

ACCESS TO JUSTICE FOR TRAFFICKING SURVIVORS

POLICY GOAL: 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.

The effect of sex trafficking or commercial sexual exploitation on a child is traumatic, potentially long-lasting, and extremely injurious to the victim. Many survivors of trafficking and commercial sexual exploitation do not identify as victims or recognize their victimization for a prolonged period. Therefore, they may not report their victimization in a timeline that aligns with existing statutory limitations. Eliminating both criminal and civil statutes of limitation (SoLs) for trafficking and CSEC offenses is a necessary and trauma-informed approach to supporting survivors' access to justice. Importantly, the elimination of SoLs recognizes the complexity of identifying and reporting victimization as well as the challenges of investigating and building successful cases against offenders.

SoLs are meant to promote judicial efficiency, deter negligence or fraud, and promote the timely filing of claims,¹ but their validity is questioned when they “effectively divest a plaintiff of the court access intended by the grant of a substantive right.”² SoLs

must not act as a barrier for victims seeking justice. Nearly 90% of child victims of sexual assault do not report their victimization to authorities, and most do not disclose their victimization until adulthood.³ Survivors often need time to address medical, mental health, housing, and a myriad of other needs before they are ready or able to work with law enforcement in the prosecution of their exploiter. It is important to provide survivors with the opportunity to bring forward evidence once they feel safe and stable enough to do so. The process towards gaining the level of stability necessary to engage in this process could take many years. Merely expanding the SoL for sex trafficking and/or CSEC claims, therefore, does not fully meet the needs of survivors, nor does it fully facilitate their access to justice in criminal and civil forums. Accordingly, state law addressing SoLs for criminal and civil actions should fully eliminate the SoLs for child sex trafficking and CSEC offenses to ensure survivors and prosecutors have a meaningful opportunity to file related suits or charges, respectively.

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

- ▶ Eliminate statutes of limitation for civil and criminal cases.

RELATED ISSUES:

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

SUPPORTING RESOURCES:

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

¹ 51 Am. Jur. 2d *Limitations of Actions* § 39 (2020).

² *Id.* § 28.

³ Symone Shinton, Comment, *Pedophiles don't Retire: Why the Statute of Limitations on Sex Crimes against Children Must Be Abolished*, 92 CHI.-KENT L. REV. 317, 320 (2017).