

Shared Hope International: North Carolina Recommendations

<u>Recommendation</u>	<u>Reasoning</u>	<u>Conference of DA's Position</u>	<u>Vote</u>
Prosecution & Investigations			
Recommendation #1: Amend N.C. Gen. Stat. § 14-43.13 (Sexual servitude) to clarify buyer conduct is included as a violation of N.C. Gen. Stat. § 14-43.13	The law currently reflects only “knowingly or in reckless disregard of the consequences” conduct. Broadening the scope allows “buyer conduct” and would not risk over-prosecution, but allow prosecutors a more specific avenue to target pimps and johns.	No position, but believes it would be covered as is.	
Recommendation #2: Amend N.C. Gen. Stat. § 14-205.1 (Solicitation of prostitution) to expressly prohibit a defendant from asserting a defense based on mistake as to the age of the minor victim.	The role of the legislature is to create the law. Amending this statute would create a solidification of case law to protect the minor victim. The law on the books should be the official doctrine.	No position, but believes this is the general position of our laws anyway.	
Recommendation #3: Raise penalties for buying and possessing images of child sexual exploitation to reflect the seriousness of the offense.	Third degree sexual exploitation of a minor is a Class H felony, which carries a presumptive sentence of 5–6 months imprisonment. N.C. Gen. Stat. §§ 14-190.17A (d), 15A-1340.17(c). In comparison, a federal conviction for possession of ICSE is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.	No position, merely raises penalty (compared to federal laws)	
Recommendation #4:	First degree sexual exploitation of a minor is a Class C felony, which carries a presumptive sentence of 58–73	No position, merely raises penalty	

<p>Amend N.C. Gen. Stat. § 14-190.16 (First degree sexual exploitation of a minor) and § 14-190.17 (Second degree sexual exploitation of a minor) to provide penalties that reflect the seriousness of the offense.</p>	<p>months imprisonment. Second degree sexual exploitation of a minor is a Class E felony, which carries a sentence of 20–25 months imprisonment. In comparison, a federal conviction for possession of ICSE is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.</p> <p>Second degree sexual exploitation of a minor is a Class E felony, which carries a presumptive sentence of 20–25 months imprisonment. N.C. Gen. Stat. §§ 14-190.17(d), 15A-1340.17(c).</p> <p>In comparison, if the victim is under the age of 14, a conviction under the TVPA for child sex trafficking is punishable by 15 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(1), 3559(a)(1), 3571(b)(3).</p> <p>If the victim is between the ages of 14–17, a conviction is punishable by 10 years to life imprisonment and a fine not to exceed \$250,000. 18 U.S.C. §§ 1591(b)(2), 3559(a)(1), 3571(b)(3).</p> <p>A conviction is punishable by mandatory life imprisonment, however, if the trafficker has a prior conviction for a federal sex offense against a minor. 18 U.S.C. § 3599(e)(1). Additionally, a federal conviction for distribution of ICSE is generally punishable by imprisonment for 5–20 years and a fine not to exceed \$250,000. Subsequent convictions, however, are punishable by imprisonment up to 40 years and a fine not to exceed \$250,000.</p>	<p>(compared to federal laws)</p>	
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<p>Recommendation #5: Amend North Carolina’s CSEC laws to include mandatory fines and restitution and to clarify that a person who commits a CSEC offense is subject to the property forfeiture provisions in N.C. Gen. Stat. § 14-2.3 (Forfeiture of gain acquired through criminal activity).</p>	<p>Commercial Sexual Exploitation of Children (CSEC) is serious and deserves clarification to protect minor victims. Most of the time victims do not keep their “wages” for the performance of their work and will even be forced to give up their personal property or steal/shoplift for their pimp. This amendment would help victims transition back to normalcy and help decrease potential recidivism or future criminal activity.</p>	<p>No position</p>	
<p>Recommendation #6: Amend N.C. Gen. Stat. § 14-43.11 (Human trafficking) and § 14-43.13 (Sexual servitude) to prohibit knowingly or recklessly benefiting from the offenses of human trafficking and sexual servitude.</p>	<p>This is <i>the</i> human trafficking statute and it should reflect that in modern human trafficking schemes, the “higher ups” may not actively participate, but they benefit from the commission of the crimes.</p>	<p>No position</p>	
<p>Recommendation #7: Enact a law that prohibits selling or offering to sell travel services that include or facilitate travel for the purpose of engaging in commercial sexual exploitation of a minor or prostitution of a minor, if the travel is occurring in North Carolina.</p>	<p>There is no specific provision under North Carolina’s laws prohibiting child sex tourism.</p>	<p>No position</p>	
<p>Recommendation #8: Amend N.C. Gen. Stat. § 8C-1, Rule 412(d) to clarify the inclusion of N.C. Gen. Stat. § 14-43.11 (Human trafficking) and the</p>	<p>Currently, N.C. Gen. Stat. § 8C-1, Rule 412(d) (Rape or sex offense cases; relevance of victim’s past behavior) even though limited, still the use of reputation or opinion evidence of the past sexual behavior of a victim of rape or a sexual offense is limited</p>	<p>Case law is likely sufficient to address this</p>	

<p>CSEC offenses under N.C. Gen. Stat. § 14-205.1 (Solicitation of prostitution), § 14-205.2 (Patronizing a prostitute), § 14-205.3 (Promoting prostitution) and § 14-43.13 (Sexual servitude) as “sex offenses” for which reputation or opinion evidence of past sexual behavior for victim witnesses is inadmissible in Trials.</p>			
<p>Recommendation #9: Amend N.C. Gen. Stat. § 14-43.11(a) (Human trafficking) and § 14-43.13(a) (Sexual servitude) to specifically prohibit a defense based on the use of a law enforcement decoy posing as a minor to investigate the buying and selling of commercial sex acts with a minor.</p>	<p>https://fox43.com/2018/09/26/police-ask-local-vigilante-groups-trying-to-expose-child-sex-predators-to-stop/ Other states do the same and this would prevent issues in the future and clarify existing law.</p>	<p>DO NOT RECOMMEND – Does not see this as a problem yet</p>	
<p>Victim Protections & Services</p>			
<p>Recommendation #10: Amend North Carolina’s protective response for juvenile sex trafficking victims to require access to specialized services.</p>	<p>Although North Carolina law provides for the non-criminalization of minors for prostitution and solicitation offenses and mandates referral of juvenile sex trafficking victims to DSS, provision of specialized services is not required. Laws must ensure access to federal, state, tribal and local services, such as child welfare, child advocacy centers, and Medicaid for all juvenile sex trafficking victims regardless of whether there is an identified trafficker, and whether they are in state or</p>	<p>No position, this involves victim services, not enforcement or penalty</p>	

	home custody. If emergency assessments are needed, safe, youth- friendly environments should be available 24/7 with an advocate available to support a juvenile through assessment and throughout time in care.		
Recommendation #11: Amend N.C. Gen. Stat. § 15B-11(a), (b) (Grounds for denial of claim or reduction of award) to establish exceptions for victims of domestic minor sex trafficking.	Domestic minor sex trafficking victims can recover funds, certain ineligibility factors and award reduction factors present special difficulties for domestic minor sex trafficking victim.. See report for further detail.	No position, this involves victim compensation, not enforcement or penalty	
Recommendation #12: Amend N.C. Gen. Stat. § 15A-1415(b)(10) (Grounds for appropriate relief which may be asserted by defendant after verdict; limitation as to time) and § 15A-1416.1 (Motion by the defendant to vacate prostitution convictions for sex trafficking victim) to allow child sex trafficking victims to vacate delinquency adjudications and expunge related records for prostitution and other offenses arising from trafficking victimization, without a waiting period.	<p>The national trend is to allow victims of human trafficking to vacate delinquency adjudications and expunge related records.</p> <ol style="list-style-type: none"> 1. http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Human-Trafficking-Expungement.aspx 2. https://www.courthousenews.com/expungement-law-helps-human-trafficking-victims-move-forward/ 3. American Bar Association – https://www.americanbar.org/content/dam/aba/uncategorized/GAO/2018june4-DOJ-OVC-TVPA-VACATUR.authcheckdam.pdf 4. http://lsnjlaw.org/Criminal-Charges-and-Convictions/Prisoner-Reentry/Expungement/Pages/Human-Trafficking-Victims.aspx#.W-M-htVKg4g 5. http://www.kbia.org/post/proposed-bill-would-help-trafficking-victims-expunge-prostitution-records-0#stream/0 	WAIT – let the new juvenile age come into play before this is addressed	