



SAFE HARBOR LAWS

Building on the foundation put in place by the Trafficking Victims Protection Act (TVPA, 2000) the Institute of Medicine (IOM) and the National Research Council (NRC) report of 2018 called for “a paradigm shift from treating victims and survivors of commercial sexual exploitation and sex trafficking of minors as criminals to understanding and recognizing commercial sexual exploitation and sex trafficking of minors as forms of child abuse” (Clayton, Krugman, and Simon, 2013:373).

The report concluded with many salient recommendations, including an emphasis on strengthening the law’s response to minors who are victims of commercial sexual exploitation and sex trafficking. Part of this recommendation urged developing legislation to redirect the young victims away from formal processing in the juvenile justice system to state agencies that could provide supportive services (IOM and NRC, 2013). Specifically, the recommendation stated that

All national, state, local, tribal, and territorial jurisdictions should develop laws and policies that redirect young victims and survivors of commercial sexual exploitation and sex trafficking from arrest and prosecution as criminals or adjudication as delinquents to systems, agencies, and services that are equipped to meet their needs. Such laws should apply to all children and adolescents under age 18. [Clayton, Krugman, and Simon, 2013:8]

This type of legislation was referred to as a “safe harbor law” to recognize the fact that minors involved in prostitution were not in violation of any rule or regulation but rather victims of abuse— an approach that is consistent with child protection principles and goals of federal and state laws regulating treatment of minors (Clayton, Krugman, and Simon, 2013). (See details [here.](#))

What is a Safe Harbor Law? A complete Safe Harbor Law (1) prevents minors (any child under 18) from being prosecuted for prostitution and (2) directs juvenile sex trafficking victims to non-punitive specialized services.

Why is this Law Necessary?

- Sex traffickers often target runaway and homeless youth, as well as children who have been abused or neglected.
- When minors are forced to engage in commercial sex, it places them at risk for prosecution under prostitution laws.
- Safe Harbor laws ensure that trafficked children are treated as victims, not criminals, and provide access to medical care, safe housing, remedial education, and counseling services.

What is the Impact of Safe Harbor Laws? When child trafficking victims are convicted of prostitution, they are often transferred from the control of a trafficker to the control of the criminal justice system.

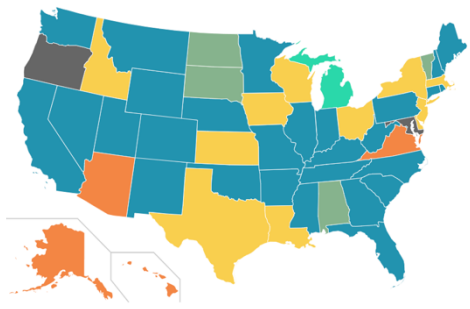
- Safe Harbor Laws protect child victims of sex trafficking from unjust criminalization. Further, because
- Safe Harbor Laws redirect arrested minors from juvenile delinquency proceedings to child protection proceedings, they give sexually exploited children access to specialized services.
- Safe Harbor Laws also promote the use of safe houses rather than juvenile detention for child survivors of sex trafficking.

Despite these goals, the empirical data in Phase 2 of the IOM/NRC 2018 report (Gies et al., 2018) found that, controlling for many covariates, safe harbor laws were not associated with any statistically significant findings in the number of sexual abuse reports filed, the number of sexual abuse reports from a criminal justice agency, the number of sexual abuse reports disposed as substantiated, nor the number of sexual abuse reports disposed as a reason to suspect.

In other words, there is no evidence that youth are systematically being reclassified as victims of sexual abuse and redirected to agencies for the provision of specialized services. If these youth were being redirected out of the justice system and subsequently provided with the necessary and specialized services to support their sustained exit from prostitution and trafficking, one would expect to see an increase in the number of abuse and neglect cases in states that have safe harbor laws after the enactment of the law.

Finally, it is important to recognize that everyone involved in implementation [of Safe Harbor legislation] feels safe harbor laws have made a difference in the lives of children in their state and among those who are tasked with enforcement and care provision. This final quote from an interviewee suggests a set of positive changes that are, in some places, contributing to vastly better outcomes for victims:

I think the impact of what we’ve done is almost immeasurable. And I say “we” because it was a great collective effort. We have sort of fundamentally changed the way both law and the public thinks about women and children who are engaged in the commercial sex industry. We are redefining the roles between the victim and the perpetrator. We are putting in place systems that can potentially reverse the long-term impact of this type of crime on victims. [Law enforcement agent, state A]



[Shared Hope Int'l.](#) provides “report cards” by state

Brandn Green, Stephen V. Gies, Eoin B. Healy, Amanda Bobnis. *Safe Harbor Laws: Changing the Legal Response to Minors Involved in Commercial Sex, Phase 3. The Qualitative Analysis.* September 2019. <https://www.ojp.gov/pdffiles1/ojdp/grants/253244.pdf>

Fact Sheet: Safe Harbor Laws. National Council of Jewish Women. 2017. https://www.ncjw.org/wp-content/uploads/2017/07/Fact-Sheet_Safe-Harbor_Updated-2016.pdf