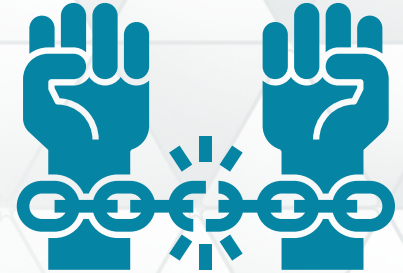


THE PROBLEM

Survivors of human trafficking continue to be charged with crimes related to their victimization. These crimes frequently include prostitution offenses but also include misdemeanors and felonies ranging from non-violent, nonperson offenses to more serious violations. A survivor is often left with no choice but to commit these crimes to appease their trafficker or survive their trafficking situation. These “victim–offenders,” or survivors who find themselves at the intersection of victimization and criminal offender, are retraumatized by their detention and prosecution and often face barriers to needed services. They are also left with a criminal record that hinders their ability to rebuild and creates additional vulnerabilities that may increase the risk of re-exploitation.



POLICY ISSUES

SAFE HARBOR

No child should be charged with prostitution—the very crime that is synonymous with their exploitation. The best outcomes for sex trafficked children and youth occur when they are met with protective, trauma-informed services and a response that is appropriate for the horrific experiences they have endured; such a response cannot be rooted in juvenile justice practices and systems.

For more information on the purpose, development, and status of state Safe Harbor laws and on how you can take action, visit <https://reportcards.sharedhope.org/safeharbor>. Available resources include fact sheets, white papers, law journal articles, statistics, and blogs.

Legislative Recommendations

- Amend all state prostitution laws to be inapplicable to minors, regardless of whether a finding of trafficking victimization is made, thereby recognizing that children never engage in commercial sex by choice but, instead, out of coercion, force, fraud, fear, or survival.
- Establish a protocol that prohibits punitive forms of custody, such as arrest, and requires law enforcement to direct the child to specialized services.
- Mandate access to specialized services, ideally through community-based service providers, that address the trauma that accompanies and oftentimes precedes the exploitation.

EXPANDED NON-CRIMINALIZATION AND VICTIM-OFFENDER INTERSECTIONALITY (“VOI”)

Human trafficking victimization, including child sex trafficking, and forced criminality are intrinsically linked as victims are often forced or compelled to engage in a broad range of criminal conduct ranging from petty offenses to serious crimes. Prohibiting the criminalization of human trafficking victims, including child sex trafficking survivors, for offenses related to their victimization accounts for the nature and extent of control exerted by traffickers as well as the influence of trauma on the decision-making process and behavior of survivors.

For more information on the importance of expanding non-criminalization beyond prostitution offenses to include other crimes, visit <https://reportcards.sharedhope.org/related-resources> (Policy Goals 2.6, 2.7, and 2.8).

Legislative Recommendations

- Rather than drawing a “hard line” on the qualifying offenses, enact laws that broadly protect against criminalization for status offenses, misdemeanors, and felonies, including commercial sexual exploitation offenses, committed as a result of trafficking victimization.
- Mandate training on identification of, and response to, trafficking victimization for stakeholders that are likely to interact with this population, including law enforcement, victim advocates, prosecutors, public defenders, and judges.

Information specific to the issue of victim-offender intersectionality—including field guidance, case studies, and recommendations—can be found at <https://sharedhope.org/what-we-do/bring-justice/just-response-council/voi>.

VACATUR

Delinquency adjudications and criminal convictions have a profound and devastating impact on survivors seeking to rebuild their lives post-exploitation. Strong vacatur laws can mitigate this impact by restoring survivors to their pre-victimization legal status and, thereby, eliminate critical barriers to stabilization and true healing, including access to safe housing, meaningful employment opportunities, and higher education options.

Legislative Recommendations

- Allow sex trafficked children and youth to vacate adjudications and convictions they've received as a result of their victimization.
- Do not limit the types of crimes or charges for which sex trafficking survivors can seek post-conviction relief.
- Remove waiting periods and other procedural barriers.

For more information on the importance of vacatur protections, visit <https://reportcards.sharedhope.org/related-resources/#4.3>.

STATE-LEVEL PROTECTIONS

23 states allow child sex trafficking victims to vacate delinquency adjudications.

37 states (including D.C.) allow sex trafficked children to vacate criminal convictions.

FEDERAL-LEVEL PROTECTIONS

Currently, there are no legal protections against unjust criminalization of human trafficking victims at the federal level. Pending federal legislation would change that. The Trafficking Survivors Relief Act ("TSRA") would establish an affirmative defense and provide for comprehensive post-conviction relief.

To learn more, visit <https://reportcards.sharedhope.org/fstsra24>.