

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

State <sup>1</sup>	Does state law prohibit the criminalization of minors for prostitution? <sup>2</sup>	Statutory Non-Criminalization Approach	Does state law extend non-criminalization to other offenses?
Alabama	Yes	A sexually exploited child may not be prosecuted for prostitution	No
Alaska	No <sup>3</sup>	N/A	N/A
Arizona	No	N/A	N/A
Arkansas	No	N/A	N/A
California	Yes	Prostitution law does not apply to minors	“Loitering with intent to commit prostitution”
Colorado	No	N/A	N/A
Connecticut	Yes	Prostitution law does not apply to minors	No
Delaware	No	N/A	N/A
DC	Yes	Minors may not be prosecuted for prostitution	No
Florida	Yes	Prostitution law does not apply to minors	No
Georgia	No	N/A	N/A
Hawaii	No	N/A	N/A
Idaho	No	N/A	N/A
Illinois	Yes	Minors may not be prosecuted for prostitution	“Promoting prostitution” (“profiting from” provision) & “Solicitation of a sexual act”
Indiana	Yes	Prostitution law does not apply to minors	No
Iowa	No	N/A	N/A
Kansas	No	N/A	N/A
Kentucky	Yes	Minors may not be prosecuted for prostitution	“Loitering for prostitution purposes” & status offenses
Louisiana	No <sup>4</sup>	N/A	N/A
Maine	No	N/A	N/A
Maryland	No	N/A	N/A

<sup>1</sup> Responses in the chart are solely based on statutory law as analyzed under component 5.3 of the Protected Innocence Challenge Legislative Framework, and do not reflect regulatory or practice-based responses. Except where otherwise indicated, evaluations of state laws are based on legislation enacted as of August 1, 2017. For related policy goals, background information, and select statute highlights, please visit [http://sharedhope.org/wp-content/uploads/2015/11/Issue\\_Briefs/Issue\\_Briefs\\_5.3.pdf](http://sharedhope.org/wp-content/uploads/2015/11/Issue_Briefs/Issue_Briefs_5.3.pdf).

<sup>2</sup> An asterisk (\*) denotes a third party control requirement under at least one state non-criminalization provision. For additional information on third party control, please visit [https://sharedhope.org/wp-content/uploads/2016/02/Policy\\_Paper\\_Eliminating\\_Third\\_Party\\_Control\\_Final.pdf](https://sharedhope.org/wp-content/uploads/2016/02/Policy_Paper_Eliminating_Third_Party_Control_Final.pdf).

<sup>3</sup> Alaska Stat. § 11.66.100(c) (Prostitution) provides a narrow basis for avoiding criminal penalties under the prostitution law to a person who “witnessed or was a victim of, and reported to law enforcement in good faith,” various offenses including sex trafficking. Pursuant to Alaska Stat. § 11.66.100(c)(2) and (3), this protection from criminal liability for prostitution is only available if the victim or witness provides evidence that leads to prosecution and the victim or witness cooperates with law enforcement.

<sup>4</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 as an adult.

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<b>Massachusetts</b>	No	N/A	N/A
<b>Michigan</b>	Yes (under 16 only)	Prostitution law does not apply to minors under 16	No
<b>Minnesota</b>	Yes	Definitions of delinquent child and juvenile petty offender specifically exclude prostitution/loitering offenses	“Loitering with intent to participate in prostitution”
<b>Mississippi</b>	Yes*	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution	Promoting prostitution & human trafficking
<b>Missouri</b>	No	N/A	N/A
<b>Montana</b>	Yes	Minors are not criminally liable for prostitution	“Promoting prostitution” & non-violent offenses
<b>Nebraska</b>	Yes	Minors may not be prosecuted for prostitution	No
<b>Nevada</b>	No	N/A	N/A
<b>New Hampshire</b>	Yes	Minors may not be prosecuted for prostitution	“Indecent exposure” & “Lewdness”
<b>New Jersey</b>	No	N/A	N/A
<b>New Mexico</b>	No	N/A	N/A
<b>New York</b>	No	N/A	N/A
<b>North Carolina</b>	Yes	Minors may not be prosecuted for prostitution	“Solicitation of prostitution”
<b>North Dakota</b>	Yes*	Prostitution law does not apply to minors	“Misdemeanor forgery,” “Misdemeanor theft” offenses, “Insufficient funds or credit” offenses, “Manufacture or possession of controlled or counterfeit substance,” & “Drug paraphernalia” offenses
<b>Ohio</b>	No	N/A	N/A
<b>Oklahoma</b>	No	N/A	N/A
<b>Oregon</b>	No	N/A	N/A
<b>Pennsylvania</b>	No	N/A	N/A
<b>Rhode Island</b>	Yes*	Minors are not criminally liable for prostitution <sup>5</sup>	No
<b>South Carolina</b>	Yes*	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution if the offense was committed “as a direct result of, or incidental or related to, trafficking”	Human trafficking
<b>South Dakota</b>	Yes (under 16 only)	Prostitution law does not apply to minors under 16	No
<b>Tennessee</b>	Yes	Minors may not be prosecuted for prostitution	No

<sup>5</sup> R.I. Gen. Laws Ann. § 11-67.1-15 (Immunity of a minor) contains two non-criminalization provisions, one of which applies generally to any minor under 18 years of age; the other hinges on the minor being identified as a trafficking victim. R.I. Gen. Laws § 11-67.1-15(a) states, “An individual is not criminally liable or subject to a delinquency proceeding in the family court for prostitution or solicitation to commit a sexual act if the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim.” In contrast, R.I. Gen. Laws § 11-67.1-15(b) states, “An individual who has engaged in commercial sexual activity is not criminally liable or subject to delinquency proceeding in the family court for prostitution or solicitation to commit a sexual act if the individual was a minor at the time of the offense.”

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<b>Texas</b>	No <sup>6</sup>	N/A	N/A
<b>Utah</b>	Yes	Minors may not be prosecuted for prostitution	“Sexual solicitation”
<b>Vermont</b>	Yes	<i>Child sex trafficking victims</i> may not be prosecuted for prostitution	Obscenity offenses
<b>Virginia</b>	No	N/A	N/A
<b>Washington</b>	No	N/A	N/A
<b>West Virginia</b>	Yes*	<i>Child sex trafficking victims</i> are not criminally liable for prostitution	No
<b>Wisconsin</b>	No	N/A	No
<b>Wyoming</b>	Yes*	<i>Child sex trafficking victims</i> are not criminally liable for prostitution <sup>7</sup>	All criminal acts
<b>Totals:</b>	<b>23 states &amp; DC</b> prohibit the criminalization of minors for prostitution.  <b>2 of those states</b> limit that protection to minors under 16.		<b>12 states</b> extend non-criminalization to other offenses.

<sup>6</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, therefore, cannot satisfy the knowledge requirement of the prostitution statute).

<sup>7</sup> Wyoming law prohibits child sex trafficking victims from facing criminalization for prostitution offenses; however, because Wyoming’s trafficking offense requires trafficker-involvement, not all commercially sexually exploited children will qualify for immunity.