

## State Law Survey: Protective System Responses to Child Sex Trafficking Victims

State	State law has a specific mechanism to prevent delinquency adjudication for prostitution offenses <sup>i</sup>	State Law provides a non-punitive avenue <sup>ii</sup> to specialized services through existing systems or other referral mechanism
Alabama	None	None
Alaska	None	None
Arizona	None	None
Arkansas	None	Child welfare may refer minor victims to child placement agencies providing <b>specialized services</b>
California	None <sup>iii</sup>	Family justice centers may provide services to human trafficking victims; county child welfare agencies may opt-in to provide <b>specialized services</b>
Colorado	None	None
Connecticut	Non-criminalization under 16; presumption of coercion if 16+	Specific mandate that law enforcement report CSEC to child welfare; <b>specialized services</b> through child welfare
Delaware	Discretionary diversion	Specific mandate that law enforcement report CSEC to child welfare; if diverted, the court may order <b>specialized services</b> through child welfare
DC	Non-criminalization	Specific mandate that law enforcement report CSEC to child welfare <i>and</i> refer child to <b>specialized service provider</b>
Florida	Law enforcement may deliver trafficked child to child welfare in lieu of arrest	<b>Specialized assessment and services</b> through child welfare
Georgia	None*	None
Hawaii	None	None
Idaho	None	None
Illinois	Non-criminalization	Specific mandate that law enforcement report CSEC to child welfare; provision of specialized services not specified
Indiana	None*	Specific mandate that law enforcement report CSEC to child welfare; provision of specialized services not specified
Iowa	If CSEC, prosecutor has discretion to convert delinquency to dependency	If case converted, services through child welfare; provision of specialized services not specified
Kansas	Mandatory law enforcement referral to child welfare	<b>Specialized assessment, services</b> and staff secure facility through child welfare
Kentucky	Non-criminalization	<b>Specialized services</b> through child welfare
Louisiana	Diversion <sup>iv</sup> (mandatory for 1 <sup>st</sup> offense, discretionary for subsequent)	<b>Specialized services</b> and safe house placement through child welfare
Maine	None	<b>Specialized services</b> available to sexually exploited runaway and homeless youth
Maryland	None	None
Massachusetts	Discretionary diversion	<b>Specialized services</b> through child welfare;

## State Law Survey: Protective System Responses to Child Sex Trafficking Victims

		must be provided to any sexually exploited child
<b>Michigan</b>	Non-criminalization for under 16; presumption of coercion for 16+	Specific mandate that law enforcement report child trafficking to child welfare which must provide <b>specialized services</b>
<b>Minnesota</b>	Non-criminalization	<b>Specialized services</b> through Department of Health regional navigators
<b>Mississippi</b>	Non-criminalization	Specific mandate that law enforcement report child trafficking to child welfare and statewide coordinator; provision of specialized services not specified
<b>Missouri</b>	None	Specific mandate that law enforcement report trafficking victim to Department of Social Services, which may coordinate <b>specialized services</b>
<b>Montana</b>	Non-criminalization	None
<b>Nebraska</b>	Non-criminalization	Specific mandate that law enforcement report child trafficking to child welfare; provision of specialized services not specified
<b>Nevada</b>	Mandatory diversion	Court must order <b>specialized services</b>
<b>New Hampshire</b>	Non-criminalization	None
<b>New Jersey</b>	Discretionary diversion	None
<b>New Mexico</b>	None	Child certified as victim of trafficking may receive services available through the state
<b>New York</b>	If under 16, mandatory conversion to CHINS petition for first offense; discretionary for subsequent offenses or if 16–17 years old	<b>Specialized services</b> through child welfare
<b>North Carolina</b>	Non-criminalization	Protective custody as “undisciplined juvenile” and specific mandate that law enforcement report to child welfare; provision of specialized services not specified
<b>North Dakota</b>	Non-criminalization	None
<b>Ohio</b>	Discretionary diversion	If diverted, court may order <b>specialized services</b>
<b>Oklahoma</b>	Mandatory transfer to child welfare for minor trafficking victims	Specific mandate that law enforcement report child trafficking to child welfare which must provide <b>specialized services</b>
<b>Oregon</b>	None	None
<b>Pennsylvania</b>	None	None
<b>Rhode Island</b>	None	None
<b>South Carolina</b>	Non-criminalization	None
<b>South Dakota</b>	None	None
<b>Tennessee</b>	Non-criminalization	None
<b>Texas</b>	Discretionary diversion <sup>v</sup>	If diverted, court may order <b>specialized services</b>

# State Law Survey: Protective System Responses to Child Sex Trafficking Victims

<b>Utah</b>	Mandatory conversion to dependency for first offense, discretionary for subsequent offenses	Services through child welfare; provision of specialized services not specified
<b>Vermont</b>	Non-criminalization	Services through child welfare; provision of specialized services not specified
<b>Virginia</b>	None	None
<b>Washington</b>	Mandatory diversion 1 <sup>st</sup> offense, discretionary diversion subsequent offenses	If diverted, mandatory referral to <b>specialized services</b> through child welfare
<b>West Virginia</b>	None	None
<b>Wisconsin</b>	Discretionary diversion	None
<b>Wyoming</b>	None	None
<b>Totals</b>	<b>30 states avoid delinquency adjudication for prostitution offenses</b>	<b>States with avenue to services: 30 (specifically <i>specialized</i> services: 20)</b>

<sup>i</sup> A protective system response consists of a statutory mechanism for directing minor victims away from a punitive response and into services. Since a complete protective system response requires long term legislative and implementation efforts, this chart captures any state legislative responses that specifically address how state child serving agencies respond to domestic minor sex trafficking victims. Responses are solely based on statutory law and do not reflect regulatory or practice-based responses by agencies providing child protective services in cases of commercial sexual exploitation. Evaluations of state laws are based on legislation enacted as of August 1, 2015.

<sup>ii</sup> A non-punitive avenue to specialized services is defined as a path to services outside of detention. Services provided by the Department of Juvenile Justice to detained youth are critical; however, due to the need to criminalize juvenile sex trafficking victims in order to provide services through juvenile detention, these services do not constitute an appropriate firstline approach to connect juvenile sex trafficking victims to services. Similarly, state laws that provide an affirmative defense to prostitution charges for juvenile sex trafficking victims have not been included as a mechanism to prevent delinquency adjudication because defenses place the burden on the minor victim. States with an asterisk (\*) indicate that state law allows a minor to assert an affirmative defense to prostitution charges but does not provide another CSEC-specific mechanism to avoid delinquency adjudication.

<sup>iii</sup> Pursuant to Cal. Welf. & Inst. Code §§ 18259–18259.5 and §§ 18259.7–18259.10, the Counties of Alameda and Los Angeles may initiate pilot programs, which would establish a diversion program for sexually exploited children, “to address the needs and effective treatment of commercially sexually exploited minors who have been arrested or detained by local law enforcement . . . .” Cal. Welf. & Inst. Code § 18259.7(a). However these provisions do not establish a statewide response and Cal. Welf. & Inst. Code §§ 18259–18259.5 and §§ 18259.7–18259.10 are set to repeal as of January 1, 2017, by their own provisions.

<sup>iv</sup> Despite the specific exclusion in La. Child. Code Ann. art. 804(3) and (5) of prostitution offenses from the definition of “delinquent act” and “felony grade delinquent act” “for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes,” La. Child. Code Ann. art. 839(D) sets out a diversion process for minors charged with a delinquent act in violation of the prostitution laws. Thus, the exclusion of prostitution offenses from the definition of delinquent act appears to act as an affirmative defense because it only applies if the child was a victim of trafficking at the time of the offense, shifting the burden to the victim to prove that status in order to avoid prosecution. This interpretation of the Children’s Code also seems consistent with the protections provided under the criminal code. La. Rev. Stat.

§ 14:46.3(E) (Trafficking of children for sexual purposes) states, “No victim of trafficking as defined by the provisions of this Section shall be prosecuted for unlawful acts committed as a direct result of being trafficked.” However, Louisiana’s prostitution offenses, La. Rev. Stat. Ann. § 14:82(G) (Prostitution; definition; penalties; enhancement), § 14:83.3(D) (Prostitution by massage), and § 14:83.4 (Massage; sexual conduct prohibited) provide an affirmative defense from prosecution for prostitution offenses if “during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes” as provided in La. Rev. Stat. Ann. § 14:46.3(A), (B), or determined to be a victim of human trafficking pursuant to § 14:46.2 (F) (Human trafficking). Consequently, the prohibition on prosecution in § 14:46.3 when read together with the prostitution statutes also appears to establish an affirmative defense if a juvenile sex trafficking victim is charged with prostitution.

<sup>v</sup> While Texas caselaw prohibits prosecution of minors under 14 for prostitution, this protection is not codified in Texas’ prostitution law. See In re B.W., 313 S.W.3d 818, 821 (Tex. 2010) (holding that “a 13 year old child cannot consent to sex as a matter of law” and thus cannot satisfy the knowledge requirement of the prostitution statute.)