



## JUVENILE HUMAN TRAFFICKING, OHIO LAWS & SAFE HARBOR RESPONSE

### RED FLAGS IN JUVENILE HUMAN TRAFFICKING

Juveniles are unlikely to self-identify as trafficking victims or ask for help to stop their exploitation, especially in open court. When exploitation is not apparent, the following red flags may help identify juvenile trafficking victims. This is not an exhaustive list, but represents the compilation of indicators found in research and validated by the experiences of court professionals and social service providers. The presence of multiple indicators may alert the court of the need for human trafficking screening.

#### HEALTH

- Unexplained bruises or injuries, e.g., broken bones, burns, or cuts
- Signs of prolonged, undiagnosed, or untreated illness or disease, e.g., bed bugs or other parasites, or frequent bladder or yeast infections
- Signs of malnourishment or excessive hunger
- Signs of extreme fatigue or exhaustion
- Sexually transmitted infections
- Multiple pregnancies, miscarriages, or terminations
- Substance use
- Chronic dental problems

#### APPEARANCE

- Inappropriately dressed for weather, location, or age
- Branding or tattoos, e.g., boyfriend/girlfriend or friend's name, gang, or other symbol as if indicating ownership
- New hairstyle, professional manicure, clothes, shoes, electronic or other expensive gift
- Large amounts of cash, prepaid credit cards, hotel keys, receipts, matches, or multiple cellphones
- Non-verbal communication with an unrelated adult, e.g., seeking approval before answering questions
- Presence of an overtly controlling or concerned older male or female friend

#### PAST OR CURRENT CHARGES

- Prostitution, solicitation, or loitering to engage in solicitation
- Theft of necessities, e.g., food, clothing, hair, condoms, or personal hygiene products
- Disorderly conduct
- Status offenses, e.g., truancy, unruly, underage drinking, or curfew violations
- Drug offense

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## RED FLAGS IN JUVENILE HUMAN TRAFFICKING - continued

### SOCIAL, EMOTIONAL, OR BEHAVIORAL

- Signs of trauma
- Unusually paranoid or fearful
- Emotional extremes, such as numbness, dulled affect, depressed, low self-esteem or submissive, or angry, defiant, belligerent, or defensive
- Significant changes in behavior, e.g., falling asleep in school, overtly sexual, preoccupied with money
- Hanging around much older men or women
- Increasingly truant or absent from school
- Gang affiliation

### FAMILY, HOME, OR PLACEMENT

- Multiple placements with minimal social support
- Homelessness
- Disconnected from family
- Guardianship by unrelated adult or older male/female friend
- Family history of prostitution or solicitation
- History of physical or sexual abuse or neglect
- History of domestic violence or family dysfunction
- Unsure or unwilling to give “home” address or identify other household members
- Fearful of consequences for not following rules, e.g., returning “home” at set times
- Lives in a hotel or reports frequent travel to other cities
- Concerned about immigration documents or status



This Juvenile Human Trafficking, Ohio Laws & Safe Harbor Response Bench Card was prepared by the Children and Families Section in collaboration with its Advisory Committee on Children and Families as a service to Ohio’s juvenile courts. The points of view in this piece are those of the authors and may not represent the official policies or positions of the Supreme Court of Ohio.

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## JUVENILE HUMAN TRAFFICKING LAWS AT A GLANCE

Trafficking in Persons<sup>1</sup> is defined as knowingly or knowingly attempting to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain another person, knowing that the person will be subjected to involuntary servitude or be compelled to engage in sexual activity or sexually-oriented performance. The two essential elements are: (1) service or labor exploitation of another and (2) compulsion by force, fear, duress, intimidation, or fraud.<sup>2</sup>

### SEX TRAFFICKING OF JUVENILES

- May not need to show compulsion based on the victim's age or circumstances.<sup>3</sup>
- Implicit or explicit agreement to:
  - Engage in sexual activity for hire,
  - Engage in an obscene, sexually-oriented or nudity-oriented performance for hire, or
  - Model or participate for hire in the production of obscene, sexually-oriented, or nudity-oriented material.<sup>4</sup>
- Exchange for something of value:
  - May be of de minimis value, e.g., food, shelter, clothing, etc.
  - May be given to someone other than the juvenile.
- Exploitation through sex trafficking may include, but is not limited, to:
  - Street prostitution
  - Stripping
  - Gang-based prostitution
  - Interfamilial pimping
  - Forms of internet-based exploitation<sup>5</sup>
  - Survival sex.

### LABOR TRAFFICKING OF JUVENILES

- Must always show compulsion.<sup>6</sup>
- Compulsion may be found if juvenile acted as a result of force, threats, or lies.
- Recruitment often by false pretenses or circumstances.
- Being sold without the juvenile victim's knowledge.

- Exploitation through labor trafficking may include, but is not limited, to:
  - Traveling sales crews, e.g., magazine or cleaning product sales.
  - Hair braiding, salons, factory, or farm work.
  - Gang activity, e.g., forced criminal activity to protect self or family.
  - Truancy as a result of forced work, poor work conditions, or unfair compensation to pay debt bondage.
  - Criminal activity at the direction of another, e.g., forced criminal act.

### SAFE HARBOR'S PATHWAY<sup>7</sup>

- Charged with certain sex offenses, per se Safe Harbor applies:<sup>8</sup>
  - Prostitution
  - Solicitation
  - Loitering to engage in solicitation
- "Reason to believe" the juvenile is a victim of trafficking in person:<sup>9</sup>
  - Law creates a low threshold for potential case identification, including referrals by justice partners, law enforcement, parents, or court staff
  - Consider non-delinquency red flags to help determine whether the delinquent behavior is in connection to trafficking or exploitation.
  - Consider if charges are related to the juvenile's victimization, e.g., theft, status, or drug offenses.

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## SAFE HARBOR RESPONSE

Ohio juvenile courts may use Safe Harbor protections broadly, regardless of the instant charge against the juvenile or juvenile's history of adjudication or criminal history. That is, Safe Harbor is neither a one-time only nor first-time offender statute. The threshold question is low: Does the court have reason to believe the juvenile is a trafficking victim? Safe Harbor response is not dependent on either the juvenile's participation or cooperation in the case against the trafficker, or the trafficker's identification, prosecution, or conviction.

- Make a finding that there is reason to believe the juvenile is being trafficked and the charges are related to the juvenile's victimization.
  - Court may hold a hearing to determine there is reason to believe the juvenile is a victim of trafficking or find sua sponte.
  - If held, the purpose of hearing is to determine if the complaint is eligible for Safe Harbor protection.
  - The prosecutor has a right to participate in the Safe Harbor hearing, object to diverting the complaint, and make diversion recommendations.
- Place the complaint in abeyance upon finding there is reason to believe the juvenile is a victim of trafficking or is being exploited and the charges are related to the victimization.
  - Juvenile must agree to the Safe Harbor hearing.
  - Juvenile need not admit to any victimization related to the trafficking during the hearing.
- Appoint a guardian ad litem separate and apart from defense counsel.<sup>10</sup>
- Hold the complaint in abeyance for 90 days; if the juvenile needs additional time to complete the diversion activities, may extend time for two additional 90-day periods (270 days total).<sup>11</sup>
  - Sua sponte or by agreement of the parties after a brief hearing, may extend the time for holding the case in abeyance; journalize the decision to extend time.
  - Order appropriate treatment and services to divert juvenile away from prosecution and prevent further victimization.
  - Consider specialized treatment programs and diversion strategies.
  - See **COURT RESPONSES TO TRAFFICKING OF JUVENILE**, for suggestions.
- If the juvenile completes the diversion activities to the court's satisfaction, the case must be dismissed and records expunged.<sup>12</sup>

**PRACTICE TIP** ► If the court denies the request for Safe Harbor status, consider issuing findings of facts and conclusions of law.

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**PRACTICE TIP** ► For case management statistical reporting, cases held in abeyance can be "stayed" and removed off Form D on Line 11, Unavailability of a Party. Once the diversion period has terminated, the case should be reactivated on Line 3 of Form D, and the final disposition reported in due course.

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## COURT RESPONSES TO TRAFFICKING OF JUVENILES

- Convene a court committee on human trafficking.
  - Develop protocols for a team approach that includes how victims will be identified, agency points of contact and roles, and information sharing process.
- Encourage training for court personnel and justice partners on trafficking of children and trauma.
- Partner with community-based service providers who specialize in trauma, human trafficking, domestic violence, and sexual assault.
  - Join a local human trafficking coalition or task force.<sup>13</sup>
  - Collaborate with justice partners to ensure age-appropriate treatment.
  - Identify providers for appropriate medical care, e.g., child advocacy centers, SANE programs, local hospitals, or medical centers.
  - Create specialized services in partnership with justice partners, beyond counseling and treatment, that promote positive, pro-social activities, e.g., art, dance, sculpture, painting, crafts, sports, running, music, singing, career mentoring, etc.
  - Establish mentorship programs for juveniles who are trafficked or are at high risk for being trafficked.
  - Collaborate with justice partners to create long-term adult support/mentor system for juveniles who are no longer court-involved.
- Rely on validated human trafficking screening or assessment tools.<sup>14</sup>
  - Determine when screening or assessment will be done, who is best equipped to administer the tools, and how the information will be shared with the court.
- Incorporate quality assurance evaluation and review to court's process to ensure model fidelity.
- Consider the placement options for trafficked juveniles.
  - Create partnership with justice partners for special placement.
  - Avoid using detention or other locked-down facilities for placement. It re-traumatizes trafficked juveniles and reinforces a punitive approach.
  - If a locked-down facility is the only option, ensure the facility is trauma-responsive.
- Adopt local court rules and policies that incorporate an explicit philosophy on anti-human trafficking.
  - Appoint guardians ad litem who have received human trafficking training.
  - Keep confidential names of juvenile victims, regardless of existing delinquency record.<sup>15</sup>
  - Create procedure to seal and expunge records of trafficked juveniles.
  - Notify law enforcement and National Center for Missing & Exploited Children immediately if a juvenile in foster care runs away or is missing or abducted.
  - Consider case management issues relative to the complexity of the case.
- Incorporate trauma-responsive strategies into court practices.<sup>16</sup>
  - Use trauma-informed language to acknowledge the trafficked juveniles' victimization, e.g., referring to sex trafficked juveniles as "prostitutes" minimizes their victimization.
- Be aware of traffickers' presence in the courtroom and their subtle power to influence juveniles.
  - Inquire if the juvenile's safety is compromised if left unsupervised in the community.
  - Consider if the case against the trafficker will impact proceedings in juvenile court.
- Consider starting a specialized human trafficking docket.
  - Define eligibility criteria for juveniles who may participate in the docket.
  - Reach out to justice partners to formalize relationships.
  - Contact the Supreme Court of Ohio for technical assistance.<sup>17</sup>

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## RESOURCES

A Guide to Human Trafficking for State Courts, Human Trafficking and the State Courts Collaborative, (2014).

Human Trafficking Jurist Checklist. Cuyahoga County Common Pleas Court, Juvenile Division.

Human Trafficking and the State Courts Collaborative.

Human Trafficking Overview. National Council of State Legislatures.

Recognizing the Signs. National Human Trafficking Resource Center.

Human Trafficking “Red Flags.” Office of the Indiana Attorney General.

Human Trafficking Red Flags List. Office of the Ohio Public Defender.

Human Trafficking: Ohio’s Tragic Reality, Sex and Labor Trafficking Fact Sheets. Ohio Human Trafficking Task Force.

Missing Children, State Care, and Child Sex Trafficking: Engaging the Judiciary in Building a Collaborative Response. National Center for Missing & Exploited Children, and National Council of Juvenile and Family Court Judges, 2015.

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## ENDNOTES

- 1 See R.C. 2905.32 and 22 USC § 7102
- 2 R.C. 2905.32(B). Compulsion need not be openly displayed or physically exerted, nor must it be construed to include “coercion.” *State v. Warren*, 2015-Ohio-3671 (8th Dist).
- 3 R.C. 2905.32(A)(2)-(3). State law makes certain distinctions based on the juvenile’s age. Compulsion is not an element if the juvenile is under 16 years old or developmentally disabled. However, if the juvenile is 16 or 17 years old, compulsion may be a required element, except if the person compelling the act is a parent or person in loco parentis.
- 4 R.C. 2905.32(A)(2)-(3)
- 5 A Guide to Human Trafficking for State Courts (2014), page 78.
- 6 R.C. 2905.31(A). “Involuntary Servitude” is defined as requiring compulsion, so compulsion must be found in any forced labor case.
- 7 R.C. 2152.021(F). “Safe Harbor” refers to the statutory mechanism that grants courts the ability to hold a complaint in abeyance under certain circumstances.
- 8 R.C. 2152.021(F)(1)(a); see also R.C. 2907.25, 2907.24 and 2907.241
- 9 R.C. 2905.32 and 2152.021(F)(1)(b)
- 10 R.C. 2152.021(F)(3). Also, due to the complexities of these cases, it is best practice to appoint a guardian ad litem who has received specialized human trafficking training.
- 11 R.C. 2152.021(F)(4)
- 12 R.C. 2152.021(F)(5)
- 13 Updated list of local coordinated response is available at <http://www.publicsafety.ohio.gov/ht/coalitions.html>.
- 14 See, e.g., Westcoast Children’s Clinic CSE-IT available at [http://www.westcoastcc.org/wp-content/uploads/2015/04/WCC-CSE\\_IT-Pilot-14Apr2015.pdf](http://www.westcoastcc.org/wp-content/uploads/2015/04/WCC-CSE_IT-Pilot-14Apr2015.pdf); Covenant House HTIAM-14 available at <http://renewalforum.org/wp-content/uploads/Covenant-house-assessment.pdf>; Vera Institute Trafficking Victim Identification Tool available at <http://archive.vera.org/sites/default/files/resources/downloads/human-trafficking-identification-tool-and-user-guidelines.pdf>
- 15 Ohio Sup.R. 44(C)(2)(a); R.C. 149.435(B)
- 16 See e.g., Essential Elements of a Trauma-Informed Juvenile Justice System, National Child Traumatic Stress Network, available at [http://www.nctsn.org/sites/default/files/assets/pdfs/jj\\_ee\\_final.pdf](http://www.nctsn.org/sites/default/files/assets/pdfs/jj_ee_final.pdf)
- 17 For technical assistance, contact the Supreme Court of Ohio’s Specialized Docket Section, [specdocs@sc.ohio.gov](mailto:specdocs@sc.ohio.gov).