

ACCESS TO JUSTICE FOR TRAFFICKING SURVIVORS

POLICY GOAL: Ineligibility factors for crime victims' compensation do not prevent victims of child sex trafficking or commercial sexual exploitation of children (CSEC) from accessing compensation.

State law provides for compensation through the government for victims of certain crimes to cover victims' out-of-pocket expenses, including costs associated with receiving physical and mental health care or lost income. Money is available through a government-administered fund and is either allocated through authorized expenditures or is collected from offenders who have been assessed penalties during sentencing.¹ This type of relief is often known as crime victims' compensation (CVC) and is a separate form of relief from criminally-ordered restitution or damages awarded in a civil proceeding. To be eligible for CVC, a victim must demonstrate that a crime occurred, but importantly, states generally do not require that the perpetrator be apprehended or convicted.²

CVC is a valuable tool for receiving support to offset the financial impact experienced by crime victims. However, there are numerous criteria that impact ability to access these funds, including definitional barriers limiting eligibility to victims of certain crimes, bars based on misconduct or justice system involvement, and sometimes physical harm requirements. Other states bar CVC based on contributory conduct, filing and reporting deadlines, and cooperation requirements.³ However, these ineligibility factors are incompatible with the realities of child sex trafficking and CSEC victimization.

While this is a valuable resource to provide aid and

relief for crime victims and their families, many states report that their compensation programs are underutilized.⁴ Applying for funding can be difficult for many victims as they navigate through the complex eligibility requirements—even more so for victims of sex trafficking and CSEC.⁵ Survivors of CSE and their families may feel the financial effects of their abuse through medical bills, mental health counseling expenses, fixing/replacing damaged property, loss of income, and, in worst cases, even funeral costs.⁶ However, issues with eligibility that bar them from accessing compensation due to circumstances of their victimization may hinder their ability to cover these costs.

Requiring applicants for CVC to be free of prior misconduct or misconduct related to the crime at issue is a particularly problematic barrier for CSE children because victims oftentimes engage in an array of delinquent and/or criminal conduct as a result of their victimization. Further, many victims of trafficking and CSEC do not self-identify as victims, making them unlikely to report their victimization in a timely manner. Victims may also not wish to cooperate with law enforcement because of possible attachment to or threats from their traffickers, general mistrust of law enforcement, or possible immigration consequences.⁷ Thus, to ensure access to critical financial support to increase stabilization, CVC laws should provide specific exceptions to all ineligibility factors for victims of sex trafficking and CSEC.

DRAFTING CONSIDERATIONS: *To accomplish this policy goal, state law should...*

- ▶ Provide specific exemptions to all CVC ineligibility factors for victims of child sex trafficking and CSEC.
- ▶ Expand the definition of "victim" from purposes of seeking CVC to specifically include child sex trafficking and CSEC.
- ▶ Remove threshold barriers, including participation in justice system processes, for child sex trafficking and CSEC victims.

RELATED ISSUES:

- 4.4** State law mandates restitution for child sex trafficking, commercial sexual exploitation of children (CSEC), and child sexual abuse material (CSAM) offenses.
- 4.5** State law provides child sex trafficking victims with a trafficking-specific civil remedy.
- 4.6** Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

SUPPORTING RESOURCES:

- ▶ [Protected Innocence Challenge Framework Brief \(Section 5\)](#)

¹ James L Buchwalter, 29 CAUSES OF ACTION 2d 229 § 1 (2020 ed. 2005).

² *Id.* § 8.

³ *See id.* §§ 13–17.

⁴ DOUGLAS N. EVANS, COMPENSATING VICTIMS OF CRIME, RESEARCH & EVALUATION CENTER, JOHN JAY COLLEGE OF CRIMINAL JUSTICE (2014).

⁵ *Id.*

⁶ *Id.*

⁷ Amanda Peters, *Reconsidering Federal and State Obstacles to Human Trafficking Victim Status and Entitlements*, 2016 UTAH L. REV. 535, 561 (2016).