



HUMAN TRAFFICKING: FEDERAL STRATEGIC PLAN NCSL's Law, Criminal Justice and Public Safety Committee

Trends in State Legislation

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Human trafficking is the buying, selling and smuggling of people to profit from their forced labor or sexual servitude. Every state has passed legislation addressing some form of trafficking activity and lawmakers continue to explore new methods to combat traffickers and provide support for victims. Recent legislation has given significant attention to preventing victims from being treated as criminals and improving anti-trafficking efforts for minors.

Preventing Victims from Being Treated as Criminals

Trafficking victims are often arrested for prostitution and other trafficking-related offenses. In response, states are enacting laws that either divert trafficked persons from the justice system or enable them to clear their criminal record.

- Immunity from Prosecution for Minors – At least six states – Illinois, Mississippi, Nebraska, North Carolina, Tennessee and Vermont – make all minors immune from prosecution for prostitution; some extend that immunity to related offenses such as pandering, trafficking and procuring prostitutes. In Connecticut, children ages 15 and under are immune from prosecution for prostitution. Michigan's law creates a presumption of innocence for certain youth victims of trafficking related crimes, but this presumption can be overcome by the prosecution.
- Affirmative Defense – At least 21 states enable an individual charged with prostitution-related offenses to assert, as an affirmative defense, that their actions were the result of being victimized by human trafficking.
- Pretrial Diversion – Some states enable minors charged with prostitution and related offenses to be diverted to pretrial programs at the discretion of justice officials. For example, Washington's law enables prosecutors to divert first-time juvenile offenders into programs that provide safe housing, chemical dependency treatment, trauma treatment, employment training and other services.
- Record Clearing Policies – At least 16 states enable victims who have previously been convicted of prostitution or related offenses to petition to have their conviction record cleared.

Funding Sources for Victims Services

States are using several means to fund protective and rehabilitative services for those victimized by human trafficking.

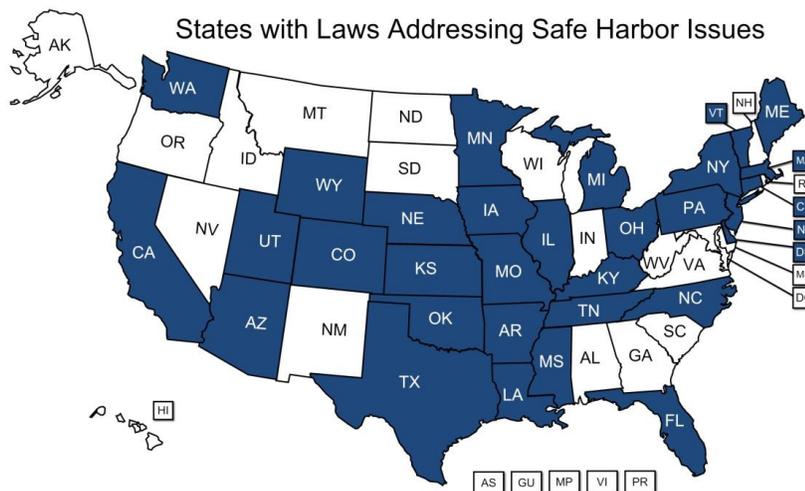
- Trafficked Victim Funds – At least 18 states have created funds in their treasury to pay for anti-trafficking efforts. The funds are used for many purposes including to arrest and prosecute child sex traffickers, provide services for victims and to train state personnel to recognize and appropriately handle trafficked victims.
- Legislative Appropriations – State legislatures also appropriate funds to pay for victim's services. Recent examples of state's using appropriations to finance services for trafficked

victims include Florida, Maine, Minnesota and New York. In 2014, New York's General Assembly appropriated \$348,000 to continue support for their safe harbor services created in 2008.

- **Imposing Fines on Sex Traffickers** – States also generate funds for services from fines levied on sex traffickers and patrons of prostitutes and provide for increased fines if these crimes are committed against children. For example, Louisiana increases the fine for purchasing commercial sexual activity based on the number of prior convictions the purchaser has and the age of the person sex is being purchased from.
- **Forfeiture** – At least 19 states specifically authorize forfeiture for trafficking crimes or direct forfeited proceeds to specific anti-trafficking purposes. For example, California's law distributes 50 percent of funds forfeited from trafficking crimes to their Victim-Witness Assistance Fund and the other 50 percent to the agency that administers the forfeiture.

Safe Harbor

Legislation containing protective provisions for trafficked children is sometimes called “safe harbor.” Safe harbor legislation usually includes a statement of intent for how sexually exploited youth should be treated under the law. Common goals identified in safe harbor legislation include: that trafficked children be treated as victims and not prosecuted as prostitutes, that states provide a protective response to prevent further victimization and that individuals who fund, profit from, or pay for sex with children are appropriately punished. At least 31 states have enacted legislation addressing safe harbor issues.



Trafficking Crimes and Soliciting Sex

Every state has criminal penalties for sex traffickers and many provide penalties for sex solicitors. Some states provide increased criminal penalties for those who commit these crimes against children. For example, in Pennsylvania, the trafficking of adults is a second degree felony, while the trafficking of minors is a first-degree felony. In Mississippi, it is a misdemeanor to solicit a prostitute, but if the prostitute is under age 18, then solicitation is a felony.

Pilot Projects Creating Services for Trafficked Youth

At least three states—California, Minnesota and Washington—have enacted legislation authorizing pilot sites to develop and refine service strategies for addressing the mental, physical and emotional needs of trafficked children. California for example, enabled two urban counties to establish a pilot project to develop treatment services for exploited youth.

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