

# ISSUE BRIEF

## COMPONENT 5.7

<b>Area of Law</b>	Protective Provisions for the Child Victims
<b>The Policy Goal</b>	Crime victims' compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC).
<b>The Reason</b>	Victims of domestic minor sex trafficking and CSEC should be afforded access to crime victims' compensation, which is critical 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. However, 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. Ultimately, providing access for victims of child sex trafficking and CSEC to victims' compensation funds with clear exceptions to the ineligibility factors facilitates healing and justice without risking re-victimization.

### Examples of Legislative Solutions

#### District of Columbia

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(6) (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."

#### Florida

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(71)(g)." Fla. Stat. Ann. § 39.01(71)(g) defines sexual exploitation of child to include "the act of a child offering to engage or engaging in prostitution, or the act of 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 human trafficking as provided in s. 787.063(3)(g) [Human trafficking]."

#### Louisiana

La. Rev. Stat. Ann. § 46:1804 (Eligibility to apply for reparations) states, "A person who believes he is a victim of a crime enumerated in R.S. 46:1805 [Crimes to which chapter applies] . . . shall be eligible to make an application to the board for reparations and shall be eligible for an award of reparations in accordance with the provisions of this Chapter." La. Rev. Stat. Ann. § 46:1804 defines "victim" to include trafficking or CSEC, stating, "Any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter. This includes any person who is a victim of human trafficking as defined by R.S. 14:46.2, a victim of trafficking of children for sexual purposes as defined as defined by R.S. 14:46.3, or

a victim of an offense involving commercial sexual exploitation but not limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.”

### Montana

Mont. Code Ann. § 44-4-1502 [Eligibility for benefit or service] states, “(1) A victim of human trafficking is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1 [The Crime Victims Compensation Act of Montana] . . . (2) A child who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1 [The Crime Victims Compensation Act of Montana], regardless of . . . factors described in 53-9-125 [Limitations on awards] . . .”

### New York

N.Y. Penal Law § 621(5) (Definitions) defines “victim” as “(a) A person who suffers personal physical injury as a direct result of a crime; (b) a person who is the victim of . . . (13) sex trafficking as defined in section 230.34 of the penal law.” Furthermore, “child victim” is defined under N.Y. Exec. Law § 621(11) as “a person less than eighteen years of age who suffers physical, mental, or emotional injury, or loss or damage, as a direct result of a crime or as a direct result of witnessing a crime.” Pursuant to their victim status, child victims of sex trafficking are eligible to receive crime victims’ compensation under N.Y. Exec. Law § 624 (Eligibility), which states, “Except as provided in subdivision two of this section, the following persons shall be eligible for awards pursuant to this article: (a) a victim of a crime . . . .” Child victims in particular are eligible to receive additional compensation under N.Y. Exec. Law § 631(17) (Awards), which states, “Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime . . . the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime occurred.”

### 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.”