2013 Indiana	7.5	13.5	14	4.5	21	15	75.5	C
2012 Indiana	7	13	12	3	21	14.5	70.5	C
2013 Iowa	10	20	11.5	6	18	10	75.5	C
2012 Iowa	6	19.5	11	5.5	17.5	9.5	69	D
2013 Kansas	10	19	13	6	15.5	10	73.5	C
2012 Kansas	5	9	11	5.5	13.5	7.5	51.5	F
2013 Kentucky	10	18	14.5	6	23	10	81.5	B
2012 Kentucky	9.5	12	14.5	5.5	16.5	10	68	D
2013 Louisiana	10	25	15	10	21	12	93	A
2012 Louisiana	7.5	24.5	13	9.5	20.5	12	87	B
2013 Maine	5	14	11.5	6	12.5	5	54	F
2012 Maine	2.5	14	9.5	2	12.5	5	45.5	F
2013 Maryland	7.5	17.5	12	7	14	15	73	C
2012 Maryland	7	16	10.5	5.5	14	11	64	D
2013 Massachusetts	10	21	15	7.5	17.5	10	81	B
2012 Massachusetts	2	18.5	13	7	18.5	10	74.5	C
2013 Michigan	7.5	6.5	10.5	7	11.5	10	53	F
2012 Michigan	7.5	4	8.5	5.5	11.5	10	47	F
2013 Minnesota	10	18	14	7	22	15	86	B
2012 Minnesota	9.5	15.5	11.5	6.5	21.5	15	79.5	C
2013 Mississippi	10	24.5	15	7.5	21	7.5	85.5	B
2012 Mississippi	7	16	14.5	6	15	7.5	66	D

See Methodology, Page 19

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
2013 Missouri	7.5	22.5	14.5	9	18.5	12.5	84.5	B
2012 Missouri	7.5	22	12.5	8.5	20.5	11	82	B
2013 Montana	6	22	12.5	6	12	7.5	66	D
2012 Montana	3.5	14.5	12.5	6	12	7.5	56	F
2013 Nebraska	10	20	10	3.5	13	12	68.5	D
2012 Nebraska	7.5	19	10	3.5	10.5	10.5	61	D
2013 Nevada	7.5	23.5	14.5	7	18	12	82.5	B
2012 Nevada	4.5	13	13.5	6.5	12.5	10	60	D
2013 New Hampshire	8	16.5	14.5	3.5	12.5	7	62	D
2012 New Hampshire	7	9	13	2.5	13.5	7	52	F
2013 New Jersey	10	21	11.5	7	18	9.5	77	C
2012 New Jersey	8.5	17.5	11	4	19	7	67	D
2013 New Mexico	7.5	13	11.5	6	15	10	63	D
2012 New Mexico	5	15	9.5	4.5	12.5	9.5	56	F
2013 New York	8.5	11.5	11	9	16.5	10	66.5	D
2012 New York	6	11.5	10	7.5	18.5	8.5	62	D
2013 North Carolina	10	22	12.5	4.5	20	10	79	C
2012 North Carolina	6	20.5	11	3	15	7.5	63	D
2013 North Dakota	7.5	16.5	14.5	7	10.5	7.5	63.5	D
2012 North Dakota	7.5	11.5	11	6.5	10.5	10	57	F
2013 Ohio	8.5	17	13.5	4.5	14	15	72.5	C
2012 Ohio	8.5	20.5	11.5	4	13	15	72.5	C
2013 Oklahoma	10	16.5	14	7.5	16.5	9.5	74	C
2012 Oklahoma	7.5	15	13.5	7	17.5	9.5	70	C
2013 Oregon	9.5	20	14.5	7	19	15	85	B
2012 Oregon	5	12.5	13	4	17	12	63.5	D
2013 Pennsylvania	5	14	11	3	13	12	58	F
2012 Pennsylvania	5	16	10.5	4	10.5	12	58	F
2013 Rhode Island	10	20.5	12	7.5	9.5	9.5	69	D
2012 Rhode Island	7.5	22	11.5	7	10.5	9.5	68	D
2013 South Carolina	9.5	20	11	6	17	7.5	71	C
2012 South Carolina	7	17	11	6	17	7.5	65.5	F
2013 South Dakota	8	15	14	7	6.5	7	57.5	F
2012 South Dakota	8	10.5	13.5	6.5	7.5	9.5	55.5	F
2013 Tennessee	10	24.5	15	10	21.5	12.5	93.5	A
2012 Tennessee	9	20	14.5	7	16.5	12.4	79.5	C
2013 Texas	10	23.5	14.5	7.5	17	15	87.5	B
2012 Texas	10	23	14	7	17.5	15	86.5	B
2013 Utah	9.5	20.5	15	7.5	12.5	9.5	74.5	C
2012 Utah	7	9.5	13.5	6	12.5	12	60.5	D
2013 Vermont	7.5	16	10	5.5	24.5	7.5	71	C
2012 Vermont	5	13.5	10	5.5	22.5	7.5	64	D
2013 Virginia	5	15	12	5	12	12	61	D
2012 Virginia	4.5	4.5	11.5	3.5	12	10.5	46.5	F
2013 Washington	10	24	14.5	9.5	22	12.5	92.5	A
2012 Washington	8	21.5	13.5	9.5	19.5	10	82	B
2013 West Virginia	7.5	18	11.5	3.5	13	12	65.5	D
2012 West Virginia	7.5	17	8.5	3	11.5	9.5	59.5	F
2013 Wisconsin	7.5	21	14.5	7.5	17	10	77.5	C
2012 Wisconsin	7.5	21.5	12	7	17	10	75	C
2013 Wyoming	10	15.5	12.5	3.5	21.5	7.5	70.5	C
2012 Wyoming	4.5	4	10	2.5	9	2.5	32.5	F

State Grades ■ Arranged Alphabetically

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
TOTAL POSSIBLE	10	25	15	10	27.5	15	102.5	A
Tennessee	10	24.5	15	10	21.5	12.5	93.5	A
Louisiana	10	25	15	10	21	12	93	A
Washington	10	24	14.5	9.5	22	12.5	92.5	A
Texas	10	23.5	14.5	7.5	17	15	87.5	B
Illinois	10	20.5	14.5	7.5	23.5	10	86	B
Minnesota	10	18	14	7	22	15	86	B
Mississippi	10	24.5	15	7.5	21	7.5	85.5	B
Oregon	9.5	20	14.5	7	19	15	85	B
Missouri	7.5	22.5	14.5	9	18.5	12.5	84.5	B
Nevada	7.5	23.5	14.5	7	18	12	82.5	B
Florida	7.5	18	15	6	20.5	15	82	B
Georgia	10	24	14.5	5	19	9.5	82	B
Kentucky	10	18	14.5	6	23	10	81.5	B
Massachusetts	10	21	15	7.5	17.5	10	81	B
North Carolina	10	22	12.5	4.5	20	10	79	C
Arizona	7.5	20.5	14.5	7.5	15	12.5	77.5	C
Wisconsin	7.5	21	14.5	7.5	17	10	77.5	C
New Jersey	10	21	11.5	7	18	9.5	77	C
Alaska	5	16	14.5	9.5	18.5	12	75.5	C
Indiana	7.5	13.5	14	4.5	21	15	75.5	C
Iowa	10	20	11.5	6	18	10	75.5	C
Alabama	7	16	15	7.5	14.5	15	75	C
Utah	9.5	20.5	15	7.5	12.5	9.5	74.5	C
Oklahoma	10	16.5	14	7.5	16.5	9.5	74	C
Kansas	10	19	13	6	15.5	10	73.5	C
Maryland	7.5	17.5	12	7	14	15	73	C
Ohio	8.5	17	13.5	4.5	14	15	72.5	C
South Carolina	9.5	20	11	6	17	7.5	71	C
Vermont	7.5	16	10	5.5	24.5	7.5	71	C
Arkansas	10	20	12	3.5	12.5	12.5	70.5	C
Wyoming	10	15.5	12.5	3.5	21.5	7.5	70.5	C
Rhode Island	10	20.5	12	7.5	9.5	9.5	69	D
Nebraska	10	20	10	3.5	13	12	68.5	D
Colorado	5	20	12	4.5	18.5	7.5	67.5	D
New York	8.5	11.5	11	9	16.5	10	66.5	D
Montana	6	22	12.5	6	12	7.5	66	D
Delaware	7.5	17	12.5	5	16	7.5	65.5	D
Idaho	7.5	18	15	5	8.5	10	64	D
West Virginia	7.5	18	11.5	3.5	13	12	65.5	D
North Dakota	7.5	16.5	14.5	7	10.5	7.5	63.5	D
New Mexico	7.5	13	11.5	6	15	10	63	D
Connecticut	8.5	15	14.5	5	14	5	62	D
New Hampshire	8	16.5	14.5	3.5	12.5	7	62	D
District of Columbia	6	16.5	9	7	17.5	5	61	D
Virginia	5	15	12	5	12	12	61	D
Pennsylvania	5	14	11	3	13	12	58	F
South Dakota	8	15	14	7	6.5	7	57.5	F
Hawaii	5	14.5	11.5	5	11.5	7	54.5	F
Maine	5	14	11.5	6	12.5	5	54	F
Michigan	7.5	6.5	10.5	7	11.5	10	53	F
California	7.5	4	9	3.5	18.5	7.5	50	F

*In the case of duplicate scores, states are arranged alphabetically.

See Methodology, Page 19

Criminalization of Domestic Minor Sex Trafficking

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	10	102.5	A
Arkansas	10	70.5	C
Georgia	10	82	B
Illinois	10	86	B
Iowa	10	75.5	C
Kansas	10	73.5	C
Kentucky	10	81.5	B
Louisiana	10	93	A
Massachusetts	10	81	B
Minnesota	10	86	B
Mississippi	10	85.5	B
Nebraska	10	68.5	D
New Jersey	10	77	C
North Carolina	10	79	C
Oklahoma	10	74	C
Rhode Island	10	69	D
Tennessee	10	93.5	A
Texas	10	87.5	B
Washington	10	92.5	A
Wyoming	10	70.5	C
Oregon	9.5	85	B
South Carolina	9.5	71	C
Utah	9.5	74.5	C
Connecticut	8.5	62	D
New York	8.5	66.5	D
Ohio	8.5	72.5	C
New Hampshire	8	62	D
South Dakota	8	57.5	F
Arizona	7.5	77.5	C
California	7.5	50	F
Delaware	7.5	65.5	D
Florida	7.5	82	B
Idaho	7.5	64	D
Indiana	7.5	75.5	C
Maryland	7.5	73	C
Michigan	7.5	53	F
Missouri	7.5	84.5	B
Nevada	7.5	82.5	B
New Mexico	7.5	63	D
North Dakota	7.5	63.5	D
Vermont	7.5	71	C
West Virginia	7.5	65.5	D
Wisconsin	7.5	77.5	C
Alabama	7	75	C
D.C.	6	61	D
Montana	6	66	D
Alaska	5	75.5	C
Colorado	5	67.5	D
Hawaii	5	54.5	F
Maine	5	54	F
Pennsylvania	5	58	F
Virginia	5	61	D

Criminal Provisions Addressing Demand

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	25	102.5	A
Louisiana	25	93	A
Mississippi	24.5	85.5	B
Tennessee	24.5	93.5	A
Georgia	24	82	B
Washington	24	92.5	A
Nevada	23.5	82.5	B
Texas	23.5	87.5	B
Missouri	22.5	84.5	B
Montana	22	66	D
North Carolina	22	79	C
Massachusetts	21	81	B
New Jersey	21	77	C
Wisconsin	21	77.5	C
Arizona	20.5	77.5	C
Illinois	20.5	86	B
Rhode Island	20.5	69	D
Utah	20.5	74.5	C
Arkansas	20	70.5	C
Colorado	20	67.5	D
Iowa	20	75.5	C
Nebraska	20	68.5	D
Oregon	20	85	B
South Carolina	20	71	C
Kansas	19	73.5	C
Idaho	18	64	D
Florida	18	82	B
Kentucky	18	81.5	B
Minnesota	18	86	B
West Virginia	18	65.5	D
Maryland	17.5	73	C
Delaware	17	65.5	D
Ohio	17	72.5	C
D.C.	16.5	61	D
New Hampshire	16.5	62	D
North Dakota	16.5	63.5	D
Oklahoma	16.5	74	C
Alabama	16	75	C
Alaska	16	75.5	C
Vermont	16	71	C
Wyoming	15.5	70.5	C
Connecticut	15	62	D
South Dakota	15	57.5	F
Virginia	15	61	D
Hawaii	14.5	54.5	F
Maine	14	54	F
Pennsylvania	14	58	F
Indiana	13.5	75.5	C
New Mexico	13	63	D
New York	11.5	66.5	D
Michigan	6.5	53	F
California	4	50	F

Criminal Provisions for Traffickers

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	15	102.5	A
Alabama	15	75	C
Florida	15	82	B
Idaho	15	64	D
Louisiana	15	93	A
Massachusetts	15	81	B
Mississippi	15	85.5	B
Tennessee	15	93.5	A
Utah	15	74.5	C
Alaska	14.5	75.5	C
Arizona	14.5	77.5	C
Connecticut	14.5	62	D
Georgia	14.5	82	B
Illinois	14.5	86	B
Kentucky	14.5	81.5	B
Missouri	14.5	84.5	B
Nevada	14.5	82.5	B
New Hampshire	14.5	62	D
North Dakota	14.5	63.5	D
Oregon	14.5	85	B
Texas	14.5	87.5	B
Washington	14.5	92.5	A
Wisconsin	14.5	77.5	C
Indiana	14	75.5	C
Minnesota	14	86	B
Oklahoma	14	74	C
South Dakota	14	57.5	F
Ohio	13.5	72.5	C
Kansas	13	73.5	C
Delaware	12.5	65.5	D
Montana	12.5	66	D
North Carolina	12.5	79	C
Wyoming	12.5	70.5	C
Arkansas	12	70.5	C
Colorado	12	67.5	D
Maryland	12	73	C
Rhode Island	12	69	D
Virginia	12	61	D
Hawaii	11.5	54.5	F
Iowa	11.5	75.5	C
Maine	11.5	54	F
New Jersey	11.5	77	C
New Mexico	11.5	63	D
West Virginia	11.5	65.5	D
New York	11	66.5	D
Pennsylvania	11	58	F
South Carolina	11	71	C
Michigan	10.5	53	F
Nebraska	10	68.5	D
Vermont	10	71	C
California	9	50	F
D.C.	9	61	D

Criminal Provisions for Facilitators

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	10	102.5	A
Louisiana	10	93	A
Tennessee	10	93.5	A
Alaska	9.5	75.5	C
Washington	9.5	92.5	A
Missouri	9	84.5	B
New York	9	66.5	D
Alabama	7.5	75	C
Arizona	7.5	77.5	C
Illinois	7.5	86	B
Massachusetts	7.5	81	B
Mississippi	7.5	85.5	B
Oklahoma	7.5	74	C
Rhode Island	7.5	69	D
Texas	7.5	87.5	B
Utah	7.5	74.5	C
Wisconsin	7.5	77.5	C
D.C.	7	61	D
Maryland	7	73	C
Michigan	7	53	F
Minnesota	7	86	B
Nevada	7	82.5	B
New Jersey	7	77	C
North Dakota	7	63.5	D
Oregon	7	85	B
South Dakota	7	57.5	F
Florida	6	82	B
Iowa	6	75.5	C
Kansas	6	73.5	C
Kentucky	6	81.5	B
Maine	6	54	F
Montana	6	66	D
New Mexico	6	63	D
South Carolina	6	71	C
Vermont	5.5	71	C
Connecticut	5	62	D
Delaware	5	65.5	D
Georgia	5	82	B
Hawaii	5	54.5	F
Idaho	5	64	D
Virginia	5	61	D
Colorado	4.5	67.5	D
Indiana	4.5	75.5	C
North Carolina	4.5	79	C
Ohio	4.5	72.5	C
Arkansas	3.5	70.5	C
California	3.5	50	F
Nebraska	3.5	68.5	D
New Hampshire	3.5	62	D
West Virginia	3.5	65.5	D
Wyoming	3.5	70.5	C
Pennsylvania	3	58	F

Protective Provisions for Child Victims

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	27.5	102.5	A
Vermont	24.5	71	C
Illinois	23.5	86	B
Kentucky	23	81.5	B
Minnesota	22	86	B
Washington	22	92.5	A
Tennessee	21.5	93.5	A
Wyoming	21.5	70.5	C
Indiana	21	75.5	C
Louisiana	21	93	A
Mississippi	21	85.5	B
Florida	20.5	82	B
North Carolina	20	79	C
Georgia	19	82	B
Oregon	19	85	B
Alaska	18.5	75.5	C
California	18.5	50	F
Colorado	18.5	67.5	D
Missouri	18.5	84.5	B
Iowa	18	75.5	C
Nevada	18	82.5	B
New Jersey	18	77	C
D.C.	17.5	61	D
Massachusetts	17.5	81	B
South Carolina	17	71	C
Texas	17	87.5	B
Wisconsin	17	77.5	C
New York	16.5	66.5	D
Oklahoma	16.5	74	C
Delaware	16	65.5	D
Kansas	15.5	73.5	C
Arizona	15	77.5	C
New Mexico	15	63	D
Alabama	14.5	75	C
Connecticut	14	62	D
Maryland	14	73	C
Ohio	14	72.5	C
Nebraska	13	68.5	D
Pennsylvania	13	58	F
West Virginia	13	65.5	D
Arkansas	12.5	70.5	C
Maine	12.5	54	F
New Hampshire	12.5	62	D
Utah	12.5	74.5	C
Montana	12	66	D
Virginia	12	61	D
Hawaii	11.5	54.5	F
Michigan	11.5	53	F
North Dakota	10.5	63.5	D
Rhode Island	9.5	69	D
Idaho	8.5	64	D
South Dakota	6.5	57.5	F

Tools for Investigation and Prosecution

State	Score (category)	Score (overall)	Grade
TOTAL POSSIBLE	15	102.5	A
Alabama	15	75	C
Florida	15	82	B
Indiana	15	75.5	C
Maryland	15	73	C
Minnesota	15	86	B
Ohio	15	72.5	C
Oregon	15	85	B
Texas	15	87.5	B
Arizona	12.5	77.5	C
Arkansas	12.5	70.5	C
Missouri	12.5	84.5	B
Tennessee	12.5	93.5	A
Washington	12.5	92.5	A
Alaska	12	75.5	C
Louisiana	12	93	A
Nebraska	12	68.5	D
Nevada	12	82.5	B
Pennsylvania	12	58	F
Virginia	12	61	D
West Virginia	12	65.5	D
Idaho	10	64	D
Illinois	10	86	B
Iowa	10	75.5	C
Kansas	10	73.5	C
Kentucky	10	81.5	B
Massachusetts	10	81	B
Michigan	10	53	F
New Mexico	10	63	D
New York	10	66.5	D
North Carolina	10	79	C
Wisconsin	10	77.5	C
Georgia	9.5	82	B
New Jersey	9.5	77	C
Oklahoma	9.5	74	C
Rhode Island	9.5	69	D
Utah	9.5	74.5	C
California	7.5	50	F
Colorado	7.5	67.5	D
Delaware	7.5	65.5	D
Mississippi	7.5	85.5	B
Montana	7.5	66	D
North Dakota	7.5	63.5	D
South Carolina	7.5	71	C
Vermont	7.5	71	C
Wyoming	7.5	70.5	C
Hawaii	7	54.5	F
New Hampshire	7	62	D
South Dakota	7	57.5	F
Connecticut	5	62	D
D.C.	5	61	D
Maine	5	54	F

2013 Legislative Advancements

793 bills

that relate to domestic
minor sex trafficking

Introduced in

48 states

and the District of Columbia

47

states enacted

186 bills

relating to domestic
minor sex trafficking

40

States enacted legislation related to
the Protected Innocence Framework

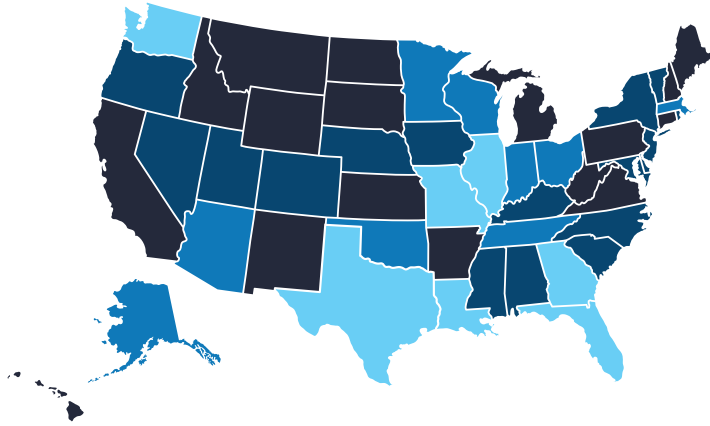
States that
raised its grade

29

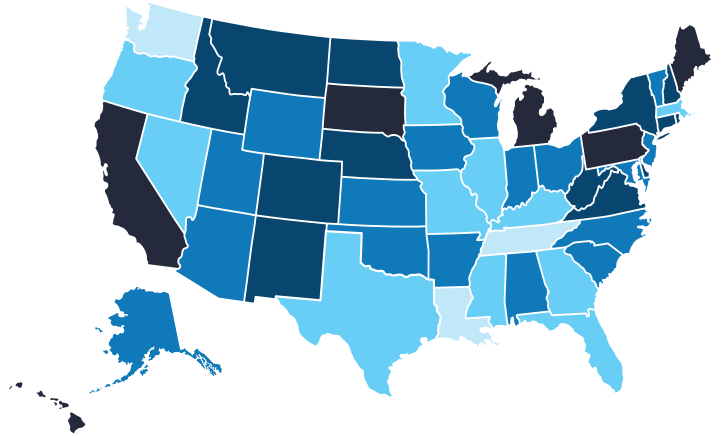
States that improved
2 letter grades

8

2012



2013



Improved from C to A:

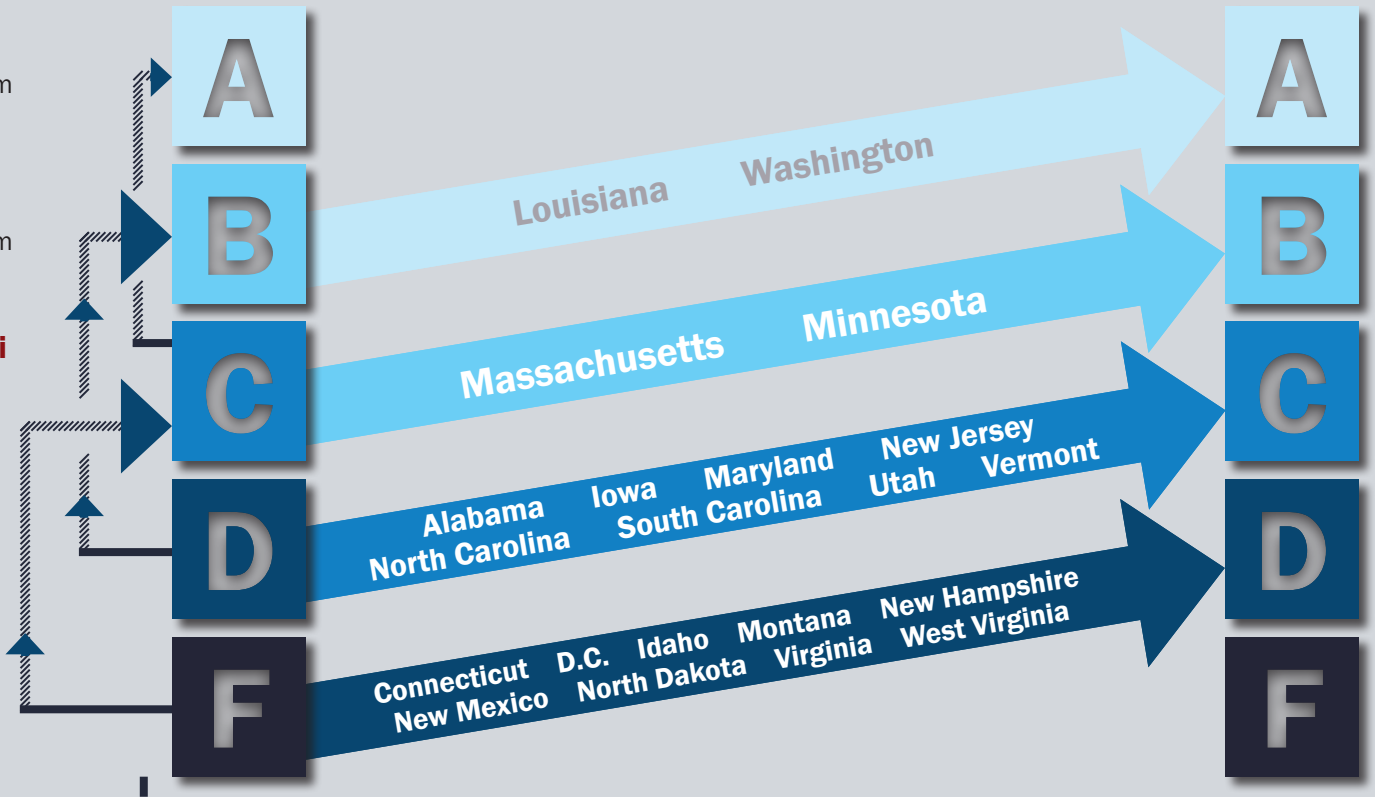
Tennessee

Improved from D to B:

**Kentucky
Mississippi
Nevada
Oregon**

Improved from F to C:

**Arkansas
Kansas
Wyoming**



Highest Score

Tennessee

(Final Score: 93.5 points)

Most Improved

Wyoming

(Total Score Increase: 38 points)

Methodology

The purpose of the Protected Innocence Legislative Framework is to elaborate the key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking. These principles, as elaborated above, are eliminating demand, prosecuting the traffickers, identifying the victims, and providing protection, access to services, and shelter for victims. These principles can be grouped into six areas of law:

1. Criminalization of Domestic Minor Sex Trafficking
2. Criminal Provisions Addressing Demand
3. Criminal Provisions for Traffickers
4. Criminal Provisions for Facilitators
5. Protective Provisions for the Child Victim
6. Criminal Justice Tools for Investigation and Prosecution

Each area of law may have several laws that affect the policy within the state's code. As such, specific questions must be asked to determine whether state laws sufficiently address the policy need.

Analysis

Each state will be graded on the basis of the following points of law:

1. Criminalization of Domestic Minor Sex Trafficking

- 1.1 The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.

Note: The vast majority of states have human trafficking laws. Within these statutes, however, there are variations in coverage; some do not expressly cover the sex trafficking of minors. State human trafficking laws that are consistent with each other and with federal law in scope and penalty will prevent migration of the crime to more lenient states or onto tribal lands, many of which are close to densely populated areas and contain attractions for this activity, such as casinos.

- 1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

Note: In the absence of a clear and specific child sex trafficking statute, CSEC laws become critical to punish the crime of commercial sexual exploitation of a child. CSEC statutes are those that make the commercial sexual exploitation of a minor a criminal offense. These offenses range from prostitution of a minor to employment of a minor for live or recorded sexual performance. Also, sexual offenses can be committed in the course of commercial sexual exploitation and, in some cases, establish the predicate offense for certain trafficking or CSEC offenses. Sexual offense statutes may also be used to prosecute CSEC offenses, although this is not preferred due to the potential resulting failure to identify the victim as a trafficking or CSEC victim.

- 1.3 Prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

Note: Language referring to human trafficking is necessary to ensure that CSEC victims are properly identified as human trafficking victims and thus may access the protections and benefits outlined under federal and some state statutes. This is also necessary to further the collection of data on human trafficking, which is critical to countering domestic minor sex trafficking.

- 1.4 The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.

Note: Motivated by high profits and lower risks, gangs are increasingly involved in sex trafficking of minors. A racketeering statute provides a tool to dismantle the infrastructure of a gang by prosecuting all of its members and seizing the assets used or gained through the gang's criminal activity. Amending or enacting a RICO or gang crime statute that includes sex trafficking and CSEC offenses as predicate acts provides states with a powerful tool to combat sex trafficking enterprises.

2. Criminal Provisions Addressing Demand

- 2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Note: Language capturing the entire trafficking circle from trafficker to buyer to victim is necessary to mount a comprehensive attack on domestic minor sex trafficking.

- 2.2 Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.

Note: Anti-demand provisions are critical. State laws on commercial sex abuse of a minor, child prostitution, commercial sexual exploitation of minor, etc. must cover the crime of buying sex with a minor. These provisions will ideally refer to the human trafficking statute to make it clear that buying sex with a minor is domestic minor sex trafficking.

- 2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.

Note: This can be accomplished by amending traditional solicitation and prostitution laws to make them inapplicable to buying sex with a minor along with amending CSEC or trafficking laws to ensure that buyers of sex acts with minors are included. This is important to ensure that crimes of domestic minor sex trafficking are separated from crimes of solicitation and/or prostitution and that buyers are never allowed to proceed with diversion programs, such as a “John School” or other treatment programs.

- 2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.⁹ Consistency in sentencing between states will prevent the crime from migrating to more lenient states. Also, stiff penalties are just and are critical to deter demand.

- 2.5 Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

- 2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

- 2.7 Base penalties for buying sex acts with a minor under 18 are sufficiently high and not reduced for older minors.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.¹⁰ State laws that set lower criminal penalties for sexual offenses against older minors are ignoring the definition of a minor and perpetuating the false perception that a victim aged 16 or 17 is a lesser victim. This, however, is not to be confused with enhanced penalties for offenses against a minor below a certain age that are considered especially egregious. For example, 18 U.S.C. § 1591 provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14.¹¹

- 2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

Note: Meaningful fines, asset forfeiture, restitution and fees can make it difficult for buyers to hide the crime they have committed from family and community. Directing the fines to a dedicated account can simultaneously offset the costs of investigating, prosecuting, and restoring the victims of the crime. Impound fees must be significant to act as a deterrent.

- 2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

Note: Child pornography is defined in federal law as any visual depiction involving the use of a minor engaging in sexually explicit conduct, or a visual depiction that has been created or modified to appear as a minor engaging in sexually explicit conduct.¹² Child pornography is actually an image of sexual abuse perpetrated on a child. The most common forum for child pornography today is the Internet and once images are on the Internet, they cannot be removed completely and can continue to circulate revictimizing the child each time they are viewed. Child pornography is also frequently encountered in combination with other sexual offenses against children and may serve as a gateway to acting out the images of sexual abuse on children.¹³ Therefore, possessing child pornography should be viewed as a serious crime meriting meaningful prosecution.¹⁴

- 2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

Note: The exchange of money or something of value does not sanitize the buyer of commercial sex with a minor from the sex offender registration requirements; domestic minor sex trafficking is a sexual offense. Buyers convicted of human trafficking with a sexual purpose or of a CSEC offense should be required to register as sex offenders.

3. Criminal Provisions for Traffickers

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

- 3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.

- 3.3 Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

- 3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

Note: Financial penalties may include asset forfeiture, restitution, and fines for the crimes of human trafficking and commercial sexual exploitation of children. Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by the convicted trafficker. Asset forfeiture laws have been very effective in fighting drug trafficking¹⁵ and should be viewed as an effective tool in the fight against domestic minor sex trafficking. Asset forfeiture is commonly tied to Racketeer Influenced and Corrupt Organizations (RICO) statutes in many states and thus requires

⁹ 18 U.S.C. § 1591(a), (b)(2).

¹⁰ Id.

¹¹ Id. § 1591(a), (b)(1).

¹² Id. § 2256.

¹³ ALEXANDRA GELBER, U.S. DEPT OF JUSTICE, CHILD EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION, RESPONSE TO “A RELUCTANT REBELLION” 5-6 (2009), available at <http://www.justice.gov/criminal/ceos/downloads/ReluctantRebellionResponse.pdf>.

¹⁴ Id. at 14-15.

¹⁵ Asset Forfeiture, U.S. DRUG ENFORCEMENT ADMIN., <http://www.justice.gov/dea/ops/af.shtml> (last visited Oct. 2, 2013).

prosecutors to charge these crimes in addition to human trafficking. Restitution is important to provide victims of sex trafficking with the funds to access treatment and to restart their lives. States should follow the federal model of requiring restitution for all victims of human trafficking¹⁶ and CSEC. Lastly, meaningful fines can be a deterrent and help to fund the programs necessary to serve victims.

3.5 Convicted traffickers are required to register as sex offenders.

3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.

Note: Traffickers may impregnate their victims, including minor victims, with the intent of maintaining control. The effect is to have second generation victims within a criminal “family.” Breaking the bonds between victim and pimp include freeing their child from a continuing relationship with the trafficker parent. Also, children of traffickers can become victims of trafficking at the hands of their trafficker-parents.

4. Criminal Provisions for Facilitators

4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

Note: Facilitators are those people or entities that knowingly enable domestic minor sex trafficking or benefit from sex trafficking in any way. State sex trafficking laws must also make the act of facilitation a crime.

4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

Note: Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by a person or an entity convicted of knowingly benefitting from sex trafficking, such as hotels or online classified businesses.

4.3 Promoting and selling child sex tourism is illegal.

Note: Businesses and individuals selling travel based on or containing components of commercial sexual exploitation of children are committing the crime of child sex tourism and driving demand for sex with children. Laws prohibiting child sex tourism should apply to a natural person as well as a corporation, and the penalty prescribed for the crime must be sufficiently serious to present substantial risk and deterrence, and should be comparable with the gravity of the crime.

4.4 Promoting and selling child pornography is illegal.

5. Protective Provisions for the Child Victims

5.1 Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.

Note: Language defining a minor who has been used in a commercial sex act (prostitution, pornography, or sexual performance) as a victim of sex trafficking or CSEC can lead to improved identification and responses at all levels.

5.2 The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Note: Many states allow a minor to consent to sex at an age lower than the age of majority. But a minor used in a commercial sex act is a victim of adult criminal behavior; the child’s consent, therefore, cannot mitigate such acts. For this reason, consent must not be available as a defense to the crime of domestic minor sex trafficking.

5.3 Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.

Note: This is consistent with defining a minor in prostitution as a victim of domestic minor sex trafficking. This also establishes that a prostituted minor will not be charged as an offender, in either juvenile or adult criminal court, but rather, will be protected as a victim.

5.4 Child victims of sex trafficking or commercial sexual exploitation are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.

Note: Establishing a child protection response is critical to ending the arrest and detention of domestic minor sex trafficking victims and ensuring instead that they are provided crime victim protections, services, and benefits. Protective shelter and services are far preferable to the current practice of charging the minor with an offense in order to detain him or her for his or her own safety and to assist in investigating a criminal case. Service providers struggle with case management when these victims are ordered to inappropriate placements, such as ill-equipped foster care, group homes, and detention facilities, or they are returned to poor home environments. Debate exists over the level of security in and duration of these placements, as well as the size and location of such shelters; however, agreement exists as to the need for a variety of approaches from long-term shelters to home-based care to specialty foster homes, etc.¹⁷

¹⁶ 18 U.S.C. § 1593.

¹⁷ See NATIONAL COLLOQUIUM 2012 FINAL REPORT, *supra* note 8.

- 5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

Note: Expanding or interpreting the definition of “abuse and neglect” in the child protection statutes to include sex trafficking and commercial sexual exploitation would allow child protective services to include it as a specific type of maltreatment and bring situations of domestic minor sex trafficking within the investigative and protective functions of child protective services.

- 5.6 The definition of “caregiver” (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.

Note: Child protective services is often precluded from intervening in a case of non-familial domestic minor sex trafficking because the agency’s mandate is limited to cases in which a parent or legal guardian is the cause of danger to the child. Defining such a person to include the person in custody or control of a minor, such as a trafficker, can bring greater protections to domestic minor sex trafficking victims through the intervention of child protective services.

- 5.7 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.

Note: Ineligibility criteria contained in state crime victims’ compensation programs often result in child sex trafficking victims being denied funds. Victims may be determined ineligible due to, among other things, their “involvement in the underlying crime” for which they are claiming the compensation, i.e. prostitution, or for failure to cooperate in a law enforcement investigation. This must be remedied with direct language specifically identifying these minors as victims.

- 5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Note: Trauma reduction tools can increase the victim’s successful participation through safety and protection. Some examples include:

- a. Court appointment of an attorney for the domestic minor sex trafficking victim, serving, as appropriate, as the child’s legal counsel or as a guardian ad litem, could help protect the child from court system-related trauma and help better assure that their rights and legal interests were protected.
- b. Victim-witness coordinators, who have received training on child trafficking issues, are needed to shepherd the domestic minor sex trafficking victims and families through the criminal justice process.
- c. Rape shield laws limit a defendant’s ability to cross-examine victims about their past sexual behavior.
- d. Prohibition on publication of an alleged rape victim’s identity.
- e. Closed courtrooms for minor victim testimony can help with the problem of intimidation by defendant traffickers’ friends and family packing the courtroom.
- f. Closed circuit television testimony can reduce re-traumatization of a domestic minor sex trafficking victim and assist in securing his or her testimony against an offender.

- 5.9 Expungement or sealing of juvenile delinquency records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

Note: Victims of domestic minor sex trafficking (and adult sex trafficking) report being hampered in attempts to restore their lives through employment or education because they have criminal records, or in cases involving a minor, records of juvenile delinquency. Juvenile delinquency records can prevent survivors from obtaining academic scholarships, securing certain employment, and working with children in some cases. Saddling the victim of sex trafficking with a criminal or juvenile delinquency record is contrary to his or her legal definition as a victim and can inhibit full reintegration into the community.

- 5.10 Victim restitution and civil remedies for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.

Note: Criminal restitution is an important part of the punishment for a convicted offender of trafficking and can provide funds for a victim to recover from the victimization. Restitution should be mandatory in any case of domestic minor sex trafficking and a means of calculating the typically unquantifiable costs of the victimization should be determined in the law. As an example, criminal restitution is mandated in the federal trafficking law.¹⁸ Often though, criminal cases are not pursued, or a convicted offender is not able to pay the restitution. Therefore, victims of domestic minor sex trafficking must be allowed to pursue civil remedies for the damages they have suffered as a result of the victimization. These might include compensatory damages, attorney’s fees, and punitive damages. The continuing effects of sex trafficking on a young person can lead to future medical costs and other costs as they regain control over their life. Opportunities to access both criminal restitution and civil damages are means to pay for these needs.

- 5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Note: Because of the traumatic effects of sex trafficking on a child, lengthening or eliminating the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes and the injurious effects on the person is important to allow the victims full access to justice. It is preferable to follow the federal model of eliminating the statute of limitations in criminal actions for sex crimes involving children.¹⁹

¹⁸ U.S.C. §§ 1593(b)(1), (b)(3), 2259(b)(4).

¹⁹ Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (PROTECT Act), Pub. L. No. 108-21, § 202, 117 Stat. 650, 660 (codified as amended at 18 U.S.C. § 3283).

6. Criminal Justice Tools for Investigation and Prosecution

- 6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated or authorized.

Note: Laws calling for the development of training materials and training of law enforcement officers are important to the response to domestic minor sex trafficking victims. Due to the unique conditions of DMST, specialized training is ideal; however, this training might be combined with general human trafficking training. Training in victim identification, the definition of domestic minor sex trafficking, investigative techniques, and victim-witness management is critical to increased identification of and improved responses to the victims. Training has resulted in demonstrable increases in investigations of domestic minor sex trafficking in many places around the country.

- 6.2 Single party consent to audiotaping is permitted in law enforcement investigations

Note: Requiring two-party consent to audiotaped conversations makes undercover domestic minor sex trafficking investigations difficult and dangerous. Allowing for single party consent empowers law enforcement to more efficiently investigate and better prepare cases for prosecution while providing greater protection for the investigating officers interacting with traffickers and buyers.

- 6.3 Wiretapping is an available tool to investigate domestic minor sex trafficking.

Note: Access to wiretapping can be a decisive factor in initiating domestic minor sex trafficking investigations. The evidence obtained can lead to better prosecutions and could alleviate the need for victim testimony in domestic minor sex trafficking cases. The growing use of text messages to perpetrate sex trafficking makes it even more important to allow access to wiretapping in these investigations as access to text messages are governed by wiretapping laws.

- 6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.

- 6.5 Using the Internet to investigate buyers and traffickers is a permissible investigative technique.

- 6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

Note: Identifying the missing and exploited child leads to identifying the domestic minor sex trafficking victim and provides an opportunity to intervene. The National Crime Information Center (NCIC), a computerized index of criminal justice information, relies on the entry of reports of missing and exploited children by local law enforcement. Also, immediate reporting to local police, the NCIC, and the National Center for Missing and Exploited Children (NCMEC) whenever a child goes missing is critical to identification and intervention, especially given the high correlation between missing children and trafficked children.²⁰ At the same time, it is critical that first responders check the NCIC database and report to NCMEC whenever any domestic minor sex trafficking victim is rescued to see if the victim has been entered into those systems as a reported missing child.

Grading

The Protected Innocence Legislative Framework will assign a point value of 0 to 2.5 based on a written point allocation scheme accounting for the critical elements of each of the components of law discussed above. The points will be totaled for each of the six areas of law. The six totals will be added to determine the final number for each state, which will translate to the corresponding letter grade as follows:

A		90 - 102.5
B		80 - 89
C		70 - 79
D		60 - 69
F		< 60

These letter grades will reflect the level of protection available through law in a domestic minor sex trafficking case in the respective state. A short analysis of each state's legislation will follow with recommendations.

It is important to note that the methodology looks solely at the laws in place in a given state and their de jure compliance with the Protected Innocence Legislative Framework at the time of the review. This analysis does not review how states enforce or implement their laws, though enforcement is critically important. Where obtained, statistics that demonstrate enforcement are noted in the state analysis but are not considered in the grade a state receives due to the inconsistency in content, collection, and maintenance of statistical data from state to state. A de facto assessment may be undertaken through the Shared Hope International Rapid Assessment of Domestic Minor Sex Trafficking Methodology and Tool, developed and implemented in fourteen locations around the country with funding from the U.S. Department of Justice (see www.shared-hope.org).

18 SARA ANN FRIEDMAN, ECPAT-USA, INC., WHO IS THERE TO HELP US? HOW THE SYSTEM FAILS SEXUALLY EXPLOITED GIRLS IN THE UNITED STATES: EXAMPLES FROM FOUR AMERICAN CITIES 3 (2005), available at <http://ecpatusa.org/wp/wp-content/uploads/2013/08/Who-Is-There-to-Help-Us.3.pdf>.

Issue Briefs

Section 1 | Criminalization of Domestic Minor Sex Trafficking

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 1.1

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.
The Legislative Solution	The vast majority of states have human trafficking laws; however, within these statutes there are variations in coverage. States must enact human trafficking laws that are consistent with each other and federal law in scope and penalty so as to prevent migration of trafficking crimes to more lenient states or onto tribal lands. First, human trafficking laws must clearly address the crime of sex trafficking for the purposes of prosecution and victim identification. To ensure identification of sexually exploited children as victims and to prevent traffickers from escaping criminal liability through manufactured evidence of consent, all minors under the age of 18 should be deemed unable to consent to involvement in commercial sex acts, thus rendering the element of force, fraud or coercion irrelevant in domestic minor sex trafficking cases. Many state statutes accomplish this goal through the use of the words “any means” when addressing sex trafficking of minors under 18. Enacting laws that specifically criminalize trafficking of minors for commercial sexual exploitation without requiring proof of force, fraud or coercion is necessary to facilitate the prosecution of purchasers, traffickers and facilitators of commercial sex acts with children.

Select Statute Highlights

The following are excerpts from statutes with the following: (1) language specifically criminalizing the commercial sexual exploitation of children or prostitution of children; (2) definition of a “minor” as a child under the age of 18; and (3) absence of any required elements of force, fraud or coercion to accomplish the trafficking of a minor.

Delaware

Del. Code Ann. tit. 11, § 787 (Trafficking of persons and involuntary servitude) makes sexual servitude of a minor a crime. Del. Code Ann. tit. 11, § 787(b)(2) provides, “[a] person is guilty of sexual servitude of a minor when the person knowingly: a. Recruits, entices, harbors, transports, provides or obtains by any means, a minor under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of pornography; or b. Causes a minor to engage in commercial sexual activity or a sexually explicit performance.”

D.C.

D.C. Code § 22-1834(a) (Sex trafficking of children) states, “It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.”

Louisiana

A separate statute makes sex trafficking of children a crime without regard to use of force, fraud, or coercion when a minor under 18 is used in a commercial sex act. La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) states, “A. It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity. (2) For any person to knowingly benefit from activity prohibited by the provisions of this Section. (3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions

of this Section. (4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person. (5) For any person to knowingly advertise any of the activities prohibited by this Section. (6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section. B. For purposes of this Section, (1) “commercial sexual activity” means any sexual act performed or conducted when anything of value has been given, promised, or received by any person.”

Massachusetts

Mass. Gen. Laws ch. 265, § 50(a) (Human trafficking – Sexual servitude) provides that “[w]hoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography . . . or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography . . . shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000.” Pursuant to Mass. Gen. Laws ch. 265, § 50(b) “Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years.”

Nebraska

Neb. Rev. Stat. § 28-831(2) (Human trafficking; forced labor or services; prohibited acts; penalties) provides, “No person shall engage in . . . sex trafficking of a minor.” Pursuant to Neb. Rev. Stat. § 28-830(13), “Sex trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography.” A minor is defined as “a person younger than 18 years of age.” Neb. Rev. Stat. § 28-830(7). Commercial sexual activity is “any sex act on account of which anything of value is given, promised to, or received by any person.” Neb. Rev. Stat. § 28-830(2).

Wisconsin

Wis. Stat. § 948.051 (Trafficking of a child) states, “(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), or sexually explicit performance is guilty of a Class C felony. (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1). (3) Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” For the purpose of this law, a child is defined as “a person who has not attained the age of 18 years.” Wis. Stat. § 948.01(1). Commercial sex acts are “sexual contact for which anything of value is given to, promised, or received, directly or indirectly by any person.” Wis. Stat. § 940.302(1)(a).

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.
The Legislative Solution	CSEC statutes are those that make specific types of exploitation of a minor a criminal act. While sexual offense laws could be used to prosecute some CSEC offenses, the enactment and use of specific CSEC laws is a better method for addressing these offenses and identifying victims. Additionally, sexual offense laws may not be broad enough to cover all types of conduct constituting CSEC offenses. To protect victims and provide a means for prosecuting all CSEC perpetrators, states should enact CSEC statutes to criminalize the entire range of potential CSEC conduct, and minors victimized through these crimes should expressly be identified as CSEC victims.

Select Statute Highlights

Colorado

Within Article 7 (Offenses Related to Morals) of Title 18 (Criminal Law), a comprehensive range of CSEC crimes are codified in Part 4 (Child Prostitution).

Colo. Rev. Stat. § 18-6-403(3) (Sexual exploitation of a child) states, “A person commits sexual exploitation of a child if, for any purpose, he or she knowingly: (a) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the making of any sexually exploitative material; or . . . (d) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing a performance.”

Colo. Rev. Stat. § 18-7-402(1) (Soliciting for child prostitution) makes it a crime when any person “(a) Solicits another for the purpose of prostitution of a child or by a child; (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or (c) Directs another to a place knowing such direction is for the purpose of prostitution or a child or by a child.”

Colo. Rev. Stat. § 18-7-403.5 (Procurement of a child) provides, “Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of prostitution of the child commits procurement of a child, which is a Class 3 felony.”

Colo. Rev. Stat. § 18-7-404(1) (Keeping a place of a child prostitution) states, “Any person who has or exercises control over the use of any place which offers seclusion or shelter for

the practice of prostitution and who performs any one or more of the following commits keeping a place of child prostitution if he: (a) Knowingly grants or permits the use of such place for the purpose of prostitution of a child or by a child; or (b) Permits the continued use of such place for the purpose of prostitution of a child or by a child after becoming aware of facts or circumstances from which he should reasonable know that the place is being used for purposes of such prostitution.”

Colo. Rev. Stat. § 18-7-405 (Pimping of a child) makes it a Class 3 felony when a person “knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution”

Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child) provides, “Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child, as defined in § 18-7-401(6) or (7); or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Washington

A series of CSEC laws in the Washington code criminalize a range of specific actions.

RCW 9.68A.100 (Commercial sexual abuse of a minor) states, “(1) A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual

conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee. (2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.” RCW 9.68A.100(4) defines “sexual conduct” as “sexual intercourse or sexual contact.”

RCW 9.68A.101 (Promoting commercial sexual abuse of a minor) makes it a crime to “knowingly advance[] commercial sexual abuse or a sexually explicit act of a minor or profit[] from a minor engaged in sexual conduct or a sexually explicit act” by “caus[ing] or aid[ing] a person to commit or engage in commercial sexual abuse of a minor, procur[ing] or solicit[ing] customers for commercial sexual abuse of a minor, provid[ing] persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operat[ing] or assist[ing] in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engage[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.” The provision specifically limits application to situations in which the offender is “acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor.” Additionally, “[a] person ‘advances a sexually explicit act of a minor’ if he or she causes or aids a sexually explicit act of a minor, procures or solicits customers for a sexually explicit act of a minor, provides persons or premises for the purposes of a sexually explicit act of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.” RCW 9.68A.103 (Permitting commercial sexual abuse of a minor) states “[a] person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.”

Louisiana

Louisiana provides a comprehensive range of CSEC crimes, including:

La. Rev. Stat. Ann. § 14:82(C)(4), (5) (Prostitution; definition; penalties; enhancement) states “Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both. . . [and] [w]hoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned for not less than twenty-five years nor more than fifty years, or both.”

La. Rev. Stat. Ann. § 14:82.1(A)(1) (Prostitution; persons under eighteen; additional offenses) makes it unlawful “[f] or any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.”

La. Rev. Stat. Ann. § 14:86(A) (Enticing persons into prostitution) states, “Enticing persons into prostitution is committed when any person over the age of seventeen entices, places, persuades, encourages, or causes the entrance of any other person under the age of twenty-one into the practice of prostitution, either by force, threats, promises, or by any other device or scheme. . . .”

La. Rev. Stat. Ann. § 14:89.2(A) (Crime against nature by solicitation) provides, “Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.” Pursuant to La. Rev. Stat. Ann. § 14:89.2(B) (2), (3)(a), “[w]hoever violates the provisions of this Section, when the person being solicited is under the age of eighteen years,” shall be fined not more than \$50,000, imprisoned at hard labor for 15–50 years, or both, and when the person being solicited is under the age of 14 years a conviction is subject to a fine up to \$75,000, 25–50 years’ imprisonment, or both.

La. Rev. Stat. Ann. § 14:83.2 (Promoting prostitution) is “the knowing and willful control of, supervision of, or management of an enterprise for profit in which customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services.” A conviction under La. Rev. Stat. Ann. § 14:83.2 is punishable by a fine not to exceed \$50,000, 15–50 years’ imprisonment, or both when prostitution of a person under 18 is involved, and an offender faces a fine not to exceed \$75,000, 25–50 years’ imprisonment, or both if the person engaged in prostitution is under 14. La. Rev. Stat. Ann. § 14:83.2(B)(2), (3).

La. Rev. Stat. Ann. § 14:83 (Soliciting for prostitutes) is “the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.” A conviction pursuant to La. Rev. Stat. Ann. § 14:82 when the person being solicited is under 18 years is punishable by a fine up to \$50,000, 15–50 years’ imprisonment, or both, and when the person being solicited is under 14 years is punishable by a fine up to \$75,000, 25–50 years’ imprisonment, or both. La. Rev. Stat. Ann. § 14:82(B) (2), (3).

Washington

A series of CSEC laws in the Washington code criminalize a range of specific actions.

RCW 9.68A.100 (Commercial sexual abuse of a minor) states, “(1) A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee. (2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.” RCW 9.68A.100(5) defines “sexual conduct” as “sexual intercourse or sexual contact.”

RCW 9.68A.101 (Promoting commercial sexual abuse of a minor) makes it a crime to “knowingly advance[] commercial sexual abuse or a sexually explicit act of a minor or profit[] from a minor engaged in sexual conduct or a sexually explicit act” by “caus[ing] or aid[ing] a person to commit or engage in commercial sexual abuse of a minor, procur[ing] or solicit[ing] customers for commercial sexual abuse of a minor, provid[ing] persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operat[ing] or assist[ing] in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engage[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.” The provision specifically limits application to situations in which the offender is “acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor.” Additionally, “[a] person ‘advances a sexually explicit act of a minor’ if he or she causes or aids a sexually explicit act of a minor, procures or solicits customers for a sexually explicit act of a minor, provides persons or premises for the purposes of a sexually explicit act of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.”

RCW 9.68A.103 (Permitting commercial sexual abuse of a minor) states “[a] person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.”

Wyoming

Pursuant to Wyo. Stat. Ann. § 6-4-103(a) (Promoting prostitution; penalties), “A person commits a felony if he: (i) Knowingly or intentionally entices or compels another person to become a prostitute” Where the “person enticed or compelled is under eighteen (18) years of age,” a conviction for violating Wyo. Stat. Ann. § 6-4-103(a) is punishable as a felony by imprisonment up to 5 years, a fine not to exceed \$5,000, or both. Wyo. Stat. Ann. § 6-4-103(b).

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	Prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.
The Legislative Solution	Prostitution laws that refer to the state sex trafficking law enable identification of CSEC victims as trafficking victims and promote exploited minors' access to protections and benefits available under federal and state statutes for trafficking victims. Whether through a direct requirement that law enforcement report prostituted minors as an incident of sex trafficking, or through an affirmative defense acknowledging that minors should not be held liable for conduct committed as a result of being a trafficking victim, referring to the trafficking statute is necessary to align the treatment of victims under prostitution and sex trafficking laws. Providing this clarity in the prostitution law furthers efforts to track the scope of child sex trafficking in the state and identify victim-centered ways in which to counter it. To accomplish these goals, prostitution laws must refer to the trafficking law when the person charged or victimized is a minor or a victim under the state human trafficking law, regardless of whether someone is charged or prosecuted for victimizing the minor. Ensuring the criminal code is designed to consistently identify minor victims of commercial sexual exploitation as victims of sex trafficking helps to accurately assess and respond to the specific needs of this victim population.

Select Statute Highlights

The following state prostitution laws refer to the state or federal human trafficking statute.

Arkansas

Ark. Code Ann. §§ 5-70-102(c) (Prostitution) and 5-70-103(c) (Sexual solicitation) state: "It is an affirmative defense to prosecution [under this section] that the person engaged in an act of [prostitution or sexual solicitation] as a result of being a victim of trafficking of persons."

Connecticut

Conn. Gen. Stat. § 53a-82 (Prostitution: Class A misdemeanor) states, "(a) A person sixteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee, (b) In any prosecution for an offense under this section [Prostitution: Class A misdemeanor], it shall be an affirmative defense that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or (2) a crim-

inal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time. (c) In any prosecution of a person sixteen or seventeen years of age for an offense under this section, there shall be a presumption that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or (2) a criminal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time. . . ."

Georgia

Ga. Code Ann. § 16-3-6(a)(3) states, "[a] person shall not be guilty of a sexual crime if the conduct upon which the alleged criminal liability is based was committed under coercion or deception while the accused was being trafficked for sexual servitude in violation of subsection (c) of Code Section 16-5-46." Ga. Code Ann. § 16-3-6(b). "Sexual crime" is defined as "prostitution, sodomy, solicitation of sodomy, or masturbation for hire as such offenses are proscribed in Chapter 6 of Title 16."

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14(d) (Prostitution) refers to Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses) stating, “Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section [Prostitution] is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 [Trafficking in persons, involuntary servitude, and related offenses] of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.”

Louisiana

La. Rev. Stat. Ann. § 14:82(G) (Prostitution; definition; penalties; enhancement) provides 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) (Trafficking of children for sexual purposes). Additionally, La. Rev. Stat. Ann. § 14:46.3(E) (Trafficking of children for sexual purposes) states that “[n]o 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.”

Nebraska

Neb. Rev. Stat. Ann. § 28-801(1) (Prostitution; penalty) states that “[e]xcept as provided in subsection (5) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318 [Terms, defined], with any person not his or her spouse, in exchange for money or other thing of value, commits prostitution.” Neb. Rev. Stat. Ann. § 28-801(3) goes on to provide that “[i]t is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830 [Human trafficking; forced labor or services; terms, defined].”

Area of Law	Criminalization of Domestic Minor Sex Trafficking
The Policy Point	The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.
The Legislative Solution	The majority of states have a racketeering statute (also commonly called Racketeer Influenced and Corrupt Organizations (RICO) statute) that criminalizes participation in an enterprise engaged in a pattern of racketeering activity. The definition of an enterprise generally incorporates both licit and illicit organizations, including criminal street gangs. Gang trafficking is on the rise as gangs recognize the high profits, opportunities, and comparatively low risks of sex trafficking. A racketeering statute provides a tool to attack the entire trafficking organization, rather than prosecuting each individual offender in separate time consuming and costly litigations. Racketeering and gang crime statutes may also provide for additional or enhanced penalties such as longer prison sentences and financial penalties, including asset forfeiture, that reach the assets used or gained through the crime. States should amend or enact a RICO or gang crime statute to include sex trafficking and CSEC offenses as predicate acts, that may be used to prosecute all of the parties involved in a trafficking enterprise to dismantle its infrastructure.

Select Statute Highlights

The following are excerpts from racketeering statutes that include a comprehensive list of predicate acts, including sex trafficking and CSEC offenses.

Colorado

Col. Rev. Stat. § 18-17-104(3) makes it a crime for “any person employed by, or associated with, any enterprise to knowingly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Col. Rev. Stat. § 18-17-103(5) states that “racketeering activity” means “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or (b) (I) Offenses against the person, as defined in . . . 18-3-501 (trafficking in adults), 18-3-502 (trafficking in children), and 18-3-503 (coercion of involuntary servitude); (V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children); (VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child).”

Florida

Fla. Stat. Ann. § 895.03(3) makes it a crime for “any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Fla. Stat. Ann. § 895.02(1) defines “racketeering activity” as “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes: . . .

- 22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.
- 26. Chapter 787, relating to kidnapping or human trafficking.
- 28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member’s own standing or position within a criminal gang.
- 29. Section 796.03, s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.
- 36. Section 827.071, relating to commercial sexual exploitation of children.
- 45. Chapter 874, relating to criminal gangs.”

Illinois

Illinois's "Street Gang and Racketeering Influenced and Corrupt Organizations Law" codified at 720 Ill. Comp. Stat. 5/33G-4 makes it unlawful when a person "intentionally participates in the operation or management of an enterprise, directly or indirectly, to: (1) knowingly do so, directly or indirectly, through a pattern of predicate activity." 720 Ill. Comp. Stat. 5/33G-4(a)(1). Pursuant to Ill. Comp. Stat. 5/33G-3(e), "predicate activity" means "any act that is a Class 2 felony or higher and constitutes a violation . . . of any of the following provisions . . . (1) under the Criminal Code of 1961: 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5(b)(10) (child abduction), 10-9 (trafficking in persons, involuntary servitude, and related offenses), 11-1.20 (criminal sexual assault), 11-1.30 (aggravated criminal sexual assault), 11-1.40 (predatory criminal sexual assault of a child), 11-1.60 (aggravated criminal sexual abuse), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-18.1 (patronizing a minor engaged in prostitution; patronizing a juvenile prostitute)."

Kansas

Section 3 of Enacted Senate Bill 16 (Kansas Racketeer Influenced and Corrupt Organization Act), provides that, "(a) It is unlawful for any covered person: (1) Who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in real property or in the establishment or operation of any enterprise." Pursuant to Section 3(f) of Enacted Senate Bill 16, "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit: human trafficking or aggravated human trafficking; K.S.A. 2012 Supp. 21-5428 . . . sexual exploitation of a child; K.S.A. 2012 Supp. 21-5601, endangering a child or aggravated endangering a child; K.S.A. 2012 Supp. 21-5602 . . . prostitution; K.S.A. 2012 Supp. 21-6420, promoting prostitution; K.S.A. 2012 Supp. 21 6501. . . ."

Utah

Utah Code Ann. § 76-10-1603(3) makes it unlawful for "any person employed by or associated with any enterprise to conduct or participate, whether directly or indirectly, in

the conduct of that enterprise's affairs through a pattern of unlawful activity." Utah Code Ann. § 76-10-1602(4) states that "unlawful activity" means "to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

- (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- (n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;
- (o) sexual exploitation of a minor, Section 76-5b-201;
- (www) distributing pornographic material, Section 76-10-1204;
- (xxx) inducing acceptance of pornographic material, Section 76-10-1205;
- (yyy) dealing in harmful material to a minor, Section 76-10-1206;
- (zzz) distribution of pornographic films, Section 76-10-1222;
- (aaaa) indecent public displays, Section 76-10-1228;
- (bbbb) prostitution, Section 76-10-1302;
- (cccc) aiding prostitution, Section 76-10-1304;
- (dddd) exploiting prostitution, Section 76-10-1305;
- (eeee) aggravated exploitation of prostitution, Section 76-10-1306

Washington

Washington's "Criminal Profiteering Act", codified at Wash. Rev. Code Ann. § 9A.82.080, makes it unlawful "for a person who has knowingly received any of the proceeds derived, directly or indirectly, from a pattern of criminal profiteering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise." Wash. Rev. Code Ann. § 9A.82.080(1)(a). Wash. Rev. Code Ann. § 9A.82.080(9A.82.010) (Definitions) defines "criminal profiteering" to include "(rr) Commercial sexual abuse of a minor, as defined in RCW 7 9.68A.100; (ss) Promoting commercial sexual abuse of a minor, as defined in 9 RCW 9.68A.101; or (tt) Trafficking, as defined in RCW 9A.40.100, promoting travel for commercial sexual abuse of a minor, as defined in RCW 9.68A.102, and permitting commercial sexual abuse of a minor, as defined in RCW 9.68A.103."

Issue Briefs

Section 2 | Criminal Provisions Addressing Demand

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 2.1

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.
The Legislative Solution	Demand for commercial sex acts with young people is the driving force behind the child sex trafficking industry. However, the men who demand and purchase sex acts with minors often remain nameless and faceless and are frequently referred to by the innocuous term “johns” or not arrested at all. Many state sex trafficking laws fail to include the criminal actions of buyers, leaving out a critical element of the crime of sex trafficking, and ignoring the importance of criminal deterrence necessary to combat child sex trafficking. Also, a failure to make the actions of the buyer a crime under a serious, specific criminal statute guarantees that the investigation and prosecution of these crimes will not rise in priority status, as they continue to be viewed as a mere “vice” crime or “quality of life” crime, rather than the rape and sexual abuse of a child which child sex trafficking actually is. The federal sex trafficking law, 18 U.S.C. § 1591, applies to the actions of buyers, as do certain provisions of the Mann Act, 18 U.S.C.A. § 2421 et seq., permitting the federal law enforcement to vigorously investigate and prosecute buyers of commercial sex acts with minors. It is therefore critically important that states enact or amend human trafficking to apply to the criminal actions of buyers and attempted buyers of sex acts with minors.

Select Statute Highlights

Iowa

Iowa’s human trafficking statute expressly applies to buyers. Iowa Code § 710A.1(4)(b) defines “human trafficking to include, “knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking.”

Louisiana

La. Stat. Ann. §14:46.3(A)(1) (Trafficking of children for sexual purposes) states in part, “It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.”

Oklahoma

Okla. Stat. Ann. tit. 21, § 748(B) states, “It shall be unlawful to knowingly engage in human trafficking.” Okla. Stat. Ann. tit. 21, § 748(A)(6)(b) defines “human trafficking for commercial sex,” in part, as “. . . purchasing . . . by any means, a minor for purposes of engaging the minor in a commercial sex act.”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) expressly applies to buyers of sex from minors, making it a crime when a person “purchases a minor for the purposes of commercial sex acts” without regard to whether the victim was forced, deceived, or coerced to commit the commercial sex act.

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for commercial sex acts) states, “(a) A person commits the offense of trafficking a person for a commercial sex act who . . . (2) Recruits, entices, harbors, transports, provides purchases or obtains by any means another person for the purpose of providing a commercial sex act.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons) applies to buyers of sex with domestic minor sex trafficking victims. Tex. Penal Code Ann. § 20A.02(a) (8) states, “A person commits an offense if the person knowingly. . . engages in sexual conduct with a child [under 18] trafficked in the manner described in Subdivision (7).”

Vermont

Vt. Stat. Ann. tit. 13, § 2655(a) (Solicitation) is codified within the human trafficking laws and makes it illegal for a person to “knowingly solicit a commercial sex act from a victim of human trafficking.”

Washington

Wash. Rev. Code § 9A.40.100 provides that “a person is guilty of sex trafficking . . . when such person buys, purchases, or receives . . . [from] another person [who] has not attained the age of eighteen years and is caused to engaged in a sexually explicit act or a commercial sex act.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.
The Legislative Solution	Anti-demand provisions are critical. Too often buyers who demand commercial sex acts with children are not prosecuted using CSEC laws because these laws are insufficiently broad to include the criminal purchase, despite the critical role that buyers play in the trafficking transaction. In the absence of provisions to address the buyer under CSEC laws, law enforcement and prosecutors are left with viewing the crime of buying commercial sex acts with a minor as prostitution or a general sex offense, like rape or sexual abuse. The tremendous disparity between the penalties for the vice crime of prostitution and the serious crime of child rape or sexual abuse results in buyers of sex acts with a child being penalized in hugely varying degrees depending upon how they are charged. It also leads to some buyers being registered as sex offenders while others are sent home with a citation for prostitution. State laws on commercial sexual abuse of a minor, child prostitution, commercial sexual exploitation of a minor, etc. that expressly include the crime of buying sex with a minor establish consistency and criminal deterrence.

Select Statute Highlights

The following CSEC laws expressly make the purchase of commercial sex acts with a minor a separate and specific crime.

Colorado

Colo. Rev. Stat. § 18-7-406 (Patronizing a prostituted child) states, “(1) Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child [under the age of 18] . . . or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Idaho

Under Idaho Code Ann. § 18-5610 (Utilizing a person under eighteen years of age for prostitution—Penalties), “[e]very person who exchanges or offers to exchange anything of value for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment and fine.” For purpose of this section, “anything of value” “includes, but is not limited to, a fee, food, shelter, clothing, medical care or membership in a criminal gang . . .” § 18-5610(2)(c).

Maine

Me. Rev. Stat. Ann. tit., 17-A. § 855 (Patronizing prostitution of a minor) states, “A person is guilty of patronizing prostitution of a minor if: A. The person, in return for another’s prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age. . . .”

Montana

Mont. Code. Ann §45-5-601(3)(a) (Prostitution) provides, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years . . . ; (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.”

North Carolina

N.C. Gen. Stat. § 14-43.13 (subjecting or maintaining a person for sexual servitude) states, “(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects

or maintains another in sexual servitude. (b) . . . A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor. (b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.”

South Carolina

Under S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined), “An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute,” which includes “(1) soliciting or requesting a minor to participate in prostitution; (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or (3) paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.
The Legislative Solution	Solicitation statutes should not apply to a buyer of commercial sex acts with a minor. These laws are intended to address the vice crime of prostitution and typically permit a lenient punitive response to the buyer that is inconsistent with the serious crime of commercial sexual exploitation of a child (CSEC). In some states a diversion program or “John School” which is geared toward behavior change rather than punishment are mandated as punishment for solicitation; these types of responses are inappropriate to the crime of CSEC or child sex trafficking and inadequate to deter demand for commercial sex with minors. Amending solicitation or patronizing prostitution statutes to ensure a buyer of sex with a minor under 18 is properly identified and punished for the crime of child sex trafficking is essential for serious criminal deterrence.

Select Statute Highlights

The statutes highlighted below are either distinct from prostitution laws or contain provisions specifying the more serious crime of soliciting or patronizing a minor for prostitution and providing heightened penalties.

Hawaii

Pursuant to Enacted House Bill 1606, “(1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person offers or agrees to pay a fee to a minor to engage in sexual conduct. (2) Solicitation of a minor for prostitution is a class C felony. (3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than \$2,000; provided that \$2,000 of the imposed fine shall be credited to the general fund. (4) For purposes of this section: ‘Minor’ means a person who is less than eighteen years of age. ‘Sexual conduct’ has the same meaning as in section 712-1200(2) [Prostitution].”

New Jersey

N.J. Stat. Ann. § 2C:34-1 (Prostitution and related offenses) provides an enhanced penalty provision within the general prostitution law. The law states, “b. A person commits an offense if: (1) The actor engages in prostitution [punishable as a disorderly persons offense]; . . . (7) The actor knowingly engages in prostitution with a person under the age of 18, or

if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) is a separate statute from R.I. Gen. Laws § 11-34.1-3(a) (Procurement of sexual conduct for a fee). It provides, “A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen(18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in prostitution.”

South Carolina

S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined) is codified in Chapter 15, Article 3 (Obscenity, material harmful to minors, child exploitation, and child prostitution), separate and apart from the prostitution laws, and makes it a crime for any individual “(A) . . . if he is not a minor and he patronizes a minor prostitute . . . (1) soliciting or requesting a minor to participate in prostitution; (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; . . . (C) A

person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.”

Tennessee

Tenn. Code Ann. § 39-13-514 (Patronizing prostitution) provides, “(a) A person commits an offense under this section who patronizes prostitution. (b) (1) Patronizing prostitution is a Class B misdemeanor . . . (4)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is a Class E felony.” “Patronizing prostitution” is defined as “soliciting or hiring another person with the intent that the other person engage in prostitution, or entering or remaining in a house of prostitution for the purpose of engaging in sexual activity.” Tenn. Code Ann. § 39-13-512(3).

Texas

Under Tex. Penal Code § 43.02 (Prostitution), “(a) A person commits an offense if he knowingly: (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or (2) solicits another in a public place to engage with him in sexual conduct for hire. . . . (c) An offense under this section is a Class B misdemeanor, except that the offense is: . . . (3) a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or (4) a felony of the second degree if the person solicited is younger than 14 years of age.”

Utah

Utah Code Ann. § 76-10-1303 (Patronizing a prostitute) states that “(1) A person is guilty of patronizing a prostitute when (a) the person pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or (b) the person enters or remains in a house of prostitution for the purpose of engaging in sexual activity. (2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection (3) . . . (3) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other person, a violation of Subsection (1)(a) is a third degree felony.”

Virginia

Va. Code Ann. § 18.2-346(B) (Prostitution; commercial sexual conduct; commercial sexual exploitation of a minor; penalties) provides that “[a]ny person who offers money or its equivalent to another for the purpose of engaging in sexual acts . . . and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.” “Sexual acts” include “adultery, fornication, or any act in violation of § 18.2-361 [Crimes against nature; penalty], or (ii) offers to commit adultery, fornication, or any act in violation of § 18.2-361 [Crimes against nature; penalty].” Va. Code Ann. § 18.2-346(A).

<p>Area of Law</p>	<p>Criminal Provisions Addressing Demand</p>
<p>The Policy Point</p>	<p>Penalties for buyers of commercial sex acts with minors are as high as federal penalties.</p>
<p>The Legislative Solution</p>	<p>Penalties for domestic minor sex trafficking should reflect the severity of the underlying crimes of sexual exploitation. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal commercial sexual exploitation of children (CSEC) laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251 (Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a buyer of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14. Federal trafficking laws have been used to prosecute individuals who have attempted to buy commercial sex acts with a minor and comparable state penalties are important to prevent disparity in the punishments of a buyer convicted under federal laws and one convicted under a state trafficking law. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for buyers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.</p>

Select Statute Highlights

The statutes below reflect penalties as high as federal penalties.

Louisiana

A violation of La. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes), which includes the crime of buying sex with minors, “shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.” La. Stat. Ann. § 14:46.3(D)(1)(a). This penalty is enhanced when the victim is under 14 to “not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.” La. Stat. Ann. §14:46.3(D)(1)(b).

Montana

Mont. Code. Ann. § 45-5-601(3)(a) (Prostitution) states, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the

patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender’s life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) establishes a crime for “(b) Any person who: . . . (2) Sells or purchases a minor for the purposes of commercial sex acts; . . .” and “(c) Every person who shall commit sex trafficking of

a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons), which includes “engag[ing] in sexual conduct with a child trafficked in the manner described in Subdivision (7),” enhances the crime classification in the case of a minor being trafficked from a felony of the second degree to a felony of the first degree. Specifically, a conviction under Tex. Penal Code Ann. § 20A.02(a)(8) is punishable as a first degree felony by “imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years” and a possible fine up to \$10,000. Tex. Penal Code Ann. §§ 20A.02(b)(1), 12.32.

<p>Area of Law</p>	<p>Criminal Provisions Addressing Demand</p>
<p>The Policy Point</p>	<p>Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.</p>
<p>The Legislative Solution</p>	<p>Buyers of commercial sex acts with minors are increasingly turning to the anonymity of the Internet to identify and solicit minors, and arrange for commercial sex acts. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites, and have netted scores of adults seeking to buy commercial sex with minors. Child pornography also is widely available on the Internet, facilitated through peer-to-peer networks that webcast and sell live child sexual performance and images of sexual abuse. Laws prohibiting this Internet solicitation and exploitation are critical to deterring this activity and protecting children from this form of commercial sexual exploitation.</p>

Select Statute Highlights

The following statutes are highlighted because they apply to the crime of exploitation of any minor under the age of 18, include specific language making the use of the Internet for the purposes of soliciting children for commercial sexual acts a crime, and clearly apply to purchasers and attempted purchasers of sex acts with minors.

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25 (Grooming) specifically criminalizes the use of the Internet for the purposes of purchasing commercial sex acts with a child. Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25(a), states, “A person commits the offense of grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act [730 ILCS 150/2, includes patronizing a minor engaged in prostitution] or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.” Grooming is a Class 4 felony punishable with 1–3 years imprisonment and a possible fine not to exceed \$25,000 for each offense or the amount specified in the offense, whichever is greater.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity” or Ky. Rev. Stat. Ann. § 531 (pornography). Furthermore, pursuant to Ky. Rev. Stat. Ann. § 510.155(3) “[t]he solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person’s intent to commit the offense and the offense is complete at that point without regard to whether the person met or attempted to meet the minor.” This crime is a Class D felony with 1–5 years imprisonment and a fine of \$1,000-\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. §§ 510.155(5), 532.060(2)(d), 534.030(1).

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265, § 26D (Enticement of children to engage in prostitution or commercial sexual activity), “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50 (Human trafficking – sexual servitude), 51 (Human trafficking – forced services), 52 (Human trafficking – subsequent violations of sections 50 or 51) or 53 (Human trafficking – organ trafficking) or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) prohibits the use of the Internet by any person who “knowingly solicits another person under eighteen years of age or one whom he or she believes is a person under eighteen years of age for the purpose of engaging in prostitution or any act in violation of chapter 9 [Children], 34 [Prostitution and lewdness], or 37 [Sexual assault] of this title.” A violation is punishable by a sentence of at least 5 years imprisonment.

Virginia

Virginia law outlines a range of violations involving the use of the Internet and other electronic devices to commit a sexual offense or produce child pornography. One of these provisions is Va. Code Ann. § 18.2-374.3(E), which states, “Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution, etc., or consenting thereto] or 18.2-361 [Crimes against nature; penalty], (ii) any activity in violation of § 18.2-374.1 [Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability], or (iii) a violation of § 18.2-374.1:1 [Possession, reproduction, distribution, and facilitation of child pornography; penalty] is guilty of a Class 5 felony.” This is punishable by imprisonment of 1–10 years, “or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” Va. Code Ann. § 18.2-10.

West Virginia

W. Va. Code § 61-3C-14b (Soliciting, etc. a minor via computer; penalty) makes the use of a computer to lure or entice commercial sex acts with a minor illegal. Pursuant to W. Va. Code § 61-3C-14b, “[a]ny person over the age of eighteen, who knowingly uses a computer to solicit, entice, seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer or a person he or she reasonably believes to be a minor, to commit any illegal act proscribed by the provisions of article eight [Crimes against chastity, morality and decency, includes engaging in prostitution], eight-b [Sexual offenses], eight-c [Filming of sexually explicit conduct of minors], or eight-d [Child abuse] of this chapter . . . is guilty of a felony.” A violation is a felony punishable by 2–10 years imprisonment and/or a fine up to \$5,000.

Washington

Wash. Rev. Code § 9.68A.090(2) makes it a class C felony if “if [a] person communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.” “[E]lectronic communication” is defined as “transmission of information by wire, radio, optical cable, electromagnetic, or other similar means [and] includes, but is not limited to, electronic mail, internet-based communications, pager service, and electronic text messaging.” Wash. Rev. Code §§ 9.68A.090(3), 9.61.260.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.
The Legislative Solution	Purchasing sex acts with a minor is a crime. Permitting a defense to prosecution based on mistake of age subverts the intention of protecting children from exploitation and creates a weakness in the laws needed to deter this crime and to protect our children. State laws prohibiting a defense based on mistake of age in sex trafficking and commercial sexual exploitation of children (CSEC) laws send a clear statement to buyers that this crime will not be tolerated and firmly protects all minors from the danger of commercial sexual exploitation.

Select Statute Highlights

The following state laws contain language that expressly prohibits a defense to prosecution based on a mistake of age.

Colorado

Colo. Rev. Stat. § 18-7-407 (Criminality of conduct) states, “In any criminal prosecution under sections 18-7-402 to 18-7-407 [Soliciting for child prostitution, Pandering of a child, Procurement of a child for, Keeping a place of child prostitution, Pimping of a child, Inducement of child prostitution, Patronizing a prostituted child], it shall be no defense that the defendant did not know the child’s age or that he reasonably believed the child to be eighteen years of age or older.”

Iowa

Iowa Code § 710A.2(8) (Human trafficking) states, “[a] person’s ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.”

Louisiana

La. Stat. Ann. § 14:46.3(C)(3) (Trafficking of children for sexual purposes) states that “[l]ack of knowledge of the victim’s age shall not be a defense” to the purchase of a minor for sex acts. Similarly, La. Stat. Ann. § 14.81.1(D)(1) (Pornography involving juveniles) states, “Lack of knowledge of the juvenile’s age shall not be a defense.” La. Rev. Stat. Ann. § 14:82.1(B)(1) (Prostitution; persons under eighteen; additional offenses) states, “Lack of knowledge of the age of the person practicing prostitution shall not be a defense.” Finally, La. Rev. Stat. Ann. § 14:89.2(D)(2) (Crime against nature by solicitation) provides, “Lack of knowledge of the age of the person being solicited shall not be a defense.”

New Jersey

N.J. Stat. Ann. § 2C:34-1(b)(7) (Prostitution and related offenses) states, “It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

North Carolina

N.C. Gen. Stat. §§ 14-43.11(c1) (Human trafficking) and 14-43.13(b1) (Sexual servitude) expressly state that “[m]istake of age is not a defense to a prosecution under this section.”

South Carolina

S.C. Code Ann. § 16-15-425(B) (Participating in prostitution of a minor defined) states, “Mistake of age is not a defense to a prosecution under this section.”

Texas

Tex. Penal Code Ann. § 20A.02 (Trafficking of persons) specifically eliminates a defense of mistake of age by a defendant in a trafficking of persons case, which may reach buyers. Tex. Penal Code Ann. § 20A.02(b) states in part, “[a]n offense under this section is a felony of the first degree if: (1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense.”

Area of Law

Criminal Provisions Addressing Demand

The Policy Point

Base penalties for buying sex acts with a minor under 18 are sufficiently high and not reduced for older minors.

The Legislative Solution

A minor is defined almost uniformly as a person under 18 years of age. States have laws that protect minors from a range of vices (alcohol, tobacco), legal obligations (entering into a contract), and dangers (dangerous work places). Protection from commercial sexual exploitation is no different and, given the underlying criminal act of buying prostitution, should rise in protection enforcement priority. The federal Trafficking Victims Protection Act (TVPA) of 2000 makes it a crime when a person “recruits, entices, harbors, transports, provides, or obtains” a person under 18 to engage in a commercial sex act. However, some state laws stagger penalties for buyers according to the age of the minor involved. This results in older minors receiving less than full protection under the law and allows buyers, and the public, to believe that an older minor is less of a victim. This staggered penalty is not the same as an enhanced penalty, which starts from a serious base penalty for all minors and heightens that penalty to reflect the especially egregious crime against a younger child, such as the federal crime of sex trafficking in 18 U.S.C. § 1591, which provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14. State laws must sufficiently protect all minors who are exploited by buyers of commercial sex acts.

Example of staggered penalties with insufficient base penalties for buying sex with a minor under 18: Ariz. Rev. Stat. Ann. § 13-3212 (Child prostitution) provides a lesser penalty (Class 6 felony) for buyers of sex with minors aged 15, 16, and 17 when the state cannot prove the buyer had knowledge of the minor’s age. A person who “[e]ngag[es] in prostitution with a minor under fifteen years of age” commits a Class 2 felony and is subject to 13–27 years imprisonment (presumptive 20 years) under Ariz. Rev. Stat. Ann. § 13-705 dangerous crimes against children penalty enhancement. Also, a person who “[e]ngag[es] in prostitution with a minor who the person knows is fifteen, sixteen or seventeen years of age” is guilty of a Class 2 felony but subject only to 7–21 years (presumptive 10.5). Finally, a person who “[e]ngag[es] in prostitution with a minor who is fifteen, sixteen, or seventeen years of age” is guilty of a Class 6 felony, punishable by just .33–2 years (presumptive 1 year) but under subsection H, if the offender is sentenced to probation, “the court shall order that as an initial term of probation” 180 days imprisonment in county jail and if the offender meets certain requirements, the court has discretion to suspend 90 days of the sentence.

Select Statute Highlights

The following statutes provide reasonably serious base penalties for the purchase of commercial sex acts with a minor under 18, although they may not be as high as the federal penalty.

Colorado

Colo. Rev. Stat. § 18-7-401 (Definitions) defines a child, as used in Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child), as “a person under the age of eighteen years.” Under this definition, buyers prosecuted under Colo. Rev. Stat. § 18-7-406(1), a Class 3 felony, are subject to a sentence of 4–12 years imprisonment and/or a fine of \$3,000–\$750,000 regardless of the age of the victim.

Georgia

Ga. Code Ann. § 16-6-12 (Pandering), which has been held to apply to buyers, provides a person is guilty of pandering “when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third

person or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution.” Penalties are staggered based on the victim’s age; however, these penalties are reasonably high for all minors. If the victim is 16 or 17, the buyer is guilty of a felony punishable by 5-20 years imprisonment and/or a fine of \$2,500-\$10,000; whereas, if the victim is under 16, the buyer is guilty of a felony punishable by 10-30 years imprisonment and/or a fine not to exceed \$100,000. Ga. Code Ann. §§ 16-6-13(b)(1), (2).

sex acts; . . .” and “(c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$ 40,000), or both.”

Louisiana

Buyers convicted of sex trafficking and CSEC offenses in Louisiana face substantial base penalties for offenses involving minors under 18 and an enhanced penalty for offenses involving minors under 14. Under La. Rev. Stat. Ann. § 14:46.3(D)(1)(a) (Trafficking of children for sexual purposes), § 14:83(B)(2) (Soliciting for prostitutes) and § 14:89.2(A) (Crime against nature by solicitation), convictions are punishable by imprisonment for 15–50 years at hard labor, a fine up to \$50,000, or both unless the victim is under 14, in which case a conviction is punishable by imprisonment for 25–50 years at hard labor and a fine up to \$75,000, with no parole eligibility for the first 25 years. Sufficiently high base penalties are also provided under La. Rev. Stat. Ann. § 14:82.1 (Prostitution; persons under eighteen; additional offenses) makes it a crime “[f]or any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.” A conviction under this statute is punishable by imprisonment for 15–50 years of hard labor, a fine up to \$50,000, or both.

Montana

Mont. Code. Ann §45-5-601(3)(a) (Prostitution) provides, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years . . . ; (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) makes it a crime for “(b) Any person who: . . . (2) Sells or purchases a minor [under 18] for the purposes of commercial

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.
The Legislative Solution	Meaningful fines, asset forfeiture, restitution, and vehicle impound fees serve as punishment and deterrence and reinforce the reality that purchasing sex acts with minors is a heinous crime. Significant financial penalties can also be used to provide domestic minor sex trafficking victims with funding for social and restorative programs and help pay for costly investigations.

Select Statute Highlights

The following states have significant fines and allow asset forfeiture.

Massachusetts

Pursuant to Mass. Gen. Laws ch. 272, § 53A(c), buyers convicted under Mass. Gen. Laws ch. 272, § 53A(c), criminalizing the purchase of commercial sex acts with a minor 18 and younger, are required to pay a fine not less than \$3,000 and not more than \$10,000. Additionally, pursuant to Mass. Gen. Laws ch. 265 § 55, “[a]ll monies furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, and all monies used or intended to be used to facilitate any violation of section 50 [Human trafficking – Sexual servitude] or 51 [Human trafficking – forced services] shall be subject to forfeiture. . .”

Washington

Wash. Rev. Code § 9.68A.105 (Additional fee assessment) states, “(1)(a) In addition to penalties set forth in RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.” Also, Wash. Rev. Code § 9A.88.140(2) (Vehicle impoundment) provides that “[u]pon an arrest for a suspected violation of commercial sexual abuse of a minor . . . the arresting law enforcement officer shall impound the person’s vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465. . .(4)(a) Prior to redeem-

ing the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.”

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.” Wash. Rev. Code § 9.68A.120 (Seizure and forfeiture of property) applies specifically to “[a]ll visual or printed matter that depicts a minor engaged in sexually explicit conduct.” It also applies, with some exceptions to “[a]ll raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate

the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060.” It further applies to “[a]ll personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.” Chapter 9.68A includes Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) bringing seizure and forfeiture of property to bear on this crime as well.

Wisconsin

Wis. Stat. § 973.075(1)(b)(1m)(a), (c) provides for the criminal forfeiture of vehicles used “[i]n the commission of a crime in violation of s. 944.30 [Prostitution], 944.31 [Patronizing prostitutes], 944.32 [Soliciting prostitutes], 944.33 [Pandering] or 944.34 [Keeping place of prostitution].” Pursuant to Wis. Stat. § 973.075(2) “A law enforcement officer may seize property subject to this section upon process issued by any court of record having jurisdiction over the property.” Wis. Stat. § 973.075(4) further states that, “[T]he agency seizing the property may sell the property that is not required by law to be destroyed or transferred to another agency. The agency may retain any vehicle for official use or sell the vehicle. The agency seizing the property may deduct 50% of the amount received for administrative expenses of seizure, maintenance of custody, advertising and court costs and the costs of investigation and prosecution reasonably incurred. The remainder shall be deposited in the school fund as the proceeds of the forfeiture. . . .” Additionally, buyers face a fine of up to \$100,000 if convicted under Wis. Stat. § 948.051 (Trafficking of a child), § 948.08 (Soliciting a child for prostitution), § 948.07 (Child enticement), § 948.02(2) (Sexual assault of a child in the second degree), or § 948.075 (Use of a computer to facilitate a child sex crime). Wis. Stat. §§ 948.051(1), 939.50(3)(c), 948.08, 948.05(2p)(a), 948.07, 948.02, 948.025, 948.075, 939.50(3)(c), (d).

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buying and possessing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	<p>Child pornography is the actual image of sexual abuse as it is being perpetrated on a child. Minor victims depicted in child pornography suffer irreparable physical, emotional and psychological harm. The most common forum for child pornography today is the Internet, and once images are on the Internet they cannot be removed completely and can continue to circulate, re-victimizing the child each time the images are viewed. A federal conviction for possession of child pornography is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000. To decrease demand for these images, those who purchase and possess child pornography must be subject to serious prison sentences, fines, and asset forfeiture, and should be required to pay restitution to the victims.</p>

Select Statute Highlights

The following statutes demonstrate substantial sentences and asset forfeiture for the possession or purchase of child pornography.

Georgia

Under Ga. Code Ann. § 16-12-100(b)(8) (Sexual exploitation of children; reporting violation; forfeiture; penalties), “It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct.” Additionally, Ga. Code Ann. § 16-12-100(b)(6) prohibits “any person knowingly to . . . purchase . . . any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct can be found or purchased.” A person who violates this statute is guilty of a felony punishable by 5–20 years imprisonment and a fine not to exceed \$100,000. In addition, pursuant to Ga. Code Ann. § 16-12-100(e)(1), “A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in: (A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and (B) Any property used, or intended to be used, to commit such offense.”

Mississippi

Miss. Code Ann. § 97-5-33(3) (Exploitation of children; prohibitions) states, “No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Under subsection (5), a person may not “by any means including computer, possess any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” A violation of Miss. Code Ann. § 97-5-33 is punishable by 5–40 years imprisonment and a \$50,000–\$500,000 fine for the first offense and 20 years to life and a \$100,000–\$1,000,000 fine for subsequent violations.

Tennessee

Pursuant to Tenn. Code Ann. § 39-17-1004(a)(1) (Offense of aggravated sexual exploitation of a minor), “(a)(1) It is unlawful for a person to knowingly . . . purchase or exchange material . . . that includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Under subsection (b)(1), “It is unlawful for a person to knowingly . . . purchase or exchange material that is obscene, as defined in § 39-17-901. . . which includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Violation is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to

exceed \$10,000. However, if the number of individual images is greater than 25, the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000. The defendant can be charged on individual counts for each image.

Under Tenn. Code Ann. § 39-17-1003(a) (Offense of sexual exploitation of a minor), “[i]t is unlawful for any person to knowingly possess material that includes a minor engaged in: (1) Sexual activity; or (2) Simulated sexual activity that is patently offensive.” The Class D felony is punishable by 2–12 years imprisonment and a possible fine not to exceed \$5,000 for each individual image possessed. If the number of images and/or materials exceeds 50, then the crime is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to exceed \$10,000. If the number of images and/or materials exceeds 100, then the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000.

Moreover, Tenn. Code Ann. § 39-17-1008 (Forfeiture of any conveyance or real or personal property used in commission of an offense under this part [Sexual Exploitation of Children]), states, “(a) Any conveyance or real or personal property used in the commission of an offense under this part is subject to forfeiture under the provisions of title 40, chapter 33, part 2. (b) Notwithstanding the provisions of § 40-33-211 [Property disposition], the proceeds from all forfeitures made pursuant to this section shall be transmitted to the general fund, where there is established a general fund reserve to be allocated through the general appropriations act, which shall be known as the child abuse fund. Moneys from the fund shall be expended to fund activities authorized by the child abuse fund as set out in § 39-13-530 [Forfeiture of any conveyance or real or personal property used in a sexual offense committed against minors Child abuse fund]. . . .”

Wisconsin

Wis. Stat. § 948.12(2m) penalizes “[w]hoever exhibits or plays a recording of a child engaged in sexually explicit conduct, if all of the following apply... (a) The person knows that he or she has exhibited or played the recording. (b) Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct. (c) Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.” Under Wis. Stat. § 948.12(3)(a), a violation is a Class D felony punishable by a maximum fine of \$100,000 and/or a maximum sentence of 25 years, unless the defendant is under 18, in which case he is guilty of a Class I felony punishable by a maximum fine of \$10,000 or a maximum sentence of 3½, or both.

Wis. Stat. § 973.042(2) (Child pornography surcharge) provides, “If a court imposes a sentence or places a person on probation for a crime under s. 948.05 [Sexual exploitation of a child] or 948.12 [Possession of child pornography] and the person was at least 18 years of age when the crime was committed, the court shall impose a child pornography surcharge of 500 [sic] for each image or each copy of an image associated with the crime. The court shall determine the number of images or copies of images associated with the crime by preponderance of the evidence and without a jury.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.
The Legislative Solution	Purchasers of sex acts with minors and images of child pornography are sexual predators—the exchange of money does not sanitize the underlying crime of child rape or molestation and the consequences should be the same for purchasers as for rapists. Sex offender registry laws are intended to provide people with information that will prevent them and their children from being victimized. The requirement to register as a sex offender serves as deterrence and a warning to the public of the potential danger registered sex offenders pose to children. Domestic minor sex trafficking is a sex offense and state laws should reflect this to require registration. The federal Adam Walsh Act’s Sex Offender Registration and Notification Act (SORNA) includes sex trafficking in the definition of “sex offense” and sets the sex offender registry standard for states to achieve. Including child sex trafficking as an offense requiring registration as a sex offender is a relatively easy legislative fix for states to enact and is consistent with the federal government’s definition in the Adam Walsh Act.

Select Statute Highlights

The following statutes require sex offender registration for individuals convicted of sex trafficking, purchasing sex with minors, and purchasing or possessing child pornography.

Colorado

Colo. Rev. Stat. § 16-22-103(1), (2) (Sex offender registration—required—applicability—exception) requires anyone convicted in Colorado or another jurisdiction of an “unlawful sex offense” or another offense “the underlying factual basis of which involves unlawful sexual behavior” to register as a sex offender. Colo. Rev. Stat. § 16-22-102(9) (Definitions) defines “unlawful sexual behavior” as including the following offenses requiring sex offender registration: “. . . (j) Trafficking in children, in violation of section 18-3-502, C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; . . . (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . .”

Hawaii

Pursuant to Haw. Rev. Stat. § 846E-1 (Definitions), “Sex offender’ means: (1) A person who is or has been convicted at any time . . . of a ‘sexual offense’ . . .” Haw. Rev. Stat. § 846E-1 further defines “Sexual offense” to include “Solicitation of a minor for prostitution in violation of section 712-....”

Maryland

Pursuant to Md. Code Ann., Crim. Proc. § 11-704(a) (Registration required), sex offender registration is required for tier I, II, and III sex offenders. A “tier I sex offender” in Md. Code Ann., Crim. Proc. § 11-701(o) includes a person convicted of the following: . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of . . . § 11-208 [Possession of visual representation of child under 16 engaged in certain sexual acts] . . . ; (3) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in item . . . (2) of this subsection; (4) any of the following federal offenses: . . . (vi) sex trafficking by force, fraud, or coercion under 18 U.S.C. § 1591; (vii) travel with intent to engage in illicit conduct under 18 U.S.C. § 2423(b)” A “Tier II sex offender” in Md. Code Ann., Crim. Proc. § 11-701(p) includes those persons convicted of: (1) conspiring to commit, attempting to commit, or committing a violation of . . . § 3-324 [Sexual solicitation of minor], [or] § 11-207 [Child pornography] . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of § 11-303 [Human trafficking], § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution]. . . , if the intended prostitute or victim is a minor; . . . (4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I sex offender after the person was already registered as a tier I sex offender; (5) a crime that was

committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; . . .”

North Carolina

Pursuant to N.C. Gen. Stat. § 14-208.7(a) (Registration), “[a] person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides.” The definition of “reportable conviction” includes “a sexually violent offense.” N.C. Gen. Stat. § 14-208.6(4). The term, “sexually violent offense,” is defined in N.C. Gen. Stat. § 14-208.6(5) as, “a violation of . . . G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), . . . G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), . . . G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), . . . G.S. 14-190.19 (participating in the prostitution of a minor), . . . [and] G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act)”

Utah

Under Utah law, sex and kidnap offenders are required to register. Utah Code Ann. § 77-41-102(11) (Definitions). Utah Code Ann. § 77-41-102(16) defines “sex offender” in part as “any person . . . (a) convicted in this state of: (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor . . . (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor; (iv) Section 76-5-401.1, sexual abuse of a minor; (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old . . . (vii) Section 76-5-402.1, rape of a child . . . (ix) Section 76-5-402.3, object rape of a child . . . (xi) Section 76-5-403.1, sodomy on a child . . . (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child” Utah Code Ann. § 77-41-102(9) (Definitions) defines “[k]idnap offender” in part as “any person other than a natural parent of the victim who: (a) has been convicted in this state of a violation of: (i) Subsection 76-5-301(1)(c) or (d), kidnapping; (ii) Section 76-5-301.1, child kidnapping; (iii) Section 76-5-302, aggravated kidnapping; (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011. . . .”

Issue Briefs

Section 3 | Criminal Provisions for Traffickers

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

<p>Area of Law</p>	<p>Criminal Provisions for Traffickers</p>
<p>The Policy Point</p>	<p>Penalties for trafficking a child for sexual exploitation are as high as federal penalties.</p>
<p>The Legislative Solution</p>	<p>Commercial sexual exploitation of children and sex trafficking are egregious crimes and the penalties must reflect the severity of the offense. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal CSEC laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251 (Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a trafficker of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14 or force, fraud or coercion were used to cause the trafficking. Federal trafficking laws are being used to secure serious sentences for traffickers and comparable state penalties are important to prevent disparity in the punishments. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for traffickers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.</p>

Select Statute Highlights

Alabama

Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree) makes it illegal for a trafficker who “knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.” Violation of Ala. Code § 13A-6-152(a) (2) is a Class A felony punishable by a sentence of 10–99 years imprisonment and a possible fine up to \$60,000 or any amount up to double the profit or loss to the victim.

Traffickers prosecuted under Ala. Code § 13A-12-111(a) (Promoting prostitution in the first degree), which provides that “(a) A person commits the crime of promoting prostitution in the first degree if he knowingly: . . . (2) Advances or profits from prostitution of a person less than 16 years of age” are in violation of a Class B felony and subject to a sentence of 2–20 years imprisonment and a possible fine up to \$30,000. If the victim is under 18, it is a Class C felony punishable by 1–10 years imprisonment and a possible fine up to \$30,000. If the victim is under 12, then a mandatory minimum sentence of 10 years imprisonment applies.

Georgia

Trafficking a child in Georgia under the age of 18 is punishable under Ga. Code Ann. § 16-5-46(f)(2) (Trafficking of persons for labor or sexual servitude) by 10–20 years imprisonment and/or a fine not to exceed \$100,000. If the trafficker used coercion or deception in trafficking the minor, the penalty is life imprisonment or 25–50 years imprisonment and/or a fine not to exceed \$100,000. Additionally, under subsection (g), “All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Code section shall be subject to forfeiture to the state.”

Iowa

Traffickers who violate Iowa Code § 710A.2 (Human trafficking), when the victim is a minor, commit a Class B or a Class C felony. Class B felonies are punishable by imprisonment up to 25 years, while Class C felonies are punishable by imprisonment up to 10 years and a fine of \$1,000–\$10,000. Iowa Code § 902.9(2), (4). To the extent that a trafficker is a habitual offender, the trafficker may receive imprisonment up to 15 years. Iowa Code § 902.9(3).

Oregon

A conviction under Or. Rev. Stat. §§ 163.266(1)(a), (2) (Trafficking in persons) or Or. Rev. Stat. § 167.017 (Compelling prostitution) is punishable as a Class B felony by imprisonment up to 10 years and a possible fine not to exceed \$250,000.

Missouri

A trafficker who violates Mo. Rev. Stat. § 566.212.1 (Sexual trafficking of a child), is guilty of “a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.” Mo. Rev. Stat. § 566.213 (Sexual trafficking of a child under age twelve) enhances the penalty for sex trafficking of a child under 12 years of age to “a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.”

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for sexual servitude) is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000, “except where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000’) of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony,” punishable by 15–60 years and a possible fine not to exceed \$50,000.

Tenn. Code Ann. § 39-14-903. Tenn. Code Ann. § 39-14-903(b)(1) states, “It is an offense to knowingly use proceeds derived directly or indirectly from a specified unlawful activity with the intent to promote, in whole or in part, the carrying on of a specified unlawful activity.” A violation of the money laundering statute is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000.

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Creating and distributing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	<p>Child pornography is the actual image of sexual abuse as it is being perpetrated on a child. Minor victims depicted in child pornography suffer irreparable physical, emotional and psychological harm. The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography. Traffickers of child pornography are seizing the opportunity to make and sell child pornography on the Internet, where images continue to circulate, revictimizing children each time the images are viewed. A federal conviction for producing and distributing images of child pornography is generally punishable by imprisonment for 5–30 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 or 50 years and a fine not to exceed \$250,000. States must enact laws which mandate serious penalties for those persons who create and sell child pornography with penalties adequately steep to deinceivize them including imposition of fines, asset forfeiture, and restitution requirements that will be used for the benefit of their victims.</p>

Select Statute Highlights

The highlighted statutes apply to all minors under the age of 18 and impose significant penalties.

Alabama

Ala. Code § 13A-12-197(a) (Production of obscene matter containing visual depiction of person under 17 years of age involved in obscene acts) states, “Any person who knowingly films, prints, records, photographs or otherwise produces any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony.” Ala. Code § 13A-12-197(b) makes each depiction of an individual under 17 a separate offense punishable by imprisonment for life or 10–99 years, “which imprisonment includes hard labor,” and a possible fine up to \$60,000. Ala. Code §§ 13A-5-2(a), (b), 13A-5-6(a)(1), 13A-5-11(a)(1). If the victim of a violation of Ala. Code § 13A-12-197 is under 12 years old, a mandatory minimum imprisonment of 20 years applies. Ala. Code §§ 13A-5-6(a)(4), 15-20A-5(14), 15-20A-48(a).

Hawaii

Haw. Rev. Stat. Ann. § 707-750(1)(a), (b) (Promoting child abuse in the first degree) states, “A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person: (a) Produces or participates in the preparation of child pornography;. . .” Promoting child abuse in the first degree is a Class A felony punishable by 20 years imprisonment without the possibility of suspension of sentence or probation and a possible fine up to \$50,000.

Montana

Mont. Code Ann. § 45-5-625(1)(a) (Sexual abuse of children) is punishable by life imprisonment or a term of imprisonment up to 100 years and a possible fine not to exceed \$10,000. Mont. Code Ann. § 45-5-625(2)(a). However, if the victim is under 16, unless punished under Mont. Code Ann. § 46-18-219, a conviction for sexual abuse of children is punishable by life imprisonment or by imprisonment for 4–100 years and a possible fine not to exceed \$10,000. Mont. Code Ann. § 45-5-625(2)(b). Penalties are enhanced when the child is under 13 and the offender is 18 or older to imprisonment for 100 years, 25 years if which cannot be suspended (“except as provided in 46-18-222”), a possible fine not to exceed \$50,000, an order to enroll in a treatment program, and possible supervision for the remainder of the offender’s life. Mont. Code Ann. § 45-5-625(4)(a), (b).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.
The Legislative Solution	Traffickers of commercial sex acts with minors are increasingly turning to the Internet to identify and recruit the large numbers of minors vulnerable to these cyber-predators. Also, the Internet is a lucrative venue to sell commercial sex acts, live and recorded sexual performance by minors, and images of child pornography to the growing number of buyers. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites. Child pornography also is widely available on the Internet and live sexual performances are facilitated through peer-to-peer networks, selling live, webcast child sexual performance and images of sexual abuse. Laws specifically prohibiting Internet recruitment and exploitation are critical to deterring the traffickers and protecting children from this form of commercial sexual exploitation.

Select Statute Highlights

The following statutes are highlighted because they apply to all minors under the age of 18, include specific language making the use of the Internet to recruit or sell children for purposes of commercial sexual exploitation, and clearly apply to traffickers.

Illinois

720 Ill. Comp. Stat. Ann. 5/11-25(a) (Grooming) criminalizes any person who “knowingly uses a computer on-line service, Internet service, . . . [to] solicit . . . or attempt to . . . solicit . . . a child . . . to commit” a violation of 720 Ill. Comp. Stat. Ann. 5/11-14.4 (Promoting juvenile prostitution), or 720 Ill. Comp. Stat. Ann. 5/11-19.1 (Juvenile pimping and aggravated juvenile pimping). A violation of 720 Ill. Comp. Stat. Ann. 5/11-25(a) is a Class 4 felony punishable by a sentence of 1–3 years imprisonment and a possible fine up to \$25,000.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards . . . for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where

that offense involves commercial sexual activity” or pornography under Ky. Rev. Stat. Ann. Chapter 531.

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265, § 26D (Enticement of children to engage in prostitution or commercial sexual activity), “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50 (Human trafficking – sexual servitude), 51 (Human trafficking – forced services) . . . or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.”

Virginia

Va. Code § 18.2-374.3(E) (Use of communication system to facilitate certain offenses involving children) states, “[a]ny person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks . . . for the purposes of soliciting any person he knows or has reason to believe is a child younger than 18 years of age for (i) any activity in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution] . . . , (ii) any activity in violation of § 18.2-374.1 , or (iii) a violation of § 18.2-374.1:1 is guilty of a Class 5 felony. Specifically, child pornography crimes under § 18.2-374.1 (Production, publication, sale, financing, etc., of child pornography) are punishable by 5–30 years of imprisonment where the subject of the child pornography is less than 15 years of age, and 1–20

years of imprisonment where the subject is at least 15 but less than 19 years of age. Crimes under § 18.2-374.1:1 (Possession, reproduction, distribution, solicitation, and facilitation of child pornography; penalty) are punishable for 5–20 years of imprisonment.

Washington

Wash. Rev. Code § 9.68A.1025 (Internet advertisement describing or depicting victim—additional penalty) establishes an enhanced penalty for the use of Internet advertisement to facilitate the commission of a sex-trafficking crime. Section 9.68A.1025 states, in part, “a person convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.” For purposes of this section, an “internet advertisement” means “a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse . . . in exchange for something of value.” § 9.68A.1025(2).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Financial penalties for traffickers, including asset forfeiture, are sufficiently high.
The Legislative Solution	The primary reason traffickers exploit children is profit. Children can be sold for sex multiple times over a prolonged period of time, resulting in significant profit for the trafficker. Financial penalties, including fines and asset forfeiture, are critical to increasing criminal deterrence and disrupting criminal trafficking enterprises, as well as offsetting the cost of investigating, prosecuting and providing services to restore victims' lives. Also, asset forfeiture is a critical means of prohibiting a criminal from keeping the proceeds or instrumentalities of the crime.

Select Statute Highlights

The following states have significant fines and allow asset forfeiture.

California

Traffickers convicted of violating Cal. Penal Code § 236.1(c) (Human trafficking defined; punishment), where the victim is a minor under 18, are required to pay a fine not to exceed \$500,000. If convicted under Cal. Penal Code § 236.1, Ca Cal Penal Code § 236.4(a) authorizes the court to fine violators an additional one million dollars after considering “any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances and duration of its commission, the amount of economic gain the defendant derived as a result of the crime, and the extent to which the victim suffered losses as a result of the crime.” Traffickers prosecuted under Cal. Penal Code § 266j (Procurement of child) are required to pay a fine up to \$15,000. Furthermore, traffickers are subject to forfeit property and proceeds acquired through a “pattern of criminal profiteering activity” under the provisions of the California Control of Profits of Organized Crime Act, Cal. Pen. Code, Part 1 (Of crimes and punishments), Title 7 (Of crimes against public justice), Chapter 9 (Criminal Profiteering). Cal. Penal Code § 236.4 (d) provides, “[e]very fine imposed and collected pursuant to Section 236.1 and this section shall be deposited in the Victim-Witness Assistance Fund, to be administered by the California Emergency Management Agency (Cal EMA), to fund grants for services for victims of human trafficking. Seventy percent of the fines collected and deposited shall be granted to public agencies and nonprofit corporations that

provide shelter, counseling, or other direct services for trafficked victims. Thirty percent of the fines collected and deposited shall be granted to law enforcement and prosecution agencies in the jurisdiction in which the charges were filed to fund human trafficking prevention, witness protection, and rescue operations.”

Connecticut

A trafficker convicted of Conn. Gen. Stat. § 53a-192a (Trafficking in Persons) or § 53a-86(a)(2) (Promoting prostitution in the first degree: Class B felony) could be fined up to \$15,000. A trafficker is also subject to asset forfeiture pursuant to Conn. Gen. Stat. § 54-36p (Forfeiture of moneys and property related to sexual exploitation and human trafficking).

District of Columbia

A conviction under D.C. Code § 22-1834 (Sex trafficking of children) can result in a fine up to \$200,000. Additionally, a trafficker can face asset forfeiture under chapter 18A (Human trafficking), D.C. Code § 22-1838(a), (b) (Forfeiture) which states, in addition to any sentence imposed, that the individual or business shall forfeit to the District of Columbia: (a) . . . (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and(2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation. (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them: (1) Any property, real or personal, used or

intended to be used to commit or to facilitate the commission of any violation of this chapter., (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.” A trafficker’s vehicle could be impounded under D.C. Code § 22-2724, which allows for impoundment of “[a]ny vehicle used in furtherance of a violation of a prostitution-related offense.”

Illinois

A trafficker may be fined up to \$25,000 for each felony offense or the amount specified in the offense, whichever is greater for violations of the following statutes: Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses), Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14.4(d) (Promoting juvenile prostitution), Ill. Comp. Stat. Ann. § 720 ILCS 5/10-5.1(g) (Luring of a minor), Ill. Comp. Stat. Ann. § 720 ILCS 5/11-6(c) (Indecent solicitation of a child), Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14.3(b) (Promoting prostitution) and Ill. Comp. Stat. Ann. § 720 ILCS 5/11-9.1(c) (Sexual exploitation of a child). Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9(j) (Trafficking in persons; involuntary servitude, and related offenses) states, “[a] person who commits the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services . . . is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963 [725 ILCS 5/124B-5 et seq.]” Furthermore, Illinois has enacted specific forfeiture statutes with relation to specific offenses. Ill. Comp. Stat. Ann. § 725 ILCS 5/124B-300 (Persons and property subject to forfeiture), states, “A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 or Section 10-9 of the Criminal Code of 1961 [720 ILCS 5/10A-10] or the Criminal Code of 2012 shall forfeit to the State of Illinois any profits or proceeds and any property he or she has acquired or maintained in violation of Section 10A-10 or Section 10-9 of the Criminal Code of 1961 [720 ILCS 5/10A-10] or the Criminal Code of 2012 . . .”

Indiana

Traffickers convicted under Ind. Code Ann. § 35-42-3.5-1 (Promotion of human trafficking; sexual trafficking of a minor; human trafficking), § 35-45-4-4 (Promoting prostitution), § 35-52-4-6 (Child solicitation), § 35-42-4-4(b) (Child exploitation), § 35-45-9 (Criminal Gang Control), § 35-45-6-2 (Corrupt business influence), or § 35-45-15-5 (Money laundering), all felonies, can be ordered to pay a possible fine up to \$10,000. Indiana’s general forfeiture provision regarding proceeds of a crime, Ind. Code Ann. § 34-24-1-1(a)(3) (Seizure of vehicles and property commonly used as

consideration for controlled substances offenses; seizure of tobacco products and personal property owned and used to facilitate violation), would require traffickers convicted of any criminal offense to forfeit “[a]ny portion of real or personal property purchase with money that is traceable as a proceed of a violation of a criminal statute.” Furthermore, under Ind. Code Ann. § 34-24-1-1(a)(4), vehicles used by traffickers to “(A) commit, attempt to commit, or conspire to commit; (B) facilitate the commission of; or (C) escape from the commission of: . . . kidnapping (IC 35-42-3-2) . . . child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4)” may also be seized. Ind. Code Ann. § 34-24-1-1(a)(10), (c) permit “[a]ny equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4 [production and distribution of child pornography]” may be seized, but only if it is proved “by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).”

Maryland

Md. Crim. Proc. Code Ann. § 13-502 (Subject to forfeiture), “The following are subject to forfeiture: (1) except as provided in § 13-503 [Forfeiture for violations without knowledge of owner not permitted] of this subtitle, a motor vehicle used in connection with a violation of and conviction under § 11-303 [Human trafficking] of the Criminal Law Article; (2) money used in connection with a violation of and conviction under the human trafficking law, found in close proximity to or at the scene of the arrest for a violation of the human trafficking law; and (3) except as provided in § 13-503 of this subtitle, real property used in connection with a violation of and conviction under § 11-303 of the Criminal Law Article.” Pursuant to Md. Crim. Proc. Code Ann. § 13-501 (Violations of the Human Trafficking Law), “human trafficking law” is defined as “§ 3-324 [Sexual solicitation of minor], § 11-207 [Child pornography], § 11-303 [Human trafficking], § 11-304 [Receiving earnings of prostitute], and § 11-305 [Abduction of child under 16] of the Criminal Law Article.” Additionally, traffickers convicted under Md. Crim. Law Code Ann. § 11-303 (Human trafficking) face a fine of up to \$15,000.

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265 § 556(a), (e) (Human trafficking—Property subject to forfeiture), “(a) The following property shall be subject to forfeiture to the commonwealth and all property rights therein shall be in the commonwealth: (i) all conveyances, including aircraft, vehicles or vessels used,

or intended for use, to transport, conceal or otherwise facilitate a violation of section 50 [Human trafficking – sexual servitude] or 51 [Human trafficking – forced services]; (ii) all books, records and research, including microfilm, tapes and data which are used, or intended for use, in violation of section 50 or 51; (iii) all negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, all proceeds traceable to such an exchange, including real estate and any other thing of value, and all negotiable instruments and securities used or intended to be used to facilitate any violation of section 50 or 51; and (iv) all real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements thereto, which is used in any manner or part to commit or to facilitate any violation of section 50 or 51.” Additionally, traffickers convicted under Mass. Gen. Laws ch. 265, § 50 (Human trafficking – Sexual servitude) are subject to a fine not to exceed \$25,000 and “[a] business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than \$1,000,000.” Mass. Gen. Laws ch. 265, § 50(a), (c).

Washington

Wash. Rev. Code § 9A.88.140(2) (Vehicle impoundment — fees and fine) provides that “[u]pon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person’s vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.” Subsection (4) sets a \$2,500 fine to the impounding agency prior to redeeming the vehicle. Pursuant to Wash. Rev. Code § 9A.20.021(a) a trafficker faces a fine under human trafficking or promoting commercial sexual abuse of a minor of \$50,000. In addition, Wash. Rev. Code § 9.68A.105 imposes a non-discretionary \$5,000 penalty for any conviction under Wash. Rev. Code § 9.68A.101 (Promoting commercial sexual abuse of a minor).

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or

as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.” This provision applies to all felonies, except contraband, narcotics, firearms, gambling devices, money laundering, fish and wildlife offenses, and Wash. Rev. Code § 10.105.900 (Human trafficking); thus, it could be applied in a case of commercial sexual abuse of a minor.

Wash. Rev. Code § 9.68A.120 (Seizure and forfeiture of property) applies specifically to “[a]ll visual or printed matter that depicts a minor engaged in sexually explicit conduct.” It also applies, with some exceptions to “[a]ll raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060.” It further applies to “[a]ll personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.” Chapter 9.68A includes Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) bringing seizure and forfeiture of property to bear on this crime as well.

<p>Area of Law</p>	<p>Criminal Provisions for Traffickers</p>
<p>The Policy Point</p>	<p>Convicted traffickers are required to register as sex offenders.</p>
<p>The Legislative Solution</p>	<p>Traffickers of sex acts with minors are sexual predators—the exchange of money does not sanitize the underlying crime of child rape or molestation and the consequences should be the same for traffickers as for rapists. Sex offender registry laws are intended to provide people with information that will prevent them and their children from being victimized. The requirement to register as a sex offender serves as deterrence, and a warning to the public of the danger registered sex offenders pose to children. Domestic minor sex trafficking is a sex offense and state laws should reflect this to require registration. The federal Adam Walsh Act’s Sex Offender Registration and Notification Act (SORNA) includes sex trafficking in the definition of “sex offense” and sets the sex offender registry standard for states to achieve. Including child sex trafficking as an offense requiring registration as a sex offender is consistent with the federal government’s definition in the Adam Walsh Act.</p>

Select Statute Highlights

The following statutes require sex offender registration for individuals convicted of sex trafficking, exploiting a child through prostitution, and producing and distributing child pornography.

Arizona

Ariz. Rev. Stat. Ann. § 13-3821(A) (Persons required to register) lists the crimes for which an offender must register as a sex offender. The list includes, in relevant part, the following crimes: “9. Taking a child for the purpose of prostitution pursuant to section 13-3206, 10. Child prostitution pursuant to section 13-3212, subsection A or subsection B, Paragraph 1 or 2, 11. Commercial sexual exploitation of a minor pursuant to section 13-3552, 12. Sexual exploitation of a minor pursuant to section 13-3553, 13. Luring a minor for sexual exploitation pursuant to section 13-3554, 14. Sex trafficking of a minor pursuant to section 13-1307. . . 21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.”

Colorado

Pursuant to Colo. Rev. Stat. § 16-22-103(1)(a), (2)(a) (Sex offender registration—required—applicability—exception) any person convicted of an “unlawful sexual offense as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of

a child, as described in section 18-3-306, C.R.S.” or “any person convicted. . . of unlawful sexual behavior. . .” must register. Colo. Rev. Stat. § 18-3-411(1) (Sexual offenses against children) and § 16-22-102(9) (Definitions) define “unlawful sexual behavior” as including: “(j) Trafficking in children, in violation of section 18-3-502, C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; (l) Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.; . . . (n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.; (o) Pandering of a child, in violation of section 18-7-403, C.R.S.; (p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.; (q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.; (r) Pimping of a child, in violation of section 18-7-405, C.R.S.; (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.; (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . .”

Florida

Fla. Stat. § 775.21 (Florida’s Sexual Predators Act) subjects “sexual predators” convicted of a sexual offense to registration and community and public notification, pursuant to subsections (6) and (7), if the offense was “[a]ny felony violation, or any attempt thereof, of . . . s. 787.06(3)(b) . . . (g), or (h) [Human trafficking] . . . s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of mi-

nors into prostitution; penalties]; . . .” Fla. Stat. § 775.21(4) (b). Traffickers convicted under Fla. Stat. Ann. § 787.06(g) and (h) or certain CSEC, pornography and sex offense provisions, will also be required to register as a sex offender under Fla. Stat. Ann. § 943.0435(2)(a) (Sexual offenders required to register with the department; penalty). Pursuant to Fla. Stat. Ann. § 943.0435(1)(a), a “sexual offender” subject to the registration requirement in subsection (2)(a) is defined in part as a person who “[h]as been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02 . . . s. 787.06(3)(b) . . . (g), or (h) [Human trafficking] . . . s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into prostitution; penalties]; s. 800.04 . . . s. 827.071 [Sexual performance by a child; penalties] . . . s. 847.0135 [Computer pornography; traveling to meet minor; penalties], excluding s. 847.0135(6) . . . or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph . . .”

Idaho

Pursuant to Idaho Code Ann. § 18-8304(1)(a) (Application of chapter—Rulemaking authority) any person who commits any one of the following crimes, including attempt, solicitation, or conspiracy of such crime, must register as a sex offender under Chapter 83 (Sexual offender registration notification and community right-to-know Act): Idaho Code Ann. § 18-1507 (Definitions—sexual exploitation of a child—penalties), § 18-5609 (Inducing person under eighteen years of age into prostitution), § 18-5610 (Utilizing a person under eighteen years of age for prostitution—Penalties), § 18-5611 (Inducing person under eighteen years of age to patronize a prostitute), § 18-8602 (Human trafficking defined).

Indiana

Ind. Code § 11-8-8-7(a)(1) requires registration by a sex or violent offender defined in Ind. Code § 11-8-8-5(a) (“Sex of violent offender” defined) as any person convicted of: “(4) Child exploitation (IC 35-42-4-4(b)), . . . (6) Child solicitation (IC 35-42-4-6). . . (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony, (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014), (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age, (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)), (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age. . . .”

Iowa

Iowa Code § 692A.103 (1) (Offenders required to register) states, “A person who has been convicted of any sex offense classified as a tier I, tier II, or tier III offense . . . if the offender resides, is employed, or attends school in this state. . .” must register as a sex offender. Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor . . .”

Kentucky

Ky. Rev. Stat. Ann. § 17.510(2) (Registration system for adults who have committed sex crimes or crimes against minors—Persons required to register) requires “registrants” to register as sex offenders. Ky. Rev. Stat. Ann. § 17.500(5)(a) (Definitions) defines “registrant” as including “[a]ny person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed: 1. A sex crime; or 2. A criminal offense against a victim who is a minor.” KRS § 17.500(5)(a). KRS § 17.500(3)(a) defines “criminal offense against a victim who is a minor” as “5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100; 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18); . . .”

Minnesota

Pursuant to Minn. Stat. § 243.166, subd. 1b(a)(2) (Registration of predatory offenders), a person must register if “charged with or petitioned for a violation of . . . soliciting a minor to engage in prostitution in violation of section 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties]; soliciting a minor to engage in sexual conduct in violation of section 609.352 [Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children]; using a minor in a sexual performance in violation of section 617.246 [Use of minors in sexual performance prohibited]. . . .”

<p>Area of Law</p>	<p>Criminal Provisions for Traffickers</p>
<p>The Policy Point</p>	<p>Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.</p>
<p>The Legislative Solution</p>	<p>Traffickers use physical and psychological tactics to maintain control over their victims. Intentionally impregnating victims is one way traffickers ensure the victim will not leave, using the baby as a bond. Traffickers who have children with their victims might later place their own children in the sex trafficking market. Also, children of a trafficking victim are exposed to daily violence and manipulation. The victim-parent’s opportunity for freedom from the control of the trafficker-parent’s rights to the child, and freedom for the child from the relationship with a trafficker-parent is essential for a child’s protection. State laws regarding termination of parental rights frequently identify a conviction for state or federal crimes of violence or extended incarceration as grounds for a termination petition, but clear legislative intent to include convictions for child sex trafficking or commercial sexual exploitation of children (CSEC) crimes must also constitute grounds for termination of parental rights.</p>

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 8-863 (Hearing to terminate parental rights) states, “The court may terminate the parental rights of a parent if the court finds by clear and convincing evidence one or more of the grounds prescribed in section 8-533.” Ariz. Rev. Stat. Ann. § 8-533(B) (Petition; who may file; grounds) states in part, “[e]vidence sufficient to justify the termination of the parent-child relationship shall include any one of the following, and in considering any of the following grounds, the court shall also consider the best interests of the child: . . . 2. That the parent has neglected or willfully [sic] abused a child. . . .” Ariz. Rev. Stat. Ann. § 8-201(2)(a) (Definitions), defines “abuse” in relevant part as “commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, . . . or child prostitution pursuant to section 13-3212.”

Florida

Parental rights may be terminated under Fla. Stat. § 39.806(1)(d)(2) (Grounds for termination of parental rights) when the parent is determined to be a sexual predator as defined in Fla. Stat. § 775.21(4), which includes convictions for the full range of sex trafficking, CSEC, and sexual offenses. Fla. Stat. § 775.21(4)(b) defines “sexual predators” as persons convicted of “[a]ny felony violation, or any attempt thereof, of . . .

. . . s. 787.06(3)(b) . . . (g), or (h) [Human trafficking] . . . s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into prostitution; penalties]; . . . s. 847.0145 [Selling or buying of minors; penalties]; . . . and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01 [Kidnapping; kidnap-ping of child under age 13, aggravating circumstances], s. 787.02 [False imprisonment; false imprisonment of child under age 13, aggravating circumstances], or s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor and the defendant is not the victim’s parent or guardian; s. 794.011 [Sexual battery], . . . ; s. 794.05 [Unlawful sexual activity with certain minors]; s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into sex trafficking or prostitution; penalties]; s. 800.04 [Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age]; s. 825.1025 [Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person]; s. 827.071 [Sexual performance by a child; penalties]; s. 847.0133 [Protection of minors; prohibition of certain acts in connection with obscenity; penalty]; s. 847.0135 [Computer pornography; traveling to meet minor; penalties], . . . ; or a violation of a similar law of another jurisdiction;. . . .”

Iowa

Iowa Code § 600A.8(10) (Grounds for termination) permits the court to order the termination of parental rights based on “clear and convincing proof” that any of the following grounds exist: “[t]he parent has been convicted of a felony offense that is a ‘sex offense against a minor’ as defined in section 692A.101 [Definitions]. . .” Pursuant to Iowa Code § 692A.101 (Definitions) “Sex offense against a minor” “means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.” Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense. . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor., (32) Sex trafficking of children in violation of 18 U.S.C. § 1591. . . . (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A. . . .”

Tennessee

Tenn. Code Ann. § 37-1-147 (Termination of parental rights) states, “Termination of parental or guardianship rights must be based upon: (1) A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established; and (2) That termination of the parent’s or guardian’s rights is in the best interests of the child.” Under subsection (g), initiation of termination of parental or guardianship rights may be based upon the parent or guardian having been convicted of trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309. Tenn. Code Ann. § 37-1-147(g)(12). The chancery courts and circuit courts have concurrent jurisdiction over termination of parental rights. Under Tenn. Code Ann. § 36-1-113(g) (Termination of parental rights) a termination of parental rights in that court may be based on the finding that “[t]he parent is convicted of trafficking for commercial sex act under § 39-13-309, and a child of the parent is one (1) of the victims of the offense.”

Texas

Tex. Fam. Code Ann. § 161.001(1)(L), (2) states, “The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence . . . that the parent has . . . been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following . . . Penal Code sections . . . (iv) Section 21.11 (indecent with a child) . . . (vi) Section 22.011 (sexual assault) . . . (viii) Section 22.021 (aggravated sexual assault) . . . (xii) Section 43.25 (sexual performance by a child); (xiii) Section 43.26 (possession or promotion of child pornography); (xiv) Section 21.02 (continuous sexual abuse of young child or children); (xv) Section 20A.02(a)(7) or (8) (trafficking of persons); and (xvi) Section 43.05(a)(2) (compelling prostitution) . . . and (2) that termination is in the best interest of the child.”

Wisconsin

Pursuant to Wis. Stat. § 48.415(9m), (am) (Grounds for involuntary termination of parental rights), “Grounds for termination of parental rights shall be one of the following . . . Commission of a felony against a child . . . [or] Commission of a violation of s. 948.051 (Trafficking of a child) involving any child or a violation of the law of any other state or federal law, if that violation would be a violation of s. 948.051 involving any child if committed in this state.”

Issue Briefs

Section 4 | Criminal Provisions for Facilitators

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 4.1

<p>Area of Law</p>	<p>Criminal Provisions for Facilitators</p>
<p>The Policy Point</p>	<p>The acts of assisting, enabling, or financially benefiting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.</p>
<p>The Legislative Solution</p>	<p>Facilitators of domestic minor sex trafficking are those people or business that assist, enable, aid, or financially benefit from child sex trafficking. These actions are essential to the success of the sex trafficking enterprise but facilitators are rarely held accountable for their role in the crime of sex trafficking. Due to the low risk of being prosecuted or seriously penalized, facilitators often reap the financial benefits of the sex trafficking industry without significant risk of criminal liability. The inclusion of acts of assisting, enabling, and/or financially benefitting from domestic minor sex trafficking in state human trafficking laws allows law enforcement to fully investigate cases, enables prosecutors to obtain convictions, and provides judges appropriate sentencing for these perpetrators who facilitate the commercial sexual exploitation of children.</p>

Select Statute Highlights

District of Columbia

D.C. Code § 22-1836 (Benefitting financially from human trafficking) states, “It is unlawful for an individual or business knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1833 [Trafficking in labor or commercial sex acts], § 22-1834 [Sex trafficking of children], or § 22-1835 [Unlawful conduct with respect to documents in furtherance of human trafficking], knowing or in reckless disregard of the fact that the venture has engaged in the violation.”

Iowa

Iowa Code § 710A.2(4), (7) (Human trafficking) makes any “person who benefits financially or by receiving anything of value from knowing participation in human trafficking . . . [when] the victim is under the age of eighteen” guilty of a felony.

Louisiana

La. Stat. Ann. § 14:46.3(A)(2), (4) (Trafficking of children for sexual purposes) makes it unlawful “for any person to knowingly benefit from activity prohibited by the provisions of this Section” or “[f]or any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.”

Mississippi

Miss. Code Ann. § 97-3-54.1(1)(a) (Human trafficking; offenses) provides, “[a] person who [...] benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in [acts under this provision]” is guilty of the crime of human-trafficking. Section 97-3-54.1(1)(a) penalizes a person “who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services.”

New Jersey

N.J. Stat. § 2C:13-9 (Human trafficking as a crime of the second degree) states, “[a] person commits a [human trafficking] crime of the second degree if he: (1) provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking in violation of section 1 of . . . § 2C:13-8 [Human trafficking].” For purposes of this provision, “services, resources, or assistance” include “financial support, business services, lodging, transportation, the provision of false documentation or identification, equipment, facilities, or any other service or property with a pecuniary value that exceeds \$200, whether or not a person is compensated for the services, resources, or assistance, but shall not include humanitarian or charitable aid or services provided directly to a victim of human trafficking.” § 2C:13-9.a(1)(a).

South Carolina

S.C. Code Ann. § 16-3-2020 (Trafficking in persons; penalties; defenses) states, “A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.”

Wisconsin

Wis. Stat. § 948.051(2) (Trafficking of a child) penalizes “[w]hoever benefits in any manner from a violation of sub. (1)... if the person knows that the benefits come from an act described in sub. (1).” Subsection (1) makes “[w]hoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain or harbor, any child for the purpose of commercial sex acts” guilty of trafficking.

<p>Area of Law</p>	<p>Criminal Provisions for Facilitators</p>
<p>The Policy Point</p>	<p>Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from, or aid and assist in committing domestic minor sex trafficking.</p>
<p>The Legislative Solution</p>	<p>Facilitators benefit economically from a multibillion dollar human trafficking industry in the United States but are rarely held financially liable for the consequences of the crime. Financial penalties, including asset forfeiture for the money and property used in connection with or derived from the facilitation of commercial sexual exploitation of children, can serve as a deterrent to assisting in or benefitting from this crime. Also, financial penalties could be directed to pay for victim services and costly investigations. Asset forfeiture and financial penalties are frequently available through racketeering and money laundering laws, but ensuring these are also available directly through the criminal statute on sex trafficking is important to reach all facilitators.</p>

Select Statute Highlights

The following laws impose financial penalties on facilitators of domestic minor sex trafficking.

Alabama

Ala. Code § 13A-6-153(b) makes a conviction under Ala. Code § 13A-6-153(a) punishable as a Class B felony by imprisonment for 2–20 years, “which imprisonment includes hard labor,” and a possible fine up to \$30,000. Ala. Code § 13A-6-156 (Penalties—Forfeiture of property) states, “A person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree.”

District of Columbia

Under D.C. Code § 22-1836 (Benefitting financially from human trafficking), benefitting from “voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1834 [Sex trafficking of children] . . .” is punishable by a fine under D.C. Code § 22-1837(c) (Penalties) “up to the maximum fine . . . for a violation of [Sex trafficking of children].” The maximum fine for sex trafficking of children under § 22-1834 is \$50,000. D.C. Code § 22-1837(a) (1). Under D.C. Code § 22-1838 (Forfeiture), “(a) In imposing sentence on any individual or business convicted of a violation of this chapter [Human trafficking], the court shall

order, in addition to any sentence imposed, that the individual or business shall forfeit to the District of Columbia: (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and (2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation. (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them: (1) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter. (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.”

Minnesota

Minn. Stat. Ann. § 609.322(1)(a) (Solicitation, inducement and promotion of prostitution; sex trafficking) is punishable by a fine not to exceed \$50,000 or \$60,000 if aggravating factors are present. Minn. Stat. Ann. § 609.322(1)(a), (b). Minn. Stat. Ann. § 609.5312(1)(a) (Forfeiture of property associated with designated offenses) states, “All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.” Minn. Stat. Ann. § 609.531(1)(f) (Forfeitures) defines “designated offenses” to include felony violations, or felony-level attempts and conspiracies to violate Minn. Stat. Ann. § 617.246 (Use of minors in sexual performance prohibited),

§ 617.247 (Possession of pornographic work involving minors), § 609.322 (Solicitation, inducement, and promotion of prostitution; sex trafficking), or § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties).

Rhode Island

Convictions under R.I. Gen. Laws Ann. § 11-67-6(b)(3) (Sex trafficking a minor) carry a fine up to \$40,000, while convictions under R.I. Gen. Laws Ann. § 11-67-6(d) carry a fine up to \$20,000. R.I. Gen. Laws Ann. § 11-67-6(c), (d). R.I. Gen. Laws § 11-67-5 (Forfeitures) calls for the forfeiture of “any profits or proceeds any interest or property . . . acquired or maintained in violation of” R.I. Gen. Laws § 11-67-2 (Involuntary servitude) or R.I. Gen. Laws § 11-67-3 (Trafficking of persons for forced labor or commercial sexual activity), which include the crime of facilitation.

SECTION 4.3

<p>Area of Law</p>	<p>Criminal Provisions for Facilitators</p>
<p>The Policy Point</p>	<p>Promoting and selling child sex tourism is illegal.</p>
<p>The Legislative Solution</p>	<p>Sex tourism encourages commercial sexual exploitation of children (CSEC) and creates incentives for traffickers and facilitators to increase profits while furthering the clandestine nature of the trafficking offense by interfering with detection of trafficking crimes that are disguised as travel services. Sex tourism not only exploits children overseas; it can fuel the demand for children in the United States. Federal law criminalizes child sex tourism, defined to include “arrang[ing], induc[ing], procur[ing] or facilitat[ing] the travel” with knowledge that the traveler “is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct” and the arranging was done for “commercial advantage or private financial gain.” “Illicit sexual conduct” is defined to include “any commercial sex act (as defined in section 1591) with a person under 18 years of age.” Some states have made sex tourism a crime when the commercial sexual exploitation involved adult victims; these and all sex tourism criminal statutes should enhance penalties when the victim of the commercial sexual activity is a minor under 18 in recognition of the serious underlying crime of child sexual abuse. To protect children from the demand that is generated through sex tourism, states should enact a law that prohibits selling or offering to sell travel services that include or facilitate travel, either into or out of the state, for the purpose of engaging in commercial sexual exploitation of a minor.</p>

Select Statute Highlights

Alaska

Alaska Stat. § 11.66.120(a)(3) (Sex trafficking in the second degree) makes it a Class B felony when a person “offers, sells, advertises, promotes, or facilitates travel that includes commercial sexual conduct as enticement for the travel,” punishable by 1–3 years imprisonment and a possible fine not to exceed \$100,000.

Hawaii

Haw. Rev. Stat. Ann. § 712-1208(1) (Promoting travel for prostitution) makes it illegal when a facilitator “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state.” Promoting travel for prostitution is a Class C felony punishable by a sentence of 5 years imprisonment and a possible \$10,000 fine.

Haw. Rev. Stat. Ann. §468L-7.5 (10) (Prohibited Acts) criminalizes the “[s]elling, advertising, or otherwise offering to sell travel services or facilitate travel: (A) [f]or the purpose

of engaging in a commercial sexual act; (B) [t]hat consists of tourism packages or activities using and offering sexual acts as enticement for tourism; or (C) [t]hat provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.” Haw. Rev. Stat. Ann. § 486L-8 (Restitution) permits a convicted offender of “any provision of this chapter . . . may be ordered . . . to make restitution to all persons injured by the act or practice.”

Louisiana

La. Rev. Stat. Ann. § 14:46.3(A)(6) (Trafficking of children for sexual purposes) makes it unlawful “for any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.” Additionally, La. Rev. Stat. Ann. § 14:46.3(A)(5) (Trafficking of children for sexual purposes) makes it unlawful “[f]or any person to knowingly advertise any of the activities prohibited by this Section.”

Missouri

1. Mo. Rev. Stat. § 567.085(1) (Promoting travel for prostitution) states that a “person commits the crime of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in prostitution as defined by section 567.010.” The Class C felony is punishable by a maximum term of imprisonment and conditional release of 7 years.

2. Mo. Rev. Stat. § 567.087 (Prohibitions on travel agencies or tour operators—rebuttable presumption, advertisements) states, “1. No travel agency or charter tour operator shall: (1) Promote travel for prostitution under section 567.085; (2) Sell, advertise, or otherwise offer to sell travel services or facilitate travel: (a) For the purpose of engaging in a commercial sex act as defined in section 566.200, RSMo [Definitions], (b) That consists of tourism packages or activities using and offering any sexual contact as defined in section 556.010, RSMo [Prostitution], as enticement for tourism; or (c) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services. 2. There shall be a rebuttable presumption that any travel agency or charter tour operator using advertisements that include “sex travel” or include depictions of human genitalia is in violation of this section.”

3. Mo. Rev. Stat. § 567.089 (Offering travel for purpose of prostitution prohibited—penalties) states, “1. No travel agency or charter tour operator shall engage in selling, advertising, or otherwise offering to sell travel services, tourism packages, or activities that solicit, encourage, or facilitate travel for the purpose of engaging in prostitution. 2. Upon violation of this section by a travel agency or charter tour operator, the secretary of state shall revoke the articles of incorporation of the travel agency or charter tour operator. The secretary of state, as part of a proceeding brought under this section, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.”

New York

N.Y. Penal Law § 230.25 (Promoting prostitution in the third degree) states that “[a] person is guilty of promoting prostitution in the third degree when he knowingly: 1) advances or profits from prostitution by . . . controlling or owning, either alone or in association with others . . . a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a prostitute, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction. . . .” The Class D felony is punishable by up to 7 years’ imprisonment and a possible fine not to exceed \$5,000 or double the amount of the profit from the crime, whichever is higher.

Tennessee

Tenn. Code Ann. § 39-13-533 (Promoting travel for prostitution) states, “(a) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state. (b) “Travel services” means, but is not limited to, transportation by air, sea, road or rail, related ground transportation, hotel accommodations, or package tours, whether offered on a wholesale or retail basis. (c) Promoting travel for prostitution is a Class C felony.”

Washington

Wash. Rev. Code § 9A.88.085 (Promoting travel for prostitution) makes it a Class C felony with a maximum of 12 months in prison to “promot[e] travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in [Washington].” Wash. Rev. Code §9.68A.102(1) (Promoting travel for commercial sexual abuse of a minor) makes it a crime if a person “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in [Washington].” Also a Class C felony with a maximum sentence of 12 months, this statute requires a convicted offender to register as a sex offender upon completion of the prison term.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Promoting and selling child pornography is illegal.
The Legislative Solution	The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography, and creating a tremendous opportunity for individuals and businesses to capitalize on profits from facilitating the manufacture, promotion and sale of the images. A legislative response from states to criminalize and impose serious penalties for those persons who promote or sell these images is critical.

Select Statute Highlights

The state laws selected below define a child as a person under the age of 18 and impose serious penalties on offenders.

Arkansas

Ark. Code Ann. § 5-27-304(a) (Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child) makes it illegal to “[w]ith knowledge of the character of the visual or print medium involved . . . : (1) Knowingly advertise for sale or distribution, sell, distribute, transport, ship, exhibit, display, or receive for the purpose of sale or distribution any visual or print medium depicting a child participating or engaging in sexually explicit conduct; or (2) Knowingly solicit, receive, purchase, exchange, possess, view, distribute, or control any visual or print medium depicting a child participating or engaging in sexually explicit conduct.” A first violation of this section is a Class C felony punishable by imprisonment for 3–10 years and a possible fine not to exceed \$10,000. Ark. Code Ann. §§ 5-27-304(b) (1), 5-4-401(a)(4), 5-4-201(a)(2). Subsequent violations are Class B felonies punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-304(b)(2), 5-4-401(a)(3), 5-4-201(a)(1).

Ark. Code Ann. § 5-27-403(a) (Producing, directing, or promoting a sexual performance by a child) makes it a crime for a person “knowing the character and content of the material, to . . . promote a performance that includes sexual conduct by a child under eighteen (18) years of age.” As a Class B felony, this crime is punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-403(b), 5-4-401(a)(3), 5-4-201(a)(1).

Ark. Code Ann. § 5-27-602(a)(1) (Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child) makes it a crime when a person knowing-

ly “[r]eceives for the purpose of selling or knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers, or agrees to offer through any means, including the internet, any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct.” Ark. Code Ann. §§ 5-27-602(a)(1). A first violation is a Class C felony punishable by imprisonment for 3–10 years and a possible fine not to exceed \$10,000. Ark. Code Ann. §§ 5-27-602(b)(1), 5-4-401(a)(4), 5-4-201(a)(2). Subsequent offenses are Class B felonies punishable by imprisonment for 5–20 years and a possible fine not to exceed \$15,000. Ark. Code Ann. §§ 5-27-602(b)(2), 5-4-401(a)(3), 5-4-201(a)(1).

Connecticut

Conn. Gen. Stat. § 53a-196b(a) (Promoting a minor in an obscene performance) states, “A person is guilty of promoting a minor in an obscene performance when he knowingly promotes any material or performance in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors notwithstanding that such material or performance is intended for an adult audience.” A conviction under Conn. Gen. Stat. § 53a-196b(a) is punishable as a Class B felony by imprisonment for 1–20 years, a fine not to exceed \$15,000, or both. Conn. Gen. Stat. §§ 53a-35a(6), 53a-41(2), 53a-28(b)(4), (6).

Conn. Gen. Stat. § 53a-196c(a) (Importing child pornography) states, “A person is guilty of importing child pornography when, with intent to promote child pornography, such person knowingly imports or causes to be imported into the

state three or more visual depictions of child pornography of known content and character.” A conviction under this statute is punishable as a Class B felony by 5–20 years, of which all but 5 years may be suspended, and a possible fine not to exceed \$15,000. Conn. Gen. Stat. §§ 53a-196c(b), 53a-35a(6), 53a-41(2), 53a-28(b)(4).

Kansas

Kan. Stat. Ann. § 21-5510(a)(4) (Sexual exploitation of a child) makes it a crime to “promot[e] any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.” Kan. Stat. Ann. § 21-5510(d)(2) defines “promoting” to include “procuring, transmitting, distributing, circulating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising: (A) For pecuniary profit; or (B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender or any other person.” This is a felony punishable by 31–24 months and a possible fine not to exceed \$300,000, but if the victim is under 14 and the offender is 18 or older, the crime is punishable by a mandatory 25 years to life imprisonment and a possible fine not to exceed \$500,000. Kan. Stat. Ann. § 21-6611(1)-(2), 21-6627(a)(1)(F).

Mississippi

Miss. Code Ann. § 97-5-33(4) (Exploitation of Children; prohibitions) states, “No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Miss. Code Ann. § 97-5-33(3) states, “No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Under Miss. Code Ann. § 97-5-35, a first-time conviction for violating any provision of Miss. Code Ann. § 97-5-33 is punishable by imprisonment for 5–40 years and a \$50,000–\$500,000 fine. Repeat offenders face 20 years to life imprisonment and a \$100,000–\$1,000,000 fine. Miss. Code Ann. § 97-5-35.

Nevada

Nev. Rev. Stat. Ann. § 200.725 (Preparing, advertising or distributing materials depicting pornography involving minor unlawful; penalty) makes it a category B felony when a person “knowingly prepares, advertises or distributes any item or material that depicts a minor engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct” punishable by imprisonment for 1–15 years and/or a fine not

to exceed \$15,000. Victims under 16 who “appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result. . .” also have a civil cause of action against facilitators pursuant to Nev. Rev. Stat. Ann. § 41.1396(1) and may recover actual damages deemed to be at least \$150,000, plus attorney’s fees and costs.”

New Hampshire

N.H. Rev. Stat. Ann. § 649-A:3(I)(a)-(b), (II) (Possession of Child Sexual Abuse Images) makes it a Class A felony to “possess, or control . . . or [b]ring or cause to be brought into this state any visual representation of a child engaging in sexually explicit conduct,” punishable by up to 15 years imprisonment and fines up to \$4,000 or up to \$100,000 for a corporation or, in the alternative, up to double the value of any property gained in the commission of the felony. N.H. Rev. Stat. Ann. §§ 649-A:3(II), 651:2(I), (II)(a), (IV)(a). It is also unlawful under N.H. Rev. Stat. Ann. § 649-A:3-a(I)(a), (b) to “[k]nowingly sell, exchange, or otherwise transfer, or possess with the intent to sell, exchange, or otherwise transfer any” child pornography or to “[k]nowingly publish, exhibit, or otherwise make available . . .” child pornography. This offense is punishable by up to 20 years imprisonment with a minimum sentence not to exceed ½ of the maximum or, where previously convicted of such an offense or its reasonable equivalent in another jurisdiction, up to 30 years imprisonment with a minimum sentence not to exceed ½ of the maximum. N.H. Rev. Stat. Ann. §§ 649-A:3-a(II)(a), 651:2(I), (IV)(a).

Virginia

Va. Code Ann. § 18.2-374.1:1(D) (Possession, reproduction, distribution, solicitation, and facilitation of child pornography; penalty) states, “[a]ny person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.” This offense is punishable by imprisonment for 2–10 years and a potential fine of up to \$100,000. Va. Code Ann. § 18.2-10(d), (g). If the offender is not a natural person, only a fine will be assessed for this felony. Va. Code Ann. § 18.2-10(g).

Issue Briefs

Section 5 | Protective Provisions for Child Victims

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Statutorily-mandated victim services define “victim” to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) to ensure prompt identification and access to victims’ rights and services.
The Legislative Solution	Child victims of sex trafficking often continue to be viewed as juvenile delinquents instead of victims due to the unique nature of their exploitation and injuries. These children must expressly be defined as victims under state law to ensure them access to crime victims’ compensation, court protections, and various programs designed to protect and respond to victims of sexual crimes. Changing the language in state and federal laws to ensure that commercially sexually exploited children are deemed victims will lead to improved identification of these minors as victims. With improved identification, these victims’ unique injuries and criminal backgrounds can be recognized as indicators of their exploitation rather than barriers to victims’ rights and services.

Select Statute Highlights

Colorado

For purposes of Colorado’s laws relating to restitution, Colo. Rev. Stat. Ann. § 18-1.3-602(4)(e) (Definitions) states, “Notwithstanding any other provision of this section, ‘victim’ includes a person less than eighteen years of age who has been trafficked by an offender, as described in section 18-3-502 [Trafficking in children], or coerced into involuntary servitude, as described in section 18-3-503 [Coercion of involuntary servitude].”

Iowa

For purposes of the Victim’s Rights chapter, Iowa Code § 915.35(1) (Child victim services) defines a “victim” as a “a minor under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 [Sexual abuse], 710A [Human trafficking] or 726 [Protection of the family and dependent persons] or who has been the subject of a forcible felony.”

Louisiana

La. Stat. Ann. § 46:1842 (Definitions) for La. Stat. Ann. Title 46 (Public welfare and assistance), Chapter 21-B (Rights of crime victims and witnesses) defines the following: “(1.1) “Crime victim who is a minor” means a person under the age of eighteen against whom any of the following offenses have been committed: (a) Any homicide, or any felony offense defined or enumerated in R.S. 14:2(B) [Definitions] [which includes La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes)], (b) Any sexual offense. . . .”

Texas

Tex. Code Crim. Proc. Ann. art. 56.01(3) (Definitions), which provides definitions applicable to Chapter 56 (Rights of crime victims), defines a “victim” as “a person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another.”

Wisconsin

Wis. Stat. § 949.01(6) (Definitions—Crime Victim Compensation) defines “victim” as “a person who is injured or killed . . . by any act or omission of any other person that is within the description of any of the offenses listed in s. 949.03(1)(b)” The offenses listed under Wis. Stat. § 949.03(1)(b) (Compensable acts) include § 948.05 (Sexual exploitation of a child), § 948.051 (Trafficking of a child), § 948.07 (Child enticement), §948.075 (Use of a computer to facilitate a child sex crime), § 948.08 (Soliciting a child for prostitution).

Area of Law	Protective Provisions for the Child Victims
The Policy Point	The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.
The Legislative Solution	A minor cannot consent to commercial sex acts, which are in and of themselves, criminal acts. For the same reason, age of consent laws also are irrelevant for commercial sex transactions. Permitting a defense to prosecution or civil actions based on the child’s consent incorrectly implies that a minor, or any person, could authorize criminal sex acts. Sex trafficking and commercial sexual exploitation laws that do not expressly prohibit a defense based on the child’s consent to sex acts unfairly shifts the burden to the child to prove she or he did not in fact consent and may result in shielding buyers, traffickers and facilitators from prosecution and liability. Moreover, permitting a defense that presumes a minor can consent to commercial sex acts further undermines the reality of prostituted children as victims, instead supporting a perception of these children as willingly delinquent youth.

Select Statute Highlights	
Alabama	Alabama’s human trafficking statute lists evidence which cannot serve as a defense in the prosecution of a human trafficking case. Pursuant to Ala. Code § 13A-6-154(3) (Evidence of certain facts or conditions not deemed a defense), any facts relating to “consent of or permission by a victim of human trafficking or anyone else on the victim’s behalf to any commercial sex act or sexually explicit performance. . .” are excluded from evidence.
Georgia	Under Ga. Code Ann. § 16-5-46(d) (Trafficking of persons for labor or sexual servitude), “The age of consent for sexual activity or the accused’s lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.”
Illinois	For the purpose of recovering civil damages and remedies from individuals who “recruited, harmed, profited from, or maintained” victims in the sex trade industry, 740 Ill. Comp. Stat. Ann. 128/25 (Non-defenses) provides that “(a) It is not a defense to an action brought under this Act that: . . . (6) the victim of the sex trade consented to engage in acts of the sex trade; . . .”
Louisiana	Pursuant to La. Rev. Stat. Ann. § 14:46.3(C)(1) (Trafficking of children for sexual purposes), “Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this section.”
Minnesota	Minn. Stat. Ann. § 609.325, subd. 2 (Defenses) expressly states that “[c]onsent . . . shall be no defense to prosecutions under 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties].” Furthermore, Minn. Stat. Ann. § 609.284, subd. 1 (Labor or sex trafficking crimes; defenses, civil liability; corporate liability) and § 609.283, subd. 3 (Unlawful conduct with respect to documents in furtherance of labor or sex trafficking) clarify that “[i]n an action under this section the consent or age of the victim is not a defense.”
North Carolina	N.C. Gen. Stat. § 14-43.11(c1) (Human trafficking) and § 14-43.13(b1) (Sexual servitude) state in part, “Consent of a minor is not a defense to prosecution under this section.”
South Carolina	S.C. Code Ann. § 16-3-2020(K) (Human trafficking) states, “[e]vidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article,

nor does the evidence preclude a finding of a violation: ... (3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section.”

Vermont

Vt. Stat. Ann. tit. 13, § 2652(d) (Human trafficking) states, “In a prosecution for a violation of this section, the victim’s alleged consent to the human trafficking is immaterial and shall not be admitted.” Consent is also irrelevant with respect to Vt. Stat. Ann. tit. 13, § 2636(a)(3), (4) (Unlawful procurement), which criminalizes any person who “(3) Pay[s] money or other valuable consideration to procure a person for the purpose of placing such person for immoral purposes in a house of prostitution, with or without the person’s consent; or (4) Knowingly receive money or other valuable thing for or on account of procuring or placing a person in a house of prostitution for immoral purposes, with or without the person’s consent.”

Washington

Washington prohibits a consent defense under its trafficking law and several of its commercial sexual exploitation of children laws:

Wash. Rev. Code § 9A.40.100(4) (Trafficking) states, “If the victim of any offense identified in this section is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.”

Wash. Rev. Code § 9.68A.101(4) (Promoting sexual abuse of a minor – Penalty) states, “Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) states, “Consent of a minor to the sexual conduct does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.102(3) (Promoting travel for commercial sexual abuse of a minor) states, “Consent of a minor to the travel for commercial sexual abuse, or the sexually explicit act or sexual conduct itself, does not constitute a defense to any offense listed in this section.”

Wash. Rev. Code § 9.68A.103(3) (Permitting commercial sexual abuse of a minor) states, “Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.
The Legislative Solution	State human trafficking laws serve the purpose of making the actions of traffickers, buyers and facilitators criminal while protecting the victims. Therefore, it is counterproductive and confusing to retain state statutes that permit prostituted children—trafficking victims—to also be charged and prosecuted for prostitution. Criminal prostitution statutes should be amended to remove any criminal responsibility from child victims of commercial sexual exploitation. Domestic minor sex trafficking victims and prostituted children are the same persons and, as such, they should consistently be treated as victims under every state law.

Select Statute Highlights

The following state laws remove a prostituted child from criminal liability under the prostitution law completely or in part.

Connecticut

Connecticut’s statute eliminates the possibility of a sexually exploited minor under 16 being charged with the crime of prostitution. It also presumes 16–17 year olds who may have otherwise been arrested and charged with prostitution are actually victims of trafficking. Specifically, Conn. Gen. Stat. § 53a-82 (Prostitution: Class A misdemeanor) states, “(a) A person sixteen years of age or older is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee, (b) In any prosecution for an offense under this section [Prostitution: Class A misdemeanor], it shall be an affirmative defense that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or (2) a criminal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time. (c) In any prosecution of a person sixteen or seventeen years of age for an offense under this section, there shall be a presumption that the actor was a victim of conduct by another person that constitutes (1) a violation of section 53a-192a [Trafficking in persons], as amended by this act, or (2) a criminal violation of 18 U.S.C. Chapter 77 [Peonage, slavery, and trafficking in persons], as amended from time to time..”

Illinois

Illinois law immunizes from prostitution charges any person under the age of 18. Pursuant to 720 Ill. Comp. Stat. Ann. 5/11-14(d) (Prostitution) “if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5 and 705 ILCS 405/2-6]. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-6], a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 of this Code [720 ILCS 5/10-9] to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.4 et seq.]. Furthermore, 720 Ill. Comp. Stat. Ann. 5/11-14.3(a)(2)(C) (Promoting prostitution) also clarifies that an offense for profiting from prostitution by “any means . . . including from a person who patronizes a prostitute . . . does not apply to a person engaged in prostitution who is under 18 years of age. A person cannot be convicted of promoting prostitution under this paragraph (C) if the practice of prostitution underlying the offense consists exclusively of the accused’s own acts of prostitution under Section 11-14 of this Code [720 ILCS 5/11-14 [Prostitution]].”

Kentucky

Ky. Rev. Stat. Ann. § 529.120 (Treatment of minor suspected of prostitution offense) provides that “(1) Notwithstanding KRS 529.020 [Prostitution] or 529.080 [Loitering for prostitution purposes], if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under KRS 529.020 or 529.080. (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to KRS 620.030 [Duty to report dependency, neglect, abuse, or human trafficking]. Pursuant to KRS 620.040 [Duties of prosecutor, police, and cabinet], the officer may take the minor into protective custody. (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to KRS 620.029 [Duties of cabinet relating to children who are victims of human trafficking].”

Minnesota

As of August 1, 2014, a child whose conduct would violate Minn. Stat. Ann. § 609.324, subd. 2, 3 (Patrons; Prostitutes; Housing Individuals engaged in prostitution; Penalties) or § 609.3243 (Loitering with intent to participate in prostitution) if the child were an adult cannot be considered a delinquent child. “Delinquent child” is expressly defined to “not include a child alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.” Minn. Stat. Ann. § 260B.007, subd. 6(c). As of August 1, 2014, Minn. Stat. Ann. § 260B.007, subd. 16(d) (Juvenile petty offender; juvenile petty offense), also clarifies that a “juvenile petty offense” will not include: “a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.” These provisions effectively make it impossible for minors to be treated as delinquent children for engaging in commercial sex acts. Instead, pursuant to Minn. Stat. Ann. § 260C.007, subd. 6(17), commercially sexually exploited minors can be treated as a child in need of protection or services which will be defined to include “sexually exploited youth” as of August 1, 2014.

Mississippi

Miss. Code Ann. § 97-29-49(4) (Prostitution) provides that “[i]f it is determined that a person suspected of or charged with engaging in prostitution is engaging in those acts as a direct result of being a trafficked person, as defined by Section 97-3-54.4, that person shall be immune from prosecution for prostitution as a juvenile or adult and, if a minor, the provisions of Section 97-3-54.1(4) shall be applicable.” Pursuant to Miss. Code Ann. § 97-3-54.4(p) (Human Trafficking Act; definitions), ‘[t]rafficked person’ means a person subjected to the practices prohibited by this act regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted, and is a term used interchangeably with the terms ‘victim,’ ‘victim of trafficking’ and ‘trafficking victim.’” Since anyone who “causes or attempts to cause a minor to engage in commercial sexual activity . . .” commits an offense under § 97-3-54.1(1)(c) (Human Trafficking Act; prohibited conduct; penalty), any minor who engages in prostitution would qualify as a victim of trafficking and immunity under Miss. Code Ann. § 97-29-49(4).

New York

N.Y. Fam. Ct. Act § 311.4(3) (Substitution of petition or finding) states, “In any proceeding under this article [Juvenile delinquency] based upon an arrest for an act of prostitution, there is a presumption that the respondent meets the criteria as a victim of a severe form of trafficking as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection Act of 2000). Upon the motion of the respondent, without the consent of the presentment agency, a petition alleging that the respondent is in need of supervision shall be substituted for the delinquency petition. If, however, the respondent has been previously adjudicated as a juvenile delinquent under this article for an act which would be a crime pursuant to article two hundred thirty [Prostitution offenses] of the penal law, if the respondent was an adult, or expresses a current unwillingness to cooperate with specialized services for sexually exploited youth, continuing with the delinquency proceeding shall be within the court’s discretion. . . .”

North Carolina

N.C. Gen. Stat. § 14-204(c) (Prostitution) states that “[n]otwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes.

Pursuant to the provisions of G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment], a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 [Human Trafficking] and G.S. 14-43.13 [Sexual servitude] to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 [Duty to report abuse, neglect, dependency, or death due to maltreatment], and G.S. 7B-302 [Assessment by director].”

Tennessee

Tenn. Code Ann. § 39-13-513(d) states, “[n]otwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the National Human Trafficking Resource Center hotline and release the minor to the custody of a parent or legal guardian.”

<p>Area of Law</p>	<p>Protective Provisions for the Child Victims</p>
<p>The Policy Point</p>	<p>Child victims of sex trafficking or commercial sexual exploitation are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.</p>
<p>The Legislative Solution</p>	<p>Establishing a child protection response is critical to ending the arrest and detention of domestic minor sex trafficking victims and ensuring instead that they are provided crime victim protections, services, and benefits. These victims come to the attention of service providers in various venues and under a variety of circumstances. Without clear statutory mechanisms for ensuring prompt identification of victims followed by appropriate placement and provision of specialized services for sexually exploited youth, victims could face either a punitive response through the criminal justice system that fails to connect them with needed services, or an inadequate child protection response that may allow victims to return to their trafficker or to the conditions which led to their trafficking. A specialized protective response addresses both of these concerns by establishing a process that identifies child sex trafficking victims and directs them into multidisciplinary services and residential placement options that are designed to work in conjunction to break the trauma bond and concomitant cycle of victims returning to their traffickers. Specialized services for child sex trafficking victims should include protective shelters, physical and mental health care, education, and recovery programs. Services should be delivered by trained trauma responders and health care providers. Laws are required to establish and financially support these programs and to treat domestic minor sex trafficking victims at all stages from intervention to restoration.</p>

Select Statute Highlights

The following statutes establish non-punitive, protective processes that identify victims and direct them into multidisciplinary services and residential placement options through a variety of mechanisms, including specific child protective designations that provide an alternative to a punitive response which is separate from or in addition to abuse, neglect, or dependency proceedings.

Florida

Pursuant to Fla. Stat. Ann. § 39.01(15)(g), “Child who is found to be dependent’ means a child who, pursuant to this chapter, is found by the court . . . [t]o have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.” Pursuant to Fla. Stat. Ann. § 39.01(67)(g) provides that “sexual abuse of a child for purposes of finding a child to be dependent means one or more of the following acts . . . The sexual exploitation of a child, which includes the act of a child offering to engage in 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; or 3. Participate in the trade of sex trafficking as provided in s. 796.035 [Buying and selling minors into prostitution].

Under Fla. Stat. Ann. § 39.401(2)(b), when there is probable cause that a child taken into custody and alleged to be dependent has been sexually exploited, “the law enforcement officer shall deliver the child to the department [of Children and Family Services]. The department may place the child in an appropriate short term safe house.” Similarly, pursuant to Fla. Stat. Ann. § 39.401(3), a sexually exploited child may be placed in a short term safe house pending adjudication as a dependent child, and if a child adjudicated dependent is found to be a victim of sexual exploitation, § 39.524 (Safe harbor placement) provides that the child must be assessed for placement in a safe house. Fla. Stat. Ann. § 409.1678(1) (b) (Safe harbor for children who are victims of sexual exploitation) requires that safe houses are secure with staff awake 24 hours a day and some staff or contract personnel specially trained to work with sexually exploited youth. Short-term safe houses must also provide food, clothing, medical care,

counseling, and crisis intervention services. Fla. Stat. Ann. § 409.1678(1)(e). Under Fla. Stat. Ann. § 985.115 (2)(b), if a DMST victim is arrested for a delinquent act, law enforcement has the option of releasing the minor to a safe house as follows: “Unless otherwise ordered by the court . . . a person taking a child into custody shall attempt to release the child . . . to a shelter approved by the department or to an authorized agent or short-term safe house under s. 39.401(2)(b).” Pursuant to Fla. Stat. Ann. § 409.1678(2)(e) (Safe harbor for children who are victims of sexual exploitation), “All of the services in this section may . . . be available to all sexually exploited children whether they are accessed voluntarily, as a condition of probation, through a diversion program, through a [dependency] proceeding . . . or through a referral from a local community-based care or social service agency.”

Kansas

Kan. Stat. Ann. § 38-2231(b) provides that “A law enforcement officer shall take a child under 18 years of age into custody when the officer: . . . (3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child.” Pursuant to Kan. Stat. Ann. § 38-2232(b)(2), “When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility”

Section 6(a)–(c) of Enacted House Bill 2034 provides that “A staff secure facility shall: (1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents . . . A staff secure facility shall provide the following services to children placed in such facility: (1) Case management; (2) life skills training; (3) health care; (4) mental health counseling; (5) substance abuse screening and treatment; and (6) any other appropriate services . . . Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.”

Pursuant to Enacted House Bill 2034, section 5, “[w]henver a child is in custody, as defined in K.S.A. 38–2202 [Definitions], and amendments thereto, and such child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 21–5426 [Human trafficking; aggravated human trafficking], and amendments thereto, or

commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 21–6419 [Selling sexual relations], and amendments thereto, the court shall refer the child to the secretary of the department for children and families for an assessment to determine safety, placement and treatment needs for the child. The secretary shall use a research-based assessment tool to assess such needs and shall make appropriate recommendations to the court.”

Kentucky

Enacted House Bill 3, Section 11 provides, “(1) Notwithstanding Section 12 [Prostitution] or 13 [Loitering for prostitution purposes] of this Act, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under Section 12 or 13 of this Act. (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to Section 2 of this Act. Pursuant to Section 3 of this Act, the officer may take the minor into protective custody. (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to Section 1 of this Act.”

Ky. Rev. Stat. Ann. § 620.029(1)(a) (Duties of cabinet relating to children who are victims of human trafficking) states that “[i]n order to provide the most effective treatment for children who are victims of human trafficking, as defined in KRS 529.010, the cabinet shall: (a) Investigate a report alleging a child is a victim of human trafficking pursuant to KRS 620.030(3) [Duties to report dependency, neglect, abuse, or human trafficking]; (b) Provide or ensure the provision of appropriate treatment, housing, and services consistent with the status of the child as a victim of human trafficking; and (c) Proceed 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.”

Ky. Rev. Stat. Ann. § 15A.068(1) (Duties of department if child may be victim of human trafficking; administrative regulations) specifies that “[i]f If, during the course of screening, assessing, or providing services to a child committed to or in the custody of the department, there is reasonable cause to believe that the child is a victim of human trafficking as defined in KRS 529.010 [Definitions], the department shall: (a) File a report with the Cabinet for Health and Family Services pursuant to KRS 620.030 [Duty to report dependency,

neglect, abuse, or human trafficking]; (b) Notify the child’s attorney that the child may be a victim of human trafficking; and (c) If the child does not pose a threat to public safety, petition the court to transfer custody from the department to the Cabinet for Health and Family Services. (2) After consultation with agencies serving victims of human trafficking, the department shall promulgate administrative regulations for the treatment of child victims of human trafficking who are committed to or in the custody of the department and pose a threat to public safety but do not qualify to be in the custody of the Cabinet for Health and Family Services under subsection (1)(c) of this section. The administrative regulations shall include provisions for appropriate screening, assessment, placement, treatment, and services for these children, the training of staff, and collaboration with service providers.”

Massachusetts

Mass. Gen. Laws ch. 119 § 21 defines “child in need of services” in part, as “a child between the ages of 6 and 17 who . . . is a sexually exploited child.” Mass. Gen. Laws ch. 119 § 21 defines a “sexually exploited child” as “any person under the age of 18 who has been subjected to sexual exploitation because such person: (1) is the victim of the crime of sexual servitude pursuant to section 50 of chapter 265 or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105; (2) engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272, or in exchange for food, shelter, clothing, education or care; (3) is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under by section 4A of chapter 272; or (4) engages in common night walking or common streetwalking under section 53 of chapter 272.”

Mass. Gen. Laws ch. 119 § 39K(a)–(c) (Sexually exploited children – child welfare services) states, “(a) Notwithstanding any general or special law to the contrary, the department of children and families, in collaboration with the department of mental health and other appropriate state agencies, shall: (i) provide for the child welfare services needs of sexually exploited children including, but not limited to, services for sexually-exploited children residing in the commonwealth at the time they are taken into custody by law enforcement or are identified by the department as sexually-exploited children, for the duration of any legal or administrative proceeding in which they are either the complaining witness, defendant or the subject child; and (ii) provide appropriate services to a child reasonably believed to be a sexually exploited child in order to safeguard the child’s welfare. If a child reasonably believed to be a sexually exploited child declines services or is unable or unwilling to participate in the services offered, the department or any person may file a care and protection petition under section 24. Sexually exploited children shall

have access to an advocate. The advocate or a member of the multidisciplinary service team established under section 51D shall accompany the child to all court appearances and may serve as a liaison between the service providers and the court. (b) The services that shall be provided under this section shall be available to all sexually exploited children, whether they are accessed voluntarily, through a court proceeding under this section or through a referral, which may be made by any person. (c) In determining the need for and capacity of the services that may be provided under this section, the department of children and families shall recognize that sexually exploited youth have separate and distinct service needs according to gender and appropriate services shall be made available while ensuring that an appropriate continuum of services exists.”

New York

Under the Safe Harbor Act, sexually exploited children can be placed in a “short-term safe house” or “safe house” both of which are defined in part as “a residential facility operated by an authorized agency . . . including a residential facility operating as part of an approved runaway program . . . or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter, services and care to sexually exploited children . . .” N.Y. Soc. Serv. Law § 447-a(2), (4). Also in both short term and long term safe housing sexually exploited children will receive services “including food, shelter, clothing, medical care, counseling, crisis intervention” and for long term housing, services will either be provided through “direct provision of services, or through written agreements with other community and public agencies . . .” N.Y. Soc. Serv. Law § 447-a(2),(4).

Pursuant to N.Y. Fam. Ct. Act § 739(a) (Release or detention after filing of petition and prior to order of disposition), upon an initial appearance at a juvenile delinquency proceeding, if the child is a sexually exploited child, “the court may direct the respondent to an available short-term safe house as an alternative to detention.” Moreover, N.Y. Fam. Ct. Act § 739(a) notes “the court shall not direct detention [of a sexually exploited minor] unless it finds and states the facts and reasons for so finding that unless the respondent is detained there is a substantial probability that the respondent will not appear in court on the return date and all available alternatives to detention have been exhausted.” If the victim is unwilling “to cooperate with specialized services for sexually exploited youth” or has a prior prostitution conviction, the minor will be subject to the delinquency proceedings and could be detained. N.Y. Fam. Ct. Act § 311.4(3).

Vermont

Vt. Stat. Ann. tit.13, § 2652(e) (Human trafficking) states, “If a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision [CHINS] proceeding.” Vt. Stat. Ann. tit. 33, § 5301 (Taking into custody) allows law enforcement to take a CHINS into custody “(1) Pursuant to an order of the family division of the superior court under the provisions of this chapter, (2) By an officer when the officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that removal from the child’s current home is necessary for the child’s protection, (3) By an officer when the officer has reasonable grounds to believe that the child has run away from a custodial parent, a foster parent, a guardian, a custodian, a noncustodial parent lawfully exercising parent-child contact, or care provider.”

Washington

Wash. Rev. Code § 13.32A.030(5)(d) (Definitions—Regulating leave from semi secure facility) defines “child in need of services” (CHINS) as a juvenile who is “sexually exploited.” A “sexually exploited child” is defined as “any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual 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.” Wash. Rev. Code § 13.32A.030(17). A sexually exploited child may be “(1) . . . taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032 [Crisis residential centers—Establishment—Staff—Duties—Semi-secure facilities—Secure facilities] or may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center, the nearest regional secure crisis residential center, or a secure facility with which it is collocated under RCW 74.13.032. Placement in both locations shall not exceed fifteen consecutive days from the point of intake as provided in RCW 13.32A.130.” Wash. Rev. Code. § 74.15.255 (Licenses for secure or semi-secure crisis residential centers or HOPE centers—Requirement—Access to person trained to work with needs of sexually exploited children) requires each crisis residential center to have a staff member, or “access to a person, who has been trained to work with the needs of sexually exploited children.” Wash. Rev. Code § 74.13.034.

Wash. Rev. Code § 13.32A.179(2) (Out-of-home placement — Disposition hearing — Court order—Dispositional plan—Child subject to contempt proceedings—Dismissal of order at request of department or parent) provides that at a post disposition hearing, “the court may: . . . (d) order an out-of-home placement at the request of the child or the department not to exceed ninety days. (3) The court may only enter an order under subsection (2)(d) of this section if it finds by clear, cogent, and convincing evidence that: . . . (b)(i) the order is in the best interest of the child; and (ii) the parents are unavailable; or (c) the parent’s actions cause an imminent threat to the child’s health or safety.” Wash. Rev. Code §13.32A.180(2) states in part: “[n]o placement made pursuant to this section may be in a secure residence as defined by the federal Juvenile Justice and Delinquency Prevention Act of 1974.”

<p>Area of Law</p>	<p>Protective Provisions for the Child Victims</p>
<p>The Policy Point</p>	<p>Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.</p>
<p>The Legislative Solution</p>	<p>Child protective services are often unable to respond to or investigate cases of child sex trafficking or commercial sexual exploitation when such victimization is not included in the definition of “abuse and neglect.” Broadening the definition of “abuse and neglect” in child protection statutes to include sex trafficking and commercial sexual exploitation will permit child protective services to investigate and intervene in situations of domestic minor sex trafficking. Also, states that include commercial sexual exploitation in their statutory definitions of “abuse and neglect” can offer domestic sex trafficking victims services through child welfare rather than involving them in the criminal justice process and burdening law enforcement with child welfare matters.</p>

Select Statute Highlights

Florida

Fla. Stat. Ann. § 39.01(2) (Definitions) defines “abuse” as “any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired” Additionally, “harm” is defined in subsection (32) in part as the following: “‘Harm’ to a child’s health or welfare can occur when any person: (c) Allows, encourages, or forces the sexual exploitation of a child, which includes 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]. . . .”

Hawaii

Haw. Rev. Stat. Ann. § 350-1 (Definitions) defines “child abuse or neglect” as “acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to When

the child has been the victim of sexual contact or conduct, including, but not limited to, sexual assault as defined in the Penal Code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation[; or], including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Promoting prostitution in the first degree]. . . .”

Haw. Rev. Stat. Ann. § 587A—4 (Definitions) defines “harm” as “damage or injury to a child’s physical or psychological health or welfare where: (1) The child exhibits evidence of injury, including, but not limited to: (2) The child has been the victim of sexual contact or conduct, including prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b) [Promoting prostitution in the first degree].

Idaho

Idaho Code § 16-1602(1)(b) (Definitions) defines “abuse,” in part, as including “[s]exual conduct, including prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child’s health or welfare or mental injury to the child.”

Illinois

Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vi) (Neglected or abused minor) and § 325 ILCS 5/3(h) (Definitions) defines “abused child,” in part, as “a child whose parent or immediate family member, or any person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of the child’s parent . . . commits or allows to be committed the offense of . . . involuntary sexual servitude of a minor . . . as defined in [720 ILCS 5/10-9] against the child.” Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vii) (Neglected or abused minor) adds that an “abused” child includes a minor encouraged or required to “commit any act of prostitution . . . and extending those definitions to include minors under 18 years of age.”

Iowa

Iowa Code § 232.68(2)(c), (e) (Definitions) defines “child abuse” or “abuse” as the “commission of a sexual offense with or to a child pursuant to chapter 709 [Sexual abuse] . . . or section 728.12 [Sexual exploitation of a minor], . . . with or to a person under the age of eighteen years” and “[t]he acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1 [Prostitution] . . . with or to a person under the age of eighteen years.”

Kentucky

Pursuant to Ky. Rev. Stat. Ann. § 600.020(1)(e), (f) (Definitions) an “abused or neglected child” includes “a child whose health or welfare is harmed or threatened with harm when his or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child: . . . ; (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; . . .” Under Ky. Rev. Stat. Ann. § 600.020(1)(b), an “abused or neglected child” also includes “a child whose health or welfare is harmed or threatened with harm when . . . [a] person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age.” “Sexual exploitation” is further defined as behavior that “includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent,

guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law.” Ky. Rev. Stat. Ann. § 600.020(56).

Maryland

Pursuant to Md. Code Ann., Fam. Law § 5-701(x)(2) (Definitions), “Sexual abuse” includes: (I) allowing or encouraging a child to engage in: 1. obscene photography, films, poses, or similar activity; 2. pornographic photography, films, poses, or similar activity; or 3. prostitution; (II) human trafficking . . .”

Minnesota

Minn. Stat. Ann. § 260C.007(5) (Definitions) defines “child abuse,” in part, as “an act that involves a minor victim that constitutes a violation of section . . . 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . 617.246 [Use of minors in sexual performance prohibited].”

New Hampshire

Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II)(a) (Definitions) an “abused child” is defined as “any child who has been sexually abused.” N.H. Rev. Stat. Ann. § 169-C:3(XXVII-a) defines “sexual abuse” as including: “the following activities under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose or producing any visual depiction of such conduct; or the . . . prostitution, or other form of sexual exploitation of children, . . . who is under the age of 18 years.”

Rhode Island

R.I. Gen. Laws § 40-11-2(1) defines an “abused and/or neglected child,” in part, as one “whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare: . . . (vii) Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions in § 11-34.1-1 [Commercial sexual activity] et seq., entitled “Commercial Sexual Activity”; or (viii) Sexually exploits the child in that the person allows, per-

mits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under eighteen years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality.”

Tennessee

Tenn. Code Ann. § 37-1-102(12)(I) (Definitions) defines a “dependent and neglected child” to include a child “[w]ho is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity.”

Wisconsin

Wis. Stat. § 48.02(1)(c),(d) (Definitions) of the Children’s Code defines “abuse” as including a “violation of s. 948.05 [Sexual exploitation of a child]” or “[p]ermitting, allowing or encouraging a child to violate s. 944.30 [Prostitution].”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	The definition of “caregiver” (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.
The Legislative Solution	Traffickers who are in custody or control of a child often abuse and neglect their victims. However, child protective services may be precluded from intervening because their mandate is limited to cases of custodial abuse and neglect, containing their investigations and intervention to cases in which a parent, guardian, caretaker or other person with legally provided custodial rights caused the abuse or neglect. Non-familial traffickers seldom have legal custody of their victims. The child protective services mandate is derived from the legal definitions of “caregiver” and “abuse and neglect.” It is therefore necessary that state statutory definitions of the term “caregiver” (or similar) include persons acting in a parental role by having possession of a child and controlling a child in order for child protective services to intervene in these cases and bring an abused trafficked child within the protective systems already in place in every state.

Select Statute Highlights

The following state laws broadly define “caregiver” to potentially include a trafficker.

Kentucky

The term “person exercising custodial control or supervision” over the child is defined in Ky. Rev. Stat. Ann. § 600.020(44) for purposes of the Unified Juvenile Code (chapters 600 to 645) as “a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child.” In defining “abused or neglected child,” Ky. Rev. Stat. Ann. § 600.020(1) (a) also refers to a “person in a position of authority or special trust, as defined in KRS 532.045 [Persons prohibited from probation or postincarceration supervision—Procedure when probation or postincarceration supervision not prohibited].” Ky. Rev. Stat. Ann. § 532.045(a) defines “position of authority” to include “the position occupied by . . . a household member” and Ky. Rev. Stat. § 532.045(b) defines “position of special trust” as “a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor.”

Mississippi

Miss. Code Ann. § 43-21-105(g) (Definitions), which provides definitions for Mississippi’s chapter 21 (Youth court), defines “custodian” as “any person having the present care or

custody of a child whether such person be a parent or otherwise.” “Custody” is defined as “the physical possession of the child by any person” at Miss. Code Ann. § 43-21-105(q). Additionally, Miss. Code Ann. § 43-21-105(v) defines “any person responsible for care or support” as “the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, nonlicensed baby-sitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services.”

New Jersey

N.J. Stat. Ann. §9:6-2 (Parent and custodian defined) defines “the person having care, custody and control of any child” as including “any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed.”

North Carolina

The definition of “custodian” under N.C. Gen. Stat. § 7B-101(8) (Definitions) may be broad enough to cover situations in which a trafficker is in custody or control of a child. “Custodian” is defined as “a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.”

Vermont

Vt. Stat. Ann. tit. 33, § 5102(1) (Definitions and provisions of general application) defines a “care provider” as “a person other than a parent, guardian, or custodian who is providing the child with routine daily care but to whom custody rights have not been transferred by a court” for purposes of Vermont’s laws regarding children in need of care or supervision, Vt. Stat. Ann. tit. 33, part 4 (Juvenile proceedings).

West Virginia

For purposes of West Virginia’s child abuse and neglect provisions, W. Va. Code § 49-1-4(5) (Definitions) defines a “custodian” as “a person who has or shares actual physical possession or care and custody of a child, regardless of whether such person has been granted custody of the child by any contract, agreement or legal proceedings.”

Wisconsin

Wis. Stat. § 48.981(1)(am)(6), (7) (Abused or neglected children and abused unborn children), which establishes the requirements for reporting neglect and abuse at Wis. Stat. § 48.981(2), (2m), (3) and (3m), provides that “[c]aregiver” means, with respect to a child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect, any of the following persons . . . [including] . . . [a] person who provides or has provided care for the child in or outside of the child’s home . . . [or] . . . [a]ny other person who exercises or has exercised temporary or permanent control over the child or who temporarily or permanently supervises or has supervised the child.”

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	
District of Columbia	<p>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]."</p>
<p>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."</p>	
Florida	
<p>Florida expressly exempts commercially sexually exploited minors from the ineligibility factors in Fla. Stat. Ann. §</p>	<p style="background-color: #444; color: white; padding: 5px; text-align: center;">Georgia</p> <p>Ga. Code Ann. § 17-15-2(3)(A) (Definitions) defines "crime" for the purposes of crime victims' compensation funds to include a violation 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</p>

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.”

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 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.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim-friendly procedures and protections are provided in the trial process for minors under 18.
The Legislative Solution	States should enact laws that provide protections for domestic minor sex trafficking victims in the trial process. A victim-friendly justice system will reduce the trauma experienced by commercially sexually exploited children and will foster successful participation of the victim in the justice system. Examples of such victim-friendly procedures include: (1) court appointed attorneys; (2) victim witness coordinators; (3) security and confidentiality of identifying information about the victim; (4) closed courtrooms for minor victim testimony; (5) closed circuit testimony; and (6) application of the “rape shield” law to reduce the trauma of cross-examination related to prior sexual conduct. The statutes enacted by states must have an adequate focus on all victims of sexual exploitation or abuse to ensure equal protection for those minors who pursue prosecution of their trafficker under a range of criminal laws.

Select Statute Highlights	
California	<p>Minnesota</p> <p>Pursuant to Minn. Stat. Ann. §§ 631.045, 631.046, subd. 1, the judge may exclude spectators from the courtroom at “trial of a complaint or indictment for a violation of sections . . . 617.246, subdivision 2 [Use of minor in sexual performance prohibited] . . . when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed,” and may also authorize the presence of any supportive person in the courtroom for prosecuting witnesses who are minors in cases involving child abuse defined to include Minn. Stat. Ann. § 609.321 (Prostitution and sex trafficking; definitions), § 609.322 (Solicitation, inducement and promotion of prostitution; sex trafficking), and § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties).</p>
District of Columbia	
Indiana	
<p>Ca. Evidence Code §1161 (b) states, “Evidence of sexual history or history of any commercial sexual act of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, is inadmissible to attack the credibility or impeach the character of the victim in any civil or criminal proceeding.”</p>	<p>South Carolina</p> <p>South Carolina provides rape shield protection to victims of sex trafficking. Pursuant to S.C. Code Ann. § 16-3-2020(K) (1), “the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct” may not be offered as a defense in prosecutions for sex trafficking.</p> <p>S.C. Code Ann. § 16-3-2070(B) provides that “in a prosecution for violations of the criminal provisions of [trafficking</p>
<p>D.C. Code § 22-1839 (Reputation or opinion evidence) states, “In a criminal case in which a person is accused of trafficking in commercial sex, as prohibited by § 22-1833, sex trafficking of children, as prohibited by § 22-1834, or benefiting financially from human trafficking, as prohibited by § 22-1836, reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. . . .”</p>	
<p>Ind. Code Ann. § 35-42-3.5-4 (a)(3) (Rights of alleged victims) provides that human trafficking victims must be provided protection if their safety is at risk or if there is danger of “additional harm by recapture of the victim by the person who allegedly committed the offense.” Protections include “ensuring that the names and identifying information of the alleged victim and the victim’s family members are not disclosed to the public.”</p>	

in persons], the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.”

Virginia

Va. Code Ann. § 18.2-67.7 (Admission of evidence) provides protection to the testifying victim of a sexual offense (commonly called “rape shield law”). It states, “A. In prosecutions under this article [Criminal sexual assault], or under clause (iii) or (iv) [involving minors] of § 18.2-48 [Abduction with intent to extort money or for immoral purpose], 18.2-370 [Taking indecent liberties with children; penalties], 18.2-370.01 [Indecent liberties by children; penalty], or 18.2-370.1 [Taking indecent liberties with child by person in custodial or supervisory relationship; penalties], general reputation or opinion evidence of the complaining witness's unchaste character or prior sexual conduct shall not be admitted. Unless the complaining witness voluntarily agrees otherwise, evidence of specific instances of his or her prior sexual conduct shall be admitted only if it is relevant and is: 1. Evidence offered to provide an alternative explanation for physical evidence of the offense charged which is introduced by the prosecution, limited to evidence designed to explain the presence of semen, pregnancy, disease, or physical injury to the complaining witness's intimate parts; or 2. Evidence of sexual conduct between the complaining witness and the accused offered to support a contention that the alleged offense was not accomplished by force, threat or intimidation or through the use of the complaining witness's mental incapacity or physical helplessness, provided that the sexual conduct occurred within a period of time reasonably proximate to the offense charged under the circumstances of this case; or 3. Evidence offered to rebut evidence of the complaining witness's prior sexual conduct introduced by the prosecution.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Expungement or sealing of juvenile delinquency records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.
The Legislative Solution	<p>A juvenile delinquency record is a barrier to a survivor of child sex trafficking seeking to move forward with life. While juvenile records are generally not publicly available in the same manner as adult convictions, juvenile records can still prevent survivors from staying in school, obtaining academic scholarships, obtaining professional licenses, securing certain employment, or working with children. For commercially sexually exploited children, the collateral consequences of a juvenile record result in further victimization, including possible release of information about delinquency adjudications to survivors' schools which are often authorized to take further punitive actions, in some cases, expulsion. These academic consequences will follow a survivor from school to school, potentially barring access to higher education. A juvenile record may also prevent survivors from joining the military, obtaining or retaining a driver's license, or accessing public housing benefits. Each of these collateral consequences hinders survivors' ability to rebuild their lives. Laws are needed that expressly protect victims of commercial sexual exploitation of children (CSEC) and sex trafficking by expunging or sealing juvenile delinquency records and keeping such records out of public view or access. Burdening prostituted children with a criminal record is contrary to their status as a trafficking victim.</p>

Select Statute Highlights	
Alaska	<p>the age of the person during the person's contact with the juvenile court or law enforcement agency; (3) the nature of any allegations; (4) whether there was an informal adjustment or an adjudication; (5) the disposition of the case; (6) the manner in which the person participated in any court ordered or supervised services; (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency; (8) whether the person acquired a criminal record; and (9) the person's current status."</p>
Alaska Stat. § 47.12.300(d) (Court records) provides that the court shall order a minor's records sealed "within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor." This extends to all "records pertaining to that minor in a proceeding under this chapter [Delinquent minors] sealed, as well as records of all . . . criminal proceedings against the minor, and punishments assessed against the minor."	
Indiana	
Indiana	Ohio
Under Ind. Code Ann. § 31-39-8-2 (Petition to juvenile court for removal of records), "Any person may petition a juvenile court at any time to remove from: (1) the court's files; (2) the files of law enforcement agencies; and (3) the files of any other person who has provided services to a child under a court order; those records pertaining to the person's involvement in juvenile court proceedings." In determining whether to grant such a petition, Ind. Code Ann. § 31-39-8-3 states the court may consider "(1) the best interests of the child; (2)	Ohio Rev. Code Ann. § 2151.358(E) (Expungement of records) states, "a person who has been adjudicated a delinquent child for having committed an act that would be a violation of section 2907.24 [Soliciting], 2907.241 [Loitering to engage in solicitation], or 2907.25 [Prostitution] of the Revised Code if the child were an adult may apply to the adjudicating court for the expungement of the record of adjudication if the person's participation in the act was a result of the person having been a victim of human trafficking. The application shall be made in the same manner as an application for expungement under section 2953.38 of the Revised Code, and all of the provisions of that section shall apply to the expungement procedure." The court must find

“that the applicant has demonstrated by a preponderance of the evidence that the applicant’s participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking” Ohio Rev. Code Ann. § 2953.38.

Where the court holds a complaint of delinquency in abeyance because “the act charged would be a violation of section 2907.24 [Soliciting], 2907.241 [Loitering to engage in solicitation], or 2907.25 [Prostitution] . . . [or] . . . [t]he court has reason to believe that the child is a victim of a violation of section 2905.32 [Trafficking in persons] of the Revised Code, regardless of whether any person has been convicted of a violation of that section or of any other section for victimizing the child, and the act charged is related to the child’s victimization . . . and the child complies with the conditions of abeyance and completes the diversion actions to the court’s satisfaction, the court shall dismiss the complaint and order that the records pertaining to the case be expunged immediately.” Ohio Rev. Code Ann. § 2152.021(F)(1), (5).

(1) the participant has been convicted of a subsequent felony or misdemeanor during the two-year period, or proceedings are pending seeking such conviction; or (2) rehabilitation of the participant has not been attained to the satisfaction of the court. (f) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.”

Utah

Utah Code Ann. § 78A-6-1105(1)(a) (Expungement of juvenile court record—Petition—Procedure) allows a person adjudicated under the Juvenile Court Act of 1996 to “petition the court for the expungement of the person’s juvenile court record and any related records in the custody of a state agency, if: (i) the person has reached the age of 18 years of age; and (ii) one year has elapsed from the date of termination of the continuing jurisdiction of the juvenile court, or if the person was committed to a secure youth corrections facility, one year from the date of the person’s unconditional release from the custody of the Division of Juvenile Justice Services.” Once the court orders the person’s records sealed, the person’s case will “be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.” Utah Code Ann. § 78A-6-1105(4).

Vermont

Vt. Stat. Ann. tit. 3, § 163(e), (f) (Juvenile court diversion project) allows for juvenile records to be sealed after the successful completion of a diversion program. Vt. Stat. Ann. tit. 3, § 163(e), (f) provides, “(e) Within 30 days of the two-year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court files and records, law enforcement records other than entries in the juvenile court diversion project’s centralized filing system, fingerprints, and photographs applicable to a juvenile court diversion proceeding unless, upon motion, the court finds:

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim restitution and civil remedies for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.
The Legislative Solution	Sex trafficking is a multi-billion dollar industry. States must enact laws that require restitution for the victim and permit victims of domestic minor sex trafficking to pursue civil remedies for the damages they have suffered as a result of the trafficking. Restitution should include payment for medical and psychological treatment, lost income, attorney’s fees and costs, and other damages. Restitution and civil remedies will serve to punish those persons who commercially sexually exploit children and at the same time provide much needed funding for victim services. The purpose of these laws is to make the victims of the crime whole again and empower them with the private right to vindicate their civil rights and hold their traffickers directly accountable for their actions.

Select Statute Highlights

California

Cal. Civ. Code § 52.5 (Action by victim of human trafficking) expressly states that victims of Cal. Penal Code § 236.1 (Human trafficking defined; punishment) “may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney’s fees and costs,” as well as “litigation costs including, but not limited to, expert witness fees and expenses.” Additionally, “the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars (\$10,000), whichever is greater,” as well as “punitive damages may also be awarded upon proof of the defendant’s malice, oppression, fraud, or duress in committing the act of human trafficking.”

Cal. Penal Code § 1202.4(q) (Restitution; amount; hearing and court order; financial disclosure) states, “Upon conviction for a violation of Section 236.1 [Human trafficking], the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in any case in which a victim has suffered economic loss as a result of the defendant’s conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim’s labor or services based upon the comparable value of similar services in the labor market

in which the offense occurred, or the value of the victim’s labor as guaranteed under California law, or the actual income derived by the defendant from the victim’s labor or services or any other appropriate means to provide reparations to the victim.”

Cal. Penal Code § 1202.4 (a)(3)(B) states, “The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay . . . [r]estitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment. Cal. Penal Code § 1202.4(f)(3) provides that a victim may receive restitution for the following: “(A) Full or partial payment for the value of stolen or damaged property. . . .(B) Medical expenses, (C) Mental health counseling expenses, (D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents, guardian, or guardians, while caring for the injured minor. . . . (E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. . . . (F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288 [Lewd or lascivious acts involving children], (G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court, (H) Actual and reasonable attorney’s fees and other costs”

Connecticut

Conn. Gen. Stat. § 52-571i (Action for damages resulting from trafficking in persons) states, “Any person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney’s fee.”

Conn. Gen. Stat. § 53a-28(c) requires, “if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense”

Florida

Fla. Stat. Ann. § 847.01357 (Exploited children’s civil remedy) states, “(1) Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794 [Sexual Battery], chapter 800 [Lewdness; indecent exposure], chapter 827 [Abuse of children], or chapter 847 [Obscenity], where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney’s fees. Any victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$150,000.”

Fla. Stat. Ann. § 775.089 (1)(a) (Restitution) states, in part, “In addition to any punishment, the court shall order the defendant to make restitution to the victim for: 1. Damage or loss caused directly or indirectly by the defendant’s offense;

and 2. Damage or loss related to the defendant’s criminal episode, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03.”
sues Briefs are derived from the 40 legal components contained in the Protected Innocence Legislative

Ohio

Ohio Rev. Code Ann. § 2929.18(B)(8)(a) (Financial sanctions; restitution; reimbursements) states, “If an offender who is convicted of or pleads guilty to a violation of section 2905.01 [Kidnapping], 2905.02 [Abduction], 2907.21 [Compelling prostitution], 2907.22 [Promoting prostitution], or 2923.32 [Engaging in a pattern of corrupt activity; forfeiture], division (A)(1) or (2) of section 2907.323 [Illegal use of a minor in nudity-oriented material or performance], or division (B) (1), (2), (3), (4), or (5) of section 2919.22 [Endangering children] of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 [Human trafficking specification] of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following: (i) The gross income or value to the offender of the victim’s labor or services; (ii) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the “Federal Fair Labor Standards Act of 1938,” 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.”

Ohio Rev. Code Ann. § 2307.51(A) states, “[a] victim of a violation of section 2905.32 of the Revised Code has and may commence a civil cause of action for compensatory and punitive damages against the trafficker for harm that resulted from the violation...” regardless of whether the trafficker was prosecuted or convicted. This is addition to any other cause of action. Ohio Rev. Code Ann. § 2307.51(B).

SECTION 5.11

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.
The Legislative Solution	The effect of sex trafficking on a child is traumatic, potentially long-lasting, and is 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.

Select Statute Highlights	
<div style="background-color: #d3d3d3; padding: 5px; margin-bottom: 5px;">Alaska</div> <p>Alaska Stat. § 12.10.010 (General time limitations) provides that prosecutions for “felony sexual abuse of a minor”, violations of Alaska Stat. §§ 11.66.110–11.66.130 (Promoting prostitution in the first through fourth degrees), § 11.41.452 (Online enticement of a minor) or § 11.41.455 (Unlawful exploitation of a minor) when committed against a person who, at the time of the offense, was under 18 years of age, distribution of child pornography in violation of § 11.61.125, sex trafficking in violation of §§ 11.66.110–11.66.130 (Sex trafficking in the first through third degrees) 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 §§ 11.41.360 or 11.41.365 (Human trafficking in the first and second degrees) may be brought at any time.</p> <p>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.”</p>	<p>minor by knowingly: 1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain, 3. Permitting a minor under the person’s custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.”</p>
<div style="background-color: #d3d3d3; padding: 5px; margin-bottom: 5px;">Arizona</div> <p>Ariz. Rev. Stat. Ann. § 13-107(A) (Time limitations) provides that a prosecution for any offense under Chapter 35.1 (Sexual exploitation of children) that is a Class 2 felony may be commenced at any time. Under Chapter 35.1, § 13-3552 (Commercial sexual exploitation of a minor; classification) states, “A. A person commits commercial sexual exploitation of a</p>	<div style="background-color: #d3d3d3; padding: 5px; margin-bottom: 5px;">Colorado</div> <p>Pursuant to Colo. Rev. Stat. § 16-5-40(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 “trafficking in children, as described in section 18-3-502; 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-</p>

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)(G),(H) eliminates the statute of limitations for prosecutions of Tex. Penal Code Ann. § 20A.02(a)(7),(8) (Trafficking of persons) and § 20A.03 (Continuous trafficking of persons). 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),(2),(3), or (4) and § 43.05(a)(1) (Compelling prostitution), except subsection (6)(A),(C) provides that where the victim was under 18 at the time of the offense, then prosecutions for Tex. Penal Code Ann. § 20A.02(5), (6) (Trafficking of persons) and § 43.05(a)(2) (Compelling prostitution) may be brought within “ten years from the 18th birthday of the victim of the offense.” Tex. Code of Crim. Proc. Ann. Art. 12.01(5) states a 20-year statute of limitations (from the victim’s 18th birthday) if the victim is younger than 17 at the time of the offense of sexual performance of a child (Tex. Penal Code Ann. § 43.25) or aggravated kidnapping “with the intent to violate or abuse the victim sexually.”

Tex. Civ. Prac. & Rem. Code Ann. § 16.0045 (Five-year limitations period) extends the standard two year statute of limitations for civil actions to five years for injuries resulting from Tex. Penal Code § 22.011 (Sexual assault), § 22.021 (Aggravated sexual assault), § 21.02 (Continuous sexual abuse of young child), § 20A.02 (Trafficking of persons), or § 43.05 (Compelling prostitution).

Issue Briefs

Section 6 | Criminal Justice Tools for Investigation and Prosecution

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated or authorized.
The Legislative Solution	Law enforcement officers are very often the first responders in a domestic minor sex trafficking situation. Providing them with the awareness, skills and tools necessary to respond appropriately and effectively is critically important. Given limited time and competing priorities, mandatory training on issues of domestic minor sex trafficking will result in an increase in enforcement and successful prosecutions. Training will also lead to implementing protocols across the law enforcement community to enhance officers' ability to detect a trafficking situation and to work effectively with trafficking victims. The objectives of many anti-trafficking task forces include working collaboratively to identify victims, convict traffickers, and implement unique agency policies and procedures for victims of sex trafficking given limited community resources.

Select Statute Highlights

Few states mandate or authorize training, or development of training, specifically on domestic minor sex trafficking. The following are examples of state laws that mandate or authorize training or development of training for law enforcement on human trafficking issues broadly.

California

Cal. Penal Code § 13519.14 states, “Every law enforcement officer who is assigned field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of human trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later.” Cal. Penal Code § 13519.14 (e). Subdivision (a) provides, “The commission shall implement by January 1, 2007, a course or courses of instruction for the training of law enforcement officers in California in the handling of human trafficking complaints and also shall develop guidelines for law enforcement response to human trafficking. The course or courses of instruction and the guidelines shall stress the dynamics and manifestations of human trafficking, identifying and communicating with victims, providing documentation that satisfy the law enforcement agency Law Enforcement Agency (LEA) endorsement (LEA) required by federal law, collaboration with federal law enforcement officials, therapeutically appropriate investigative techniques, the availability of civil and immigration remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include human trafficking experts with experience in the delivery of direct services to victims of human trafficking. Completion of the course may

be satisfied by telecommunication, video training tape, or other instruction.”

Georgia

Ga. Code Ann. § 35-1-16(a) (Training law enforcement officers investigating crimes involving trafficking persons for labor or sexual servitude) mandates the Georgia police officer training council to establish procedures, training materials and information in “(1) Methods for identifying, combating, and reporting incidents where a person has been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude]; (2) Methods for providing proper detention facilities or alternatives to detention facilities for persons who have been trafficked for labor or sexual servitude . . . including providing information on therapeutic facilities for such persons; and(3) Methods for assisting persons who have been trafficked for labor or sexual servitude . . . including providing information on social service organizations available to assist such person.

Florida

Fla. Stat. § 787.06(5) (Human Trafficking) requires “[e]ach state attorney to develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and to provide for periodic and timely instruction.” Also, “[a]fter January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.” Fla. Stat. Ann. § 787.06(5).

Indiana

Ind. Code Ann. § 5-2-1-9(a)(10) requires the Indiana Law Enforcement Training Board to provide “[m]inimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for in-service training programs for law enforcement officers. The course must cover the following topics: (A) Examination of the human and sexual trafficking laws (IC 35-42-3.5), (B) Identification of human and sexual trafficking, (C) Communicating with traumatized persons, (D) Therapeutically appropriate investigative techniques, (E) Collaboration with federal law enforcement officials, (F) Rights of and protections afforded to victims, (G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law [and] (H) The availability of community resources to assist human and sexual trafficking victims.”

Ohio

Pursuant to Ohio Rev. Code Ann. § 109.745(A) (Training for investigating and handling crime of trafficking in persons), “The attorney general shall provide training for peace officers in investigating and handling violations of section 2905.32 [Trafficking in persons] of the Revised Code. The training shall include all of the following: (1) Identifying violations of section 2905.32 [Trafficking in persons] of the Revised Code; (2) Methods used in identifying victims of violations of section 2905.32 of the Revised Code who are citizens of the United States or a foreign country, including preliminary interviewing techniques and appropriate questioning methods; (3) Methods for prosecuting persons who violate section 2905.32 [Trafficking in persons] of the Revised Code; (4) Methods of increasing effective collaboration with nongovernmental organizations and other social service organizations in the course of a criminal action regarding a violation of section 2905.32 of the Revised Code; (5) Methods for protecting the rights of victims of violations of section 2905.32 [Trafficking in persons] of the Revised Code, including the need to consider human rights and the specific needs of women and children who are victims of violations of that section and to treat victims as victims rather than as criminals; (6) Methods for promoting the safety of victims of violations of section 2905.32 [Trafficking in persons] of the Revised Code, including the training of peace officers to quickly recognize victims of a violation of any of those sections who are citizens of the United States or citizens of a foreign country.”

Oregon

Enacted Senate Bill 5669, Section 13 (Labor trafficking and sex trafficking recognition, investigation and reporting training for police officers) states that “[t]he Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate and report cases involving . . . sex trafficking of children and adults at any advanced training program operated or authorized by the Department of Public Safety Standards and Training.”

Texas

Tex. Occ. Code Ann. § 1701.258(a) (Education and training programs on trafficking of persons) requires law enforcement officers licensed on or after January 1, 2011 to “complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons.” The program must be at least four hours long and “include a review of the substance of Sections 20A.02 [Trafficking of persons] and 43.05 [Compelling prostitution].” Tex. Occ. Code Ann. § 1701.258(a). Additionally, Tex. Occ. Code Ann. § 1701.258(b) states, “The [Commission on Law Enforcement Officer Standards and Education] shall make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution prohibited under Sections 20A.02 and 43.05, Penal Code.” Tex. Occ. Code Ann. § 1701.402(a) (Proficiency certificates) authorizes the Commission on Law Enforcement Officer Standards and Education to issue proficiency certificates to law enforcement officers who meet training, education, and experience requirements. Tex. Occ. Code Ann. § 1701.402(j) states, “As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011, an officer must complete the basic education and training program on the trafficking of persons described by Section 1701.258(a).”

Washington

Enacted Senate Bill 6476 (2010), Sec. 16 states, “If funds are appropriated specifically for this purpose, the criminal justice training commission, in consultation with the Washington association of sheriffs and police chiefs, shall, by December 1, 2010, develop a model policy on law enforcement officer implementation of the procedures provided in this act relating to contact with a minor who is a ‘sexually exploited child’ as defined in this act or who is a victim of offenses related to commercial sexual abuse of a minor as defined in chapter 9.68A RCW. The commission shall develop a curriculum based on the model policy for inclusion in its basic training academy by January 1, 2011.”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Single party consent to audiotaping is permitted in law enforcement investigations.
The Legislative Solution	Audiotaping is an important tool for law enforcement. This important tool can lead to actionable evidence while simultaneously providing protection to investigating officers by permitting them to record and broadcast their interactions with the criminals. Recorded evidence collected through phone conversations is necessary to increase the number of successful prosecutions of domestic minor sex trafficking cases.

Select Statute Highlights

Kansas

Kansas allows single party consent to audiotaping, stating in Kan. Stat. Ann. § 21-6101(a)(1) (Breach of privacy) that a breach of privacy occurs when an individual “without the consent of the sender or receiver” intercepts the contents of a message sent via “telephone, telegraph, letter or other means of private communication.”

Oregon

Or. Rev. Stat. § 165.543(1) (Interception of communications) permits single party consent to audiotaping, stating, “Except as provided in ORS 133.724 [Application for ex parte order; evidence; required contents of order; reports] or as provided in ORS 165.540 (2)(a) [Obtaining whole or part of communication], any person who willfully intercepts, attempts to intercept or procures any other person to intercept or attempt to intercept any wire or oral communication where such person is not a party to the communication and where none of the parties to the communication has given prior consent to the interception, is guilty of a Class A misdemeanor.”

South Carolina

S.C. Code Ann. § 17-30-30(B) (Interception by employee of Federal Communications Commission, by person acting under color or law, and where party has given prior consent) permits single party consent to audiotaping. S.C. Code Ann. § 17-30-30(B) states, “It is lawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.” Subsection (C) states, “It is

lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception.”

South Dakota

South Dakota allows single party consent to audiotaping. Pursuant to S.D. Codified Laws § 23A-35A-20(1) (Unlawful interception—telephone or telegraph—consent), an individual who is “[n]ot a sender or receiver of a telephone or telegraph communication, intentionally and by means of an eavesdropping device overhears or records a telephone or telegraph communication, or aids, authorizes, employs, procures, or permits another to so do, without the consent of either a sender or receiver thereof” is guilty of a felony.

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Wiretapping is an available tool to investigate domestic minor sex trafficking.
The Legislative Solution	<p>A serious challenge in any prosecution of domestic minor sex trafficking is producing corroborating evidence at trial. Recorded phone conversations or text messages between a victim and a buyer or trafficker are important incriminating pieces of evidence. Wiretapping is largely permitted in cases of murder, arson, terrorism and often other serious felonies involving danger to life or limb. Child sex trafficking should be recognized as a serious crime involving these dangers to a child, and therefore necessitating wiretapping as an investigative tool. States should carve out an exemption for investigations of sex trafficking cases in their wiretapping laws to allow law enforcement officers to investigate and obtain evidence to substantiate their cases against buyers and traffickers while protecting victims who have a difficult time testifying. This investigative tool will lead to more and better arrests and prosecutions, and help to alleviate reliance on the child victim-witness' testimony.</p>

Select Statute Highlights	
Alaska	<p>Under Alaska Stat. §12.37.010, the attorney general may authorize a written application for an order authorizing the interception of private communication “if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit” certain crimes, included “sex trafficking in the first or second degree,” or “human trafficking in the first degree.”</p>
Florida	<p>Fla. Stat. Ann. § 934.07(1)(a) (Authorization for interception of wire, oral, or electronic communications) provides that certain specified persons “may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with ss. 934.03–934.09 an order authorizing or approving the interception of, wire, oral, or electronic communications” by law enforcement for the purpose of investigating the commission of certain crimes, including “any violation of s. 787.06 [Human trafficking] . . . any violation of chapter 895 [Offenses concerning racketeering and illegal debts]; any violation of chapter 896 [Offenses related to financial transactions]; any violation of chapter 815 [Computer-related crimes]; any violation of chapter 847 [Obscenity]; any violation of s. 827.071 [Sexual performance</p>
Illinois	<p>Ill. Comp. Stat. Ann. § 720 ILCS 5/14–2(a) (Elements of the offense; affirmative defense) makes it a crime for any person who “(1) Knowingly and intentionally uses an eavesdropping device for the purpose of hearing or recording all or any part of any conversation or intercepts, retains, or transcribes electronic communication . . .” However, Ill. Comp. Stat. Ann. § 720 ILCS 5/14–3 (Exemptions) specifically allows for court-ordered interceptions for investigations relating to a felony offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services. Ill. Comp. Stat. Ann. § 725 5/108B-3 authorizes the State’s Attorney to apply to a judge for an order to intercept private communication when it may provide evidence of or assist in the apprehension of a person “who has committed, is committing or is about to commit,” involuntary servitude, involuntary sexual servitude of a minor, trafficking in persons, promoting juvenile prostitution, soliciting for a minor engaged in prostitution, keeping a place of juvenile prostitution, patronizing a minor engaged in prostitution, juvenile pimping and aggravated juvenile pimping.</p>

Louisiana

La. Rev. Stat. Ann. § 15:1308(A)(2)(q), (r) (Authorization for interception of wire or oral communications) states, “The attorney general, or the deputy or any assistant attorney general acting pursuant to the authorization of the attorney general, with the approval of the district attorney or any assistant district attorney acting pursuant to the written authorization of the district attorney in whose district the interception of wire, electronic, or oral communications shall take place, and the district attorney or authorized assistant district attorney, with the approval of the attorney general or authorized deputy or assistant attorney general may authorize an application to a judge in whose district the interception of wire, electronic, or oral communications shall take place, and such judge may grant in conformity with R.S. 15:1310 an order authorizing or approving the interception of wire, electronic, or oral communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of . . . [t]he commission, attempted commission, or conspiracy to commit a crime involving any of the following offenses . . . [h]uman trafficking when prosecuted under R.S. 14:46.2(B) (3) . . . [and] [t]rafficking of children for sexual purposes as defined by R.S. 14:46.3.”

Maryland

Md. Code Ann. Crim. Proc. § 10-402(c)(2) (Wiretapping—unlawful interception of communications) provides in part, “(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence: “(1) Of the commission of: . . . O. A Human trafficking offense under § 11–303 of the 10 Criminal Law Article; P. Sexual solicitation of a minor under § 3–324 of the Criminal 12 Law Article; . . . R. Sexual abuse of a minor under § 3–602 of the Criminal Law 16 Article.”

Pennsylvania

18 Pa. Cons. Stat. § 5708(1), (2) permits certain law enforcement officers to make a written application for “an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following of-

fenses,” which includes 18 Pa. Cons. Stat. § 911 (Corrupt organizations), § 3002 (Trafficking of persons), § 5902 (Prostitution and related offenses) (“where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year”), and § 6318 (Unlawful contact with minor).

Texas

Tex. Code Crim. Proc. art. 18.20 §4 (Bases for an application for a court order to intercept wire communications) provides, “A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of . . . (1) a felony under Section . . . 43.26, Penal Code [Possession or promotion of child pornography]; . . . (4) an offense under Chapter 20A, Penal Code [Trafficking of persons]; . . .”

Wisconsin

Wis. Stat. § 968.28 (Application for court order to intercept communications) states, “The attorney general together with the district attorney of any county may approve a request of an investigative or law enforcement officer to apply to the chief judge of the judicial administrative district for the county where the interception is to take place for an order authorizing or approving the interception of wire, electronic or oral communications. The chief judge may under s. 968.30 grant an order authorizing or approving the interception of wire, electronic or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense for which the application is made. The authorization shall be permitted only if the interception may provide or has provided evidence of the commission of the offense of homicide, felony murder, kidnapping, commercial gambling, bribery, extortion, dealing in controlled substances or controlled substance analogs, a computer crime that is a felony under s. 943.70, sexual exploitation of a child under s. 948.05, trafficking of a child under s. 948.051, child enticement under s. 948.07, use of a computer to facilitate a child sex crime under s. 948.075, or soliciting a child for prostitution under s. 948.08, or any conspiracy to commit any of the foregoing offenses.”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.
The Legislative Solution	Law enforcement struggle to investigate the prostitution of children due to the inability to use a true minor as an undercover investigator and the inevitable defense to a prosecution that the “minor” solicited for prostitution was in fact an adult undercover police officer. State laws that permit law enforcement to pose as minor decoys in investigations of domestic minor sex trafficking cases and explicitly prohibit a defense to prosecution that the decoy was not, in fact, a minor are essential to impact this crime. Use of a decoy by law enforcement to investigate commercial sexual exploitation of children, especially through prostitution, is an effective way to proactively locate and investigate buyers of sex acts with children, potentially leading to identification of traffickers. This investigative tool is frequently encountered in statutes prohibiting the use of electronic communications to lure a child for commercial sexual exploitation and the same tool is needed to investigate street prostitution and outcall services exploiting minors in prostitution.

Select Statute Highlights	
Arizona	Ariz. Rev. Stat. Ann. § 13-3212(C) (Child prostitution) provides that a person who, among other things, knowingly causes a minor to engage in prostitution, receives any benefit from prostitution of a child, or knowingly engages in prostitution with a minor under 15 years of age or with a minor known to be 15, 16, or 17 years of age is prohibited from using as a defense “that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”
District of Columbia	D.C. Code § 22-3010.02(a) (Arranging for a sexual contact with a real or fictitious child) states, “It is unlawful for a person to arrange to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least 4 years younger than the person. For the purposes of this section, arranging to engage in a sexual act or sexual contact with an individual who is fictitious shall be unlawful only if the arrangement is done by or with a law enforcement officer.”
Louisiana	Pursuant to La. Rev. Stat. Ann. § 14:46.2 (Human trafficking) and § 14:46.3 (Trafficking of children for sexual purposes), it shall not be a defense “that the person being recruited, harbored, transported, provided, solicited, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.” La. Rev. Stat. Ann. § 14:46.2(D), 46.3(A)(3). Additionally, pursuant to La. Rev. Stat. Ann. § 14:86 (Enticing persons into prostitution) “it shall not be a defense to prosecution “that the person being enticed is actually a law enforcement officer or peace officer acting in his official capacity” and similarly under La. Rev. Stat. Ann. § 14:89.2 (Crime against nature by solicitation) it shall not be a defense “that the person being solicited is actually a law enforcement officer or peace officer acting within the scope of his duties.” La. Rev. Stat. Ann. § 14:86(C), 89.2 (D)(4). Finally, under La. Rev. Stat. Ann. § 14:82.1 (Prostitution; persons under eighteen; additional offenses), it shall not be a defense that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties. La. Rev. Stat. Ann. § 14:82.1(E).
Maryland	Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor) provides, “A person may not, with the intent to

commit a violation of . . . § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under . . . § 11-305, or § 11-306 of this article.”

Pennsylvania

18 Pa. Cons. Stat. § 6318 (Unlawful contact with minor) permits a law enforcement decoy to investigate situations of commercial sexual exploitation of children. 18 Pa. Cons. Stat. § 6318(a) states, “A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth: . . . (3) Prostitution as defined in section 5902 (relating to prostitution and related offenses). (4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances). . . . 6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using the Internet to investigate buyers and traffickers is a permissible investigative technique.
The Legislative Solution	The growing use of the Internet to accomplish crimes of domestic minor sex trafficking necessitates new investigative techniques and tools for law enforcement. Laws establishing a separate or enhanced penalty for using the Internet to commit an underlying offense, and the express inclusion of CSEC or sex trafficking of a minor as such an offense, are critical. Also critical is prohibiting a defense that the prohibited contact made online was with a law enforcement officer acting as a decoy rather than a real minor. Internet crimes against children are committed against minors of all ages and any state law prohibiting this conduct should protect all minors under 18 from the crime.

Select Statute Highlights	
<p>The following statutes prohibit the use of the Internet to commit a commercial sexual offense against a child and prohibit a defense based on the “minor” being law enforcement.</p>	<p>is a minor or is wanton or reckless in that belief, for any activity in violation of . . . KRS 529.100 [Human trafficking] where that offense involves commercial sexual activity, or 530.064(1)(a) [Unlawful transaction with a minor in the first degree], or KRS Chapter 531 [Pornography].”</p>
Alabama	Louisiana
<p>Ala. Code § 13A-6-122 (Electronic solicitation of a child) provides that “an undercover operative or law enforcement officer’s [involvement in] . . . the detection and investigation of an offense” is not a defense to prosecution.</p>	<p>La. Stat. Ann. § 14:81.3(C), states, “It shall not constitute a defense to a prosecution brought pursuant to this Section [Computer-aided solicitation of a minor] that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.”</p>
Georgia	Maryland
<p>Ga. Code Ann. § 16-12-100.2(g) clarifies that “[t]he sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section [Computer or electronic pornography and child exploitation prevention] shall not constitute a defense to prosecution under this Code section.”</p>	<p>Md. Crim. Code Ann. § 11-305 (Sexual solicitation of a minor) states, “A person may not, with the intent to commit a violation of § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 {Receiving earnings of a prostitute}, § 11-305 [Abduction of a child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 {Receiving earnings of a prostitute}, § 11-305 [Abduction of a child under 16], or § 11-306 [House of prostitution].” Pursuant subsection (a), “Solicit’ means to</p>
Kentucky	
<p>Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) states, “It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer</p>	

command, authorize, urge, entice, request, or advise a person by any means, including . . . (6) by computer or Internet; or (7) by any other electronic means.”

Michigan

Mich. Comp. Laws § 750.145d(1)(a) (Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions) makes it illegal for a defendant to, “use the internet or a computer, [etc.] . . . for the purpose of . . . Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a [Accosting, enticing or soliciting child for immoral purpose], 145c [child pornography] . . . in which the victim or intended victim is . . . believed by that person to be a minor.”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.
The Legislative Solution	<p>Many children are reported missing each year. Unfortunately, there is a strong corollary between missing and runaway children and domestic minor sex trafficking as children removed from the stability of a home and supervision have heightened vulnerabilities that are identified and exploited quickly by traffickers. State laws that mandate the reporting of missing and found children can lead to data to assist in the tracking of these children and ultimately provide a tool for law enforcement and child welfare to identify the repeat runaways and frequent missing children who are at high-risk for exploitation through sex trafficking and commercial sexual exploitation. Integrated reporting requirements between law enforcement, schools and child welfare agencies can help to close gaps that interfere with identification and reporting of missing children who become victims of sex trafficking.</p>

Select Statute Highlights

The following state laws mandate the reporting of missing children and recovered children.

California

Cal. Penal Code § 14205(b) (Missing person reports; persons under 16 and persons at risk) states, “(a) All local police and sheriffs’ departments shall accept any report, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property. In cases where the person making a report of a missing person or runaway, contacts, including by telephone, the California Highway Patrol, the California Highway Patrol may take the report, and shall immediately advise the person making the report of the name and telephone number of the police or sheriff’s department having jurisdiction of the residence address of the missing person and of the name and telephone number of the police or sheriff’s department having jurisdiction of the place where the person was last seen. In cases of reports involving missing persons, including, but not limited to, runaways, the local police or sheriff’s department shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person. If the missing person is under 16 years of age, or there is evidence that the person is at risk, the department shall broadcast a ‘Be On the Look-Out’ bulletin, without delay, within

its jurisdiction.” Cal. Penal Code § 14201.5(a)–(c) (Missing and exploited children’s recovery network) states, “(a) The Attorney General shall establish within the Department of Justice the Missing and Exploited Children’s Recovery Network by July 31, 1995. (b) This network shall consist of an automated computerized system that shall have the capability to electronically transmit to all state and local law enforcement agencies, and all cooperating news media services, either by facsimile or computer modem, a missing child poster that includes the name, personal description data, and picture of the missing child. . . (c) The Department of Justice shall work in cooperation with the National Center for Missing and Exploited Children to develop and implement a network that can electronically interface with the National Missing and Exploited Children’s Network.” Cal. Penal Code § 14207(a), (b) (Report of finding missing person) states, “(a) When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or the law enforcement agency locating the missing person shall immediately report that information to the Attorney General’s office. (b) When a child under 12 years of age or a missing person, where there was evidence that the person was at risk, is found, the report indicating that the person is found shall be made not later than 24 hours after the person is found. A report shall also be made to the law enforcement agency that made the initial missing person report. The Attorney General’s office shall then notify the National Crime Information Center that the missing person has been found.”

Colorado

Colo. Rev. Stat. Ann. § 24-33.5-415.1(3) (List of missing children) provides, “every law enforcement agency in this state shall, upon receipt of information that a child is believed to be missing, send a missing child report containing identifying and descriptive information about the child to the bureau as soon as possible but no later than twenty-four hours after obtaining such information. If, at a later time, the law enforcement agency determines that the missing child has been located, the agency shall send notification to the bureau no later than twenty-four hours after making such determination.”

Florida

Fla. Stat. § 937.025(1) (Missing children; student records; reporting requirements; penalties) states that “upon notification by the Department of Law Enforcement that a child is listed or reported as a missing child, the school in which the child is currently enrolled, or was previously enrolled, shall flag the student records in such a manner that whenever a copy of or information concerning the records of the missing child is requested, the person authorized to provide such copy or information is alerted to the fact that the child has been listed or reported as missing.”

Louisiana

La. Rev. Stat. Ann. § 40:2521 (Law enforcement agency receiving report of missing or recovered child; duty) requires the law enforcement agency that receives an initial report of a missing child or the recovery of a missing child to “immediately report the missing or recovered child to national law enforcement agencies and the state law enforcement agencies of neighboring states. This notification shall include entry of the name of the child into the National Crime Information Center registry. These reports shall be made for each reported missing child without regard to whether the child is believed to be missing due to stranger abduction, parental abduction, or any other cause.” La. Rev. Stat. Ann. § 46:1433(A) (Notification of location of missing and/or exploited child) requires a “parent, guardian, or legal custodial responsible for notifying the clearinghouse or a law enforcement agency of a missing or exploited child” to “immediately notify such agency or the clearinghouse of any child whose location has been determined.” Additionally, law enforcement agencies are required to “transmit information of the recovery of a missing child to the clearinghouse, which shall maintain the information in the central repository . . .” La. Rev. Stat. Ann. § 46:1433(B).

Nevada

Pursuant to Nev. Rev. Stat. Ann. § 432.200(1) (Duties of law enforcement agency receiving report of missing child; request for and use of identifying information; notification that child is found or returned), “1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as “runaway,” “abducted by the parent of the child,” “abducted by a stranger” or “cause of disappearance unknown,” and shall:(a) Transmit all available information about the child to the Clearinghouse within 36 hours after the report is received; (b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;. . . (d) Enter into the National Crime Information Center’s Missing Person File, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.” Nev. Rev. Stat. Ann. § 432.200(4) requires the law enforcement agency to transmit information of a recovered child to the national Crime Information Center and Clearinghouse.

