The criminalization of child sex trafficking victims is a pressing issue across the country. Minors who are sex trafficked are sometimes being prosecuted due to statutory inconsistencies. Children who have not reached the legal age to consent to sex are being charged with prostitution. In all other instances, these children would be viewed as victims of statutory rape or child sexual abuse.

According to the Trafficking Victims Protection Act of 2000, sex trafficking is defined as “a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.” This federal law furthers the idea that any child who is sold for sex is a victim of sex trafficking.

Multiple reasons exist as to why states have not yet removed the criminal liability for child sex trafficking victims. In many instances, officials believe if the child is facing criminal consequences, he or she will give information to the police about the trafficker. But a child could be reluctant to turn the trafficker in to authorities for a variety of reasons, including his or her own safety, distrust of the system, an illusion that he or she is in a romantic relationship with the trafficker, or because they do not view themselves as victims.

A lack of alternative resources in states plays a large role as well. Without proper wraparound services for victims, some believe that detention centers are the safest place for victims to go.

Oklahoma is making pivotal strides in treating sex trafficking victims. Modernizing human trafficking laws has been a goal for Oklahoma state Sen. AJ Griffin during her time in office. This past session, she proposed Senate Bill 1005, which declares that human trafficking victims shall be provided with shelter, legal protection, and other basic needs as well as prohibits being “detained in a facility, jailed, fined, or otherwise penalized due to having been trafficked.”

The bill tackles multiple problems that are faced by child sex trafficking victims. Not only does it protect them from prosecution, but it also provides them needed services.

“It creates a scenario where law enforcement, juvenile justice, and child welfare must collaborate around a case,” Griffin said. She discussed how this is a combined effort between the public and private sector and emphasized the importance of relationships with care services such as the Dragonfly Home in Oklahoma City.

On May 2, 2018, Gov. Mary Fallin approved the bill. The law will go into effect on Nov. 1.

Over the past decade, there has been a nationwide movement of safe harbor legislation to protect against the criminalization of child sex trafficking victims. Until 2010, Michigan was the only state to have enacted noncriminalization laws. Between 2010 and 2017, 26 states have joined Michigan in enacting similar laws.

Noncriminalization laws vary from state to state. In Montana, for example, minors are not criminally
liable for prostitution. However, 2017 legislation passed in South Dakota only states that prostitution laws do not apply to minors under 16. Before the 2018 legislative session, 24 states still did not have any legislation that prohibited children from being criminally charged with prostitution.

Oklahoma’s decriminalization bill takes a unique approach because it looks beyond the baseline problem of criminalization and addresses the issues that surround it. “There is a constant need to adapt and adjust in this area,” Griffin said.