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Research article

Identifying best practices for “Safe Harbor” legislation to protect child sex trafficking victims: Decriminalization alone is not sufficient[☆]

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ABSTRACT

Several states have recently enacted “Safe Harbor” laws to redirect child victims of commercial sexual exploitation and child sex trafficking from the criminal justice system and into the child welfare system. No comprehensive studies of Safe Harbor law implementation exist. The nine state Safe Harbor laws enacted by 2012 were analyzed to guide state legislators, health professionals, law enforcement agents, child welfare providers, and other responders to the commercial sexual exploitation of children on the development and implementation of state Safe Harbor laws. The authors conducted 32 semi-structured interviews with Safe Harbor experts in these states. Participants conveyed that Safe Harbor legislation signified a critical paradigm shift, treating commercially sexually exploited youth not as criminals but as vulnerable children in need of services. However, Safe Harbor legislation varied widely and significant gaps in laws exist. Such laws alone were considered insufficient without adequate funding for necessary services. As a result, many well-meaning providers were going around the Safe Harbor laws by continuing to incarcerate commercially sexually exploited youth in the juvenile justice system regardless of Safe Harbor laws in place. This was done, to act, in their view, in what was the best interest of the victimized children. With imperfect laws and implementation, these findings suggest an important role for local and state responders to act together to protect victims from unnecessary criminalization and potential further traumatization.

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Introduction

Commercial sexual exploitation of children (CSEC) and child sex trafficking describe crimes of a sexual nature that involve the exploitation of children for financial or other gain (Clayton, Krugman, & Simon, 2013). Although reliable

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data on the prevalence of this crime are not available, estimates suggest that many thousands of children are commercially sexually exploited in the United States (U.S.) each year (Estes & Weiner, 2002; Mitchell, Finkelhor, & Wolak, 2010; Stransky & Finkelhor, 2008). Youth typically first become victims of commercial sexual exploitation during early adolescence (Greenbaum, 2014; Walker, 2014). Risk factors for commercial sexual exploitation and child sex trafficking include foster care involvement; a history of homelessness or being a runaway; a history of child abuse or neglect; identification as lesbian, gay, bisexual, or transgender; family dysfunction; gang involvement; and living in high crime neighborhoods (Clayton et al., 2013).

Commercial sexual exploitation has profound detrimental effects on the health of individuals and communities. These effects likely endure across the life course. Commercially sexually exploited youth have high extremely rates of violence-inflicted injuries, sexually transmitted infections, pregnancy, untreated chronic medical conditions, and mental health conditions, including depression, anxiety, and post-traumatic stress disorder (Greenbaum, 2014). A cross-sectional study of female domestic sex trafficking victims found that 89% reported experiencing physical violence, 80% reported suicidal thoughts, 59% had a sexually transmitted infection, and 58% became pregnant while trafficked (Muftic & Finn, 2013). Many commercially sexually exploited youth may also be facing sequelae of abuse or neglect experienced before their exploitation, which can exacerbate their mental and physical health risks (Clayton et al., 2013). Currently, professionals are ill equipped to respond to the needs of commercially sexually exploited youth. As awareness of the domestic nature of the commercial sexual exploitation of children and child sex trafficking grows, a burgeoning but relatively nascent movement of health professionals, lawmakers, child welfare providers, and law enforcement personnel face the challenge of determining how best to respond.

Policy Context

In response to the heightened recognition of CSEC domestically, in 2000, the U.S. Congress enacted the Trafficking Victims Protection Act (TVPA). The TVPA made trafficking a federal crime and defined minors involved in commercial sex acts as victims of trafficking rather than as criminals (“Victims of Trafficking and Violence Protection Act of 2000”, 2000). While the TVPA marked a federal shift toward treating commercially sexually exploited youth as victims entitled to services and protection, under laws in effect in all 50 states at the time, these children were still classified as delinquents and incarcerated for engaging in prostitution (Geist, 2012). In 2008, a total of 1,500 juveniles were arrested for prostitution in the U.S. (Puzzanchera, 2009).

The TVPA was ideologically critical as the criminalization of commercially sexually exploited youth creates a significant barrier for youth to disclose their exploitation and seek assistance. Several negative consequences of incarceration in the juvenile justice system have been shown to impact youth during adolescence and into adulthood (Shields & Letourneau, 2015). Compared to youth not involved in the juvenile justice system, individuals with a history of juvenile justice-involvement demonstrate a lower likelihood of completing high school, of finding employment during adulthood, and of repeat arrests and incarceration. Additionally, experts caution that incarceration itself may lead to deficits in social and emotional development (Shields & Letourneau, 2015). For the highly vulnerable population of commercially sexually exploited youth, a group with high rates of prior abuse histories and ongoing sexual abuse through their exploitation, justice involvement may also cause re-traumatization. Rather than rehabilitating youth, the criminalization process may cause re-traumatization, which can reinforce a criminal self-concept that further perpetuates a youth’s exploitation (Geist, 2012; Williams, 2010).

In response to the policy paradigm put forth by the TVPA and to a growing acknowledgment by states that criminalization of youth victims may be harmful, several states enacted “Safe Harbor” laws to enhance protections for commercially sexually exploited youth (Shields & Letourneau, 2015). These laws may *decriminalize* juvenile prostitution such that victims can no longer be convicted for their exploitation and/or establish *diversion* programs and pathways to re-direct commercially sexually exploited youth from the justice system into the child welfare system and/or appropriate services (Geist, 2012). The first such law was enacted by New York in 2008 (“Safe Harbor for Exploited Children Act”, 2008). New York’s prescribed diversion of commercially sexually exploited youth from the juvenile justice system into child welfare and specialized services signified a reorientation of state policy on trafficking. Within three years, seven other states adopted a diverse set of Safe Harbor laws (Geist, 2012). By 2014, 22 states had enacted anti-trafficking legislation that included provisions to protect child victims of commercial sexual exploitation with varying degrees of protections afforded (Vardaman & Raino, 2014). Additionally, the U.S. Congress is again considering legislation that would use federal grants to incentivize all states to adopt Safe Harbor laws within three years of passage of the federal Act (“Stop Exploitation through Trafficking Act of 2015”, 2015).

The impact of Safe Harbor laws is important to consider. Safe Harbor laws have the potential to significantly improve the health of highly vulnerable youth. The potential for unintended consequences, however, may also be high, as many currently consider the justice system to be the surest way to protect youth victims from external predators. Despite these concerns, although comparative analyses of Safe Harbor provisions have been conducted (e.g., see Geist, 2012), no comprehensive studies of Safe Harbor laws implementation exist. The authors performed such analyses in order to guide state legislators, health professionals, law enforcement agents, child welfare providers, and other responders to child victims of commercial sexual exploitation on the development and implementation of Safe Harbor laws.

Methods

Study Context

In partnership with California state legislators developing a Safe Harbor proposal, the authors analyzed the written text of existing Safe Harbor laws in the nine states that had enacted Safe Harbor laws by 2012 (“An Act Providing a Safe Harbor for Exploited Children”, 2010; “An Act Relating to Human Trafficking”, 2011; “An Act Relative to the Commercial Exploitation of People”, 2012; “An Act to amend Tennessee Code Annotated, Title 37; Title 39 and Title 40, relative to prostitution”, 2011; “Budget Bill”, 2010; “Florida Safe Harbor Act”, 2012; “Illinois Safe Children Act”, 2010; “Revising provisions relating to sex crimes involving minors”, 2010; “Safe Harbor for Exploited Children Act”, 2008). The year 2012 was chosen as a cut-off for study inclusion in order to allow states at least two years of experience with implementation. The authors simultaneously interviewed practitioners in these states to identify themes related to best practices for Safe Harbor laws. Specifically, interviewees came from: Connecticut (3), Florida (4), Illinois (1), Massachusetts (1), Minnesota (5), New York (3), Tennessee (1), Vermont (3), and Washington (6). The authors also interviewed three experts who could provide a national perspective and one individual from Texas, as Texas decriminalized juvenile prostitution through a Supreme Court decision in 2012. A purposeful sample was drawn to maximize distribution of experts across states in an effort to understand how laws varied across the nine Safe Harbor states and Texas. Interviews covered 100% of these states. To make initial contacts, the study team sent an email to individuals or organizations named on a publically available list of advocates for federal CSEC laws that resided in the states included in the study. In the email, these individuals were asked to nominate experts in the field who could talk about Safe Harbor laws. Some of these people self-nominated and others referred us to other individuals. To maximize diversity of perspectives, snowball techniques were used to follow up within states. Based on recommendations for additional potential interviewees nominated during the interviews, the study team contacted potential participants via email or telephone. In total, initial emails or calls were made to 79 individuals. No potential participants were excluded. Interviewee work places included: advocacy organizations (5), child welfare agencies (4), government health agency (1), government legal (6), juvenile justice system (1), law enforcement agencies (2), services provider organizations (12), and a university (1). Several experts had state-level leadership positions, including serving on their states’ anti-trafficking task forces. Participants from the non-governmental organizations ranged from executive directors of nationally influential organizations to individuals from smaller organizations who focused mainly on service delivery to commercially sexually exploited youth. The child welfare representatives interviewed all had leadership roles in coordinating their state or local child welfare agency responses to commercial sexual exploitation. The interviewee categories “government legal” and “law enforcement personnel” included police officers, lawyers involved in the court proceedings of commercially sexually exploited youth, state public safety officials, and a detective with a state bureau of investigations. The sample also included a medical director of a large juvenile justice system, a state public health official who oversees trafficking-related issues, and an academic researcher. The authors continued conducting interviews until saturation of themes was achieved. In total, 37 individuals participated in 32 single or small-group interviews. This study was approved by the UCLA Institutional Review Board.

Data Collection and Analysis

For the legislative analysis, the text of Safe Harbor laws from state legislature websites was reviewed. Building from previous categorizations of Safe Harbor laws (Geist, 2012; Clayton et al., 2013) the authors conducted a state-by-state comparison of provisions in existing Safe Harbor laws. For the interviews, a semi-structured interview guide was developed that covered participants’ roles in developing and implementing Safe Harbor laws and in caring for commercially sexually exploited youth, views on successes and challenges of Safe Harbor law implementation, and recommendations for state Safe Harbor laws. The questions were qualitative and open-ended. The same questions were asked of all participants. The lead investigators (EB and SA), trained in interviewing, conducted the confidential telephone interviews. Interviews were conducted from July to August 2014. Each interview lasted approximately 30–60 minutes. To enhance trust, interviewers typed notes rather than audio-recording the encounters. Thematic content analysis of the interview data was performed using ATLAS.ti software to identify key themes regarding Safe Harbor laws. Interviews were analyzed using six-step thematic content analysis (Braun & Clarke, 2006). Results were debriefed with two policy experts neutral to the study and with two interviewees re-contacted for this purpose. As this study was conducted in partnership with California lawmakers, once data was validated, as a last step, findings were disseminated to California lawmakers.

Results

Overall, the nine state Safe Harbor laws all promoted a trauma-informed, youth-centered approach by treating commercially sexually exploited youth as victims rather than criminals. However, the laws varied widely in terms of the specific legal pathways and programs they prescribed (Table 1). In the qualitative analysis, the experts interviewed identified several categories that they viewed as important types of provisions to consider when developing a Safe Harbor law. These categories of provisions were: implementation timeline, prevention, penalties for traffickers (i.e., “pimps”) and buyers (i.e., “johns”), age differentials, type of protection, guidance for diversion, placements, services, funding, data collection,

Table 1
Provisions of existing “Safe Harbor” laws^a: a state-by-state comparison.

State	Connecticut	Florida	Illinois	Massachusetts	Minnesota	New York	Tennessee	Vermont	Washington
Year Passed/Implemented	2010/2010	2012/2013	2010/2010	2011/2011	2011/2011 & 2014	2008/2010	2011	2011/2011	2010/2010 & 2011
Prevention ^b	No	No	No	No	No	No	No	Yes	No
Penalties ^c	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Training ^d	No	Yes	No	Yes	No	Yes	No	No	Yes
Age Differentials ^e	Yes. Decrim ^f under 16 years old; 16 & 17 – diversion ^g	No	No	No	Decrim under 16; 16 & 17 – diversion	Yes. Diversion under 16; 16 & 17 may be diverted	No	No	No
Type of Protection ^h	Decrim: Decrim under 16 years old. Presumption of coercion. Have to prove not coerced to criminalize.	Diversion: Creates pathway to child welfare. If probable cause to believe child exploited, law enforcement must deliver child to child welfare. Child welfare may place in short-term safe house “if available.” Prostitution is still a crime.	Decrim plus diversion: Can detain for prostitution for “reasonable investigation” but once determined under 18, immune from prosecution. Law enforcement must immediately make child welfare referral. Child welfare must investigate within 24 hours	Diversion: Allows for diversion and suspension of criminal petition if child found to be sexually exploited.	Decrim plus diversion: Decrim under 16. Mandatory diversion for 16 & 17 first time offenders.	Diversion: If under 16, court shall divert by substituting delinquency petition with “person in need of supervision” petition. However, court has discretion not to divert (see below).	Decrim: Law enforcement can detain victim and once determined that child under 18, child shall be released to parent	Diversion: Decrim in criminal (adult) court only. Child shall not be found to be in violation of delinquency petition if victim of sex trafficking. Referred to child welfare if victim of sex trafficking.	Diversion: Mandatory diversion for first time offenders; discretionary for repeat offenders.
Guidance for Diversion ⁱ	N/A for under 16. Not specified for 16 & 17.	No guidance; requirements for diversion unclear.	N/A	If child uncooperative with diversion program, court can reinstate criminal petition.	Requirements for mandatory diversion for 16 & 17: first offense of prostitution and must be willing to participate with diversion program	Court has discretion not to divert if child is a repeat offender of prostitution or is uncooperative with diversion program	N/A	Not explicitly stated, but appears that need to prove that child is victim of trafficking	May divert repeat offenders if county has “comprehensive program,” for diversion including safe housing, case management, mental health services, and education and job training
Placement ^j	No	Yes, creates definition of “safe houses” for all sexually exploited children	Yes, existing child welfare placements	No	Yes, but not mandatory	Yes, state child welfare must have one long-term safe house available	No	No	Yes, funding from impounded vehicles to support existing placements
Services ^k	No	Yes, through licensed safe houses	Yes, existing child welfare placements	Yes, child welfare and other government agencies to provide services	Yes, suggested but not mandatory	Yes, mandates that local child welfare provides services	No	Yes, suggested but not mandatory	Yes, services for diverted youth to the extent funds available

Table 1 (Continued)

State	Connecticut	Florida	Illinois	Massachusetts	Minnesota	New York	Tennessee	Vermont	Washington
Funding ^l	No	Yes, funding for safe houses through increased penalties	Yes, funding for services through fees	Yes, through fines and assets seized	Yes, through increased penalties and donations	No	No	No	Yes, funding from trafficking fines and fees
Data collection ^m	No	Yes	No	Yes	Yes	Yes	No	No	Yes
Coordination/Task force ⁿ	No	Yes	No	Yes	Yes	Yes	No	Yes	No
Oversight ^o	No	Yes	No	Yes	Yes	No	No	No	Yes

^a "Safe Harbor" laws refers to laws designed to establish legal protections and services for commercially sexually exploited children.

^b "Prevention" laws refers to provisions that establish prevention preventions for commercial sexual exploitation of children.

^c "Penalties" refers to provisions that increase penalties for traffickers and buyers.

^d "Training" refers to provisions that establish training programs for responders to commercially sexually exploited children.

^e "Age Differentials" refers to provisions that prescribe differential legal protections based on age criteria.

^f "Decrim," abbreviation for decriminalization, refers to provisions that provide legal protection to commercially sexually exploited children whereby the victims of commercial sexual exploitation are legally protected from being prosecuted for their own exploitation.

^g "Diversion" refers to provisions that provide legal pathways for commercially sexually exploited children out of the juvenile justice system and into the child welfare system and specialized services.

^h "Type of Protection" refers to provisions that address legal protections for commercially sexually exploited children.

ⁱ "Guidance for Diversion" refers to provisions that provide criteria for when diversion pathways may or should be pursued.

^j "Placement" refers to provisions that address placement options for commercially sexually exploited children.

^k "Services" refers to provisions that address services for commercially sexually exploited children.

^l "Funding" refers to provisions that address funding mechanisms for programs to address commercial sexual exploitation of children.

^m "Data Collection" refers to provisions that address the collection of data on measures relevant to commercial sexual exploitation of children such as measurements of exploitation incidence.

ⁿ "Coordination/Task force" refers to provisions that establish a coordinated, interagency response to commercial sexual exploitation of children, most often through the establishment of a statewide anti-trafficking task force.

^o "Oversight" refers to provisions that assign central oversight of a state's response to commercial sexual exploitation of children to a specific entity such as a state child welfare agency.

Note: Categorization adapted from Geist's "Finding Safe Harbor" article, pp. 116-117 (2012) and the Institute of Medicine report "Confronting Commercial Sexual Exploitation of Children and Sex Trafficking of Minors in the United States," Table 4-1 (2013).

coordination/task force, and oversight. In addition, through the interviews with experts, two overarching themes on Safe Harbor implementation emerged: controversies and challenges, and unintended consequences.

Provisions in Existing Safe Harbor Laws (Table 1)

Key provisions in the existing Safe Harbor laws are organized by categories identified in the expert interviews and can be summarized as follows. Three of the nine states included a plan for staged implementation. In the nine Safe Harbor laws, mention of prevention programs was minimal. Only one state, Vermont, included provisions to establish trafficking prevention programs. This provision was a suggestion for a general trafficking awareness campaign and was not specific to CSEC. In contrast, all of the states except for New York included provisions for increased penalties for traffickers and buyers. Additionally, five of the nine state laws included provisions for training of CSEC responders.

Experts viewed the core component of Safe Harbor laws as the approach to legal protections for commercially sexually exploited youth. Each state took one of three approaches to legal protections for youth victims: decriminalization-only, diversion-only, or decriminalization-plus-diversion. Legislation in two states—Connecticut and Tennessee—took a *decriminalization-only* approach, meaning that minor victims of commercial sexual exploitation could not be prosecuted for prostitution, but the laws did not specify an alternative method of service provision for these victims. In other words, although this meant that commercially sexually exploited youth could not enter the juvenile justice system for a prostitution charge, these laws did not establish any alternate pathway or provide for specialized services. Texas' Supreme Court decision establishing decriminalization of juvenile prostitution also effectively functioned as a Safe Harbor law with a decriminalization-only approach. In contrast, five states—Florida, Massachusetts, New York, Vermont, and Washington—applied *diversion-only* models. Laws in these states created a pathway for commercially sexually exploited youth to be directed away from the juvenile justice system and into diversion programs. Diversion pathways included diversion to child welfare or other specialized services. However, these laws did not eliminate juvenile prostitution as a crime. As a result, in these states, the option to convict and incarcerate children for prostitution still existed, as prostitution committed by a juvenile was still considered a criminal act. Finally, Safe Harbor laws in two states—Illinois and Minnesota—applied a *decriminalization-plus-diversion* approach. Laws in these states both decriminalized juvenile prostitution and established options for diversion pathways. Illinois' law states that police can detain youth for prostitution for a "reasonable" period. Once police determine that a youth is less than 18 years old, they must immediately refer the youth to child welfare and that child cannot be prosecuted for prostitution. Similarly, Minnesota's law states that prosecutors shall refer minors who meet specific criteria to diversion programs, including counseling and educational services. Thus, these laws grant both protections from prosecution and establish a diversion pathway.

Regarding age differentials, Illinois and Tennessee were the only states that decriminalized juvenile prostitution for all minors under 18 years old. In the other laws, decriminalization either was not prescribed or only applied to youth younger than 16 years of age. Regarding specific criteria or guidance for diversion, diversion-only states placed the decision of whether to incarcerate commercially sexually exploited youth at the discretion of judges (as in New York), prosecutors (as in Washington), or judges and prosecutors together (as in Vermont and Massachusetts). Florida's law did not specify at whose discretion the decision lies, nor did it provide criteria for diversion. In contrast, the legislation in Massachusetts, New York, and Washington offered specific guidance for when to pursue diversion programs rather than incarceration. For example, New York's legislation granted court discretion not to divert if a child was a repeat offender of prostitution or uncooperative.

Some states were more explicit than others in their regulations about diversion programs, including placements; service provision; and how programs were to be funded, monitored, and linked with other services and state organizations. Specifically, while five of the nine Safe Harbor laws addressed placements, only New York's Safe Harbor law mandated the established of a placement option. In New York's law, one new placement option was mandated in the state. All of the states included provisions regarding service provision except for Connecticut and Tennessee, the two states that applied decriminalization-only models. New York was the only state to mandate provision of services. This task was assigned to local child welfare agencies. Five Safe Harbor laws included provisions for funding diversion programs. A different group of five states included plans for data collection to monitor exploitation incidence, service use, and outcomes of commercially sexually exploited youth. Similarly, five states included provisions for creation of an anti-trafficking taskforce to coordinate state responses to CSEC. For example, in Florida and Washington, child welfare was to report annually to the governor and legislature on Safe Harbor programs.

Experts' Perspectives on Safe Harbor Provisions (Table 2)

The following section summarizes themes that emerged from the interviews about Safe Harbor implementation.

Implementation Timeline. There was moderate agreement that delayed implementation of Safe Harbor protections was preferable to immediate enactment of Safe Harbor protections. Most felt that Illinois' immediate enactment of decriminalization of all commercially sexually exploited minors was "bold but chaotic." Several respondents expressed that immediate enactment made successful implementation challenging as the actual development of programs lagged beyond the date designated by the laws' enactment. In contrast, most felt that delayed implementation, as done by Minnesota, led to a more "thoughtful,"

Table 2
 Themes and representative quotes from participants on best practices for Safe Harbor laws.^a

Theme	Quote
Implementation Timeline ^b	“A lot of states just implement and react. The desire for a silver bullet can set things up for failure. It might be better to have time for implementation, but then of course there are some years with no Safe Harbor.”
Prevention ^c	“We have programs teaching middle schoolers how to be aware of recruitment and how to spot sex trafficking in their friends. It’s not clear if it’s working.”
Penalties ^d	“I haven’t seen a penny [of the money collected] from john and pimp fines.” “Our Safe Harbor law fines johns but this doesn’t actually happen because of plea bargaining or the defense drops the charge, so the money is not actually getting to victims.”
Training ^e	“It doesn’t make any difference if you pass Safe Harbor if you don’t provide training for prosecutors and cops.” “There are some in law enforcement who are really excellent. They get the issue, are engaged and compassionate. But that’s a very small minority of our police department. Generally, police officers are not aware of the issue at all. Tons of training needs to happen.” “Training needs to be evaluated. We need to see what people are actually learning and there needs to be follow-up.”
Age Differentials ^f	“There is a good argument that Safe Harbor laws should cover all minors below 18 because we have many laws that indicate a certain maturity level at age 18.” “At the very least, the cutoff should be the age of consent [for sex]. That is the only rational way to look at this.”
Type of Protection ^g	<i>Rationale for decriminalization^h:</i> “Safe Harbor laws are based on the assumption that a child is not capable of assenting to their own exploitation.” “To take a traumatized child and categorize that child with a criminal is never in the best interest of child. Putting that kid [a sexually exploited child] in the juvenile justice system is never in the best interest of the child.” “Child welfare is the much softer way compared to juvenile justice. It’s not punitive and it’s not going on children’s records.” <i>Concerns about decriminalization:</i> “I don’t know if I agree with full decriminalization. It is dangerous to pass Safe Harbor laws without having a place for the kids to go. We need to put money into the system or we are creating a really dangerous situation.” “A lot of kids are still ending up in the juvenile justice system because they have nowhere to go and protective services are not taking them. Kids are still coming into system by being charged with a lower offense.”
Guidance for Diversion ⁱ	“We [the state child welfare agency] get a lot of allegations that are unfounded or don’t fit criteria due to lack of training and lack of policy or procedures.”
Placements ^j	<i>Need for placements:</i> “Shelter is the biggest need youth have who are exiting the sex trade.” “The biggest problem now is the shortage of beds. The consequence is that kids are getting put in places they shouldn’t be. We had a case where one girl couldn’t get a bed and was placed in a psychiatric facility for weeks. It was terrible for her and had lasting effects.” <i>Placement options:</i> “Therapeutic foster care provides the first line of defense. To the extent we can keep the kids at home, we will. The goal is to keep as many kids as possible in their homes. Kids do better with their families.” “These girls don’t need a hotel. They need a place where they can receive comprehensive therapy.”
Services ^k	“On the one hand we applaud the passage of laws, but where is the investment? Budget is really the true policy. We need to invest in alternatives. Otherwise it’s an unfunded mandate.”
Funding ^l	“We need to collect data so that we can monitor programs and justify requests for funding.”
Data Collection ^m	“As of right now, we [a state child welfare agency] don’t have any data on trafficked youth. There is no specific field or box in the child protection database that would capture this data, but this is a conversation that we’re having right now.”
Coordination/Task force and Oversight ⁿ	“The only way that we’re going to combat this problem is by all of us working together.” “The task force model is the only way to provide services because services are interdisciplinary. We need a team that is victim centered. We need to know in advance who to call at 3 am.”
Controversies and Challenges	<i>Rationale for secure placements:</i> “Another challenge is girls running away without having a legal way to keep them.” “If parents failed before, they will fail again. These kids need locked facilities.” <i>Rationale against secure placements:</i> “By locking these kids in facilities all you are doing is locking them into ‘house looking jails’.” “A concern about decriminalization is that girls will go back [to exploitation] because there is no way to hold them. It’s true. There are times when youth run back. But if you set up shelters well, and with good staff, youth stay.” “You can’t hold someone because they are a runaway. A child is entitled to the same due process. People want to criminalize them to be able to control them.” <i>Disagreement about the role of law enforcement:</i> “I don’t agree that there should be no criminal justice involvement because the way these kids are going to be identified is through the police. The important thing is that there is a trauma-informed response and it happens from the beginning.” <i>Disagreement about the role of child welfare:</i> “Not everyone believes child welfare is place to deal with these kids. Child welfare agencies may not meet the needs of youth.”

Table 2 (Continued)

Theme	Quote
Unintended Consequences	<i>Going around the law because of insufficient diversion programs:</i> “The problem is that law enforcement has nowhere to take the victims. They don’t have safe houses or services so law enforcement feels like they have no choice. Well, the choice is to let her go versus lock her up.” 6 “I’ve heard from many law enforcement officers, ‘Yes, I continue to arrest, but I do so because that is the only way I can ensure that child is away from her pimp.’ Even though law enforcement is bought in to what advocates teach, we need to have services available or else nothing changes.”
	^a “Safe Harbor” laws refers to state laws that establish legal protections and services for commercially sexually exploited children. ^b “Implementation Timeline” refers to experts’ opinions on the timelines prescribed in Safe Harbor laws regarding implementation. ^c “Prevention” refers to experts’ opinions on provisions that establish prevention provisions. ^d “Penalties” refers to experts’ opinions on provisions that increase penalties for traffickers and buyers. ^e “Training” refers to experts’ opinions on provisions that establish training programs. ^f “Age Differentials” refers to experts’ opinions on provisions that prescribe differential legal protections by age criteria. ^g “Type of Protection” refers to experts’ opinions on provisions that address legal protections. ^h “Decriminalization” refers to experts’ opinions on provisions that provide legal protection to commercially sexually exploited children whereby the victims of commercial sexual exploitation are legally protected from being prosecuted for their own exploitation. ⁱ “Guidance for Diversion” refers to experts’ opinions on provisions that provide criteria for to pursue diversion pathways. ^j “Placement” refers to experts’ opinions on provisions that address placement options for commercially sexually exploited children. ^k “Services” refers to experts’ opinions on provisions that address services for commercially sexually exploited children. ^l “Funding” refers to experts’ opinions on provisions that address funding mechanisms for programs to address commercial sexual exploitation of children. ^m “Data Collection” refers to experts’ opinions on provisions that address the collection of data on measures relevant to commercial sexual exploitation of children such as measurements of exploitation incidence. ⁿ “Coordination/Task force and Oversight” refers to experts’ opinions on provisions that establish a coordinated response to commercial sexual exploitation of children and assign oversight to a central agency, most often a statewide anti-trafficking task force.

“sustainable” approach. As one respondent explained, “A lot of states just implement and react. The desire for a silver bullet can set things up for failure. It might be better to have time for implementation, but then of course there are some years with no Safe Harbor.” This statement typified the majority perspective.

Prevention. There was strong agreement among participants that promoting prevention of CSEC was a valuable yet underdeveloped strategy and that evidence-based programs needed to be developed. As one participant stated, “We have programs teaching middle schoolers how to be aware of recruitment and how to spot sex trafficking in their friends. It’s not clear if it’s working.” This quote demonstrates the consensus viewpoint that evidence-based prevention programs are needed.

Penalties. All participants felt that increasing penalties for traffickers and buyers was important. However, many conveyed that while the penalties may deter traffickers and buyers, the fines prescribed in Safe Harbor laws, intended to raise funds for victim services, had not reached service providers. As one participant stated and many echoed, “I haven’t seen a penny from john and pimp fines.” A few participants mentioned bureaucratic inefficiencies. Others described lack of funds related to the legal actions pursued: “Our Safe Harbor law fines johns but this doesn’t actually happen because of plea bargaining or the defense drops the charge, so the money is not actually getting to victims.”

Training. All participants agreed that training on CSEC was vital to Safe Harbor laws. Experts specifically mentioned police officers as priority recipients of training. As one participant expressed, “It doesn’t make any difference if you pass Safe Harbor, if you don’t provide training for prosecutors and cops.” This sentiment demonstrates the majority-expressed viewpoint that law enforcement must receive training on CSEC in order for Safe Harbor protections to translate into on-the-ground changes. Experts explained that regardless of the legal protections in place, training and awareness among police officers strongly affected whether sexually exploited youth were identified. Providing sufficient, effective training for police officers was cited by all participants as a challenge. The quality of training was also an issue. As one participant stated, “Training needs to be evaluated. We need to see what people are actually learning and there needs to be follow-up.”

Age Differentials. All participants agreed that Safe Harbor laws should protect all youth at least less than 18 years old. The following participant quote typifies this reasoning: “There is a good argument that Safe Harbor laws should cover all minors below 18 because we have many laws that indicate a certain maturity level at age 18.” Participants suggested that when this was not politically feasible, the Safe Harbor laws should at least be consistent with the age of consent for sex, which in several states is 16 years old.

Type of Protection. All the experts interviewed conveyed that providing alternatives to criminalization of commercially sexually exploited youth was the core component of Safe Harbor laws. However, there was not consensus on the best approach when comparing among decriminalization-only, diversion-only, and decriminalization-plus-diversion models. Overall, the majority of participants supported decriminalization-plus-diversion models. Several stated that Illinois’ approach of decriminalization for all minors, combined with a mandatory pathway to child welfare, was ideal. Many felt that placing a traumatized child in the justice system “is never in the best interest of the child” and that routing trafficked children through

child welfare was preferable. As one participant summarized, “*Child welfare is the much softer way compared to juvenile justice. It’s not punitive and it’s not going on children’s records.*” A few participants expressed the fear that Safe Harbor laws may be “dangerous” if passed without first establishing adequate diversion placement options because youth need a safe place to go.

Diversion Programs, Placements, and Services. Overall, participants agreed that having clear guidelines for entry into diversion programs was valuable. Additionally, providing standardized training about CSEC for those who have decision-making power over entry into optional diversion programs (e.g., judges) was important. As one child welfare representative stated, “*We [the state child welfare agency] get a lot of allegations that are unfounded or don’t fit criteria due to lack of training and lack of policy or procedures.*” This demonstrates the challenge reported by many participants of discerning the proper pathway for youth when Safe Harbor laws lacked sufficient clarity.

All participants agreed that having sufficient placements was vital to the success of Safe Harbor programs. “*Shelter is the biggest need youth have who are exiting the sex trade.*” expressed one respondent, typifying the consensus viewpoint that having sufficient placement options available is critical. Participants in all states also cited lack of placements as a key challenge. “*We don’t have beds,*” voiced by a high-ranking state-level official, reflected a common concern strongly voiced by the respondents.

The most divisive issue encountered in the study was the question as to whether placements needed to be secure. Given that commercially sexually exploited youth are frequently “runaways,” some saw locked facilities as necessary to keep youth safe from exploiters and recruiters. In contrast, others saw locked facilities as an “overreaction” that was counterproductive to earning youths’ trust. These participants explained that the process of exiting exploitation involves many relapses and that exploited youth need a place they feel that can return to. As one participant, herself a survivor of CSEC, stated, “*By locking these kids in facilities all you are doing is locking them into ‘house-looking’ jails,*” which, she explained, brings the same traumatization as placements in the juvenile justice system. Overall, however, participants all agreed that geographic isolation from traffickers and coordination of placements within and across states were important strategies.

All participants agreed that having sufficient services for commercially sexually exploited youth was vital for successful implementation of Safe Harbor laws. One participant, a law enforcement agent, succinctly emphasized the important of services as expressed in the following quote: “*These girls don’t need a hotel. They need a place where they can receive comprehensive therapy.*” Participants described that priority services were mental health care, case management, medical care, survivor-led mentoring programs, and education and job training. Participants in all states identified lack of services, which was largely attributed to lack of funding, as a major challenge. Participants reported that substantial variation in service availability within and among states existed. Participants all conveyed that service provision ideally would occur through interdisciplinary partnerships between child welfare agencies, health departments, and local non-profit organizations. Many viewed community-based non-profits as best equipped to cater to the unique needs of the youth.

Participants in all the states described insufficient funding as a major challenge to effective implementation. As one advocate interviewed stated, “*On the one hand we applaud the passage of laws, but where is the investment? Budget is really the true policy. We need to invest in alternatives. Otherwise it’s an unfunded mandate.*” Lack of funding contributed to substantial variation in placement and service availability within states, with many commercially sexually exploited youth ending up either without services or back in the juvenile justice system, regardless of protections specified in Safe Harbor laws. Thus, the experts conveyed that implementation of diversion pathways was variable, and depended more on the availability of Safe Harbor programs than the pathway laid forth in the law. This pattern was consistent across states and was most accentuated in rural areas.

Participants all agreed that data collection to allow for evaluation of Safe Harbor programs was important. Many participants expressed that current data collection methods in their states were insufficient to accurately evaluate Safe Harbor programs. This viewpoint is summarized in the following quote: “*We need to collect data so that we can monitor programs and justify requests for funding.*” Challenges with data collection included the hidden nature of CSEC, lack of funding for data collection, and barriers related to confidentiality issues, which made it difficult to track youth among systems. Academic partnerships were suggested as a way to facilitate data collection and evaluation of Safe Harbor programs.

Many participants stressed the importance of a task force model to promote interagency coordination in state responses to CSEC. As summarized by one participant: “*The task force model is the only way to provide services because services are interdisciplinary. We need a team that is victim centered. We need to know in advance who to call at 3 am.*” Several participants independently cited the literal need to know in advance “*Who to call at 3 am.*” Experts recommended that task forces involve multiple stakeholders and agencies, including law enforcement, juvenile justice, child welfare, health care, and mental health care personnel.

Many experts stated that having a central agency, such as a representative task force or state child welfare agency, assume oversight and accountability of Safe Harbor programs would be beneficial. The central agency could report to the legislature and governor to monitor the effectiveness of Safe Harbor programs over time. Overall, regardless of the effectiveness of the various Safe Harbor programs, participants expressed that Safe Harbor laws gave a “framework and commitment” from lawmakers for addressing CSEC.

Controversies and Challenges. Participants shared that despite the legislation having established specific criteria for decriminalization or diversion pathways, several challenges created barriers to effective implementation. Challenges included: lack

of funding, perception that the juvenile justice system provided the safest pathway, lack of coordination among agencies, and insufficient training for CSEC responders. The major controversies included the question of whether residential placements for commercially sexually exploited youth needed to be locked and the role of child welfare agencies in coordinating responses to CSEC. For example, a few participants felt that secure placements were needed (“*If parents failed before, they will fail again. These kids need locked facilities*”). In contrast, the majority felt that secure placements were unjust and unnecessary (“*You can’t hold someone because they are a runaway. A child is entitled to the same due process. People just want to criminalize them to be able to control them.*”) Consensus was not reached on the controversial issue of secure placements.

Unintended Consequences. The main unintended consequence of Safe Harbor laws reported by participants was individuals going around the law. Participants explained that when diversion programs were insufficient, well-meaning CSEC responders went around the law and continued to criminalize commercially sexually exploited youth, mainly by detaining them for charges other than prostitution, as the responders felt this was the best way to keep the children safe. One participant summarized this phenomena as follows: “*The problem is that law enforcement has nowhere to take the victims. They don’t have safe houses or services so law enforcement feels like they have no choice. Well, the choice is to let her go versus lock her up.*” This was a challenge mentioned by all participants. Another participant similarly stated: “*I’ve heard from many law enforcement officers, ‘Yes, I continue to arrest, but I do so because that is the only way I can ensure that child is away from her pimp.’ Even though law enforcement is bought in to what advocates teach, we need to have services available or else nothing changes.*” Thus, the solution to the challenge of providers feeling like they needed to go around the law was viewed as creating sufficient diversion programs.

Recommendations for a Model Safe Harbor Law (Table 3)

Although controversies exist regarding optimal practices for Safe Harbor laws, the experts interviewed achieved substantial consensus on recommendations for a model Safe Harbor law. Many credited Illinois and Minnesota as being the closest to model legislation. These two states’ laws establish decriminalization-plus-diversion. The laws in Illinois and Minnesota also prescribe penalties and establish plans for availability of placements, services, and funding for diversion programs. However, even in these laws, significant gaps exist. For example, the Minnesota law recommended but did not mandate the establishment of diversion services and placements. As diversion programs were not mandated, implementation success rested largely on the motivation of counties, state officials, advocacy organizations, and individual philanthropists. One strength, however, of the Minnesota law was that it prescribed delayed implementation, such that planning time and funding were allotted for the establishment of diversion programs prior to the decriminalization provisions going into effect. [Table 3](#) summarizes the expert-generated recommendations for a model Safe Harbor law. [Table 4](#) summarizes the categories of provisions recommended in a model Safe Harbor law and, for each provision, lists the states whose existing Safe Harbor law includes reference to a provision category recommended in the model legislation.

The most common component of model legislation covered in the nine analyzed states was penalties for traffickers and buyers; eight of the nine state laws included this. This analysis revealed notable gaps in the types of provisions addressed in existing Safe Harbor laws. Specifically, these gaps include lack of attention paid to CSEC prevention, police officer training, and establishment of robust placement and service options outside of the justice system. Additionally, incorporating sustainable funding mechanisms for diversion programs, to be overseen by a central agency such as a state anti-trafficking task force, was inadequately addressed in existing laws but was viewed by experts as critical to enhancing the likelihood of effective implementation of Safe Harbor laws.

Discussion

The study results suggest that Safe Harbor laws signify a paradigm shift by treating commercially sexually exploited youth as vulnerable children in need of specialized services rather than as criminals. The paradigm shift aligns with the larger, nationwide movement promoting decriminalization and diversion programs as a promising approach to juvenile justice reform ([Greenwood & Turner, 2011](#)). The study findings are also consistent with a prior legislative review that found state Safe Harbor laws to be variable in their provisions but with consistent “underlying values” across the laws ([Shields & Letourneau, 2015](#)). Overall, experts agreed that establishing a diversion pathway for commercially sexually exploited youth to child welfare agencies and supportive services was an important function of Safe Harbor laws. However, not everyone supported decriminalization of juvenile prostitution. Although all the study participants agreed that a trauma-informed, non-punitive approach benefited commercially sexually exploited youths, there was concern about unintended consequences of decriminalization, particularly for counties that lacked placements and services outside of the justice systems. The main unintended consequence of Safe Harbor laws was that police officers, judges, and prosecutors were bypassing the law by detaining commercially sexually exploited youth for charges other than prostitution when it was perceived that alternate services and placements were lacking. Thus, when diversion programs were insufficient, bypassing the law served as a “safety valve” that compensated for inadequate Safe Harbor programs.

The observed “safety valve” effect has important implications. It demonstrates that in many Safe Harbor states, current programs, including police officer trainings, placements, and specialized services such as counseling, were insufficient to meet the perceived needs of commercially sexually exploited youth. To be effective, Safe Harbor laws will need to provide

Table 3
 Provisions for model Safe Harbor legislation.^a

	Provisions of model legislation
Implementation Timeline ^b	Incorporate plates for staged implementation, especially in states currently lacking services and placements
Prevention ^c	Support the development of evidence-based prevention programs
Penalties ^d	Strengthen legal penalties for traffickers and buyers, including the collection of fees and fines to fund victim services
Training ^e	Mandate repeated training on commercial sexual exploitation of children for law enforcement and child welfare providers
Age ^f	Apply protections to all commercially sexually exploited youth under 18 years old
Type of Protection ^g	Create diversion ^h pathways. If decriminalization ⁱ is pursued, diversion programs need to be in place
Guidance for Diversion ^j	Establish clear diversion criteria
Placement ^k	Establish short and long-term place options to include shelters, safe houses, inpatient mental health facilities, substance abuse treatment centers, and foster care placements
Services ^l	Establish diversion services. Priorities are mental health care, case management, medical care, mentoring programs, and education and vocational training
Funding ^m	Establish sustainable funding streams to support training, placements, services, data collection, and overseeing agency
Data collection ⁿ	Incorporate plan for data collection on child sex trafficking and program outcomes to allow for evaluation of Safe Harbor laws
Coordination/Task force ^o	Establish plan for coordinated, interagency response led by state child welfare agency or state task force to ensure a locally informed, effective multi-disciplinary response
Accountability/Oversight ^p	Establish statewide oversight and accountability of Safe Harbor programs to a central agency (e.g., task force or state child welfare agency plus legislature and/or governor). Plan for ongoing evaluation of Safe Harbor protections and programs

^a “Safe Harbor” laws refers to laws designed to establish legal protections and services for commercially sexually exploited youth.
^b “Implementation Timeline” refers to the timelines prescribed in Safe Harbor laws regarding the timing of implementation.
^c “Prevention” refers to provisions that establish prevention preventions for commercial sexual exploitation of children.
^d “Penalties” refers to provisions that increase penalties for traffickers and buyers.
^e “Training” refers to provisions that establish training programs for responders to commercially sexually exploited children.
^f “Age” refers to provisions that prescribe legal protections for commercially sexually exploited children by age criteria.
^g “Type of Protection” refers to provisions that address legal protections for commercially sexually exploited children.
^h “Diversion” refers to provisions that provide legal pathways out of juvenile justice system to child welfare and specialized services.
ⁱ “Decriminalization” refers to provisions that provide legal protection to commercially sexually exploited children whereby the victims of commercial sexual exploitation are legally protected from being prosecuted for their own exploitation.
^j “Guidance for Diversion” refers to provisions that provide criteria or guidance for when to pursue diversion pathways.
^k “Placement” refers to provisions that address placement options for commercially sexually exploited children.
^l “Services” refers to provisions that address services for commercially sexually exploited children.
^m “Funding” refers to provisions that address funding mechanisms for programs to address commercial sexual exploitation of children.
ⁿ “Data Collection” refers to provisions that data collection.
^o “Coordination/Task force” refers to provisions that establish a coordinated, interagency response.
^p “Oversight” refers to provisions that assign central oversight of a state’s response.

sufficient funding for diversion programs. Maximizing use of existing services and pursuing creative approaches to obtaining funding such as through public-private partnerships, social impact bonds, and use of federal grants may be valuable. One example of a creative, likely cost-effective use of existing resources was the Illinois child welfare system’s approach of placing commercially sexually exploited youth at home, when appropriate, with access to substantial supportive services for families. A mechanism that links revenue generated through Safe Harbor penalties directly from local law enforcement to local providers of services and housing may help ensure sustainability of funding over the long-term. Additionally, investing in prevention may eventually prove cost saving. A cost-benefit analysis of Minnesota’s Safe Harbor law demonstrated a return on investment for taxpayers of \$34 in benefit for each \$1 spent on prevention programs (Martin, Lotspeich, & Stark, 2012). However, when passing bills, potential savings as a result of prevention programs are often minimally considered. As a result, to develop an effective Safe Harbor law, policymakers will need to prioritize funding allocations and actively assist local providers in developing creative, sustainable sources of funding for CSEC diversion programs.

In instances where Safe Harbor laws did not clearly specify criteria for diversion pathways, “system dumping” of commercially sexually exploited youth (in which both the justice and child welfare systems deny primary responsibility) could be a concern. Experts in Florida, a diversion-only state whose law lacked specific diversion criteria, indicated that challenges due to system dumping were occurring. In states whose laws include diversion pathways, establishing clear diversion criteria is important for the effective implementation of Safe Harbor laws. Until these pathways are clarified in future legislation, health professionals, law enforcement agents, and child welfare providers need to be attentive to these challenges with implementation to ensure that optimal service provision occurs.

An overarching theme across all the states was the recommendation that a central agency, either state child welfare agencies or anti-trafficking task forces established for this purpose, assume oversight of Safe Harbor programs and ensure

Table 4

States with provisions in existing Safe Harbor laws recommended to be included in a model Safe Harbor law.^a

Provision	State
Delayed Implementation ^b	3 (FL, MN, NY)
Prevention ^c	1 (VT)
Penalties ^d	8 (CT, FL, IL, MA, MN, TN, VT, WA)
Training ^e	4 (FL, MA, NY, WA)
Age Differentials ^f	6 (FL, IL, MA, TN, VT, WA)
Type of Protection ^g	2 (IL, MN)
Guidance for Diversion ^h	4 (MA, MN, NY, WA)
Placements ⁱ	5 (FL, IL, MN, NY, WA)
Services ^j	7 (FL, IL, MA, MN, NY, VT, WA)
Funding ^k	5 (FL, IL, MA, MN, WA)
Data Collection ^l	5 (FL, MA, MN, NY, WA)
Coordination/Task force ^m	5 (FL, MA, MN, NY, VT)
Oversight ⁿ	4 (FL, MA, MN, WA) ^o

^a “Safe Harbor” laws refers to state legislation to establish legal protections and services for commercially sexually exploited children.

^b “Gaps” refers to discrepancies between provisions in existing state Safe Harbor laws and expert-generated model legislation.

^c “Prevention” laws refers to provisions that establish prevention preventions for commercial sexual exploitation of children.

^d “Penalties” refers to provisions that increase penalties for traffickers and buyers.

^e “Training” refers to provisions that establish training programs for responders to commercially sexually exploited children.

^f “Age Differentials” refers to provisions that prescribe age criteria.

^g “Type of Protection” refers to provisions that address legal protections for commercially sexually exploited children.

^h “Guidance for Diversion” refers to provisions that provide criteria for when diversion pathways may or should be pursued.

ⁱ “Placement” refers to provisions that address placement options for commercially sexually exploited children.

^j “Services” refers to provisions that address services for commercially sexually exploited children.

^k “Funding” refers to provisions that address funding mechanisms for programs to address commercial sexual exploitation of children.

^l “Data Collection” refers to provisions that address the collection of data relevant to commercial sexual exploitation of children.

^m “Coordination/Task force” refers to provisions that establish a coordinated, interagency response.

ⁿ “Oversight” refers to provisions that assign central oversight of a state’s response to commercial sexual exploitation of children.

^o State abbreviations as follows: CT=Connecticut, FL=Florida, IL=Illinois, MA=Massachusetts, MN=Minnesota, NY=New York, TN=Tennessee, VT=Vermont, WA=Washington.

a coordinated response. Intentional, interagency coordination between child welfare and juvenile justice has been demonstrated to improve access to health care for youth dually involved in both systems (Chuang & Wells, 2010). In states that do not already have an active child welfare response or that have county-run child welfare systems, specifically assigning central accountability within Safe Harbor laws may be especially valuable. As early reports of the child welfare response to Illinois’ Safe Harbor law indicate, child welfare agencies will need to adapt to a potential increase in caseload and slightly different approach required for serving commercially sexually exploited youth (Bounds, Julion, & Delaney, 2015). Passage of Safe Harbor laws, with delayed implementation of decriminalization provisions, as was done in Minnesota, may provide states time to establish infrastructure for a centralized, coordinated, more sustainable response. Additionally, incorporating plans for data collection to allow for evaluation of Safe Harbor programs can help ensure that appropriate funds, partnerships, and programs are in place for effective implementation. Ultimately, state legislators will need to tailor Safe Harbor laws to their states. Health professionals, legal advocates, law enforcement agents, and child welfare providers can play a key role in working with lawmakers to develop or amend Safe Harbor laws and monitor their effectiveness over time. Researchers can also play an important role in enhancing Safe Harbor laws. Studies using quasi-experimental design may be useful to monitor the effectiveness of Safe Harbor laws. Tracking basic information such as the number of commercially sexually exploited youth re-routed from the justice system to diversion programs would be valuable. Additionally, information on what youth need to exit exploitation and be healthy is lacking; monitoring youths’ needs and the ability of Safe Harbor programs to meet these needs would be worthwhile. Finally, youth and family voices are notably lacking in this literature. Conducting and applying research that incorporates youth, family, and provider perspectives would likely strengthen Safe Harbor programs and laws. As commercially sexually exploited youth are often runaways who are reticent to accept help

unless the program suits them, being strongly attentive to their needs and ideas could have substantial impact in improving the quality of services and programs rendered.

Limitations

Several limitations warrant consideration. Some states had only two years of implementation experience at the time of the interview. Follow-up evaluations that systematically track outcomes longitudinally would likely be worthwhile. Also, it was sometimes difficult to discern the effects of the original Safe Harbor laws from subsequent related legislation; many states have approached Safe Harbor protections in a “piecemeal” fashion. Additionally, the commercial sexual exploitation of children is an emotive issue. The nature of the topic and the purposive sampling approach may have introduced biases. Trust may have been limited as the interviews occurred by telephone without extensive prior engagement. Finally, although interviews were continued until saturation of themes was reached, it was not possible to account for all of the nuances of Safe Harbor implementation. Variation within and among states may limit the generalizability of this study.

Conclusions

Given that significant gaps in Safe Harbor laws exist, health professionals, lawyers, law enforcement agents, and child welfare providers, working in partnership with state lawmakers, can feel at the forefront of an important opportunity to address the needs of commercially sexually exploited youth. With imperfect laws and implementation, these findings suggest an important role for local and state responders to act together to protect victims from unnecessary criminalization and potential further traumatization. While Safe Harbor laws achieve admirable strides in meeting the needs of commercially sexually exploited youth, effective implementation will require a sincere commitment to funding programs that are robust, viable, and meaningful to the lives of these highly vulnerable youth.

Contributors

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References

- An Act Providing a Safe Harbor for Exploited Children, Pub. L. No. SB 153, Connecticut State Legislature. (2010, June 7).
- An Act Relating to Human Trafficking, Pub. L. No. H 153, Vermont State Legislature. (2011, May 31).
- An Act Relative to the Commercial Exploitation of People, Pub. L. No. H 3808, Massachusetts State Legislature. (2012, February 19).
- An Act to amend Tennessee Code Annotated, Title 37; Title 39 and Title 40, relative to prostitution, Pub. L. No. SB 64, Tennessee State Leg. (2011, June 1).
- Bounds, D., Julion, W. A., & Delaney, K. R. (2015). Commercial sexual exploitation of children and state child welfare systems. *Policy, Politics, & Nursing Practice*, 16(1–2), 17–26.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.
- Budget Bill, Pub. L. No. SF 1. Minnesota State Legislature. (2010, July 20).
- Chuang, E., & Wells, R. (2010). The role of interagency collaboration in facilitating receipt of behavioral health services for youth involved with child welfare and juvenile justice. *Children and Youth Services Review*, 32(12), 1814–1822.
- Clayton, E. W., Krugman, R. D., & Simon, P. (Eds.). (2013). *Confronting commercial sexual exploitation of minors in the United States*. Washington, DC: The National Academies Press.
- Estes, R., & Weiner, N. (2002). *The commercial sexual exploitation of children in the U.S., Canada and Mexico*. Center for the Study of Youth Policy, University of Pennsylvania. [http://www.hawaii.edu/hivandaids/Commercial Sexual Exploitation of Children in the US, Canada and Mexico.pdf](http://www.hawaii.edu/hivandaids/Commercial%20Sexual%20Exploitation%20of%20Children%20in%20the%20US,%20Canada%20and%20Mexico.pdf), http://www.sp2.upenn.edu/restes/CSEC_Files/Complete_CSEC_020220.pdf
- Florida Safe Harbor Act, Pub. L. No. SB 202, Florida State Legislature. (2012, April 13).
- Geist, D. (2012). Finding Safe Harbor: Protection, prosecution, and state strategies to address prostituted minors. *Legislation and Policy Brief*, 4(2), 67–127.
- Greenbaum, V. J. (2014). Commercial sexual exploitation and sex trafficking of children in the United States. *Current Problems in Pediatric and Adolescent Health Care*, 44(9), 245–269.
- Greenwood, P., & Turner, S. (2011). Juvenile Crime and Juvenile Justice. In J. Wilson, & J. Petersilia (Eds.), *Crime and public policy* (pp. 88–129). Oxford: Oxford University Press.
- Illinois Safe Children Act, Pub. L. No. HB 6462, Illinois State Legislature. (2010, August 20).
- Martin, L., Lotspeich, R., & Stark, L. (2012). *Early intervention to avoid sex trading and trafficking of Minnesota's female youth: A benefit-cost analysis*. Minnesota Indian Women's Resource Center. <http://www.miwrc.org/early-intervention-to-avoid-sex-trading-and-trafficking-of-minnesotas-female-youth-a-benefit-cost-analysis-2/>
- Mitchell, K. J., Finkelhor, D., & Wolak, J. (2010). Conceptualizing juvenile prostitution as child maltreatment: Findings from the National Juvenile Prostitution Study. *Child Maltreatment*, 15(1), 18–36.
- Muftic, L. R., & Finn, M. A. (2013). Health outcomes among women trafficked for sex in the United States: A closer look. *Journal of Interpersonal Violence*, 28(9), 1859–1885.
- Puzzanchera, C. (2009). *Juvenile arrests 2008*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Revising provisions relating to sex crimes involving minors, Pub. L. No. SB 6476, Washington State Legislature. (2010, April 10).
- Safe Harbor for Exploited Children Act, Pub. L. No. A5258C, New York State Legislature. (2008, September 25).
- Shields, R. T., & Letourneau, E. J. (2015). Commercial sexual exploitation of children and the emergence of Safe Harbor legislation: Implications for policy and practice. *Current Psychiatry Reports*, 17(3).
- Stop Exploitation through Trafficking Act of 2015, Pub. L. No. H.R. 159, 114th Congress, 1st Session. (2015).
- Stransky, M., & Finkelhor, D. (2008). *How many juveniles are involved in prostitution?* Durham, NC: Crimes Against Children Research Center, University of New Hampshire.

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- Vardaman, S. H., & Raino, C. (2014). *2014 Protected innocence challenge: A legal framework of protection for the nation's children*. Shared Hope International. <http://sharedhope.org/what-we-do/bring-justice/reportcards/2014-reportcards>
- Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464, United States Congress, 116th Sess. (2000).
- Walker, K. (2014). *Ending the commercial sexual exploitation of children: A call for multi-system collaboration in California*. Sacramento: California Child Welfare Council. <http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System.Collaboration-in-CA.pdf>
- Williams, L. M. (2010). Provide justice for prostituted teens: Stop arresting and prosecuting girls. In N. A. Frost, J. D. Freilich, & T. R. Clear (Eds.), *Contemporary issues in criminal justice policy: Policy proposals from the American Society of Criminology conference* (pp. 297–306). Belmont: Cengage Learning.