

THE PROTECTED INNOCENCE CHALLENGE

**State Report Cards on the Legal Framework
of Protection for the Nation's Children**

2011

**This man wants to
rent your daughter.**



DoYouKnowLacy.com?



Shared Hope International developed the billboard concept above to place in strategic locations around the country to bring greater awareness of the critical driving force of the commercial sex industry: demand.



Dear Reader,

The Protected Innocence Initiative marks the beginning of a new era in the movement to end sex trafficking. After serving fifteen years as a State and U.S. Representative for Washington, I left to establish Shared Hope International and engage in the global fight against sex trafficking. A fight that once began global turned local as our research on the international trafficking industry exposed a booming market for American children. Efforts to combat domestic minor sex trafficking have progressed at an unprecedented level, as illustrated by increased training, broader and more accurate identification, and more effective response by law enforcement, prosecutors, service providers, legislators, government leaders, churches, and the greater community.

We commend the leaders who strive to end the scourge of human trafficking at a global and federal level. For over a decade, the Department of State has released the Trafficking in Persons Report which analyzes prevention, prosecution, protection, and partnership efforts in countries around the world to combat human trafficking internationally. The federal Trafficking Victims Protection Act of 2000 provides a sturdy legal platform for federal action to bring justice to victims and prosecution for perpetrators.

This leadership provided inspiration and guidance for the Protected Innocence Initiative. This initiative includes the legislative framework, which serves as the foundation for Protected Innocence Challenge Report Cards. The Protected Innocence Challenge was designed to not only grade the legal framework in each state, but to establish a fabric of laws and serve as a blueprint for reform of child sex trafficking legislation. Through a proactive partnership between legislators and concerned constituents, it is our hope that state action will result in national change.

We wish to thank the following foundations, individuals, and families who contributed to make this first annual National Protected Innocence Initiative Report possible: Carstens Family Fund held by the Arizona Community Foundation, Maureen Casey, Thomas Constant, Imago Dei Fund, Luke 12:48 Foundation, Sharon Richards, Kelly & Michelle Park, and the Robles Foundation.

Thank you for taking the Protected Innocence Challenge.

Sincerely yours,

Linda Smith



Acknowledgments

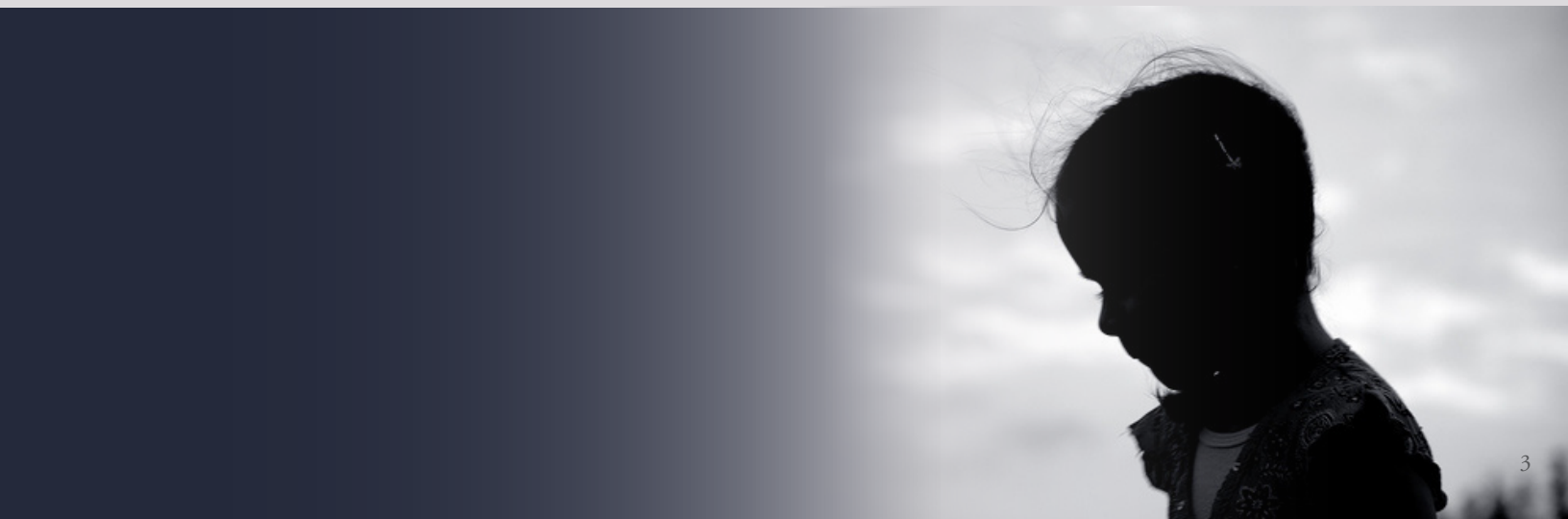
The Protected Innocence Legislative Framework and Methodology were reviewed by several experts in the anti-trafficking field, and their comments contributed to the final analysis—thanks to Ambassador Mark Lagon (U.S. Department of State, Office to Monitor and Combat Trafficking in Persons 2007–09), Chair, International Relations and Security and Visiting Professor, Master of Science in Foreign Service Program, Georgetown University; Suzanna Tiapula, Esq., Director, National Center for Prosecution of Child Abuse, a program of the National District Attorneys Association; Howard Davidson, Esq., Director, American Bar Association (ABA) Center on Children and the Law; Mohamed Mattar, S.J.D., Executive Director, The Protection Project at Johns Hopkins University School of Advanced International Studies; Tessa Dysart, Esq., Associate Counsel, American Center for Law & Justice; Carol Smolenski, Executive Director, and Christine Fantacone, Policy Coordinator, both of ECPAT-USA; Mandi Sheridan Kimball, Director of Public Policy and Government Affairs, and Jennifer Michel Solak, Esq., Senior Staff Attorney, both of Children at Risk, Houston, Texas; and Kaffie McCullough, Campaign Director, the Juvenile Justice Fund's A Future. Not A Past. Campaign, Atlanta, Georgia.

The legal analysis of the 50 states and the District of Columbia that laid the foundation for the Protected Innocence Legislative Framework application and resulting Protected Innocence Challenge Report Cards was accomplished through a partnership between Shared Hope International and the American Center for Law & Justice (ACLJ), which focuses on constitutional and human rights law worldwide. The legal analysis was implemented under the direction of Samantha Healy Vardaman, Esq., Senior Director, Shared Hope International, and Tessa Dysart, Associate Counsel, ACLJ. Shared Hope Policy Counsel, Alicia Wilson, Esq., Shared Hope Policy Specialists, Dolly Donnelly, Esq. and Grace Colonnese, Esq., and Christine Raino, Esq. were essential in accomplishing the Protected Innocence research and application. Shared Hope law fellows, especially Tabatha Mansfield, Tabitha Acosta, Debra Pruitt, Tatiana Hernandez, Christen Price, and Donna Robinson along with ACLJ Senior Research Counsel, John Tuskey, and ACLJ law clerks assisted greatly in applying the Protected Innocence Legislative Framework. All Shared Hope staff were involved in key ways in the research and writing of the Protected Innocence Challenge and the implementation of the Protected Innocence Initiative.

The Protected Innocence Challenge | 2011

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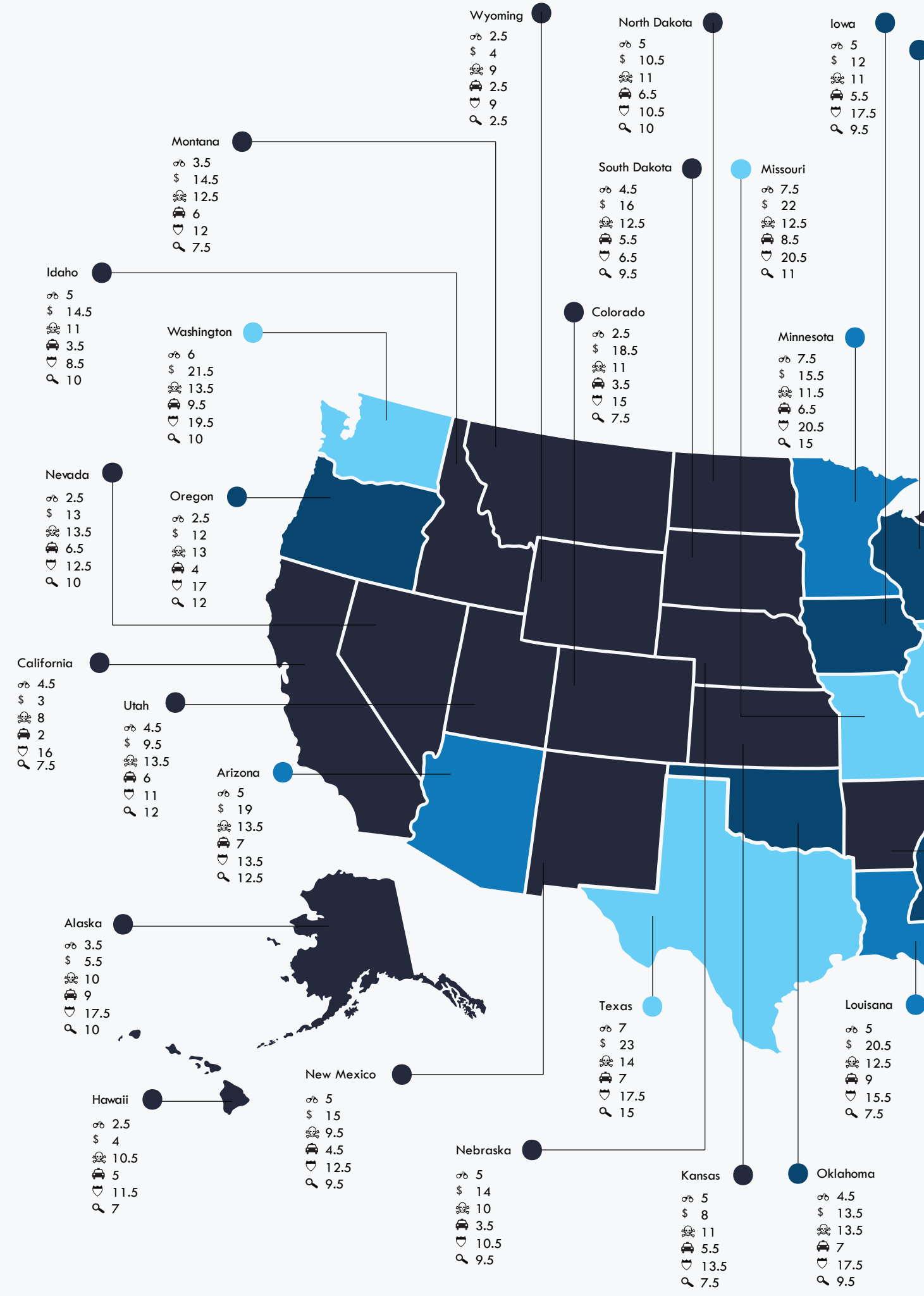
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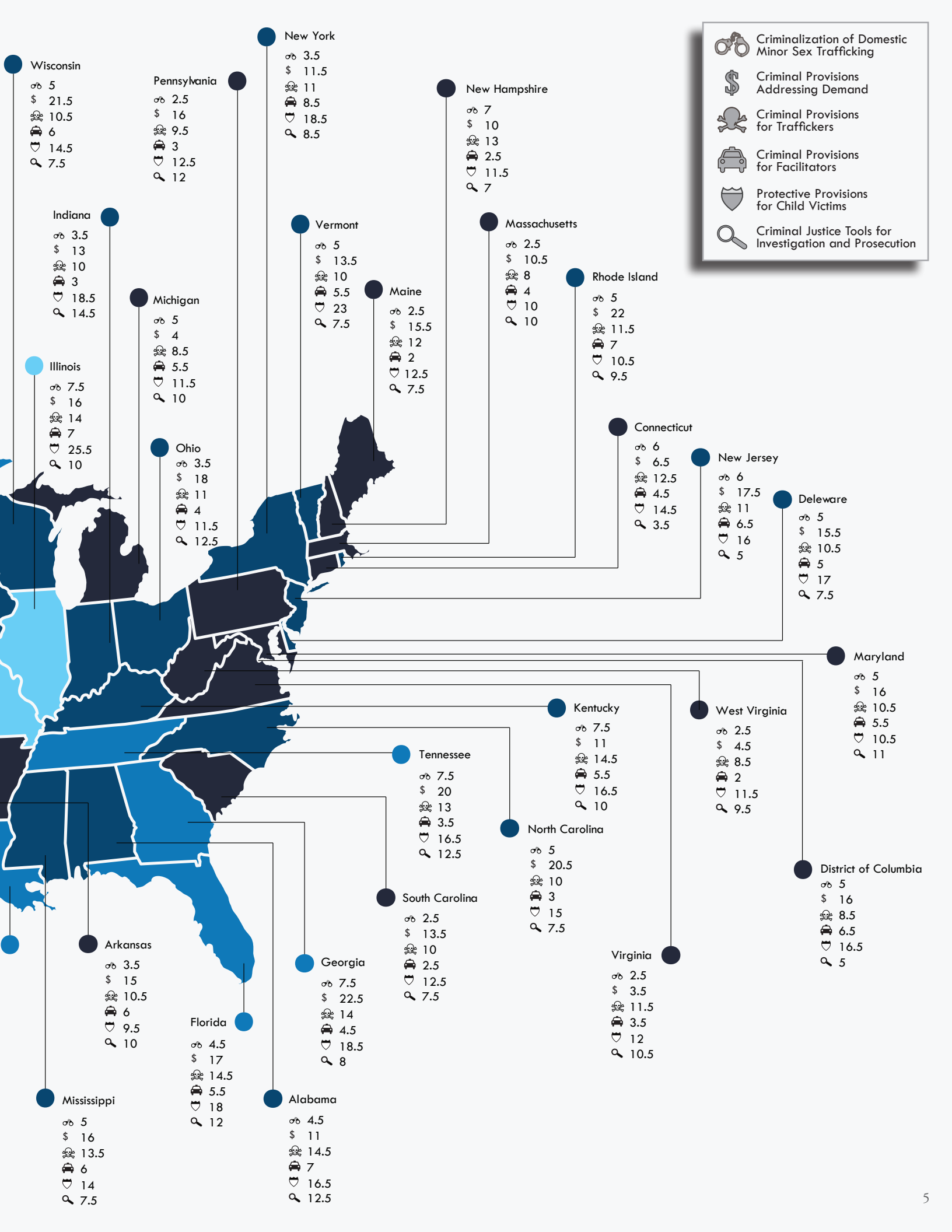
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Introduction

The Protected Innocence Challenge is based on the Protected Innocence Legislative Framework which was informed by research performed by Shared Hope International and compiled in “The National Report on Domestic Minor Sex Trafficking.” Domestic minor sex trafficking is the prostitution, pornography, or sexual performance of U.S. citizens or lawful permanent residents under the age of 18 in the United States.

Recognizing that most of the gaps in responding to domestic minor sex trafficking must be addressed at the state level, the Protected Innocence Legislative Framework sets out the basic policy principles required to create a safer environment for children. The steps necessary to create this safer environment include the following: preventing domestic minor sex trafficking through reducing demand, rescuing and restoring victims through improved training on identification, establishing protocols and facilities for victim placement, mandating appropriate services and shelter, and incorporating trauma-reducing mechanisms into the justice system. Broken systems of criminal justice and child welfare responses to victims must also be fixed to ensure that commercially sexually exploited children are treated as victims and provided with remedies through the law to recapture their lives and their futures.

In 2010, Shared Hope International exclaimed Kids Are Not For Sale in front of the Lincoln Memorial during the Stop Modern Slavery Walk.



WHAT IS DOMESTIC MINOR SEX TRAFFICKING?

Domestic minor sex trafficking is the commercial sexual exploitation of American children within U.S. borders and is synonymous with child sex slavery, child sex trafficking, prostitution of children, and commercial sexual exploitation of children (CSEC). Congress, in the federal Trafficking Victims Protection Act (TVPA), has made sex trafficking of a minor a crime.¹ Federal law defines sex trafficking as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”² When considering the crime of domestic minor sex trafficking, under the TVPA, the victim’s age is the critical issue—there is no requirement to prove that force, fraud, or coercion was used to secure the victim’s actions if the victim is a minor. Experts estimate that at least 100,000 American juveniles are victimized through prostitution in America each year.³

Shared Hope International first actively addressed the sex trafficking of American children by researching the demand for commercial sex that encourages the commercial sexual exploitation of women and girls. The DEMAND project investigated buyers, facilitators, and traffickers in four countries: Jamaica, Japan, the Netherlands, and the United States. The startling findings from this project highlighted the fact that sex trafficking is demand-driven and that the product for sale is most commonly local (domestic) children.⁴

Recognizing that a strategic response to sex trafficking required a comprehensive understanding of the local situation, Shared Hope International aligned with the U.S. Department of Justice human trafficking task forces to assess domestic minor sex trafficking and the access to victim services in ten U.S. locations: Dallas, Texas; San Antonio, Texas; Fort Worth, Texas; Salt Lake City, Utah; Buffalo, New York; Baton Rouge and New Orleans, Louisiana; Independence, Missouri; Las Vegas, Nevada; Clearwater, Florida; and The Commonwealth of the Northern Mariana Islands (U.S. Territory). The assessments investigated three areas identified by the TVPA and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as the key components necessary to effectively combat trafficking in persons: Prevention, Prosecution, and Protection. The assessments involved qualitative interviews of professionals who were likely to come into contact with victims of domestic minor sex trafficking, as well as quantitative data collection when available.

1 Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).

2 22 U.S.C. § 7102(9).

3 LINDA SMITH, SAMANTHA HEALY VARDAMAN, & MELISSA A. SNOW, SHARED HOPE INTERNATIONAL, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA’S PROSTITUTED YOUTH 4 (2009) [hereinafter NATIONAL REPORT] (quoting Ernie Allen, National Center for Missing and Exploited Children in DVD: Prostituted Children in the United States: Identifying and Responding to America’s Trafficked Youth (Shared Hope International 2008) (on file with author)), available at http://www.sharedhope.org/Portals/0/Documents/SHI_National_Report_on_DMST_2009.pdf.

4 SHARED HOPE INT’L, DEMAND: A COMPARATIVE EXAMINATION OF SEX TOURISM AND TRAFFICKING IN JAMAICA, JAPAN, THE NETHERLANDS, AND THE UNITED STATES 2 [hereinafter DEMAND], available at <http://www.sharedhope.org/Portals/0/Documents/DEMAND.pdf>.

Key



Criminalization of Domestic Minor Sex Trafficking



Criminal Provisions Addressing Demand



Criminal Provisions for Traffickers



Criminal Provisions for Facilitators



Protective Provisions for Child Victims



Criminal Justice Tools for Investigation and Prosecution

The symbols below indicate the extent a component meets grading criteria.



Full



Partial



None



In 2009, Shared Hope rallied activists in The March to End Demand in Las Vegas, Nevada.

Shared Hope identified and targeted for interviews seven professional groups as likely to come into contact with victims of domestic minor sex trafficking: federal, state, and local law enforcement; federal and state prosecutors; juvenile court personnel; juvenile probation and detention personnel; public defenders; child protective services personnel; and social services/non-governmental organizations. Shared Hope conducted a total of 297 interviews and requested statistics from relevant agencies, which were not always available, and where available, typically did not provide separate data on domestic minor sex trafficking—a term and crime with which many interviewees were not yet familiar. In those cases, Shared Hope reviewed the statistics to determine the numbers of suspected domestic minor sex trafficking victims. For example, juvenile detention facility statistics reflecting the number of youth detained under charges of prostitution could be properly counted toward the number of domestic minor sex trafficking victims in that facility since juveniles in prostitution are, by definition, victims of sex trafficking under the federal TVPA.⁵ The reliance on extrapolated data reflects the overall lack of effective identification of domestic minor sex trafficking victims and highlights the need for training, as well as data collection, regarding domestic minor sex trafficking.

Shared Hope documented the information gathered from each assessed location in area-specific reports outlining the problem’s scope, how victims of domestic minor sex trafficking accessed the justice and social services systems, how victims were labeled, and whether, as a result of that label, victims of domestic minor sex trafficking were able to access (or were barred from accessing) services as victims of a violent crime. The findings from these ten site assessments formed the foundation of “The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children.” Later, Shared Hope performed four additional rapid assessments in South Florida, Virginia, Arizona, and Washington. These findings were further substantiated at Shared Hope International’s 2008 National Training Conference on the Sex Trafficking of America’s Youth, which brought together nearly 200 first responders from across the nation, as well as experts on trauma-based services and shelter, to share their experiences and offer guidance as to the best practices for responding to domestic minor sex trafficking.

⁵ 18 U.S.C. § 1591(a); 22 U.S.C. § 7102(8), (14).



Based on the research findings, within an overarching framework that identifies minors exploited through sex trafficking as victims, four primary policy issues must be addressed to combat domestic minor sex trafficking: 1) eliminating demand; 2) prosecuting traffickers; 3) identifying victims; and 4) providing protection, access to services, and shelter for victims.

1. **Eliminating Demand.** Despite the fact that demand is the primary driver of the commercial sex industry and the commercial sexual exploitation of children, buyers are often not recognized as critical participants in the victimization of children through domestic minor sex trafficking.⁶ All buyers of sex with children—whether they be classified as preferential (pedophiles), opportunistic (thrill seekers), or situational (do not care about the age of the person being prostituted)—are committing a serious crime for which significant punishment is appropriate.

2. **Prosecuting Traffickers.** Frequently, the arrest and prosecution of the trafficker are based solely on the victim's cooperation in the investigation and testimony at trial.⁷ While victim cooperation with law enforcement is important, this approach can place a heavy burden on a domestic minor sex trafficking victim, who typically requires a lengthy amount of time before he or she will disclose the facts of his or her victimization. Therefore, it is critical for law enforcement officers to pursue innovative or alternative investigation techniques to corroborate the victims' allegations in domestic minor sex trafficking cases.

3. **Identifying Victims.** One of the primary barriers to victim identification is that laws often label minors engaging in commercial sex acts as criminals rather than victims. Misidentification causes a chain reaction of negative outcomes, the most significant of which is the failure to deliver the necessary services to interrupt and treat the trauma these children have endured. The problem occurs at all levels of first response from law enforcement arrests on the street, to the intake processes of homeless and runaway youth shelters, to court adjudication of victims as juvenile delinquents for offenses committed in connection with the prostitution of the child. Adjudicating the victim as delinquent and detaining him or her in a juvenile facility is a too frequent outcome and contributes to the return and retention of minors in commercial sexual exploitation. Law enforcement officers reported to Shared Hope International that another barrier to proper identification of victims is that prostituted juveniles are trained by their traffickers to lie to authorities and are provided with excellent fraudulent identification. This results in their registration in the arrest records as adults—an identification that follows them through their years as minors unless and until it is corrected by the insight of a law enforcement officer who recognizes that a victim is a minor and pursues a correct identification. Using tools to flag high risk children, such as chronic runaways and other status offenders, as well as youth who have fled from foster care, group homes, or other residential programs, as likely victims of domestic minor sex trafficking would greatly improve the identification process.

4. **Providing Protection, Access to Services and Shelter for Victims.** Law enforcement officers expressed frustration that they are often compelled to charge a domestic minor sex trafficking victim with a delinquency offense, such as prostitution, to detain the child and to keep the child safe from the trafficker. Detention, however, is detrimental to the victim in that the victim rarely receives any services in detention, much less services specific to the trauma endured through sex trafficking. Due to the unique trauma bonding that occurs between victims and their traffickers, these children often run from juvenile facilities right back to the people who exploited them. Also, in some states, a victim's entry into the delinquency system can disqualify him or her from accessing crime victim funds for services. Establishing protective shelters and services for domestic minor sex trafficking victims would provide law enforcement officers or juvenile courts with an alternative placement for prostituted minors. Protective shelters also provide a more conducive environment for breaking the cycle of destructive trauma bonding between a victim and the trafficker and restoring a victim to the point where the victim can assist in an investigation and trial. Despite the need for protective shelters, fewer than one hundred beds in facilities appropriate for and specializing in treating domestic minor sex trafficking victims exist across the country. Establishing these protective shelters is critical for creating an effective strategy to combat domestic minor sex trafficking.

⁶ DEMAND, *supra* note 6, at 3.

⁷ In contrast, 22 U.S.C. § 7105(b), prohibits requiring child victims of severe forms of trafficking to cooperate with law enforcement in order to receive assistance.



State Grades | Arranged Alphabetically

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
Alabama	4.5	11	14.5	7	16.5	12.5	66	D
Alaska	3.5	5.5	10	9	17.5	10	55.5	F
Arizona	5	19	13.5	7	13.5	12.5	70.5	C
Arkansas	3.5	15	10.5	6	9.5	10	54.5	F
California	4.5	3	8	2	16	7.5	41	F
Colorado	2.5	18.5	11	3.5	15	7.5	58	F
Connecticut	6	6.5	12.5	4.5	14.5	3.5	47.5	F
Delaware	5	15.5	10.5	5	17	7.5	60.5	D
District of Columbia	5	16	8.5	6.5	16.5	5	57.5	F
Florida	4.5	17	14.5	5.5	18	12	71.5	C
Georgia	7.5	22.5	14	4.5	18.5	8	75	C
Hawaii	2.5	4	10.5	5	11.5	7	40.5	F
Idaho	5	14.5	11	3.5	8.5	10	52.5	F
Illinois	7.5	16	14	7	25.5	10	80	B
Indiana	3.5	13	10	3	18.5	14.5	62.5	D
Iowa	5	12	11	5.5	17.5	9.5	60.5	D
Kansas	5	8	11	5.5	13.5	7.5	50.5	F
Kentucky	7.5	11	14.5	5.5	16.5	10	65	D
Louisiana	5	20.5	12.5	9	15.5	7.5	70	C
Maine	2.5	15.5	12	2	12.5	7.5	52	F
Maryland	5	16	10.5	5.5	10.5	11	58.5	F
Massachusetts	2.5	10.5	8	4	10	10	45	F
Michigan	5	4	8.5	5.5	11.5	10	44.5	F
Minnesota	7.5	15.5	11.5	6.5	20.5	15	76.5	C
Mississippi	5	16	13.5	6	14	7.5	62	D

See Methodology, Page 17

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
Missouri	7.5	22	12.5	8.5	20.5	11	82	B
Montana	3.5	14.5	12.5	6	12	7.5	56	F
Nebraska	5	14	10	3.5	10.5	9.5	52.5	F
Nevada	2.5	13	13.5	6.5	12.5	10	58	F
New Hampshire	7	10	13	2.5	11.5	7	51	F
New Jersey	6	17.5	11	6.5	16	5	62	D
New Mexico	5	15	9.5	4.5	12.5	9.5	56	F
New York	3.5	11.5	11	8.5	18.5	8.5	61.5	D
North Carolina	5	20.5	10	3	15	7.5	61	D
North Dakota	5	10.5	11	6.5	10.5	10	53.5	F
Ohio	3.5	18	11	4	11.5	12.5	60.5	D
Oklahoma	4.5	13.5	13.5	7	17.5	9.5	65.5	D
Oregon	2.5	12	13	4	17	12	60.5	D
Pennsylvania	2.5	16	9.5	3	12.5	12	55.5	F
Rhode Island	5	22	11.5	7	10.5	9.5	65.5	D
South Carolina	2.5	13.5	10	2.5	12.5	7.5	48.5	F
South Dakota	4.5	16	12.5	5.5	6.5	9.5	54.5	F
Tennessee	7.5	20	13	3.5	16.5	12.5	73	C
Texas	7	23	14	7	17.5	15	83.5	B
Utah	4.5	9.5	13.5	6	11	12	56.5	F
Vermont	5	13.5	10	5.5	23	7.5	64.5	D
Virginia	2.5	3.5	11.5	3.5	12	10.5	43.5	F
Washington	6	21.5	13.5	9.5	19.5	10	80	B
West Virginia	2.5	4.5	8.5	2	11.5	9.5	38.5	F
Wisconsin	5	21.5	10.5	6	14.5	7.5	65	D
Wyoming	2.5	4	9	2.5	9	2.5	29.5	F

State Grades | Arranged by Score

	Criminalization of Domestic Minor Sex Trafficking	Criminal Provisions Addressing Demand	Criminal Provisions for Traffickers	Criminal Provisions for Facilitators	Protective Provisions for Child Victims	Criminal Justice Tools for Investigation and Prosecution	Total	Grade
Texas	7	23	14	7	17.5	15	83.5	B
Missouri	7.5	22	12.5	8.5	20.5	11	82	B
Illinois	7.5	16	14	7	25.5	10	80	B
Washington	6	21.5	13.5	9.5	19.5	10	80	B
Minnesota	7.5	15.5	11.5	6.5	20.5	15	76.5	C
Georgia	7.5	22.5	14	4.5	18.5	8	75	C
Tennessee	7.5	20	13	3.5	16.5	12.5	73	C
Florida	4.5	17	14.5	5.5	18	12	71.5	C
Arizona	5	19	13.5	7	13.5	12.5	70.5	C
Louisiana	5	20.5	12.5	9	15.5	7.5	70	C
Alabama	4.5	11	14.5	7	16.5	12.5	66	D
Oklahoma	4.5	13.5	13.5	7	17.5	9.5	65.5	D
Rhode Island	5	22	11.5	7	10.5	9.5	65.5	D
Kentucky	7.5	11	14.5	5.5	16.5	10	65	D
Wisconsin	5	21.5	10.5	6	14.5	7.5	65	D
Vermont	5	13.5	10	5.5	23	7.5	64.5	D
Indiana	3.5	13	10	3	18.5	14.5	62.5	D
Mississippi	5	16	13.5	6	14	7.5	62	D
New Jersey	6	17.5	11	6.5	16	5	62	D
New York	3.5	11.5	11	8.5	18.5	8.5	61.5	D
North Carolina	5	20.5	10	3	15	7.5	61	D
Delaware	5	15.5	10.5	5	17	7.5	60.5	D
Iowa	5	12	11	5.5	17.5	9.5	60.5	D
Ohio	3.5	18	11	4	11.5	12.5	60.5	D
Oregon	2.5	12	13	4	17	12	60.5	D

*In the case of duplicate scores, states are arranged alphabetically.

**See Methodology, Page 17

	<i>Criminalization of Domestic Minor Sex Trafficking</i>	<i>Criminal Provisions Addressing Demand</i>	<i>Criminal Provisions for Traffickers</i>	<i>Criminal Provisions for Facilitators</i>	<i>Protective Provisions for Child Victims</i>	<i>Criminal Justice Tools for Investigation and Prosecution</i>	Total	Grade
Maryland	5	16	10.5	5.5	10.5	11	58.5	F
Colorado	2.5	18.5	11	3.5	15	7.5	58	F
Nevada	2.5	13	13.5	6.5	12.5	10	58	F
District of Columbia	5	16	8.5	6.5	16.5	5	57.5	F
Utah	4.5	9.5	13.5	6	11	12	56.5	F
Montana	3.5	14.5	12.5	6	12	7.5	56	F
New Mexico	5	15	9.5	4.5	12.5	9.5	56	F
Alaska	3.5	5.5	10	9	17.5	10	55.5	F
Pennsylvania	2.5	16	9.5	3	12.5	12	55.5	F
Arkansas	3.5	15	10.5	6	9.5	10	54.5	F
South Dakota	4.5	16	12.5	5.5	6.5	9.5	54.5	F
North Dakota	5	10.5	11	6.5	10.5	10	53.5	F
Idaho	5	14.5	11	3.5	8.5	10	52.5	F
Nebraska	5	14	10	3.5	10.5	9.5	52.5	F
Maine	2.5	15.5	12	2	12.5	7.5	52	F
New Hampshire	7	10	13	2.5	11.5	7	51	F
Kansas	5	8	11	5.5	13.5	7.5	50.5	F
South Carolina	2.5	13.5	10	2.5	12.5	7.5	48.5	F
Connecticut	6	6.5	12.5	4.5	14.5	3.5	47.5	F
Massachusetts	2.5	10.5	8	4	10	10	45	F
Michigan	5	4	8.5	5.5	11.5	10	44.5	F
Virginia	2.5	3.5	11.5	3.5	12	10.5	43.5	F
California	4.5	3	8	2	16	7.5	41	F
Hawaii	2.5	4	10.5	5	11.5	7	40.5	F
West Virginia	2.5	4.5	8.5	2	11.5	9.5	38.5	F
Wyoming	2.5	4	9	2.5	9	2.5	29.5	F

State Grades | Rank by Category

Criminalization of Domestic Minor Sex Trafficking

State	Score (category)	Score (overall)	Grade
Missouri	7.5	82	B
Illinois	7.5	80	B
Minnesota	7.5	76.5	C
Georgia	7.5	75	C
Tennessee	7.5	73	C
Kentucky	7.5	65	D
Texas	7	83.5	B
New Hampshire	7	51	F
Washington	6	80	B
New Jersey	6	62	D
Connecticut	6	47.5	F
Arizona	5	70.5	C
Louisiana	5	70	C
Rhode Island	5	65.5	D
Wisconsin	5	65	D
Vermont	5	64.5	D
Mississippi	5	62	D
North Carolina	5	61	D
Delaware	5	60.5	D
Iowa	5	60.5	D
Maryland	5	58.5	F
District of Columbia	5	57.5	F
New Mexico	5	56	F
North Dakota	5	53.5	F
Idaho	5	52.5	F
Nebraska	5	52.5	F
Kansas	5	50.5	F
Michigan	5	44.5	F
Florida	4.5	71.5	C
Alabama	4.5	66	D
Oklahoma	4.5	65.5	D
Utah	4.5	56.5	F
South Dakota	4.5	54.5	F
California	4.5	41	F
Indiana	3.5	62.5	D
New York	3.5	61.5	D
Ohio	3.5	60.5	D
Montana	3.5	56	F
Alaska	3.5	55.5	F
Arkansas	3.5	54.5	F
Oregon	2.5	60.5	D
Colorado	2.5	58	F
Nevada	2.5	58	F
Pennsylvania	2.5	55.5	F
Maine	2.5	52	F
South Carolina	2.5	48.5	F
Massachusetts	2.5	45	F
Virginia	2.5	43.5	F
Hawaii	2.5	40.5	F
West Virginia	2.5	38.5	F
Wyoming	2.5	29.5	F

Criminal Provisions Addressing Demand

State	Score (category)	Score (overall)	Grade
Texas	23	83.5	B
Georgia	22.5	75	C
Missouri	22	82	B
Rhode Island	22	65.5	D
Washington	21.5	80	B
Wisconsin	21.5	65	D
Louisiana	20.5	70	C
North Carolina	20.5	61	D
Tennessee	20	73	C
Arizona	19	70.5	C
Colorado	18.5	58	F
Ohio	18	60.5	D
New Jersey	17.5	62	D
Florida	17	71.5	C
Illinois	16	80	B
Mississippi	16	62	D
Maryland	16	58.5	F
District of Columbia	16	57.5	F
Pennsylvania	16	55.5	F
South Dakota	16	54.5	F
Minnesota	15.5	76.5	C
Delaware	15.5	60.5	D
Maine	15.5	52	F
New Mexico	15	56	F
Arkansas	15	54.5	F
Montana	14.5	56	F
Idaho	14.5	52.5	F
Nebraska	14	52.5	F
Oklahoma	13.5	65.5	D
Vermont	13.5	64.5	D
South Carolina	13.5	48.5	F
Indiana	13	62.5	D
Nevada	13	58	F
Iowa	12	60.5	D
Oregon	12	60.5	D
New York	11.5	61.5	D
Alabama	11	66	D
Kentucky	11	65	D
North Dakota	10.5	53.5	F
Massachusetts	10.5	45	F
New Hampshire	10	51	F
Utah	9.5	56.5	F
Kansas	8	50.5	F
Connecticut	6.5	47.5	F
Alaska	5.5	55.5	F
West Virginia	4.5	38.5	F
Michigan	4	44.5	F
Hawaii	4	40.5	F
Wyoming	4	29.5	F
Virginia	3.5	43.5	F
California	3	41	F

Criminal Provisions for Traffickers

State	Score (category)	Score (overall)	Grade
Florida	14.5	71.5	C
Alabama	14.5	66	D
Kentucky	14.5	65	D
Texas	14	83.5	B
Illinois	14	80	B
Georgia	14	75	C
Washington	13.5	80	B
Arizona	13.5	70.5	C
Oklahoma	13.5	65.5	D
Mississippi	13.5	62	D
Nevada	13.5	58	F
Utah	13.5	56.5	F
Tennessee	13	73	C
Oregon	13	60.5	D
New Hampshire	13	51	F
Missouri	12.5	82	B
Louisiana	12.5	70	C
Montana	12.5	56	F
South Dakota	12.5	54.5	F
Connecticut	12.5	47.5	F
Maine	12	52	F
Minnesota	11.5	76.5	C
Rhode Island	11.5	65.5	D
Virginia	11.5	43.5	F
New Jersey	11	62	D
New York	11	61.5	D
Iowa	11	60.5	D
Ohio	11	60.5	D
Colorado	11	58	F
North Dakota	11	53.5	F
Idaho	11	52.5	F
Kansas	11	50.5	F
Wisconsin	10.5	65	D
Delaware	10.5	60.5	D
Maryland	10.5	58.5	F
Arkansas	10.5	54.5	F
Hawaii	10.5	40.5	F
Vermont	10	64.5	D
Indiana	10	62.5	D
North Carolina	10	61	D
Alaska	10	55.5	F
Nebraska	10	52.5	F
South Carolina	10	48.5	F
New Mexico	9.5	56	F
Pennsylvania	9.5	55.5	F
Wyoming	9	29.5	F
District of Columbia	8.5	57.5	F
Michigan	8.5	44.5	F
West Virginia	8.5	38.5	F
Massachusetts	8	45	F
California	8	41	F

Criminal Provisions for Facilitators

State	Score (category)	Score (overall)	Grade
Washington	9.5	80	B
Louisiana	9	70	C
Alaska	9	55.5	F
Missouri	8.5	82	B
New York	8.5	61.5	D
Texas	7	83.5	B
Illinois	7	80	B
Arizona	7	70.5	C
Alabama	7	66	D
Oklahoma	7	65.5	D
Rhode Island	7	65.5	D
Minnesota	6.5	76.5	C
New Jersey	6.5	62	D
Nevada	6.5	58	F
District of Columbia	6.5	57.5	F
North Dakota	6.5	53.5	F
Wisconsin	6	65	D
Mississippi	6	62	D
Utah	6	56.5	F
Montana	6	56	F
Arkansas	6	54.5	F
Florida	5.5	71.5	C
Kentucky	5.5	65	D
Vermont	5.5	64.5	D
Iowa	5.5	60.5	D
Maryland	5.5	58.5	F
South Dakota	5.5	54.5	F
Kansas	5.5	50.5	F
Michigan	5.5	44.5	F
Delaware	5	60.5	D
Hawaii	5	40.5	F
Georgia	4.5	75	C
New Mexico	4.5	56	F
Connecticut	4.5	47.5	F
Ohio	4	60.5	D
Oregon	4	60.5	D
Massachusetts	4	45	F
Tennessee	3.5	73	C
Colorado	3.5	58	F
Idaho	3.5	52.5	F
Nebraska	3.5	52.5	F
Virginia	3.5	43.5	F
Indiana	3	62.5	D
North Carolina	3	61	D
Pennsylvania	3	55.5	F
New Hampshire	2.5	51	F
South Carolina	2.5	48.5	F
Wyoming	2.5	29.5	F
Maine	2	52	F
California	2	41	F
West Virginia	2	38.5	F

State Grades | Rank by Category

Protective Provisions for Child Victims

State	Score (category)	Score (overall)	Grade
Illinois	25.5	80	B
Vermont	23	64.5	D
Missouri	20.5	82	B
Minnesota	20.5	76.5	C
Washington	19.5	80	B
Georgia	18.5	75	C
Indiana	18.5	62.5	D
New York	18.5	61.5	D
Florida	18	71.5	C
Texas	17.5	83.5	B
Oklahoma	17.5	65.5	D
Iowa	17.5	60.5	D
Alaska	17.5	55.5	F
Delaware	17	60.5	D
Oregon	17	60.5	D
Tennessee	16.5	73	C
Alabama	16.5	66	D
Kentucky	16.5	65	D
District of Columbia	16.5	57.5	F
New Jersey	16	62	D
California	16	41	F
Louisiana	15.5	70	C
North Carolina	15	61	D
Colorado	15	58	F
Wisconsin	14.5	65	D
Connecticut	14.5	47.5	F
Mississippi	14	62	D
Arizona	13.5	70.5	C
Kansas	13.5	50.5	F
Nevada	12.5	58	F
New Mexico	12.5	56	F
Pennsylvania	12.5	55.5	F
Maine	12.5	52	F
South Carolina	12.5	48.5	F
Montana	12	56	F
Virginia	12	43.5	F
Ohio	11.5	60.5	D
New Hampshire	11.5	51	F
Michigan	11.5	44.5	F
Hawaii	11.5	40.5	F
West Virginia	11.5	38.5	F
Utah	11	56.5	F
Rhode Island	10.5	65.5	D
Maryland	10.5	58.5	F
North Dakota	10.5	53.5	F
Nebraska	10.5	52.5	F
Massachusetts	10	45	F
Arkansas	9.5	54.5	F
Wyoming	9	29.5	F
Idaho	8.5	52.5	F
South Dakota	6.5	54.5	F

Tools for Investigation and Prosecution

State	Score (category)	Score (overall)	Grade
Texas	15	83.5	B
Minnesota	15	76.5	C
Indiana	14.5	62.5	D
Tennessee	12.5	73	C
Arizona	12.5	70.5	C
Alabama	12.5	66	D
Ohio	12.5	60.5	D
Florida	12	71.5	C
Oregon	12	60.5	D
Utah	12	56.5	F
Pennsylvania	12	55.5	F
Missouri	11	82	B
Maryland	11	58.5	F
Virginia	10.5	43.5	F
Illinois	10	80	B
Washington	10	80	B
Kentucky	10	65	D
Nevada	10	58	F
Alaska	10	55.5	F
Arkansas	10	54.5	F
North Dakota	10	53.5	F
Idaho	10	52.5	F
Massachusetts	10	45	F
Michigan	10	44.5	F
Oklahoma	9.5	65.5	D
Rhode Island	9.5	65.5	D
Iowa	9.5	60.5	D
New Mexico	9.5	56	F
South Dakota	9.5	54.5	F
Nebraska	9.5	52.5	F
West Virginia	9.5	38.5	F
New York	8.5	61.5	D
Georgia	8	75	C
Louisiana	7.5	70	C
Wisconsin	7.5	65	D
Vermont	7.5	64.5	D
Mississippi	7.5	62	D
North Carolina	7.5	61	D
Delaware	7.5	60.5	D
Colorado	7.5	58	F
Montana	7.5	56	F
Maine	7.5	52	F
Kansas	7.5	50.5	F
South Carolina	7.5	48.5	F
California	7.5	41	F
New Hampshire	7	51	F
Hawaii	7	40.5	F
New Jersey	5	62	D
District of Columbia	5	57.5	F
Connecticut	3.5	47.5	F
Wyoming	2.5	29.5	F

Methodology

The purpose of the Protected Innocence Legislative Framework is to elaborate the key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking. These principles, as elaborated above, are eliminating demand, prosecuting the traffickers, identifying the victims, and providing protection, access to services, and shelter for victims. These principles can be grouped into six areas of law:

1. Criminalization of Domestic Minor Sex Trafficking
2. Criminal Provisions Addressing Demand
3. Criminal Provisions for Traffickers
4. Criminal Provisions for Facilitators
5. Protective Provisions for the Child Victim
6. Criminal Justice Tools for Investigation and Prosecution

Each area of law may have several laws that affect the policy within the state's code. As such, specific questions must be asked to determine whether state laws sufficiently address the policy need.

Analysis

Each state will be graded on the basis of the following points of law:

1. Criminalization of Domestic Minor Sex Trafficking

- 1.1 The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.

Note: The vast majority of states have human trafficking laws. Within these statutes, however, there are variations in coverage; some do not expressly cover the sex trafficking of minors. State human trafficking laws that are consistent with each other and with federal law in scope and penalty will prevent migration of the crime to more lenient states or onto tribal lands, many of which are close to densely populated areas and contain attractions for this activity, such as casinos.

- 1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

Note: In the absence of a clear and specific child sex trafficking statute, CSEC laws become critical to punish the crime of commercial sexual exploitation of a child. CSEC statutes are those that make the sexual exploitation of a minor a criminal offense. These offenses range from prostitution to live or recorded sexual performance. Also, sexual offenses can be committed in the course of commercial sexual exploitation and, in some cases, establish the predicate offense for certain trafficking or CSEC offenses. Sexual offense statutes may also be used to prosecute CSEC offenses, although this is not preferred due to the potential resulting failure to identify the victim as a trafficking or CSEC victim.

- 1.3 CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

Note: Language referring to human trafficking is necessary to ensure that CSEC victims are properly identified as human trafficking victims and thus may access the protections and benefits outlined under federal and some state statutes. This is also necessary to further the collection of data on human trafficking, which is critical to countering domestic minor sex trafficking.

2. Criminal Provisions Addressing Demand

- 2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Note: Language capturing the entire trafficking circle from trafficker to buyer to victim is necessary to mount a comprehensive attack on domestic minor sex trafficking.

- 2.2 Buyers of commercial sex acts with a minor can be prosecuted under CSEC laws.

Note: Anti-demand provisions are critical. State laws on commercial sex abuse of a minor, child prostitution, commercial sexual exploitation of minor, etc. must cover the crime of buying sex with a minor. These provisions will ideally refer to the human trafficking statute to make it clear that buying sex with a minor is domestic minor sex trafficking.

2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.

Note: This can be accomplished by amending traditional solicitation and prostitution laws to make them inapplicable to buying sex with a minor along with amending CSEC or trafficking laws to ensure that buyers of sex acts with minors are included. This is important to ensure that crimes of domestic minor sex trafficking are separated from crimes of solicitation and/or prostitution and that buyers are never allowed to proceed with diversion programs, such as a “John School” or other treatment programs.

2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.⁸ Consistency in sentencing between states will prevent the crime from migrating to more lenient states. Also, stiff penalties are just and are critical to deter demand.

2.5 Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

Example: La. Rev. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) contains a provision within the criminal statute on trafficking children for sexual purposes stating simply that “[l]ack of knowledge of the victim’s age shall not be a defense to a prosecution” under this law.

2.7 Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.⁹ State laws that set lower criminal penalties for sexual offenses against older minors are ignoring the definition of a minor and perpetuating the false perception that a victim aged 16 or 17 is a lesser victim. This, however, is not to be confused with enhanced penalties for offenses against a minor below a certain age that are considered especially egregious. For example, 18 U.S.C. § 1591 provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14.¹⁰

2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

Note: Meaningful fines, asset forfeiture, restitution and fees can make it difficult for buyers to hide the crime they have committed from family and community. Directing the fines to a dedicated account can simultaneously offset the costs of investigating, prosecuting, and restoring the victims of the crime. Impound fees must be significant to act as a deterrent.

Example: Wash. Rev. Code Ann. §§ 9A.88.140(2), (4)(a), 43.63A.740 mandates the impounding of vehicles used to commit commercial sex abuse of a minor if owned or rented by the defendant and raises the fee to release the car from \$500 to \$2,500, which will be deposited into the Prostitution Prevention and Intervention Account to provide funding for, among other things, programs for minor victims who have been diverted for a prostitution offense and services in secure and semi-secure crisis residential shelters for victims of commercial sexual abuse.

2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

Note: Child pornography is defined in federal law as any visual depiction involving the use of a minor engaging in sexually explicit conduct, or a visual depiction that has been created or modified to appear as a minor engaging in sexually explicit conduct.¹¹ Child pornography is actually an image of sexual abuse perpetrated on a child. The most common forum for child pornography today is the Internet and once images are on the Internet, they cannot be removed completely and can continue to circulate revictimizing the child each time they are viewed. Child pornography is also frequently encountered in combination with other sexual offenses against children and may serve as a gateway to acting out the images of sexual abuse on children.¹² Therefore, possessing child pornography should be viewed as a serious crime meriting meaningful prosecution.¹³

2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

Note: The exchange of money or something of value does not sanitize the buyer of commercial sex with a minor from the sex offender registration requirements; domestic minor sex trafficking is a sexual offense. Buyers convicted of human trafficking with a sexual purpose or of a CSEC offense should be required to register as sex offenders.

⁸ 18 U.S.C. § 1591(a), (b)(2).

⁹ *Id.*

¹⁰ *Id.* § 1591(a), (b)(1).

¹¹ *Id.* § 2256.

¹² ALEXANDRA GELBER, U.S. DEP'T OF JUSTICE, CHILD EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION, RESPONSE TO “A RELUCTANT REBELLION” 5–6 (2009), available at <http://www.justice.gov/criminal/ceos/ReluctantRebellionResponse.pdf>.

¹³ *Id.* at 14–15.

3. Criminal Provisions for Traffickers

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.
- 3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.
- 3.3 Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

Example: Va. Code Ann. §18.2-374.3 makes it a Class 6 felony punishable by 1–5 years' imprisonment, or one year in jail and a possible fine up to \$2500, to use the Internet to procure or to promote the use of a minor under 15 in a sexual performance or to lure or entice a child into an illegal sexual interaction. Amending this to raise the age to under 18 and raise the penalty to the levels of a trafficking crime would make this a beneficial law to counter the growing abuse of the Internet to commit sex trafficking.

- 3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

Note: Financial penalties may include asset forfeiture, restitution, and fines for the crimes of human trafficking and commercial sexual exploitation of children. Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by the convicted trafficker. Asset forfeiture laws have been very effective in fighting drug trafficking¹⁴ and should be viewed as an effective tool in the fight against domestic minor sex trafficking. Asset forfeiture is commonly tied to Racketeer Influenced and Corrupt Organizations (RICO) statutes in many states and thus requires prosecutors to charge these crimes in addition to human trafficking. Restitution is important to provide victims of sex trafficking with the funds to access treatment and to restart their lives. States should follow the federal model of requiring restitution for all victims of human trafficking¹⁵ and CSEC. Lastly, meaningful mandatory fines can be a deterrent and help to fund the programs necessary to serve victims.

- 3.5 Convicted traffickers are required to register as sex offenders.
- 3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.

Note: Traffickers may impregnate their victims, including minor victims, with the intent of maintaining control. The effect is to have second generation victims within a criminal "family." Breaking the bonds between victim and pimp include freeing their child from a continuing relationship with the trafficker parent. Also, children of traffickers can become victims of trafficking at the hands of their trafficker-parents.

4. Criminal Provisions for Facilitators

- 4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

Note: Facilitators are those people or entities that knowingly enable domestic minor sex trafficking or benefit from sex trafficking in any way. State sex trafficking laws must also make the act of facilitation a crime.

- 4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

Note: Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by a person or an entity convicted of knowingly benefitting from sex trafficking, such as hotels or online classified businesses.

- 4.3 Promoting and selling child sex tourism is illegal.

Note: Businesses and individuals selling travel based on or containing components of commercial sexual exploitation of children are committing the crime of child sex tourism and driving demand for sex with children. Laws prohibiting child sex tourism should apply to a natural person as well as a corporation, and the penalty prescribed for the crime must be sufficiently serious to present substantial risk and deterrence, and should be comparable with the gravity of the crime.

Example: Wash. Rev. Code Ann. § 9.68A.102 (Promoting travel for commercial sexual abuse of a minor) states, "(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state." The law makes the offense a felony.

- 4.4 Promoting and selling child pornography is illegal.

¹⁴ Asset Forfeiture, U.S. DRUG ENFORCEMENT ADMIN., <http://www.justice.gov/dea/programs/af.htm> (last visited Sept. 21, 2011).
¹⁵ 18 U.S.C. § 1593.

5. Protective Provisions for the Child Victims

- 5.1 A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.

Note: Language defining a minor who has been used in a commercial sex act (prostitution, pornography, or sexual performance) as a victim of sex trafficking or CSEC can lead to improved identification and responses at all levels.

- 5.2 The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Note: Many states allow a minor to consent to sex at an age lower than the age of majority. But a minor used in a commercial sex act is a victim of adult criminal behavior; the child's consent, therefore, cannot mitigate such acts. For this reason, consent must not be used as a defense to the crime of domestic minor sex trafficking.

Example: La. Rev. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) stipulates that "C. (1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section."

- 5.3 Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.

Note: This is consistent with defining a minor in prostitution as a victim of domestic minor sex trafficking. This also establishes that a prostituted minor will not be charged as an offender, in either juvenile or adult criminal court, but rather, will be protected as a victim.

Example: Illinois's Safe Children Act, Public Act 96-1464, amended 720 Ill. Comp. Stat. Ann. 5/11-14 (Prostitution) to make a minor under 18 immune from prosecution for prostitution. Upon identifying a minor in prostitution, law enforcement must report an allegation of trafficking to the Illinois Department of Children and Family Services, which must conduct an initial investigation into child abuse or neglect within 24 hours.

Example: Tennessee Senate Bill 64 (107th General Assembly, 2011) makes minors immune from prosecution for prostitution by amending Tenn. Code Ann. § 39-13-513 (Prostitution) to state, "(d) Notwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the national human trafficking resource center hotline and release the minor to the custody of a parent or legal guardian."

- 5.4 Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.

Note: Establishing a child protection response is critical to ending the arrest and detention of domestic minor sex trafficking victims and ensuring instead that they are provided crime victim protections, services, and benefits. Protective shelter is far preferable to the current practice of charging the minor with an offense in order to detain him or her for his or her own safety and to assist in investigating a criminal case. Service providers struggle with case management when these victims must be placed in inappropriate places, such as ill-equipped foster care, group homes, and detention facilities, or they are returned to poor home environments. Laws are needed to establish and financially support residential programs to treat domestic minor sex trafficking victims in three stages: intervention, restoration, and transitional living. Debate exists over the level of security in and duration of these placements, as well as the size and location of such shelters; however, agreement exists as to the need for a variety of approaches from long-term shelters to home-based care to specialty foster homes, etc.

Example: Washington Senate Bill 6476, signed into law in 2010, amended Wash. Rev. Code Ann. § 13.32A.030(5)(d) (Definitions—Regulating leave from semi-secure facility), and provided for referring and placing domestic minor sex trafficking victims into the child protective services instead of the criminal justice system. Beginning July 1, 2011, the "Child in Need of Services" (CHINS) petition may be used to temporarily detain a sexually exploited child in a secure or semi-secure crisis residential center (CRC) for up to 15 days, without criminal charges. As a condition of licensing, each CRC must have staff experienced in working with child sexual exploitation victims.

Example: Illinois's Safe Children Act, Public Act 96-1464, 325 Ill. Comp. Stat. Ann. 5/3 and 325 Ill. Comp. Stat. Ann. 5/5, transfers jurisdiction over minors arrested for prostitution from the criminal system to the child protection system. The law facilitates the minor's placement in temporary protective custody if necessary, including custody within a hospital or other medical facility or designated place (which may be a licensed foster home, group home or other institution) by the Department of Children and Family Services, subject to review by the judge. Temporary protective custody may not be in a jail or criminal or juvenile detention facility.

- 5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

Note: Expanding or interpreting the definition of "abuse and neglect" in the child protection statutes to include sex trafficking and commercial sexual exploitation would allow child protective services to include it as a specific type of maltreatment and bring situations of domestic minor sex trafficking within the investigative and protective functions of child protective services.

- 5.6 The definition of "caregiver" (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.

Note: Child protective services is often precluded from intervening in a case of non-familial domestic minor sex trafficking because the agency's mandate is limited to cases in which a parent or legal guardian is the cause of danger to the child. Defining such a person to include the person in custody or control of a minor, such as a trafficker, can bring greater protections to domestic minor sex trafficking victims through the intervention of child protective services.

5.7 Crime victims' compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.

Note: Ineligibility criteria contained in state crime victims' compensation programs often result in child sex trafficking victims being denied funds. Victims may be determined ineligible due to, among other things, their "involvement in the underlying crime" for which they are claiming the compensation, i.e. prostitution, or for failure to cooperate in a law enforcement investigation. This must be remedied with direct language specifically identifying these minors as victims.

Example: In Washington, Wash. Rev. Code Ann. § 7.68.060, the state crime victims' compensation applicability statute, was amended to specifically consider the minor in the charges of commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.100, promoting commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.101, or promoting travel for commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.102, as a victim of a criminal act for the purpose of the right to benefits, even if the minor is also charged with prostitution.

5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Note: Trauma reduction tools can increase the victim's successful participation through safety and protection. Some examples include:

- a. Court appointment of an attorney for the domestic minor sex trafficking victim, serving, as appropriate, as the child's legal counsel or as a guardian ad litem, could help protect the child from court system-related trauma and help better assure that their rights and legal interests were protected.
- b. Victim-witness coordinators, who have received training on child trafficking issues, are needed to shepherd the domestic minor sex trafficking victims and families through the criminal justice process.
- c. Rape shield laws limit a defendant's ability to cross-examine victims about their past sexual behavior.
- d. Prohibition on publication of an alleged rape victim's identity.
- e. Closed courtrooms for minor victim testimony can help with the problem of intimidation by defendant traffickers' friends and family packing the courtroom.
- f. Closed circuit television testimony can reduce re-traumatization of a domestic minor sex trafficking victim and assist in securing his or her testimony against an offender.

5.9 Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

Note: Victims of domestic minor sex trafficking (and adult sex trafficking) report being hampered in attempts to restore their lives through employment or education because they have criminal records. Criminal records can prevent survivors from obtaining academic scholarships, securing certain employment, and working with children in some cases. Saddling the victim of sex trafficking with a criminal record is contrary to his or her legal definition as a victim and can inhibit full reintegration into the community.

5.10 Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.

Note: Criminal restitution is an important part of the punishment for a convicted offender of trafficking and can provide funds for a victim to recover from the victimization. Restitution should be mandatory in any case of domestic minor sex trafficking and a means of calculating the typically unquantifiable costs of the victimization should be determined in the law. As an example, criminal restitution is mandated in the federal trafficking law.¹⁶ Often though, criminal cases are not pursued, or a convicted offender is not able to pay the restitution. Therefore, victims of domestic minor sex trafficking must be allowed to pursue civil remedies for the damages they have suffered as a result of the victimization. These might include compensatory damages, attorney's fees, and punitive damages. The continuing effects of sex trafficking on a young person can lead to future medical costs and other costs as they regain control over their life. Opportunities to access both criminal restitution and civil damages are means to pay for these needs.

Example: Civil remedies are available specifically in cases of trafficking in persons through Conn. Gen. Stat § 52-571i (Action for damages resulting from trafficking in persons), which states, "Any person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney's fee."

¹⁶ U.S.C. §§ 1593(b)(1), (b)(3), 2259(b)(4).

Example: Offenders convicted of violating Vt. Stat. Ann. tit.13, § 2652(a) (Human trafficking), tit. 13, § 2653(a) (Aggravated human trafficking), or tit. 13, § 2655(a) (Solicitation) are required to pay restitution to their victims under Vt. Stat. Ann. tit. 13, § 2657 (Restitution), which states,

(a) A person convicted of a violation of this subchapter [Human trafficking] shall be ordered to pay restitution to the victim pursuant to section 7043 [Restitution] of this title.

(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim's heir or legal representative, provided that the heir or legal representative has not benefited in any way from the trafficking.

(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim's right to receive restitution pursuant to this section.

Vt. Stat. Ann. tit. 13, § 2662 (Private cause of action) authorizes victims of human trafficking to bring a civil claim against their offenders, stating,

(a) A victim of human trafficking may bring an action against the offender in the civil division of the superior court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may include any loss for which restitution is available under section 2657 [Restitution] of this chapter.

(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court, provided that the legal guardian, family member, or other representative appointed by the court has not benefited in any way from the trafficking.

(c) In a civil action brought under this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Note: Because of the traumatic effects of sex trafficking on a child, lengthening or eliminating the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes and the injurious effects on the person is important to allow the victims full access to justice. It is preferable to follow the federal model of eliminating the statute of limitations altogether in criminal actions for sex crimes involving children.¹⁷

Example: Alaska Stat. § 09.10.065(a) (Commencement of actions for acts constituting sexual offenses) provides that "(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses: (1) felony sexual abuse of a minor; (2) felony sexual assault; or (3) unlawful exploitation of a minor."

6. Criminal Justice Tools for Investigation and Prosecution

6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.

Note: Laws requiring the development of training materials and training of law enforcement officers are important to the response to domestic minor sex trafficking victims. Due to the unique conditions of DMST, specialized training is ideal; however, this training might be combined with general human trafficking training. Training in victim identification, the definition of domestic minor sex trafficking, investigative techniques, and victim-witness management is critical to increased identification of and improved responses to the victims. Training has resulted in demonstrable increases in investigations of domestic minor sex trafficking in places like San Antonio, Texas and Chicago, Illinois.

Example: Pursuant to Fla. Stat. Ann. § 787.06(4) (Human Trafficking), "[t]he Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes." Also, "[a]fter January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation."

6.2 Single party consent to audiotaping is permitted in law enforcement investigations

Note: Two-party consent to audio-taped conversations makes undercover domestic minor sex trafficking investigations difficult. Allowing for single-party consent empowers law enforcement to more efficiently investigate and better prepare cases for prosecution.

Example: S.C. Code Ann. § 17-30-30(B) (Interception by employee of Federal Communications Commission, by person acting under color of law, and where party has given prior consent) permits single-party consent to audiotaping. It states, "It is lawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception." Subsection (C) states, "It is lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception."

¹⁷ Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (PROTECT Act), Pub. L. No. 108-21, § 202, 117 Stat. 650, 660 (codified as amended at 18 U.S.C. § 3283).

6.3 Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.

Note: Access to wiretapping can be a decisive factor in initiating domestic minor sex trafficking investigations. The evidence obtained can lead to better evidence for prosecution and alleviate the need for victim testimony in domestic minor sex trafficking cases. The growing use of text messages to perpetrate sex trafficking makes it even more important to allow access to wiretapping in these investigations as text messages are considered interceptions of wire communications governed by wiretapping laws.

Example: The Illinois Safe Children Act, Public Act 96-1464, amended 720 Ill. Comp. Stat. Ann. 5/14-3 (Exemptions) to add human trafficking and pimping of a minor to the list of crimes that may be subject to court-ordered interceptions under judicial supervision. Evidence collected through wiretapping is admissible in civil, criminal, and administrative proceedings.

6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.

Example: Ariz. Rev. Stat. § 13-3212(C) (Child prostitution) prohibits a defense to prosecution for selling a minor in prostitution or for buying sex with a minor under 15, or one the defendant knows is under 18, based on the fact “that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”

Example: 18 Pa. Cons. Stat. § 6318(a) (Unlawful contact with minor) states, “A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth: . . . (3) Prostitution as defined in section 5902 (relating to prostitution and related offenses). (4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances). . . . 6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).”

6.5 Using the Internet to investigate buyers and traffickers is a permissible investigative technique.

6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

Note: Identifying the missing and exploited child leads to identifying the domestic minor sex trafficking victim and provides an opportunity to intervene. The National Crime Information Center (NCIC), a computerized index of criminal justice information, relies on the entry of reports of missing and exploited children by local law enforcement. Also, immediate reporting to local police, the NCIC, and the National Center for Missing and Exploited Children (NCMEC) whenever a child goes missing is critical to identification and intervention, especially given the high correlation between missing children and trafficked children.¹⁸ At the same time, it is critical that first responders check the NCIC database and report to NCMEC whenever any domestic minor sex trafficking victim is rescued to see if the victim has been entered into those systems as a reported missing child.

Grading

The Protected Innocence Legislative Framework will assign a point value of 0 to 2.5 based on a written point allocation scheme accounting for the critical elements of each of the components of law discussed above. The points will be totaled for each of the six areas of law. The six totals will be added to determine the final number for each state, which will translate to the corresponding letter grade as follows:

A		90 - 100
B		80 - 89
C		70 - 79
D		60 - 69
F		< 60

These letter grades will reflect the level of protection available through law in a domestic minor sex trafficking case in the respective state. A short analysis of each state’s legislation will follow with recommendations.

It is important to note that the methodology looks solely at the laws in place in a given state and their de jure compliance with the Protected Innocence Legislative Framework at the time of the review. This analysis does not review how states enforce or implement their laws, though enforcement is critically important. Where obtained, statistics that demonstrate enforcement are noted in the state analysis but are not considered in the grade a state receives due to the inconsistency in content, collection, and maintenance of statistical data from state to state. A de facto assessment may be undertaken through the Shared Hope International Rapid Assessment of Domestic Minor Sex Trafficking Methodology and Tool, developed and implemented in fourteen locations around the country with funding from the U.S. Department of Justice (see www.sharedhope.org/Resources/Research.aspx).

¹⁸ SARA ANN FRIEDMAN, ECPAT-USA, INC., WHO IS THERE TO HELP US? HOW THE SYSTEM FAILS SEXUALLY EXPLOITED GIRLS IN THE UNITED STATES: EXAMPLES FROM FOUR AMERICAN CITIES 3 (2005), available at <http://ecpatusa.org/wp-content/uploads/2010/11/Who-Is-There-to-Help-Us.pdf>.

Issue Briefs

Section 1 | Criminalization of Domestic Minor Sex Trafficking

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 1.1

<p>Area of Law</p>	<p>Criminalization of Domestic Minor Sex Trafficking</p>
<p>The Policy Point</p>	<p>The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.</p>
<p>The Legislative Solution</p>	<p>The vast majority of states have human trafficking laws; however, within these statutes there are variations in coverage. States must enact human trafficking laws that are consistent with each other and federal law in scope and penalty so as to prevent migration of trafficking crimes to more lenient states or onto tribal lands. First, human trafficking laws must clearly address the crime of sex trafficking for the purposes of prosecution and victim identification. To ensure identification of sexually exploited children as victims and to prevent traffickers from escaping criminal liability through manufactured evidence of consent, all minors under the age of 18 should be deemed unable to consent to involvement in commercial sex acts, thus rendering the element of force, fraud or coercion irrelevant in domestic minor sex trafficking cases. Many state statutes accomplish this goal through the use of the words “any means” when addressing sex trafficking of minors under 18. Enacting laws that specifically criminalize trafficking of minors for commercial sexual exploitation without requiring proof of force, fraud or coercion is necessary to facilitate the prosecution of purchasers, traffickers and facilitators of commercial sex acts with children.</p>

Select Statute Highlights

The following are excerpts from statutes with the following: (1) language specifically criminalizing the commercial sexual exploitation of children or prostitution of children; (2) define a “minor” as a child under the age of 18; and (3) do not require elements of force, fraud or coercion to accomplish the trafficking.

Delaware

Del. Code Ann. tit. 11, § 787 (Trafficking of persons and involuntary servitude) makes sexual servitude of a minor a crime. Del. Code Ann. tit. 11, § 787(b)(2) provides, “[a] person is guilty of sexual servitude of a minor when the person knowingly: a. Recruits, entices, harbors, transports, provides or obtains by any means, a minor under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of pornography; or b. Causes a minor to engage in commercial sexual activity or a sexually explicit performance.”

D.C.

D.C. Code § 22-1834(a) (Sex trafficking of children) states, “It is unlawful for an individual or a business knowingly to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person who will be caused as a result to engage in a commercial sex act knowing or in reckless disregard of the fact that the person has not attained the age of 18 years.”

Louisiana

A separate statute makes sex trafficking of children a crime without regard to use of force, fraud, or coercion when a minor under 18 is used in a commercial sex act. La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) states, “A. It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity. (2) For any person to knowingly benefit from activity prohibited by the provisions of this Section. (3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor

entering into any activity prohibited by the provisions of this Section. (4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person. (5) For any person to knowingly advertise any of the activities prohibited by this Section. B. For purposes of this Section, (1) “commercial sexual activity” means any sexual act performed or conducted when anything of value has been given, promised, or received by any person.”

Nebraska

Neb. Rev. Stat. § 28-831(2) (Human trafficking; forced labor or services; prohibited acts; penalties) provides, “No person shall knowingly recruit, entice, harbor, transport, provide, or obtain by any means or attempt to recruit, entice, harbor, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography. . . .” A minor is defined as “a person younger than 18 years of age.” Neb. Rev. Stat. § 28-830(7). Commercial sexual activity is “any sex act on account of which anything of value is given, promised to, or received by any person.” Neb. Rev. Stat. § 28-830(2).

Wisconsin

Wis. Stat. § 948.051 (Trafficking of a child) states, “(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), or sexually explicit performance is guilty of a Class C felony. (2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1). (3) Any person who incurs an injury or death as a result of a violation of sub. (1) or (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.” For the purpose of this law, a child is defined as “a person who has not attained the age of 18 years.” Wis. Stat. § 948.01(1). Commercial sex acts are “sexual contact for which anything of value is given to, promised, or received, directly or indirectly by any person.” Wis. Stat. § 940.302(1)(a).

<p>Area of Law</p>	<p>Criminalization of Domestic Minor Sex Trafficking</p>
<p>The Policy Point</p>	<p>Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.</p>
<p>The Legislative Solution</p>	<p>CSEC statutes are those that make specific types of exploitation of a minor a criminal act. While sexual offense laws could be utilized to prosecute some CSEC offenses, the enactment and use of specific CSEC laws is a better method for addressing these offenses and identifying victims. Additionally, sexual offense laws may not be broad enough to cover all types of conduct constituting CSEC offenses. These range from soliciting a minor for commercial sex acts to promoting prostitution of a minor to creating a live or recorded sexual performance of a minor. To protect victims and provide a means for prosecuting all CSEC perpetrators, states should enact CSEC statutes to criminalize the entire range of potential CSEC conduct, and minors victimized through these crimes should expressly be identified as CSEC victims.</p>

Select Statute Highlights

Colorado

Within Article 7 (Offenses Related to Morals) of Title 18 (Criminal Law), a comprehensive range of CSEC crimes is codified in Part 4 (Child Prostitution).

Colo. Rev. Stat. § 18-6-403(3) (Sexual exploitation of a child) states, “A person commits sexual exploitation of a child if, for any purpose, he or she knowingly: (a) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the making of any sexually exploitative material; or . . . (d) Causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing a performance.”

Colo. Rev. Stat. § 18-6-404 (Procurement of a child for sexual exploitation) provides, “Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of sexual exploitation of a child commits procurement of a child for sexual exploitation, which is a Class 3 felony.”

Colo. Rev. Stat. § 18-7-402(1) (Soliciting for child prostitution) makes it a crime when any person “(a) Solicits another for the purpose of prostitution of a child or by a child; (b) Arranges or offers to arrange a meeting of persons

for the purpose of prostitution of a child or by a child; or (c) Directs another to a place knowing such direction is for the purpose of prostitution or a child or by a child.”

Colo. Rev. Stat. § 18-7-403(1) (Pandering of a child) provides, “Any person who does any of the following for money or other thing of value commits pandering of a child: (a) Inducing a child by menacing or criminal intimidation to commit prostitution; or (b) Knowingly arranging or offering to arrange a situation in which a child may practice prostitution.”

Colo. Rev. Stat. § 18-7-403.5 (Procurement of a child) provides, “Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available, to another person a child for the purpose of prostitution of the child commits procurement of a child, which is a Class 3 felony.”

Colo. Rev. Stat. § 18-7-404(1) (Keeping a place of a child prostitution) states, “Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of child prostitution if he: (a) Knowingly grants or permits the use of such place for the purpose of prostitution of a child or by a child; or (b) Permits the continued use of such place for the purpose of prostitution of a child or by a child after becoming aware of facts or circumstances from which he should reasonable know that the place is being used for purposes of such prostitution.”

Colo. Rev. Stat. § 18-7-405 (Pimping of a child) makes it a Class 3 felony when a person “knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution”

Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child) provides, “Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child, as defined in § 18-7-401(6) or (7); or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Wash. Rev. Code § 9.68A.103 (Permitting commercial sexual abuse of a minor) states “[a] person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.”

Washington

A series of criminal CSEC laws in the Washington code make criminal a range of actions to commit CSEC.

Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) states, “(1) A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee. (2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.” Wash. Rev. Code § 9.68A.100(4) defines “sexual conduct” as “sexual intercourse or sexual contact.”

Wash. Rev. Code § 9.68A.101 (Promoting commercial sexual abuse of a minor) makes it a crime to “knowingly advance[] commercial sexual abuse of a minor or profit[] from a minor engaged in sexual conduct” by “caus[ing] or aid[ing] a person to commit or engage in commercial sexual abuse of a minor, procur[ing] or solicit[ing] customers for commercial sexual abuse of a minor, provid[ing] persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operat[ing] or assist[ing] in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engage[ing] in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor” The provision specifically limits application to situations in which the offender is “acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor.”

SECTION 1.3

<p>Area of Law</p>	<p>Criminalization of Domestic Minor Sex Trafficking</p>
<p>The Policy Point</p>	<p>CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.</p>
<p>The Legislative Solution</p>	<p>CSEC and prostitution laws that refer to the state sex trafficking law would enable identification of CSEC victims as trafficking victims and ensure that prostituted minors can access the protections and benefits under federal and state statutes for trafficking victims. Such reference to the trafficking statute is also necessary to track violations and convictions under the trafficking law and to track the number of domestic minor sex trafficking victims in order to better understand the severity of the problem and ways in which to counter it. In order to accomplish these goals, CSEC laws must be amended to refer to the state sex trafficking law.</p>

Select Statute Highlights

The following state CSEC laws refer to the state or federal human trafficking statute.

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14(d) (Prostitution) refers to Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses) stating, “Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section [Prostitution] is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 [Trafficking in persons, involuntary servitude, and related offenses] of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.”

New Jersey

N.J. Stat. Ann. §2C:34-1(e) (Prostitution and related offenses) refers to New Jersey’s human trafficking law by providing an affirmative defense to prosecutions a follows: “It is an affirmative defense to prosecution for a violation of this section [Prostitution] that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking pursuant to section 1 of P.L.2005, c. 77 (C.2C:13-8).”

Texas

Tex. Penal Code Ann. § 43.02 (Prostitution) refers to Tex. Penal Code Ann. § 20A.02 (Trafficking of persons) by stating that it “is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02.”

Washington

Wash. Rev. Code § 13.40.219 (Arrest for prostitution or prostitution loitering) within the Juvenile Justice Act states in part that in any juvenile proceeding “related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code [the federal Trafficking Victims Protection Act of 2000 (TVPA), as amended], and that the alleged offender is also a victim of commercial sex abuse of a minor.”

Issue Briefs

Section 2 | Criminal Provisions Addressing Demand

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.
The Legislative Solution	Demand for commercial sex acts with young people is the driving force behind the child sex trafficking industry. However, the men who demand and purchase sex acts with minors often remain nameless and faceless and are frequently referred to by the innocuous term, “johns” or not arrested at all. Many state sex trafficking laws fail to include the criminal actions of buyers, leaving out a critical element of the crime of sex trafficking, and ignoring the importance of criminal deterrence necessary to combat child sex trafficking. Also, a failure to make the actions of the buyer a crime under a serious, specific criminal statute guarantees that the investigation and prosecution of these crimes will not rise in priority status, as they continue to be viewed as a mere “vice” crime or “quality of life” crime, rather than the rape and sexual abuse of a child which child sex trafficking actually is. It is therefore critically important that states enact human trafficking laws that apply to the criminal actions of buyers and attempted buyers of sex acts with minors.

Select Statute Highlights

Indiana

Indiana’s human trafficking law applies to the crime of purchasing sex acts with minors who have been forced into prostitution. Ind. Code Ann. § 35-42-3.5-1(c) (Human trafficking), states, “A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into: (1) forced labor; (2) involuntary servitude; or (3) prostitution; commits human trafficking, a Class C felony.”

Louisiana

Louisiana has enacted a separate human trafficking statute for children that reaches the actions of buyers who “obtain . . . the use of [a minor] for the purpose of engaging in commercial sexual activity.” La. Stat. Ann. §14:46.3(A)(1)(Trafficking of children for sexual purposes) states in part, “It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.”

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) expressly applies to buyers of sex from minors making it a crime when a person “purchases a minor for the purposes of commercial sex acts” without regard to whether the victim was forced, deceived, or coerced to commit the commercial sex act.

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons) applies to buyers of sex with domestic minor sex trafficking victims. Tex. Penal Code Ann. § 20A.02(a) (8) states, “A person commits an offense if the person knowingly. . . engages in sexual conduct with a child [under 18] trafficked in the manner described in Subdivision (7).”

Vermont

Vt. Stat. Ann. tit. 13, § 2655(a) (Solicitation) is codified within the human trafficking laws and makes it illegal for a person to “knowingly solicit a commercial sex act from a victim of human trafficking.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buyers of commercial sex acts with a minor can be prosecuted under CSEC laws.
The Legislative Solution	Anti-demand provisions are critical. Too often buyers who demand commercial sex acts with children are not prosecuted using CSEC laws because these laws are insufficiently broad to include the criminal purchase, despite the critical role that buyers play in the trafficking transaction. In the absence of provisions to address the buyer under CSEC laws, law enforcement and prosecutors are left with viewing the crime of buying commercial sex acts with a minor as prostitution or a general sex offense, like rape or sexual abuse. The tremendous disparity between the penalties for the vice crime of prostitution and the serious crime of child rape or sexual abuse results in buyers of sex acts with a child being penalized in hugely varying degrees depending upon how they are charged. It also leads to some buyers being registered as sex offenders while others are sent home with a citation for prostitution. State laws on commercial sexual abuse of a minor, child prostitution, commercial sexual exploitation of a minor, etc. that expressly include the crime of buying sex with a minor establish consistency and criminal deterrence.

Select Statute Highlights

The following CSEC laws expressly make the purchase of commercial sex acts with a minor a separate and specific crime.

Colorado

Colo. Rev. Stat. § 18-7-406 (Patronizing a prostituted child) states, “(1) Any person who performs any of the following with a child not his spouse commits patronizing a prostituted child: (a) Engages in an act which is prostitution of a child or by a child [under the age of 18] . . .or (b) Enters or remains in a place of prostitution with intent to engage in an act which is prostitution of a child or by a child.”

Maine

Me. Rev. Stat. Ann. tit., 17-A. § 855 (Patronizing prostitution of minor) states “A person is guilty of patronizing prostitution of a minor if: A. The person, in return for another’s prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age. . . .”

North Carolina

N.C. Gen. Stat. § 14-190.19 states, “(a) Offense. A person commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, “patronizing a minor prostitute” means: (1) Soliciting or requesting a minor to participate in prostitution; (2) Paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or (3) Paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement. (b) Mistake of Age. Mistake of age is not a defense to a prosecution under this section.”

Rhode Island

Under R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child), “(a) A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen (18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in an act of prostitution . . . (b) As used in this section, the word “solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, through the Internet, or by advertisement of any kind.”

<p>Area of Law</p>	<p>Criminal Provisions Addressing Demand</p>
<p>The Policy Point</p>	<p>Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.</p>
<p>The Legislative Solution</p>	<p>Solicitation statutes should not apply to a buyer of commercial sex acts with a minor. These laws are intended to address the vice crime of prostitution and typically permit a lenient punitive response to the buyer that is inconsistent with the serious crime of commercial sexual exploitation of a child. In some states a diversion program or “John School” which is geared toward behavior change rather than punishment are mandated as punishment for solicitation; these types of responses are inappropriate to the crime of CSEC or child sex trafficking and inadequate to deter demand for commercial sex with minors. Amending solicitation or patronizing prostitution statutes to ensure inapplicability when a minor under 18 is involved in the prostitution is a critical step in ensuring that offenders are properly identified and punished.</p>

Select Statute Highlights

The statutes highlighted below are either separate criminal laws from solicitation of prostitution laws or contain provisions specifying the more serious crime of soliciting or patronizing a minor for prostitution and providing heightened penalties.

Minnesota

Pursuant to Minn. Stat. Ann. § 609.324 Subd. 1 “(a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both: (1) engages in prostitution with an individual under the age of 13 years; or (2) hires or offers or agrees to hire an individual under the age of 13 years to engage in sexual penetration or sexual contact. (b) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both: (1) engages in prostitution with an individual under the age of 16 years but at least 13 years; or (2) hires or offers or agrees to hire an individual under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact. (c) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both: (1) engages in prostitution with an individual under the age of 18 years but at least 16 years; or (2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.”

New Jersey

N.J. Stat. Ann. § 2C:34-1 (Prostitution and related offenses) provides an enhanced penalty provision within the general prostitution law. The law states, “b. A person commits an offense if: (1) The actor engages in prostitution [punishable as a disorderly persons offense];. . . (7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) is a separate statute from R.I. Gen. Laws § 11-34.1-3(a) (Procurement of sexual conduct for a fee). It provides, “A person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen(18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in prostitution.”

South Carolina

S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined) is codified in Chapter 15, Article 3 (Obscenity, material harmful to minors, child exploitation, and child prostitution), separate and apart from the prostitution laws, and makes it a crime for any individual “(A) . . . if he is not a minor and he patronizes a minor prostitute . . . (1) soliciting or requesting a minor to participate in prostitution; (2) paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; . . . (C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.”

Tennessee

Tenn. Code Ann. § 39-13-514 (Patronizing prostitution) provides, “(a) A person commits an offense under this section who patronizes prostitution. (b) (1) Patronizing prostitution is a Class B misdemeanor . . . (4)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is a Class E felony.” “Patronizing prostitution” is defined as “soliciting or hiring another person with the intent that the other person engage in prostitution, or entering or remaining in a house of prostitution for the purpose of engaging in sexual activity.” Tenn. Code Ann. § 39-13-512(3).

Texas

Under Tex. Penal Code § 43.02 (Prostitution), “(a) A person commits an offense if he knowingly: (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or (2) solicits another in a public place to engage with him in sexual conduct for hire. . . . (c) An offense under this section is a Class B misdemeanor, except that the offense is: . . . (3) a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or (4) a felony of the second degree if the person solicited is younger than 14 years of age.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Penalties for buyers of commercial sex acts with minors are as high as federal penalties.
The Legislative Solution	<p>Penalties for domestic minor sex trafficking should reflect the severity of the underlying crimes of sexual exploitation. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal CSEC laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251 (Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a buyer of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14. Federal trafficking laws have been used to prosecute individuals who have attempted to buy commercial sex acts with a minor and comparable state penalties are important to prevent disparity in the punishments of a buyer convicted under federal laws and one convicted under a state trafficking law. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for buyers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.</p>

Select Statute Highlights

The statutes below reflect penalties as high as federal penalties.

Louisiana

A violation of La. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes), which includes the crime of buying sex with minors, “shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.” La. Stat. Ann. § 14:46.3(D)(1)(a). This penalty is enhanced when the victim is under 14 to “not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.” La. Stat. Ann. § 14:46.3(D)(1)(b).

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) establishes a crime for “(b) Any person who: . . . (2) Sells or purchases a minor for the purposes of commercial sex acts; . . .” and “(c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons), which includes “engaging in sexual conduct with a trafficked child,” enhances the crime classification in the case of a minor being trafficked from a felony of the second degree to a felony of the first degree. Specifically, a conviction under Tex. Penal Code Ann. § 20A.02(a)(8) is punishable as a first degree felony by “imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years” and a possible fine up to \$10,000. Tex. Penal Code Ann. §§ 20A.02(b)(1), 12.32.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.
The Legislative Solution	Buyers of commercial sex acts with minors are increasingly turning to the anonymity of the Internet to identify and solicit minors, and arrange for commercial sex acts. Law enforcement operations across the country have led to minors being sold for sex on the Internet, often on online classified websites. Recent law enforcement operations, like Operation Guardian Angel in Missouri which is being replicated across the country with astounding success, have netted scores of adults seeking to buy commercial sex with minors. Child pornography too is widely available on the Internet and live sexual performances are facilitated through peer-to-peer networks, selling live, webcast child sexual performance and images of sexual abuse. Laws prohibiting this Internet solicitation and exploitation are critical to deterring this activity and protecting children from this form of commercial sexual exploitation.

Select Statute Highlights

The following statutes are highlighted because they apply to all minors under the age of 18, include specific language making the use of the Internet for the purposes of soliciting children for commercial sexual acts a crime, and clearly apply to purchasers of sex acts with minors.

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25 (Grooming) specifically criminalizes the use of the Internet for the purposes of purchasing commercial sex acts with a child. Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25(a), states, “A person commits the offense of grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act [730 ILCS 150/2, includes patronizing a minor engaged in prostitution] or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.” Grooming is a Class 4 felony punishable with 1–3 years imprisonment and a possible fine not to exceed \$25,000 for each offense or the amount specified in the offense, whichever is greater.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity” or Ky. Rev. Stat. Ann. Chapter 531 (pornography). Furthermore, pursuant to Ky. Rev. Stat. Ann. § 510.155(3) “[t]he solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person’s intent to commit the offense even if the meeting did not occur.” This crime is a Class D felony with 1–5 years imprisonment and a fine of \$1,000-\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) criminalizes any person who using the Internet “knowingly solicits another person under eighteen years of age or one whom he or she believes is a person under eighteen years of age for the purpose of engaging in prostitution or any act in violation of chapter 9 [Children], 34 [Prostitution and lewdness], or 37 [Sexual assault] of this title.” A violation is punishable by a sentence of at least 5 years imprisonment.

Virginia

Virginia law outlines a wide range of violations involving the use of the Internet and other electronic devices to commit a sexual offense or produce child pornography. One of these provisions is Va. Code Ann. § 18.2-374.3 (E), which states, “Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution, etc., or consenting thereto] or 18.2-361 [Crimes against nature; penalty], (ii) any activity in violation of § 18.2-374.1 [Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability], or (iii) a violation of § 18.2-374.1:1 [Possession, reproduction, distribution, and facilitation of child pornography; penalty] is guilty of a Class 5 felony.” This is punishable by imprisonment of 1–10 years, “or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” Va. Code Ann. § 18.2-10.

West Virginia

W. Va. Code § 61-3C-14b (Soliciting, etc. a minor via computer; penalty) makes the use of a computer to lure or entice commercial sex acts with a minor illegal. Pursuant to W. Va. Code § 61-3C-14b, “[a]ny person over the age of eighteen, who knowingly uses a computer to solicit, entice, seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer or a person he or she reasonably believes to be a minor, to commit any illegal act proscribed by the provisions of article eight [Crimes against chastity, morality and decency, includes engaging in prostitution], eight-b [Sexual offenses], eight-c [Filming of sexually explicit conduct of minors], or eight-d [Child abuse] of this chapter . . . is guilty of a felony.” A violation is a felony punishable by 2–10 years imprisonment and/or a fine up to \$5,000.

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.
The Legislative Solution	Purchasing sex acts with a minor is a crime. Permitting a defense to prosecution based on mistake of age subverts the intention of protecting children from exploitation and creates a weakness in the laws needed to deter this crime and to protect our children. State laws prohibiting a defense based on mistake of age in sex trafficking and commercial sexual exploitation of children (CSEC) laws send a clear statement to buyers that this crime will not be tolerated and firmly protects all minors from the danger of commercial sexual exploitation.

Select Statute Highlights	
The following state laws contain language that expressly prohibits a defense to prosecution based on an age mistake defense.	
Colorado	
Colo. Rev. Stat. § 18-7-407 (Criminality of conduct) states, “In any criminal prosecution under sections 18-7-402 to 18-7-407 [Soliciting for child prostitution, Pandering of a child, Procurement of a child for, Keeping a place of child prostitution, Pimping of a child, Inducement of child prostitution, Patronizing a prostituted child], it shall be no defense that the defendant did not know the child’s age or that he reasonably believed the child to be eighteen years of age or older.”	
Georgia	
Ga. Code Ann. § 16-5-46(d) prohibits a defense based on mistake of age, stating “the accused’s lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section [Trafficking of persons for forced labor or sexual servitude].”	
Louisiana	
La. Stat. Ann. § 14:46.3(C)(3) (Trafficking of children for sexual purposes) states clearly that “[l]ack of knowledge of the victim’s age shall not be a defense” to the purchase of a minor for sex acts.	
	Minnesota
	Minn. Stat. Ann. § 609.325(2) (Defenses) provides that “mistake as to age shall be no defense to prosecutions under” § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties), which states in (1)(b)(2) that it is a crime when any person “hires or offers or agrees to hire an individual under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.” Also, Minn. Stat. Ann. § 609.352(3)(a) expressly states that “mistake is not a defense to a prosecution under” § 609.352(2a) (Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children).
	New Jersey
	N.J. Stat. Ann. §2C:34-1(a)(7) (Prostitution and related offenses) states, “It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”
	North Carolina
	N.C. Gen. Stat. § 14-190.19(b) expressly states that “mistake of age is not a defense to a prosecution” under N.C. Gen. Stat. § 14-190.19(a) (Participating in prostitution of a minor), which criminalizes “(1) Soliciting or requesting a minor to participate in prostitution; (2) Paying or agreeing to pay a minor, either directly or through the minor’s agent, to participate in prostitution; or (3) Paying a minor, or the minor’s agent, for having participated in prostitution, pursuant to a prior agreement.”

North Dakota

N.D. Cent. Code § 12.1–40–01(3) (Human trafficking) eliminates a defense of mistake of age by stating, “If the person subject to human trafficking is under the age of eighteen years, it is no defense that the actor did not know the child’s age or reasonably believed the child to be eighteen years of age or older.”

Texas

Tex. Penal Code Ann. § 20A.02 (Trafficking of persons) specifically eliminates a defense of mistake of age by a defendant in a trafficking of persons case, which may include some buyers. Tex. Penal Code Ann. § 20A.02(b) states in part, “[a]n offense under this section is a felony of the first degree if: (1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense.”

Washington

Wash. Rev. Code § 9.68A.110(3) (Certain defenses barred, permitted) states that “it is not a defense that the defendant did not know the alleged victim’s age” for prosecutions under Wash. Rev. Code § 9.68A.040 (Sexual exploitation of a minor), Wash. Rev. Code § 9.68A.090 (Communication with minor for immoral purposes), Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor), Wash. Rev. Code § 9.68A.101 (Promoting commercial sexual abuse of a minor), or Wash. Rev. Code § 9.68A.102 (Promoting travel for commercial sexual abuse of a minor).

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.
The Legislative Solution	A minor is defined almost uniformly as a person under 18 years of age. States have laws that protect minors from a range of vices (alcohol, tobacco), legal obligations (entering into a contract), and dangers (dangerous work places). Protection from commercial sexual exploitation is no different and, given the underlying criminal act of buying prostitution, should rise in protection enforcement. The federal Trafficking Victims Protection Act (TVPA) of 2000 makes it a crime when a person “recruits, entices, harbors, transports, provides, or obtains” a person under 18 to engage in a commercial sex act. However, some state laws stagger penalties for buyers according to the age of the minor involved. This results in older minors receiving less than full protection under the law and allows buyers, and the public, to believe that an older minor is less of a victim. This staggered penalty is not the same as an enhanced penalty, which starts from a serious penalty for all minors and heightens that penalty to reflect the especially egregious crime against a child, such as the federal crime of sex trafficking in 18 U.S.C. § 1591, which provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14. State laws must sufficiently protect all minors who are exploited by buyers of commercial sex acts.

Example of staggered penalties with insufficient base penalties: Ariz. Rev. Stat. Ann. § 13-3212 (Child prostitution) provides a lesser penalty (Class 6 felony) for buyers of sex with minors aged 15, 16, and 17 when the state cannot prove the buyer had knowledge of the minor’s age. A person who “[e]ngag[es] in prostitution with a minor under fifteen years of age” commits a Class 2 felony and is subject to 13–27 years imprisonment (presumptive 20 years) under Ariz. Rev. Stat. Ann. § 13-705 dangerous crimes against children penalty enhancement. Also, a person who “[e]ngag[es] in prostitution with a minor who the person knows is fifteen, sixteen or seventeen years of age” is guilty of a Class 2 felony but subject only to 7–21 years (presumptive 10.5). Finally, a person who “[e]ngag[es] in prostitution with a minor who is fifteen, sixteen, or seventeen years of age” is guilty of a Class 6 felony, punishable by just .33–2 years (presumptive 1 year) but under subsection H, if the offender is sentenced to probation, “the court shall order that as an initial term of probation” 180 days imprisonment in county jail and if the offender meets certain requirements, the court has discretion to suspend 90 days of the sentence.

Select Statute Highlights

The following statutes ensure sufficiently serious base penalties for the purchase of commercial sex acts with a minor under 18.

Colorado

Colo. Rev. Stat. § 18-7-401 (Definitions) defines a child, as used in Colo. Rev. Stat. § 18-7-406(1) (Patronizing a prostituted child), as “a person under the age of eighteen years.” Under this definition, buyers prosecuted under Colo. Rev. Stat. § 18-7-406(1), a Class 3 felony, are subject to a sentence of 4–12 years imprisonment and/or a fine of \$3,000–\$750,000 regardless of the age of the victim.

Georgia

Ga. Code Ann. § 16-6-12 (Pandering), which has been held to apply to buyers, provides a person is guilty of pandering “when he or she solicits a person to perform an act of prostitution in his or her own behalf or in behalf of a third person or when he or she knowingly assembles persons at

a fixed place for the purpose of being solicited by others to perform an act of prostitution.” Penalties are staggered based on the victim’s age; however, these penalties are sufficiently high for all minors. If the victim is 16 or 17, the buyer is guilty of a felony punishable by 5-20 years imprisonment and/or a fine of \$2,500-\$10,000; whereas, if the victim is under 16, the buyer is guilty of a felony punishable by 10-30 years imprisonment and/or a fine not to exceed \$100,000. Ga. Code Ann. §§ 16-6-13(b)(1), (2).

fine up to \$10,000. Tex. Penal Code Ann. §§ 20A.02(a)(8), 20A.02(b)(1), 12.32.

Kentucky

Under Ky. Rev. Stat. Ann. § 531.310 (Use of a minor in a sexual performance), “A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.” If the victim is under 18, the crime is a Class C felony punishable by 5-10 years imprisonment and a fine of \$1,000–\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.” If the victim is under 16, the crime is a Class B felony punishable by 10-20 years imprisonment and a fine of \$1,000-\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.”

Montana

Mo. Rev. Stat. § 566.212 (Sexual trafficking of a child) provides a serious penalty for trafficking of all minors under 18 of 10 years to life imprisonment and a fine up to \$250,000. Mo. Rev. Stat. § 566.213 (Sexual trafficking of a child under age twelve) provides an additionally enhanced penalty for sex trafficking of a child under 12 years of age of “life imprisonment without eligibility for probation or parole” for 25 years.

Rhode Island

R.I. Gen. Laws § 11-67-6(b)(2) (Sex trafficking of a minor) makes it a crime for “(b) Any person who: . . . (2) Sells or purchases a minor [under 18] for the purposes of commercial sex acts; . . .” and “(c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$ 40,000), or both.”

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons), which includes “engaging in sexual conduct with a trafficked child [under 18],” is a felony of the first degree punishable as a first degree felony by “imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years” and a possible

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.
The Legislative Solution	Meaningful fines, asset forfeiture, restitution, and vehicle impound fees serve as punishment and deterrence and reinforce the reality that purchasing sex acts with minors is a heinous crime. Significant financial penalties can also be used to provide domestic minor sex trafficking victims with funding for social and restorative programs and help pay for costly investigations.

Select Statute Highlights

The following states have high, preferably mandatory fines of at least \$5,000, and allow asset forfeiture.

Washington

Wash. Rev. Code § 9.68A.105 (Additional fee assessment) states, “(1)(a) In addition to penalties set forth in RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.” Also, Wash. Rev. Code § 9A.88.140(2) (Vehicle impoundment) provides that “[u]pon an arrest for a suspected violation of commercial sexual abuse of a minor. . . the arresting law enforcement officer shall impound the person’s vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465. . . (4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.”

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal

property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.” Wash. Rev. Code § 9.68A.120 (Seizure and forfeiture of property) applies specifically to “[a]ll visual or printed matter that depicts a minor engaged in sexually explicit conduct.” It also applies, with some exceptions to “[a]ll raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060.” It further applies to “[a]ll personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.” Chapter 9.68A includes Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) bringing seizure and forfeiture of property to bear on this crime as well.

Texas

A buyer convicted under any of Tex. Penal Code Ann. § 20A.02(a)(7), (8) (Trafficking of persons), which includes engaging in sexual conduct with a trafficked child, and § 43.02(a) (Prostitution) of a minor may be required to pay possible fines up to \$10,000.

Rhode Island

Buyers convicted of violating R.I. Gen. Laws § 11-67-6(b) (Sex trafficking of a minor) states, “(b) Any person who: (1) Recruits, employs, entices, solicits, isolates, harbors, transports, provides, persuades, obtains, or maintains, or so attempts, any minor for the purposes of commercial sex acts; or (2) Sells or purchases a minor for the purposes of commercial sex acts; . . . (c) . . . shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.”

A buyer convicted of R.I. Gen. Laws § 11-67-6(b)(3) (Sex trafficking of a minor) also may be required to pay restitution pursuant to R.I. Gen. Laws § 11-67-4 (Restitution), which states, “[i]n addition to any other amount of loss identified, the court shall order restitution including the greater of: (a) The gross income or value to the defendant of the victim’s labor or commercial sexual activity; or (b) The value of the victim’s labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act (FLSA) or the minimum wage law, whichever is greater.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Buying and possessing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	<p>Child pornography is the actual image of sexual abuse as it is being perpetrated on a child. Minor victims depicted in child pornography suffer irreparable physical, emotional and psychological harm. The most common forum for child pornography today is the Internet and once images are on the Internet, they cannot be removed completely and can continue to circulate, re-victimizing the child each time the images are viewed. A federal conviction for possession of child pornography 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. To decrease demand for these images, those who demand, purchase and possess child pornography must be subject to serious prison sentences, fines, and asset forfeiture, and should be required to pay restitution to the victims.</p>

Select Statute Highlights

The following statutes demonstrate substantial sentences and asset forfeiture for the possession or purchase of child pornography.

Georgia

Under Ga. Code Ann. § 16-12-100(b)(8) (Sexual exploitation of children; reporting violation; forfeiture; penalties), “It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct.” Additionally, Ga. Code Ann. § 16-12-100(b)(6) prohibits “any person knowingly to . . . purchase . . . any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor’s body engaged in any sexually explicit conduct can be found or purchased.” A person who violates this statute is guilty of a felony punishable by 5–20 years imprisonment and a fine not to exceed \$100,000. In addition, pursuant to Ga. Code Ann. § 16-12-100(e)(1), “A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in: (A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and (B) Any property used, or intended to be used, to commit such offense.”

Mississippi

Miss. Code Ann. § 97-5-33(3) (Exploitation of children; prohibitions) states, “No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” Under subsection (5), a person may not “by any means including computer, possess any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.” A violation of Miss. Code Ann. § 97-5-33 is punishable by 5–40 years imprisonment and a \$50,000–\$500,000 fine for the first offense and 20 years to life and a \$100,000–\$1,000,000 fine for subsequent violations.

Tennessee

Pursuant to Tenn. Code Ann. § 39-17-1004(a)(1) (Offense of aggravated sexual exploitation of a minor), “(a)(1) It is unlawful for a person to knowingly . . . purchase or exchange material . . . that includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Under subsection (b)(1), “It is unlawful for a person to knowingly . . . purchase or exchange material that is obscene, as defined in § 39-17-901. . . which includes a minor engaged in: (A) Sexual activity; or (B) Simulated sexual activity that is patently offensive.” Violation is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to

exceed \$10,000. However, if the number of individual images is greater than 25, the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000. The defendant can be charged on individual counts for each image.

Under Tenn. Code Ann. § 39-17-1003(a) (Offense of sexual exploitation of a minor), “[i]t is unlawful for any person to knowingly possess material that includes a minor engaged in: (1) Sexual activity; or (2) Simulated sexual activity that is patently offensive.” The Class D felony is punishable by 2–12 years imprisonment and a possible fine not to exceed \$5,000 for each individual image possessed. If the number of images and/or materials exceeds 50, then the crime is a Class C felony punishable by 3–15 years imprisonment and a possible fine not to exceed \$10,000. If the number of images and/or materials exceeds 100, then the crime is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000.

Moreover, Tenn. Code Ann. § 39-17-1008 (Forfeiture of any conveyance or real or personal property used in commission of an offense under this part [Sexual Exploitation of Children]), states, “(a) Any conveyance or real or personal property used in the commission of an offense under this part is subject to forfeiture under the provisions of title 40, chapter 33, part 2. (b) Notwithstanding the provisions of § 40-33-211 [Property disposition], the proceeds from all forfeitures made pursuant to this section shall be transmitted to the general fund, where there is established a general fund reserve to be allocated through the general appropriations act, which shall be known as the child abuse fund. Moneys from the fund shall be expended to fund activities authorized by the child abuse fund as set out in § 39-13-530 [Forfeiture of any conveyance or real or personal property used in a sexual offense committed against minors Child abuse fund]. . . .”

Wisconsin

Wis. Stat. § 948.12(2m) penalizes “[w]hoever exhibits or plays a recording of a child engaged in sexually explicit conduct, if all of the following apply... (a) The person knows that he or she has exhibited or played the recording. (b) Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct. (c) Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.” Under Wis. Stat. § 948.12(3)(a), a violation is a Class D felony punishable by a maximum fine of \$100,000 and/or a maximum sentence of 25 years, unless the defendant is under 18, in which case he is guilty of a Class I felony

punishable by a maximum fine of \$10,000 or a maximum sentence of 3½, or both.

Wis. Stat. § 973.042(2) (Child pornography surcharge) provides, “If a court imposes a sentence or places a person on probation for a crime under s. 948.05 [Sexual exploitation of a child] or 948.12 [Possession of child pornography] and the person was at least 18 years of age when the crime was committed, the court shall impose a child pornography surcharge of 500 [sic] for each image or each copy of an image associated with the crime. The court shall determine the number of images or copies of images associated with the crime by preponderance of the evidence and without a jury.”

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.
The Legislative Solution	Purchasers of sex acts with minors and child pornography are sexual predators—the exchange of money does not sanitize the underlying crime of child rape or molestation and the consequences should be the same for buyers as for rapists. Sex offender registry laws are intended to provide people with information about sex offenders who pose a real threat to children that will prevent them and their children from being victimized. The requirement to register as a sex offender serves as punishment, deterrence, and a warning to the public of the danger they pose to children. Domestic minor sex trafficking is a sex offense and state laws should reflect this to require registration.

Select Statute Highlights

The following statutes require sex offender registration for individuals convicted of sex trafficking, purchasing sex with minors, and purchasing or possessing child pornography.

Colorado

Colo. Rev. Stat. § 16-22-103(1), (2) (Sex offender registration—required—applicability—exception) requires anyone convicted in Colorado or another jurisdiction of an “unlawful sex offense” or another offense “the underlying factual basis of which involves unlawful sexual behavior” to register as a sex offender. Colo. Rev. Stat. § 16-22-102(9)

(Definitions) defines “unlawful sexual behavior” as including the following offenses requiring sex offender registration: “. . . (j) Trafficking in children, in violation of section 18-3-502, C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; . . . (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . .”

Delaware

A buyer convicted under Del. Code Ann. tit. 11, § 787(b) (2) (Trafficking of persons and involuntary servitude) must register as a sex offender pursuant to Del. Code Ann. tit. 11, § 4120(b)(1) (Registration of sex offenders) which provides “Any sex offender who is released, discharged or paroled from any Level IV or Level V facility or other custodial institution after that sex offender has completed a sentence imposed following a conviction for any offense specified in § 4121(a)(4) of this title shall be required to register as a sex offender.” Del. Code Ann. tit. 11, § 4121(a)(4)a. (Community notification

of sex offenders on probation, parole, conditional release or release from confinement) defines “sex offender” in part as “any person who is, or has been . . . [c]onvicted of any of the offenses specified in . . . § 787(b)(2) . . . §§ 1108 through 1112A . . . of this title, or of any attempt or conspiracy to commit any of the aforementioned offenses.” Therefore, a buyer convicted of trafficking under Del. Code Ann. tit. 11, § 787(b)(2), possession of child pornography under Del. Code Ann. tit. 11, § 1111, dealing in child pornography under Del. Code Ann. tit. 11, § 1109, or sexual solicitation of a child Del. Code Ann. tit. 11, § 1112A must register as a sex offender.

Indiana

Pursuant to Ind. Code Ann. § 11-8-8-7(a) (Persons who must register), “A sex or violent offender who resides in Indiana,” who is or intends to be employed for a certain time period in Indiana, or “who is enrolled or intends to be enrolled” as a student must register under the sex offender chapter. A “sex or violent offender” is defined in Ind. Code Ann. § 11-8-8-5(a) to include, among others, persons convicted under Ind. Code Ann. § 35-42-4-3 (Child molesting), § 35-42-4-5 (Vicarious sexual gratification), § 35-42-4-6 (Child solicitation), § 35-42-4-9 (Sexual misconduct with a minor as a Class A, Class B, or Class C felony, except for certain persons convicted of Class C felonies who are not more than 4 years older than the victim), § 35-42-4-4(c) (Possession of child pornography), and § 35-42-3.5-1(c)(3) (Human trafficking, where the victim is under 18).

Maryland

Pursuant to Md. Code Ann., Crim. Proc. § 11-704(a) (Registration required), sex offender registration is required for tier I, II, and III sex offenders. A “tier I sex offender” in Md. Code Ann., Crim. Proc. § 11-701(o) includes a person convicted of the following: . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of . . . § 11-208 [Possession of visual representation of child under 16 engaged in certain sexual acts] . . . ; (3) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection; (4) any of the following federal offenses: . . .(vi) sex trafficking by force, fraud, or coercion under 18 U.S.C. § 1591;(vii) travel with intent to engage in illicit conduct under 18 U.S.C. § 2423(b);. . .” A “Tier II sex offender” in Md. Code Ann., Crim. Proc. § 11-701(p) includes those persons convicted of: (1) conspiring to commit, attempting to commit, or committing a violation of . . . § 3-324 [Sexual solicitation of minor], [or] § 11-207 [Child pornography] . . . ; (2) conspiring to commit, attempting to commit, or committing a violation of § 11-303 [Human trafficking], § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution]. . . , if the intended prostitute or victim is a minor; (3) conspiring to commit, attempting to commit, or committing a violation of . . . ; (4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I sex offender after the person was already registered as a tier I sex offender; (5) a crime that was committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; . . .”

North Carolina

Pursuant to N.C. Gen. Stat. § 14-208.7(a), “A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides.” The definition of “reportable conviction” includes “a sexually violent offense.” N.C. Gen. Stat. § 14-208.6(4). The term, “sexually violent offense,” is defined in N.C. Gen. Stat. § 14-208.6(5) as, “a violation of . . . G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), . . . G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), . . . G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), . . . G.S. 14-190.19 (participating in the prostitution of a minor), . . . G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), . . .”

South Carolina

S.C. Code Ann. § 23-3-430(C) (Sex offender registry) requires registration of “a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender: . . . (13) violations of Article 3, Chapter 15 of Title 16 [Obscenity, material harmful to minors, child exploitation, and child prostitution involving a minor] . . . (17) trafficking in persons (Section 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; . . .”

Issue Briefs

Section 3 | Criminal Provisions for Traffickers

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

<p>Area of Law</p>	<p>Criminal Provisions for Traffickers</p>
<p>The Policy Point</p>	<p>Penalties for trafficking a child for sexual exploitation are as high as federal penalties</p>
<p>The Legislative Solution</p>	<p>The commercial sexual exploitation of children and sex trafficking are egregious crimes and the penalties must reflect the severity of the offense. Penalties for domestic minor sex trafficking should reflect the severity of the underlying crimes of sexual exploitation. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal CSEC laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251 (Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a trafficker of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14 or force, fraud or coercion were used to cause the trafficking. Federal trafficking laws are being used to secure serious sentences for traffickers and comparable state penalties are important to prevent disparity in the punishments. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for traffickers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.</p>

Select Statute Highlights

Alabama

Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree) makes it illegal for a trafficker who “knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.” Violation of Ala. Code § 13A-6-152(a) (2) is a Class A felony punishable by a sentence of 10–99 years imprisonment and a possible fine up to \$60,000 or any amount up to double the profit or loss to the victim.

Traffickers prosecuted under Ala. Code § 13A-12-111(a) (Promoting prostitution in the first degree), which provides that “(a) A person commits the crime of promoting prostitution in the first degree if he knowingly: . . . (2) Advances or profits from prostitution of a person less than 16 years of age” are in violation of a Class B felony and subject to a sentence of 2–20 years imprisonment and a possible fine up to \$30,000. If the victim is under 18, it is a Class C felony punishable by 1–10 years imprisonment and a possible fine up to \$30,000.

If the victim is under 12, then a mandatory minimum sentence of 10 years imprisonment applies.

Georgia

Trafficking a child in Georgia under the age of 18 is punishable under Ga. Code Ann. § 16-5-46(f)(2) (Trafficking of persons for labor or sexual servitude) by 10–20 years imprisonment and/or a fine not to exceed \$100,000. If the trafficker used coercion or deception in trafficking the minor, the penalty is life imprisonment or 25–50 years imprisonment and/or a fine not to exceed \$100,000. Additionally, under subsection (g), “All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Code section shall be subject to forfeiture to the state.”

Furthermore, a trafficker could be found to be involved in a pattern of racketeering activity and be subject to additional penalties and asset forfeiture. “Racketeering activity” is defined in Ga. Code Ann. § 16-14-3 (Definitions) to include prostitution, keeping a place of prostitution, pimping, pandering, and trafficking of persons for labor or sexual servitude

and is punishable by 5–20 years imprisonment and/or a fine up to the greater of \$25,000 or three times the proceeds of the crime. Asset forfeiture is available for racketeering crimes, and Ga. Code Ann. § 16-14-7(a) (Forfeiture proceedings) states in part, “All property of every kind used or intended for use in the course of, derived from, or realized through a pattern of racketeering activity is subject to forfeiture to the state.” Also, under Ga. Code Ann. § 16-5-4(k)(1) any offense defined as racketeering activity constitutes criminal gang activity punishable by 5–15 years imprisonment and/or a fine of \$10,000–\$15,000.

Missouri

A trafficker who violates Mo. Rev. Stat. § 566.212.1 (Sexual trafficking of a child), is guilty of “a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.” Mo. Rev. Stat. § 566.213 (Sexual trafficking of a child under age twelve) enhances the penalty for sex trafficking of a child under 12 years of age to “a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty—five years of such sentence.”

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for sexual servitude) is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000. Additionally, a trafficker could be charged with Tenn. Code Ann. § 39-13-515 (Promoting prostitution) which is a Class E felony for promoting prostitution of a minor punishable by 1–6 years imprisonment and a possible fine not to exceed \$3,000.

In addition, a trafficker could be found guilty of money laundering pursuant to Tenn. Code Ann. § 39-14-903. Tenn. Code Ann. § 39-14-903(b)(1) states, “It is an offense to knowingly use proceeds derived directly or indirectly from a specified unlawful activity with the intent to promote, in whole or in part, the carrying on of a specified unlawful activity.” A violation of the money laundering statute is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000.

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Creating and distributing child pornography carries penalties as high as similar federal offenses.
The Legislative Solution	The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography. Traffickers of child pornography are seizing the opportunity to make and sell child pornography on the Internet. A legislative response from states to criminalize and impose serious penalties for those persons who manufacture and sell these images is critical. States must enact laws which mandate serious penalties for those persons who create and sell child pornography with penalties adequately steep to destroy the incentive to supply the market for such materials.

Select Statute Highlights

The highlighted statutes apply to all minors under the age of 18 and impose mandatory, significant punishments.

Hawaii

Creating and distributing child pornography is a crime under Haw. Rev. Stat. Ann. § 707-750(1)(a), (b) (Promoting child abuse in the first degree), which states, “A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person: (a) Produces or participates in the preparation of child pornography; . . .” Promoting child abuse in the first degree is a Class A felony punishable by 20 years imprisonment without the possibility of suspension of sentence or probation and a possible fine up to \$50,000

Kentucky

Ky. Rev. Stat. Ann. § 531.310 (Use of a minor in a sexual performance) is a Class C felony when the minor is between 16 and 18, punishable by 5-10 years imprisonment (increased to 10–20 years for minors under 16) and the greater of a fine of \$1,000–\$10,000 or double the profit from the crime.

Massachusetts

Mass. Gen. Laws Ann. ch. 272, § 29A(a), (b) (Child pornography—enticement, solicitation, employment of children) criminalizes any person who with knowledge “or while in possession of such facts that he should have reason to know” a child is under the age of 18 “hires, coerces, solicits, or entices,

employs, procures, uses, . . . such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material” or “to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, . . .” and mandates punishment of 10–20 years imprisonment and/or a fine of \$10,000–\$50,000.

Virginia

Va. Code Ann. § 18.2-374.1(B) (Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability) states, “[a] person shall be guilty of production of child pornography who: 1. Accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of child pornography; or 2. Produces or makes or attempts or prepares to produce or make child pornography; or 3. Who knowingly takes part in or participates in the filming, photographing, or other production of child pornography by any means; or 4. Knowingly finances or attempts or prepares to finance child pornography.” A violation of Va. Code Ann. § 18.2-374.1(B) carries a sentence of 5-30 years imprisonment when the subject of the child pornography is a child under 15, with a mandatory minimum of 5 years if the offender is at least 7 years older than the subject of the child pornography. When the subject of the child pornography is at least 15 but less than 18, the sentence is 1–20 years, except if the offender is at least 7 years older than the child then the sentence is 3–30 years, with a 3-year “mandatory minimum term of imprisonment.”

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.
The Legislative Solution	Traffickers of commercial sex acts with minors are increasingly turning to the Internet to identify and recruit the large numbers of minors left vulnerable to these cyber-predators. Also, the Internet is a lucrative venue to sell commercial sex acts, live and recorded sexual performance by minors, and child pornography to the growing number of buyers. Law enforcement operations across the country have led to minors being sold for sex on the Internet, often on online classified websites. Child pornography too is widely available on the Internet and live sexual performances are facilitated through peer-to-peer networks, selling live, webcast child sexual performance and images of sexual abuse. Laws prohibiting this Internet recruitment and exploitation are critical to deterring the traffickers and protecting children from this form of commercial sexual exploitation.

Select Statute Highlights

The following statutes are highlighted because they apply to all minors under the age of 18, include specific language making the use of the Internet for the purposes of recruiting or selling children for commercial sexual acts a crime, and clearly apply to traffickers.

Illinois

720 Ill. Comp. Stat. Ann. 5/11-25(a) (Grooming) criminalizes any person who “knowingly uses a computer on-line service, Internet service, . . . [to] solicit . . . or attempt to . . . solicit . . . a child . . . to commit” a violation of 720 Ill. Comp. Stat. Ann. 5/11-14.4 (Promoting juvenile prostitution), 720 Ill. Comp. Stat. Ann. 5/11-17.1 (Keeping a place of juvenile prostitution), 720 Ill. Comp. Stat. Ann. 5/11-19.1 (Juvenile pimping and aggravated juvenile pimping), or 720 Ill. Comp. Stat. Ann. 5/11-19.2 (Exploitation of a child). A violation of 720 Ill. Comp. Stat. Ann. 5/11-25(a) is a Class 4 felony punishable by a sentence of punishable by a sentence of 1–3 years imprisonment and a possible fine up to \$25,000.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reck

less in that belief, for any activity in violation” of certain listed crimes, including the crimes of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity” or Ky. Rev. Stat. Ann. Chapter 531 (pornography).

Virginia

Va. Code § 18.2-374.3(E) states in part, “[a]ny person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution, etc., or consenting thereto] or 18.2-361 [Crimes against nature; penalty], (ii) any activity in violation of § 18.2-374.1 [Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability], or (iii) a violation of § 18.2-374.1:1 [Possession, reproduction, distribution, and facilitation of child pornography; penalty] is guilty of a Class 5 felony” punishable by imprisonment of 1–10 years, “or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.”

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Financial penalties for traffickers, including asset forfeiture, are sufficiently high
The Legislative Solution	The primary reason traffickers exploit children is profit. Children are low-cost products which can be sold multiple times for the enrichment and benefit of their trafficker. Asset forfeiture is a critical means of prohibiting a criminal from keeping the proceeds or instrumentalities of the crime. Asset forfeiture is frequently available if a trafficker is also charged with a racketeering (RICO) violation, but should also be available directly for violations of sex trafficking and commercial sexual exploitation of children (CSEC). Financial penalties, including fines and asset forfeiture, are critical to disrupting the criminal trafficking enterprise and deterring the crime, as well as offsetting the cost of investigating, prosecuting and providing services to restore victims' lives.

Select Statute Highlights

California

Traffickers convicted of violating Cal. Penal Code § 236.1 (Human trafficking defined; punishment), where the victim is a minor under 18, are required to pay a fine not to exceed \$100,000. Traffickers prosecuted under Cal. Penal Code § 266j (Procurement of child) are required to pay a fine up to \$15,000. Furthermore, traffickers are subject to forfeit property and proceeds acquired through a “pattern of criminal profiteering activity” under the provisions of the California Control of Profits of Organized Crime Act, Cal. Pen. Code, Part 1 (Of crimes and punishments), Title 7 (Of crimes against public justice), Chapter 9 (Criminal Profiteering).

Connecticut

A trafficker convicted of Conn. Gen. Stat. § 53a-192a (Trafficking in Persons) and § 53a-86(a)(2) (Promoting prostitution in the first degree: Class B felony) could be fined up to \$15,000. A trafficker is also subject to asset forfeiture pursuant to Conn. Gen. Stat. § 54-36p (Forfeiture of moneys and property related to sexual exploitation and human trafficking).

D.C.

A conviction under D.C. Code § 22-1834 (Sex trafficking of children) can result in a fine up to \$200,000. Additionally, a trafficker can face asset forfeiture under chapter 18A (Human trafficking), D.C. Code § 22-1838(a), (b) (Forfeiture) which states, in addition to any sentence imposed, that the

individual or business shall forfeit to the District of Columbia: (a) . . . (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and(2) Any property, real or personal, constituting or derived from any proceeds that the individual or business obtained, directly or indirectly, as a result of the violation. (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them: (1) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter., (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.” A trafficker’s vehicle could be impounded under D.C. Code § 22-2724, which allows for impoundment of “[a]ny vehicle used in furtherance of a violation of a prostitution-related offense.”

Illinois

A trafficker may be fined not to exceed \$25,000 for each felony offense or the amount specified in the offense, whichever is greater for violations of the following statutes: Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses), Ill. Comp. Stat. Ann. § 720 ILCS 5/11-14.4(d) (Promoting juvenile prostitution), Ill. Comp. Stat. Ann. § 720 ILCS 5/10-5.1(g) (Luring of a minor), Ill. Comp. Stat. Ann. § 720 ILCS 5/11-6(c) (Indecent solicitation of a child), Ill Comp. Stat. Ann. § 720 ILCS 5/11-14.3(b) (Promoting prostitution) and Ill. Comp. Stat. Ann. § 720 ILCS 5/11-9.1(c) (Sexual exploitation of a child). Ill. Comp. Stat. Ann. § 720 ILCS 5/10-9(j) (Trafficking in persons; involuntary servitude, and related offenses) states,

“[a] person who commits the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services . . . is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963 [725 ILCS 5/124B-5 et seq.].” Furthermore, Illinois has enacted specific forfeiture statutes with relation to specific offenses. Ill. Comp. Stat. Ann. § 725 ILCS 5/124B-300 (Persons and property subject to forfeiture), states, “A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of the Criminal Code of 1961 [720 ILCS 5/10A-10] shall forfeit to the State of Illinois any profits or proceeds and any property he or she has acquired or maintained in violation of Section 10A-10 of the Criminal Code of 1961 [720 ILCS 5/10A-10] . . .”

Indiana

Traffickers convicted under Ind. Code Ann. § 35-42-3.5-1 (Promotion of human trafficking; sexual trafficking of a minor; human trafficking), § 35-45-4-4 (Promoting prostitution), § 35-52-4-6 (Child solicitation), § 35-42-4-4(b) (Child exploitation), § 35-45-9 (Criminal Gang Control), § 35-45-6-2 (Corrupt business influence), or § 35-45-15-5 (Money laundering), all felonies, can be ordered to pay a possible fine up to \$10,000.

Indiana’s general forfeiture provision regarding proceeds of a crime, Ind. Code Ann. § 34-24-1-1(a)(3) (Seizure of vehicles and property commonly used as consideration for controlled substances offenses; seizure of tobacco products and personal property owned and used to facilitate violation), would require traffickers convicted of any criminal offense to forfeit “[a]ny portion of real or personal property purchase with money that is traceable as a proceed of a violation of a criminal statute.” Furthermore, under Ind. Code Ann. § 34-24-1-1(a)(4), vehicles used by traffickers to “(A) commit, attempt to commit, or conspire to commit; (B) facilitate the commission of; or (C) escape from the commission of: . . . kidnapping (IC 35-42-3-2) . . . child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4)” may also be seized. Ind. Code Ann. § 34-24-1-1(a)(10), (c) permit “[a]ny equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4 [production and distribution of child pornography]” may be seized, but only if it is proved “by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).”

Washington

Wash. Rev. Code § 9A.88.140(2) (Vehicle impoundment — fees and fine) provides that “[u]pon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person’s vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.” Subsection (4) sets a \$2,500 fine to the impounding agency prior to redeeming the vehicle. Pursuant to Wash. Rev. Code § 9A.20.021(a) a trafficker faces a fine under human trafficking or promoting commercial sexual abuse of a minor of \$50,000. In addition, Wash. Rev. Code § 9.68A.105 imposes a non-discretionary \$5,000 penalty for any conviction under Wash. Rev. Code § 9.68A.101 (Promoting commercial sexual abuse of a minor).

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.” This provision applies to all felonies, except contraband, narcotics, firearms, gambling devices, money laundering, fish and wildlife offenses, and Wash. Rev. Code § 10.105.900 (Human trafficking); thus, it could be applied in a case of commercial sexual abuse of a minor.

Wash. Rev. Code § 9.68A.120 (Seizure and forfeiture of property) applies specifically to “[a]ll visual or printed matter that depicts a minor engaged in sexually explicit conduct.” It also applies, with some exceptions to “[a]ll raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation

of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060.” It further applies to “[a]ll personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.” Chapter 9.68A includes Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) bringing seizure and forfeiture of property to bear on this crime as well.

Also pursuant to Wash. Rev. Code § 9A.82.100(4)(f) (Remedies and procedures) if charged under Wash. Rev. Code § 9A.40.100 (Human trafficking), a trafficker faces asset forfeiture through the criminal profiteering statute. This statute also provides a cause of action for damages, and possible treble damages at the court’s discretion. Wash. Rev. Code §§ 9A.82.100(1)(a), 9A.82.100(4)(d). A trafficker could also face an action to prevent, restrain, or remedy a pattern of human trafficking in which the court may impose a civil penalty not exceeding \$250,000, in addition to the cost of the suit, which includes reasonable investigative and attorney’s fees. Wash. Rev. Code § 9A.82.100(1)(d).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Convicted traffickers are required to register as sex offenders.
The Legislative Solution	Society understands that sex offenders pose a real threat to children and they should be carefully monitored and tracked. Thus, sex offender registry laws are intended to provide people with information that will prevent them and their children from being victimized. Being designated with the term “sex offender” attaches a serious but critically necessary social stigma to perpetrators. Since traffickers of sex acts with minors commercially exploit and cause irreparable damage to children, they too should be classified as “sex offenders” to punish them, deter others, and warn the public of their crime in order to protect other children from sexual exploitation. States should amend their sex offender registry laws to require registration because the commercial nature of sex trafficking should not immunize traffickers from the sex offender registration requirements.

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 13-3821(A) (Persons required to register) lists the crimes for which an offender must register as a sex offender. The list includes, in relevant part, the following crimes: “9. Taking a child for the purpose of prostitution pursuant to section 13-3206, 10. Child prostitution pursuant to section 13-3212 subsection A or subsection B, paragraphs 1 or 2, 11. Commercial sexual exploitation of a minor pursuant to section 13-3552, 12. Sexual exploitation of a minor pursuant to section 13-3553, 13. Luring a minor for sexual exploitation pursuant to section 13-3554, 14. Sex trafficking of a minor pursuant to section 13-1307. . . 21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.”

Colorado

Pursuant to Colo. Rev. Stat. § 16-22-103(1)(a), (2)(a) (Sex offender registration—required—applicability— exception) any person convicted of an “unlawful sexual offense as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of a child, as described in section 18-3-306, C.R.S.” or “any person convicted. . . of unlawful sexual behavior. . .” must register. Colo. Rev. Stat. § 18-3-411(1) (Sexual offenses against children) and § 16-22-102(9) (Definitions) define “unlawful sexual offenses” and “unlawful sexual behavior” as including: “(j) Trafficking in children, in violation of section 18-3-502, C.R.S.; (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.; (l) Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.; . . .(n)

Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.; (o) Pandering of a child, in violation of section 18-7-403, C.R.S.; (p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.; (q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.; (r) Pimping of a child, in violation of section 18-7-405, C.R.S.; (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.; (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.; . . .”

Florida

Perpetrators of domestic minor sex trafficking are required to register under Fla. Stat. § 775.21 (Florida’s Sexual Predators Act). Fla. Stat. § 775.21(4)(b) subjects “sexual predators” convicted of a sexual offense to registration and community and public notification, pursuant to subsections (6) and (7), if the offense was “[a]ny felony violation, or any attempt thereof, of . . . s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into sex trafficking or prostitution; penalties]; . . .”

Idaho

Pursuant to Idaho Code Ann. § 18-8304(1)(a) (Application of chapter—rulemaking authority) any person who commits anyone of the following crimes, including attempt, solicitation, or conspiracy of such crime, must register as a sex offender under Chapter 83 (Sexual offender registration notification and community right-to-know Act): Idaho Code Ann. § 18-1507 (sexual exploitation of a child), Idaho Code Ann. § 18-5609 (inducing person under eighteen years of age into prostitution), Idaho Code Ann. § 18-5611 (inducing person

under eighteen years of age to patronize a prostitute), Idaho Code Ann. § 18-8602 (Human trafficking defined).

Indiana

Ind. Code § 11-8-8-7(a)(1) (Persons who must register—Place of registration—Sexually violent predators—Duties of local law enforcement authorities) require registration by a sex or violent offender defined in Ind. Code § 11-8-8-5(a) (Sex of violent offender” defined) as any person convicted of: “(4) Child exploitation (IC 35-42-4-4(b)), . . . (6) Child solicitation (IC 35-42-4-6). . . (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony, (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age, (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)), (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age. . . .”

Iowa

Iowa Code § 692A.103 (1) (Offenders required to register) states, “A person who has been convicted of any sex offense classified as a tier I, tier II, or tier III offense . . . if the offender resides, is employed, or attends school in this state. . .” must register as a sex offender. Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor, (32) Sex trafficking of children in violation of 18 U.S.C. § 1591. . . (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A. . . .”

Kentucky

Under Ky. Rev. Stat. Ann. § 17.510(2) (Registration system for adults who have committed sex crimes or crimes against minors—Persons required to register) requires “registrants” to register as sex offenders. Ky. Rev. Stat. Ann. § 17.500(5) (a) (Definitions) defines “registrant” as including “[a]ny person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed: 1. A sex crime; or 2. A criminal offense against a victim who is a minor.” KRS § 17.500(5)(a).KRS

§ 17.500(3)(a) defines “criminal offense against a victim who is a minor” as “5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100; 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18); . . .”

Minnesota

Pursuant to Minn. Stat. § 243.166, subd. 1b(a)(2) (Registration of predatory offenders) a person must register if “charged with or petitioned for a violation of . . . soliciting a minor to engage in prostitution in violation of section 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons, prostitutes; housing individuals engaged in prostitution; penalties]; soliciting a minor to engage in sexual conduct in violation of section 609.352 [Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children]; using a minor in a sexual performance in violation of section 617.246 [Use of minors in sexual performance prohibited]. . . .”

South Carolina

S.C. Code Ann. § 23-3-430(C)(13), (17) (Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration) requires registration for offenders who violated, among other things, a violation of S.C. Code Ann. § 16-3-930 (Trafficking in persons) and any offense falling within Title 16, Chapter 15, Article 3 (Obscenity, material harmful to minors, child exploitation, and child prostitution) when a minor is involved, which includes S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor) and S.C. Code Ann. § 16-15-342 (Criminal solicitation of a minor).

Area of Law	Criminal Provisions for Traffickers
The Policy Point	Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.
The Legislative Solution	Traffickers use physical and psychological tactics to maintain control over their victims. Intentionally impregnating victims is one way traffickers ensure the victim will not leave, using the baby as a bond. Traffickers who have children with their victims might later place their own children in the sex trafficking market. Also, children of a trafficking victim are exposed to daily violence and manipulation. Opportunity for freedom by the victim-parent from an ongoing relationship through the trafficker-parent’s rights to the child, and freedom for the child from the relationship with a trafficker-parent is essential for a child’s protection. State laws regarding termination of parental rights frequently identify a conviction for state or federal crimes of violence or extended incarceration as grounds for a termination petition. Clear legislative intent is needed to include convictions for child sex trafficking or commercial sexual exploitation of children (CSEC) crimes as grounds for termination of parental rights.

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 8-863 (Hearing to terminate parental rights) states, “The court may terminate the parental rights of a parent if the court finds by clear and convincing evidence one or more of the grounds prescribed in section 8-533.” Ariz. Rev. Stat. Ann. § 8-533(B) (Petition; who may file; grounds) states in part, “[e]vidence sufficient to justify the termination of the parent-child relationship shall include any one of the following, and in considering any of the following grounds, the court shall also consider the best interests of the child: . . . 2. That the parent has neglected or willfully [sic] abused a child. . . .” Ariz. Rev. Stat. Ann. § 8-201(2)(a) (Definitions), defines “abuse” in relevant part as “commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, . . . or child prostitution pursuant to section 13-3212.”

Florida

Parental rights may be terminated under Fla. Stat. § 39.806(1)(d)(2) (Grounds for termination of parental rights) when the parent is determined to be a sexual predator as defined in Fla. Stat. § 775.21(4), which includes convictions for the full range of sex trafficking, CSEC, and sexual offenses. Fla. Stat. § 775.21(4)(b) defines “sexual predators” as persons convicted of “[a]ny felony violation, or any attempt thereof, of . . . s.

796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into sex trafficking or prostitution; penalties]; . . . s. 847.0145 [Selling or buying of minors; penalties]; . . . and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01 [Kidnapping; kidnapping of child under age 13, aggravating circumstances], s. 787.02 [False imprisonment; false imprisonment of child under age 13, aggravating circumstances], or s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor and the defendant is not the victim’s parent or guardian; s. 794.011 [Sexual battery], . . . ; s. 794.05 [Unlawful sexual activity with certain minors]; s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into sex trafficking or prostitution; penalties]; s. 800.04 [Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age]; s. 825.1025 [Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person]; s. 827.071 [Sexual performance by a child; penalties]; s. 847.0133 [Protection of minors; prohibition of certain acts in connection with obscenity; penalty]; s. 847.0135 [Computer pornography; traveling to meet minor; penalties], . . . ; or a violation of a similar law of another jurisdiction;. . . .”

Iowa

Iowa Code § 600A.8(10) (Grounds for termination) permits the court to order the termination of parental rights based on “clear and convincing proof” that any of the following grounds exist: “[t]he parent has been convicted of a felony offense that is a ‘sex offense against a minor’ as defined in section 692A.101 [Definitions]. . .” Pursuant to Iowa Code § 692A.101 (Definitions) “Sex offense against a minor” “means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.” Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense. . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor., (32) Sex trafficking of children in violation of 18 U.S.C. § 1591. . . . (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A. . . .”

Maine

Me. Rev. Stat. Ann. tit. 22, § 4055(1)(B)(2) (Grounds for termination) provides, “[t]he court may order termination of parental rights if: A. One of the following conditions has been met: The court finds, based on clear and convincing evidence, that: a) Termination is in the best interest of the child; and b) Either: i) The parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child’s needs; ii) The parent has been unwilling or unable to take responsibility for the child within a time which is reasonably calculated to meet the child’s needs. . . .” Under Me. Rev. Stat. Ann. tit. 22, § 4055(1-A)(B), the court may presume that the parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child’s needs if: The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of: . . . 11) Promotion of prostitution;”

Minnesota

Minn. Stat. § 260C.301, subd. 3 (Termination of parental rights) requires a county attorney to: “[F]ile a termination of parental rights petition within 30 days of the responsible social services agency determining that a child has been subjected to egregious harm as defined in section 260C.007, subdivision 14 [Definitions], [or] is determined to be the sibling of another child of the parent who was subjected to egregious harm” Pursuant to Minn. Stat. § 260C.007, subd. 14, “egregious harm” is defined as: “[T]he infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. . . . Egregious harm includes, but is not limited to: . . . (7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking];”

Missouri

Mo. Rev. Stat. § 211.447(5) (Petition to terminate parental rights filed, when—juvenile court may terminate parental rights, when—investigation to be made—grounds for termination) provides that “the juvenile officer or the division may file a petition to terminate the parental rights of the child’s parent when it appears that one or more of the following grounds for termination exist . . . 4. The parent has been found guilty or pled guilty to a felony violation of chapter 566 [Sexual offenses], R.S.Mo., when the child or any child in the family was a victim” Chapter 566 (Sexual offenses) includes a violation of Mo. Rev. Stat. 566.212 (Sexual trafficking of a child—penalty) or Mo. Rev. Stat. § 566.213 (Sexual trafficking of a child under age twelve—affirmative defense not allowed, when—penalty).

Issue Briefs

Section 4 | Criminal Provisions for Facilitators

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

SECTION 4.1

<p>Area of Law</p>	<p>Criminal Provisions for Facilitators</p>
<p>The Policy Point</p>	<p>The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.</p>
<p>The Legislative Solution</p>	<p>Facilitators of domestic minor sex trafficking are those people or businesses that assist, enable, aid, or financially benefit from child sex trafficking. These actions are essential to the success of the sex trafficking enterprise but facilitators are rarely held accountable for their role in the crime of sex trafficking. Due to the low risk of being prosecuted or seriously penalized, facilitators often reap the financial benefits of the sex trafficking industry without significant risk of criminal liability. Including the act of assisting, enabling, and/or financially benefitting from domestic minor sex trafficking in state human trafficking laws allow law enforcement to fully investigate cases, enabling prosecutors to obtain convictions and providing judges appropriate sentencing for these perpetrators who provide the opportunity and means for the commercial sexual exploitation of children.</p>

Select Statute Highlights

D.C.

D.C. Code § 22-1836 (Benefitting financially from human trafficking) states, “It is unlawful for an individual or business knowingly to benefit, financially or by receiving anything of value, from voluntarily participating in a venture which has engaged in any act in violation of . . . § 22-1833 [Trafficking in labor or commercial sex acts], § 22-1834 [Sex trafficking of children], or § 22-1835 [Unlawful conduct with respect to documents in furtherance of human trafficking], knowing or in reckless disregard of the fact that the venture has engaged in the violation.”

Iowa

Iowa Code § 710A.2(4), (7) (Human trafficking) makes any “person who benefits financially or by receiving anything of value from knowing participation in human trafficking . . . [when] the victim is under the age of eighteen” guilty of a felony.

Louisiana

La. Stat. Ann. § 14:46.3(A)(2), (4) (Trafficking of children for sexual purposes) makes it unlawful “for any person to knowingly benefit from activity prohibited by the provisions of this Section” or “[f]or any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.”

Mississippi

Miss. Code Ann. § 97-3-54.1(2) (Anti-human trafficking act) provides, “A person who [...] benefits, whether financially or by receiving anything of value, from participation in a venture that has engaged in an act described in this section” is guilty of facilitation. Also, anyone who knowingly conspires with or aids and abets a person to commit human trafficking may be treated as a principal trafficker, even if the principal trafficker has not been convicted.

South Carolina

S.C. Code Ann. § 16-3-930 (Trafficking in persons) includes the crime of facilitation, stating that anyone who “recruits, entices, harbors, transports, provides, or obtains by any means another person knowing that the person will be subjected to forced labor or services, or aids, abets, attempts, or conspires to do any of the above acts is guilty of a felony.”

Wisconsin

Wis. Stat. § 948.051(2) (Trafficking of a child) penalizes “[w]hoever benefits in any manner from a violation of sub. (1)...if the person knows that the benefits come from an act described in sub. (1).” Subsection (1) makes “[w]hoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain or harbor, any child for the purpose of commercial sex acts” guilty of trafficking.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.
The Legislative Solution	Facilitators benefit economically from a multibillion dollar human trafficking industry in the United States while rarely being held financially liable for the consequences of the crime. Financial penalties, including seizing and forfeiting the money and property used in connection with or derived from the facilitation of commercial sexual exploitation of children, will serve as a deterrent to assisting or benefitting from this crime. Also, financial penalties could be directed to pay for victim services and costly investigations, following the models of other crimes like drug forfeiture programs. Asset forfeiture and financial penalties are frequently available through racketeering and money laundering laws, but ensuring these are also available directly through the criminal statute on sex trafficking is important to reach all facilitators. In crafting laws to reach facilitator with criminal liability, states should mandate serious financial penalties including asset forfeiture.

Select Statute Highlights	
Illinois	Ill. Comp. Stat. Ann. § 725 ILCS 5/124B-300 (Persons and property subject to forfeiture) states, “A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under [720 ILCS 5/10-9] shall forfeit to the State of Illinois any profits or proceeds and any property he or she has acquired or maintained in violation of [the section]” which applies to facilitators.
Louisiana	La. Stat. Ann. § 14:46.3(D)(3)(a),(b) (Trafficking of children for sexual purposes), which applies to facilitators, states that “the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1. (b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.”
Oregon	Or. Rev. Stat. § 131.558(10) (Property subject to forfeiture) mandates asset forfeiture in racketeering charges of “[a]ll personal property that is used or intended to be used to commit or facilitate prohibited conduct.” “Prohibited conduct” is defined in Or. Rev. Stat. § 131.550(b)(Definitions) as “any crime listed in ORS 131.602,” which includes at subsection (138) (Prohibited conduct for purposes of instrumentalities of crime), “[t]rafficking in persons, as defined in ORS 163.266” which includes the crime of facilitating trafficking.
Rhode Island	R.I. Gen. Laws § 11-67-5 (Forfeitures) calls for the forfeiture of “any profits or proceeds any interest or property . . . acquired or maintained in violation of” R.I. Gen. Laws § 11-67-2 (Involuntary servitude) or R.I. Gen. Laws § 11-67-3 (Trafficking of persons for forced labor or commercial sexual activity), which include the crime of facilitation.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Promoting and selling child sex tourism is illegal.
The Legislative Solution	Sex tourism encourages commercial sexual exploitation of children (CSEC) and creates incentives for traffickers and facilitators to increase profits while furthering the clandestine nature of the trafficking offense by interfering with detection of trafficking crimes that are disguised as travel services. Some states have made sex tourism a crime when the commercial sexual exploitation involved adult victims; these and all sex tourism criminal statutes should enhance penalties when the victim of the commercial sexual activity is a minor under 18 in recognition of the more serious underlying crime. States should 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 if the travel—either arriving or departing—is occurring in their state to protect their children from the demand that is generated through sex tourism.

Select Statute Highlights

Alaska

Alaska Stat. § 11.66.120(a)(3) (Promoting prostitution in the second degree) makes it a Class B felony when a person “offers, sells, advertises, promotes, or facilitates travel that includes commercial sexual conduct as enticement for the travel,” punishable by 1–3 years imprisonment and a possible fine not to exceed \$100,000.

Hawaii

Haw. Rev. Stat. Ann. § 712-1208(1) (Promoting travel for prostitution) makes it illegal when a facilitator “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state.” Promoting travel for prostitution is a Class C felony punishable by a sentence of 5 years imprisonment and a possible \$10,000 fine.

Haw. Rev. Stat. Ann. §468L-7.5 (10) (Prohibited Acts) criminalizes the “[s]elling, advertising, or otherwise offering to sell travel services or facilitate travel: (A) For the purpose of engaging in a commercial sexual act; (B) That consists of tourism packages or activities using and offering sexual acts as enticement for tourism; or (C) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.” Haw. Rev. Stat. Ann. § 486L-8 (Restitution) permits a convicted offender of “any provision

of this chapter . . . may be ordered . . . to make restitution to all persons injured by the act or practice.”

Missouri

Mo. Rev. Stat. § 567.085(1) (Promoting travel for prostitution) states that a “person commits the crime of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in prostitution as defined by section 567.010.” The Class C felony is punishable by a maximum term of imprisonment and conditional release of 7 years.

Mo. Rev. Stat. § 567.087 (Prohibitions on travel agencies or tour operators—rebuttable presumption, advertisements) states, “1. No travel agency or charter tour operator shall: (1) Promote travel for prostitution under section 567.085; (2) Sell, advertise, or otherwise offer to sell travel services or facilitate travel: (a) For the purpose of engaging in a commercial sex act as defined in section 566.200, RSMo [Definitions], (b) That consists of tourism packages or activities using and offering any sexual contact as defined in section 566.010, RSMo [Prostitution], as enticement for tourism; or (c) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services. 2. There shall be a rebuttable presumption that any travel agency or charter tour operator using advertisements that include the term “sex tours” or “sex travel” or include depictions of human genitalia is in violation of this section.”

Mo. Rev. Stat. § 567.089 (Offering travel for purpose of prostitution prohibited—penalties) states, “1. No travel agency or charter tour operator shall engage in selling, advertising, or otherwise offering to sell travel services, tourism packages, or activities that solicit, encourage, or facilitate travel for the purpose of engaging in prostitution. 2. Upon violation of this section by a travel agency or charter tour operator, the secretary of state shall revoke the articles of incorporation of the travel agency or charter tour operator. The secretary of state, as part of a proceeding brought under this section, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.”

New York

NY. Penal. Law § 230.25 (Promoting prostitution in the third degree) states that “a person is guilty of promoting prostitution in the third degree when he knowingly: 1) advances or profits from prostitution by controlling or owning, either alone or in association with others... a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a prostitute, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction.” The Class D felony is punishable by up to 7 years’ imprisonment and a possible fine not to exceed \$5,000 or double the amount of the profit from the crime, whichever is higher.

Washington

Wash. Rev. Code § 9A.88.085 (Promoting travel for prostitution) makes it a Class C felony with a maximum of 12 months in prison to “promot[e] travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in [Washington].” Wash. Rev. Code § 9.68A.102(1) (Promoting travel for commercial sexual abuse of a minor) makes it a crime if a person “knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in [Washington].” Also a Class C felony with a maximum sentence of 12 months, this statute requires a convicted offender to register as a sex offender upon completion of the prison term.

Area of Law	Criminal Provisions for Facilitators
The Policy Point	Promoting and selling child pornography is illegal.
The Legislative Solution	The demand for images of child sexual abuse has exploded with the introduction of the Internet, bringing anonymity and privacy to the buyer and seller of child pornography, and creating a tremendous opportunity for individuals and businesses to capitalize on the opportunity to make profits from facilitating the manufacture and sale of the images. A legislative response from states to criminalize and impose serious penalties for those persons who promote or sell these images is critical.

Select Statute Highlights

The state laws highlighted below define a child as a person under the age of 18 and impose serious penalties on offenders.

Idaho

Idaho Code § 18-1507(3)(b) (Sexual exploitation of a child) states, “A person commits sexual exploitation of a child if, for any commercial purpose, he knowingly . . . promotes . . . sells . . . or distributes any sexually exploitative material.” This is a felony punishable by imprisonment up to 30 years and/or a fine up to \$50,000.

Kansas

Kan. Stat. Ann. § 21-5510(a)(4) (Sexual exploitation of a child) makes it a crime to “promot[e] any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.” Kan. Stat. Ann. § 21-5510(b)(2) defines promoting to include “procuring, selling, providing, lending, mailing, delivering, transferring, transmitting, distributing, circulating, disseminating, presenting, producing, directing manufacturing, issuing, publishing, displaying, exhibiting or advertising.” This is a felony punishable by 31–24 months and a possible fine not to exceed \$300,000, but if the victim is under 14 and the offender is 18 or older, the crime is punishable by a mandatory 25 years to life imprisonment and a possible fine not to exceed \$500,000.

Nevada

Nev. Rev. Stat. Ann. § 200.725 (Preparing, advertising or distributing materials depicting pornography involving minor unlawful; penalty) makes it a category B felony when a person “knowingly prepares, advertises or distributes any item

or material that depicts a minor engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct” punishable by imprisonment for 1–15 years and/or a fine not to exceed \$15,000. Victims under 16 who “appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result. . .” also have a civil cause of action against facilitators pursuant to Nev. Rev. Stat. Ann. § 41.1396(1) and may recover actual damages deemed to be at least \$150,000, plus attorney’s fees and costs.”

New Hampshire

N.H. Rev. Stat. Ann. § 649-A:3(I)(b), (II) makes it a Class A felony to “possess, or control . . . or [b]ring or cause to be brought into this state any visual representation of a child engaging in sexually explicit conduct” punishable by up to 15 years imprisonment and fines up to \$4,000 or up to \$100,000 for a corporation or, in the alternative, up to double the value of any property gained in the commission of the felony. It is also unlawful under N.H. Rev. Stat. Ann. § 649-A:3-a(I)(a), (b) to “[k]nowingly sell, exchange, or otherwise transfer, or possess with the intent to sell, exchange, or otherwise transfer any” child pornography or to “[k]nowingly publish, exhibit, or otherwise make available . . .” child pornography. This offense is punishable by up to 20 years imprisonment with a minimum sentence of ½ of the maximum or, where previously convicted of such an offense or its reasonable equivalent in another jurisdiction, up to 30 years imprisonment with a minimum sentence of ½ of the maximum.

Issue Briefs

Section 5 | Protective Provisions for Child Victims

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Protective Provisions for the Child Victims
The Policy Point	A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.
The Legislative Solution	Child victims of sex trafficking and CSEC often continue to be viewed as juvenile delinquents instead of victims due to the unique nature of their exploitation and injuries. These children must expressly be defined as victims under state law to ensure them access to crime victims' compensation, court protections, and various programs designed to protect and respond to victims of sexual crimes. Changing the language in state and federal laws to ensure that commercially sexually exploited children are deemed victims without regard to the nature of their injuries will lead to improved identification of sexually exploited children and make existing child protective services more readily available to them.

Select Statute Highlights

Louisiana

La. Stat. Ann. § 46:1842 (Definitions) for La. Stat. Ann. Title 46 (Public welfare and assistance), Chapter 21-B (Rights of crime victims and witnesses) defines the following: “(1.1) “Crime victim who is a minor” means a person under the age of eighteen against whom any of the following offenses have been committed: (a) Any homicide, or any felony offense defined or enumerated in R.S. 14:2(B) [Definitions] [which includes La. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes)], (b) Any sexual offense. . . .”

New Mexico

N.M. Stat. Ann. § 30-52-2(B) (Human trafficking; benefits and services for human trafficking victims) defines a human trafficking victim as “a person subjected to human trafficking by a person charged in New Mexico with the crime of human trafficking.” The crime of human trafficking includes “recruiting, soliciting, enticing, transporting or obtaining by any means a person under the age of eighteen years with the intent or knowledge that the person will be caused to engage in commercial sexual activity;” therefore, a child subjected to this action would be considered a victim. N.M. Stat. Ann. § 30-52-2(A) also recognizes the victim status of trafficking victims by stating, “[h]uman trafficking victims found in the state shall be eligible for benefits and services from the state until the victim qualifies for benefits and services authorized by the federal Victims of Trafficking and Violence Protection Act of 2000 [Pub. L. No. 106-386, § 2002]; provided that the victim cooperates in the investigation or prosecution

of the person charged with the crime of human trafficking. Benefits and services shall be provided to eligible human trafficking victims regardless of immigration status and may include: (1) case management; (2) emergency temporary housing; (3) health care; (4) mental health counseling; (5) drug addiction screening and treatment; (6) language interpretation, translation services and English language instruction; (7) job training, job placement assistance and post-employment services for job retention; (8) services to assist the victim and the victim’s family members; or (9) other general assistance services and benefits as determined by the children, youth and families department.”

Texas

Tex. Code Crim. Proc. Ann. art. 56.01(3) (Definitions), which provides definitions applicable to Chapter 56 (Rights of crime victims), defines a “victim” as “a person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another.”

Vermont

Vt. Stat. Ann. tit.13, § 2651(13) (Definitions) specifically defines a “victim of human trafficking” as “a victim of a violation of section 2652 [Human trafficking] of this title.” This definition is used within Vt. Stat. Ann. tit. 13, § 2657 (Restitution), Vt. Stat. Ann. tit. 13, § 2662 (Private cause of action), Vt. Stat. Ann. tit. 13, § 2663 (Classification of victims; immigration assistance), and 2011 Vt. Acts & Resolves. 55, sect. 3. (Services for victims of human trafficking).

Washington

A commercially sexually exploited child is defined as a victim throughout Washington's laws. Wash. Rev. Code § 7.68.070(3)(b) (Benefits—Right to and amount—Limitations) clarifies that “[a] person identified as the “minor” in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter [Victims of crimes — compensation, assistance] even if the person is also charged with prostitution under RCW 9A.88.030.”

For purposes of receiving victim services under chapter 13.32A (Family Reconciliation Act), Wash. Rev. Code § 13.32A.030(17) (Definitions—Regulating leave from semi-secure facility) contains a specific provision defining “sexually exploited child” to mean “any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.”

Wash. Rev. Code §13.40.219 (Arrest for prostitution or prostitution loitering—Alleged offender—Victim of severe form of trafficking, commercial sex abuse of a minor), while implicitly allowing juveniles to be arrested for prostitution, specifies that “in any proceeding under this chapter [Juvenile Justice Act of 1977] related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code [Trafficking Victims Protection Act of 2000, as amended], and that the alleged offender is also a victim of commercial sex abuse of a minor.”

<p>Area of Law</p>	<p>Protective Provisions for the Child Victims</p>
<p>The Policy Point</p>	<p>The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.</p>
<p>The Legislative Solution</p>	<p>A minor cannot consent to commercial sex acts, which are themselves, criminal acts. For the same reason, age of consent laws also are irrelevant for commercial sex transactions. Permitting a defense to prosecution or civil actions based on the child’s consent incorrectly implies that a minor—or any person—could authorize criminal sex acts. Sex trafficking and commercial sexual exploitation laws that do not expressly prohibit a defense based on the child’s consent to sex acts unfairly shift the burden to the child to prove she or he did not in fact consent and may result in shielding buyers, traffickers and facilitators from prosecution and accountability. Moreover, permitting a defense that presumes a minor can consent to commercial sex acts further undermines the perception of prostituted children as victims, instead supporting a perception of these children as willingly delinquent youth.</p>

Select Statute Highlights

Alabama

Alabama’s human trafficking statute lists evidence which cannot serve as a defense in the prosecution of a human trafficking case. Pursuant to Ala. Code § 13A-6-154(3) (Evidence of certain facts or conditions not deemed a defense), any facts relating to “consent of or permission by a victim of human trafficking or anyone else on the victim’s behalf to any commercial sex act or sexually explicit performance. . .” are excluded from evidence.

Georgia

Under Ga. Code Ann. § 16-5-46(d) (Trafficking of persons for labor or sexual servitude), “The age of consent for sexual activity or the accused’s lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.”

Idaho

Idaho Code Ann. § 18-1507(1) (Sexual exploitation of a child) states that “a child below the age of eighteen years is incapable of giving informed consent to the use of his or her body for a commercial purpose.”

Illinois

For the purpose of recovering civil damages and remedies from individuals who “recruited, harmed, profited from, or maintained” victims in the sex trade industry, 740 Ill. Comp.

Stat. Ann. 128/25 (Non-defenses) provides that “(a) It is not a defense to an action brought under this Act that: . . .(6) the victim of the sex trade consented to engage in acts of the sex trade; . . .”

Louisiana

Pursuant to La. Rev. Stat. Ann. § 14:46.3(C)(1) (Trafficking of children for sexual purposes), “Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this section.”

Minnesota

Minn. Stat. § 609.325, subd. 2 (Defenses) expressly states that “[c]onsent . . . shall be no defense to prosecutions under 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking] or 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties].”

Vermont

In Vermont, a victim’s consent is immaterial in a prosecution for an offense of human trafficking. Vt. Stat. Ann. tit. 13, § 2652(d) (Human trafficking) states, “In a prosecution for a violation of this section, the victim’s alleged consent to the human trafficking is immaterial and shall not be admitted.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.
The Legislative Solution	<p>A critical step in protecting the victims of domestic minor sex trafficking and recognizing them as victims is to ensure that they are not simultaneously subject to arrest and prosecution for prostitution which they were caused to engage in through the trafficking violation. State and federal human trafficking laws serve the purpose of criminalizing traffickers and protecting children, therefore, it is a conflict of law to retain provisions that permit prostituted children to also be charged and prosecuted for prostitution. Misplaced beliefs abound, including that there will be no incentive for children to disclose information about their traffickers without the fear of being criminally charged, that children will begin to prostitute independently for pocket money, or that traffickers will increase their exploitation of children through prostitution as the fear of arrest and prosecution are lifted. These beliefs are not grounded on facts or on the experience of the experts working with these issues. The continuation of conflicting laws are a significant system gap and prevents proper responses along the line from first responders who find themselves assuming the role of child counselors to the detention facilities finding themselves identifying victims of sex trafficking mixed with juvenile offenders. Prostitution statutes should be amended to eliminate criminal liability for child victims of commercial sexual exploitation of children (CSEC) and sex trafficking.</p>

Select Statute Highlights

Illinois

Illinois immunizes from prostitution charges any person under the age of 18. Pursuant to 720 Ill. Comp. Stat. Ann. 5/11-14(d) (Prostitution) “if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5 and 705 ILCS 405/2-6]. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987 [705 ILCS 405/2-6], a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 of this Code [720 ILCS 5/10-9] to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.4 et seq.]. Furthermore, 720 Ill. Comp.

Stat. Ann. 5/11-14.3(a)(2)(C) (Promoting prostitution) also clarifies that an offense for profiting from prostitution by “any means . . . including from a person who patronizes a prostitute . . . does not apply to a person engaged in prostitution who is under 18 years of age. A person cannot be convicted of promoting prostitution under this paragraph (C) if the practice of prostitution underlying the offense consists exclusively of the accused’s own acts of prostitution under Section 11-14 of this Code [720 ILCS 5/11-14 [Prostitution]].”

Minnesota

Minn. Stat. Ann. § 260B.007, subd.6(c) amends the definition of a “delinquent child” to “not include a child under the age of 16 years of age alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct,” effective August 1, 2014. Also Minn. Stat. Ann. § 260B.007, subd. 16(d) (Juvenile petty offender; juvenile petty offense) clarifies that a “juvenile petty offense” will not include “a child under the age of 16 years alleged to have violated any law relating to being

hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.”

Tennessee

Minors under 18 are immune from being charged with Tenn. Code Ann. § 39-13-513 (Prostitution), stating, “Notwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the National Human Trafficking Resource Center hotline and release the minor to the custody of a parent or legal guardian.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.
The Legislative Solution	Establishing a child protection response is critical to ending the arrest and detention of domestic minor sex trafficking victims and ensuring instead that they are provided crime victim protections, services, and benefits. This encompasses beginning with non-punitive first responses and following through with specialized services for child sex trafficking victims to include protective shelters, physical and mental health care, education, and recovery programs. Services should be delivered by trained trauma responders and health care providers. Laws are required to retrofit existing system responses, such as child protective services and child welfare programs or runaway and homeless youth programs, or to establish and financially support new systems designed to treat domestic minor sex trafficking victims at all stages, including intervention and restoration.

Select Statute Highlights	
Illinois	<p>The Illinois Safe Children Act established a comprehensive protective response for commercially sexually exploited children. 720 Ill. Comp. Stat. Ann. 5/11-14(d) (Prostitution) provides that “if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person . . . shall be subject to [] temporary protective custody” The detaining officer also must “report an allegation of a violation of Section 10-9 of this code [Trafficking in persons, involuntary servitude, and related offenses] . . . to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.4 et seq.]” 705 Ill. Comp. Stat. Ann. 405/2-7 (Temporary custody) defines “temporary custody” as “temporary placement of the minor out of the custody of his or her guardian or parent, and includes the following: (1) “Temporary protective custody” . . . within a hospital or other medical facility or a place previously designated for such custody by the Department of Children and Family Services, subject to review by the court, including a licensed foster home, group home, or other institution. However, such place shall not be a jail or other place for the detention of the criminal or juvenile offenders, (2) “Shelter care” means a physically unrestrictive facility designated by the Department of Children and Family Services or a licensed child welfare agency, or other suitable place designated by the court for a minor who requires care away from his or her home.”</p>
Minnesota	<p>Under recently enacted legislation, “[i]f sufficient funding from outside sources is donated, the commissioner of public safety” will be required to develop a statewide victim services model to “address the needs of sexually exploited youth and youth at risk of sexual exploitation.” Even if Minnesota does not receive adequate funding to implement this victim services model, several protective provisions currently are available to sexually exploited youth under the child protection provisions of Minnesota’s Juvenile Court Act. Effective August 1, 2014, Minn. Stat. Ann. § 260B.007, subd.6(c) amends the definition of a “delinquent child” to “not include a child under the age of 16 years of age alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct” and § 260B.007, subd. 16(d) (Juvenile petty offender; juvenile petty offense) clarifies that a “juvenile petty offense” will not include “a child under the age of 16 years alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.” Identified child victims will be handled as children in need of services under Minn. Stat. Ann. § 609.093, subd. 1 (Juvenile prostitutes; diversion or child protection proceedings), which states that when a 16 or 17 year old child is “alleged to have engaged in prostitution . . . who (1) has not been previously adjudicated delinquent for engaging in prostitution . . . (2) has not previously participated in or completed a diversion program for engaging in prostitution . . . (3) has not previously been placed on probation without an adju-</p>

dication or received a continuance under section 260B.198, subdivision 7, for engaging in prostitution . . . (4) has not previously been found to be a child in need of protection or services for engaging in prostitution . . . or because the child is a sexually exploited youth . . . and (5) agrees to successfully complete a diversion program under section 388.24 [Pretrial diversion programs for juveniles] or fully comply with a disposition order under section 260C.201 . . . (b) The prosecution shall refer [such] a child . . . to a diversion program under section 388.24 or file a petition under section 260C.141 alleging the child to be in need of protection or services.” Minn. Stat. Ann. § 260C.007, subd.6 (17) clarifies that a “child in need of protection or services” includes “sexually exploited youth.”

Minn. Stat. Ann. § 609.093, subd. 3 provides that if the 16 or 17 year old child successfully completes a diversion program under Minn. Stat. Ann. § 388.24 (Pretrial diversion programs for juvenile), or, where the prosecutor filed a petition under Minn. Stat. Ann. § 260C.201 to treat the child as a child in need of protection or services and the court entered an order under Minn. Stat. Ann. § 26C.201, the child fully complied with the court’s order, the court will be required to dismiss the charge against the child, while a child who does not will be able to be referred back to the court for further juvenile delinquency proceedings, and possible detention.

New York

New York’s Safe Harbour Act establishes a protective system of response to sex trafficked children. N.Y. Soc. Serv. Law § 447-a (1) (Definitions) defines the term “sexually exploited” as “any person under the age of eighteen who has been subjected to sexual exploitation because he or she: (a) is the victim of the crime of sex trafficking as defined in section 230.34 of the penal law; (b) engages in any act as defined in section 230.00 [Prostitution] of the penal law; (c) is a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law; (d) engages in acts or conduct described in article two hundred sixty-three [Sexual performance by a child] or section 240.37 [Loitering for the purpose of engaging in a prostitution offense] of the penal law.” Sexually exploited children can be placed in a “short-term safe house” or “safe house” both of which are defined in part as “a residential facility operated by an authorized agency . . . including a residential facility operating as part of an approved runaway program . . . or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter, services and care to sexually exploited children . . .” N.Y. Soc. Serv. Law § 447-a(2), (4). Also in both short term and long term safe housing sexually exploited children will receive

services “including food, shelter, clothing, medical care, counseling, crisis intervention” and for long term housing, services will either be provided through “direct provision of services, or through written agreements with other community and public agencies . . .” N.Y. Soc. Serv. Law § 447-a(2),(4).

Pursuant to N.Y. Fam. Ct. Act § 739(a) (Release or detention after filing of petition and prior to order of disposition) , upon an initial appearance at a juvenile delinquency proceeding if the child is a sexually exploited child, “the court may direct the respondent to an available short-term safe house as an alternative to detention.” Moreover, N.Y. Fam. Ct. Act §739(a) notes “the court shall not direct detention [of a sexually exploited minor] unless it finds and states the facts and reasons for so finding that unless the respondent is detained there is a substantial probability that the respondent will not appear in court on the return date and all available alternatives to detention have been exhausted.” During a trial, the minor must file a petition to receive these services. While there is a presumption that a minor is a victim when that minor is arrested prostitution, the child must make “a petition alleging that the respondent is in need of supervision” in substitution for the delinquency proceedings. N.Y. Fam. Ct. Act §311.4(3). If the minor does not make this motion, they will likely be detained. Similarly, if the victim is unwilling “to cooperate with specialized services for sexually exploited youth” or has a prior prostitution conviction, the minor will be subject to the delinquency proceedings and could be detained. N.Y. Fam. Ct. Act §311.4(3).

Vermont

Vt. Stat. Ann. tit.13, § 2652(e) (Human trafficking) states that “[i]f a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision proceeding.” Vt. Stat. Ann. tit. 33, § 5102(3) (Definitions and provisions of general application) defines a “child in need of care or supervision (CHINS)” as one who, “(B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being; (C) is without or beyond the control of his or her parent, guardian, or custodian; or (D) is habitually and without justification truant from compulsory school attendance.” Vt. Stat. Ann. tit. 33, § 5301 (Taking into custody) governs when law enforcement may take a CHINS into custody. Vt. Stat. Ann. tit. 33, § 5301 states, “A child may be taken into custody: (1) Pursuant to an order of the family division of the superior court under the provisions of this chapter, (2) By an officer when the officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that removal from the child’s current home is necessary for the child’s protection, (3) By an officer when the officer

has reasonable grounds to believe that the child has run away from a custodial parent, a foster parent, a guardian, a custodian, a noncustodial parent lawfully exercising parent-child contact, or care provider.”

Washington

As defined in Wash. Rev. Code § 13.32A.030(5)(d) (Definitions—Regulating leave from semi secure facility), “Child in need of services’ means a juvenile: . . . [w]ho is ‘sexually exploited’.” A “sexually exploited child” is defined as “any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.” Wash. Rev. Code § 13.32A.030(17). Pursuant to Wash. Rev. Code § 74.13.034 (Crisis residential centers—Removal to another center or secure facility—Placement in secure juvenile detention facility), a sexually exploited child, as defined in Wash. Rev. Code § 13.32A.030(17), may be “(1) . . . taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032 [Crisis residential centers—Establishment—Staff—Duties—Semi-secure facilities—Secure facilities] may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center, the nearest regional secure crisis residential center, or a secure facility with which it is collocated under RCW 74.13.032. Placement in both locations shall not exceed fifteen consecutive days from the point of intake as provided in RCW 13.32A.130.” Wash. Rev. Code. § 74.15.255 [Licenses for secure or semi-secure crisis residential centers or HOPE centers—Requirement—Access to person trained to work with needs of sexually exploited children] requires each crisis residential center to have a staff member, or “access to a person, who has been trained to work with the needs of sexually exploited children.”

An alternative response that also keeps the minor out of a juvenile detention facility is diversion. Wash. Rev. Code § 13.40.087 (Youth who have been diverted — Alleged prostitution or prostitution loitering offenses—Services and treatment) provides that “[w]ithin available funding, when a youth who has been diverted under RCW 13.40.070 [Complaints—Screening—Filing information—Diversion—Modification of community supervision—Notice to parent or guardian—Probation counselor acting for prosecutor—Referral to mediation or reconciliation programs] for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that youth with the services and treatment specified in RCW 74.14B.060 [Sexually abused children—Treatment services] and 74.14B.070 [Child victims of sexual assault or sexual abuse—Early identification, treatment].”

<p>Area of Law</p>	<p>Protective Provisions for the Child Victims</p>
<p>The Policy Point</p>	<p>Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.</p>
<p>The Legislative Solution</p>	<p>Child protective services can investigate and remove a child from a situation in which abuse or neglect is endangering the child’s wellbeing. Ensuring that the definition of “abuse and neglect” in child welfare statutes includes sex trafficking and the various forms of commercial sexual exploitation of a child (CSEC) will permit child protective services to act when a child victim of sex trafficking is in the control of a trafficker. This will provide the alternative response that law enforcement need and desire to avoid arresting the prostituted girls they encounter in their work. Also, states that include commercial sexual exploitation in their statutory definitions of “abuse and neglect” can direct domestic minor sex trafficking victims into child welfare services through early and consistent identification of victims, without involving victims in the criminal justice process and burdening law enforcement with child welfare matters.</p>

Select Statute Highlights

Florida

Fla. Stat. Ann. § 39.01(2) (Definitions) defines “abuse” as “any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired” Additionally, “harm” is defined in subsection (32) in part as the following: “‘Harm’ to a child’s health or welfare can occur when any person: (c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]. . . .”

Idaho

Idaho Code § 16-1602(1)(b) (Definitions) defines “abuse,” in part, as including “[s]exual conduct, including . . . prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child’s health or welfare or mental injury to the child.”

Illinois

Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vi) (Neglected or abused minor) and § 325 ILCS 5/3(h) (Definitions) defines “abused child,” in part, as “a child whose parent or immediate family member, or any person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of the child’s parent . . . commits or allows to be committed the offense of . . . involuntary sexual servitude of a minor. . . as defined in [720 ILCS 5/10-9] against the child.” Ill. Comp. Stat. Ann. § 705 ILCS 405/2-3(2)(vii) (Neglected or abused minor) adds that an “abused” child includes a minor encouraged or required to “commit any act of prostitution . . . and extending those definitions to include minors under 18 years of age.”

Iowa

Iowa Code § 232.68(2)(c), (e) (Definitions) defines “child abuse” or “abuse” as the “commission of a sexual offense with or to a child pursuant to chapter 709 [Sexual abuse] . . . or section 728.12 [Sexual exploitation of a minor], . . .with or to a person under the age of eighteen years” and “[t]he acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1 [Prostitution] . . . with or to a person under the age of eighteen years.”

Kentucky

Pursuant to Ky. Rev. Stat. Ann. § 600.020(1) (Definitions) an “abused or neglected child” includes “a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: . . . ; (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; . . .” Ky. Rev. Stat. Ann. § 600.020(56) further defines “sexual exploitation” as behavior that “includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law.”

Minnesota

Minn. Stat. Ann. § 260C.007(5) (Definitions) defines “child abuse,” in part, as “an act that involves a minor victim that constitutes a violation of section . . . 609.322 [Solicitation, inducement, and promotion of prostitution; sex trafficking], 609.324 [Patrons; prostitutes; housing individuals engaged in prostitution; penalties], . . . 617.246 [Use of minors in sexual performance prohibited].”

New Hampshire

Pursuant to N.H. Rev. Stat. Ann. § 169-C:3(II)(a) (Definitions) an “abused child” is defined as “any child who has been sexually abused.” N.H. Rev. Stat. Ann. § 169-C:3(XXVII-a) defines “sexual abuse” as including: “the following activities under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose of producing any visual depiction of such conduct; or the . . . prostitution, or other form of sexual exploitation of children, . . . who is under the age of 18 years.”

Rhode Island

R.I. Gen. Laws § 40-11-2(1) defines an “abused and/or neglected child,” in part, as one “whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare: . . . (vii) Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions in § 11-34.1-1 [Commercial sexual activity] et seq., entitled “Commercial Sexual Activity”; or (viii) Sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in, any sexual act, or which depicts any such child under eighteen years of age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality.”

Tennessee

Tenn. Code Ann. § 37-1-102(12)(I) (Definitions) defines a “dependent and neglected child” to include a child “[w]ho is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity.”

Wisconsin

Wis. Stat. § 48.02(1)(c),(d) (Definitions) of the Children’s Code defines “abuse” as including a “violation of s. 948.05 [Sexual exploitation of a child]” or “[p]ermitting, allowing or encouraging a child to violate s. 944.30 [Prostitution].”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	The definition of “caregiver” (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.
The Legislative Solution	Traffickers who are in custody or control of a child often abuse and neglect their victims. However, child protective services in most states is precluded from intervening because the mandate is limited to cases of custodial abuse and neglect, containing their investigations and intervention to cases in which a parent, guardian, caretaker or other person with legally provided custodial rights caused the abuse or neglect. Non-familial traffickers seldom have legal custody of their victims. The child protective services mandate is derived from the legal definitions of “caregiver” and “abuse and neglect.” It is therefore necessary that state statutory definitions of the term “caregiver” (or similar) include persons acting in a parental role by having possession of a child and controlling a child in order for child protective services to intervene in these cases and bring an abused trafficked child within the protective systems already in place in every state.

Select Statute Highlights

The following state laws broadly define “caregiver” to potentially include a trafficker.

Kentucky

The term “person exercising custodial control or supervision” over the child is defined in Ky. Rev. Stat. Ann. § 600.020(43) for purposes of the Unified Juvenile Code (chapters 600 to 645) as “a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child.”

New Jersey

N.J. Stat. Ann. §9:6-2 (Parent and custodian defined) defines “the person having care, custody and control of any child” as including “any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed.”

North Carolina

The definition of “custodian” under N.C. Gen. Stat. § 7B-101(8) (Definitions) is “a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.”

West Virginia

For purposes of West Virginia’s child abuse and neglect provisions, W. Va. Code § 49-1-4(5) (Definitions) defines a “custodian” as “a person who has or shares actual physical possession or care and custody of a child, regardless of whether such person has been granted custody of the child by any contract, agreement or legal proceedings.”

Wisconsin

Wis. Stat. § 48.981(1)(am)(6), (7) (Abused or neglected children and abused unborn children), which establishes the requirements for reporting neglect and abuse at Wis. Stat. § 48.981(2), (2m), (3) and (3m), provides that “[c]aregiver” means, with respect to a child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect, any of the following persons...[including]... [a] person who provides or has provided care for the child in or outside of the child’s home...[or]...[a]ny other person who exercises or has exercised temporary or permanent control over the child or who temporarily or permanently supervises or has supervised the child.”

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Crime victims' compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.
The Legislative Solution	Victims of domestic minor sex trafficking and CSEC are commonly caused to commit crimes as a result of being trafficked. This cannot be allowed to prevent them from accessing crime victims' compensation, critically needed to fund the process of restoration. At the societal level, awarding compensation acknowledges that trafficking is a crime. At the individual level, compensation acknowledges victims' pain and suffering. At the practical level, compensation can assist victims in rebuilding their lives. Crime victims' compensation programs frequently contain eligibility criteria that can foreclose a domestic minor sex trafficking victim's access to an award, such as required cooperation with law enforcement, reporting the crime within short time limits, and being deemed to have contributed to the crime for which they are claiming compensation. Statutory exceptions for victims of domestic minor sex trafficking to the ineligibility factors, beyond just "good cause" exceptions, are necessary to ensure access to these funds.

Select Statute Highlights	
D.C.	<p>persons for labor or sexual servitude). Pursuant to Ga. Code Ann. § 17-15-2(9)(D), a "victim" is defined as someone who "suffers a serious mental or emotional trauma as a result of being trafficked for labor or sexual servitude as defined in Code Section 16-5-46 [Trafficking in persons for labor or sexual servitude]." Ga. Code Ann. § 17-15-7(e) (Persons eligible for awards) ensures that human trafficking victims are specifically excluded from becoming ineligible or having awards reduced due to being considered accomplices to the crime, stating, "A person who is criminally responsible for the crime upon which a claim is based or is an accomplice of such person shall not be eligible to receive an award with respect to such claim; provided, however, that such ineligibility shall not apply if the claimant is a victim as defined in subparagraph (D) of paragraph (9) of Code Section 17-15-2."</p>
Georgia	<p>Under Chapter 7.68 (Victims of crimes—compensation, assistance), Wash. Rev. Code § 7.68.070(3)(b) (Benefits—Right to and amount—Limitations) states that "[a] person identified as the 'minor' in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030."</p>
<p>In D.C., the crime of human trafficking and sex trafficking of children are specifically listed as offenses for which the victim may seek compensation. D.C. Code § 4-501 (Definitions), defines "crime" for the crime victim's compensation statute as "the offense of, or the attempt to commit the offense of . . . benefitting financially from human trafficking, using a minor in a sexual performance, promoting a sexual performance by a minor, attending or possessing a sexual performance by a minor, trafficking in labor or commercial sex acts, sex trafficking of children, a felony violation of an act codified in Chapter 27 of Title 22 of the District of Columbia Code, where a person was compelled to engage in prostitution or was a minor . . ." Sex trafficking victims are specifically protected from disqualification and reductions in awards under D.C. Code § 4-508(a)(1) (Disqualification and reductions), which states, "The Court shall not award compensation if the: (1) Claimant knowingly or willingly participated in the commission of the crime which forms the basis for the claim; provided, that a claimant who was a minor and a victim of sex trafficking of children, may be awarded compensation."</p>	

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim-friendly procedures and protections are provided in the trial process for minors under 18.
The Legislative Solution	States should enact laws that provide protections for domestic minor sex trafficking victims in the trial process. A victim-friendly justice system will reduce the trauma experienced by commercially sexually exploited children and will foster successful participation of the victim in the justice system. Examples of such victim-friendly procedures include: (1) court appointed attorneys; (2) victim witness coordinators; (3) domestic minor sex trafficking shield laws; (4) closed courtrooms for minor victim testimony; (5) closed circuit testimony; and (6) application of the “rape shield” law to reduce the trauma of cross-examination related to prior sexual conduct. The statutes enacted by states must have an adequate focus on all victims of sexual exploitation or abuse to ensure equal protection for those minors who pursue prosecution of their trafficker. While many states have enacted laws providing protections to victim-witnesses in rape and sexual assault prosecutions, few specifically provide these protections for victims testifying in prosecutions under trafficking or commercial sexual exploitation statutes.

Select Statute Highlights

D.C.

Domestic minor sex trafficking victims are protected from the introduction of certain evidence at trial. Pursuant to D.C. Code § 22-1839 (Reputation or opinion evidence), which states “[i]n a criminal case in which a person is accused of trafficking in commercial sex, as prohibited by § 22-1833, sex trafficking of children, as prohibited by § 22-1834, or benefitting financially from human trafficking, as prohibited by § 22-1836, reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. . . .”

Illinois

Child victim witnesses are provided with certain protections through the trial process. Ill. Comp. Stat. Ann. § 725 ILCS 5/115-7(a) (Prior sexual activity or reputation of victim of sexual offense) makes evidence relating to the prior sexual activity or reputation of an alleged victim inadmissible in any prosecution of various sexual offenses. Ill. Comp. Stat. Ann. § 725 ILCS 5/115-11 (Closed trial during testimony of child victim of a sexual offense permitted) states, “In a prosecution for a criminal [sexual] offense . . . where the alleged victim of the offense is a minor under 18 years of age, the court may exclude from the proceedings while the victim is testifying, all persons, who, in the opinion of the court, do not have a direct interest in the case, except the media.” Also pursuant to

Ill. Comp. Stat. Ann. § 725 ILCS 190/3 (Confidentiality of Law Enforcement and Court Records) in any investigation or proceeding pertaining to a criminal sexual offense the identity of any child-victim must be excluded from the records and kept confidential.

Indiana

Ind. Code Ann. § 35-42-3.5-4 (a)(3) (Rights of alleged victims) provides that human trafficking victims must be provided protection if their safety is at risk or if there is danger of “additional harm by recapture of the victim by the person who allegedly committed the offense.” Protections include “ensuring that the names and identifying information of the alleged victim and the victim’s family members are not disclosed to the public.” In addition, Ind. Code Ann. §§ 35-37-4-8(a)-(e), 35-37-4-6 provides that victims of trafficking and sexual offenses of any age in prosecutions for Ind. Code Ann. § 35-42-3.5-1 (Promotion of human trafficking; sexual trafficking of a minor; human trafficking) and § 35-42-4 (Sex crimes) may give testimony via two-way closed circuit television if certain requirements are met. The court also must provide safeguards, such as separate waiting rooms, “to minimize the contact of the victim of an offense” with the defendant and the defendant’s friends and relatives during criminal proceedings. Ind. Code Ann. § 35-37-4-11(a)-(c).

Minnesota

Regardless of the age of the victim, Minnesota law provides special protections for victims of sexual offenses pursuant to Minn. Stat. Ann. § 609.347 (Evidence in criminal sexual conduct cases). Minn. Stat. Ann. § 609.347, subd. 3(a), (b) provides that evidence of a victim's past sexual conduct, with limited exceptions, shall not be admitted or referenced in certain sexual offense cases. Minn. Stat. Ann. § 595.02, subd. 4(a) further provides that when a child under 12 years of age she may provide testimony via closed-circuit television or videotaped recording. Additionally, pursuant to Minn. Stat. Ann. §§ 631.045, 631.046, subd. 1, the judge may exclude spectators from the courtroom at "trial of a complaint or indictment for a violation of sections . . . 617.246, subdivision 2 [Use of minor in sexual performance prohibited] . . . when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed," and may also authorize the presence of any supportive person in the courtroom for prosecuting witnesses who are minors in cases involving child abuse as defined in Minn. Stat. Ann. § 630.36 (Issues, how disposed of), which expressly includes conduct amounting to a violations of, among other laws, Minn. Stat. Ann. § 609.321 (Prostitution and sex trafficking; definitions), Minn. Stat. Ann. § 609.322 (Solicitation, inducement and promotion of prostitution; sex trafficking), and Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties).

Virginia

Va. Code Ann. § 18.2-67.7 (Admission of evidence) provides protection to the testifying victim of a sexual offense (commonly called "rape shield law"). It states, "A. In prosecutions under this article [Criminal sexual assault], or under clause (iii) or (iv) [involving minors] of § 18.2-48 [Abduction with intent to extort money or for immoral purpose], 18.2-370 [Taking indecent liberties with children; penalties], 18.2-370.01 [Indecent liberties by children; penalty], or 18.2-370.1 [Taking indecent liberties with child by person in custodial or supervisory relationship; penalties], general reputation or opinion evidence of the complaining witness's unchaste character or prior sexual conduct shall not be admitted. Unless the complaining witness voluntarily agrees otherwise, evidence of specific instances of his or her prior sexual conduct shall be admitted only if it is relevant and is: 1. Evidence offered to provide an alternative explanation for physical evidence of the offense charged which is introduced by the prosecution, limited to evidence designed to explain the presence of semen, pregnancy, disease, or physical injury to the complaining witness's intimate parts; or 2. Evidence of sexual

conduct between the complaining witness and the accused offered to support a contention that the alleged offense was not accomplished by force, threat or intimidation or through the use of the complaining witness's mental incapacity or physical helplessness, provided that the sexual conduct occurred within a period of time reasonably proximate to the offense charged under the circumstances of this case; or 3. Evidence offered to rebut evidence of the complaining witness's prior sexual conduct introduced by the prosecution."

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.
The Legislative Solution	A juvenile arrest or criminal record is a barrier to a victim of child sex trafficking seeking to move forward with life. Juvenile records can prevent survivors from obtaining academic scholarships, or federal student loans, or securing certain kinds of employment, or working with children. For commercially sexually exploited children, having a juvenile record further victimizes them and hinders their ability to rebuild their lives. Laws are needed that expressly protect victims of commercial sexual exploitation of children (CSEC) and sex trafficking by expunging or sealing juvenile criminal records and keeping such records out of public view or access. Burdening prostituted children with a criminal record is contrary to their status as trafficking victims.

Select Statute Highlights

Alaska

Alaska Stat. § 47.12.300(d) (Court records) provides that the court shall order a minor’s records sealed “within 30 days of the date of a minor’s 18th birthday or, if the court retains jurisdiction of a minor past the minor’s 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor.” This extends to all “records pertaining to that minor in a proceeding under this chapter [Delinquent minors] sealed, as well as records of all . . . criminal proceedings against the minor, and punishments assessed against the minor.”

Arkansas

Ark. Code Ann. § 16-90-602(a) (Minor nonviolent felony offenders—Petition) allows “[a] person who is convicted of a nonviolent felony committed while the person was under the age of eighteen years and who was incarcerated or whose sentence was suspended, or who was placed on probation” to “petition the convicting court to have the record of the conviction expunged upon the completion of the sentence or expiration of the suspension or probation period or at any time thereafter.”

Indiana

Under Ind. Code Ann. § 31-39-8-2 (Petition to juvenile court for removal of records), “Any person may petition a juvenile court at any time to remove from: (1) the court’s files; (2) the files of law enforcement agencies; and (3) the files of

any other person who has provided services to a child under a court order; those records pertaining to the person’s involvement in juvenile court proceedings.” In determining whether to grant such a petition, Ind. Code Ann. § 31-39-8-3 states the court may consider “(1) the best interests of the child; (2) the age of the person during the person’s contact with the juvenile court or law enforcement agency; (3) the nature of any allegations; (4) whether there was an informal adjustment or an adjudication; (5) the disposition of the case; (6) the manner in which the person participated in any court ordered or supervised services; (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency; (8) whether the person acquired a criminal record; and (9) the person’s current status.”

Utah

Utah Code Ann. § 78A-6-1105(1)(a) (Expungement of juvenile court record—Petition—Procedure) allows a person adjudicated under the Juvenile Court Act of 1996 to “petition the court for the expungement of the person’s juvenile court record and any related records in the custody of a state agency, if: (i) the person has reached the age of 18 years of age; and (ii) one year has elapsed from the date of termination of the continuing jurisdiction of the juvenile court, or if the person was committed to a secure youth corrections facility, one year from the date of the person’s unconditional release from the custody of the Division of Juvenile Justice Services.” Once the court orders the person’s records sealed, the person’s case will “be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of

the records, and only to persons named in the petition.” Utah Code Ann. § 78A-6-1105(4).

such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.”

Vermont

Similarly, Vt. Stat. Ann. tit. 33, § 5119(a) governs the sealing of records relating to a child adjudicated delinquent after July 1, 1996. Vt. Stat. Ann. tit. 33, § 5119(a) states, “(1) . . . the court shall order the sealing of all files and records related to the proceeding if two years have elapsed since the final discharge of the person unless, on motion of the state’s attorney, the court finds: (A) the person has been convicted of a listed crime as defined in 13 V.S.A. § 5301 [Definitions] or adjudicated delinquent of such an offense after such initial adjudication, or a proceeding is pending seeking such conviction or adjudication; or (B) rehabilitation of the person has not been attained to the satisfaction of the court. (2) At least 60 days prior to the date upon which a person is eligible to have his or her delinquency record automatically sealed pursuant to subdivision (1) of this subsection, the court shall provide such person’s name and other identifying information to the state’s attorney in the county in which the person was adjudicated delinquent. The state’s attorney may object, and a hearing may be held to address the state’s attorney’s objection. (3) The order to seal shall include all the files and records relating to the matter in accordance with subsection (d) of this section; however, the court may limit the order to the court files and records only upon good cause shown by the state’s attorney. . . .”

Where a commercially sexually exploited minor participates in a juvenile diversion program, Vt. Stat. Ann. tit. 3, § 163(e), (f) (Juvenile court diversion project) allows for juvenile records to be sealed after the successful completion of a diversion program. Vt. Stat. Ann. tit. 3, § 163(e), (f) provides, “(e) Within 30 days of the two-year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court files and records, law enforcement records other than entries in the juvenile court diversion project’s centralized filing system, fingerprints, and photographs applicable to a juvenile court diversion proceeding unless, upon motion, the court finds: (1) the participant has been convicted of a subsequent felony or misdemeanor during the two-year period, or proceedings are pending seeking such conviction; or (2) rehabilitation of the participant has not been attained to the satisfaction of the court. (f) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to

Wyoming

Wyo. Stat. Ann. § 14-6-241(a) (Expungement of records in juvenile and municipal courts) states that a person 18 years old “adjudicated delinquent as a result of having committed a delinquent act other than a violent felony. . .” may petition to have the court expunge the person’s juvenile court records. If the court determines that the person has not been convicted of a felony subsequent to being adjudicated delinquent, and “that no proceeding involving a felony is pending or being instituted against the petitioner and the rehabilitation of the petitioner has been attained to the satisfaction of the court or the prosecuting attorney,” the court must order that all of the person’s juvenile records “in the custody of the court or any agency or official, pertaining to the petitioner’s case” expunged. Once the court enters an order of expungement, “the proceedings in the petitioner’s case are deemed never to have occurred and the petitioner may reply accordingly upon any inquiry in the matter.” Wyo. Stat. Ann. § 14-6-241(a). Records related to the conviction of a juvenile for a misdemeanor in circuit court also may be expunged, subject to the requirements of Wyo. Stat. Ann. § 14-6-241(a). Moreover, under Wyo. Stat. Ann. § 7-19-504(b) (Access to and dissemination of information), any information retained in the Wyoming juvenile justice information system will be deleted when the juvenile turns 18 years old.

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.
The Legislative Solution	Sex trafficking is a multi-billion dollar industry. States must enact laws that permit victims of domestic minor sex trafficking to pursue civil remedies for the damages they have suffered as a result of the victimization. Restitution and civil remedies should include payment for medical and psychological treatment, lost income, attorney’s fees and costs, and other damages. Restitution and civil remedies will serve to punish those persons who commercially sexually exploit children while providing much needed funding for victim services. The purpose of restitution and civil remedy laws is to make victims whole again and empower them with the private right to vindicate their civil rights and hold their traffickers directly accountable for their actions.

Select Statute Highlights

California

Cal. Civ. Code § 52.5 (Action by victim of human trafficking) expressly states that victims of Cal. Penal Code § 236.1 (Human trafficking defined; punishment) “may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney’s fees and costs,” as well as “litigation costs including, but not limited to, expert witness fees and expenses.” Additionally, “the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars (\$10,000), whichever is greater,” as well as “punitive damages may also be awarded upon proof of the defendant’s malice, oppression, fraud, or duress in committing the act of human trafficking.”

Cal. Penal Code § 1202.4(q) (Restitution; amount; hearing and court order; financial disclosure) expressly makes restitution available to a victim of Cal. Penal Code § 236.1 (Human trafficking defined; punishment), while restitution is available to domestic minor sex trafficking victims whose offenders are guilty of other crimes under Cal. Penal Code § 1202.4 (Restitution; amount; hearing and court order; financial disclosure). Specifically, Cal. Penal Code § 1202.4(f)(3) provides that a victim may receive restitution for the following: “(A) Full or partial payment for the value of stolen or damaged property. . . .(B) Medical expenses, (C) Mental health counseling expenses, (D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents,

guardian, or guardians, while caring for the injured minor. . . . (E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor’s parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. . . . (F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288 [Lewd or lascivious acts involving children], (G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court, (H) Actual and reasonable attorney’s fees and other costs”

Connecticut

Civil remedies are specifically available in cases of trafficking in persons through Conn. Gen. Stat § 52-571i (Action for damages resulting from trafficking in persons). Pursuant to Conn. Gen. Stat. § 52-571i, “[a]ny person aggrieved by a violation of section 53a-192a [Trafficking in persons] may bring a civil action in the superior court for the judicial district where such person resides or the judicial district of Hartford against the person or persons who committed such violation to recover actual damages, statutory damages of not more than one thousand dollars for each day such person was coerced by another person in violation of section 53a-192a and a reasonable attorney’s fee.”

A domestic minor sex trafficking victim may also receive restitution under Conn. Gen. Stat. § 53a-28(c) which states, “if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of

property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. . . . Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense. . . .”

Florida

A specific remedy is provided in Fla. Stat. Ann. § 847.01357 (Exploited children’s civil remedy) for certain victims of exploitation through child pornography. This provision states, “(1) Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794 [Sexual Battery], chapter 800 [Lewdness; indecent exposure], chapter 827 [Abuse of children], or chapter 847 [Obscenity], where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney’s fees. Any victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$150,000.”

Restitution may be awarded pursuant to Fla. Stat. Ann. § 775.089 (Restitution). Fla. Stat. Ann. § 775.089 (Restitution)(1)(a) states in part, “In addition to any punishment, the court shall order the defendant to make restitution to the victim for: 1. Damage or loss caused directly or indirectly by the defendant’s offense; and 2. Damage or loss related to the defendant’s criminal episode, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03.”

Illinois

720 Ill. Comp. Stat. Ann. 5/10-9(g) (Trafficking in persons, involuntary servitude, and related offenses) requires the court to order a defendant convicted of sex trafficking to make restitution to the victim for the greater of: “(1) the gross income or value to the defendant of the victim’s labor or services or (2) the value of the victim’s labor as guaranteed under the

Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) [29 U.S.C. § 201 et seq.] or the Minimum Wage Law [820 ILCS 105/1 et seq.], whichever is greater.”

Furthermore, 730 Ill. Comp. Stat. Ann. 5/5-5-6 (Restitution) requires the court to order a defendant convicted of any offense under Illinois’ criminal laws to make restitution to a victim who “received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant” Additionally, 730 Ill. Comp. Stat. Ann. 5/5-5-6(f-1),(g) provides, “(1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) “long-term physical health care” includes mental health care. (2) An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care. . . . (g) In addition to the sentences provided for in Sections . . . 11-19.2 [Exploitation of a child], 11-20.1 [Child pornography], 11-20.1B [Aggravated child pornography], . . . and subdivision (a)(4) of Section 11-14.4 [Promoting juvenile prostitution], of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections . . . to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense. . . .”

Civil remedies are available to victims of domestic minor sex trafficking in the Predator Accountability Act. Specifically, Ill. Comp. Stat. Ann. 128/15 (Cause of action) provides a civil cause of action to victims of 720 Ill. Comp. Stat. Ann. 5/210-9 (Trafficking in persons, involuntary servitude, and related offenses), 5/11-14.4(a)(2),(3), (4) (Promoting juvenile prostitution), 5/11-19.1 (Juvenile pimping and aggravated juvenile pimping), 5/11-20.1(Child pornography), or 5/11-20.3 (Aggravated child pornography).

Area of Law	Protective Provisions for the Child Victims
The Policy Point	Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.
The Legislative Solution	The effect of sex trafficking on a child is traumatic, potentially long-lasting, and is extremely injurious to the person; it is a hidden crime as well. For these reasons the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes should be lengthened or eliminated. It is important to allow victims full access to justice in both civil and criminal forums, and to provide adequate time for law enforcement and prosecutors to discover, investigate and develop cases for successful prosecution.

Select Statute Highlights

Alaska

Alaska Stat. § 12.10.010 provides that prosecutions for “felony sexual abuse of a minor” and for violations of Alaska Stat. §§ 11.66.110–11.66.130 (Promoting prostitution in the first through fourth degrees) and § 11.41.452 (Online enticement of a minor) or § 11.41.455 (Unlawful exploitation of a minor) may be brought at any time if the victim was younger than 18 when the offense was committed, but prosecutions for human trafficking must be initiated within “10 years after the commission” of the offense.

For civil actions, Alaska Stat. § 09.10.065(a) (Commencement of actions for acts constituting sexual offenses) provides that “(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses: (1) felony sexual abuse of a minor; (2) felony sexual assault; or (3) unlawful exploitation of a minor.”

Arizona

Ariz. Rev. Stat. Ann. § 13-107(A) (Time limitations) provides that any offense under Chapter 35.1 (Sexual exploitation of children) that is a Class 2 felony may be commenced at any time. Under Chapter 35.1, § 13-3552 (Commercial sexual exploitation of a minor; classification) states, “A. A person commits commercial sexual exploitation of a minor by knowingly: 1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals

or anus or the areola or nipple of the female breast for financial or commercial gain, 3. Permitting a minor under the person’s custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct, 4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.”

Arkansas

The statute of limitations is not eliminated for criminal domestic minor sex trafficking statutes; however, it is significantly extended for certain related offenses. Pursuant to Ark. Code Ann. § 5-1-109(a)(2) (Statute of limitations), “[a] prosecution may be commenced for a violation of the following offenses, if, when the alleged violation occurred, the offense was committed against a minor, the violation has not been previously reported to a law enforcement agency or prosecuting attorney, and the victim has not reached the age of twenty-eight (28) years of age: . . . (I) Engaging children in sexually explicit conduct for use in visual or print medium, Section 5-27-303; (J) Transportation of minors for prohibited sexual conduct, Section 5-27-305; (K) Employing or consenting to the use of a child in a sexual performance, Section 5-27-402; (L) Producing, directing, or promoting a sexual performance by a child, Section 5-27-403; (M) Computer child pornography, Section 5-27-603; and (N) Computer exploitation of a child in the first degree, Section 5-27-605.”

Colorado

Pursuant to Colo. Rev. Stat. § 16-5-40(1)(a) (Limitation for commencing criminal proceedings and juvenile delinquency proceedings) there is no time limit for commencing a prosecution for “any sex offense against a child” or “attempt, conspiracy, or solicitation to commit any sex offense against a child.” Colo. Rev. Stat. § 16-5-401(c)(IV) (Limitation for commencing criminal proceedings and juvenile delinquency proceedings) defines “Sex offense against a child” as an unlawful sexual offense defined in section 18-3-411(1), which defines “unlawful sexual offense” as including “trafficking in children, as described in section 18-3-502; sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; . . . soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section 18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).”

Texas

Tex. Code Crim. Proc. Ann. Art. 12.01(1)(G) eliminates the statute of limitations under Tex. Penal Code Ann. § 20A.02(a) (7), (8) (Trafficking of persons) and § 20A.03 (Continuous trafficking of persons). Tex. Code Crim. Proc. Ann. Art. 12.01(2)(G), (H) imposes a 10 year statute of limitations on prosecutions for trafficking under Tex. Penal Code Ann. § 20A.02(1), (2), (3), or (4) and § 43.05(a)(1) (Compelling prostitution). However, Tex. Code Crim. Proc. Ann. Art. 12.01(6)(A), (C) provides that where the victim was under 18 at the time of the offense, violations of Tex. Penal Code Ann. § 20A.02(5), (6) (Trafficking of persons) and § 43.05(a) (2) (Compelling prostitution) may be brought within “ten years from the 18th birthday of the victim of the offense.” Tex. Penal Code Ann. § 20.04(a) eliminates any statute of limitations for sexual assault against a child under Tex. Penal Code Ann. Art. 22.011(a)(2), aggravated sexual assault against a child under Tex. Penal Code Ann. § 22.021(a)(1) (B)), continuous sexual abuse of a child (§ 21.02), or indecency with a child (§ 21.11). Tex. Code of Crim. Proc. Ann. Art. 12.01(5) states a 20-year statute of limitations (from the victim’s 18th birthday) if the victim is younger than 17 at

the time of the offense of sexual performance of a child (Tex. Penal Code Ann. § 43.25) or aggravated kidnapping “with the intent to violate or abuse the victim sexually.”

Tex. Civ. Prac. & Rem. Code Ann. § 16.0045 (Five-year limitations period) extends the standard two year statute of limitations for civil actions to five years for injuries resulting from Tex. Penal Code § 22.011 (Sexual assault), § 22.021 (Aggravated sexual assault), § 21.02 (Continuous sexual abuse of young child), § 20A.02 (Trafficking of persons), or § 43.05 (Compelling prostitution).

Issue Briefs

Section 6 | Criminal Justice Tools for Investigation and Prosecution

The following issue briefs provide a more comprehensive explanation of each of the components measured by the Protected Innocence Challenge Report Cards and highlight state statutes that align with the concept of the issue.

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.
The Legislative Solution	Law enforcement officers are most often the first responders in a domestic minor sex trafficking situation. Providing them with the awareness, skills and tools necessary to respond appropriately and effectively is critically important. Given limited time and competing priorities, mandatory training on issues of domestic minor sex trafficking will result in an increase in enforcement and successful prosecutions. Training will also lead to implementing protocols across the law enforcement community to enhance officers' ability to detect a trafficking situation and to work effectively with trafficking victims. The objectives of many anti-trafficking task forces include working collaboratively to identify victims, convict traffickers, and implement unique agency policies and procedures for victims of sex trafficking given limited community resources.

Select Statute Highlights

Few states mandate training specifically on domestic minor sex trafficking. The following are examples of state laws that mandate law enforcement training on human trafficking issues.

Georgia

Ga. Code Ann. § 35-1-16(a) (Training law enforcement officers investigating crimes involving trafficking persons for labor or sexual servitude) mandates the Georgia police officer training council to establish procedures, training materials and information in “(1) Methods for identifying, combating, and reporting incidents where a person has been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46 [Trafficking of persons for labor or sexual servitude]; (2) Methods for providing proper detention facilities or alternatives to detention facilities for persons who have been trafficked for labor or sexual servitude . . . including providing information on therapeutic facilities for such persons; and(3) Methods for assisting persons who have been trafficked for labor or sexual servitude . . . including providing information on social service organizations available to assist such person.”

Florida

Fla. Stat. § 787.06(5) (Human Trafficking) requires “[e]ach state attorney to develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and to provide for periodic and timely instruction.”

Indiana

Ind. Code Ann. § 5-2-1-9(a)(10), which requires the Indiana Law Enforcement Training Board to provide “[m]inimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for in-service training programs for law enforcement officers. The course must cover the following topics: (A) Examination of the human and sexual trafficking laws (IC 35-42-3.5), (B) Identification of human and sexual trafficking, (C) Communicating with traumatized persons, (D) Therapeutically appropriate investigative techniques, (E) Collaboration with federal law enforcement officials, (F) Rights of and protections afforded to victims, (G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law [and] (H) The availability of community resources to assist human and sexual trafficking victims.”

Texas

Texas Code § 402.035(d)(5),(7) states the Human Trafficking Prevention Task Force shall “work with the Commission on Law Enforcement Officer Standards and Education to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;” and “examine training protocols related to human trafficking issues, as developed and implemented by federal, state and local law enforcement agencies.”

SECTION 6.2

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Single party consent to audiotaping is permitted in law enforcement investigations.
The Legislative Solution	Recorded evidence collected through phone conversations is necessary to increase the number of successful prosecutions of domestic minor sex trafficking cases. This important tool can lead to actionable evidence while simultaneously providing protection to investigating officers by permitting them to record and broadcast their interactions with the criminals. States should enact laws that permit single party consent to audiotaping to facilitate the collection of evidence against persons who commercially sexually exploit children.

Select Statute Highlights	
Kansas	<p>son not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception.”</p> <hr/> <p style="text-align: center;">South Dakota</p> <p>South Dakota allows single party consent to audiotaping. Pursuant to S.D. Codified Laws § 23A-35A-20(1) (Unlawful interception—telephone or telegraph—consent), an individual who is “[n]ot a sender or receiver of a telephone or telegraph communication, intentionally and by means of an eavesdropping device overhears or records a telephone or telegraph communication, or aids, authorizes, employs, procures, or permits another to so do, without the consent of either a sender or receiver thereof” is guilty of a felony.</p> <hr/> <p style="text-align: center;">Texas</p> <p>Tex. Penal Code Ann. § 16.02(c)(3),(4) states, “(c) It is an affirmative defense to prosecution under Subsection (b) [Unlawful interception, use or disclosure of wire, oral, or electronic communications] that: . . . (3) a person acting under color of law intercepts:(A) a wire, oral, or electronic communication, if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception;. . .(4) a person not acting under color of law intercepts a wire, oral, or electronic communication, if:(A) the person is a party to the communication; or(B) one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing an unlawful act;. . .”</p>
Kansas allows single party consent to audiotaping, stating in Kan. Stat. Ann. § 21-6101(a)(1) (Breach of privacy) that a breach of privacy occurs when an individual “without the consent of the sender or receiver” intercepts the contents of a message sent via “telephone, telegraph, letter or other means of private communication.”	
Oregon	
Or. Rev. Stat. § 165.543(1) (Interception of communications) states, “Except as provided in ORS 133.724 [Application for ex parte order; evidence; required contents of order; reports] or as provided in ORS 165.540 (2)(a) [Obtaining whole or part of communication], any person who willfully intercepts, attempts to intercept or procures any other person to intercept or attempt to intercept any wire or oral communication where such person is not a party to the communication and where none of the parties to the communication has given prior consent to the interception, is guilty of a Class A misdemeanor.”	
South Carolina	
S.C. Code Ann. § 17-30-30(B) (Interception by employee of Federal Communications Commission, by person acting under color or law, and where party has given prior consent) permits single party consent to audiotaping. S.C. Code Ann. § 17-30-30(B) states, “It is lawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.” Subsection (C) states, “It is lawful under this chapter for a per	

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.
The Legislative Solution	A serious challenge in any prosecution of domestic minor sex trafficking is producing corroborating evidence at trial. Recorded phone conversations or text messages between a victim and a buyer or trafficker are important incriminating pieces of evidence. Wiretapping is largely permitted in cases of murder, arson, terrorism and often other serious felonies involving danger to life or limb. Child sex trafficking should be recognized as a serious crime involving these dangers to a child, and therefore necessitating wiretapping as an investigative tool. States should carve out an exemption for investigations of sex trafficking cases in their wiretapping laws to allow law enforcement officers to investigate and obtain evidence to substantiate their cases against buyers and traffickers while protecting victims who have a difficult time testifying. This investigative tool will lead to more and better arrests and prosecutions, and help to alleviate reliance on the child victim-witness' testimony.

Select Statute Highlights

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/14–2(a) (Elements of the offense; affirmative defense) makes it a crime for any person who “(1) Knowingly and intentionally uses an eavesdropping device for the purpose of hearing or recording all or any part of any conversation or intercepts, retains, or transcribes electronic communication . . .” However, Ill. Comp. Stat. Ann. § 720 ILCS 5/14–3 (Exemptions) specifically allows for court-ordered interceptions for investigations relating to a felony offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services.

Maryland

Md. Code Ann. Crim. Proc. § 10-402(c)(2) (Wiretapping—unlawful interception of communications) provides in part, “(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence: “(1) Of the commission of: . . . O. A Human trafficking offense under § 11–303 of the 10 Criminal Law Article; P. Sexual solicitation of a minor under § 3–324 of the Criminal 12 Law Article;. . . R. Sexual abuse of a minor under § 3–602 of the Criminal Law 16 Article.”

Pennsylvania

18 Pa. Cons. Stat. § 5708(1), (2) permits certain law enforcement officers to make a written application for “an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses,” which includes 18 Pa. Cons. Stat. § 911 (Corrupt organizations), § 3002 (Trafficking of persons), § 5902 (Prostitution and related offenses) (“where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year”), and § 6318 (Unlawful contact with minor).

Texas

Tex. Code Crim. Proc. art. 18.20 §4 (Bases for an application for a court order to intercept wire communications) provides, “A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of . . . (1) a felony under Section . . . 43.26, Penal Code [Possession or promotion of child pornography]; . . . (4) an offense under Chapter 20A, Penal Code [Trafficking of persons]; . . .”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.
The Legislative Solution	Law enforcement struggle to investigate the prostitution of children due to the inability to use a real minor as an undercover investigator and the inevitable defense to a prosecution that the “minor” solicited for prostitution was in fact an adult, undercover police officer. State laws that permit law enforcement to pose as minor decoys in investigations of domestic minor sex trafficking cases and explicitly prohibit a defense to prosecution that the decoy not, in fact, a minor are essential to impact this crime. Use of a decoy by law enforcement to investigate commercial sexual exploitation of children, especially through prostitution, is an effective way to proactively locate and investigate buyers of sex acts with children and potentially lead to identification of traffickers. Frequently encountered in statutes prohibiting the use of electronic communications to lure a child for commercial sexual exploitation, the same investigative tool is needed to investigate street prostitution and outcall services using minors in prostitution.

Select Statute Highlights

Arizona

Ariz. Rev. Stat. Ann. § 13-3212(C) (Child prostitution) provides that a person who, among other things, knowingly causes a minor to engage in prostitution, receives any benefit from prostitution of a child, or knowingly engages in prostitution with a minor under 15 years of age or with a minor known to be 15, 16, or 17 years of age is prohibited from using as a defense “that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”

D.C.

D.C. Code § 22-3010.02 (Arranging for a sexual contact with a real or fictitious child) allows for the prosecution of those who arrange for sexual contact with a real or fictitious child. The statute states in subsection (a), “[i]t is unlawful for a person to arrange to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least 4 years younger than the person. For the purposes of this section, arranging to engage in a sexual act or sexual contact with an individual who is fictitious shall be unlawful only if the arrangement is done by or with a law enforcement officer.”

Maryland

Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor) provides, “A person may not, with the intent to commit a violation of . . . § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under . . . § 11-305, or § 11-306 of this article.”

Pennsylvania

18 Pa. Cons. Stat. § 6318 (Unlawful contact with minor) permits a law enforcement decoy to investigate situations of commercial sexual exploitation of children. 18 Pa. Cons. Stat. § 6318(a) states, “A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth: . . . (3) Prostitution as defined in section 5902 (relating to prostitution and related offenses). (4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances). . . . 6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Using the Internet to investigate buyers and traffickers is a permissible investigative technique.
The Legislative Solution	The growing use of the Internet to accomplish crimes of domestic minor sex trafficking necessitates new investigative techniques and tools for law enforcement. Laws establishing a separate or enhanced penalty for using the Internet to commit an underlying offense, and the express inclusion of CSEC or sex trafficking of a minor as such an offense, are critical. Also critical is prohibiting a defense that the prohibited contact made online was with a law enforcement officer acting as a decoy rather than a minor. Internet crimes against children are committed against minors of all ages and any state law prohibiting this conduct should protect all minors under 18 from the crime.

Select Statute Highlights

The following statutes prohibit the use of the Internet to commit a commercial sexual offense against a child and prohibit a defense based on the “minor” being law enforcement.

Alabama

Ala. Code § 13A-6-122 (Electronic solicitation of a child) provides that “an undercover operative or law enforcement officer’s [involvement in] . . . the detection and investigation of an offense” is not a defense to prosecution.

Georgia

Ga. Code Ann. § 16-12-100.2(g) clarifies that “[t]he sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section [Computer or electronic pornography and child exploitation prevention] shall not constitute a defense to prosecution under this Code section.”

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) states, “It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer

is a minor or is wanton or reckless in that belief, for any activity in violation of . . . KRS 529.100 [Human trafficking] where that offense involves commercial sexual activity, or 530.064(1)(a) [Unlawful transaction with a minor in the first degree], or KRS Chapter 531 [Pornography].”

Louisiana

La. Stat. Ann. § 14:81.3(C), states, “It shall not constitute a defense to a prosecution brought pursuant to this Section [Computer-aided solicitation of a minor] that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.”

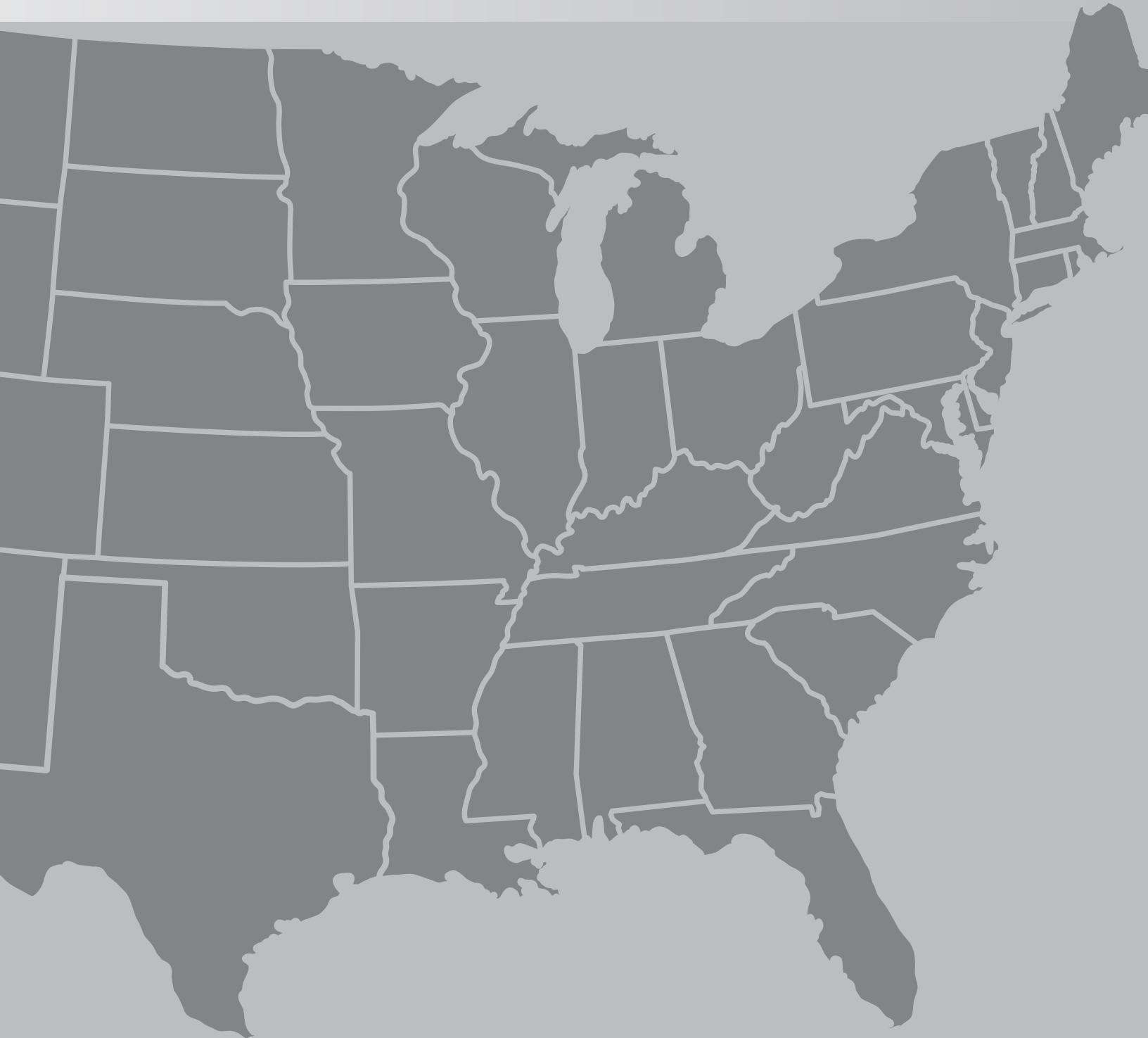
Michigan

Mich. Comp. Laws § 750.145d(1)(a) (Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions) makes it illegal for a defendant to, “use the internet or a computer, [etc.] . . . for the purpose of . . . Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a [Accosting, enticing or soliciting child for immoral purpose], 145c [child pornography] . . . in which the victim or intended victim is . . . believed by that person to be a minor.”

Area of Law	Criminal Justice Tools for Investigation and Prosecution
The Policy Point	Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.
The Legislative Solution	Many children are reported missing each year. Unfortunately, there is a strong corollary between missing and runaway children and domestic minor sex trafficking as children removed from the stability of a home and supervision have heightened vulnerabilities that are identified and exploited within days if not hours by traffickers. State laws that mandate the reporting of missing and found children can lead to data to assist in the tracking of these children and ultimately provide a tool for law enforcement and child welfare to identify the repeat runaways and frequent missing children who are at high-risk for exploitation through sex trafficking and commercial sexual exploitation. Integrated reporting requirements between law enforcement, schools and child welfare agencies can help to close gaps that interfere with identification and reporting of missing children who become victims of sex trafficking.

Select Statute Highlights	
California	<p>copy of or information concerning the records of the missing child is requested, the person authorized to provide such copy or information is alerted to the fact that the child has been listed or reported as missing.”</p> <hr/> <p style="text-align: center;">Nevada</p> <p>Pursuant to Nev. Rev. Stat. Ann. § 432.200(1) (Duties of law enforcement agency receiving report of missing child; request for and use of identifying information; notification that child is found or returned), “1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as “runaway,” “abducted by the parent of the child,” “abducted by a stranger” or “cause of disappearance unknown,” and shall:(a) Transmit all available information about the child to the Clearinghouse within 36 hours after the report is received; (b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary; . . . (d) Enter into the National Crime Information Center’s Missing Person File, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.” Nev. Rev. Stat. Ann. § 432.200(4) requires the law enforcement agency to transmit information of a recovered child to the national Crime Information Center and Clearinghouse.</p>
Cal. Penal Code § 14205 (Missing person reports; persons under 16 and persons at risk) requires local police and sheriffs’ departments to report missing and runaway children. Cal. Penal Code § 14201.5 (Missing and exploited children’s recovery network) provides for the creation of the Missing and Exploited Children’s Recovery Network, which consists of an automated computerized system that transmits to all state and local law enforcement agencies and media services a missing child’s personal information. Cal. Penal Code § 14201.6(a)(2) requires the California Department of Justice must “maintain a publicly accessible computer internet directory of information relating to . . . [c]ritical missing children.” Cal. Penal Code § 14207(a) (Report of finding missing person) requires the law enforcement agency that locates the missing person to “immediately report that information to the Attorney General.	
Florida	
Fla. Stat. § 937.025(1) (Missing children; student records; reporting requirements; penalties) states that “upon notification by the Department of Law Enforcement that a child is listed or reported as a missing child, the school in which the child is currently enrolled, or was previously enrolled, shall flag the student records in such a manner that whenever a	

Report Cards



ALABAMA

FINAL GRADE: D

Summary

Alabama's human trafficking law requires the use of coercion or deception to cause a minor to engage in commercial sex acts. Demand is largely unaddressed in the law, leaving buyers to exploit minors through prostitution without serious risk. Sex trafficking victims who wish to pursue justice are not protected by "rape shield" law or courtroom protections and are not assured non-punitive response and treatment.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Alabama's human trafficking statute makes trafficking for sexual servitude a crime, but requires proof of coercion or deception used to effect the trafficking. The trafficking statute provides an enhanced penalty when sexual servitude involves a minor under 18. The state commercial sexual exploitation of children (CSEC) laws include: promoting prostitution in the first degree and second degree, facilitating solicitation of unlawful sexual conduct with a child, facilitating the travel of a child for an unlawful sex act, and permitting or allowing a child to engage in production of obscene matter. These laws do not refer to the sex trafficking statute for prosecution or victim identification.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking statute tracks the federal definition and could, following federal precedent, be applied to buyers through the word "obtain," but only if the buyer uses coercion or deception to engage the minor in a commercial sex act. CSEC laws do not include the crime of buying sex with a minor and the patronizing a prostitute statute does not distinguish between purchasing sex acts with an adult versus a minor. Computer-based communications and facilitating solicitation of unlawful sexual conduct with a child under 16 could lead to heightened penalties for some buyers using the Internet to commit illegal sex acts, which could include those committed through prostitution. The sex trafficking law specifically prohibits a defense based on mistake of age, but the electronic solicitation law does not and only protects minors under age 16. Possession of obscene material is a crime only if the victim is under 17 years of age, leaving older minors unprotected. If convicted under the sex trafficking law, a buyer faces mandatory restitution to the victim, forfeiture, and possible civil damages, and if convicted of any other criminal offense resulting in pecuniary loss, mandatory restitution to the victim will be ordered. Buyers also face forfeiture action for possession of obscene material. Buyers of sex acts with minors are required to register as sex offenders if convicted of sex trafficking or possession of child pornography, but not for patronizing a prostitute even when a minor is involved.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a minor and promoting prostitution of a minor are felonies punishable by imprisonment up to 20 years–life, comparable to federal penalties. Traffickers who use the Internet to recruit minors could be prosecuted under facilitating solicitation of unlawful sexual conduct with a child under 16 that might occur as a result of sex trafficking. Permitting or allowing a child to engage in obscene matter and production of such matter are felonies punishable by up to life imprisonment and a possible fine up to \$60,000 or double the loss or gain resulting from the offense. A convicted sex trafficker faces mandatory restitution and forfeiture, and could face a civil damages claim by the victim. Traffickers must register as sex offenders if convicted of sex trafficking a minor, promoting prostitution of a minor, facilitating travel of a minor for an unlawful sex act, or allowing a child to engage in production of obscene matter. Convictions for sex trafficking or CSEC offenses are not express grounds for termination of parental rights, leaving children of traffickers at continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Facilitating solicitation of unlawful sexual conduct with a child under 16 (§13A-6-121)	Class C felony	1 year and 1 day–10 years	Max. \$15,000 (or double gain or loss from crime)	○
Soliciting prostitution (§13A-12-121(b))	Class A misdemeanor	Max. 1 year	Max. \$6,000	○
Possession of child pornography (§ 13A-12-192(b))	Class C felony	1 year and 1 day–10 years	Max. \$15,000 (or double gain or loss from crime)	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

66



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Child victims of sex trafficking and CSEC are vulnerable due to gaps in the law. The sex trafficking law expressly prohibits a defense based on consent, but Alabama’s CSEC and sex offense laws do not, leaving minors’ claims against buyers particularly burdensome to prove. Prostitution offenses are not limited in application to adults, but the sex trafficking statute provides an affirmative defense to a child victim of trafficking charged with an offense committed during the course of victimization. No protective provisions are mandated specifically for sex trafficking or CSEC victims and a victim may be determined delinquent or in need of services—in either case alternatives to secure custody will be considered but not required. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation of a child, which is defined to include allowing the child to engage in prostitution; however, the definition of “caregiver” is not broad enough to include a trafficker and therefore prevents child welfare intervention. CSEC victims who suffer serious personal injury are eligible for state crime victims’ compensation but face barriers to recovery if the victim is considered an accomplice to a criminal act, fails to report the crime to law enforcement within 72 hours, or fails to file a claim within one year unless good cause is shown. Victim-friendly trial procedures are limited to children under 16 in criminal prosecutions for sexual offenses or sexual exploitation and include closed-circuit television testimony. Testifying victims in CSEC or sex trafficking cases do not get the protection of the “rape shield” law which would reduce the trauma of cross-examination. If a minor has not been subsequently convicted or adjudicated delinquent following final discharge from custody, Alabama law allows juvenile records to be sealed after two years and destroyed after five. Criminal restitution is mandatory in sex trafficking convictions and civil actions against trafficking offenders and facilitators are expressly allowed for victims. No statute of limitations applies to prosecutions of any sex offense involving a victim under 16 years of age, and the statute of limitations on civil actions for damages from trafficking is five years after the victim is free from the sex trafficking situation but does not begin to run until the minor reaches 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Alabama law does not mandate law enforcement training on domestic minor sex trafficking or human trafficking. Single party consent to audiotaping and body wires are permitted, but the law does not authorize wiretapping for CSEC or human trafficking investigations, leaving law enforcement without this valuable tool and resulting evidence for better prosecutions. Use of a decoy to investigate offenses involving solicitation of children by electronic means appears to be permitted, and use of the Internet to investigate electronic solicitation of a child is permissible. Alabama has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators who benefit financially from sex trafficking face 2–20 years imprisonment and a possible fine up to \$30,000 or double the loss or gain resulting from the offense. Convicted facilitators are subject to asset forfeiture and mandatory restitution to the victim, and facilitators may also face civil actions for damages. Profiting from the prostitution of a person under 18 or 16 years of age is punishable by up to 10 or 20 years imprisonment respectively and a possible fine up to \$15,000 or \$30,000, or double the loss or gain resulting from the offense. Production of obscene material, which includes filming, printing, or photographing a person under 17, and the crime of disseminating, displaying or possessing with intent to disseminate child pornography are punishable by 2–20 years or up to life imprisonment and a possible fine up to \$30,000 or \$60,000, or double the loss or gain resulting from the offense. Facilitating the travel of a child for an unlawful sex act is a crime but no laws in Alabama specifically make sex tourism a crime.

Summary

Children in Alaska have some legal protections if they become victims of sex trafficking, but there are no laws making the purchase of sex acts with minors a serious crime, leaving demand undeterred.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Alaska’s human trafficking laws include sex trafficking, but do not distinguish between an adult and a child victim or expressly define a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state has enacted commercial sexual exploitation of children (CSEC) laws that reach traffickers, including promoting prostitution and unlawful exploitation of a minor. Alaska’s CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Very limited options exist to prosecute demand in Alaska. The state human trafficking laws likely do not apply to buyers and require that the offender “compel or induce” the victim to engage in sexual conduct or obtain a benefit from human trafficking “with reckless disregard that the benefit is a result of the trafficking.” No CSEC laws include the crime of buying sex acts with a minor and the solicitation of prostitution statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. The online enticement statute making it a crime to use the Internet to engage a minor under 16 to produce a live or recorded sexual performance (crime of sexual exploitation) does not include the crime of purchasing commercial sex acts with a minor. If the human trafficking and CSEC laws were applicable to buyers, they do not prohibit a defense of age mistake allowing buyers to claim they did not know the child was under 18 to avoid culpability. A court must order a buyer convicted of any sexual offense to pay restitution to the victim if requested and losses are shown. Buyers of sex acts with minors are required to register as sex offenders if convicted of sexual offenses or possession of child pornography, but not for sex trafficking a minor or soliciting prostitution with a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the human trafficking, CSEC and child pornography laws, traffickers are subject to lower sentences than those of comparable federal crimes (10 years–life), but similarly high fines (up to \$250,000). Human trafficking and promoting prostitution of a minor are Class A felonies punishable by 5–8 years imprisonment and a possible fine up to \$250,000. A first offense of creating child pornography is a Class B felony punishable by imprisonment for 5–15 years and a possible fine up to \$100,000. Producing a pornographic photographic image of a minor under 16 is a Class C felony punishable by imprisonment for 0–2 years and a possible fine up to \$50,000. Though not available in human trafficking offenses, promoting prostitution and child pornography convictions can subject traffickers to asset forfeiture. The statute on online enticement to engage in a live or recorded sexual performance is a means of prosecuting traffickers who use the Internet to encourage minors under 16 for sexual exploitation. In any conviction for sex trafficking, CSEC, or a sexual offense a court must order a trafficker to pay restitution to the victim. Traffickers are required to register as sex offenders if convicted of promoting prostitution and pornography offenses, but not for sex trafficking a minor. A convicted trafficker is not certain to face termination of parental rights as sex trafficking and CSEC crimes are not expressly enumerated grounds for termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Solicitation of prostitution (§ 11.66.100(a))	Class B misdemeanor	Max. 90 days	Max. \$2,000	○
Possession of child pornography (§ 11.61.127)	Class C felony	2–12 years	Max. \$50,000	●
Viewing indecent photography of minor under 16 (§ 11.61.123)	Class C felony	0–2 years	Max. \$50,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



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FINAL SCORE:

55.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in the laws, despite the establishment of the office of victims' rights which can investigate denials of victim rights to child victims of sex trafficking, CSEC and sexual offenses, and provide them with an advocate in court. Human trafficking and CSEC laws do not expressly prohibit a defense to prosecution based on consent of the minor to participate in the sexual conduct. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. A victim found to be abused or a child in need of aid—defined to include being a victim of prostitution-related offenses, unlawful exploitation of a minor and online enticement of a minor, but not including human trafficking—might receive protection through child protective services. However, the definition of “person responsible for the child’s welfare” may not reach a trafficker in control of the child; therefore, a child controlled or held by a trafficker may not qualify for child welfare intervention. Sex trafficking and CSEC are not expressly included as crimes for which victims are eligible for compensation, and even if included, factors such as perceived consent of the victim to the crime and time reporting requirements, could prevent compensation. Victim-friendly court procedures may be available to certain child sex trafficking victims. Corroborating evidence is not necessary to prove a victim’s allegation of being compelled or promoted into prostitution. Victims under 16 may be permitted to testify through closed-circuit television and receive a guardian ad litem. Victims of unlawful exploitation of a minor, but not sex trafficking or other CSEC crimes, are protected by the “rape shield” law which may limit the trauma of cross examination for testifying victims. A court must order a minor’s criminal records sealed within 30 days of turning 18, or 30 days after the court releases jurisdiction of the minor. Restitution is available and victims of unlawful exploitation of a minor, online enticement of a minor and sexual abuse have a statutory civil remedy which may be brought against the offender at any time. Criminal prosecutions for the same crimes may be brought at any time, but the statute of limitations for a human trafficking prosecution is 10 years.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on human trafficking or domestic minor sex trafficking is not mandated for law enforcement. Single party consent to audiotaping is authorized, and wiretapping is permitted in some scenarios that may include sex trafficking investigations. The use of a decoy in the investigation of prostitution or sex trafficking cases is not expressly authorized but law enforcement may use the Internet to investigate the crime of online enticement of a minor, which includes soliciting a person the offender believes is a under 16 to engage in certain sex acts for live or recorded performance. Alaska law requires statewide reporting of missing and rescued children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking laws include the crime of benefitting from human trafficking. Also, various degrees of promoting prostitution are applicable to facilitator actions. Promoting prostitution crimes include sex tourism by advertising, selling, offering, or facilitating travel for the purpose of commercial sexual conduct. Benefitting from sex trafficking and sex tourism are felonies punishable by imprisonment for 1–3 years and a possible fine up to \$100,000. Distributing child pornography is a felony, punishable by 2–12 years imprisonment and a possible fine up to \$100,000. Aiding or facilitating a prostitution enterprise is a felony punishable by imprisonment for 0–2 years and a possible fine up to \$50,000, whereas aiding or facilitating prostitution that does not amount to an enterprise is a misdemeanor with up to 1 year imprisonment and a possible fine up to \$10,000. Facilitators are subject to asset forfeiture for promoting prostitution and child pornography offenses, but not for benefitting from human trafficking. Facilitators must pay restitution to the victims of their crime.

ARIZONA

FINAL GRADE: C

Summary

Arizona law gives law enforcement critical investigative tools to pursue demand but buyers of commercial sex acts are provided opportunities to claim mistake of age, shifting the burden to prosecutors to obtain meaningful penalties. Minors are not statutorily immune from prosecution for prostitution and may face barriers to treatment and victims' compensation to fund their recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Arizona's sex trafficking law clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state has several commercial sexual exploitation of children (CSEC) statutes, including child prostitution, taking child for purpose of prostitution, and commercial sexual exploitation of a minor. The CSEC laws do not refer to sex trafficking for prosecution or victim identification or protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Arizona's sex trafficking law could, following federal precedent, be applied to buyers who "obtain" a minor for commercial sex acts. CSEC laws include the crime of buying sex with a minor under child prostitution. Enhanced sentencing when the victim is under 15 provides sufficient penalties for younger minors, but discretion in sentencing buyers, traffickers and facilitators of child prostitution allows the court to order probation and 180 days imprisonment in county jail for a first offense which may be further reduced to 90 days for certain offenders. No age mistake defense is available under child prostitution and there is strict liability when the minor is under 15, but the state must prove the defendant had knowledge of the age of a 15, 16 or 17 year old minor to obtain the sufficient penalty of a Class 2 felony as opposed to the Class 6 felony without proof of knowledge. Aggravated luring a child into sexual conduct and unlawful age misrepresentation, though not expressly commercial, may provide a means of prosecuting buyers who use the Internet to solicit sexual conduct with minors, which may include purchasing commercial sex acts with a minor. Buyers convicted of sex trafficking face mandatory restitution, while those convicted of other crimes may be required to make restitution if they cause economic loss to the victim. Additionally, any computer used by a buyer in the purchase of child pornography will be subject to forfeiture. Buyers of sex with minors must register as sex offenders if convicted of sex trafficking or child prostitution.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking and CSEC are Class 2 felonies punishable by 3–12½ years imprisonment, while taking a child for purpose of prostitution is a Class 4 felony punishable by 1–3¾ years imprisonment (child 15–17) or as a Class 2 felony by 13–27 years imprisonment (child under 15). Any equipment used by a trafficker in the commission of CSEC is subject to forfeiture. The offense of child prostitution also applies to traffickers and is punishable by 13–27 years imprisonment (child under 15), 7–21 years (child known to be 15–17), or 4 months–2 years (child 15–17). Traffickers convicted of any felony face a possible fine up to \$150,000. Traffickers could also be subject to money laundering and racketeering laws leading to additional penalties, civil liability for damages, and asset forfeiture. Additionally, aggravated luring a child into sexual conduct and unlawful age misrepresentation, though not expressly commercial, may provide a means of prosecuting traffickers who use the Internet for sexual conduct with minors, which could include selling commercial sex acts with a minor. Traffickers convicted of sex trafficking face mandatory restitution, while those convicted of other crimes may be required to pay restitution if they cause economic loss to the victim. If convicted of sex trafficking or CSEC offenses, a trafficker must register as a sex offender. Grounds for termination of parental rights include abuse, which is defined to include child prostitution and CSEC crimes, but not sex trafficking, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Child prostitution—minor under 15 (§ 13-3212(E))	Class 2 felony	13–27 years	\$150,000	○
Child prostitution—defendant knew minor 15–17 (§ 13-3212(F))	Class 2 felony	7–21 years	\$150,000	○
Child prostitution—minor 15–17 (§ 13-3212(G))	Class 6 felony	.33–2 years	\$150,000	○
Sexual exploitation of a minor—possessing child pornography of victim 15 or older (§ 13-3553)	Class 2 felony	3–12.5 years	\$150,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



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FINAL SCORE:

70.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking and CSEC in Arizona are not provided full protection under the laws. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and provide no affirmative defenses to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system as a delinquent child and could face detention. A child victim of prostitution or pornography is considered by law an abused child and, if identified properly, could receive child protective services protection through temporary custody, dependency and removal proceedings; however, the definition of custodian does not clearly apply to a trafficker, thereby possibly limiting the availability of a child welfare response to familial trafficking. Crime victims' compensation is available for victims of CSEC offenses; however, participating in the conduct giving rise to the injury, failing to report the crime within 72 hours and to file a claim within two years (absent a finding of good cause), or failing to cooperate with law enforcement could prevent CSEC victims from receiving compensation. Child victim-witnesses have limited protections in the trial process. Minors under 15 may be permitted to testify via closed-circuit television and the "rape shield" law is limited to victims of sexual offenses, leaving testifying victims of sex trafficking or CSEC unprotected from the trauma of cross-examination at trials of their traffickers. Juvenile records may be destroyed upon application of the person after the person turns 18, provided that the child has not committed additional offenses and all conditions of the disposition have been satisfied. Restitution is mandatory for victims of sex trafficking and may be awarded to victims of other crimes. Additionally, civil remedies are available to victims whose offenders were convicted of racketeering. Prosecution for commercial sexual exploitation of children can be initiated at any time, but CSEC and sex trafficking prosecutions must be brought within seven years. Civil suits may be brought by a victim against an offender within the earlier of three years of discovering the violation or 10 years of the offense (tolled until 18 years old).

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not statutorily mandated. Single party consent for audiotaping is permitted and wiretapping is allowed pursuant to a court order upon a showing of probable cause of the commission of a crime and in certain emergency situations. The statute on child prostitution expressly permits a decoy to be used in investigations by prohibiting a defense to prosecution "that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor" when the defendant knowingly attempted to engage in prostitution with a minor under 15 years of age or with a minor known to be 15, 16, or 17 years of age. Luring a minor also expressly permits a decoy to be used in investigations by prohibiting this defense and aggravated luring a minor for sexual exploitation prohibits a defense based on the "minor" contacted through electronic communications, such as the Internet, actually being a law enforcement officer. Arizona has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators who benefit financially or receive anything of value from participating in the crime of sex trafficking are subject to prosecution under a separate trafficking in persons statute. Facilitating sex trafficking and commercial sexual exploitation of a minor through transportation are Class 2 felonies punishable by 3–12½ years imprisonment. Child prostitution offenses may apply to facilitator actions, punishable by 13–27 years imprisonment (child under 15), 7–21 years (child known to be 15–17), or 4 months–2 years (child 15–17). Promoting and selling child pornography also is punishable as a Class 2 felony. Facilitators convicted of any felony may face a possible fine up to \$150,000. Facilitators could also be subject to money laundering and racketeering laws leading to additional penalties, civil liability for damages, and asset forfeiture. Facilitators convicted of sex trafficking face mandatory restitution, while those convicted of other crimes may be required to make restitution if they cause economic loss to the victim, and any equipment used by a facilitator in the commission of commercial sexual exploitation of a minor will be subject to forfeiture. No laws in Arizona address sex tourism.

ARKANSAS

FINAL GRADE: F

Summary

Demand is not sufficiently deterred through Arkansas' criminal laws. The trafficking of persons law requires proof of force used to secure sexual conduct even in cases where the victim is minor. Minors are vulnerable to buyers, traffickers and do not have full protections under the law as victims of a crime.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Arkansas's trafficking of persons law includes the crime of forced sexual conduct but fails to distinguish the exploitation of a minor under 18 for commercial sex acts without regard to use of force, fraud or coercion as trafficking. Arkansas's commercial sexual exploitation of children (CSEC) laws include: promoting prostitution in the first degree, engaging children in sexually explicit conduct for use in visual or print medium, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, and producing, directing, or promoting a sexual performance by a child. CSEC statutes do not refer to the trafficking of persons law for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The state trafficking of persons law tracks the federal definition and could, following limited federal precedent, be applied to buyers through the word "obtain," but to be applicable the state law requires the use of force to secure the sexual conduct of the minor. The sexual solicitation statute does not distinguish between buying sex acts with an adult or a minor, however, based on the premise of prostitution, CSEC crimes could include contributing to the delinquency of a minor or contributing to the delinquency of a juvenile. Under certain conditions, transportation of minors for prohibited sexual conduct would capture the crime of buying sex acts with a minor. A separate statute makes it a crime when a person over 21 uses the Internet to buy information about a child 15 or younger to arrange a meeting to engage in sexual intercourse. Additionally, computer child pornography and buying and possessing child pornography are separate crimes. The trafficking of persons and transportation of minors laws do not expressly prohibit a defense based on age mistake leaving open the possibility of such a defense. Buyers convicted of child pornography offenses and Internet stalking of a child offenses must register as sex offenders and although not enumerated as registrable offenses, the court has discretion to require registration of a person convicted of any sex offense, which could include sex trafficking or CSEC. Also at the court's discretion is the ordering of restitution for economic losses, medical and psychological care to a victim of any crime.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the trafficking of persons law and some CSEC laws, a trafficker could receive penalties as high as federal trafficking offenses, and a trafficker could be subject to criminal gang and money laundering laws. Violations of trafficking of persons or transporting minors for prohibited sexual conduct are felonies punishable by 6–30 years imprisonment and a possible fine not to exceed \$15,000. Promoting prostitution of a minor is a felony punishable by up to six years imprisonment and a possible fine not to exceed \$10,000. First offenses relating to sexually exploiting a child to create pornography and producing, directing or promoting a sexual performance of a child are punishable by 5–20 years imprisonment and a possible fine up to \$15,000. To reach Internet facilitated trafficking, it is a separate offense when traffickers 21 or older sell information about a child 15 or younger to arrange a meeting to engage in sexual intercourse. Convictions for most CSEC offenses require registration as a sex offender, but trafficking of persons convictions are not a registrable offense. The state law concerning the termination of parental rights does not enumerate convictions of specific crimes as grounds for termination, but if a court finds that a trafficker's child is a dependent-neglected child as a result of sexual exploitation, a court may terminate the trafficker's parental rights. Traffickers are only subject to asset forfeiture for violations of child pornography laws. Though not mandatory, a court could order a trafficker to pay restitution to the victims of their crime.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Sexual solicitation (§ 5-70-103) (age-neutral)	Class B misdemeanor	Max. 90 days	Max. \$1,000	○
Buying and possessing child pornography (§§ 5-27-304(a)(2), 5027-602(a)(2))	Class C felony	3–10 years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



3.5
7.5



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10.5
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9.5
27.5



10
15

FINAL SCORE:

54.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Not all commercially sexually exploited children are expressly defined as victims for the purpose of “Rights of Victims of Crime,” leaving some victims without these protections. The trafficking of persons and CSEC statutes do not expressly prohibit a defense based on consent of the minor to engage in the commercial sex acts. Minors are not immune from charges and prosecution under the prostitution offenses and minors engaged in prostitution are not identified as victims of sex trafficking. No protective provisions specifically for child sex trafficking victims are statutorily mandated. As a result, a victim could enter either the juvenile justice system as a “delinquent juvenile” or the child protective system as a “dependent-neglected” juvenile. The definition of “dependent-neglected juvenile” includes a juvenile at risk of sexual exploitation through prostitution or pornography, but does not expressly include a victim of trafficking of persons. The definition of caretaker is limited to parents, guardians, custodians, and those that they entrust with the care of the child, and is therefore not likely to include most traffickers to allow for intervention. DMST and CSEC victims could be eligible for Crime Victims Reparations, but face some ineligibility barriers such as requirements to report the crime within 72 hours of its occurrence and filing claims within one year, unless the victim can show good cause for the delay. The award may also be reduced for failure to cooperate with law enforcement officers. Victim-friendly court procedures are limited to children under 12 (closed circuit television testimony eligibility) and 10 (certain hearsay exceptions), and the “rape shield” law, which limits traumatizing cross-examination of testifying victims, only applies to sexual offense victims, not victims of CSEC or sex trafficking. Juveniles who incur a criminal record as a result of their trafficking may have their delinquency adjudications expunged 10 years after completion of the adjudication and any other juvenile record may be expunged anytime by the court. A court may order restitution to victims for actual economic loss and the cost of necessary medical or professional services. Additionally, any victim of a felony offense may bring a civil action within three years of reaching 21. The criminal statute of limitations is not eliminated for trafficking of persons; however, it is extended until the victim reaches 28 for many CSEC offenses, including transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, computer child pornography and producing, directing, or promoting a sexual performance by a child.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Arkansas law does not mandate law enforcement training on domestic minor sex trafficking, but does require training on related topics such as child abuse victim interview techniques. The state law allows for single party consent to audiotaping, and if done “under the color of law,” intercepting telephone, wire, landline or wireless communications for criminal investigations is lawful. Trafficking of persons and CSEC statutes do not expressly permit the use of a decoy to investigate these crimes or prohibit a defense based on the use of a decoy, making investigations of non-computer based child sex trafficking difficult. However, law enforcement may utilize the Internet to investigate Internet stalking of a child and computer child pornography when the child is under 17. The law requires law enforcement to immediately report missing and recovered children to the Missing Persons Information Clearinghouse within the Arkansas Crime Information Center which provides law enforcement officers with a tool to track high-risk runaways for prevention and intervention of sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

The trafficking of persons statute includes those who benefit financially from trafficking, and a facilitator could be subject to criminal gang and money laundering laws. Asset forfeiture may be used only in child pornography offenses. Though not mandatory, a court could order a facilitator to pay victim restitution. No laws address sex tourism. Facilitating trafficking of persons or transporting minors for prohibited sexual conduct are felonies punishable by 6–30 years imprisonment and a possible fine not to exceed \$15,000. Promoting prostitution of a minor is a felony punishable by up to 6 years imprisonment and a possible fine not to exceed \$10,000. Crimes of advertising, selling, transporting, exhibiting, and manufacturing child pornography are classified as Class C felonies for a first offense punishable by 3–10 years imprisonment and a fine up to \$10,000. A facilitator may also be charged with producing, directing, or promoting a sexual performance by a child, a Class B felony with 5–20 years imprisonment and a fine up to \$15,000.

CALIFORNIA

FINAL GRADE: F

Summary

California law provides very limited options for prosecuting demand and victims of child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are provided with little protection under the law as victims.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

California's human trafficking law criminalizes sex trafficking of minors, imposing enhanced penalties where the victim is a minor, but requires force, fraud, or coercion even for minors used in commercial sex acts. California CSEC laws include: procurement of a minor, pimping and pandering (when a minor is involved), abduction of minor for prostitution, employment of minor in pornography, and contract to pay minor victim of unlawful sex act. The CSEC laws do not refer to human trafficking for prosecution or victim protections.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law cannot be used to prosecute demand and no CSEC law includes the crime of buying sex with a minor. A buyer could be prosecuted under the general solicitation law (disorderly conduct) or acquiring a prostitute law, but the result is misidentification of the buyer as a "john" and the lack of enhanced penalties for the serious crime of child commercial sexual exploitation. While the state has no statute or heightened penalties for using the Internet to purchase commercial sex acts from a minor, the statute on contact or communication with a minor with intent to commit an illegal sex act statute might apply to buyers who use the Internet for this purpose. Buyers convicted of any crime may be required to pay restitution to a victim. Child pornography may be seized and destroyed, but buyers are not subject to other asset forfeiture. Buyers of sex with minors must register as sex offenders if convicted of contact or communication with minor with intent to commit a crime if sexually motivated; however, buyers convicted of disorderly conduct or acquiring a prostitute, even when it involves a minor, will not be required to register.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Disorderly conduct (§ 647(b))	Misdemeanor	Max. 6 months	Max. \$1,000	○
Acquiring prostitute (§ 266e)	Felony	16 months, 2 years, or 3 years	Max. \$10,000	○
Possession of child pornography (§ 311.11(a))	Felony	Max. 1 year	Max. \$2,000	●



CRIMINAL PROVISIONS FOR TRAFFICKERS

Human trafficking of a minor is punishable by four, six, or eight years imprisonment and a fine up to \$100,000, while CSEC crimes of pimping of a minor and pandering of a minor each are punishable by possible fines up to \$10,000 and imprisonment for three, six, or eight years (minor is under 16) or three, four, or six years (minor 16–18), and an additional fine up to \$5,000. Procurement of a minor, employment of a minor in child pornography, and abduction of a minor for prostitution are punishable by up to one year imprisonment and/or a fine up to \$2,000; however, abduction of a minor for prostitution also is punishable by a possible additional fine up to \$20,000. Preparing images of child pornography and distribution of child pornography are punishable by up to one year imprisonment and/or a fine up to \$2,000 and \$1,000, respectively, or, for distribution, imprisonment and/or a fine up to \$10,000. Contact or communication with minor with intent to commit crime, while not expressly commercial, might apply to traffickers who use the Internet to sell commercial sex acts with a minor. Traffickers convicted of human trafficking face mandatory restitution, while those convicted of other crimes may be ordered to make restitution; however, only traffickers who engage in criminal profiteering with predicate offenses of employment of a minor in pornography, pimping or pandering of a minor, and human trafficking are subject to asset forfeiture. Traffickers convicted of most CSEC offenses must register as sex offenders, but not if convicted of human trafficking or pimping of a minor. Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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16
27.5



7.5
15

FINAL SCORE:

41



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking or CSEC are not protected under the state laws. Human trafficking and most CSEC laws do not prohibit a defense based on consent of the minor leaving this a potential defense for offenders. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of human trafficking, and provide no affirmative defenses to a minor charged with the offense. As a result, CSEC victims could be classified as wards, leading to different response protocols and placements, including detention. A victim found to be abused, defined to include commercial sexual exploitation through prostitution and child pornography, might receive protection through child protective services; however, an intervention by child protective services may be limited by California's failure to define caregiver or other similar term to include those without legal custody of a minor. Crime victims' compensation is available for victims of CSEC offenses and California law prohibits human trafficking victims' claims from being denied solely because the victim did not report the crime; however, participating in a crime or failing to cooperate with law enforcement could prevent CSEC victims from receiving compensation. Victim-friendly trial procedures are available to human trafficking victims, including confidentiality for communications between a victim and caseworker and for the location of trafficking shelters. However, only victims of sexual offenses under age 13 may testify via closed-circuit television or receive protection under California's "rape shield" law, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. Juvenile records may be sealed five years after the jurisdiction of the court terminates or any time after the person turns 18, provided the juvenile "has not been convicted of a felony or misdemeanor involving moral turpitude" and has been satisfactorily rehabilitated. Restitution and a civil remedy are available to victims of human trafficking. Prosecutions for human trafficking and most CSEC crimes must be brought within three years of the crimes; however, prosecutions under employment of a minor in child pornography may be brought within 10 years. A civil action by a human trafficking victim must commence within five years of when the victim turns 18 or was freed from the trafficking situation.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

California provides law enforcement officers opportunities to receive training on human trafficking; however, it is not mandatory. California does not allow single party consent to audiotaping or wiretapping in investigations related to human trafficking or CSEC crimes. No law expressly authorizes the use of a decoy to investigate prostitution of children or the Internet in the investigation of child sex trafficking cases, but law enforcement may use the Internet to investigate human trafficking or CSEC crimes relying on the sending harmful matter to children via the Internet and lewd or lascivious acts involving children statutes. California has established a statewide reporting and response system and law enforcement must report missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Procurement of a minor applies to facilitators and is punishable by up to one year imprisonment and/or a fine up to \$2,000. Facilitators also may be convicted under pimping of a minor, punishable by a possible fine up to \$10,000 and three, six, or eight years imprisonment (minor under 16) or three, four, or six years imprisonment (minor 16–18). A conviction for any crimes may result in a victim restitution order. Facilitators who engage in criminal profiteering activity with predicate offenses of employment of a minor in pornography and pimping where a minor is involved will be subject to asset forfeiture. Advertising child pornography is punishable by two, three, or four years imprisonment, or by one year imprisonment and/or a fine up to \$50,000, while promoting employing a minor in child pornography is punishable by up to one year imprisonment and/or a fine up to \$2,000, and selling child pornography is punishable by up to one year imprisonment and/or a fine not to exceed \$1,000, or imprisonment and/or a fine up to \$10,000. No laws in California address sex tourism.

COLORADO

FINAL GRADE: F

Summary

Colorado's trafficking in children law fails to expressly identify sex trafficking. Victims who are misidentified or are deemed complicit in the prostitution may face barriers to accessing protection or justice.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Colorado's trafficking in children law does not expressly include sex trafficking in its scope, however its inclusion in the sex offender registration requirements indicate an intention to include sex trafficking of minors. Colorado has several commercial sexual exploitation of children (CSEC) laws, including: sexual exploitation of a child, procurement of a child for sexual exploitation, soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, and patronizing a prostituted child. The CSEC laws do not refer to trafficking in children for prosecution or victim protection.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in children does not apply to buyers, leaving buyers liable solely under the CSEC law patronizing a prostituted child. Buyers convicted of patronizing a prostituted child may be required to pay restitution to their victims and ordered to pay for the treatment of a victim under 15. Asset forfeiture is not available in prosecutions for patronizing a prostituted child. Buyers who use the Internet to effect sexual conduct with a minor at least four years younger could be prosecuted under Internet luring of a child under 15. Patronizing a prostituted child specifically prohibits the age mistake defense and provides penalties of equal severity for exploiting minors of all ages under 18. Buyers of sex with minors must register as sex offenders if convicted of patronizing a prostituted child or possessing child pornography.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker convicted of trafficking in children faces 8–24 years imprisonment and/or a fine of \$5,000–\$1,000,000. Soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, as well as creating and distributing child pornography are all Class 3 felonies punishable by imprisonment for 4–12 years and/or fines of \$3,000–\$750,000. Pandering of a child when intimidation is used is enhanced to a Class 2 felony punishable by 8–24 years and/or a fine of \$5,000–\$1,000,000. Traffickers could also face prosecution under organized crime and money laundering laws leading to additional penalties, asset forfeiture and possible civil damages. Internet sexual exploitation of a child under 15 and Internet luring of a child under 15 do not reach the actions of traffickers who sell or recruit commercial sex acts with minors, leaving the growing trend of online recruitment and selling of children for sex undeterred. Traffickers convicted of trafficking in children or any CSEC offense may be required to make restitution to their victims, and those convicted of trafficking in children, soliciting for child prostitution, patronizing a prostituted child, or sexual exploitation of a child may be ordered to pay for the treatment of a victim under 15. Traffickers must register as sex offenders for convictions of trafficking in children or CSEC offenses. Grounds for termination of parental rights do not include convictions of trafficking in children or CSEC offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostituted child (§ 18-7-406(1))	Class 3 felony	4–12 years	\$3,000– \$750,000	○
Sexual exploitation of a child; possessing child pornography (§18-6-403)	Class 6 felony	1–1½ years	\$1,000– \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



18.5
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27.5



7.5
15

FINAL SCORE:

58

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Sex trafficking and CSEC victims are not fully protected under the law. Trafficking in children and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and provide no affirmative defenses to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system and receive responses ranging from a diversion program to detention. However, child welfare intervention is possible as the definition of abuse includes a child who has been subjected to unlawful sexual behavior, which includes trafficking in children and CSEC laws, and the definition of custodian includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims' compensation is available for victims of CSEC offenses; however, participating in the conduct giving rise to the injury, failing to report the crime to law enforcement within 72 hours or to file a claim within one year, and a requirement to cooperate with law enforcement could prevent CSEC victims from receiving compensation, yet each of these requirements can be waived if justice requires it. Victim-friendly trial procedures are available to trafficking in children and CSEC victims, including the admissibility of out of court statements into evidence, permissibility of videotaped testimony by a victim-witness under 15 in lieu of trial testimony due to emotional trauma, and provision of a court advocate. The "rape shield" law, which alleviates the trauma of cross-examination by limiting the admissibility of reputation and prior sexual conduct as evidence, is available in limited cases. Juvenile criminal records can be expunged one year after the child completes a diversion program or four years after the court's termination of jurisdiction over the petitioner or the child's release from commitment to the department of human services. Restitution is available to victims in any criminal sentencing and a victim under the age of 15 of trafficking in children, soliciting for child prostitution, patronizing a prostituted child, or sexual exploitation may be able to have the offender pay for needed treatment. Civil remedies are only available to CSEC victims whose offenders are convicted under organized crime laws or a sex offense against a child, which though not defined might include sex trafficking or CSEC offenses. Criminal prosecutions for trafficking in children and all CSEC laws may be brought at any time, while civil claims based on damages from sexual offenses against a child must be brought within six years of the child turning 18.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Colorado law does not require law enforcement to receive training on human trafficking. Single party consent to audiotaping is permitted, but wiretapping is not expressly permitted in investigations for trafficking in children or CSEC crimes. No laws expressly authorize the use of a decoy or the Internet in trafficking in children investigations, and the crimes of Internet sexual exploitation of a child under 15 and Internet luring of a child under 15 are not targeted to reach traffickers or buyers of commercial sex acts with minors. Colorado has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

The trafficking in children law does not include the crime of assisting, enabling, or financially benefitting from sex trafficking. Procurement of a child for exploitation in pornography or sexual performance through transportation, keeping a place of child prostitution, promoting and selling child pornography, and soliciting for child prostitution (which includes the facilitator action of directing a person to a place for the purpose of buying sex acts with a child) are all crimes punishable as Class 3 felonies by 4–12 years imprisonment and/or fine of \$3,000–\$750,000. Facilitators could also be subject to organized crime and money laundering laws leading to additional penalties, asset forfeiture, and possible liability for civil damages. Facilitators convicted of any CSEC offense may be required to pay restitution to their victims, while facilitators convicted of promoting or soliciting for prostitution may be ordered to pay for the treatment of victims under 15. No laws in Colorado address sex tourism.

CONNECTICUT

FINAL GRADE: F

Summary

The human trafficking law requires the predicate crime of coercion, narrowing its application. Buyer laws have weak penalties, unlikely to seriously deter demand. Advances in victim protection through immunity and presumptions need wrap-around protective provisions to respond appropriately to the child victims of sex trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Connecticut’s human trafficking law includes the crime of sex trafficking, but it requires the predicate crime of coercion for all cases of human trafficking and does not clearly define a human trafficking victim as a minor under the age of 18 used in commercial sex acts regardless of the use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include: promoting prostitution of a minor under 18, employing a minor in an obscene performance, enticing a minor to engage in prostitution, and aggravated sexual assault of a minor. Connecticut’s CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The state human trafficking law does not appear to apply to buyers, unless they are also guilty of the predicate crime of coercion. No CSEC laws include the crime of buying sex with a minor, unless the buyer uses the Internet and can then be prosecuted under the felony for enticing a minor under 16 to engage in prostitution via the Internet. Connecticut’s patronizing a prostitute statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. There is no prohibition on an age mistake defense to prosecution for a CSEC offense, leaving open a claim by buyers that they did not know the age of the victim, although a defense that the person solicited could not engage in prostitution because they are in fact a victim is not permitted. A buyer may be required to pay victim restitution in any criminal sentence in which it is requested and losses proven. Buyers convicted of possessing child pornography or enticing a minor under 16 via the Internet to engage in prostitution must register as sex offenders, but registration is not required for patronizing a prostitute even when a minor is involved.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the human trafficking and promoting prostitution of a minor CSEC laws, a convicted trafficker could face 1–20 years imprisonment and a possible fine up to \$15,000, and is subject to asset forfeiture and racketeering laws. The use of the Internet to persuade, entice, or coerce a minor under 16 to engage in prostitution is a separate felony. Employing a minor in an obscene performance is a felony punishable by 10–25 years imprisonment and a possible fine up to \$10,000. Aggravated sexual assault of a minor, which includes committing certain CSEC offenses against minors under 13, is a felony punishable by 25–50 years imprisonment and a possible fine up to \$20,000. Victim restitution may be ordered as part of sentence for any crime and a victim can bring a civil claim against a trafficker for damages. A trafficker is required to register as a sex offender for convictions of CSEC crimes, but not for sex trafficking. Parental rights may be terminated for a conviction of sexual assault resulting in the conception of a child, but not for human trafficking or CSEC convictions.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostitute (§ 53a-83)	Class A misdemeanor	Max. 1 year	Max. \$2,000	○
Enticing a minor by computer to engage in prostitution (§ 53a-90a)	Class D felony	1–5 years	Max. \$5,000	○
Enticing a minor under 13 by com- puter to engage in prostitution (§53a-90a(b)(2))	Class B felony	1–20 years	Max. \$15,000	○
Possessing child pornography in the third degree – less than 20 images (§ 53a-196f)	Class D felony	1–5 years	Max. \$5,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



6.5
25



12.5
15



4.5
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14.5
27.5



3.5
15

FINAL SCORE:

47.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Connecticut law provides for the development of programs for responses and services to victims of human trafficking, though not child sex trafficking specifically. Minors under 16 are immune from prosecution for violations of prostitution. Minors 16 and older receive a presumption of coercion, but minors ages 16–17 could still enter the juvenile justice system as delinquents. Upon arrest of any child for a violation of prostitution, an officer is required to report suspected abuse or neglect to the Department of Children and Families. A victim found to be abused or neglected—a definition which includes sexual exploitation, but not expressly victimization by human trafficking or CSEC—might receive protection through child protective services. Yet, the definitions of guardian and “person responsible for the health, welfare or care of a child or youth” do not expressly include those without legal custody of a minor to make the definition applicable to traffickers and allow child protective services intervention. State crime victims’ compensation maintains eligibility criteria that victims of domestic minor sex trafficking might find to be barriers to recovery. A crime must be reported to police within five days of the commission of the crime or within five days of when a report could reasonably be made; victims must file a claim within two years, though a minor may apply for a waiver if the failure to apply was not the minor’s fault. While these eligibility requirements are waived for victims of sexual assault, they are not waived for sex trafficking or CSEC victims. Connecticut’s victim-friendly criminal justice procedures are limited. The “rape shield” law, which reduces the trauma of cross-examination for testifying victims, does not extend to child victims of sex trafficking or CSEC crimes. Only minor victims of sexual assault or abuse under 12 may testify via closed circuit television. A minor may file a petition to expunge criminal records once the following criteria are attained: reaching age 17, two years have elapsed since convicted, no proceedings are pending against the child, and the child has not been subsequently convicted of a crime. Civil remedies are specifically available for damages resulting from human trafficking, but not other CSEC crimes and victim restitution is available. A prosecution for human trafficking deemed an offense of sexual exploitation against a minor must be brought within the earlier of 30 years after the minor reaches 18 or five years after the date the victim notifies law enforcement of the offense. Civil actions related to sexual exploitation must be brought within 30 years after the victim reaches 18, while other civil actions must be brought within three years of the crime.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law does not include the crime of assisting, enabling, or financially benefiting from human trafficking. Facilitators can be charged with CSEC offenses and could be in violation of racketeering laws, which can entail asset forfeiture. Promoting prostitution of a minor by profiting from the prostitution of a minor under 18, importing child pornography, and promoting a minor in an obscene performance are felonies punishable by 1–20 years imprisonment and a possible fine up to \$15,000. Victim restitution may be ordered in any criminal sentence upon proof of losses. No laws in Connecticut address sex tourism.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Connecticut has developed a training program on trafficking in persons, although it is not statutorily mandated. State law requires two-party consent to record telephone communications. Wiretapping is not expressly authorized for trafficking investigations, though it is authorized for felonious crimes of violence which may include child sex trafficking or CSEC. No law expressly authorizes the use of a decoy in the investigation of prostitution or sex trafficking cases, but law enforcement may use the Internet to investigate offenses of enticing a minor, which includes enticing a minor under 16 to engage in prostitution. Connecticut maintains a statewide clearinghouse on missing children, and requires reporting and maintaining information on missing children, but not specifically reporting located children.

DELAWARE

FINAL GRADE: D

Summary

Delaware's sex trafficking law requires the proof of force, fraud or coercion to reach facilitators of sex trafficking. Critical investigative tools for law enforcement efforts to combat the growing crimes of Internet crimes against children are not provided by law.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Delaware's human trafficking law includes sexual servitude of minors without requiring proof of force, fraud or coercion to cause the minor to engage in commercial sex acts, and enhances the penalty when force or threat was used. Delaware has several commercial sexual exploitation of children (CSEC) laws, including sexual exploitation of a child and promoting prostitution in the first and second degrees. The CSEC laws do not refer to the sex trafficking of children statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The sex trafficking law applies to a buyer who “causes” a minor to engage in commercial sex acts, but no CSEC laws include the crime of buying sex with a minor. Sexual solicitation of a child, although not specifically including solicitation of commercial sex acts, may be used in some cases to prosecute a buyer and is punishable by up to 15 years imprisonment, but patronizing a prostitute, which does not distinguish between purchasing sex acts with an adult versus a minor, is punishable up to 30 days imprisonment and a minimum fine of \$500; repeat offenders may have their vehicles seized. Sexual solicitation of a child may also apply to buyers who use the Internet to facilitate or solicit illegal sex acts, which could include commercial sex acts with a minor, possibly providing additional penalties in such cases. Delaware law eliminates the mistake of age defense in sexual offense cases and places limits on use of this defense in all other cases, but leaves open the possibility of using this defense in prosecutions under the sex trafficking law. Buyers of sex with minors may be required to register as sex offenders if convicted of sex trafficking of a minor, sexual solicitation of a child or child pornography offenses, but not for patronizing a prostitute even when a minor is involved.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker faces prosecution under both sexual servitude and forced labor and services provisions of the trafficking statute, as well as CSEC laws, money laundering, and racketeering laws based on prostitution or obscenity offenses. Sexual servitude of a minor under age 14 and sexual exploitation of a child through pornography are felonies punishable by 2–25 years imprisonment. Creating and distributing child pornography is punishable by up to 25 years imprisonment. Sexual solicitation of a child may reach the conduct of traffickers who use the Internet to recruit or sell minors for illegal sex acts, possibly providing additional penalties in such cases. When convicted of sex trafficking, restitution to the victim is mandatory, and if convicted of racketeering, the trafficker could also face asset forfeiture and civil claims. Traffickers must register as sex offenders if convicted of sex trafficking, CSEC, or child pornography offenses. Sex trafficking is an enumerated felony offense which permits initiation of termination of parental rights procedures under Delaware law; however, promoting prostitution, sexual exploitation of a child and child pornography offenses are not included among the listed offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Trafficking of persons (tit. 11, § 787(b)(2))	Class C felony (victim 14-18)	Max. 15 years		○
	Class B felony (victim under 14)	2–25 years		
Patronizing a prostitute (age-neutral) (tit. 11, § 1343(a))	Class A misdemeanor	Max. 30 days	\$500– \$575	○
Possession of child pornography (§ tit. 11, § 1111)	Class F felony	Max. 3 years		○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



5
7.5



15.5
25



10.5
15



5
10



17
27.5



7.5
15

FINAL SCORE:

60.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution. Delaware law prohibits a defense based on consent only in cases involving minors under the age of 16, leaving older minors unprotected and bearing the burden of proof to overcome the defense. Some victims of domestic minor sex trafficking could qualify for child welfare intervention as the definition of an abused child is broad enough to include sexually exploited minors and the definition of custodian includes “a person who has assumed control of or responsibility for the child,” making the term broad enough to potentially include a trafficker and therefore allow for child welfare intervention. In addition, the human trafficking law mandates preliminary steps to be taken toward implementing a child protection response provided through the Department of Health and Social Services that is capable of meeting the specific needs of trafficked minors. The victims not identified as trafficking victims or dependency cases however may be considered delinquents and held culpable for the crimes committed against them. CSEC victims who may be eligible for state crime victims’ compensation face barriers to receiving an award, including a bar to recovery for non-cooperation with law enforcement or if the injury arises from collusion with the perpetrator. However, sexual abuse exceptions to the time limits required to report crimes or file claims for compensation may assist with this potential barrier. Testifying sex trafficking victims may be provided separate waiting rooms during trial and non-disclosure of identifying information as trial protections. Child victims under 11 of enumerated sex offenses, including child pornography and sexual solicitation (but not including sex trafficking or promoting prostitution), may testify via closed-circuit television in certain cases, and the “rape shield” law also is limited to victims of unlawful sexual intercourse or contact that might not be deemed to include all CSEC crimes, leaving some victim-witnesses unprotected from the trauma of cross-examination at trials of their perpetrators. Expungement of juvenile records is mandated if the case did not lead to adjudication or was resolved through participation in a diversion program and may be expunged when the minor has no more than two adjudications of delinquency. Victim restitution is mandatory in sex trafficking convictions. No statute of limitations applies to prosecutions of sexual exploitation of a child and promoting prostitution in the first and second degrees, but the general 5-year statute of limitations applies to prosecutions for sex trafficking. The statute of limitations on any civil claims arising from criminal sexual abuse has been eliminated.



CRIMINAL PROVISIONS FOR FACILITATORS

The sexual servitude of a minor provision of the trafficking law does not include the crime of assisting, enabling, or financially benefitting from sex trafficking, but the forced labor or services provision, which requires proof of force or coercion in commission of the offense, makes it a crime to assist in or benefit from human trafficking. If convicted, a facilitator faces 2–25 years imprisonment. A facilitator convicted of distributing or disseminating child pornography also faces 2–25 years imprisonment. Promoting prostitution in the second degree may apply to facilitators who provide premises for sex trafficking of minors, punishable by up to five years imprisonment. Facilitators may face money laundering and racketeering penalties with predicate prostitution and obscenity-related offenses. Restitution is mandatory, and facilitators convicted of racketeering could also face asset forfeiture and civil penalties. No laws in Delaware address sex tourism.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated, but the Council on Police Training has statutory authority to mandate such training. Single party consent to audiotaping is permitted, but wiretapping is only permitted in investigations of suspected racketeering offenses or offenses likely to result in personal injury. No laws expressly authorize the use of a decoy or the Internet in sex trafficking investigations, or provide protection from a defense to prosecution for sexual solicitation of a child based on the “minor” being, in fact, an adult. Delaware has established a statewide reporting and response system for missing children and requires the reporting of located children.

Summary

Sex trafficking of a minor under 18 without regard to force, fraud, or coercion a crime, and the law is potentially applicable to buyers of commercial sex with minors. Nonetheless, juveniles are subject to arrest and punishment for prostitution in the District of Columbia in conflict with their status as sex trafficking victims under the sex trafficking law.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

D.C. has a separate law for the sex trafficking of children and clearly defines a minor under the age of 18 used in a commercial sex act as a sex trafficking victim without regard to use of force, fraud, or coercion to cause the sex act. D.C. has several commercial sexual exploitation of children (CSEC) laws, including: abducting or enticing child from his or her home and harboring for purposes of prostitution, pandering, inducing or compelling an individual to engage in prostitution, procuring, receiving money or other valuable thing for arranging assignation, and using a minor in a sexual performance. The CSEC laws do not refer to the sex trafficking of children statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The child sex trafficking law tracks the federal definition and could, following federal precedent, be applied to attempted buyers through the word “obtain.” Further support for this interpretation is found in legislation mandating the collection of human trafficking-related data, which includes data on those who purchase commercial sex acts. No CSEC law specifically makes it a crime to buy sex with minors, but a buyer arguably could be prosecuted for pandering or contributing to the delinquency of a minor. A buyer is likely to be charged with soliciting prostitution, even though solicitation laws do not differentiate buying sex with an adult from buying sex with a minor. Though the Internet is increasingly used by buyers, no statute expressly makes using the Internet to purchase sex acts with minors a crime; however, two statutes—enticing a child or minor and arranging for sexual contact with a real or fictitious child—although not specific to the Internet, might apply. Offenses applicable to buyers are silent on age mistake, leaving this defense potentially available to defendants. D.C. does not require sex offender registration by those convicted of sex trafficking of minors, but does require registration for soliciting prostitution with a minor. Though not mandatory, a court could order a buyer of commercial sex with minors to pay restitution.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Penalties for child sex trafficking are comparable to federal trafficking penalties, punishable by a maximum of 20 years imprisonment and/or a fine up to \$200,000. CSEC crimes of pandering and procuring and abducting/enticing a child for prostitution are punishable by a maximum of 20 years imprisonment and/or a fine up to \$20,000. Though the Internet is increasingly used by traffickers, no statute expressly makes using the Internet to sell commercial sex acts with a minor a crime; however, two statutes—enticing a child or minor and arranging for sexual contact with a real or fictitious child—although not specific to the Internet, might apply. Traffickers are subject to asset forfeiture and restitution, ordered at the discretion of the court. Sex offender registration is required for many crimes of which a trafficker could be convicted, but not sex trafficking of children. Sex trafficking of children and CSEC crimes are not enumerated as violent crimes for which a trafficker’s parental rights can be terminated, though parental rights may be terminated if it is in the best interest of the child or if the trafficker is convicted of other violent crimes. A first offense for knowingly creating and promoting child pornography is punishable by up to 10 years imprisonment and/or a fine not to exceed \$5,000.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Sentence	Fine (and/or)	Asset Forfeiture (Available penalty)
Soliciting for prostitution (§ 22-2701)	1st conviction = Max. 90 days; 2nd = Max. 180 days; 3rd or more Max. = 2 years	1st conviction = Max. \$500, 2nd Max = \$1,000, 3rd Max. = \$4,000	●
Pandering (§ 22-2705)	Max. 20 years	Max. \$20,000	●
Possessing child pornography (§ 22-3102(b))	Max. 10 years	Max. \$5,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



5
7.5



16
25



8.5
15



6.5
10



16.5
27.5



5
15

FINAL SCORE:

57.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims are vulnerable due to gaps in the laws. CSEC victims are expressly classified as victims for the limited purpose of data collection on human trafficking related crimes. Sex trafficking of a minor and CSEC crimes are silent on admissibility of a defense based on consent of the minor to the commercial sex act leaving open the possibility a defendant may assert a defense of consent and putting the burden to prove lack of consent on the minor. Prostitution offenses are not limited in application to adults, do not identify a minor engaged in prostitution as a victim of sex trafficking, and provide no affirmative defenses to a minor charged with the offense. No specific protective provisions are statutorily mandated for CSEC victims. Victims could be classified as a “delinquent child,” a “child in need of supervision,” or a “neglected child” leading to different response protocols and placements, including detention. For purposes of child welfare intervention, the definition of abuse includes sexual abuse or exploitation of a child, which includes allowing the child to engage in prostitution or a sexual performance; however, the definition of custodian does not clearly apply to a trafficker, preventing a child welfare response. Victims of most CSEC offenses are eligible for crime victims’ compensation, but some eligibility criteria could hamper their ability to recover, including the requirement to report the crime to law enforcement within seven days and file a claim within one year, unless good cause is shown. Victim-friendly criminal justice procedures are available in CSEC cases, including the “rape shield” law which limits traumatizing cross-examination of testifying victims in sex trafficking cases. D.C. law allows juvenile records to be sealed two years after final discharge from custody if the minor has not been subsequently convicted or found in need of supervision. Civil remedies against trafficking offenders and facilitators are expressly allowed for victims. A court may order a convicted offender to pay criminal restitution to a CSEC victim. Criminal actions for sex trafficking of children can be brought until 10 years after a minor reaches 21, and the statute of limitations on civil actions for damages from trafficking does not begin to run until the victim is free from the sex trafficking situation. Civil actions for other offenses do not begin to run until the plaintiff knows or should know of an act constituting a violation or until a minor reaches 18, whichever is later.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on domestic minor sex trafficking is not mandatory, but training on related issues such as domestic violence is mandated. D.C. law allows single party consent for audiotaping, but wiretapping is not available as an investigative tool in sex trafficking cases. Use of a decoy to investigate the crime of arranging to engage in sexual conduct with a real or fictitious child is permitted, but no statute specifically authorizes law enforcement to utilize the Internet for investigations. D.C. has not statutorily mandated the reporting of missing children or rescued children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators are subject to prosecution under a separate statute for benefitting financially from human trafficking, punishable by a maximum of 20 years imprisonment and/or a fine up to \$200,000. Though not mandatory, a court may order a facilitator to pay restitution, and facilitators are subject to asset forfeiture. Knowingly promoting child pornography, defined as manufacturing, issuing, selling, distributing, circulating, or disseminating pornographic material, is punishable by up to 10 years imprisonment and/or a fine up to \$5,000, increased to up to 20 years imprisonment and/or a fine up to \$15,000 for subsequent offenses. No laws in D.C. make sex tourism a crime.

FLORIDA

FINAL GRADE: C

Summary

Florida's sex trafficking law requires the use of force, fraud or coercion to cause a minor to engage in commercial sex acts, unless trafficked by a parent, and traffickers convicted of sex trafficking are not required to register as sex offenders. Child victims have some protections but consistent identification and wrap-around services and shelter are critical deficiencies.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Florida law separately addresses sex trafficking (1) of any age person with a requirement of force, fraud, or coercion used in the commission, and (2) of a minor under 18 by a parent, guardian or custodian without regard to the use of force, fraud, or coercion. Florida has several commercial sexual exploitation of children (CSEC) laws, including lewd or lascivious battery of person under 16 for prostitution, kidnapping and false imprisonment of a child under age 13 for prostitution, use of a child in a sexual performance, and procuring a minor for prostitution. The CSEC offenses do not refer to the sex trafficking statutes for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law could be applied to buyers who “obtain” a child for commercial sex acts, following federal precedent, but only if the buyer has knowledge that force was used against the minor to cause the prostitution. The CSEC law on lewd or lascivious battery makes it a crime to engage a minor under 16 in prostitution, but the patronizing a prostitute statute does not distinguish between purchasing commercial sex acts with an adult versus a minor and would be used in cases of buying commercial sex acts with a minor 16 or older and when the buyer is not identified as a buyer of prostitution with a child. Buyers using the Internet to solicit a minor to engage in prostitution, among other sexual offenses, are subject to prosecution for computer pornography. The sex trafficking and CSEC laws are silent on mistake of age leaving open the possibility of this defense being asserted by a prosecuted buyer. Buyers must pay restitution to victims who suffer injury and face asset forfeiture for felony convictions. Buyers of sex with minors are required to register as sex offenders if convicted of lewd and lascivious battery or child pornography offenses, but not for sex trafficking offenses.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking through force, fraud or coercion is punishable by up to 15 years imprisonment, or 30 years when the victim is under 14, the trafficking results in death, or a child is trafficked by a parent, guardian or custodian. Traffickers who obtain a minor for creating child pornography face up to 30 years imprisonment. CSEC crimes of lewd or lascivious battery, sexual performance by a child—which includes creating child pornography and is enhanced one higher degree if 10 or more images are found, at least one of which depicts certain types of abuse or very young minors—and procuring a minor for prostitution are punishable by up to 15 years imprisonment. Kidnapping a child under 13 for prostitution is punishable by life imprisonment and false imprisonment of a child under 13 for prostitution is punishable by up to 30 years imprisonment. All of these offenses carry a possible fine up to \$10,000. Traffickers may face racketeering and money laundering charges and asset forfeiture. Mandatory victim restitution will be ordered at sentencing. Traffickers using the Internet to solicit a minor to engage in prostitution, among other sexual offenses, are subject to prosecution for computer pornography. Registration as a sexual predator is required for many CSEC crimes, but not sex trafficking. Sex trafficking is not enumerated as a violent crime for which a trafficker's parental rights can be terminated, however parental rights may be terminated if a trafficker is incarcerated for an extended period or is convicted of an offense as a habitual offender or for which registration as a sexual predator is required.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Lewd or lascivious battery (minor under 16) (\$ 800.04(4))	Second degree felony	Max. 15 years	Max. \$10,000	●
Patronizing a prostitute (\$ 796.07(2)(i))	2nd degree misdemeanor (1st offense); 1st degree misde- meanor (2nd offense); 3rd degree felony (3rd offense)	Max. 60 days (1st offense); 1 year (2nd offense); 5 years (3rd offense)	Max. \$500 (1st offense); \$1,000 (2nd offense); \$5,000 (3rd offense)	●
Possessing child pornogra- phy (\$ 827.071(5))	3rd degree felony	Max. 5 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



4.5
7.5



17
25



14.5
15



5.5
10



18
27.5



12
15

FINAL SCORE:

71.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Sex trafficking and CSEC victims are not fully protected under Florida’s laws. Sex trafficking and CSEC laws (other than lewd or lascivious battery) do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution. No specific protective provisions are statutorily mandated for CSEC victims. Victims could be classified as a delinquent child, a child in need of services or an abused child leading to different response protocols and placements, including detention. The definition of harm, for purposes of defining abuse in the child welfare statutes, includes sexual exploitation by prostitution or sexual performance; however, the definition of custodian does not clearly apply to a trafficker, possibly preventing a child welfare response in cases of non-familial trafficking. Crime victims’ compensation is specifically mandated for victims of online sexual exploitation and child pornography identified through the National Center for Missing and Exploited Children’s Child Victim Identification Program. Other CSEC victims may be eligible for compensation bodily or psychological injury or death, although several criteria may limit their eligibility. These include a bar to recovery if the victim participated or assisted in a criminal act and a possible bar if the crime is not reported within 72 hours (unless good cause is shown) and a claim is not filed within one year of the victim turning 18. Victim-friendly trial procedures are available to sex trafficking victims, including an appointed guardian ad litem and testify via closed-circuit television at the discretion of the court for victims of trafficking under 16. The “rape shield” law is limited to victims of sexual battery, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination. A minor who successfully completed a diversion program or was not adjudicated delinquent may petition to expunge the juvenile record. Restitution to victims who suffer injury is mandatory and victims may bring various civil claims for injuries arising from trafficking. A prosecution for kidnapping a child under 13 may be brought at any time, while a four year statute of limitations applies to prosecutions of false imprisonment of a child under 13 and sex trafficking where the child is under 14 or the child is trafficked by a parent, and a three year statute of limitations for all other felonies. For civil claims based on damages from being trafficked, a three year statute of limitations begins to run after the later of the conclusion of the criminal case, notice to the victim of pornographic images, or three years after the victim turns 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking is mandated in Florida. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations for child pornography but not for sex trafficking or prostitution offenses. Use of a decoy to investigate prostitution of children is not expressly authorized. A defendant prosecuted under the law against computer pornography and travelling to meet a minor for lewdness including prostitution and solicitation of a child to participate in pornography may not raise a defense that the “minor” was in fact an undercover law enforcement officer and it is enough that that defendant believed the person to be a minor, making the Internet a valuable tool for these investigations. A statewide reporting and response system for missing children is in place in Florida and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state sex trafficking law only applies to facilitators who assist or enable trafficking in which force was used. No CSEC crimes are applicable to facilitators but penalties may be available under racketeering and money laundering laws. Several laws make selling and promoting child pornography a crime, including acts in connection with obscene, lewd materials, punishable by up to 5 years imprisonment and a possible fine up to \$5,000 when the materials involve minors; the same penalty applies to computer pornography and transmission of pornography by electronic device or equipment but increases to 15 years imprisonment with a possible fine of \$10,000 if the defendant possesses 10 or more images, at least one of which depicts certain types of abuse or very young minors. Facilitators must pay restitution to victims who suffer injury and face asset forfeiture for felony convictions. Facilitators who allow use of their premises for sex trafficking face the loss of their property if declared a nuisance under criminal gang laws. No laws in Florida address sex tourism.

GEORGIA

FINAL GRADE: C

Summary

Georgia has a comprehensive human trafficking law and commercial sexual exploitation of children (CSEC) laws that could be used to combat demand. However, traffickers are not required to register as sex offenders, creating vulnerability for at-risk children and insufficient protective laws may fail child victims of sex trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Georgia's human trafficking law includes sexual servitude of minors and does not require force, fraud, or coercion for minors used in commercial sex acts. The state also has various CSEC crimes including pimping, pandering, keeping a place of prostitution, sexual exploitation of children, and solicitation of sodomy. However, the CSEC statutes do not reference the human trafficking law for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

State laws exist to prosecute demand. The state human trafficking law could be applied to buyers through the word “obtain,” following federal precedent and no defense of mistake of age of the minor may be raised in the prosecution. The pandering law can apply to buyers of commercial sex with minors, and differentiates between buying sex with adults versus minors, providing substantial penalties for buying sex with minors of all ages. Additionally, a buyer of sex with minors must pay restitution to the victim. The statute on computer or electronic pornography or child exploitation provides a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts, which may include trafficking offenses. While some crimes a buyer could be convicted of require registration as a sex offender, the crimes of human trafficking and pandering do not require registration.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face substantial penalties for trafficking a minor, including a fine not to exceed \$100,000 and/or 10–20 years imprisonment, increased to 25–50 years imprisonment when coercion is used, and no mistake of age defense may be raised by the trafficker. The CSEC crimes of pimping, pandering and keeping a place of prostitution, when the victim is 16 or 17, are punishable by a fine not to exceed \$100,000 and/or 5–20 years imprisonment, increased when the victim is under 16, to 10–30 years. Employing a minor to engage in sexual conduct for use in a visual depiction is punishable by 5–20 years imprisonment and a fine up to \$100,000. Distributing child pornography is a misdemeanor of a high and aggravated nature punishable by a fine up to \$5,000 and/or up to 12 months imprisonment. A trafficker may face asset forfeiture for convictions of human trafficking, child pornography crimes, and pimping, but not for other CSEC crimes. A trafficker must pay restitution to the victim. Traffickers could also be subject to racketeering laws. The statute on computer or electronic pornography or child exploitation provides a means of prosecuting traffickers who use the Internet to solicit minors for illegal sex acts, which may include trafficking. Traffickers convicted of crimes related to child pornography—but not for crimes related to sex trafficking, pimping, or pandering—are required to register as sex offenders. In determining whether to terminate parental rights, the court may consider CSEC convictions or imprisonment which could negatively affect the parent-child relationship.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Pandering a victim under 16 (§ 16-6-12)	Felony	10-30 years	Max. \$100,000	●
Pandering a victim 16 or 17 (§ 16-6-12)	Felony	5-20 years	\$2,500-\$10,000	●
Possessing and purchasing child pornography (§ 16-12-100(b)(8))	Felony	5-20 years	Max. \$100,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



$$\frac{7.5}{7.5}$$


$$\frac{22.5}{25}$$


$$\frac{14}{15}$$


$$\frac{4.5}{10}$$


$$\frac{18.5}{27.5}$$


$$\frac{8}{15}$$

FINAL SCORE:

75



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of CSEC crimes may not be identified as such for purposes of protective provisions in the law. CSEC laws are silent on the permissibility of a defense based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent; however, a defense based on age of consent is specifically prohibited in a prosecution for trafficking. Prostitution offenses are not limited in application to adults and do not identify a juvenile involved in prostitution as a victim of sex trafficking, but trafficking victims have an affirmative defense that sexual crimes they committed during their victimization were a result of coercion or deception while being trafficked. A CSEC victim may be considered a delinquent child, deprived child, status offender, or unruly child and receive various responses ranging from a juvenile justice response to a child protective response. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation through prostitution and child pornography, but not human trafficking; however, the definition of custodian does not expressly include those without legal custody of the child, making it unlikely that child protective services could intervene in a case of a non-family member trafficking the minor. For the purpose of crime victims' compensation, trafficking victims are specifically included and the law provides exceptions to the time limits required to report crimes or file claims of trafficking. Victim-friendly criminal justice procedures include a "rape shield" law that applies to reduce the trauma of cross examination for testifying victims. Georgia allows juvenile criminal records to be sealed two years after discharge unless the minor has been convicted of a felony, adjudicated a delinquent, or convicted of a misdemeanor of moral turpitude; therefore, a CSEC victim with an ongoing criminal record of prostitution would be prevented from accessing this remedy. Restitution is mandatory in any criminal sentencing; however, civil remedies are only available to CSEC victims if the offenders are also guilty of racketeering. Georgia has a seven year statute of limitations for criminal actions on felonies committed against children that is not extended or eliminated for CSEC crimes. Civil actions for childhood sexual abuse, which includes pandering, must be commenced by the time the victim reaches 23.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Through recently enacted legislation, Georgia law has provided for the development of training materials on human trafficking, but does not require law enforcement to participate in this training. The state allows single party consent to audiotaping, but law enforcement must obtain a judicial order for recording conversations with a child under 18. Wiretapping is allowed for sex trafficking if consistent with federal law, which lists the relevant CSEC crimes in 18 U.S.C. § 2516, including sex trafficking of children. No law expressly authorizes the use of a decoy in the investigation of prostitution or sex trafficking cases, but law enforcement may utilize the Internet to investigate domestic minor sex trafficking relying on the crime of computer or electronic pornography and child exploitation prevention. Law enforcement must report missing children, but are not required to report recovered domestic minor sex trafficking victims.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law does not include the crime of benefitting from or assisting and aiding human trafficking—terms most applicable to facilitators. Certain CSEC and prostitution-related crimes, including pimping and keeping a place of prostitution, apply to facilitators and are found within racketeering law and could lead to additional penalties. Facilitators are subject to asset forfeiture for child pornography offenses, pimping, and racketeering. Additionally, a court must order restitution to the victim. No laws in Georgia address sex tourism. The CSEC crimes of pimping and keeping a place of prostitution are felonies punishable by 10–30 years imprisonment and/or a fine not to exceed \$100,000 when the victim is under 16, enhanced to 5–20 years and/or up to \$100,000 when the victim is 16 or 17. Promoting or selling child pornography is punishable by 5–20 years imprisonment and a fine up to \$100,000.

HAWAII

FINAL GRADE: F

Summary

Hawaii has not enacted a sex trafficking law and lacks laws to penalize and deter buyers from purchasing sex acts with minors. Few protective provisions exist for domestic minor sex trafficking victims.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Hawaii has not enacted a human trafficking law that includes the crime of sex trafficking. The state has several commercial sexual exploitation of children (CSEC) laws that reach traffickers, including promoting prostitution of a person under 18, kidnapping for purposes of prostitution or obscenity, promoting child abuse through pornography, and employing a minor to work in adult entertainment. The absence of a sex trafficking law prevents proper identification of the crime or the victim.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. No CSEC offense expressly addresses buying sex with a minor, leaving buyers of sex with minors to be charged with solicitation of prostitution, which does not distinguish between purchasing sex acts with an adult versus a minor and leaves the exploited child without victim status. Buyers may face civil liability for damages to a minor exploited through prostitution under the Prostitution Coercion Liability Act if they hired or attempted to hire a minor to engage in commercial sex acts when a reasonable person would believe the minor was coerced into prostitution. Restitution for conviction of any crime a buyer might be convicted of, including general sex offenses, is mandatory upon a victim's request and includes medical expenses. A person convicted for possession of child pornography is required to register as a sex offender, but a buyer of sex acts with a minor is not, leaving Hawaii's children at risk of those who buy sex with children. Buyers can be prosecuted for electronic enticement of a child under 18 when they commit felony sexual abuse as a result and face a sentence of imprisonment up to 10 years and possible fine up to \$25,000, but buyers using the Internet for the purchase of sex with children are not culpable under this law if the sexual abuse is identified as prostitution.



CRIMINAL PROVISIONS FOR TRAFFICKERS

There is no sex trafficking law in Hawaii, leaving traffickers to be prosecuted under the CSEC statutes of promoting prostitution of a minor and creating child pornography which carry sentences (imprisonment up to 20 years "without the possibility of suspension of sentence or probation") as high as federal trafficking sentences (10 years–life) and a possible fine up to \$50,000. A trafficker using the Internet to lure or recruit a minor under 18 for commercial sex acts could be prosecuted for electronic enticement of a child if the resulting case is seen as felony sexual abuse, instead of merely prostitution. Employing a minor in adult entertainment is a misdemeanor punishable by up to 1 year imprisonment and a possible fine up to \$2,000. Traffickers might be guilty of state racketeering law and money laundering laws for their criminal actions. Traffickers may face civil suits by victims for damages under the Prostitution Coercion Liability Act if the trafficker coerced the victim into prostitution. Traffickers convicted of promoting prostitution of a minor are required to register as sex offenders, but the law relating to the termination of parental rights does not enumerate convictions for promoting prostitution of a minor or sexual offenses as grounds for terminating parental rights, leaving children of traffickers potentially vulnerable. Traffickers found to have violated organized crime laws or the electronic enticement of a child law are subject to asset forfeiture. Restitution to the victim for losses, including medical costs, is mandatory upon request by the victim.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Prostitution (§ 712-1200(4)(a), (b))	Misdemeanor	Max. 30 days	Mandatory \$500	○
Possessing child pornography (§ 707-752)	Class C felony	Max. 5 years	Max. \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



2.5
7.5



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10.5
15



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10



11.5
27.5



7
15

FINAL SCORE:

40.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking are vulnerable due to gaps in Hawaii’s laws. There is no prohibition on a defendant raising consent of the minor to the commercial sex act as a defense to prosecution. Prostitution offenses are not limited in application to adults leaving minors vulnerable to prosecution. No protective provisions are statutorily mandated specifically for domestic minor sex trafficking victims; therefore, a victim may receive a variety of responses including detention for delinquency or possible shelter care for dependency. Child abuse and neglect definitions include victimization of a child through prostitution or child pornography, but the definition of caregiver that dictates whether child protective services may become involved only includes parents, legal custodians, and those that a child resides with for more than 6 months with the consent of the legal custodian, likely excluding most traffickers and therefore removing trafficked children from child welfare intervention. Only victims of enumerated violent crimes are eligible for crime victim’s compensation; these do not include CSEC but do include sexual assault and kidnapping which might be charged in a CSEC case. Victim-friendly trial procedures are limited to minors under 14. A victim under 18 of a sexual offense may be permitted to testify via closed circuit television and the “rape shield” law reduces the trauma of cross-examination for testifying victims of sexual offenses, which are not defined expressly to include CSEC offenses. Minors may petition to have certain arrest records expunged. Civil remedies are available to CSEC victims and restitution for losses including medical expenses is statutorily authorized. Neither criminal nor civil statutes of limitations are eliminated, presenting potential barriers to a sex trafficking victim with typically slow recovery from the unique trauma of CSEC. Civil statutes of limitations do not begin to run until the victim reaches 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated through law. Single party consent to audiotaping is permissible in Hawaii, but CSEC offenses are not included as crimes for which a wiretapping order may be issued, withholding a critical tool for law enforcement investigations. Use of a decoy is not statutorily authorized, but law enforcement may utilize the Internet to investigate buyers and sex traffickers in violation of the electronic enticement of a child statute. The state law mandates reporting of missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

A facilitator who knowingly advances or profits from prostitution of a minor under 18 faces imprisonment for 20 years and a possible fine up to \$50,000. Disseminating or reproducing child pornography is a felony punishable by imprisonment up to 10 years and a possible fine up to \$25,000. Facilitators may also be subject to Hawaii’s racketeering and money laundering laws for their criminal actions. Laws prohibit selling, advertising, and promoting travel for the purpose of prostitution make sex tourism a felony punishable by up to 5 years imprisonment and a possible fine up to \$10,000. Facilitators are not subject to asset forfeiture, unless found guilty of organized crime. However, restitution is mandatory if a victim requests it and can prove losses and medical costs caused by an offense.

Summary

Idaho defines human trafficking to include sex trafficking of minors, relying on certain predicate crimes of commercial sexual exploitation of children (CSEC), sexual exploitation for child pornography and general sexual offenses. Minors are not statutorily immune from prosecution for prostitution and may face barriers to treatment and victims' compensation to fund their recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Idaho's human trafficking law includes the sex trafficking of minors without regard to force, fraud, or coercion; however, human trafficking is not punished as an independent crime, but rather may be punished only where the offender engages in human trafficking while committing another specified crime. The state CSEC crimes include: inducing a minor into prostitution, sexual exploitation of a child, and enticing children under 16 over the Internet. The CSEC statutes do not refer to the human trafficking law for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking offense can apply to buyers who induce a minor to perform a commercial sex act while violating patronizing prostitution law or certain sex offense laws. In the absence of any applicable CSEC law, buyers would be charged under Idaho's general patronizing prostitution law, which does not distinguish between the buying of sex with an adult and a minor. Buyers convicted of human trafficking face mandatory restitution to the victim. Buyers are not subject to asset forfeiture. Enticing children under 16 over the Internet, which prohibits use of an electronic communication device to solicit sex with a child under 16 but not specifically the purchase of sex with a child, might apply to buyers who use the Internet. Idaho's human trafficking law is silent on mistake of age, and the predicate offense of patronizing prostitution is age-neutral making an age-mistake defense irrelevant. Buyers convicted of sex trafficking or enticing children under 16 over the Internet are required to register as sex offenders; however, buyers convicted under patronizing prostitution, even when it involves a minor, are not required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face prosecution for human trafficking when they traffic a child while violating another sexual offense, including inducing a minor into prostitution, sexual exploitation of a child, enticing children over the Internet, and any of Idaho's prostitution-related laws (including, procurement, detention for prostitution, and accepting earnings of prostitute). Human trafficking is punishable by up to 25 years imprisonment. Inducing a minor into prostitution, sexual exploitation for child pornography of a child, and enticing children under 16 over the Internet for exploitation in child pornography are felonies punishable by possible fines up to \$50,000 and imprisonment for 2 years–life, up to 15, and up to 30 years, respectively. Traffickers could also be subject to money laundering, criminal gang, and racketeering laws leading to additional penalties. Enticing children under 16 over the Internet provides a means of prosecuting traffickers who use the Internet to solicit minors for child pornography, but not to recruit or sell commercial sex acts with a minor. Traffickers convicted of human trafficking face mandatory restitution, while those convicted of other crimes may be ordered to make restitution. Traffickers are subject to asset forfeiture if convicted under Idaho's racketeering laws or if the trafficker's property is deemed a moral nuisance. Additionally, traffickers convicted of sexual exploitation of a child or racketeering may face civil liability from human trafficking victims. Traffickers must register as sex offenders for convictions of human trafficking and all CSEC offenses. Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and)	Asset Forfeiture (available)
Human trafficking (§ 18-8602)	Felony	Max. 25 years	None specified	○
Patronizing prostitution (§ 18-5614(1))	Misdemeanor	Max. 6 months	Max. \$1,000	○
Possessing and purchasing child pornography (§ 18-1507A)	Felony	Max. 10 years	Max. \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5

14.5
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11
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3.5
10

8.5
27.5

10
15

FINAL SCORE:

52.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking and CSEC are not fully protected as victims under Idaho’s laws. Sexual exploitation of a child for pornography prohibits a defense based on consent of the minor; however, human trafficking and other CSEC laws do not. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of human trafficking, and provide no affirmative defenses to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system as an offender and could face detention. However, if properly identified, a victim could receive a protective response through child welfare, as the definition of abuse includes the commercial sexual exploitation of a child through prostitution and child pornography. This protection may be limited by the definition of custodian, which does not clearly apply to a trafficker and could prevent a child welfare response. Crime victims’ compensation is available for victims of CSEC offenses; however, being considered an accomplice to the crime, not fully cooperating with law enforcement, and not reporting the crime and filing a claim for compensation within specified time limits could prevent CSEC victims from receiving compensation. Victim-friendly criminal justice procedures are also limited. While child witnesses are allowed to give testimony via an alternative method preventing interaction with the perpetrator at trial, Idaho’s “rape shield” law only applies in criminal cases of rape, leaving testifying CSEC victims unprotected from the trauma of cross-examination at trials of their traffickers. A juvenile’s records may be expunged on the later of the juvenile’s 18th birthday, five years from release from a juvenile corrections center, or five years after the end of the continuing jurisdiction of the court, provided the juvenile has not been convicted of specified crimes and the court determines that expungement is appropriate. Criminal restitution is mandatory for victims of human trafficking and may be awarded to victims of other crimes; however, civil remedies are only available to victims of sexual exploitation of a child or racketeering. Prosecutions for human trafficking and CSEC offenses must be brought within six years of the crime. For civil actions for childhood sexual abuse, including sexual exploitation of a child, a five year statute of limitations does not begin until the earlier of the victim turning 18, or the time the victim “reasonably should have discovered” the exploitation. Civil remedies for racketeering must be brought within three years of the crime, except that the statute of limitations will toll for six months past a minor victim’s 18th birthday.



CRIMINAL PROVISIONS FOR FACILITATORS

Human trafficking does not include the crime of benefitting from or assisting and aiding human trafficking and none of the CSEC laws apply to facilitators, though facilitators may face prosecution under prostitution-related laws that are not specific to the prostitution of children. Promoting or selling child pornography is punishable under sexual exploitation of a child as a felony by up to 30 years imprisonment and/or a fine up to \$50,000. Facilitators could also be subject to money laundering, criminal gang, and racketeering laws leading to additional penalties and will be subject to asset forfeiture if convicted under racketeering laws, or if the facilitator’s property is deemed a moral nuisance. No laws in Idaho address sex tourism.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Idaho encourages, but does not require, law enforcement to receive training on human trafficking. The state allows single party consent to audiotaping and wiretapping is allowed in investigations for any crime that is dangerous to “life, limb or property” and that may be punished by imprisonment for more than one year, which includes CSEC and human trafficking offenses (but not the predicate offense of patronizing prostitution for buyers). No law expressly authorizes the use of a decoy or the Internet in the investigation of prostitution of children, but investigations into sexual exploitation for child pornography may use the Internet, relying on the crime of enticing children under 16 over the Internet for sexual exploitation. Idaho has established a statewide reporting and response system and law enforcement must report missing and located children.

ILLINOIS

FINAL GRADE: B

Summary

The criminal laws of Illinois reach actions by traffickers, buyers, and facilitators. Minors are immune from prosecution for prostitution and may be taken into protective custody; however, some domestic minor sex trafficking victims may not access to justice due to limits in the application of the “rape shield” law and victims’ compensation program.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The trafficking in persons law includes sex trafficking of minors and does not require proof that force, fraud, or coercion was used to cause minors to engage in commercial sex acts. The state also has various CSEC crimes, including: solicitation of a sexual act, promoting juvenile prostitution, soliciting for a minor engaged in prostitution, patronizing a minor engaged in prostitution, keeping a place of juvenile prostitution, permitting sexual abuse of a child, grooming, travelling to meet a minor, juvenile pimping, and aggravated juvenile pimping. The CSEC statutes do not reference the human trafficking law for prosecution or victim protections and may result in disparate identification and treatment.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The trafficking in persons law tracks the federal definition and the sex trafficking provision could, following federal precedent, be applied to buyers who “obtain” a minor for a commercial sex act. Several CSEC laws more definitively include the crime of buying sex with minors, although some permit defendants to raise a mistake of age defense in prosecutions under these laws. Solicitation of a sexual act distinguishes between buying sex with adults versus minors, and patronizing a minor engaged in prostitution also makes it a crime to buy sex acts with minors under 18. The statutes on grooming and travelling to meet a minor provide a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts, which may include trafficking offenses. A buyer convicted of patronizing a minor engaged in prostitution or pornography offenses is required to register as a sex offender; however, a conviction for sex trafficking or solicitation of a sexual act, even when a minor is involved, does not require registration. A convicted buyer must pay restitution for any offense if the victim suffers personal injury and may also face civil claims by the victim.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Patronizing a minor engaged in prostitution (720 Ill. Comp. Stat. Ann. 5/11-18.1(a), (a-5))	Class 3 Felony	2–5 years, or 3–7 years if within 1000 feet of a school.	Max. \$25,000	○
Solicitation of a sexual act (720 Ill. Comp. Stat. Ann. 5/11-14.1(a))	Class 4 Felony	1–3 years	Max. \$25,000	○
Possessing child pornography (720 Ill. Comp. Stat. Ann. 5/11-20.1(a)(6) and 5/11-20.1B(a)(6))	Class 3 (ages 13-18)	2–5 years (Class 3)	\$1,000–\$100,000	●
	Class 2 (under age 13)	3–7 years (Class 2)		



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of sex trafficking face 4–15 years imprisonment, increased to 6–30 years imprisonment when coercion is used or the minor is under the age of 17. Traffickers convicted of CSEC offenses of promoting juvenile prostitution, soliciting for a minor engaged in prostitution, and juvenile pimping face 4–15 years imprisonment, increased to 6–30 years for aggravating factors. Keeping a place of juvenile prostitution is punishable by 2–5 years imprisonment and exploitation of a child for pornography by 6–30 years. All carry a possible fine up to \$25,000. Grooming (1–3 years imprisonment) and travelling to meet a minor (2–5 years) can be used to prosecute traffickers who use the Internet to solicit minors for commercial sex acts, which may include trafficking. Creating and distributing child pornography is punishable by 4–15 years imprisonment, increased to 6–30 years for a first offense where the victim is under age 13, and a fine of \$2,000–\$100,000. A trafficker must pay restitution to the victim and faces civil claims by the victim. A trafficker convicted of sex trafficking, promoting juvenile prostitution or child pornography faces asset forfeiture. A trafficker convicted of most CSEC or pornography offenses must register as a sex offender, but a conviction for sex trafficking does not require registration. Parental rights can be terminated when a parent is convicted of sex trafficking or allows a minor to engage in prostitution.

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



7.5
7.5



16
25



14
15



7
10



25.5
27.5



10
15

FINAL SCORE:

80



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

The trafficking and CSEC laws do not prohibit a defense to prosecution based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent. Under the Safe Children Act, minors under 18 arrested for prostitution offenses are immune from prosecution and instead taken into protective custody. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation through trafficking or prostitution; however, abuse must be perpetrated by those with legal custody or residing in the same home as the minor limiting the number of trafficking victims who might be protected through child welfare intervention. For the purpose of crime victims' compensation, trafficking victims are not specifically included as victims and exceptions to the time limits for reporting crimes or filing claims do not apply to trafficking victims. Victim-friendly criminal justice procedures include testimony by closed circuit television; however the "rape shield" law only applies in sex offense cases so trafficking victims may not be protected from the trauma of cross-examination. Child sex trafficking victims arrested for prostitution may petition for expungement of juvenile records upon reaching the age of 17. Restitution is mandatory in any criminal sentencing and civil remedies are available to CSEC victims for damages sustained through trafficking, promoting juvenile prostitution, juvenile pimping or pornography offenses. Illinois has eliminated the statute of limitations for certain criminal actions involving sexual conduct with children; however, this does not apply to trafficking or CSEC offenses, which are subject to a 3-year statute of limitations with the exception that several CSEC offenses may be brought within one year after the victim turns 18. Civil actions for injuries from sexual exploitation have varying statutes of limitations but are generally tolled until the minor turns 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on sex trafficking is not mandated. Illinois law provides a specific exception to the prohibition on audio recording in investigations of trafficking and other sexual offenses against minors, but a judicial order must be obtained before such a recording may be admitted into evidence. Wiretapping also is allowed in sex trafficking investigations with a judicial order. No law expressly authorizes the use of a decoy or the Internet in the investigation of child sex trafficking cases, but several laws permit law enforcement to use these tools to investigate buyers and traffickers by allowing for the offense to be committed against one believed to be a child irrespective of the actual age of the "minor." Illinois has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators are subject to prosecution for benefitting financially from trafficking in persons, punishable by 4–15 years' imprisonment and a possible fine up to \$25,000. Facilitators may also face prosecution for promoting juvenile prostitution, keeping a place of juvenile prostitution and money laundering. Convicted facilitators face mandatory restitution, asset forfeiture and possible civil claims by the victim. Disseminating child pornography is punishable by a fine of \$2,000–\$100,000 and 4–15 years imprisonment, increased to 6–30 years imprisonment for a first offense where the child is under 13 years of age. No laws in Illinois make sex tourism a crime.

INDIANA

FINAL GRADE: D

Summary

Indiana law provides few options to prosecute demand and buyers are likely to avoid serious penalties. The sex trafficking law requires the use of force, fraud or coercion to cause a minor to engage in commercial sex acts, unless trafficked by a parent. Child victims are not assured a protective response and are not protected by the “rape shield” law when testifying.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Indiana’s human trafficking laws separately address sex trafficking of a minor under 18 by a parent, guardian or custodian without regard to the use of force, fraud, or coercion. However, the sex trafficking statute applicable to those who are not parents, guardians, or custodians does not distinguish between the sex trafficking of adults versus minors and requires proof of “force, threat of force, or fraud.” The state commercial sexual exploitation of children (CSEC) laws include promoting prostitution and child exploitation; neither refers to the sex trafficking statute for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law applies to buyers of commercial sex from trafficking victims but only if the buyer has knowledge that force was used against the minor to cause the prostitution. No CSEC laws include the crime of buying sex with a minor and the patronizing a prostitute statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. Statutes on inappropriate communications with a child and soliciting a child under 16 could provide a means of obtaining heightened penalties for buyers using the Internet to commit illegal sex acts, which could include commercial sex acts with a minor. The sex trafficking law is silent on mistake of age leaving open the possibility of using this defense. Penalties are not staggered based on the age of the victim for the sex trafficking statute; however, possessing child pornography only applies if the victim portrayed is under 16, leaving older minors unprotected. Buyers convicted under the sex trafficking law face mandatory restitution to the victim and could be liable for civil damages, and if convicted of any other felony or misdemeanor sex offense, restitution is not mandatory but may be ordered by the court. Buyers of sex with minors may be required to register as sex offenders if convicted of sex trafficking or possession of child pornography, but not patronizing a prostitute even when a minor is involved.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker faces prosecution under sex trafficking and CSEC laws, and could be subject to criminal gang, money laundering and racketeering laws. The statutes on solicitation of a child under 16 and inappropriate communication with children provide a sentence enhancement to sexual offenses that could reach traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. When convicted of sex trafficking, restitution to the victim is mandatory, and the trafficker could face a civil claim from the victim as well. If convicted of CSEC crimes, a trafficker may be ordered to pay restitution. Traffickers convicted of any crime are subject to asset forfeiture. Traffickers must register as sex offenders if convicted of sex trafficking a minor or promoting prostitution of a minor. Convictions for sex trafficking or CSEC offenses do not result in termination of parental rights. Sex trafficking and promoting prostitution of a minor are felonies punishable by 6–20 years imprisonment, comparable to federal penalties. If a parent, guardian or custodian is convicted of sex trafficking a child, the sentence is heightened to 20–50 years imprisonment. Creating child pornography is a felony punishable by 2–8 years imprisonment. Both sex trafficking and CSEC crimes carry a possible fine not to exceed \$10,000.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available penalty)
Human Trafficking (knowing victim forced into prostitution) (§ 35-42-2.5-1(c))	Class C felony	2–8 years	Max. \$10,000	○
Patronizing a prostitute (§ 35-45-4-3)	Class A misdemeanor	Max. 1 year	Max. \$5,000	○
Possessing child pornography (§ 35-42-4-4(c))	Class D felony	6 months –3 years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



3.5
7.5



13
25



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15



3
10



18.5
27.5



14.5
15

FINAL SCORE:

62.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims are vulnerable due to gaps in the laws. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution. Minors in prostitution are not identified as victims of sex trafficking. A child victim of prostitution or pornography is considered by law an abused child and a child in need of services and, if identified properly, will receive a protective response through child welfare. Also, the definition of custodian is not limited to those with legal custody of the child and includes “a person with whom the child resides,” making the term broad enough to potentially include a trafficker and therefore allow for child welfare intervention. However, a victim of CSEC could be treated as a delinquent for committing a delinquent act or running away from home and receive possible detention. If identified as a victim and suffering bodily injury, CSEC victims would likely be eligible for state crime victims’ compensation, although several criteria may limit their eligibility, including a bar to recovery if the victim participated or assisted in a criminal act, and possible bar for refusal to cooperate with law enforcement. Also, the crime must be reported within 180 days, unless good cause is shown, which would extend the reporting time to up to two years later. Victim-friendly criminal justice procedures are available to sex trafficking victims, which prevent the release of identifying information and provide separate waiting rooms during trial. Child victims of trafficking under 14 may testify via closed-circuit television. However, the “rape shield” law is limited to victims of child pornography, leaving other CSEC victim-witnesses unprotected from traumatizing cross-examination at trials of their traffickers. Any person, at any time, can petition to have a minor’s criminal record expunged. Criminal restitution is mandatory for victims of sex trafficking and restitution may be awarded to other victims. Civil remedies are also provided for sex trafficking victims. No statute of limitation applies to prosecutions of sex trafficking when a parent or guardian is the trafficker, but there is a five year statute of limitations on prosecutions of other CSEC felonies and a two year statute of limitations for misdemeanors. For civil claims based on damages from being trafficked, a two year statute of limitations begins to run after the offender’s conviction on criminal charges.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on human and sex trafficking is mandated. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations for sex trafficking, but not for child pornography or prostitution-related offenses. No laws expressly authorize the use of a decoy or the Internet in sex trafficking investigations, but these investigative tools could be used relying on the child solicitation statute, applicable to in-person and online solicitations when a person over 18 solicits a child under 14 or a person over 21 solicits a person under 16 to engage in sexual activity, which could include trafficking. Similarly, the statute on inappropriate communication with a child could permit a decoy when a person over 21 communicates with a minor under 14 concerning sexual activity. Indiana has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state sex trafficking law does not include the crime of assisting, enabling, or financially benefitting from sex trafficking. The crime of promoting prostitution may apply to facilitators, and facilitators could be subject to criminal gang activity, money laundering and racketeering law. Though not mandatory, a facilitator could be ordered to pay restitution. Facilitators are also subject to asset forfeiture. No laws in Indiana address sex tourism. CSEC crimes applicable to facilitators—promoting prostitution and sponsoring, producing and selling child pornography—are felonies punishable by 2–8 years imprisonment and a possible fine not to exceed \$10,000.

Summary

Demand and the growing use of the Internet to recruit or buy sex acts with a minor is largely unchecked as Iowa's human trafficking law and the commercial sexual exploitation of children (CSEC) laws do not explicitly reach buyers. Additionally, testifying victims of sex trafficking or CSEC are not protected by the "rape shield" law when testifying.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Iowa's human trafficking law includes the sex trafficking of minors and does not require force, fraud, or coercion for minors used in commercial sex acts. The state CSEC crimes include sexual exploitation of a minor, enticing a minor under 16, and pandering. The CSEC laws do not reference the human trafficking law for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law could apply to prosecute a buyer who "obtains" a minor for commercial sex acts, following federal precedent. Iowa's CSEC laws do not include the crime of buying sex with a minor leaving prosecutions, if any, to be brought as general sex offenses such as offenses of lascivious acts with a child, or as general prostitution even when the victim is a minor. Iowa's prostitution law does not distinguish between purchasing sex with an adult versus a minor. Additionally, no statute expressly makes using the Internet to purchase sex acts with minors a crime. Convicted buyers face asset forfeiture and mandatory victim restitution when convicted of human trafficking or prostitution. The human trafficking law does not prohibit a defense to prosecution based on mistake of age, leaving buyers to assert this defense. Buyers of sex with minors must register as sex offenders if convicted of human trafficking; however, buyers convicted under the prostitution statute, even when it involves a minor, are not required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Human trafficking of a minor is punishable as a felony by up to 10 years imprisonment and a fine of \$1,000–\$10,000, or up to 25 years imprisonment if the trafficker causes or threatens serious physical injury. Sexual exploitation of a minor, pandering, and enticing a minor under 13 to participate in child pornography are Class C felonies punishable by up to 10 years imprisonment and fines of \$1,000–\$10,000, while enticing a minor 13–16 years old and distributing child pornography are Class D felonies punishable by up to five years imprisonment and fines of \$750–\$7,500. Traffickers also could also be subject to racketeering and money laundering laws leading to additional penalties. No statute expressly makes using the Internet to sell or recruit commercial sex acts with minors a crime; however, enticing a minor under 16 may apply to traffickers who use the Internet to engage a child in participating in child pornography. Traffickers convicted of human trafficking or CSEC laws may face asset forfeiture and mandatory restitution, while traffickers convicted under Iowa's ongoing criminal conduct and money laundering laws also face liability for civil penalties. Traffickers must register as sex offenders for convictions of human trafficking and CSEC offenses. Grounds for termination of parental rights include convictions of human trafficking and CSEC laws.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and)	Asset Forfeiture (available)
Prostitution (Iowa Code § 725.1)	Aggravated misdemeanor	Max. 2 years	\$625–\$6,250	●
Possessing and purchasing child pornography (Iowa Code § 728.12(3))	Aggravated misdemeanor (first offense)	Max. 2 years	\$625–\$6,250	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



12
25



11
15



5.5
10



17.5
27.5



9.5
15

FINAL SCORE:

60.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking and CSEC are not fully protected under Iowa’s laws. Human trafficking and CSEC laws do not prohibit a defense based on consent of the minor. When charged with prostitution, trafficking victims have an affirmative defense to crimes they committed under compulsion that were directly related to their exploitation through human trafficking, yet prostitution offenses are not limited in application to adults, and a minor victim of sex trafficking who cannot prove compulsion might be arrested and charged with prostitution despite being a victim. As a result, a CSEC victim may enter the juvenile justice system and could be placed in detention. However, child welfare intervention might be possible for child victims as the definition of abuse includes commercial sexual exploitation through prostitution or child pornography, but not human trafficking, and the definition of “person responsible for the care of a child” includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims’ compensation is available for trafficking victims; however, participating in the conduct giving rise to the injury or failing to meet time limits for reporting crimes and filing claims could prevent trafficking victims from receiving compensation. Victim-friendly trial procedures are available to human trafficking and CSEC victims that may encourage them to pursue justice, including the ability to testify via closed circuit television, the appointment of a guardian ad litem for a child prosecuting witness in a human trafficking case, and the protection of information about a child pornography victim under 14. However, Iowa’s “rape shield” law only applies in criminal cases of sexual abuse, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. Juvenile criminal records may be sealed once the juvenile turns 18, provided two years have elapsed since the last action in the case and that the minor has not been convicted of a felony, serious or aggravated misdemeanor, or adjudicated a delinquent for such an offense. Restitution is available to victims in any criminal sentencing; however, civil remedies are only available to CSEC victims whose offenders are guilty of racketeering or money laundering. Prosecutions for human trafficking and CSEC offenses must be brought within three years of the crime, while civil actions for childhood sexual abuse discovered after the injured person is 18 must be brought within four years of the victim’s discovery of the injury.



CRIMINAL PROVISIONS FOR FACILITATORS

Iowa’s human trafficking law includes the crime of financially benefitting from human trafficking. Human trafficking of a minor is a Class C felony punishable by up to 10 years imprisonment and a fine of \$1,000–\$10,000. Promoting or selling child pornography is a Class D felony punishable by up to five years imprisonment and a fine of \$750–\$7,500. Facilitators could also be subject to racketeering and money laundering laws leading to additional penalties and civil liabilities. Facilitators convicted of human trafficking could be subject to asset forfeiture and face mandatory restitution for a victim’s pecuniary damages. No laws in Iowa address sex tourism.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Iowa law directs the law enforcement academy to develop and provide training on human trafficking and allows single party consent to audiotaping. Wiretapping, however, is not allowed in investigations for human trafficking or CSEC offenses, withholding an important investigative tool from law enforcement and prosecutors. No law expressly authorizes the use of a decoy to investigate the prostitution of children, but law enforcement may use the Internet to investigate some cases of domestic minor sex trafficking relying on the crime of enticing a minor under 16 to participate in child pornography. Iowa has established a statewide reporting and response system and law enforcement must report missing and located children.

KANSAS

FINAL GRADE: F

Summary

Unless identified and prosecuted as child sex trafficking specifically, demand for commercial sex with minors is not a crime in Kansas. Gaps in the laws prevent child victims of prostitution from fully accessing justice and recovering damages to fund their recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Human trafficking law in Kansas includes sex trafficking and defines a minor under the age of 18 as a trafficking victim without regard to use of force, fraud or coercion. The state also has commercial sexual exploitation of children (CSEC) laws, including promoting prostitution and sexual exploitation of a child for pornography. These, however, do not refer to the sex trafficking law for prosecution or victim identification or protection.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law tracks the federal definition of trafficking and could be applied to buyers who “obtain” a victim for commercial sex acts, following federal precedent. Penalties for sex trafficking a minor when the victim is 14 or older include imprisonment between 147-165 months and a possible fine up to \$300,000, enhanced to 25 years–life and a possible fine not to exceed \$500,000 if the victim is under 14. With no CSEC law to prosecute the purchase of sex acts with a minor, the general patronizing a prostitute statute may be used to prosecute buyers even when the victim is a minor, but it does not distinguish between purchasing commercial sex acts with an adult versus a minor. Electronic solicitation, which includes using the Internet to solicit a minor under 16 to engage in an unlawful sexual act (although not defined as including commercial sex acts), might be used to prosecute buyers and carries penalties of 89–267 months imprisonment and possible fine up to \$300,000. The laws do not prohibit a buyer from asserting a defense to prosecution based on age mistake, making prosecution of buyers more difficult. Victims of any crime may request and the court must hold a hearing to establish restitution. Buyers may face civil liability for possessing child pornography. A person convicted of patronizing a prostitute when a minor under 18 is involved or possessing child pornography is required to register as a sex offender, and person convicted of sex trafficking a minor or electronic solicitation of a minor must register as a violent sexual offender.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Convicted sex traffickers of a minor 14–18 years of age are subject to presumptive imprisonment of 147–165 months and a possible fine up to \$300,000. A conviction for promoting prostitution of a 14 or 15-year-old is a felony punishable by imprisonment of 17–19 months and a possible fine up to \$100,000, which drops substantially when the minor is 16 or 17 to a misdemeanor with up to one year imprisonment and up to \$2,500 fine. Creating child pornography is a felony punishable by 50–55 months imprisonment and a possible fine not to exceed \$300,000. For all of these crimes, when the victim is under 14 and the offender is over 18, a mandatory 25 years–life imprisonment and fine up to \$500,000 are possible. As an alternative to any of these fines, a trafficker may be sentenced to a fine of double the pecuniary gain from the crime. Also, traffickers are subject to asset forfeiture laws for sex trafficking and promoting prostitution. Restitution is required and traffickers may face civil liability for damages to a victim resulting from creating child pornography. Traffickers are required to register as sex offenders for convictions of promoting prostitution of a minor and creating child pornography, and must register as sexually violent offenders for convictions of sex trafficking, sexual exploitation and electronic solicitation of minors. Grounds for termination of parental rights exist if a parent is “convicted of a felony in which intercourse occurred,” and any conviction of a felony and imprisonment may be considered in determining parental fitness.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Patronizing a prostitute (any age) (§ 21-6421(a))	Class C misdemeanor	Max. 1 month	Max. \$500	●
Possessing child pornography (§ 21-5510)	Severity level 5, person felony	Pre-sumptive 31–34 months	Max. \$300,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

50.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in the laws. A defendant may not assert a defense to prosecution for sex trafficking or CSEC based on consent of the minor to the commercial sex act, but if identified instead as prostitution, a minor may be prosecuted for prostitution and not identified as a victim of sex trafficking. Protective provisions are not statutorily mandated specifically for victims of child sex trafficking. These minors may be considered a child in need of care or they may enter the juvenile justice system as a juvenile offender of prostitution-related offenses. A victim found to be abused—defined to include pornography and prostitution—might receive protection through child protective services if the definition of a permanent custodian is also determined to include traffickers. Sex trafficking and CSEC victims are eligible for state crime victims’ compensation and victims of promoting prostitution and patronizing a prostitute are allowed recovery. However, eligibility criteria may threaten a victim’s ability to recover, including a requirement to report the crime to law enforcement within 72 hours (unless good cause is shown) and a bar to recovery for contributory misconduct or victim involvement in the unlawful activity. A claim must be filed within two years of reporting the incident to law enforcement if the victim was under 16 or for certain listed crimes including sexual exploitation of a child through pornography, and if the victim is 16 or 17 years old and is a victim of a non-listed offenses, such as sex trafficking. Victim-friendly trial procedures are available. The “rape shield” law, which reduces the trauma of cross-examination for testifying victims of sex offenses, is specifically available in cases of sex trafficking and sexual exploitation through child pornography, and some victims under 13 may testify via closed-circuit television. Juvenile records may be expunged when the juvenile is 23 or two years have passed since the juvenile was discharged and the juvenile has not been convicted of another crime. A victim of any crime may request a hearing to set restitution, and victims of sexual exploitation through pornography have a civil action for damages against an offender. Generally felony prosecutions must be commenced within five years unless certain factors are present such as the victim being under 15 or the victim was prevented by a parent or legal authority from reporting the crime. Victims of human trafficking may bring a civil action by 21 or within three years of discovering an injury was caused by human trafficking.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Kansas law does not mandate law enforcement training on domestic minor sex trafficking or human trafficking. The law allows single party consent to audiotaping, but does not allow wiretapping for CSEC offenses. No law expressly authorizes the use of a decoy in the investigation of child sex trafficking cases, but law enforcement may utilize the Internet to investigate domestic minor sex trafficking, relying on the crime of electronic solicitation if the underlying offense is considered an unlawful sex act. Law enforcement must report both missing and recovered children to the state database and National Crime Information Center, improving the ability to identify repeat runaways who are at high-risk for sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

The crime of benefitting financially from human trafficking is a felony punishable by presumptive imprisonment of 109–123 months and a possible fine up to \$300,000. A facilitator may also commit promoting prostitution of a minor by allowing owned property to be used for prostitution or transporting a minor to assist in promotion; if the victim is 14 or 15 this felony is punishable by imprisonment of 17–19 months and a possible fine up to \$100,000, but when 16 or 17 years old, a first conviction is a misdemeanor with up to one year imprisonment and a fine up to \$2,500. Promoting child pornography is a felony punishable by 31–34 months imprisonment and a possible up to \$300,000. For all of these crimes, when the victim is under 14 and the offender is over 18, a mandatory 25 years–life imprisonment and fine up to \$500,000 are possible. As an alternative to any of these fines, a facilitator may be sentenced to a fine of double the pecuniary gain from the crime. Also, asset forfeiture laws may apply to sex trafficking and promoting prostitution offenses. Restitution may be ordered and facilitators may face a civil claim from a victim if convicted of a child pornography offense. No laws address sex tourism.

KENTUCKY

FINAL GRADE: D

Summary

Kentucky's human trafficking law is strong on traffickers, but few options exist to prosecute demand and penalties for buyers of commercial sex acts with minors are low. While some statutorily authorized protective provisions exist for domestic minor sex trafficking victims, the law has significant gaps.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Kentucky's human trafficking law includes trafficking minors under 18 for commercial sexual activity without regard to use of force, fraud or coercion. Additionally, the state commercial sexual exploitation of children (CSEC) laws include: use of a minor in a sexual performance, promoting a sexual performance by a minor, and unlawful transaction with a minor in the third degree which includes for purposes of prostitution. These laws do not refer to the human trafficking statute for prosecution or victim identification.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Kentucky law presents limited options to prosecute demand. The state human trafficking law includes intentionally subjecting a minor to engage in commercial sexual activity, and could have limited application to buyers of sex with minors. The criminal solicitation statute does not distinguish between purchasing commercial sex acts with an adult versus a minor, but unlawful transaction with a minor in the third degree which includes for purposes of prostitution may be used to prosecute buyers of sex with minors. Buyers may also face criminal liability under the law of using the Internet to procure a minor for certain acts, which, though not expressly including buying commercial sex acts with minors, might include sex offenses generally. There is no prohibition on asserting an age mistake defense in a prosecution, although there is the presumption as to minority in applicable CSEC and sex trafficking prosecutions that a victim who “appears to be under 18” is under 18. Buyers are required to register as offenders if convicted of unlawful transaction with a minor in the third degree for prostitution and for sex trafficking, if applicable. Convicted buyers must pay restitution to victims.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the human trafficking law a person convicted of sex trafficking a minor is subject to 10–20 years imprisonment and could be in violation of organized crime laws for trafficking activities. Using a minor under 16 in a sexual performance and producing a sexual performance of a minor also are punishable by 10–20 years imprisonment, while using a minor age 16 or 17 in a sexual performance and promoting human trafficking are punishable by 5–10 years imprisonment. All of these crimes are subject to a fine of \$1,000–\$10,000 or “double [the] gain from commission of the offense.” Using a communication system, including the Internet, to procure a minor or promote a minor for sex trafficking or child pornography is a separate offense. Kentucky's sex offender registration law requires convicted offenders of sex trafficking and promoting prostitution when involving a minor, and producing child pornography to register. A court can terminate a trafficker's parental rights for any criminal charge relating to the physical or sexual abuse of any child if the trafficker's child is also at risk. A trafficker is subject to asset forfeiture for violations of child pornography offenses, but not for sex trafficking. Convicted traffickers must pay victim restitution.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Unlawful transaction with a minor in the 3rd degree (§ 530.070)	Class A misdemeanor	Max. 1 year	Max. \$500	○
Possession of child pornography (§ 531.335(1))	Class D felony	1-5 years	\$1,000- \$10,000 or double the gain from the com- mission of the offense	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

65

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in the laws. Prostitution laws are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving these minors vulnerable to arrest, prosecution and detention rather than leading them to needed services. Few protective provisions are statutorily mandated specifically for domestic minor sex trafficking victims. Detention is avoided if the minor is identified as a human trafficking victim, but if the case is brought under a CSEC law or if the minor is prosecuted for prostitution, the minor may be determined delinquent. If the victim is found to be an abused or neglected child—defined to include pornography and prostitution, but not human trafficking—he or she might receive protection through child protective services, depending on whether the person causing the abuse is a “person exercising custodial control or supervision.” This definition includes those who without legal custody of the child have assumed the role of a parent, making the definition potentially broad enough to include a trafficker and therefore allow for child welfare involvement. Victims of sex trafficking are eligible for crime victims’ compensation but face potential barriers to recovery. Claims must be filed within five years and the crime must be reported to law enforcement within 48 hours; both may be waived for good cause. A victim who is found to have contributed to the injury may have compensation reduced or rejected. Kentucky’s “rape shield” law, which applies in any proceeding involving alleged sexual misconduct to limit traumatizing cross-examination of testifying victims, may provide protection to sex trafficking and CSEC victims. Victims under 12 may be permitted to testify via closed circuit television. Expungement of juvenile criminal records stemming from misdemeanor prostitution related offenses often incurred as a result of being trafficked may be applied for two years post the release from juvenile detention or court jurisdiction, but felony charges cannot be expunged. Victims of any crime are entitled to restitution for pecuniary losses and civil remedies are available for human trafficking and some CSEC offenses, including use of a minor in a sexual performance and promoting a sexual performance by a minor. Prosecutions for sex trafficking of minors are not subject to a statute of limitations, but misdemeanor CSEC offenses, such as promoting the prostitution of one victim, must be brought within one year. A victim must bring a civil case by the time the victim reaches 23 or within five years the victim should have known of the offense, limiting a minor victim of sex trafficking’s access to civil remedies.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Kentucky law does not mandate law enforcement training on human trafficking or domestic minor sex trafficking, but does require training on child sexual abuse which could include some forms of child sex trafficking. The law permits single party consent to audiotaping, but prohibits wiretaps without exception, leaving law enforcement without this important tool for sex trafficking investigations and prosecutions. No specific statutory authority permits law enforcement to use a decoy to investigate domestic minor sex trafficking, making it more difficult to investigate the prostitution of minors. Law enforcement officers investigating traffickers or buyers using computers to induce a minor to engage in sexual conduct are protected from a defense based on the “victim” actually being an adult officer. State law mandates reporting by law enforcement of both missing and recovered children to the state database and National Crime Information Center with 24 hours.

CRIMINAL PROVISIONS FOR FACILITATORS

Those who benefit financially from human trafficking are guilty of promoting human trafficking and could be subject to organized crime laws. Promoting human trafficking and promoting a sexual performance of a minor age 16 or 17 are felonies punishable by 5–10 years imprisonment. When the victim is under 16, promoting a sexual performance of a minor is a felony punishable by 10–20 years imprisonment. Sex tourism is not a crime, leaving Kentucky open to unscrupulous businesses capitalizing on commercial sexual activity. First offenses for distribution and advertising child pornography are felonies punishable by 1–5 years imprisonment and carry a possible fine of \$1,000–\$10,000 “or double [the] gain from commission of the offense.” However, a first offense for selling child pornography is only a Class A misdemeanor punishable by up to 1 year imprisonment and a fine up to \$500. A facilitator is subject to asset forfeiture for violations of child pornography offenses, but not promoting human trafficking. Victim restitution is mandatory.

LOUISIANA

FINAL GRADE: C

Summary

Louisiana's criminal laws make the actions of traffickers, buyers and facilitators subject to serious penalties. However, law enforcement is not provided with training or access to wiretapping—critical tools to aggressively pursue investigations and prosecutions.

Domestic minor sex trafficking victims are threatened with arrest and detention after victimization through prostitution in conflict with the laws that make such exploitation a crime.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The crime of sex trafficking of minors under 18 does not require that force, fraud or coercion was used to cause the minor to engage in commercial sex acts. Commercial sexual exploitation of children (CSEC) laws include prostitution with a minor under 17, enticing a minor under 21 into prostitution, computer-aided solicitation of a minor under 17, and solicitation of oral or anal sex with a minor under 17. CSEC laws do not refer to the sex trafficking statute for prosecution or victim identification and protection, creating potential disparity for 17-year-olds not identified as sex trafficking victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The sex trafficking of a minor statute makes it a crime to purchase sex acts with minors up to 18 years of age, but CSEC laws criminalize buying and soliciting sex with a minor under 17, leaving 17-year-olds identified through CSEC crimes rather than sex trafficking crimes unprotected. Computer-aided solicitation of a minor under 17 heightens penalties for buyers using electronic devices, such as the Internet or text messages to commit illegal sex acts, which may include sex trafficking. The offenses of sex trafficking of a minor, prostitution with a minor under 17, and solicitation of oral or anal sex with a minor under 17 expressly prohibit an age mistake defense. Buyers who commit sex trafficking of a minor or computer-aided solicitation of a minor, or possess or access child pornography via wireless router, face penalties and asset forfeiture as well as restitution orders in any case that the victim suffers pecuniary loss. Buyers convicted of sex trafficking or applicable CSEC offenses must register as sex offenders.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face sentences of 2–50 years imprisonment and possible maximum fines of \$1,000–\$75,000 for sex trafficking or exploiting a minor for commercial sexual purposes. A trafficker could also face money laundering and racketeering charges. Creating child pornography of minors under 17 is punishable by 10–20 years imprisonment, or 25–99 years if the minor is under 13. The computer-aided solicitation of a minor under 17 law provides additional penalties for traffickers who use the Internet to recruit minors for illegal sex acts, which may include sex trafficking. Traffickers face asset forfeiture under the sex trafficking, CSEC and child pornography laws, as well as possible civil damages under the racketeering law and restitution for any offense that caused a victim to suffer pecuniary loss. Traffickers must register as sex offenders if convicted of sex trafficking of minors, CSEC or child pornography. Convictions under these laws do not establish grounds for termination of parental rights though, leaving children of traffickers at continued risk from their trafficker-parent's actions and influence.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of a minor (§ 14:46.3)	15–50 years	Max. \$50,000	●
	25–50 years (minor under 14)	Max. \$75,000	
Soliciting a minor under 17 (§ 14:82.1(A)(1))	2–10 years	Max. \$5,000	○
Possession of child pornography (§ 14:81.1(A)(1))	2–10 years or 5–20 years, if victim under 13	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.

** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5
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FINAL SCORE:

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PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking or CSEC are vulnerable due to gaps in the state laws. The sex trafficking of a minor law prohibits a defense based on consent, but the CSEC laws do not. Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution and no specific protective provisions are statutorily mandated for the child victims. The definition of an abused child includes one exploited through prostitution or pornography and, if the abuse is perpetrated by a “caretaker,” defined as a person with legal custody of the child, the child can receive a protective response through child welfare. A minor not identified as abused, but instead adjudicated delinquent for committing a prostitution offense (“misdemeanor grade delinquent act”), may be placed in a shelter or detention, and upon adjudication of a second or subsequent prostitution offense (“felony grade delinquent act”) becomes ineligible for shelter placement and is placed instead in detention. Victims of sex trafficking and most CSEC offenses who suffer personal injury are eligible for crime victims’ compensation, but some eligibility criteria could hamper their ability to recover, including failure to report the crime to law enforcement within 72 hours and file a claim within one year, unless good cause is shown, and refusal to cooperate with law enforcement. Victim-friendly criminal justice procedures are available to sex trafficking and CSEC victims under age 17 who may testify via closed circuit television. Furthermore, the “rape shield” law reduces the trauma of cross-examination for testifying victims in sex trafficking cases, and pornography victims are protected by limits on access to evidence in pornography cases. Expungement of juvenile records is available upon motion at age 17 for non-adjudicated actions, two years for misdemeanor grade delinquencies, and five years for felony grade delinquencies. Criminal restitution is available to victims who suffer pecuniary loss or incur costs related to prosecution. A 6-year statute of limitations applies to prosecutions of sex trafficking, prostitution with a minor under 17, and soliciting oral or anal sex with a minor under 17, while a 4-year limitation applies to enticing a person under 21 into prostitution and computer aided solicitation of a minor. For civil claims based on damages from being trafficked, a general 10-year statute of limitations applies.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated by law. Single party consent to audiotaping is permitted, but wiretapping is not permitted to be used in investigations of sex trafficking or CSEC offenses, leaving law enforcement without an important tool to investigate and gather evidence for prosecutions. No laws expressly authorize the use of a decoy in sex trafficking investigations, but use of the Internet is permitted to investigate crimes of computer-aided solicitation of a minor, which could include solicitation for sex trafficking. Louisiana law establishes a statewide reporting and response system for missing children and requires the reporting of missing and found children.



CRIMINAL PROVISIONS FOR FACILITATORS

Those who assist, enable, advertise or financially benefit from sex trafficking of minors, face penalties as facilitators under the sex trafficking of a minor law. A substantial penalty also applies to a parent, guardian or custodian who permits a child be to be trafficked. Facilitators also face penalties under prostitution-related offenses and could be subject to money laundering and racketeering charges. Facilitators may be subject to asset forfeiture and restitution to a victim for pecuniary loss or costs related to the prosecution. Depending on the age of the victim, distributing child pornography is punishable by 5–20 years imprisonment without “parole, probation, or suspension of sentence” and a fine up to \$10,000. A potentially heightened penalty of 2–10 years imprisonment, or 25–99 years if the victim is under 13, is imposed on facilitators who use a wireless router to distribute or sell child pornography. No laws in Louisiana address sex tourism, leaving the state open to the activities of these unscrupulous businesses.

MAINE

FINAL GRADE: F

Summary

Maine does not have a sex trafficking law, which leads to problems in victim identification. Additionally, the state has few victim protections and provides low penalties for buyers and facilitators.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Maine does not have a sex trafficking law, relying instead on the kidnapping and criminal restraint laws to prosecute sex trafficking. The state commercial sexual exploitation of children (CSEC) laws include: aggravated promotion of prostitution, patronizing prostitution of minor, sexual exploitation of a minor through pornography, and endangering the welfare of a child by allowing the child to enter or remain in a house of prostitution. Maine's CSEC laws do not refer to the kidnapping or criminal restraint laws or the sex trafficking civil remedies law to ensure CSEC victims are identified as victims under the statute used to prosecute sex trafficking.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The plain language of the kidnapping and criminal restraint laws does not criminalize the purchase of commercial sex with minors. A separate CSEC law, patronizing prostitution of minor, includes the crime of buying sex with a minor and makes the solicitation of prostitution with a minor distinct from and with higher penalties than solicitation of an adult. Buyers may be prosecuted for patronizing prostitution of minor without regard to their knowledge of the age of the minor, but enhanced liability applies if the offender knew the victim was under 18. While the state has no statute or heightened penalties for using the Internet to purchase commercial sex acts from a minor, the statute criminalizing solicitation of a child by computer could apply when the minor is under 14. Buyers could be subject to restitution for economic losses of the victim. Buyers of sex with minors may be required to register as sex offenders if convicted of patronizing prostitution of a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Kidnapping, the most severe of the laws used to prosecute sex trafficking, is punishable by up to 30 years imprisonment and a possible fine up to \$50,000; however, when the victim is voluntarily released the sentence is reduced to a maximum of 10 years imprisonment and a possible fine up to \$20,000, the same penalty as promoting prostitution of a minor. Sexual exploitation of a minor in child pornography is a felony punishable by 5-10 years imprisonment and a possible fine up to \$20,000. Criminal restraint and permitting a child under 16 to enter and remain in a house of prostitution are felonies punishable by up to 1 year imprisonment and a possible fine not to exceed \$2,000. The statute on solicitation of a child by electronic means provides a way to prosecute traffickers who use the Internet to recruit minors under 14 for child pornography. A court may order convicted traffickers to pay restitution and traffickers may be liable for civil damages to their victims. Violations of kidnapping, criminal restraint and child pornography crimes, but not other CSEC crimes, subject a trafficker to asset forfeiture. Traffickers may have to register as sex offenders if convicted of kidnapping a minor or promoting the prostitution of a minor and their parental rights may be terminated if the trafficker was the parent of the child victim or frequented the child's household.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Patronizing prostitution of minor (tit. 17-A, § 855)	Class D	Max. 1 year	Max. \$2,000	○
	Class C if knows not 18	Max. 5 years	Max. \$5,000	
Possession or transportation of child pornography (tit. 17-A, § 284(1)(A))*	Class D	Max. 1 year	Max. \$2,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



7.5
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FINAL SCORE:

52

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims continue to be vulnerable due to gaps in the laws. Criminal restraint, used as a sex trafficking law, precludes the defense of consent; however, CSEC offenses are silent as to a defense based on consent, and Maine law has a general consent defense to crimes. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No laws expressly identify a CSEC victim as a victim leaving open the possibility that victims can enter the justice system as delinquents and no specific protective provisions are statutorily mandated for CSEC victims. However, a victim found to be abused or neglected—defined to include sexual exploitation, but not expressly child pornography or CSEC crimes—might receive protection through child protective services. The definition of custodian only includes those with legal custody of the child, but the definition of “person responsible for the child” is not limited to those with legal custody of the child and includes “with responsibility for the health and welfare of the child,” making the term broad enough to potentially include a trafficker and therefore, allow for child welfare intervention. While CSEC victims would likely be eligible for state crime victims’ compensation, several eligibility criteria may limit their ability to recover, including a bar to recovery for contributory conduct or not cooperating with law enforcement. Requirements also exist to report the crime within five days and file a claim within three years reduction unless good cause is shown, which could include that the child was the victim and an adult reported the crime. Victim-friendly court procedures may be available to CSEC victims, and the “rape shield law” includes all cases of sexual misconduct to limit traumatizing cross-examination of testifying victims. Juvenile records are not expunged in Maine, but the records may be sealed from public inspection if three years have passed since the crime, the juvenile has not been adjudicated of another crime, and no adjudicatory proceedings are pending for the juvenile. Restitution for economic loss is available to all CSEC victims. Civil remedies are available to sex trafficking victims. A civil cause of action for sex trafficking must be brought within 10 years that the victim was freed from the trafficking situation. Criminal actions must be brought within three or six years depending on the classification of the offense, and CSEC crimes do not have extended statutes of limitations.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

There is no mandated training on commercial sexual exploitation of children for law enforcement in Maine. Single party consent to audiotaping is permitted; however, Maine does not authorize wiretapping for any offenses. No law expressly authorizes the use of a decoy in the investigation of prostitution or sex trafficking cases, but law enforcement may utilize the Internet to investigate buyers and traffickers, relying on the statute of solicitation of a child by computer which includes soliciting or enticing a minor under 14 to commit a sexual act or engage in child pornography. Maine requires a statewide reporting and response system for missing children.



CRIMINAL PROVISIONS FOR FACILITATORS

Kidnapping and criminal restraint laws do not include the crime of assisting, enabling, or financially benefitting from sex trafficking. The CSEC crime of promoting prostitution of a minor applies to facilitators. Though not mandatory, the facilitator may be ordered to pay restitution to the victim. For violations of child pornography, a facilitator is subject to asset forfeiture. However, asset forfeiture does not apply to other facilitator crimes. No laws in Maine address sex tourism. A violation of promoting prostitution is a felony punishable by a maximum of 10 years imprisonment and a possible fine up to \$20,000. Disseminating child pornography is a felony punishable by a maximum of 5 years imprisonment and a possible fine up to \$5,000.

MARYLAND

FINAL GRADE: F

Summary

Maryland has several laws combatting domestic minor sex trafficking and demand; however, minors are not statutorily immune from prosecution for prostitution and may face barriers to treatment and victims' compensation to fund their recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Maryland's sex trafficking law clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws, include abduction of a child under 16, sexual solicitation of a minor, sale of a minor, and child pornography. Maryland's CSEC laws do not refer to the sex trafficking law for prosecution and victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law does not on its face apply to buyers of sex with a trafficked child. The CSEC offenses of sexual solicitation of a minor and child pornography include the crime of buying or attempting to buy sex with a minor and solicitation laws distinguish between buying sex with an adult versus buying sex with a minor. Both CSEC offenses also include use of the Internet to solicit a minor to engage in prostitution or unlawful sexual conduct and might apply to buyers who use the Internet for this purpose. However, none of the laws applicable to buyers expressly prohibit buyers from using a mistake of age defense. Possessing child pornography is punishable by imprisonment up to 5 years and/or a fine not to exceed \$2,500, or imprisonment up to 10 years and/or a fine up to \$10,000 for subsequent convictions. Although not mandatory, the court may order a buyer to pay restitution when the victim has suffered pecuniary loss, including loss of earnings, or incurred medical or other expenses. Buyers convicted of either CSEC offense or a prostitution offense involving a minor are required to register as sex offenders.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a minor is punishable by imprisonment up to 25 years and/or a fine up to \$15,000. Abduction of a child under 16 is a misdemeanor punishable by imprisonment up to 10 years and/or a fine up to \$5,000, and sexual solicitation of a minor is a felony punishable by imprisonment up to 10 years and/or a fine up to \$25,000. Sale of a minor is a misdemeanor punishable by imprisonment up to five years and/or a fine up to \$10,000. Creating and promoting child pornography is punishable by imprisonment up to 10 years and/or a fine up to \$25,000, or by imprisonment up to 20 years and/or a fine up to \$50,000 for subsequent convictions. Sexual solicitation of a minor, which includes using the Internet to solicit a minor to engage in sexual contact with another person, might apply to traffickers who use the Internet for this purpose. Although not mandatory, the court may order a trafficker to pay restitution when the victim has suffered pecuniary loss, including loss of earnings, or incurred medical or other expenses. Traffickers must register as sex offenders for convictions of sex trafficking, CSEC offenses, and prostitution offenses involving a minor. Grounds for termination of parental rights include convictions for kidnapping, but not for sex trafficking, CSEC offenses or child pornography offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Sexual solicitation of a minor (§3-324(b))	Felony	Max. 10 years	Max. \$25,000	○
Child pornography (online solicitation of a minor) (§11-207(a))	Felony	Max. 10 years; 20 years subsequent conviction	Max. \$25,000; \$50,000 subsequent conviction	○
Possession of child pornography (§11-208(a))	Misdemeanor; felony for subsequent conviction	Max. 5 years; 10 years subsequent conviction	Max. \$2,500; \$10,000 subsequent conviction	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

58.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

The trafficking and CSEC laws are silent on admissibility of a defense based on consent of the minor, leaving open the possibility a defendant may assert this defense. Prostitution offenses are not limited in application to adults and there is no affirmative defense to prostitution for trafficking victims, so a minor victim might be arrested and charged with prostitution despite being a victim. However, if identified as commercially sexually exploited, a CSEC victim may enter the juvenile justice system as a child in need of assistance, and receive a protective response. If not so identified, a victim faces possible detention as a child in need of supervision or a delinquent child. The definition of abuse for purposes of child welfare intervention includes sexual exploitation by a household member, which likely limits child protective services to respond to a trafficked child in familial trafficking cases. CSEC victims who have suffered physical injury, or psychological injury if a victim of sexual solicitation of a minor or child pornography are eligible for crime victims' compensation; however, if determined to have knowingly participated in the conduct giving rise to the injury and if uncooperative with law enforcement investigating the crime, a child sex trafficking victim could be barred from receiving an award. Victim-friendly trial procedures, including the ability to testify through closed circuit television and a "rape shield" law protecting witnesses from the trauma of cross examination, apply only in child abuse and sexual offense proceedings, potentially foreclosing these options to testifying sex trafficking victims. Juvenile criminal records may be sealed at any time upon motion of any party or the court, and shall be sealed upon motion by any party or the court after the minor has reached 21 years of age. Although not mandatory, a court may order convicted offenders to pay restitution if the victim has suffered pecuniary loss, including loss of earnings, or incurred medical or other expenses. No statute of limitations applies to felony offenses, but prosecutions for misdemeanors must be brought within one year. Civil actions for child sexual abuse minor must be commenced within seven years of turning 18; otherwise the general three year statute of limitations on civil actions applies.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on human trafficking is not mandated in Maryland. Single party consent to audiotaping is permitted and wiretapping is permitted for investigations of sex trafficking, kidnapping, child pornography, and sexual solicitation of a minor, giving law enforcement powerful tools to investigate and collect actionable evidence for prosecutions. Use of a decoy and use of the Internet are permitted in an investigation of sexual solicitation of a minor, which is violated when a defendant solicits by computer or Internet a law enforcement officer posing as a minor. Maryland law requires law enforcement to report missing children, but does not mandate reporting of recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of benefitting from sex trafficking of a child and is punishable by imprisonment up to 25 years and/or a fine up to \$15,000. A facilitator who uses a computer to disseminate information and facilitate unlawful sexual conduct with a minor is guilty of a felony punishable by imprisonment up to 10 years and/or a fine up to \$25,000 (20 years and/or a fine up to \$50,000 for subsequent convictions). Promoting or selling child pornography is a felony punishable by imprisonment up to 10 years and/or a fine up to \$25,000. A person who provides online storage of graphics, images or videos and fails to report or remove child pornography found on the server is a facilitator and guilty of a misdemeanor punishable by a fine up to \$5,000 for a first conviction, \$20,000 for a second conviction, or \$30,000 for each subsequent conviction. Although not mandatory, the court may order a facilitator to pay restitution when the victim has suffered pecuniary loss, including loss of earnings, or incurred medical or other expenses. No laws in Maryland address sex tourism specifically.

MASSACHUSETTS

FINAL GRADE: F

Summary

With no sex trafficking law or other laws to prosecute the buyers of commercial sex acts with minors specifically, demand is unchecked, as is the growing use of the Internet to recruit or buy sex acts with a minor. Buyers convicted of engaging in sex for a fee are not required to register as sex offenders, no matter the age of the victim.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Massachusetts has not enacted a sex trafficking law. The state has several commercial sexual exploitation of children (CSEC) laws that could apply to buyers, traffickers and facilitators, including enticement of children to engage in sexual conduct for a fee or pornography, abduction for the purpose of prostitution, promoting child prostitution, deriving support from child prostitution, employment of children in child pornography, and engaging in sexual conduct for a fee.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited CSEC laws provide a means of prosecuting buyers of commercial sex with minors, but do not carry serious penalties to deter buyers. The crime of engaging in sexual conduct for a fee distinguishes buying sex with a minor under 14 by enhancing penalties, leaving buyers at far less risk to exploit through prostitution minors 14 and older. Furthermore, the general solicitation of prostitution law does not distinguish between soliciting sex acts with an adult versus a minor, permitting the buyers charged under this law to escape any serious consequences even if a minor was solicited. No law criminalizes the use of the Internet to lure, entice, recruit, or purchase commercial sex acts with a minor, despite this growing trend in sex trafficking minors. CSEC laws are silent on the admissibility of an age mistake defense, leaving open the possibility of a defendant asserting this defense. A court may order a buyer to pay restitution to the victim at sentencing. Buyers convicted of enticement of children under 16 (including for prostitution) or possessing child pornography are required to register as sex offenders. However, buyers convicted of the CSEC offense of engaging in sexual conduct for a fee, even when a minor is involved, are not required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

In the absence of a state sex trafficking law, traffickers may be prosecuted under several CSEC laws with penalties below those of comparable federal crimes (10 years–life and fine of \$250,000). Arranging sex with a child under 14 for another person is punishable by up to 10 years imprisonment (or 2½ years in the house of correction). Deriving support from child prostitution is punishable by at least 5 years imprisonment and promoting child prostitution is 3–5 years imprisonment, both with fines of \$5,000. Abduction for prostitution is punishable by up to 3 years imprisonment (or one year in the house of correction) and/or a fine of up to \$1,000. Enticing a child under 16 to violate promoting child prostitution or child pornography laws is punishable by up to five years imprisonment (or up to 2½ years in the house of correction) and/or a fine up to \$5,000, while the use of a child in pornography is punishable by 10–20 years imprisonment and/or a fine of \$10,000–\$50,000. Civil forfeiture is available to seize proceeds or instrumentalities of a crime. A court may order a convicted trafficker to pay restitution to the victim and traffickers may face civil liability for injuries sustained by victims of certain CSEC offenses. Traffickers convicted of exploiting a child through pornography, promoting child prostitution, abduction for prostitution, or enticement of children for prostitution are required to register as sex offenders. Convictions for CSEC crimes are not expressly grounds for terminating a trafficker's parental rights, leaving children of traffickers at potential continued risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Engaging in sexual conduct for fee with child under 14 (ch. 272, § 53A(b))	Felony	Max. 10 years in state prison or 2½ years in a house of correction	n/a	●
Engaging in sexual conduct for fee with person 14 or older (ch. 272, § 53A(b))	Misdemeanor	Max. 1 year in a house of correction	Max. \$500	●
Enticement of children under 16 to engage in sexual conduct for a fee (ch. 265, § 26C(b))	Felony	Max. 5 years in state prison or 2½ years in a house of correction	Max. \$5,000	●
Purchasing or Possessing child pornography (ch. 272, § 29C)	Felony	Max. 5 years in state prison or 2½ years in a house of correction	[or] \$1,000–\$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

45

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking are vulnerable due to gaps in Massachusetts laws. The only offense expressly prohibiting a defense based on the consent of the victim is exploiting a child through child pornography. Prostitution offenses are not limited in application to adults leaving minors vulnerable to arrest and charge. No protective provisions are statutorily mandated specifically for domestic minor sex trafficking victims, therefore, a victim may receive a variety of responses including a child in need of services determination or delinquency charge. Child abuse and neglect definitions do not expressly include CSEC victims but a caretaker is defined broadly as anyone who “at the time in question” is “entrusted with a degree of responsibility for the child,” making the term potentially broad enough to include a trafficker to allow for child protective intervention. Victims of CSEC offenses are likely eligible for crime victims’ compensation, but some eligibility criteria could hamper their ability to recover, including the requirement to cooperate with law enforcement unless a reasonable excuse exists for failing to cooperate and to report the crime to law enforcement within five days. Victim-friendly criminal justice procedures permit CSEC victims under 15 only to testify via closed circuit television. The “rape shield” law, which reduces the trauma of cross-examination for testifying victims, does not extend to CSEC victims. Minors may petition to have their juvenile records sealed, but three years must have elapsed since the minor was released from disposition or adjudicated a delinquent. A victim may request the court to order an offender to pay restitution, but no express civil remedies for damages resulting from CSEC offenses are provided in the law. The statute of limitations for civil tort actions do not begin to run until the victim reaches 18 and are then the later of three years after the acts causing the injury or three years after the time the victim should have discovered the injury was caused by the act. Prosecutions for CSEC and child pornography offenses have six year statutes of limitations that begin to run on the earlier of the victim turning 16 or the crime being reported to law enforcement.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not mandated. Massachusetts generally requires two-party consent to audiotape conversations; however, an exception is allowed when a law enforcement officer is a party to the conversation or a person has given law enforcement consent to record a conversation related to certain offenses, including prostitution. No law in the Massachusetts Code permits the use of the Internet to investigate buyers and traffickers of sex acts with minors. While no law expressly permits the use of a decoy by law enforcement in the investigation of prostitution or sex trafficking, law enforcement may investigate such cases relying on the enticement of children law. Massachusetts has a statewide registry to report missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators of sex trafficking face liability for their actions under several CSEC laws. The CSEC crime of aiding in the abduction of persons for the purpose of prostitution is punishable by imprisonment up to three years (or up to one year in a house of correction) and/or a fine of up to \$1,000. Promoting child prostitution includes knowingly aiding or assisting a minor to become a prostitute and is punishable by a sentence of 3–5 years imprisonment and a fine of \$5,000. Disseminating child pornography is punishable by 10–20 years imprisonment and/or fines the greater of \$10,000–\$50,000 or 3 times “the monetary value of any economic gain derived from” the dissemination of the pornography. Civil forfeiture is available to seize proceeds or instrumentalities of a crime. Facilitators face civil liability for victims’ injuries from applicable CSEC offenses and child pornography offenses. Additionally, though not mandatory, a victim may request the court to order restitution in the disposition of a case. No laws in Massachusetts address sex tourism.

MICHIGAN

FINAL GRADE: F

Summary

Michigan criminalizes sex trafficking of minors under age 18 without regard to force, fraud or coercion, but it does not reach buyers and the purchase of commercial sex acts with a minor is not penalized under any law. Convicted sex trafficking offenders are not required to register as sex offenders.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Michigan's sex trafficking law prohibits use of a minor for child sexually abusive activity without regard to force, fraud, or coercion of the minor in commission of the offense. However, Michigan's forced labor or services law also applies to minor sex trafficking victims and requires proof of force, fraud or coercion. The state CSEC laws include enticing away a female under sixteen and producing child sexually abusive activity or material; neither refers to the human trafficking statute for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The sex trafficking law cannot be used to prosecute demand and no CSEC laws include the crime of buying sex with a minor. In the absence of any applicable CSEC law, a buyer could be prosecuted for accosting, enticing or soliciting a minor under 16 for immoral purpose, although the result is misidentification of the buyer and victim. This crime is the predicate offense for the statute on use of the Internet or a computer system to commit sex offenses which may provide a means of prosecuting buyers who use the Internet to purchase sex acts with minors under 16. Michigan's general prostitution law, which includes soliciting and patronizing prostitution, does not distinguish between purchasing commercial sex acts with an adult versus a minor. Possession of child pornography is punishable by up to four years imprisonment and a possible fine up to \$10,000; however, a mistake of age defense may be available for this offense based on a buyer's reasonable efforts to determine the age of the child. Victim restitution is not mandatory and convicted buyers do not face asset forfeiture or civil penalties. All of the sex offenses that a buyer could be convicted of require registration as a sex offender, but buyers convicted of soliciting and patronizing prostitution, even with a minor, are not required to register.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Soliciting and patronizing prostitution (§ 750.449a)	Misdemeanor	Max. 93 days (1st offense); 1 year (2nd offense); or 2 years (3rd offense)	Max. \$500 (1st offense); \$1,000 (2nd offense); \$2,000 (3rd offense)	○
Possessing child pornography (§ 750.145c(4))	Felony	Max. 4 years	Max. \$10,000	○



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of sex trafficking face 20 years imprisonment, increased to life imprisonment when kidnapping is involved in the offense; when coercion is used, a fine not to exceed \$20,000 is imposed. The CSEC crime of producing child sexually abusive activity or material, which includes creating child pornography, is punishable by up to 20 years imprisonment and/or a fine up to \$100,000, and the crime of enticing away a female under 16 is punishable by up to 10 years imprisonment. Traffickers may also face racketeering and money laundering charges which can lead to asset forfeiture actions. A trafficker convicted of sex trafficking must pay victim restitution. The statute on use of the Internet or a computer system to commit illegal sex acts involving minors, which may include sex trafficking conduct, provides a means of prosecuting the growing number of traffickers who use the Internet to solicit minors for sex trafficking. Traffickers are required to register as sex offenders if convicted of soliciting a child for immoral purpose, producing child sexually abusive activity or material, use of the Internet or a computer system to commit illegal sex acts involving minors or pandering, but not if convicted of sex trafficking. Convictions for sex trafficking or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

44.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking may not be able to access protective provisions in the law. The sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent. Michigan's prostitution offense (soliciting, accosting, or inviting to commit prostitution) restricts application to persons 16 or older, making minors under 16 immune from prosecution. However, a CSEC victim age 16 or 17 arrested for prostitution may receive various responses ranging from a juvenile justice response to a child protective response depending on whether the child is adjudicated as a delinquent child or reported as a victim of suspected sexual abuse or sexual exploitation. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation, which includes allowing a minor to engage in prostitution or sexual performance, and the definition of custodian may be broad enough to include those without legal custody of the child, making it possible for child protective services to intervene in a case of a non-family member trafficking the minor. For the purpose of crime victims' compensation, victims of trafficking offenses are entitled to compensation unless found to be an accomplice or criminally responsible. The law provides victims of sex offenses exceptions to the time limits required to report crimes and file claims for compensation. As a way to increase the comfort of a testifying child victim, a separate waiting area in the courtroom is provided. The "rape shield" law, which may reduce the trauma of cross examination for testifying victims, only applies in sex offense cases, leaving testifying victims of sex trafficking cases without this protection. A minor with one adjudication of juvenile delinquency may petition to have the adjudication set aside; therefore, a CSEC victim with an ongoing juvenile record of delinquency adjudications for prostitution would be prevented from accessing this remedy. Victim restitution is mandatory; however, specific civil remedies are not available for victims under the trafficking or CSEC laws. Prosecutions for some CSEC and sex offenses must be brought within 10 years, or by the victim's 21st birthday, whichever is later, while prosecutions for trafficking must be brought within six years of commission of the offense.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on human trafficking or sex trafficking is not statutorily mandated; nevertheless, police officers receive special training in the area of child abuse and neglect investigations which might include some aspects of domestic minor sex trafficking. Two-party consent to audiotaping communications is generally required, but an exception exists for law enforcement that permits audiotaping and wiretapping in the performance of their duties. No law expressly authorizes the use of a decoy or the Internet in the investigation of sex trafficking cases, but law enforcement may utilize these investigative tools under the statute prohibiting use of the Internet or a computer system to commit illegal sex acts involving minors. Michigan has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators may be convicted for assisting, enabling or benefitting from sex trafficking of minors under the sex trafficking law punishable by up to 10 years imprisonment, and may face additional penalties under the racketeering and money laundering statutes. Promoting and distributing child pornography is punishable by imprisonment up to 7 years and/or a fine up to \$50,000. Victim restitution is mandatory for a facilitator convicted of sex trafficking. Facilitators also face asset forfeiture under the racketeering laws and the law on seizure and sale of personal property found in property deemed a nuisance for its use in promoting prostitution. No laws in Michigan address sex tourism, making the state attractive to unscrupulous businesses capitalizing on commercial sexual activity.

MINNESOTA

FINAL GRADE: C

Summary

With meaningful criminal laws in place, protective provisions in place for victims of child sex trafficking and CSEC can be improved upon by ensuring access to crime victims' compensation to fund recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Minnesota's sex trafficking of minors law clearly defines a minor under the age of 18 used in a commercial sex act as a sex trafficking victim without regard to use of force, fraud, or coercion. The state CSEC laws include soliciting a minor to engage in prostitution, housing a prostituted minor, and use of minors in sexual performance. Soliciting a minor to engage in prostitution and housing a prostituted minor refer to the sex trafficking law for prosecution, but the use of minors in sexual performance does not.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law specifically does not apply to buyers of commercial sex from trafficking victims but state CSEC laws make the purchase of commercial sex acts with a minor and possession of child pornography a crime. Soliciting a minor to engage in prostitution distinguishes the crime of purchasing commercial sex acts with a minor versus an adult and buyers may not assert a mistake of age defense to prosecution, and although penalties are staggered by age, the lowest penalties are still meaningful. Solicitation of children to engage in sexual conduct provides a means of obtaining heightened penalties for buyers using the Internet to commit illegal sex acts, which could include commercial sex acts with a minor. Buyers could face civil actions by a victim, as well as asset forfeiture if convicted of CSEC and possession of child pornography offenses. A victim of any crime has a right to restitution for losses from convicted offenders. Buyers will be required to register as sex offenders if convicted of CSEC or pornography offenses.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker convicted of sex trafficking faces up to 20 years imprisonment and/or a fine up to \$50,000, enhanced to 25 years and/or up to \$60,000 if an aggravating factor is proven, such as more than one victim. When convicted of sex trafficking, a trafficker faces possible asset forfeiture, civil claims from the victim, and victim restitution. Use of minors in a sexual performance to create and disseminate child pornography is punishable by up to 10 years imprisonment and/or a fine up to \$20,000. The solicitation of children to engage in sexual conduct statute provides a sentence enhancement that could reach traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. If also convicted of racketeering for trafficking activities rising to a pattern of criminal activity, a trafficker faces 20 years and/or a fine up to \$1 million. Traffickers convicted of solicitation of children to engage in sexual conduct and use of minors in sexual performance are subject to asset forfeiture. Traffickers must register as sex offenders if convicted of sex trafficking a minor, solicitation of children to engage in sexual conduct, or use of a minor in a sexual performance; however, convictions for these offenses do not establish grounds for termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Soliciting a child for prostitution (§ 609.324)	Felony	Max. 5, 10 or 20 years	Max. \$10,000, \$20,000 or \$40,000	●
Solicitation of children to engage in sexual conduct (§ 609.352(2))	Felony	Max. 3 years	Max. \$5,000	●
Possessing child pornography (§ 617.247(4)(a))	Felony	Max. 5 years (1st offense) or 10 years (2nd offense)	Max. \$5,000 (1st offense) or \$10,000 (2nd offense)	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



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FINAL SCORE:

76.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Sex trafficking and soliciting a minor for prostitution expressly prohibit a defense based on consent of the minor. Prostitution offenses do not limit application to adults; however, the statutory definition of a delinquent child removes prostituted minors from delinquency adjudication. Instead, victims “alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct” are included in the definitions of sexually exploited youth and of a child in need of protection or services who receive a child protective response. For purposes of child welfare intervention, the definition of abuse expressly includes sex trafficking and CSEC offenses, however, the definition of custodian is limited to those with legal custody of the child, making it unlikely that child protective services could intervene in a case of a non-family member trafficking the minor. If identified as a victim and suffering economic loss, sex trafficking and CSEC victims are eligible for state crime victims’ compensation, although several criteria may limit their eligibility, including a bar to recovery if the victim participated or assisted in a criminal act, was committing a crime at the time the injury occurred, or does not fully cooperate with law enforcement. Also, the crime must be reported within 30 days of when the report could reasonably have been made. Minnesota’s “rape shield” law only limits the trauma of cross-examination for testifying victims in sex offense cases and not specifically in sex trafficking cases, however a child victim witness may provide testimony via closed-circuit television, outside the presence of the defendant. The juvenile court may expunge juvenile records at any time, at its discretion. The court may award criminal restitution and civil remedies are also provided for sex trafficking victims. The statute of limitations for criminal prosecutions of sex trafficking and CSEC offenses is three years. For civil claims based on damages from being trafficked, a 6-year statute of limitations begins to run after the victim knows or should know of the injury but is tolled until age 18 and may be tolled while the coercion continues.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on child sex trafficking is mandated by law. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations for sex trafficking and soliciting a minor for prostitution. No laws expressly authorize the use of a decoy or the Internet in sex trafficking investigations, but these tools could be used in investigating child solicitation offenses, applicable to in-person and online solicitations when a person over 18 solicits a child 15 years old or younger to engage in sexual activity, which could include sex trafficking. Minnesota has established a statewide reporting and response system for missing children and requires the reporting of located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators are subject to prosecution for benefitting financially from sex trafficking, punishable by imprisonment up to 20 years and/or a fine up to \$50,000. A court may order victim restitution in a sex trafficking conviction. If convicted of CSEC or pornography offenses, such as use of minors in a sexual performance, facilitators face asset forfeiture. Disseminating and owning a business to disseminate child pornography is punishable by up to 10 years imprisonment and/or a fine up to \$20,000 and \$40,000 for any subsequent offense. No laws in Minnesota make sex tourism a crime.

MISSISSIPPI

FINAL GRADE: D

Summary

Mississippi law makes it a crime to sex traffic a minor under 18 without force, fraud or coercion and can be used to prosecute the demand for commercial sex acts with minors. However, victims have few protective provisions and law enforcement is missing critical training and investigative tools, such as the ability to wiretap to investigate commercial sexual exploitation of children (CSEC) cases.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Mississippi's human trafficking law addresses sex trafficking and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state CSEC laws include: enticing a child for prostitution and exploitation of children. CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law can be applied to buyers who “cause or attempt to cause” a minor to engage in commercial sex acts. No CSEC laws include the crime of buying sex with a minor, though a buyer could be charged with the misdemeanor contributing to the neglect or delinquency of a child subject to a maximum of 1 year imprisonment. A buyer might be charged with solicitation of prostitution even though the statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. Using the Internet to purchase commercial sex acts from a minor could be prosecuted under the statute on use of computer for the purpose of luring or inducing person under eighteen to engage in sexual conduct, although this does not address commercial sexual exploitation expressly. The human trafficking law and CSEC laws are silent on admissibility of an age mistake defense, leaving open the possibility of a defendant asserting this defense. At the court's discretion, buyers may be ordered to pay restitution. Buyers of sex acts with minors are not required to register as sex offenders for convictions of child sex trafficking or prostitution-related offenses against a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers prosecuted for sex trafficking under the state human trafficking law face a maximum sentence of 30 years and a possible fine up to \$10,000. Traffickers convicted of the CSEC crime of enticing a child for prostitution face up to 10 years' imprisonment and/or a fine not to exceed \$1,000. Convictions for exploitation of children through child pornography are punishable by 5–40 years' imprisonment and a \$50,000–\$100,000 fine. Traffickers could also be in violation of racketeering laws and criminal street gang laws. The statute on use of a computer for the purpose of luring or inducing persons under 18 to engage in a sexual act provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. Traffickers may be required to pay restitution when convicted of any crime, including CSEC crimes, and could be subject to civil actions by victims. Convictions for racketeering may lead to asset forfeiture. Convicted traffickers may have to register as sex offenders for violations of sex trafficking and creating child pornography. Grounds for termination of parental rights do not include convictions of sex trafficking or CSEC crimes.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Human trafficking (“cause or attempt to cause” a minor to engage in commercial sex acts) (§97-3-54.1)	Felony	Max. 30 years	Max. \$10,000	○
Prostitution (§ 97-29-49)	Misdemeanor	Max. 6 months	\$200	○
Possessing child pornography (§ 97-5-33(5))	Felony	5-40 years	\$50,000-\$500,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



16
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13.5
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14
27.5



7.5
15

FINAL SCORE:

62



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

In Mississippi, no law expressly identifies a CSEC victim as a victim. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving minors vulnerable to criminalization for the prostitution they are caused to commit through their trafficking. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor. No specific protective provisions are statutorily mandated for CSEC victims. A CSEC victim could be classified as a dependent or a child in need of services and receive protective action; however, a CSEC victim may also be classified as delinquent and enter the juvenile justice system. A victim found to be abused or neglected might receive protection through child protective services as traffickers in control of a child may be considered to have “present care” of the child; furthermore, although it does not include human trafficking, the definition of abuse includes exploitation through prostitution and pornography. While CSEC victims would likely be eligible for crime victims’ compensation, several eligibility criteria may limit their ability to recover, including reduction if the victim is deemed responsible for the cause of the injury or did not cooperate with law enforcement, and a requirement to file a claim within 3 years, with a possible extension of one year if good cause is shown. Mississippi has some victim-friendly criminal justice procedures available to CSEC and sex trafficking victims, including the prohibition on requiring polygraph tests. Other victim-friendly criminal justice procedures are available in limited cases. Victims under 16 may be permitted to testify through closed-circuit television and “rape shield” law, which limits the trauma of cross-examination for testifying victims may be applied to victims of rape or statutory rape, but not CSEC victims. Juveniles who incur criminal records may have first-time misdemeanor convictions expunged, and juvenile records can be sealed upon reaching the age of 20. Restitution to victims of human trafficking and CSEC crimes is not mandatory; however, a court may award restitution for pecuniary damages at its discretion. Civil remedies are not expressly provided for CSEC victims, unless they are also victims of racketeering. Mississippi eliminates the statute of limitations for certain CSEC related crimes, including contributing to the delinquency of a minor and exploitation of children, but not human trafficking. The statute of limitations for civil actions does not begin to run until the minor reaches 18.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of aiding or abetting human trafficking with a sentence for conviction of up to 30 years, of financially benefiting from human trafficking with a sentence of up to 20 years, and of both with a possible fine up to \$10,000. Facilitators could also be subject to racketeering and crime gang laws. If a sex trafficking case is misidentified as a case of prostitution, a facilitator who aids or abets prostitution could be punished by imprisonment up to 6 months and/or a possible fine not to exceed \$200, even when the victim is a minor. Selling child pornography is punishable by 5–40 years’ imprisonment and a fine of \$50,000–\$500,000. At a court’s discretion, facilitators may be ordered to pay restitution to a victim. No laws in Mississippi address sex tourism, leaving businesses to capitalize on CSEC as part of travel packages.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

There is no mandated training on domestic minor sex trafficking for law enforcement in Mississippi. Single party consent to audiotaping is permitted, but wiretapping is not allowed for CSEC investigations. The CSEC law related to child pornography allows for both the use of a decoy and the Internet for investigative purposes, but these tools are not identified for sex trafficking or prostitution of minors. No law requires the reporting of missing or recovered children.

MISSOURI

FINAL GRADE: B

Summary

Missouri makes domestic minor sex trafficking a crime for buyers, traffickers, and facilitators but victims are not provided specific protective provisions and the state's abuse and neglect definitions fail to include commercial sexual exploitation to allow for child welfare intervention. The critical tool of wiretapping is not expressly permitted in sex trafficking investigations, handicapping law enforcement and prosecutors.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Missouri has a separate law addressing sex trafficking of a child and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include: promoting prostitution of a minor under 16, patronizing prostitution, promoting online sexual solicitation, child used in sexual performance, sexual exploitation of a minor, and promoting sexual performance by a child. Missouri's CSEC law of promoting online sexual solicitation refers to the sex trafficking of children law; however, other CSEC crimes do not refer to the sex trafficking of children law for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law can be applied to buyers who cause a minor to engage in a commercial sex act. The solicitation of prostitution law distinguishes between buying commercial sex acts with adults versus minors, providing enhanced penalties for buying sex with a minor under 18. In the absence of a statute or heightened penalties for using the Internet to specifically purchase commercial sex acts with a minor, the enticement of a child law, which includes enticing a minor under 15 via the Internet to engage in sexual conduct, might apply to buyers who use the Internet for this purpose. The sex trafficking of a child and CSEC offense of patronizing prostitution prohibit an age mistake defense, preventing buyers this excuse. The patronizing prostitution law staggers the penalties according to age, leaving insufficient penalties for those who purchase commercial sex acts with minors 15–17 years of age. Buyers convicted of child sex trafficking must pay restitution to the victim and could be subject to civil liability to the victim. Buyers of sex with minors are required to register as sex offenders if convicted of sex trafficking of a child or possessing child pornography, but not CSEC offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of children (causes minor to engage in commercial sex act) (§ 566.212)	Felony	10 years–life	Max. \$250,000	●
		25 years–life (minor under 12)		
Patronizing prostitution of minor 15–17 (§ 567.030)	Class A misdemeanor	Max. 1 year	Max. \$1,000	●
Patronizing prostitution of minor under 15 (§ 567.030)	Class D felony	Max. 4 years	Max. \$5,000	●
Possession of child pornography (§ 573.037)	Class C felony	Max. 7 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a child is a felony punishable by a fine up to \$250,000 and 10 years–life imprisonment, enhanced to 25 years to life imprisonment if the victim is either under 12 or force, abduction or coercion was used. Promoting prostitution of a minor is a felony punishable by 5–15 years imprisonment. Producing a sexual performance of a child is a felony punishable by up to 7 years imprisonment and a possible fine of \$5,000 or double the defendant's gain from a commission of the offense up to \$20,000. Age misrepresentation by a trafficker on the Internet with the intent to engage in criminal sexual conduct (that could include sex trafficking) involving a minor that could include sex trafficking is a felony punishable by imprisonment up to four years. Convicted sex traffickers must pay restitution to the victim, and may also face civil liability and asset forfeiture. Traffickers convicted of sex trafficking of a child, CSEC offenses, and child pornography offenses must register as sex offenders. Grounds for termination of parental rights exist when a trafficker is convicted of sex trafficking of a child or certain other CSEC offenses when any child in the trafficker's family was the victim of the crime.



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7.5



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25



12.5
15



8.5
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20.5
27.5



11
15

FINAL SCORE:

82

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

While child sex trafficking and CSEC victims are afforded some protections under Missouri law, gaps still exist. Missouri expressly prohibits a defense based on consent when a sex trafficking victim is under 12; however, this defense is not prohibited for older minors, leaving open the possibility that offenders could assert an affirmative defense of consent. A CSEC victim charged with prostitution may assert an affirmative defense of coercion or force in committing the offense of prostitution, but prostitution laws are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. Missouri provides statutory procedures to identify human trafficking victims, and law enforcement must notify social services and juvenile justice authorities when a minor victim is identified. The state also has special technical assistance teams for cases of child exploitation and child pornography. A CSEC victim may be detained if determined delinquent or a child in need of care. The limited definitions of abuse and neglect do not include CSEC and therefore would not permit child welfare intervention even though the definition of a person “responsible for the care, custody and control” of a child is likely broad enough to allow a child controlled by a trafficker protection through child welfare. CSEC victims are eligible for crime victims’ compensation, but eligibility criteria requiring cooperation with law enforcement and reporting the incident within 48 hours may limit ability to recover. Additionally a claim must be filed within two years, and the award may be reduced if the injury arose from the consent of the victim. Victim-friendly criminal justice procedures exist such as the “rape shield” law, which reduces the trauma of cross-examination. Minors may have their records expunged if a petition is filed within one year of arrest. Victims of sex trafficking are entitled to mandatory restitution and may bring a civil action for damages against the offender. Criminal statutes of limitations for sexual offenses against a minor are extended 30 years past turning 18, and eliminated when force is used in the commission of the offense. Civil statutes of limitations for actions arising out of child pornography offenses are extended until the victim reaches 31 or within three years of discovering injury was caused by the offense.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Missouri authorizes, but does not require, training programs for law enforcement on human trafficking. Single party consent to audiotaping is permitted, but wiretapping is not permitted for investigations of suspected sex trafficking and CSEC crimes. Use of a decoy is specifically permitted within the statutes of enticement of a child (under 15 only) and sexual misconduct involving a child, but not for sex trafficking or CSEC offenses. Law enforcement may use the Internet to investigate cases of sex trafficking relying on the enticement of a child law which includes enticing a child under 15 both in person and via the Internet to engage in sexual conduct. Missouri law requires law enforcement to report missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

It is a crime to benefit financially from sex trafficking, a felony punishable by a fine up to \$250,000 and 10 years to life imprisonment, enhanced to 25 years to life if the victim was under 12 or force, abduction or coercion was used in committing the crime. Facilitators may also be charged with the felony crimes of promoting sexual performance of a child or promoting child pornography punishable by up to seven years imprisonment and a possible fine up to \$5,000 or double the defendant’s gain from the commission of the offense up to \$20,000. Facilitators are subject to asset forfeiture for these crimes. Facilitators who knowingly permit their online services to be used to post advertisements related to sex trafficking could be charged with the felony of promoting online sexual solicitation, and fined \$5,000 per day of continuing violation beginning 72 hours after notice has been provided. Facilitators convicted of sex trafficking must pay restitution to the victim and may face civil liability. Sex tourism is a crime under promoting travel for prostitution (punishable by up to seven years imprisonment and a possible fine not to exceed \$5,000 or double the defendant’s gain from the commission of the offense) and advertising or facilitating travel to engage in a commercial sex act (punishable by loss of business incorporation status and freezing of assets); neither statute enhances penalties if the victims are minors.

MONTANA

FINAL GRADE: F

Summary

Trafficking of persons requires proof of force, fraud or coercion limiting its application to combat minor sex trafficking. Commercial sexual exploitation of children (CSEC) laws are available to prosecute offenders, however victims who are not identified or are deemed complicit in the prostitution may face barriers to accessing protection or justice.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Montana's trafficking of persons law criminalizes sex trafficking and requires proof of force, fraud or coercion. Although not specific to minors, the trafficking law includes a penalty enhancement applicable to prostituted minors under age 16 which increases the penalty for trafficking offenses involving sexual intercourse without consent, which minors under 16 are deemed incapable of providing. The state has the following CSEC laws: prostitution and promoting prostitution when a minor is involved, aggravated promotion of prostitution and sexual abuse of children. However, the CSEC statutes do not reference the human trafficking law for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Although the state human trafficking law tracks the federal definition and following federal precedent might have been applicable to buyers who “obtain” a minor for commercial sex acts, the state law definition of “obtain” requires an ongoing relationship with the offender making application to buyers unlikely. The prostitution law, which criminalizes patronizing prostitution, could be used to combat demand. The prostitution statute distinguishes between buying sex with minors versus buying sex with adults by providing a heightened penalty for soliciting or engaging in prostitution with a minor under 12, leaving older minors unprotected. Sexual abuse of children includes solicitation of a minor under 16 through in-person or electronic communication, but does not include for the purpose of commercial sex acts. Sexual abuse of children also includes possession of child pornography. The sex trafficking and CSEC laws do not prohibit a mistake of age defense to prosecution leaving this assertion available to buyers. Restitution is mandatory for victims who suffer a pecuniary or economic loss, but no specific civil actions against sex trafficking or CSEC offenders are authorized. Buyers of sex with minors are required to register as sex offenders if convicted of prostitution with a child under 12 years of age, or sexual abuse of children, which includes Internet solicitation and possessing child pornography.



CRIMINAL PROVISIONS FOR TRAFFICKERS

If convicted under the state human trafficking law, a trafficker faces up to 15 years imprisonment and/or a fine up to \$100,000. Promotion of prostitution of a child under 12 is punishable by up to 100 years imprisonment and aggravated promotion of prostitution is punishable by life or 4–100 years imprisonment and/or a fine up to \$100,000. If convicted of either CSEC law, a trafficker shall be ordered to complete a sexual offender treatment program and may be subject to satellite-based monitoring for life. Sexual abuse of children, which criminalizes the creation of child pornography and use of the Internet to recruit or sell commercial sex acts with minors under the age of 16, is punishable by up to 100 years or life imprisonment and a possible fine of \$10,000; a minimum sentence of four years is imposed when the child is under the age of 16 and the defendant must serve at least 25 years when the child is 12 or younger. Victim restitution is mandatory and traffickers may face additional penalties under criminal street gang laws, which include the CSEC crime of aggravated promotion of prostitution. Asset forfeiture is not specified for trafficking or CSEC offenses. Traffickers must register as sex offenders if convicted of CSEC offenses, but not for a conviction under the trafficking law. In Montana grounds for termination of parental rights includes when a parent is convicted of “a felony in which sexual intercourse occurred” or committed sexual abuse against a child, which is defined to include the CSEC crime of sexual abuse of children.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Sentence	Fine (possible)	Asset Forfeiture (available)
Prostitution —patronizing (\$ 45-5-601(2)(b))	Max. 1 year (1st offense)	Max. \$1,000 (1st offense)	○
Prostitution —patronizing (child under 12 (\$ 45-5-601(3) (a))	Max. 100 years	Max. \$50,000	○
Possession of child pornogra- phy— sexual abuse of children (\$45-5-625)	Max. life sentence	Max. \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



14.5
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12.5
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12
27.5



7.5
15

FINAL SCORE:

56



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims are vulnerable due to gaps in the laws. CSEC laws are silent on the permissibility of a defense based on consent of the minor to the commercial sex act, however, under Montana law a minor under the age of 16 is considered incapable of consenting to sexual intercourse which is the predicate action for human trafficking. Nonetheless, prostitution offenses are not limited in application to adults and do not identify a juvenile involved in prostitution as a victim of sex trafficking or provide an affirmative defense for victims of trafficking. A CSEC victim may be considered abused and neglected and/or a youth in need of care, a delinquent youth, or a youth in need of intervention and receive various responses ranging from a juvenile justice response to a child protective response. For purposes of child welfare intervention, the definition of abuse includes a child who has suffered actual or psychological harm as a result of sexual exploitation, defined as permitting or encouraging a minor to engage in prostitution. The definition of a person responsible for the child's welfare includes an adult who resides in the same home in which the child resides, a definition which could be sufficiently broad to permit child protective services to intervene. If identified as a victim and suffering bodily injury, CSEC victims would likely be eligible for state crime victims' compensation, although several criteria may limit their eligibility, including a bar to recovery if the victim contributed to the injury or was the offender or an accomplice of the offender, and possible bar or reduction for refusal to cooperate with law enforcement. Also, the sexual offenses against minors must be reported within one year after the conduct was reported to a law enforcement agency or child welfare services, or within one year after the day the victim reaches 18 years of age, whichever occurs last, unless good cause is shown. Victim-friendly criminal justice procedures include permitting the testimony of a child-witness under 16 to be taken by two-way electronic audio-video communication; however, the "rape shield" law is limited to sex offenses, so may not be available to reduce the trauma of cross examination for testifying sex trafficking victims. With few exceptions, formal youth court, law enforcement, and department records must be physically sealed on the youth's 18th birthday. Restitution and civil remedies are not expressly available to CSEC victims. Restitution is mandatory for victims who suffer a pecuniary or economic loss. Prosecutions for sexual abuse of children must be brought within five years after the minor turns 18. Otherwise a five year statute of limitations applies to felonies and a one year statute of limitations applies to misdemeanors. Civil actions for childhood sexual abuse, which includes the crime of sexual abuse of children, must be commenced three years after the last injury occurred or was discovered.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training on human or sex trafficking is not mandated. Single party consent to audiotaping is not permitted by law but is available to law enforcement in the course of investigations, and wiretapping is not expressly allowed in investigations for sex trafficking, pornography or prostitution-related offenses. No laws expressly authorize the use of a decoy or the Internet in sex trafficking investigations. Montana has established a statewide reporting and response system for missing children and requires the reporting of missing and located children. When child pornography is discovered in a police investigation, the state also requires law enforcement to provide the discovered materials "to the law enforcement contact at the child victim identification program at the national center for missing and exploited children" to determine whether a previously identified child is depicted.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of benefiting financially from human trafficking; a violation is punishable by up to 15 years imprisonment and/or a fine up to \$100,000. The CSEC crime of promoting prostitution applies to facilitators who permit their premises to be regularly used for prostitution; if the victim is under 12 it is punishable by up to 100 years imprisonment and/or a fine up to \$100,000. Restitution is mandatory for victims who suffer a pecuniary or economic loss. The CSEC crime of sexual abuse of children, which criminalizes distributing, selling and advertising child pornography, is punishable by up to 100 years imprisonment, a possible fine up to \$10,000, or both; a minimum sentence of four years is imposed when the child is under the age of 16 and the defendant must serve at least 25 years when the child is 12 or younger. No laws in Montana address sex tourism.

NEBRASKA

FINAL GRADE: F

Summary

Sex trafficking of a minor without regard to force, fraud, or coercion is a crime in Nebraska. However, registration is not required for offenders convicted of sex trafficking, creating vulnerability for children, and insufficient protective laws may fail child victims of sex trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Nebraska’s human trafficking law separately criminalizes the sex trafficking of a minor under 18 without regard to the use of force, fraud, or coercion. Only two commercial sexual exploitation of children (CSEC) laws are available to prosecute offenders--child abuse by allowing or forcing a child to solicit or engage in prostitution and employing a child in pornography. The CSEC laws do not refer to the human trafficking law for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law applies to buyers who “cause or attempt to cause a minor to engage in commercial sexual activity.” This applicability is important in light of the lack of CSEC laws that include the purchase of commercial sex acts with a minor as a crime. Child abuse might apply to buyers who negligently or intentionally put a child in a position of engaging in prostitution. Restitution is not mandatory for buyers convicted of human trafficking or CSEC offenses, although it may be ordered under general criminal restitution laws. Human trafficking and CSEC laws are silent on mistake of age, leaving open the possibility of using this defense. Nebraska’s laws relating to use of the Internet to entice or sexually assault a child under 16 do not include the purposes of sex trafficking or CSEC, failing to provide a criminal deterrence to buyers who increasingly use the Internet to solicit and engage minors in commercial sex acts. Those convicted of possessing child pornography are required to register as sex offenders, but not if convicted for sex trafficking or child abuse, even when involving a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Human trafficking is a felony punishable by 1–50 years imprisonment (use of force or victim under 15) or 1–20 years and/or a fine up to \$25,000 (victim 15+, no force). Child abuse is a Class I misdemeanor punishable by up to 1 year imprisonment and/or a fine up to \$1,000; however, the punishment varies depending on whether the offense was committed negligently or knowingly and whether serious bodily injury resulted. At most, child abuse is a felony punishable by 1–50 years imprisonment. Employing a child in pornography is a felony punishable by 3–50 years imprisonment. Traffickers could be subject to organized crime and racketeering laws leading to additional penalties. Asset forfeiture is not a financial penalty for trafficking crimes. Laws related to using the Internet to entice or sexually assault a child under 16 do not include the purposes of sex trafficking or CSEC, although traffickers increasingly use the Internet to recruit and sell minors for commercial sex acts. Convicted traffickers face mandatory victim restitution for any crime and victims of child pornography may have civil claims. Traffickers convicted of human trafficking or child abuse are not required to register as sex offenders and convictions for these crimes do not present grounds for termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Human trafficking (§ 28-831)	Class II	1–50 years (victim under 15 or force used)		○
	Class III	1–20 years (victim 15 or older and no force)	Max. \$25,000 (victim 15 or older and no force)	
Child abuse (§ 28-707)	Class I misdemeanor (committed negligently)	Max. 1 year	Max. \$1,000	○
Buying child pornography (§ 28-1463.03(2)) and possessing child pornography (§ 28-813.01(1))	Class III felony	1–20 years	Max. \$25,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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3.5
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10.5
27.5



9.5
15

FINAL SCORE:

52.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking and CSEC are not protected fully under Nebraska’s laws. Human trafficking and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution is not limited in application to adults, does not identify a juvenile involved in prostitution as a victim of trafficking in persons, and provides no affirmative defenses to a minor charged with the offense. While a child who is sexually exploited through prostitution or pornography is considered an abused child under law and may receive a protective response through child welfare if properly identified, Nebraska’s failure to define the term “caregiver” to include those without legal custody of a minor may prevent a child protective response. Additionally, CSEC victims still may be detained as status offenders or for committing an offense under Nebraska’s criminal laws related to their exploitation. Crime victims’ compensation is available for victims of CSEC offenses; however, participating in the criminal conduct giving rise to the injury, failing to file a claim within two years of the crime, and failing to report the crime within three days of the crime or the time when a report could reasonably have been made could prevent CSEC victims from receiving compensation. Victim-friendly criminal justice procedures are also limited. While child victims under 11 of any crime may have videotaped deposition admitted in lieu of in-person testimony, Nebraska’s “rape shield” law is limited to victims of non-commercial sexual offenses, leaving testifying CSEC victims unprotected from the trauma of cross-examination at trials of their traffickers. Juvenile records may be sealed once the child satisfactorily completes his or her sentence or turns 17, provided that the child has satisfactorily completed his or her sentence and is found to be satisfactorily rehabilitated. Restitution is not mandatory and express civil remedies are not provided for victims of sex trafficking, but may be available to a victim of child pornography who was under 16. Prosecutions for human trafficking must be brought within three years of the crime, while prosecutions for CSEC offenses must be brought within seven years of the crime.



CRIMINAL PROVISIONS FOR FACILITATORS

The human trafficking law does not include the crime of assisting, enabling, or financially benefiting from the sex trafficking of a child and CSEC crimes do not include provisions which would reach the actions of facilitators of CSEC. Facilitators may be convicted under age-neutral prostitution-related and racketeering laws leading to some liability. Facilitators may be guilty of distributing child pornography, a felony punishable by imprisonment for 3–50 years. Facilitators do not face mandatory restitution and no asset forfeiture provisions apply to facilitators; however, facilitators who aid in creating or distributing child pornography may face civil liability. No laws in Nebraska address sex tourism.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Nebraska law does not require training on domestic minor sex trafficking for law enforcement. The state allows single party consent to audiotaping, but wiretapping is not allowed for human trafficking or CSEC investigations, handicapping law enforcement investigations and collection of evidence. No laws expressly authorize the use of a decoy or the Internet in sex trafficking investigations. Nebraska has established a statewide reporting and response system for missing children and requires the reporting of missing and located children, an important tool to identify repeat runaways who are at high-risk of sex trafficking exploitation.

Summary

Nevada's human trafficking law, called involuntary servitude, does not expressly include sex trafficking and requires force, fraud, or coercion for all victims. Limited prosecution options and weak penalties fail to deter demand and few protective provisions exist for children exploited through commercial sex acts.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Nevada law requires “forced labor or services” for all cases of human trafficking and does not include sex trafficking of minors a specific form of trafficking. The state commercial sexual exploitation of children (CSEC) laws include: soliciting prostitution from a minor under 18, pandering of a minor, employing or exhibiting minor in certain immoral activities, and unlawful use of a minor in producing pornography or as subject of sexual portrayal in performance. These laws do not refer to the human trafficking law or identify a victim as a sex trafficking victim.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The absence of sex trafficking as a form of human trafficking in the law coupled with the lack of language directing application of the law to buyers of commercial sex with minors makes application of the law to buyers unlikely. CSEC laws include the crime of buying sex with a minor. The solicitation for prostitution statute establishes a felony for buying sex with a minor but a convicted buyer may be given probation as a sentence. A potential exists for avoiding the felony charge of soliciting sex with a minor due to the lack of a prohibition on a mistake of age defense, an assertion of which would require proof of knowledge of age. The statute penalizing communications with a child with the intent to persuade or lure the child to engage in sexual conduct might apply to buyers using the Internet to contact victims. Buyers may be ordered to pay restitution, and victims of child pornography have a civil cause of action against buyers. Convictions for child pornography require sex offender registration, and buyers convicted of offenses involving a sexual act may be required to register, except in cases where the sexual act is with a minor over 12 who is not more than four years younger than the offender.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of human trafficking, which would also apply to sex trafficking, may be sentenced to 5–20 years imprisonment (or 1–15 years for recruiting) and a possible fine up to \$50,000, and could be in violation of racketeering and money laundering laws. Convictions for pandering carry a 1–10 year sentence and possible fines up to \$100,000 if the victim is 14–17 or up to \$500,000 if the victim is under 14. Using a minor in pornography carries up to a life sentence and a possible fine up to \$100,000. Traffickers are subject to asset forfeiture. A trafficker may be ordered to pay victim restitution, and victims of child pornography offenses under 16 may bring a civil claim against a trafficker. The statute on communicating with a child with the intent to persuade or lure the child to engage in sexual conduct provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. Traffickers convicted of CSEC and child pornography offenses must register for crimes against a child and as sex offenders, and those convicted of a crime involving a sexual act may be required to register, except when the victim is over 12 and not more than 4 years younger than the offender. A conviction for human trafficking is grounds for terminating parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Solicitation for prostitution of a minor (§201.354(3))	Category E felony	1–4 years (can be suspended in favor of probation)	Max. \$5,000	○
Offer or agree to engage in act of prostitution (§ 207.030(1))	Misdemeanor	Max. 6 months	Max. \$1,000	○
Possessing child pornography – child under 16 (§ 200.730)	Category B felony	1–6 years	Max. \$5,000	●
Using the Internet with intent to view child pornography – child under 16 (§ 200.727)	Category C felony	1–5 years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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FINAL SCORE:

58



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in Nevada’s laws. The definition of a victim for crime victim’s compensation expressly includes only victims of pornography, not other forms of commercial sexual exploitation of children. Involuntary servitude and CSEC offenses do not prohibit a defendant from asserting a defense that the minor consented to the commercial sex acts. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving open the possibility of a victim being arrested and charged with the delinquency of prostitution with no protective provisions statutorily mandated. The definition of abuse or neglect includes sexual exploitation through prostitution or pornography but child protective services is limited from responding in a case of a trafficker controlled child unless the trafficker is an adult “continually or regularly found in the same household as the child.” Only victims suffering a physical injury and those exploited through production of pornography are eligible for state crime victims’ compensation, and they may be adversely affected by requirements to file a claim within one year (or before turning 21 if a victim of child pornography) and to report the crime within five days of when a report could reasonably be made unless “the interests of justice so require;” furthermore, they may have their claim reduced or denied due to contributory misconduct. Few victim-friendly criminal justice procedures exist. Testifying child sex trafficking and CSEC victims are not protected from the trauma of cross-examination by a “rape shield” law, and only children under 14 may testify through an “alternative method,” such as closed circuit television. Juvenile records are automatically sealed once the minor reaches 21 and a child may petition at an earlier time. Though not mandatory, a court may award restitution in any criminal sentence. Victims under 16 exploited through child pornography have a specific civil action against buyers, traffickers, and facilitators and the action may be filed by the later of reaching 21 or within three years of a conviction in the criminal case. Criminal statute of limitations (three years for felonies, two years for gross misdemeanors, and one year for misdemeanors) are not extended or eliminated for child sex trafficking and CSEC crimes.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Nevada law mandates training on sexual exploitation of minors, but does not define sexual exploitation or mandate training on sex trafficking. Nevada requires both parties to consent to audiotaping over the telephone, but allows single party consent to in-person communications. Wiretapping is not expressly authorized in sex trafficking or CSEC investigations, denying a critical tool to law enforcement. No specific statutory language allows law enforcement to use a decoy in domestic minor sex trafficking investigations, although the crime of luring a child under 16 for sexual acts may use a decoy because the offender need only to have believed the child to be under 16, foreclosing the argument that the intended victims was not in fact a child. Similarly, law enforcement may utilize the Internet to investigate cases where the offender believes the law enforcement officer is under 16. Reporting missing and exploited children and recovered children is required by law.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of benefitting from participation in human trafficking, a felony punishable by 1–15 years imprisonment and a possible fine up to \$50,000. Given the lack of sex trafficking in the human trafficking law, CSEC laws that include offenses of facilitation may be more applicable. Facilitators may be guilty of pandering, punishable by 1–10 years imprisonment and fines up to \$100,000 if the victim is 14–17 and up to \$500,000 if the victim is under 14. Promoting a sexual performance by a minor is a felony punishable by a possible fine not to exceed \$100,000 and imprisonment up to life with parole eligibility only after 10 years if the victim is under 14, and 5 years if the victim is 14–17. Advertising or distributing child pornography is a felony punishable by 1–15 years imprisonment and/or a fine up to \$15,000. Facilitators’ criminal activities may also lead to racketeering and money laundering prosecutions. Convicted facilitators of CSEC and child pornography offenses are subject to asset forfeiture action. Though not mandatory, a court could order a facilitator to pay restitution, and a facilitator could face a civil cause of action for violations related to child pornography offenses. No laws in Nevada address sex tourism.

NEW HAMPSHIRE

FINAL GRADE: F

Summary

New Hampshire's trafficking in persons law criminalizes the sex trafficking of minors but requires an element of force even for children exploited through commercial sex acts. Although, the prostitution statute provides an affirmative defense for trafficking victims; nonetheless, juveniles may be subject to arrest and punishment for prostitution.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

New Hampshire's trafficking in persons law includes sex trafficking, but requires the victim, even if a child, to have been forced to engage in commercial sex acts. The state has several CSEC crimes including prostitution and related offenses involving a minor and computer pornography. Only prostitution and related offenses references the trafficking in persons statute for purposes of providing trafficking victims an affirmative defense.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in persons uses the word “obtain” and could, following federal precedent, be applied to buyers, but only if the buyer has knowledge that compulsion was used against the minor to cause the prostitution. CSEC laws do not include the crime of purchasing commercial sex with a minor, and solicitation laws do not distinguish between purchasing commercial sex acts with an adult versus with a minor. While the prostitution and related offenses law provides heightened penalties when minors are victimized through certain actions in the statute, this heightened penalty is not applicable to buyers. The computer pornography law establishes a separate crime for buying or receiving information about a minor to solicit sexual conduct with a child. Though not mandatory, buyers convicted of other crimes may be required to pay restitution to the victim. If convicted of trafficking in persons, buyers are required to make restitution to the victim. Trafficking in persons and CSEC laws are silent on mistake of age, leaving open the possibility of using this defense. Buyers of sex with minors must register as sex offenders if convicted of prostitution and related offenses, computer pornography, or possessing child pornography, but not if convicted of trafficking in persons.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Trafficking in persons where the victim is under 18 is a felony punishable by 10–30 years' imprisonment or a maximum term of imprisonment fixed by the court, and a possible fine up to \$4,000 (\$100,000 for corporations), or double the amount of the defendant's gain from the crime. The CSEC offenses of prostitution and related offenses and computer pornography are felonies punishable by up to 7 years imprisonment and possible fines up to \$4,000 or double the amount of any gain received by the trafficker. Creating and distributing child pornography are felonies punishable by 15-30 and 10-20 years imprisonment, respectively, and possible fines up to \$4,000 or double the amount of any gain received. Traffickers convicted of trafficking in persons must pay the victim restitution and are subject to asset forfeiture. Though not mandatory, traffickers convicted of other crimes may be required to make restitution. The computer pornography law establishes a separate crime for selling information about a minor to solicit sexual conduct with a child. Traffickers must register as sex offenders if convicted of prostitution and related offenses, computer pornography, or creating or distributing child pornography, but not if convicted of trafficking in persons. Convictions for trafficking in persons or CSEC offenses do not establish grounds for termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Prostitution and related offenses (§ 645:2(I)(a))	Class B misdemeanor	N/A	Max. \$1,200	○
Possession of Child Sexual Abuse Images (§ 649-A:3)	Class A felony	Max. 15 yrs.	Max. \$4,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

51



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Trafficking in persons and New Hampshire's CSEC laws do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. When charged with prostitution, a CSEC victim may assert an affirmative defense that she or he was a victim of trafficking, but prostitution offenses are not limited in application to adults and a victim might be arrested and charged with prostitution despite being a victim. For purposes of child welfare intervention, an "abused child" includes one sexually exploited through prostitution or child pornography; however, the state's protective custody laws are limited to taking children from those with legal custody for the child. Crime victims' compensation is available for victims of CSEC offenses. However, several ineligibility requirements limit CSEC victim's ability to recover, including a bar to recovery when contributory fault leads to the injuries and a requirement to file a claim within 2 years, unless good cause is shown. Some victim-friendly criminal justice procedures are available to trafficking victims, including a prohibition on admitting evidence of a trafficking victim's prior personal or commercial sexual activity. Crime victims or witnesses under 16 may give video-taped testimony subject to certain requirements. Juvenile records are kept confidential and upon the person's 21st birthday will be closed and placed in an inactive file. Offenders convicted of trafficking in persons are required to pay victim's restitution and offenders convicted of other offenses may be ordered to pay restitution. No civil remedies are specifically provided for trafficking in persons or CSEC victims. Prosecution for trafficking in persons and felony CSEC laws, must be brought within 6 years of the crime. The statute of limitations for civil cases is only extended for minor victims of certain crimes, not including trafficking in persons or CSEC.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

New Hampshire does not mandate training on domestic minor sex trafficking. Single party consent to audio-recording is not allowed, and wiretapping is only allowed for the CSEC offense of computer pornography. No laws expressly authorize the use of a decoy. Law enforcement may utilize the Internet to investigate CSEC offenses relying on the law of certain uses of computer services prohibited, which criminalizes using the Internet to commit a sex offense. New Hampshire has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Trafficking in persons does not include the crime of assisting, enabling, or financially benefiting from sex trafficking; however, the CSEC crime of prostitution and related offenses applies to facilitators who transport a child with the purpose of facilitating prostitution or knowingly permit a place under the facilitator's control to be used for prostitution. Prostitution and related offenses is punishable as a felony by up to 7 years imprisonment and a possible fine up to \$4,000, or double the amount of any gain received by the facilitator. Facilitators convicted of any crime may be required to make restitution, but will not be subject to asset forfeiture. Selling child pornography is punishable by 10–20 years' imprisonment and a possible fine up to \$4,000, or double the amount of any gain received by the facilitator. No laws in New Hampshire address sex tourism.

NEW JERSEY

FINAL GRADE: D

Summary

New Jersey's human trafficking law requires proof of force, fraud, or coercion, even when a minor is the victim, and offenders convicted of sex trafficking are not required to register as sex offenders. Victims receive disparate protections and response depending on how they are identified.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

New Jersey's human trafficking law includes sex trafficking, but it does not define a sex trafficking victim as a minor under the age of 18 used in commercial sex acts regardless of the use of force, fraud, or coercion. State commercial sexual exploitation of children (CSEC) laws include endangering the welfare of children through creating pornography of a child under 16, and prostitution—which covers promoting prostitution of a minor, and soliciting or engaging in prostitution with a minor. The general prostitution law, containing most of New Jersey's CSEC provisions, refers to the human trafficking statute for prosecution, but the force, fraud or coercion requirement of the human trafficking law is likely to interfere with identification of minor victims as sex trafficking victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The child sex trafficking law contains the word “obtain,” which following federal precedent could be applied to buyers; however, the buyer must obtain the minor through force, fraud, or coercion limiting its application. The solicitation of prostitution law distinguishes between buying sex with an adult versus with a minor by providing higher penalties for buyers who patronize minors, making this a CSEC law. Additionally, age mistake defenses are prohibited in prosecutions for these crimes. Though the Internet is increasingly used by buyers, no statute expressly makes using the Internet to purchase sex acts with minors a crime; however, the general luring statute, which includes luring via electronic means to commit a criminal offense against a child, might apply. Though not mandatory, a court could order a buyer of commercial sex with minors to pay restitution. For any offense buyers are subject to asset forfeiture of property intended to be used or vehicle used in the commission of the offense. Buyers of commercial sex with minors are not required to register for CSEC crimes, but a buyer convicted under the general luring statute would be required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Penalties for child sex trafficking are comparable to federal trafficking penalties (10 years–life), and a trafficker is subject to racketeering and crime gang activity laws, and for any offense traffickers are subject to asset forfeiture of property intended to be used or vehicle used in the commission of the offense. Sex trafficking is punishable by 10–20 years imprisonment and a possible fine up to \$200,000. Penalties are increased to 20 years–life imprisonment if the trafficker benefits financially as an organizer, supervisor, financier or manager of a trafficking scheme. CSEC crimes of promoting prostitution and endangering the welfare of children, and creating pornography of a child under 16, are punishable by 5–10 years imprisonment and a possible fine up to \$150,000. No statute expressly makes using the Internet to recruit a minor for commercial sex acts a crime; however, the general luring statute, which includes luring via electronic means to commit a criminal offense against a child might apply. If convicted of sex trafficking, traffickers are required to pay victim restitution, and a court may order restitution for convictions of other felonies. Sex offender registration is required for CSEC crimes and endangering the welfare of children through creating child pornography, but not for sex trafficking of children. Grounds for termination of parental rights do not include convictions of human trafficking or CSEC crimes.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Soliciting or engaging in prostitution with a minor (§ 2C:34-1(b)(7))	3rd degree crime	3–5 years	(and) Max. \$15,000	●
Possessing child pornography (minor under 16) (§2C:24-4(5) (b))	4th degree crime	Max. 18 months	(and/ or) Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

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PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Prostitution offenses are not limited in application to adults and do not identify a minor involved in prostitution as a victim of sex trafficking, and, although victims of sex trafficking may assert an affirmative defense to the charges of prostitution, they must be able to prove force, fraud or coercion was used to cause them to engage in the prostitution in order to be considered a victim under the human trafficking law, narrowing this protection for domestic minor sex trafficking victims. Sex trafficking of a minor and CSEC crimes do not prohibit a defense based on the consent of the minor. A victim of sex trafficking or CSEC could alternately be classified as dependent, delinquent, or “involved in a juvenile-family crisis” leading to different responses, including services, diversion, or possible detention. The definition of an abused child includes a child permitted to be employed in any manner “contrary to the laws of this state” or “dangerous to the morals of the child.” A child is also abused if “the person having care, custody and control of any child” (which includes any “person who has assumed the care of the child, or any person with whom the child is living at the time the offense is committed”) allows any person to perform an immoral or indecent act on the child. This definition could potentially allow child protective services to intervene. Victims of sex trafficking are expressly eligible for crime victims’ compensation, but other CSEC victims are not similarly eligible. Even if eligible, several criteria may limit these victims’ ability to recover including requirements to cooperate with law enforcement, to report the crime to law enforcement within three months of reasonable discovery, and to file a claim within two years unless good cause is shown. Victim-friendly criminal justice procedures are limited. The ability of child victims under 16 to testify via closed circuit television does not include CSEC victims. The “rape shield” law, which reduces the trauma of cross-examination for testifying victims, is only available to CSEC victims involved in endangering the welfare of children through pornography. Upon motion, a minor’s records may be sealed two years after discharge. Restitution is mandatory for trafficking convictions, and may be ordered in any CSEC felony. A CSEC victim may bring a civil action for sexual abuse. Criminal actions for sex trafficking and most CSEC crimes must be brought within five years; however, the statute of limitations for endangering the welfare of children, which includes pornography offenses, is extended until the victim is 23. A civil action related to sexual abuse must be brought within two years after reasonable discovery.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not mandatory, but training on related issues such as missing persons and technology used in the commission of sex offenses is provided. New Jersey law allows single party consent for audiotaping, but wiretapping is not available as an investigative tool in sex trafficking cases and most CSEC cases, although it is permitted in investigations of endangering welfare of children (which includes pornography) and racketeering. No statute specifically authorizes law enforcement to utilize decoys or the Internet for investigations of minor sex trafficking. Law enforcement must report missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

New Jersey’s human trafficking law applies to those facilitators that receive value from a human trafficking scheme as a “financier,” and is punishable by 10–20 years imprisonment and a possible fine up to \$200,000, but the law does not apply to facilitators who benefit financially from human trafficking, allowing many to escape punishment for their involvement in the crime. Under the endangering welfare of children statute, selling or promoting pornography of minors under 16 is punishable by 5–10 years imprisonment and a possible fine up to \$150,000. The CSEC crime of promoting prostitution is applicable to some actions by facilitators and is punishable by 5–10 years imprisonment and a possible fine up to \$150,000. A facilitator convicted of human trafficking must pay restitution to the victim, and although not mandatory, a court may order a facilitator to pay restitution for convictions of other felonies. Facilitators may also be subject to racketeering or crime gang activity laws, and asset forfeiture. No laws in New Jersey make sex tourism a crime.

NEW MEXICO

FINAL GRADE: F

Summary

New Mexico law criminalizes sex trafficking of a minor under 18 without regard to force, fraud, or coercion, and state laws exist to prosecute demand; however, proof for force, fraud or coercion is required to convict a facilitator. Nonetheless, minors are still vulnerable to arrest for prostitution in conflict with their status as sex trafficking victims under the sex trafficking law.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

New Mexico's human trafficking law criminalizes sex trafficking of children and clearly defines a minor under the age of 18 used in a commercial sex act as a sex trafficking victim. Proof of force, fraud, or coercion is not required, except when applied to facilitators who benefit from sex trafficking. State commercial sexual exploitation of children (CSEC) laws include: sexual exploitation of children by prostitution, sexual exploitation of children, enticement of child, and child solicitation by electronic communication device. The CSEC laws do not refer to the sex trafficking of children statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state child sex trafficking law tracks the federal definition and could, following federal precedent, be applied to buyers who “obtain” a minor for commercial sex acts. CSEC laws—sexual exploitation of children by prostitution and enticement of a child—more specifically apply to buyers of sex acts with a minor and differentiate the crime of buying sex with a minor from general solicitation of prostitution with an adult. Child solicitation by electronic communication device could provide a means of obtaining heightened penalties for buyers using the Internet to commit illegal sex acts, including commercial sex acts with a minor. Sex trafficking and CSEC laws do not prohibit an age mistake defense to prosecution by buyers, allowing buyers to claim they did not know the victim was a minor. A buyer convicted of trafficking must pay restitution to victims. New Mexico does not require those convicted of sex trafficking of minors or child solicitation by electronic communication device to register as sex offenders, although registration is required for convictions of possessing child pornography, sexual exploitation of children by prostitution and enticement of a child.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker faces prosecution under sex trafficking and CSEC laws, and could face prosecution under state racketeering and money laundering laws. Sex trafficking is a felony offense punishable by imprisonment and possible fines based on victim age as follows: third degree (victim 16-17)—three years /up to \$5000, second degree (victim 13-15)—nine years/up to \$10,000, and first degree (victim under 13)—18 years/up to \$15,000. A convicted trafficker faces mandatory restitution to the victim and a possible civil claim. Traffickers may also be in violation of sexual exploitation of children by prostitution, a felony punishable as follows: second degree (victim 13-15)—nine years/up to \$10,000, and first degree (victim under 13)—18 years/up to \$15,000. Racketeering charges may apply, bringing a possibility of asset forfeiture as well. Child solicitation by electronic communication device provides a sentence enhancement to reach traffickers who use the Internet to recruit minors for illegal sex acts, possibly including sex trafficking. Creating child pornography is punishable by imprisonment for three years and a possible fine of \$5,000 (or nine years and \$10,000 if minor under 13). Sex offender registration is required for many crimes, but not sex trafficking of minors or child solicitation by electronic communication device. Sex trafficking of children and CSEC crimes are not enumerated as violent crimes for which a trafficker's parental rights can be terminated.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Sexual exploitation of a child by prostitution (over 13 and under 16 years of age) (§30-6A-4(B))	2nd degree felony	9 years	(and/or) Max. \$10,000	○
Enticement of child (under 16 years of age) (§ 30-9-1)	Misdemeanor	Less than 1 year in county jail	(and/or) Max. \$1,000	○
Possession of child pornography (§30-6A-3(A))	4th degree felony	18 months	(possible) Max. \$5,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



9.5
15

FINAL SCORE:

56



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in New Mexico’s laws. Benefits and services to victims of sex trafficking are specifically provided in the law, but only if victims cooperate in the investigation and prosecution of the defendant. Sex trafficking of a minor and CSEC crimes are silent on the permissibility of a defense based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent to pursue justice against the perpetrator. Prostitution offenses are not limited in application to adults, do not identify a minor engaged in prostitution as a victim of sex trafficking, and provide no affirmative defenses to a minor charged with the offense. A CSEC victim may be considered an abused or neglected child, a truant or runaway child, or a delinquent child and receive various responses ranging from delinquency charges to child protective services intervention. For purposes of child welfare involvement, the definition of abuse includes sexual abuse or exploitation of a child, which includes allowing the child to engage in prostitution or a sexual performance, and the definition of custodian is broad enough to apply to a trafficker. Victims of sex trafficking and CSEC offenses are not eligible for crime victims’ compensation, but even if they were, eligibility criteria requiring a report to law enforcement within 30 days and a claim filed within two years (unless they are also victims of certain sex offenses) present barriers to their claims. In addition, failure to cooperate with law enforcement deems a victim ineligible. New Mexico’s “rape shield” law reduces the trauma of cross-examination for testifying victims in sex trafficking cases; however, self-incriminating testimony by minor victims may be compelled in prostitution cases. Juvenile records may be expunged two years after final discharge from custody if the minor has not been subsequently convicted or found delinquent. Restitution and civil actions against trafficking offenders and facilitators are expressly allowed for victims. Depending on the age of the victim and the classification of the offense, the statute of limitations for criminal prosecutions may be one, two, three, five or six years, or eliminated entirely. The statute of limitations on civil actions for damages from trafficking does not commence until the victim knows or should have known of childhood sexual abuse that results in injury or until age 24, whichever is later.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

New Mexico has mandated training on human trafficking on a temporary basis through July 1, 2016. New Mexico law allows single party consent for audiotaping, but wiretapping is not available as an investigative tool in sex trafficking cases. Use of a decoy and use of the Internet to investigate the crime of arranging to engage in sexual conduct with a real or fictitious child is authorized under the child solicitation by electronic communication device law. New Mexico has established a statewide reporting and response system for missing children and requires the reporting of located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators may be prosecuted for benefitting financially from sex trafficking of minors only when the facilitator knows force, fraud or coercion was used. If convicted, facilitators face the same penalties as traffickers: three, nine or 18 years imprisonment and a possible fine of \$5,000, \$10,000 or \$15,000, depending on the age of the victim. Facilitators, like traffickers, may also be prosecuted under the sexual exploitation of a child law. Distribution of child pornography is punishable by three years imprisonment and a possible fine of \$5,000. Facilitators are subject to asset forfeiture if found to have violated racketeering laws through their criminal activities. No laws in New Mexico make sex tourism a crime. If convicted of sexual exploitation of children, a facilitator could face a civil claim from the victim and if convicted of sex trafficking, victim restitution is mandatory.

NEW YORK

FINAL GRADE: D

Summary

Laws designed to prosecute buyers of commercial sex with minors provide low penalties and only protect minors under 14. Similarly, the state sex trafficking law requires force, fraud or coercion for all victims and does not include as crimes the actions of buyers, limiting the deterrence and impact of the law.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

New York has a separate sex trafficking law, but it does not define a sex trafficking victim to include a minor under 18 used in commercial sex acts regardless of the use of force, fraud, or coercion. The state has several commercial sexual exploitation of children (CSEC) laws, including: promoting prostitution in the first, second and third degrees (covering minors under 19), patronizing a prostitute in the first and second degree, compelling prostitution of one less than 16, use of a child under 17 in a sexual performance, and promoting an obscene sexual performance of a child under 17. New York's CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law does not make the purchase of commercial sex with minors a trafficking crime, leaving buyers subject only to patronizing prostitution law. Patronizing prostitution distinguishes between buying sex with an adult versus a minor under 14, with penalties varying based on whether the minor solicited was under 11 or under 14; however, defendants in a prosecution may assert an age mistake defense to these crimes. Buyers who use the Internet to purchase commercial sex acts from a minor could be prosecuted under the statute on disseminating indecent material to minors in the first degree, or the statute penalizing use of a computer for purpose of luring or inducing a person under 17 to engage in sexual conduct, although these are not defined to include commercial sex acts. Buyers of sex with minors are required to register as sex offenders if convicted of possessing child pornography or any degree of patronizing a prostitute when a minor under 17 is involved.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the sex trafficking and CSEC laws a trafficker could receive a sentence as high as federal trafficking offenses (10 years–life), and a trafficker could be in violation of New York's organized crime control act. Convictions for sex trafficking, compelling prostitution of one less than 16 by force, fraud or coercion, or promoting prostitution of a minor under 11 are felonies punishable by 1–25 years imprisonment. Promoting prostitution of a minor under 16 or uses of a child under 16 to engage in a sexual performance are felonies punishable by 1–15 years imprisonment, whereas promoting prostitution of a minor 16–19 or producing a performance with sexual conduct of a minor under 17 are felonies punishable by up to seven years imprisonment. All felony sentences may include fines up to \$5,000 or “double the amount of the defendant's gain from the commission of the crime,” whichever is higher and victim restitution may be ordered. Traffickers may face asset forfeiture for all proceeds from a felony for which they were convicted and forfeiture for all equipment used to create child pornography. New York's laws making it a crime in the first degree to disseminate indecent material to minors or the statute penalizing use of a computer for purpose of luring or inducing person under 17 to engage in sexual conduct (although these are not defined to include commercial sex acts) could be used to prosecute the growing number of traffickers using the Internet to commit their crimes. Traffickers are required to register as sex offenders for convictions of sex trafficking, creating child pornography, and some CSEC offenses. Convictions of sex trafficking offenses or CSEC are not enumerated grounds for termination of parental rights, but if a trafficker is incarcerated for a significant period of time, parental rights could be terminated.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostitute (minors 14–18) (NY Penal § 230.04)	Class A misdemeanor	Max. 1 year	Max. \$1,000	○
Patronizing a prostitute (minor under 14; buyer over 18) (NY Penal § 230.05)	Class E felony	Max. 4 years	Max. \$5,000	○
Patronizing a prostitute (minor under 11) (NY Penal § 230.06)	Class D felony sex offense	2–7 years	Max. \$5,000	○
Possessing child pornography (minors under 16) (NY Penal §§ 263.11, 263.16)	Class E felony	Max. 4 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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27.5



8.5
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FINAL SCORE:

61.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

New York’s “Safe Harbour” legislation increases protections for CSEC victims; nonetheless, sex trafficking and CSEC victims continue to be vulnerable due to gaps in the laws. Sex trafficking and CSEC offenses do not prohibit a defense based on consent of the minor to the commercial sex acts, and even though a minor under 17 may not be considered an accomplice to sex trafficking or certain CSEC crimes, an offender may still be prosecuted and employ a consent defense. A sexually exploited child is defined by law to include a minor victimized through sex trafficking or prostitution-related offenses. Minors are not immune from prosecution for prostitution; however, upon an arrest for prostitution, there is a presumption that the minor is a victim of a severe form of trafficking, and if the minor consents, law enforcement may deliver the victim to a safe house. Then, upon a motion, a person in need of supervision petition stemming from the prostitution charges can be substituted for the delinquency petition. Specialized services include placement in safe houses with specially trained advocates. However, if the CSEC victim is unwilling to cooperate with specialized services, the delinquency proceedings will continue and the victim may be detained. A victim found to be abused—defined to include a victim of CSEC offenses or child pornography—might receive protection through child protective services, especially as the definition of “person legally responsible” includes any “person responsible for the child’s care at the relevant time,” which could make the term applicable to traffickers and allow child protective services intervention. Victims of sex trafficking are expressly identified as victims and child victims under 18 who suffer physical, mental, or emotional injury from a crime are provided exceptions to crime victims’ compensation prompt reporting requirements. Victim-friendly criminal justice procedures are limited. Only children under 14 may testify via closed-circuit television, and the “rape shield” law, which reduces the trauma of cross-examination for testifying victims, does not extend to CSEC victims and specifically allows evidence of a victim’s sexual conduct that “tends to prove” willing involvement based on the victim having been convicted of the crime of prostitution within three years prior to the alleged sex offense. A motion to seal juvenile criminal records may be filed at any time after the minor’s 16th birthday. Victim restitution for personal injury may be ordered and sex trafficking victims and crime victims may bring civil actions for damages. Statutes of limitations for criminal and civil actions are not extended for sex trafficking victims—prosecutions for felonies must begin within five years after the crime and civil actions must be initiated within seven or ten years, depending on the crime, and may be extended until the victim reaches 21.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on sex trafficking is not statutorily mandated, but the social services commissioner is authorized by law to contract with NGOs experienced in working with CSEC victims to train law enforcement. Single party consent to audiotaping is allowed, and wiretapping is authorized for sex trafficking and promoting prostitution in the first and second degree investigations. No law expressly authorizes the use of a decoy or the use of the Internet by law enforcement to investigate cases of sex trafficking. New York maintains a Statewide Central Register for Missing Children and a Missing and Exploited Children Clearinghouse, and requires reporting of missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

The sex trafficking statute includes actions of facilitators as crimes, and facilitators could be charged with other CSEC offenses and could be in violation of New York’s organized crime control act. Aiding or facilitating in an act or enterprise of prostitution of a minor under 19 is a felony with a varying degree of crime and punishment based on the age of the victim: if the victim is under 11, a conviction is punishable by 1–20 years imprisonment; 11–15 is punishable by 1–15 years imprisonment; 16–18 is up to seven years. Additionally, promoting prostitution in the third degree addresses sex tourism and includes the crime of controlling or owning a business selling travel for the purpose of prostitution. Convictions of promoting prostitution in the third degree and promoting sexual performance of a minor under 17 are felonies punishable by up to seven years imprisonment. All felonies are punishable with possible fines up to \$5,000 or “double the amount of the defendant’s gain from the commission of the crime,” whichever is higher. For a conviction of a felony, facilitators may be required to forfeit all proceeds they gained in the commission of the felony and face forfeiture for all equipment used to manufacture or distribute child pornography.

NORTH CAROLINA

FINAL GRADE: D

Summary

While the state sex trafficking law includes sex trafficking of a minor without regard to the use of force, fraud, or coercion, the law fails to include facilitators. North Carolina also lacks several important victim protections and law enforcement tools, such as mandated training on domestic minor sex trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

North Carolina's human trafficking law addresses sex trafficking and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state has several commercial sexual exploitation (CSEC) laws including promoting prostitution of a minor, participating in prostitution of a minor, first and second degree sexual exploitation of a minor, and employing a minor in an obscene act. North Carolina's CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The state human trafficking law tracks the federal law and could be applied to buyers through the word "obtain," following federal precedent. However, North Carolina requires the buyer have the "intent that the other person be held in involuntary servitude or sexual servitude," making it unlikely to apply to buyers. The CSEC law of participating in prostitution of a minor separately criminalizes purchasing commercial sex acts with a minor, and solicitation laws distinguish between the crimes of buying sex with an adult versus buying sex with a minor. Mistake of age is not a defense to participating in the prostitution of a minor. While the state has no statute or heightened penalties for using the Internet to purchase commercial sex acts from a minor, the statute on solicitation of a child by computer or other electronic means to commit an unlawful sex act might apply. Though not mandatory, buyers also could be ordered to pay restitution to the domestic minor sex trafficking victim. Convicted buyers of commercial sex acts with minors are required to register as sex offenders for participation in the prostitution of a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers do not receive penalties as high as federal trafficking offenses (10 years to life). Violations of human trafficking, sexual servitude, using a minor to create child pornography or in a live sexual performance for pecuniary gain, and promoting prostitution of a minor are felonies carrying presumptive sentences of 58-73 months' imprisonment. Additionally, a trafficker could be in violation of continuing criminal enterprise and racketeering laws. The statute on solicitation of a child by computer or other electronic means to commit an unlawful sex acts provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. Traffickers are subject to asset forfeiture laws, and though not mandatory could be ordered to pay restitution to a victim. Traffickers are required to register as sex offenders for convictions of sexual servitude and CSEC offenses. Violations of human trafficking and CSEC offenses are not expressly mentioned as grounds for terminating parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence
Participating in prostitution of a minor (§ 14.190.19)	Class F felony	13-16 months
Purchasing child pornography (§ 14-190.17)	Class E felony	20-25 months
Possessing child pornography (§ 14-190.17A)	Class H felony	5-6 months

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5
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FINAL SCORE:

61

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims continue to be vulnerable due to gaps in the laws. Human trafficking and CSEC laws do not prohibit a defense based on consent of the minor, though the law on solicitation of a child by computer does expressly prevent a defense based on the consent of the minor. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No laws expressly identify a CSEC victim as a victim. A CSEC victim could be considered an “undisciplined juvenile” or enter the justice system as delinquent juveniles, and no specific protective provisions are statutorily mandated for CSEC victims. However, a victim found to be abused—defined to include being a victim of child pornography laws or CSEC laws, but not including sex trafficking—might receive protection through child protective services. Also, the definition of “custodian” is not limited to those with legal custody of the child and includes those who have assumed “the status and obligation of the parent,” making the term broad enough to potentially include a trafficker and therefore allow for child welfare intervention. While CSESC victims would likely be eligible for state crime victims’ compensation, several eligibility criteria may limit their ability to recover, including requirements to cooperate with law enforcement, to report the crime to law enforcement within 72 hours unless good cause is shown, and to file a claim for compensation within 2 years. Victim-friendly court procedures such as the “rape shield” law, which limits traumatizing cross-examination of testifying victims, are not available to CSEC victims, and the ability to testify via closed circuit television is limited to children under 16. Minors may petition for the expunction of misdemeanors from juvenile records 2 years after the date of a conviction or 2 years after the completion of probation. In addition, upon reaching 18, a person may petition for the expunction of records. A court must order an offender of human trafficking and CSEC offenses to pay CSEC victims restitution, and a victim may pursue civil remedies against an offender. North Carolina does not have a statute of limitations for felonies, and thus allows a CSEC felony to be brought at any time. Additionally, the statute of limitations for CSEC victims pursuing a civil cause of action does not begin to run until the victim reaches 18.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

There is no mandated training on domestic minor sex trafficking for law enforcement in North Carolina; however, the North Carolina Justice Academy is required to develop a protocol and training materials on human trafficking, which is made available to law enforcement. Single party consent to audiotaping is permitted. Wiretapping is allowed in CSEC investigations, but not allowed in sex trafficking investigations. No law expressly authorizes the use of a decoy in the investigation of prostitution or sex trafficking cases, but law enforcement may utilize the Internet to investigate buyers and traffickers relying on the crime of solicitation of a child by computer, which includes communicating with a person the offender believes is under 16 to meet with the offender or another person to commit an unlawful sex act. North Carolina requires a statewide reporting and response system for lost, missing or runaway children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law does not include the crime of assisting, enabling, or financially benefitting from human trafficking. However, the CSEC offense of promoting prostitution of a minor is a felony that applies to facilitators and carries a presumptive sentence of 58-73 months’ imprisonment. A facilitator is subject to asset forfeiture and could also be subject to continuing criminal enterprise and racketeering laws, leading to additional financial penalties. Facilitating a minor to engage in sexual conduct for child pornography is a felony punishable with a presumptive sentence of 58-73 months’ imprisonment. Distributing, transporting, or exhibiting child pornography is a felony punishable by a presumptive sentence of 20-25 months. No laws in North Carolina address sex tourism.

NORTH DAKOTA

FINAL GRADE: F

Summary

While North Dakota has a strong sex trafficking law with strong possible penalties for traffickers and facilitators, the state lacks adequate laws to combat demand of commercial sex with minors and protect victims. For example, no commercial sexual exploitation of children (CSEC) laws include the crime of buying sex with a minor, and solicitation laws do not distinguish between buying sex with a minor versus an adult.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

North Dakota's human trafficking law addresses sex trafficking and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state CSEC laws include: facilitating prostitution, use of a minor in a sexual performance, promoting or directing an obscene sexual performance by a minor, minor performing in obscene performance, and promoting a sexual performance by a minor. North Dakota's CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The state human trafficking law tracks the federal law and could, following federal precedent, be applied to buyers through the use of the word "obtain." No CSEC laws include the crime of buying sex with a minor. However, the corruption of a minor statute could potentially be applied to buyers of commercial sex with minors providing heightened penalties for buyers. The solicitation of prostitution statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. While the state has no statute or heightened penalties for using the Internet to purchase commercial sex acts with a minor, the statute on luring minors by computer or other electronic means might apply. Though not mandatory, a court could order a buyer to pay restitution for pecuniary damages. Buyers of sex with minors prosecuted under the state human trafficking law may not assert an age mistake defense, but most CSEC statutes are silent on this defense and the sexual performance by a minor statute expressly permits an age mistake defense. The statute relating to corruption or solicitation of minors staggers penalties based on the age of the minor and the adult involved. Buyers of sex with minors may be required to register as sex offenders if convicted of prostitution-related offenses or sex trafficking of a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the human trafficking and CSEC laws a trafficker could receive penalties as high as federal trafficking offenses, and a trafficker could be in violation of racketeering laws. Human trafficking is a Class AA felony, punishable by a maximum of life imprisonment without parole and subject to asset forfeiture and restitution. Using a minor in a sexual performance, including creating child pornography, is a Class B felony punishable by imprisonment up to 10 years and/or a fine not to exceed \$10,000. Other CSEC crimes applicable to traffickers range from Class A misdemeanors (maximum 1 year imprisonment and/or fine up to \$2,000) to Class C felonies (maximum 5 years imprisonment and/or fine not to exceed \$5,000). Asset forfeiture is applicable to these crimes, and although not mandatory, pecuniary restitution is possible. The statute on luring minors by computer or other electronic means provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts which may include trafficking. Traffickers may have to register as sex offenders if convicted of sex trafficking a minor, exploiting a minor to make pornography, and prostitution-related offenses when a minor is involved. Parental rights may be terminated for convictions of sexual performance of the child, corruption or solicitation of minors, or luring minors by computer or other electronic means, but not sex trafficking.

DEMAND | SELECTED COMMERCIAL SEX CRIMES *

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Hiring an individual to engage in sexual activity (§ 12.1-29-06)	Class B misdemeanor	Max. 30 days	Max. \$1,000	●
Possession of child pornography (§ 12.1-27.2-04.1)	Class C felony	Max. 5 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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FINAL SCORE:

53.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims continue to be vulnerable due to gaps in the laws. Perpetrators of commercial sex offenses may assert a defense that the minor consented. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No laws expressly identify a CSEC victim as a victim, leaving open the possibility that victims can enter the justice system as delinquents and no specific protective provisions are statutorily mandated for them. However, a victim found to be abused or neglected—defined to include being a victim of the crime of sexual performance by children but not including human trafficking or other CSEC crimes—might receive protection through child protective services. Also, the definition of “person responsible for the child’s welfare” is not limited to those with legal custody of the child and includes “any member of the child’s household,” making the term broad enough to potentially include a trafficker and therefore allow for child welfare intervention. While CSEC victims would likely be eligible for state crime victims’ compensation, several eligibility criteria may limit their ability to recover, including reduction due to contributory misconduct and a requirement to file a claim within one year unless “the interests of justice so require.” Victim-friendly court procedures may be available to certain child victims of a classified “sex offense,” including the “rape shield” law to reduce the trauma of cross-examination for testifying victims. Victims of the crime of corruption or solicitation of minors are eligible for these protections, but other CSEC victims must have the crime filed as a sex offense to access these protections. Juvenile delinquency adjudications are only retained until 10 years after expiration of the final order or 10 years after the minor reaches 18. Restitution to victims is a mandatory part of sentencing for human trafficking convictions, and restitution for pecuniary damages is available in all CSEC convictions. Civil remedies are not expressly provided for CSEC victims, unless they are also victims of racketeering. North Dakota has a three year statute of limitations for criminal actions, which can be lengthened in certain cases including corruption or solicitation of minors, but not for human trafficking or other CSEC crimes. The statute of limitations for civil actions does not begin to run until the minor reaches 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

There is no mandated training on domestic minor sex trafficking for law enforcement in North Dakota. Single party consent to audiotaping is permitted, and wiretapping is allowed in some scenarios although no law specifically authorizes wiretapping for CSEC investigations. No law expressly authorizes the use of a decoy in the investigation of prostitution or sex trafficking cases, but law enforcement may utilize the Internet to investigate buyers and traffickers relying on the crime of luring minors by computer or other electronic means, which includes luring a person the offender believes is a minor. North Dakota requires a statewide reporting and response system for lost, missing or runaway children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of assisting, enabling, or financially benefiting from human trafficking. Human trafficking is a Class AA felony, punishable by maximum imprisonment of life without parole. The CSEC crime of facilitating prostitution also applies to facilitators. When the minor is under 16, a violation is a Class C felony with a maximum 5 years imprisonment and/or a fine not to exceed \$5,000. When the minor is 16 or 17, a violation is a Class A misdemeanor punishable by a maximum of one year imprisonment and/or a fine not to exceed \$2,000. Crimes facilitators commit are within defined racketeering offenses which could lead to additional financial penalties. Various child pornography laws apply to facilitators with penalties for first violations ranging from Class B felonies (maximum 10 years imprisonment and/or a fine not to exceed \$10,000) to Class C felonies (maximum 5 years imprisonment and/or a fine not to exceed \$5,000). Penalties for child pornography offenses can be enhanced for both of these crimes if the offender acts for a corporation, partnership, or other legal entity. Facilitators are subject to asset forfeiture and could be ordered to pay mandatory restitution for a violation of the human trafficking law or possible restitution for violations of other applicable laws. No laws in North Dakota address sex tourism.

Summary

Ohio's trafficking in persons law does not distinguish between sex trafficking of an adult or a child and requires the use of force, fraud or coercion. Facilitation of trafficking is not made a crime and convicted traffickers are not required to register as sex offenders, making all children vulnerable to exploitation and insufficient protective laws may fail child victims of human trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The state trafficking in persons law does not distinguish between the sex trafficking of adults versus minors and requires proof of force, threat of force, or fraud. State commercial sexual exploitation of children (CSEC) laws include: compelling prostitution, promoting prostitution, pandering obscenity involving a minor, and pandering sexually oriented matter involving a minor. Compelling prostitution and promoting prostitution refer to trafficking in persons by providing enhanced penalties where an offender committed the crime in furtherance of human trafficking but might not lead to proper identification of a victim of these crimes as a sex trafficking victim.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in persons uses the word “obtain” and could, following federal precedent, be applied to buyers; however, Ohio requires the buyer know that the victim was compelled to engage in commercial sex acts, narrowing its potential applicability. Compelling prostitution includes the crime of buying sex with a minor. Buyers convicted of compelling prostitution face mandatory restitution to the victim and could be subject to Ohio’s general criminal asset forfeiture provisions. Compelling prostitution, pandering obscenity involving a minor, and pandering sexually oriented matter involving a minor all prohibit an age mistake defense and make it a crime when the victim is under 18. Ohio’s importuning law, which prohibits use of an electronic communication device to solicit sex with a child under 16 (enhanced penalties for a child under 13), might apply to buyers who use the Internet although it does not specifically include commercial sex acts. Buyers of sex with minors are required to register as sex offenders if convicted of compelling prostitution of a minor, pandering obscenity involving a minor, or pandering sexually oriented material involving a minor.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Compelling prostitution (use of force, fraud, or coercion against victim 16–18) (§ 2907.21(A))	Felony of the second degree	2–8 years	Max. \$15,000	●
Compelling prostitution (use of force, fraud, or coercion against victim under 16)	Felony of the first degree	3–11 years	Max. \$20,000	●
Compelling prostitution (no force, fraud, or coercion, minor any age)	Felony of the third degree	9–36 months	Max. \$10,000	●
Possessing child pornography (§§ 2907.321(A)(5), 2907.322(A)(5))	Felony of the third degree	9–36 months	Max. \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Trafficking in persons, compelling prostitution (use of force, fraud, or coercion against victim 16–18), pandering obscenity involving a minor, and pandering sexually oriented matter involving a minor are punishable as felonies of the second degree by imprisonment for 2–8 years and possible fines up to \$15,000. Compelling prostitution (use of force, fraud or coercion against victim under 16) is punishable as a felony in the first degree by imprisonment for 3–11 years and a possible fine up to \$20,000. When no force, fraud, or coercion was used against a minor of any age, compelling prostitution is a felony in the third degree punishable by 9–36 months imprisonment and a possible fine up to \$10,000. Promoting prostitution of a minor also is punishable as a felony in the third degree by 9–36 months imprisonment and a possible fine up to \$10,000. Traffickers who commit compelling prostitution or promoting prostitution in furtherance of human trafficking face enhanced penalties and traffickers could also be subject to money laundering and racketeering laws leading to additional penalties. Though the Internet is increasingly used by traffickers, no statute expressly makes using the Internet to sell commercial sex acts with a minor a crime. Traffickers convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution and could be subject to Ohio’s general criminal asset forfeiture provisions. Traffickers must register as sex offenders for convictions under most CSEC laws, but not if convicted of trafficking in persons or promoting prostitution. Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.



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FINAL SCORE:

60.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Trafficking in persons and Ohio's CSEC laws do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and provide no affirmative defenses to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system as a delinquent child and could face detention. However, because a child victim of a CSEC offense is considered by law an abused child, a victim could receive a protective response through child welfare if the definition of custodian is determined to reach traffickers in control of an abused child. Crime victims' compensation is available for victims of CSEC offenses; however, knowingly participating in the conduct giving rise to the injury and a requirement to cooperate with law enforcement could prevent CSEC victims from receiving compensation. Victim-friendly trial procedures are available to some CSEC victims. Children under 13 who are victims of compelling prostitution, pandering sexually oriented material involving a minor, or pandering obscenity involving a minor may give videotaped deposition testimony; in addition, general crime victims' rights prevent the release of identifying information and provide for separate waiting rooms during trial. Ohio's "rape shield" law however is limited to victims of rape, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. A juvenile's records may be expunged either five years after they have been sealed or upon the juvenile's 23rd birthday. Criminal restitution to victims of trafficking in persons, compelling prostitution and promoting prostitution is mandatory, but no specific civil remedies are provided to victims of sex trafficking or CSEC. Prosecutions for trafficking and most CSEC crimes must begin within six years of the crime, except that prosecutions for compelling prostitution may be brought within 20 years of the crime; however, when the crime victim is a minor, the statute of limitations tolls until the minor turns 18 or the crime is reported to law enforcement.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations of trafficking in persons, compelling prostitution, and promoting prostitution, providing important tools for investigation and evidence for prosecutions. No laws expressly authorize the use of a decoy or the Internet in trafficking in persons investigations, but these investigative tools could be used relying on importuning, applicable to in-person and online solicitations when a person over 18 solicits a child under 13 or a person at least 20 years old solicits a person 13–16 to engage in sexual activity, which could include trafficking. Ohio has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Trafficking in persons does not include the crime of assisting, enabling, or financially benefitting from trafficking in persons. A facilitator may be found guilty of compelling or promoting prostitution and pornography. Punishments for compelling prostitution range from a felony of the third degree with 9–36 months' imprisonment to a felony in the first degree by imprisonment for 3–11 years and a possible fine up to \$20,000 (use of force, fraud, or coercion against victim under 16). Promoting prostitution of a minor also is punishable as a felony in the third degree by 9–36 months imprisonment and a possible fine up to \$10,000, except that those who commit compelling prostitution or promoting prostitution in furtherance of human trafficking face enhanced penalties. Facilitators also could be subject to money laundering and racketeering laws leading to additional penalties. Promoting or selling child pornography is punishable under pandering sexually oriented material involving a minor and pandering obscenity involving a minor as a felony of the second degree by imprisonment for 2–8 years and a possible fine up to \$15,000. Facilitators convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution and could be subject to Ohio's general criminal asset forfeiture provisions. No laws in Ohio address sex tourism.

Summary

Oklahoma provides enhanced penalties where a human trafficking victim is a minor; however, the law requires the use of “deception, force, fraud, threat or coercion” to cause a minor to engage in commercial sex acts. Human trafficking victims may not be penalized for having been trafficked, but minors are not specifically excluded from prosecution for prostitution.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Oklahoma’s human trafficking law imposes heightened penalties when the victim is under 18 years of age; however, the law requires proof of “deception, force, fraud, threat or coercion” even when the victim is a child. Commercial sexual exploitation of children (CSEC) laws include: soliciting, aiding or participating in child prostitution, procuring a child for prostitution, inducing or detaining a child for prostitution, and procuring minors for participation in pornography. The CSEC laws do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law could be applied to buyers who “obtain” a minor for commercial sex acts following federal precedent, but only if the buyer uses force, fraud, or coercion to cause the prostitution. Soliciting child prostitution includes the crime of buying sex with a minor under 16, leaving older minors unprotected. Statutes on soliciting sexual conduct with a minor and indecent proposals to a child under 16 could provide a means of obtaining heightened penalties for buyers using the Internet to commit illegal sex acts, which could include commercial sex acts with a minor. The human trafficking law and CSEC laws do not prohibit a defendant from using a mistake of age defense, shifting the burden of proof and making prosecution more difficult. Buyers convicted under the human trafficking law face mandatory restitution to the victim and could be liable for civil damages; if convicted of any other offense, then victim restitution may be ordered by the court at sentencing. Buyers of sex with minors may be required to register as sex offenders if convicted of possession of child pornography, soliciting sexual conduct with a minor, or indecent proposals to child under 16, but not for human trafficking or soliciting child prostitution.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face prosecution under human trafficking, CSEC, racketeering and money laundering laws, with sentences comparable to those under federal law (10 years–life). Human trafficking of a minor is punishable by a minimum imprisonment of 10 years and/or a fine up to \$20,000, while participating in child prostitution is punishable by up to 10 years and a fine up to \$10,000. Procuring a child for prostitution is punishable by 1–10 years imprisonment and detaining a child for prostitution is punishable by 1–25 years imprisonment and a fine of \$5,000–\$25,000. Offenses related to commercially distributing child pornography, preparing child pornography, and procuring minors for child pornography are punishable by up to 10, 20, and 25 years imprisonment respectively and/or fines up to \$10,000 or \$25,000. The statutes on facilitating sexual conduct with a minor and indecent proposals to child under 16 could reach traffickers who use the Internet to recruit minors for illegal sex acts, which may include human trafficking. When convicted of human trafficking, victim restitution is mandatory and the trafficker could be liable for civil damages. Traffickers convicted of human trafficking, participating in child prostitution, or creating child pornography are subject to asset forfeiture. Traffickers must register as sex offenders if convicted of most CSEC and child pornography-related offenses, but not for human trafficking or participating in child prostitution. Convictions for human trafficking or CSEC offenses do not result in termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Soliciting child prostitution (under 16) (tit. 21, § 1029)	Felony	Max. 10 years	Max. \$5,000	○
Possessing child pornography (tit. 21, § 1024.2)	Felony	Max. 5 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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13.5
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27.5



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FINAL SCORE:

65.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Gaps in the law prevent full protection of CSEC victims in Oklahoma. Human trafficking and most CSEC laws do not prohibit a defense based on consent of the minor; however, procuring a minor for participation in child pornography and parent consenting to a child participating in child pornography do prohibit a defense based on consent of the minor to the commercial sex acts. Prostitution offenses are not limited in application to adults, but human trafficking victims may not be penalized for offenses committed while being trafficked and the law provides that human trafficking victims should be housed in appropriate shelters. Also, a child victim of prostitution or pornography is considered for purposes of the child welfare laws an abused child and, if the definition of “custodian” is determined broad enough to include a trafficker in control of the child, then the child will receive a protective response through social services. However, a victim of CSEC could be treated as a delinquent for committing a delinquent act or running away from home, and instead receive possible detention. If identified as a victim and suffering economic loss, human trafficking and CSEC victims are eligible for state crime victims’ compensation, although eligibility criteria, including a requirement that the crime be reported within 72 hours and a claim filed within one year (unless good cause is shown to extend the filing time to up to two years) could operate to deny them an award. There is also a bar to recovery if the victim participated or assisted in a criminal act and possible bar for refusal to cooperate with law enforcement. Victim-friendly court procedures are available to human trafficking victims, which prevent the release of identifying information and protect trafficked persons from intimidation, but the “rape shield” law, which protects testifying victims from the trauma of cross-examination, is limited to victims of sexual offenses that do not include CSEC or human trafficking. Most juvenile records are confidential and those that are not may be expunged when the minor turns 21, subject to certain requirements. Criminal restitution is mandatory for victims of human trafficking and restitution may be awarded to other victims. Civil remedies are also provided for human trafficking victims. Prosecutions for human trafficking and CSEC offenses must begin within 3 years after the crime, while prosecutions for procuring a minor for participation in child pornography and parental consent to participation in child pornography must begin within 12 years after the crime. Statutes of limitations for civil claims based on damages from being trafficked do not begin to run until the later of the victim’s freedom from the defendant or the victim’s 21st birthday.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not statutorily mandated. Single party consent to audiotaping is permitted, but wiretapping is not allowed in investigations for human trafficking or CSEC offenses. No laws expressly authorize the use of a decoy or the Internet in human trafficking investigations, but both may be possible in investigations into facilitating sexual conduct with a minor, applicable to online solicitations of sexual conduct with a minor, and indecent proposals to child under 16 through in-person and online solicitations of a child under 16 to engage in sexual activity, both of which could include human trafficking. Oklahoma has established a statewide reporting and response system for missing children, but does not expressly require the reporting of located children—a gap that could prevent law enforcement from proactively identifying repeat runaways at high-risk of being sex trafficked.



CRIMINAL PROVISIONS FOR FACILITATORS

The human trafficking law includes the crime of financially benefitting from human trafficking. The crimes of aiding in child prostitution and procuring a child for prostitution may apply to facilitators, and facilitators could be subject to racketeering and money laundering laws. CSEC crimes applicable to facilitators are punishable as felonies: a first conviction under aiding in child prostitution is punishable by up to 10 years imprisonment and a fine up to \$10,000, and a first conviction for procuring a child for prostitution is punishable by 1–10 years imprisonment. When convicted of human trafficking, victim restitution is mandatory and the facilitator could be liable for civil damages; if convicted of any other offense, then victim restitution may be ordered by the court at sentencing. Facilitators convicted of human trafficking, aiding in child prostitution, racketeering, and distributing child pornography are subject to asset forfeiture. No laws in Oklahoma address sex tourism.

OREGON

FINAL GRADE: D

Summary

Oregon's trafficking in person law does not include child sex trafficking and requires the use of force. Traffickers also are not required to register as sex offenders, creating vulnerability for children and insufficient protective laws may fail child victims of human trafficking.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Oregon's trafficking in persons statute does not specifically include the sex trafficking of children and requires the use of force even when a minor is the victim. Oregon has several commercial sexual exploitation of children (CSEC) laws, including patronizing prostitution when a minor is involved, compelling prostitution of a minor, and using a child in a display of sexually explicit conduct. The CSEC laws do not refer to trafficking in persons for prosecution or victim identification or protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in persons could, following federal precedent, be applied to buyers who "obtain" a person for commercial sex acts with knowledge that the victim was forced to engage in the commercial sex acts. Patronizing prostitution distinguishes between buying commercial sex acts with an adult and a minor by imposing enhanced penalties on adults convicted of soliciting a minor under 18. Online sexual corruption of a child may provide a means of prosecuting buyers who use the Internet to engage in illegal sex acts, which may include soliciting commercial sex acts with a minor. Buyers convicted of trafficking in persons, patronizing prostitution, and possession of child pornography are subject to asset forfeiture, may be required to pay restitution, and may face liability for civil damages. Patronizing a prostitute prohibits a defense based on age mistake; however, an affirmative defense exists for buyers who possess and purchase child pornography if the buyer did not have reason to know that the sexually explicit conduct involved a child. Buyers of sex with minors are not required to register as sex offenders if convicted of trafficking in persons or patronizing a prostitute, even when it involves a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Trafficking in persons, compelling prostitution, and distributing child pornography are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000, while using a child in display of sexually explicit conduct is a Class A felony punishable by up to 20 years imprisonment and a fine up to \$375,000. Online sexual corruption of a child may provide a means of prosecuting traffickers who use the Internet to recruit or sell illegal sex acts with a minor, which may include commercial sex acts. Traffickers could also face prosecution under racketeering and money laundering laws leading to additional penalties. Traffickers convicted of trafficking in persons or any CSEC offense are subject to asset forfeiture for both the proceeds of the crime and instrumentalities used in the crimes, may be required to make restitution to their victims, and may face liability for civil damages. Traffickers must register as sex offenders for convictions of compelling prostitution, using a child in display of sexually explicit conduct and distributing child pornography, but not if convicted of trafficking in persons. Convictions for trafficking in persons or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and)	Asset Forfeiture (available)
Patronizing prostitution (minor under 18) (§ 167.007)	Class A Misdemeanor	Max. 1 year (1st offense); 7 days- 1 year (2nd offense); 30 days - 1 year (subsequent offenses)	\$10,000 (1st offense); \$20,000 (subsequent offenses)	●
Possessing and purchasing child pornography (with knowledge) (§ 163.686)	Class C Felony	Max. 5 years	Max. \$125,000	●
Possessing and purchasing child pornography (negligently) (§ 163.687)	Class A Misdemeanor	Max. 1 year	Max. \$6,250	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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27.5



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15

FINAL SCORE:

60.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of child sex trafficking and CSEC are not protected by the laws of Oregon. Trafficking in persons and CSEC offenses do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. Prostitution offenses are not limited to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and do not provide an affirmative defense of exploitation to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system and could face detention. However, for purposes of child welfare intervention, the definition of abuse includes a child victimized by sexual exploitation, which includes prostitution and child pornography, and the definition of caregiver includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims' compensation is available for CSEC victims and they are expressly permitted to recover for medical expenses. However, failing to cooperate with law enforcement, report the crime within 72 hours, or file a claim within six months of the crime, absent a showing of good cause, could prevent CSEC victims from receiving compensation. CSEC victims also may be barred from recovery if the injury was substantially attributable to a wrongful act of the victim. Some victim-friendly trial procedures are available for CSEC victims, including allowing victims under 12 to testify via closed circuit television under specified circumstances. However, Oregon's "rape shield" law is limited to victims of non-commercial sexual offenses, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination. Juvenile records can be expunged when the child turns 18, if five years have elapsed since the date of the most recent termination, no subsequent felony or class A misdemeanors have been committed, and there are no pending investigations. Victim restitution and civil remedies are available. Prosecutions for trafficking in persons must be brought within three years of the crime, while prosecutions for compelling prostitution and using a child in a display of sexual conduct must be brought within six years, or if the child was under 18, the earlier of the victim turning 30 or within 12 years of the crime being reported. Civil actions by victims of trafficking must be brought within six years of the conduct giving rise to the claim, while those based on child abuse, which includes CSEC offenses, must be brought before the victim turns 40, or within five years of the victim's discovery of the "causal connection between the child abuse and the injury."



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not mandated by law. Single party consent for audiotaping is permitted and wiretapping is allowed in investigations of patronizing prostitution and racketeering, as well as in the investigation of any felony under specified emergency circumstances. No laws expressly authorize the use of a decoy in investigating prostitution of children or the Internet in trafficking in persons, CSEC or child pornography investigations. Oregon has established a statewide reporting and response system for missing persons and requires the reporting of missing and located children.



CRIMINAL PROVISIONS FOR FACILITATORS

Oregon's trafficking in persons law includes the crime of financially benefitting from a venture involving subjecting another person to involuntary servitude, if there is proof of force, while compelling prostitution also applies to facilitators who aid or facilitate the commission of prostitution of a minor. Trafficking in persons, compelling prostitution, and promoting and selling child pornography are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000. Facilitators could also face prosecution under racketeering and money laundering laws leading to additional penalties. Facilitators convicted of trafficking in persons or CSEC offenses are subject to asset forfeiture, may be required to pay restitution to their victims, and may face liability for civil damages. No laws in Oregon address sex tourism.

PENNSYLVANIA

FINAL GRADE: F

Summary

Pennsylvania's human trafficking law does not include sex trafficking, relying instead on commercial sexual exploitation of children (CSEC) laws to prosecute offenders, resulting in disparity in identification and treatment of the victims. Victims who are not identified or are deemed complicit in prostitution may face barriers to accessing protection or justice.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Pennsylvania's human trafficking law does not include the crime of trafficking adults or minors for commercial sex acts. The commercial sexual exploitation of children ("CSEC") laws include promoting prostitution of a minor, hiring a minor to engage in a sexual performance, and unlawful contact with a minor for prostitution offenses. The CSEC laws do not identify the victims as human trafficking victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Although the state human trafficking law includes the word "obtain" in the means, which could be applied to the actions of buyers of commercial sex with minors following limited federal precedent, the law fails to include sex trafficking. This leaves the CSEC crime of unlawful contact with a minor as the sole criminal statute to prosecute child sex trafficking, which includes buying sex with a minor and contacting a minor through a computer to engage in prostitution. Also, the patronizing a prostitute law does not distinguish between buying sex acts with an adult versus a minor. The unlawful contact with a minor statute does not prohibit a defense of age mistake, allowing buyers to claim they did not know the child was under 18, while non-CSEC sexual offenses, such as corruption of minors and sexual abuse of children (photographing or videotaping a minor) do prohibit an age mistake defense. A convicted buyer must pay restitution to the victim who suffers personal injury as a result of the crime against her or him. A buyer is required to register as a sex offender for a conviction of unlawful contact with a minor for prostitution and possessing child pornography.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Since the state human trafficking law does not define exploitation through commercial sex acts as a type of trafficking, the state must rely on CSEC and sexual offenses to prosecute sex traffickers, and the financial penalty of asset forfeiture available in cases of trafficking of persons is not able to be used against sex traffickers. Promoting prostitution of a minor under 16 and unlawful contact with a minor for prostitution including by computer are felonies punishable by fines up to \$15,000 and possible imprisonment up to 7 years. If the minor involved is 16 or 17, the penalty varies based on the subsection used to prosecute the trafficker and penalties could range from as little as a possible fine up to \$5,000 and possible imprisonment up to 2 years to a fine up to \$15,000 and possible imprisonment up to 7 years. Sexual exploitation of a child and creating child pornography are felonies punishable by a fine up to \$25,000 and possible imprisonment up to 10 years. When personal injury results from the crime, a court must order a trafficker to pay restitution to the victim. Traffickers could also be subject to state racketeering laws for their prostitution crimes, which can lead to enhanced financial penalties. Traffickers are required to register as sex offenders if convicted of CSEC offenses or child pornography offenses. Grounds for termination of parental rights do not include CSEC convictions.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence (possible)	Fine (possible)	Asset Forfeiture (available)
Unlawful contact with a minor (for prostitution) (18 Pa. Cons. Stat. § 6318)	3rd degree Felony	Max. 7 years	Max. \$15,000	○
Possessing child pornography (18 Pa. Cons. Stat. § 6312(d)(1))	3rd degree Felony	Max. 7 years	Max. \$15,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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27.5



12
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FINAL SCORE:

55.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in the state legal framework. State CSEC laws do not prohibit a defense to prosecution based on the consent of the minor to the sex acts. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No laws expressly identify a CSEC victim as a victim, and no protective provisions are statutorily mandated specifically for child victims of CSEC or sex trafficking. CSEC victims could be ordered dependent children or enter the justice system as delinquents. A victim found to be abused—defined to include sexual exploitation and prostitution—could receive protection through child protective services if the definition of “person responsible for the welfare of the child” is determined to extend to those with “temporary care” of the child—a definition which would include a trafficker in control of a child. CSEC victims are likely eligible for state crime victims’ compensation, but eligibility criteria may threaten a victim’s ability to recover, including a bar to recovery for failure to cooperate with law enforcement and a reduction of an award for conduct contributing to the injury. Additionally, victims have a requirement to report the crime to law enforcement within 72 hours, unless the victim was under 18 and the alleged offender is a person responsible for the victim’s welfare or person with whom the victim resides. Victim-friendly trial procedures are not widely available for child sex trafficking or CSEC victims. The “rape shield” law which limits the trauma of cross-examination for victims does not apply to protect CSEC victims; however, certain child victims under 16 in sexual offense trials may be permitted to testify through a closed-circuit television type method from a room other than the courtroom to limit interaction with their exploiter. Juvenile criminal records may be expunged 5 years after final discharge of the minor or when the minor reaches 18 under certain circumstances. A convicted offender must pay restitution for personal injury to a victim, but no civil remedy is expressly provided for CSEC or sex trafficking victims. The statute of limitations to prosecute CSEC crimes, such as promoting prostitution of a minor, is 5 years from the date of the crime and the statute of limitations begins to run for a child pornography prosecution when the victim turns 18 or as late as age 50 if not discovered until later. Civil actions based on childhood sexual abuse must be brought before a victim reaches 30.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Pennsylvania law does not mandate law enforcement training on domestic minor sex trafficking or human trafficking. The law requires both parties in an audiotaping to consent to the recording, although single party consent may be allowed with approval by the State or when an undercover officer records the conversation while meeting in person with the suspected offender. Wiretapping is allowed for specified CSEC offenses including prostitution and related offenses and unlawful contact with a minor. Law enforcement may use decoys and the Internet to investigate CSEC offenses relying on the unlawful contact with a minor statute which includes contacting, in person or via a computer, a law enforcement officer posing as a minor to solicit prostitution or engage in other forms of sexual exploitation of children. Law enforcement officers must report missing and recovered children through the Commonwealth Law Enforcement Assistance Network, providing important information to law enforcement about repeat runways who are at high-risk for sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

The human trafficking law does not include the crime of benefiting financially from human trafficking, and commercial sex acts are not included as a type of exploitation prohibited by the human trafficking law. The CSEC crime of promoting prostitution applies to some facilitators, such as those that lease or permit their premises to be utilized for prostitution and those that benefit from promoting prostitution. If the child involved is under 16, then these offenses are felonies in the third degree punishable by a fine up to \$15,000 and possible imprisonment up to 7 years. If the minor is 16 or 17, the offense is a misdemeanor in the second degree punishable by a possible fine up to \$5,000 and a possible prison sentence up to 2 years. Facilitating child pornography by selling, distributing, or displaying child pornography is a felony punishable by a fine up to \$15,000 and possible imprisonment up to 7 years. Facilitators are not subject to asset forfeiture; however, a facilitator could be found in violation of state racketeering law, imposing additional financial penalties. No laws in Pennsylvania make sex tourism a crime.

RHODE ISLAND

FINAL GRADE: D

Summary

Rhode Island's sex trafficking of a minor law reaches the actions of buyers, traffickers, and facilitators. However, the state CSEC and prostitution laws do not refer to the sex trafficking law for victim identification and deficiencies in victim protections may deter vulnerable victims from pursuing justice.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Rhode Island's separate sex trafficking of a minor law defines a minor under the age of 18 used in a commercial sex act as a trafficking victim without requiring proof of force, fraud, or coercion used in the commission of the trafficking. Commercial sexual exploitation of children (CSEC) laws include: exploitation for commercial or immoral purpose, employment of children for unlawful purposes, and indecent solicitation of a child. These laws do not refer to the sex trafficking of a minor law for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking of a minor law applies to buyers of commercial sex from a minor by making it a crime when a person “purchases a minor for the purposes of commercial sex acts.” Several CSEC laws also include the crime of buying sex with a minor, and solicitation of prostitution laws distinguish between purchasing commercial sex acts with an adult versus a minor. The indecent solicitation of a minor law includes soliciting a minor through any means, including the Internet, to engage in prostitution. The sex trafficking of a minor law does not require the prosecution to prove the defendant knew the age of the victim, eliminating any defense of age mistake. However, CSEC laws are silent on mistake of age defense, leaving open the possibility of a defendant using this defense. A court must order buyers convicted of sex trafficking of a minor to pay restitution to the victim, and restitution may be ordered for other CSEC victims. Buyers of sex with minors are required to register as sex offenders for convictions of CSEC offenses and possessing child pornography, but not for sex trafficking of a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face prosecution under sex trafficking of a minor and CSEC laws, and could be subject to money laundering and racketeering laws. Sex trafficking of a minor is a felony punishable by imprisonment up to 40 years and/or a fine up to \$40,000 and, although not expressly through the sex trafficking of a minor law, asset forfeiture through the state's general human trafficking law might apply. The CSEC offense of exploitation for commercial purposes through prostitution is punishable by imprisonment up to 20 years and/or a fine up to \$20,000. Producing child pornography carries a 15 year sentence and/or a fine up to \$15,000, while permitting a child to be used in child pornography is punishable by imprisonment up to 10 years and/or a fine up to \$10,000. Indecent solicitation of a child penalizes soliciting a minor by any means, including the Internet, to engage in prostitution, and imposes a minimum five year sentence. Traffickers convicted of sex trafficking of a minor are required to pay restitution to the victim. A trafficker is required to register as a sex offender for some CSEC and child pornography offenses, but not for sex trafficking of a minor. Rhode Island law does not expressly allow for the termination of parental rights based on convictions of sex trafficking of a minor or CSEC offenses, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Sex trafficking of a minor (“purchase a minor” for commercial sex acts) (§ 11-67-6)	Felony	Max. 40 years	Max. \$40,000	●
Indecent solicitation of a minor (Soliciting a minor to engage in an act of prostitution) (§ 11-37-8.8)	Felony	Max. 5 years	n/a	●
Possessing child pornography (§ 11-9-1.3)	Felony	Max. 5 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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10.5
27.5



9.5
15

FINAL SCORE:

65.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are not provided non-punitive responses or protection appropriate to their status as trafficking victims under the law. Sex trafficking of a minor and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution, and affirmative defenses provided in the statute are limited to proving force was used to cause the prostitution. Law enforcement may take CSEC victims into custody and direct that they be treated as “neglected” children; however, a CSEC victim could enter the juvenile justice system as a delinquent child. Abused and/or neglected children are defined to include those exploited through prostitution or pornography, but not sex trafficking. The definition of “person responsible for child’s welfare” who must commit the abuse or neglect in order to fall within the child protective services mandate is limited, making it unlikely that a child under a non-familial trafficker’s control would be rescued through child welfare intervention. Although CSEC offenses and sex trafficking of a minor are not specifically listed as crimes for which crime victims’ compensation is available, a CSEC victim may receive an award under the discretionary authority of the office of the general treasurer. Nonetheless, barriers to receiving an award include a requirement to report the crime within ten days and to file a claim within three years of injury, which may be waived if the victim was under 18 or if good cause is shown. A claim may also be denied if the victim fails to cooperate with law enforcement or if the victim’s conduct contributed to the injury. Courtroom protections are limited and the “rape shield” law which reduces the trauma of cross-examination for victims does not extend to CSEC victims. Juvenile criminal records may be sealed upon turning 18 or completion of any sentence. A victim of sex trafficking of a minor is entitled to mandatory restitution and victims of CSEC offenses may also receive restitution. Additionally, a CSEC victim may have a civil cause of action against an offender through a general law on civil liability for criminal offenses. The civil statute of limitations for actions based on the CSEC crime of indecent solicitation of a child are extended to the later of seven years from the date of the act or when the victim should have discovered an injury was a result of the act. Criminal actions for sex trafficking of a minor, CSEC offenses and child pornography crimes are not extended and must be brought within three years.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not mandated by law. Single party consent to audiotaping is permitted, but wiretapping is not allowed in investigations for sex trafficking of a minor or CSEC investigations. Law enforcement may use a decoy and the Internet to investigate CSEC relying on the indecent solicitation of a child statute, which includes soliciting a minor under 18 for prostitution both in person and via the Internet. Rhode Island has established a missing children’s information center and requires the reporting of missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

It is a crime to benefit financially from participating in the sex trafficking of a minor, punishable by up to 40 years imprisonment and/or a fine up to \$40,000, and required restitution to the victim. A facilitator could also be subject to the state’s money laundering and racketeering laws. The crime of promoting prostitution may apply to facilitators, and facilitators could be subject to laws on criminal gang activity, money laundering, racketeering, and asset forfeiture in addition. Distributing child pornography is punishable by imprisonment up to 10 years and/or a fine up to \$10,000, while transporting or delivering child pornography carries a sentence up to 15 years and/or a fine up to \$5,000. No laws in Rhode Island make sex tourism a crime, providing a soft environment for businesses selling travel based on commercial sex acts.

SOUTH CAROLINA

FINAL GRADE: F

Summary

South Carolina's human trafficking law fails to expressly identify sex trafficking and requires proof of force, fraud, or coercion used to cause the trafficking, even for minors. Penalties for human trafficking are not severe. Commercial sexual exploitation of children (CSEC) laws may carry higher penalties, though CSEC victims are not identified as trafficking victims and may face barriers to protection and services.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

South Carolina's human trafficking statute does not expressly include sex trafficking in its scope; however, its inclusion in the sex offender registration requirements indicates an intention to include sex trafficking of minors. The law requires proof of use of force, fraud, or coercion to effect the trafficking, even for minors. The state has several CSEC laws including promoting prostitution of a minor, participating in prostitution of a minor, first and second degree sexual exploitation of a minor, employment of person under 18 to appear in public state of sexually explicit nudity, and engaging a child for sexual performance and producing, directing or promoting sexual performance by a child. CSEC laws do not refer to the human trafficking law for prosecution and victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law does not expressly include the purchase of sex acts with a minor; however, following federal precedent, the term “obtain” in the law could be employed to prosecute attempted buyers if the buyer knows that the minor is subjected to force to cause the trafficking. The CSEC law against participating in prostitution of a minor prohibits buying sex with a minor. South Carolina's solicitation laws distinguish between buying commercial sex acts with an adult and a minor through the statute on criminal solicitation of a minor for sexual activity. This law also may provide a means of prosecuting buyers who use the Internet to engage in illegal sex acts, which may include purchasing commercial sex acts with a minor. The CSEC statutes of participating in prostitution of a minor and second degree sexual exploitation of a minor prohibit the age mistake defense. A buyer must register as a sex offender if convicted of participating in the prostitution of a minor, human trafficking, or criminal solicitation of a minor for sexual activity. Restitution is mandatory if a court finds pecuniary damages resulted from the crime.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Penalties for sex trafficking are not severe. A trafficker convicted of human trafficking, though the law does not expressly include commercial sex acts, could be sentenced to up to 15 years imprisonment, while promoting the prostitution of a minor and using or employing a minor to engage in a sexual performance are punishable by 3–20 years imprisonment, and recording, photographing or filming a minor engaged in a sexual activity is punishable by 2–10 years imprisonment. South Carolina does not assess fines for felonies. Traffickers could also be subject to criminal gang laws. Though not specific to the Internet, the statute on criminal solicitation of a minor may provide a means of prosecuting traffickers who recruit minors for illegal sex acts, which may include trafficking. Traffickers must register as sex offenders for various offenses, including human trafficking and any offense related to prostitution of a minor. Grounds for terminating parental rights exist when a victim is hospitalized or dies as a result of trafficking in persons or offenses related to child pornography. Restitution is mandatory if a court finds that pecuniary damages resulted from the crime. Traffickers are subject to asset forfeiture for child pornography offenses, but not for other crimes.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Participation in prostitution of a minor (§ 16-15-425)	Class F felony	2–5 years	n/a	○
Criminal solicitation of a minor (§ 16-15-342)	Class E felony	Max. 10 years	Max. \$5,000	○
Possessing child pornography (§ 16-15-410)	Felony	Max. 10 years	n/a	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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2.5
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12.5
27.5



7.5
15

FINAL SCORE:

48.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

CSEC victims continue to be vulnerable due to gaps in the laws. The human trafficking law and most CSEC crimes are silent on a defendant’s use of a defense of consent by the minor, although criminal solicitation of a minor, while not an expressly commercial offense, prohibits consent as a defense if the person is under 16, but specifically permits it if the minor is 16 or 17. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No specific protective provisions are statutorily mandated for CSEC victims, and a CSEC victim could enter the juvenile justice system under prostitution-related charges and receive detention. However, if a victim is found to be an abused or neglected child by a person responsible for the child’s welfare, the victim may receive a protective response through social services. Definitions of child abuse and neglect do not expressly include infliction of sex trafficking, CSEC, or pornography, but a child is considered abused when an adult allows a criminal offense to be committed against the child, which could include CSEC. The person responsible for the child’s welfare is defined to include an adult who has assumed the role and responsibility of a parent or guardian, but does not necessarily have legal responsibility, making it possible that abuse by a trafficker could allow for intervention by child protective services. Several eligibility criteria could prevent CSEC victims from accessing crime victim’s compensation, including denial of claims for contributing to or aggravating the injury, not reporting the crime within 48 hours unless special circumstances justify the delay, and not filing a claim within 180 days unless good cause is shown. No victim-friendly criminal justice procedures apply to protect testifying CSEC victims, and the “rape shield” law is not available to limit traumatizing cross-examination. Minors under 16 may have status and nonviolent offenses expunged, and minors who are 17 or committed D, E, or F felonies may have their records expunged one time. Restitution is mandatory if pecuniary damages resulted from the crime and civil actions may be filed by victims of sexual abuse, which include prostitution-related offenses and child pornography offenses. In South Carolina, a criminal case can be brought at any time, but the statute of limitations for civil actions must be brought by the time a minor is 27 or within 3 years of the time the injury is discovered.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

South Carolina law does not mandate training on CSEC, though such training could be included in the training provided by the Missing Person Information Center on exploited children. Single party consent to audiotaping is permitted, but wiretapping is not authorized for investigations related to CSEC. Use of a decoy and use of the Internet to investigate human trafficking is allowed relying on the crime of solicitation of a minor. Law enforcement is required to report missing children and once a child is rescued law enforcement must confirm and delete the records unless grounds for criminal prosecution exist.



CRIMINAL PROVISIONS FOR FACILITATORS

South Carolina’s human trafficking law penalizes one who “aids, abets, attempts, or conspires” in relation to human trafficking with up to 15 years imprisonment for a conviction, though the law itself does not clearly identify commercial sexual exploitation as a form of trafficking. Facilitators convicted of promoting prostitution of a minor and transporting or financing the transportation of a minor for pornography face 3–20 years imprisonment. Facilitators convicted of producing, directing, or promoting sexual performance by a child face up to 10 years imprisonment, while conviction for distributing, transporting, and selling child pornography is punishable by 2–10 years imprisonment. Facilitators convicted of use of taxi for prostitution, a misdemeanor, face up to 30 days imprisonment or a fine up to \$100. A facilitator could also be subject to criminal gang laws. Restitution is mandatory if a court finds pecuniary damages resulted from the crime. Convictions for child pornography crimes will subject a facilitator to asset forfeiture. No laws in South Carolina address sex tourism.

SOUTH DAKOTA

FINAL GRADE: F

Summary

The state human trafficking law includes sex trafficking but requires force be used in the commission even when the victim is a minor. The law provides limited options to prosecute demand. Victims of domestic minor sex trafficking are not provided with specific protection or services and law enforcement is not provided with training or access to wire-tapping—critical tools to aggressively pursue investigations and prosecution.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

South Dakota passed a human trafficking law in March 2011, and while it does include the crime of trafficking for commercial sexual activity, it requires force, fraud or coercion for all victims, including minors, with a heightened penalty if a victim involved is under 16. The state commercial sexual exploitation of children (CSEC) laws include promotion of prostitution and solicitation of a minor under 16, but neither law refers to the human trafficking law for prosecution or victim protections leaving some minors unidentified as human trafficking victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The state human trafficking law tracks the federal definition and could, following federal precedent, be applied to buyers through interpretation of the word “obtain” to include causing a person to engage in commercial sex acts, but knowledge that force, fraud, or coercion was used against the person is required. The solicitation of prostitution law does not distinguish between purchasing commercial sex acts with an adult versus a minor, however, solicitation of a minor under 16 to engage in any prohibited sexual act could include commercial sex acts in order to reach buyers. In the same statute, the use of the Internet to buy information about a minor under 16 in order to solicit that minor to engage in a sex act could be used to prosecute buyers who use that means to purchase sex with minors under 16; at the same time, this statute leaves older minors unprotected. This solicitation law prohibits an age mistake defense, but such defense is not prohibited in the sex trafficking law. Buyers could be required to pay restitution to the victim, and buyers who possess child pornography are subject to a civil suit by the victims. Buyers are required to register as sex offenders if convicted of possessing child pornography or buying information to solicit a minor online, but not for convictions of human trafficking for sexual purpose or solicitation for prostitution, even when the victim is under 18.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Solicitation of a minor (§ 22-24A-5)	Class 4 felony	Max. 10 years	Max. \$20,000	●
Hiring another to engage in sexual activity (§ 22-23-9)	Misdemeanor	Max. 1 year	Max. \$2,000	○
Possession of child pornography (§22-24A-3)	Class 4 felony	Max. 10 years	Max. \$20,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Under the state human trafficking law a trafficker could receive a sentence as high as that for federal trafficking offenses (10 years–life imprisonment), but CSEC laws do not carry the same high penalties. Sex trafficking is a felony punishable by imprisonment up to 25 years and a possible fine of \$50,000. Promoting prostitution of a minor is a felony punishable by imprisonment up to 5 years and a possible fine of \$10,000. Selling information online for the purpose of soliciting a minor under 16 to engage in a sex act, which could include sex trafficking, and creating child pornography are felonies punishable by imprisonment up to 10 years and a possible fine of \$20,000. A trafficker is subject to asset forfeiture and civil liability if convicted of child pornography offenses or selling information about a minor under 16 for the purpose of soliciting sex acts. Civil actions by victims of promoting prostitution of a minor may also be maintained. A trafficker convicted of creating child pornography or promoting prostitution of a minor is required to register as a sex offender, but there is no requirement to register if convicted of sex trafficking. Convictions for human trafficking and CSEC crimes are not expressly enumerated as grounds for terminating parental rights, but courts may find good cause exists for termination in the conviction for any felony.



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16
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12.5
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5.5
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6.5
27.5



9.5
15

FINAL SCORE:

54.5

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking are vulnerable due to gaps in the state legal framework. Child pornography offenders may not assert a defense that the minor consented to the acts, but such a defense is not prohibited in CSEC or sex trafficking crimes. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, putting child sex trafficking victims exploited through prostitution at risk of being identified and treated as offenders. No laws expressly identify a sex trafficking victim as a victim for the purpose of protection and the definition of a child in need of services does not expressly include a child subjected to sex trafficking or CSEC, further narrowing the possibility of a child victim receiving protective services. In addition, many child victims of sex trafficking are not likely to qualify for protection through child protective services due to the undefined term “sexual exploitation” within the definition of abuse or neglect and the limitation of the definition of “custodian” to family members or legal guardians. Child victims are eligible for state crime victims’ compensation, although eligibility criteria may limit their ability to recover, including requirements to cooperate with law enforcement and to report the crime within five days of when “a report could reasonably be made.” Victims also must file a claim for compensation within one year unless good cause is shown, and become ineligible if determined to have contributed to their injury. Sex trafficking and CSEC victims are not identified as eligible for victim-friendly trial procedures, such as the “rape shield” law which reduces the trauma of cross examination for testifying victims and closed-circuit television testimony (limited to victims of sex offenses under age 12). A court may seal juvenile records one year after the child is released from the court’s jurisdiction or from detention. A victim of sex trafficking or CSEC may seek restitution for pecuniary damages only, while victims of certain non-CSEC sex offenses are specifically eligible for “any necessary medical, psychological, or psychiatric treatment, or foster care of the minor resulting from the act or acts,” a disparity in justice for sex trafficking and CSEC victims. Victims of child pornography and promoting prostitution of a minor have a statutorily authorized civil remedy against their exploiter. CSEC and sex trafficking Prosecution have a seven year statute of limitations, while civil action is six years beginning at age 18.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

South Dakota law does not mandate law enforcement training on domestic minor sex trafficking or human trafficking. Single party consent to audiotaping is permitted, but the law does not authorize wiretapping for CSEC or human trafficking investigations, leaving law enforcement without this valuable tool and resulting evidence for better Prosecution. Law enforcement are free to use decoys and the Internet to investigate sex trafficking crimes as a result of the express denial of a defense to prosecution based on the “minor” being an “undercover operative or law enforcement officer” in the solicitation of a minor statute which makes it a crime to solicit a minor under 16 for any sex act, which may include commercial sex acts. Law enforcement are statutorily required to enter missing persons reports in the National Crime Information Center computer within 12 hours, but there is no express mandate to report found children which could help to identify repeat runaways at high-risk for commercial sexual exploitation.



CRIMINAL PROVISIONS FOR FACILITATORS

South Dakota’s human trafficking law makes it a crime to benefit financially or receive anything of value from trafficking. Benefitting financially from sex trafficking is a felony punishable by imprisonment up to 25 years and a possible fine of \$50,000. Selling child pornography or transporting victims or owning a place regularly used for prostitution are felonies punishable by imprisonment up to 2 years and/or a fine of \$4,000. Manufacturing or distributing child pornography is a felony punishable by imprisonment up to 10 years and a possible fine of \$20,000. A facilitator is subject to asset forfeiture and civil liability if convicted of a child pornography offense. No law makes sex tourism a crime in South Dakota.

TENNESSEE

FINAL GRADE: C

Summary

Penalties for buyers of commercial sex with minors and facilitators of sex trafficking are not sufficiently high to deter the crime. Minors exploited in prostitution are immune from prosecution but are not directed into services and may be deterred from pursuing justice and recovery due to lack of protections.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Tennessee’s human trafficking law, trafficking for sexual servitude, includes commercial sexual activity and defines a minor under 18 used in a commercial sex act as a human trafficking victim without regard to force, fraud, or coercion. The state CSEC laws include patronizing prostitution, promoting prostitution, especially aggravated sexual exploitation of a minor, solicitation of a minor, and soliciting sexual exploitation of a minor. The CSEC statutes do not refer to the trafficking for sexual servitude statute for prosecution and victim protection, potentially creating disparate identification and protections for child victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law tracks the federal definition and could, following federal precedent, be applied to buyers who “obtain” a minor under 18 for commercial sex acts. The crime of buying sex with any minor under 18 is a crime under the patronizing prostitution statute, which establishes a Class E felony for buying sex with a minor but penalties are far short of those provided through the sex trafficking law or comparable federal offenses. Tennessee has a statute that includes soliciting a minor via electronic means using the term “hire” to include commercial sexual activity within its scope, addressing the growing trend of buying and selling commercial sex through the Internet. Buyers face possible fines, restitution, and asset forfeiture for their crimes under the patronizing prostitution law and a court may order a convicted buyer of commercial sex with minors to pay victim restitution. If applicable to the crime of buying sex with a minor, trafficking for sexual servitude requires registration as a sex offender upon conviction; however, a conviction for patronizing prostitution when the victim is a minor does not require registration, meaning buyers of sex with minors are not being identified as sex offenders.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers may be found guilty of a range of laws. Trafficking for sexual servitude is a felony punishable by 8–30 years imprisonment, whereas the CSEC crime of promoting prostitution of a minor is a felony punishable by 1–6 years imprisonment. Both carry fines up to \$25,000. Using or employing a minor in a sexual performance and promoting, assisting, or transporting a minor to participate in a sexual performance are felonies punishable by 8–30 years imprisonment and fines up to \$25,000, while promoting or selling child pornography is punishable by 3–15 years imprisonment and a possible fine not to exceed \$10,000. Asset forfeiture and victim restitution can be pursued in most cases as well. A trafficker who solicits a minor via electronic means for commercial sexual activity may be culpable under a separate law punishable by 8–30 years and up to \$25,000 fine. Convictions for sexual servitude, aggravated exploitation of a minor and especially aggravated exploitation of a minor, but not promoting prostitution of a minor, require sex offender registration. Child sex trafficking and CSEC are not enumerated crimes for which the Department of Human Services must file a petition to terminate parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Patronizing prostitution of a minor (§ 39-13-514)	Class E felony	1–6 years	Max. \$3,000	●
Purchase child pornography (§ 39-17-1004)	Class C felony	3–15 years	Max. \$10,000	●
Possession of child pornography (§ 39-17-1003)	Class D felony	2–12 years	Max. \$5,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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16.5
27.5



12.5
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FINAL SCORE:

73

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims continue to be vulnerable due to gaps in the laws. Trafficking for sexual servitude and CSEC offenses do not prohibit a defense to prosecution by an offender based on consent of the minor to the commercial sex act, potentially deterring minors from pressing their claims of victimization for fear of explaining their exploitation. Minors under 18 are immune from prostitution charges under Tennessee law; however, victims are not provided with a statutory protective response leaving them to return home without mandated treatment or services. A victim may be determined to be an abused and neglected child as a result of the definition including commercial sexual exploitation, or a dependent and neglected child determined to include a child engaged in prostitution or child pornography (but not a human trafficking victim). However, the definition of “custodian” does not expressly include persons without legal custody of a minor and therefore would not bring such a child whose abuse is perpetrated by a trafficker within the mandate of child protective services intervention. Victims of sex trafficking are eligible for crime victims’ compensation, and pain and suffering expenses are additionally available to victims of pornography. However, a victim may be barred from recovering if determined to have been criminally responsible for the crime, did not cooperate with police, or did not file the claim within one year (extended for child pornography victims). Additionally, the crime must be reported within 48 hours unless good cause is shown (examples do not include commercial sexual exploitation victimization). The appointment of a guardian ad litem for victims exploited through prostitution or pornography could encourage child sex trafficking victims to pursue legal actions; however, the “rape shield” law which would reduce the trauma of cross-examination for testifying victims does not apply in sex trafficking or CSEC Prosecution. Juveniles may petition the juvenile court for expungement of criminal records if the juvenile is 18, one year has passed since the delinquency adjudication, and the minor has not been convicted of a criminal offense as an adult or adjudicated guilty of a violent juvenile sex offense. Victims of any crime may request restitution in the sentencing of their perpetrator. Civil remedies are available when the victim suffers physical, mental or pecuniary injury and is not an accomplice to the crime, and the statute of limitations for bringing action does not begin to run until the minor reaches 18. The criminal statute of limitations is extended for certain sexual offenses involving children, not including sex trafficking or CSEC offenses.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Tennessee law requires training on childhood sexual abuse, which covers sexual exploitation of a child, including exploitation through prostitution or pornography. Additionally, some funds realized through the human trafficking asset forfeiture provisions are allocated to training on human trafficking. Single party consent to audiotaping is permitted by law but wiretapping in investigations of child sex trafficking or CSEC is not permitted, denying law enforcement an effective investigative tool and hindering collection of actionable evidence. Law enforcement decoys and Internet investigation tools may be used for some crimes related to domestic minor sex trafficking. Law enforcement agencies are mandated to report missing children, maintain data on missing children, and report recovered children, allowing them to track repeat runaways who are at high risk for sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators who knowingly benefit financially from trafficking are not criminally liable under the trafficking for sexual servitude statute; however, they are liable under the trafficking for forced labor or services law. Several CSEC and child pornography offenses include actions of facilitators. The felony crime of promoting prostitution when a minor is involved is punishable by 1–6 years imprisonment and up to \$3,000 fine. A facilitator guilty of promoting or selling child pornography faces 3–15 years imprisonment and up to a \$10,000 fine with each image constituting a separate offense, and when more than 25 images are involved, an enhanced sentence of 8–30 years and up to a \$25,000 fine. Promoting, assisting, or transporting a minor to participate in a sexual performance is punishable by 8–30 years imprisonment and up to a \$25,000 fine. Facilitators may be liable under racketeering laws, which include as predicate crimes those applicable to facilitators. Asset forfeiture and victim restitution may also be pursued against facilitators of sex trafficking and CSEC. No laws in Tennessee address sex tourism.

Summary

Texas has several laws combatting domestic minor sex trafficking; however, minors are not statutorily immune from prosecution for prostitution and may face barriers to treatment and victims' compensation to fund their recovery.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Texas's sex trafficking law clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include compelling prostitution, prostitution of a minor, criminal solicitation of a minor, employment harmful to children, and continuous sexual abuse of young child or children through means such as sex trafficking, aggravated sexual assault, and sexual performance by a child. Several CSEC laws refer to the sex trafficking law to help ensure prosecution and victim protection.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law can be applied to prosecute a buyer who engages in sexual conduct with a trafficked child. It can also be applied to a buyer who commits two or more acts of sex trafficking of children under 14 during a period of 30 or more days in duration; this buyer can be found guilty of committing continuous sexual abuse of young child or children. CSEC laws include the crime of buying sex with a minor, and solicitation laws distinguish between buying sex with an adult versus buying sex with a minor. The sex trafficking law provides a wide sentencing range for engaging in sexual conduct with a trafficked minor under 18, while the solicitation of prostitution law provides enhanced penalties when the victim is under 14. Buyers convicted of sex trafficking of a child must pay restitution to the victim and are subject to civil liability to the victim for damages. In contrast, buyers convicted of CSEC offenses may be required to make restitution. The online solicitation of a minor law includes using the Internet to solicit a minor to engage in sexual contact might apply to buyers who use the Internet for this purpose. The sex trafficking law specifically prohibits the age mistake defense; however, CSEC offenses do not prohibit this defense. Buyers of sex with minors are required to register as sex offenders if convicted of sex trafficking, possessing child pornography, and some CSEC offenses; however, buyers convicted under the prostitution statute, even when it involves a minor, are not required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a minor and compelling prostitution of a minor are felonies punishable by 5–99 years imprisonment and a possible fine up to \$10,000. Two or more violations of sex trafficking within 30 days is a violation of continuous trafficking in persons punishable by 25–99 years imprisonment. A trafficker who employs a child to work in sexually oriented commercial activity or employs a child to appear in a sexual performance is guilty of a felony punishable by 2–20 years imprisonment when the victim is 14–18, and 5–99 years and a possible fine up to \$10,000 when the victim is younger than 14. Traffickers could also be subject to organized crime and criminal street gang laws leading to additional penalties. Online solicitation of a minor, which includes using the Internet to solicit a minor to engage in sexual contact with another person, might apply to traffickers who use the Internet for this purpose. Asset forfeiture for sex trafficking, CSEC, and child pornography crimes is available. Additionally, traffickers are required to pay restitution to minor victims of sex trafficking and compelling prostitution and may face civil liability from sex trafficking victims. Traffickers must register as sex offenders for convictions of sex trafficking, CSEC offenses, and child pornography offenses. Grounds for termination of parental rights include convictions of sex trafficking, CSEC offenses, and child pornography offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking (§ 20A.02(a)(8))	Felony of the 1st degree	5–99 years	Max. \$10,000	●
Continuous sexual abuse of young child or children (§ 21.02(b))	Felony of the 1st degree	25–99 years	Max. \$10,000	●
Prostitution (solicitation) (§ 43.02)	Felony of the 3rd degree (victim 14–18)	2–10 years	Max. \$10,000	○
	2nd degree (victim under 14)	2–20 years		
Possession of child pornography (§ 43.26)	Felony of the 3rd degree	2–10 years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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17.5
27.5



15
15

FINAL SCORE:

83.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

The sex trafficking and CSEC laws in Texas do not prohibit a defense based on the consent of the minor, leaving this an issue in a victim's pursuit of justice. When charged with prostitution, a CSEC victim may assert an affirmative defense that she or he was sex trafficked, but still prostitution offenses are not limited in application to adults and a victim might be arrested and charged with prostitution despite being a victim (although the courts have determined that a child under 14 may not be charged with prostitution). As a result, a CSEC victim may enter the juvenile justice system as a delinquent child or be considered a child in need of rehabilitation. The definition of abuse for purposes of child welfare involvement includes sex trafficking, CSEC, prostitution, and child pornography, but the definition of a person "responsible for a child's care, custody and control" is limited to a member of the child's household (whether or not related), limiting the ability of child protective services to respond to a trafficked child in non-familial trafficking cases. Crime victims' compensation is available for victims of CSEC offenses; however, knowingly participating in the conduct giving rise to the injury and a requirement to cooperate with law enforcement could prevent child sex trafficking victims from receiving compensation. Victim-friendly trial procedures are available to sex trafficking and CSEC victims that may encourage them to pursue justice, including the ability to testify through closed circuit television and inadmissibility of evidence of crimes or acts committed by sex trafficking and CSEC victims under 18. Upon application, juvenile criminal records may be sealed two years after the minors' discharge if no additional delinquent conduct has occurred. Offenders of sex trafficking of a minor or compelling prostitution of a minor are required to pay victim restitution, and a court may order offenders convicted of other crimes to pay restitution to the victim. A victim of sex trafficking also has a civil cause of action against an offender. A criminal action for sex trafficking may be brought at any time, while a prosecution for compelling prostitution of a minor must be brought before a victim reaches 28 and one based on the crime of sexual performance by a child under 17 must be brought within 20 years of the victim turning 18. For civil actions, the five year statute of limitations for sex trafficking or compelling prostitution does not begin to run until the victim reaches 18.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Texas law mandates that law enforcement receive training on human trafficking. Single party consent to audiotaping is permitted, and wiretapping is permitted for investigations of sex trafficking and possession or promotion of child pornography crimes, giving law enforcement powerful tools to investigate and collect actionable evidence for prosecutions. Use of a decoy is permitted in an investigation of criminal solicitation of a minor with the intent to commit sex trafficking or CSEC as the offender's belief that a person is under 17 is sufficient evidence. Law enforcement may utilize the Internet to investigate cases of sex trafficking relying on the online solicitation of a minor law which includes soliciting a person who represents himself or herself to be under 17 to meet to engage in sexual contact. Texas law requires law enforcement to report missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

The sex trafficking law includes the crime of benefiting from sex trafficking of a child and is a felony punishable by 5–99 years imprisonment and a possible fine up to \$10,000. A facilitator who engages in two or more violations of this law within 30 days may be convicted of continuous trafficking of persons with a heightened sentence of 25–99 years imprisonment. A facilitator who promotes a sexual performance of a child is guilty of a felony punishable by 2–20 years imprisonment when the victim is 14–18 and 5–99 years when the victim is younger than 14 and a possible fine up to \$10,000. Distributing or promoting child pornography is a felony punishable by 2–20 years imprisonment and a possible fine up to \$10,000. Crimes facilitators commit are also included in organized criminal activity laws, possibly subjecting them to enhanced penalties. Facilitators convicted of sex trafficking are required to make restitution to their victims, and facilitators convicted of other crimes may also be ordered to pay restitution. Facilitators are subject to asset forfeiture for sex trafficking and may also face civil liability. Any person may also bring a suit against a facilitator who maintains a place where people frequently engage in sex trafficking or prostitution-related crimes. No laws in Texas address sex tourism specifically.

Summary

Utah's sex trafficking law requires force, fraud, or coercion for a minor to be considered a sex trafficking victim. The commercial sexual exploitation of children (CSEC) laws do not include the crime of buying sex with minors and solicitation laws do not differentiate between buying sex with an adult and buying sex with a minor, removing criminal deterrence of demand in Utah.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Utah's human trafficking law increases the penalties when a minor is used in a commercial sex act; however, the law requires force, fraud, or coercion for any age person including a minor to be considered a sex trafficking victim. The state CSEC laws include aggravated exploitation of prostitution, aggravated sexual abuse of a child through prostitution, and sexual exploitation of a minor. These laws do not refer to the sex trafficking law for prosecution or victim protection.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law is narrowly defined to require use of force, fraud, or coercion against the victim to cause him or her to engage in commercial sex acts, which likely excludes application to the actions of a buyer purchasing a commercial sex act. CSEC crimes do not include buying sex with a minor, and solicitation laws do not distinguish between purchasing commercial sex acts with an adult versus a minor. A separate law makes it a crime to use the Internet to solicit a minor to engage in any illegal sexual activity, which could include prostitution and therefore could reach a buyer using the Internet to solicit minors for commercial sex acts. Though not mandatory, a court may order a convicted buyer to pay restitution to a victim. A buyer is required to register as a sex offender if convicted of possessing child pornography or enticing a minor via the Internet to engage in a sex act, but is not required to register for convictions of buying commercial sex acts with a minor specifically.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostitute (§ 76-10-1303)	Class B misdemeanor	Max. 6 months	Max. \$1,000	○
Possessing child pornography (§ 76-5b-201(1))	2nd degree felony	1–15 years	Max. \$10,000	●



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker of minors for commercial sexual exploitation faces prosecution under human trafficking and CSEC laws, and could be subject to money laundering, racketeering, and criminal gang laws. Sex trafficking of a minor is a felony punishable by 5 years–life imprisonment and a possible fine not to exceed \$10,000. The CSEC laws of aggravated exploitation of prostitution of a minor and sexual exploitation of a minor through pornography are felonies punishable by 1–15 years imprisonment and possible fines up to \$10,000. Traffickers who “cause a minor to take indecent liberties” through prostitution can be prosecuted for aggravated sexual abuse of a child, a felony punishable by 15 years–life imprisonment and a possible fine up to \$10,000. A separate law makes it a crime to use the Internet to solicit a minor to engage in any illegal sexual activity, which could apply to traffickers who use the Internet to lure or recruit minors to engage in commercial sex acts. Though not mandatory, the court may order a trafficker to pay restitution to the victim. Traffickers are only subject to asset forfeiture if also convicted of money laundering or a pattern of unlawful activity offenses. Traffickers are required to register as sex offenders for CSEC offenses and child pornography offenses. Additionally if convicted of sex trafficking of a minor, a trafficker must register as a kidnap offender. Utah law does not expressly provide for the termination of parental rights for the conviction of sex trafficking or CSEC offenses.

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



9.5
25



13.5
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11
27.5



12
15

FINAL SCORE:

56.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in Utah’s laws. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor for all minors; however, the CSEC offenses of sexual exploitation of a minor through pornography and aggravated sexual abuse of a child through prostitution provide that a minor under 14 may not consent to the offense. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No protective provisions are statutorily mandated specifically for victims of sex trafficking or CSEC offenses, and a victim could enter the juvenile justice system under prostitution-related charges and receive detention. If a victim is found to be an abused child—defined to include children exploited through pornography, but not expressly sex trafficking—the victim may receive a child protective response, but the absence of a definition of “care-giver” in the child protective service statutes leave it unclear whether a child controlled by a trafficker would be protected through child welfare intervention. Crime victims’ compensation is expressly provided for child victims of pornography and is likely available to other CSEC victims. However, several eligibility factors may prevent CSEC victims from recovering. Victims must report the crime to law enforcement and cooperate with law enforcement, and any victim who may have been sentenced for crimes forced to commit as a part of the exploitation is ineligible for compensation. The victim-friendly criminal justice procedure of testifying via closed circuit television is limited to victims under 14. However, the “rape-shield” law which reduces the trauma of cross-examination for victims is available to all victims of alleged sexual misconduct. Minors may petition for expungement of their juvenile criminal records after they reach 18 and one year has passed since they were released from the jurisdiction of the juvenile court, but a court can waive these requirements when it deems it appropriate. Though not mandatory, victims may seek restitution and some victims, such as those who are also victims of a pattern of unlawful activity, could bring civil actions against the offenders. Prosecution of the CSEC offense of aggravated sexual abuse of a child through prostitution may be commenced at any time, but the statutes of limitations for other criminal CSEC offenses are not extended and must be brought within four years. The statute of limitations for any civil action involving a minor does not begin to run until the minor reaches 18.



CRIMINAL PROVISIONS FOR FACILITATORS

Utah’s human trafficking law applies to those who benefit financially from participating in the sex trafficking of a minor and is punishable by 1–15 years imprisonment and a possible fine not to exceed \$10,000. The CSEC crime of aggravated exploitation of prostitution of a minor and distributing child pornography are both felonies applicable to facilitators punishable by 1–15 years imprisonment and a possible fine not to exceed \$10,000. A facilitator may also be subject to Utah’s pattern of unlawful activity and money laundering laws, and therefore subject to asset forfeiture laws. Though not mandatory, a court may order a facilitator to pay restitution to the victim. No specific laws in Utah criminalize sex tourism, making the state friendly for businesses that capitalize on commercial sex activity to sell travel.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated by law. Single party consent to audiotaping is permitted, and wiretapping is allowed for investigations of aggravated exploitation of a minor. However, wiretapping is not authorized for sex trafficking investigations. No provision in Utah law expressly authorizes the use of a decoy by law enforcement in investigations of prostitution or sex trafficking. Relying on the enticement of a minor statute, law enforcement may utilize the Internet to investigate sex trafficking. Utah law requires law enforcement to report missing and recovered children.

VERMONT

FINAL GRADE: D

Summary

Vermont's sex trafficking laws reach the criminal actions of traffickers, buyers and facilitators but critical investigative tools for law enforcement such as wiretapping are not statutorily authorized and training is not mandated, which could prevent aggressive enforcement.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Vermont's sex trafficking laws address sex trafficking of minors and clearly define a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. Individual laws within the trafficking chapter make it a crime to solicit commercial sex acts with a trafficking victim and to facilitate sex trafficking. The state commercial sexual exploitation of children (CSEC) laws include use of a child in a sexual performance and consenting to a sexual performance. Vermont's CSEC statutes do not refer to the human trafficking statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Vermont's sex trafficking laws make the purchase of commercial sex acts from sex trafficking victims a separate and distinct crime. However, the general solicitation laws do not distinguish between buying commercial sex acts with an adult versus a minor, making it possible for some buyers of sex with minors to be charged with this lesser offense and avoid the serious penalties of the sex trafficking solicitation law. No law specifically criminalizes the use of the Internet to purchase commercial sex acts from a minor, but the law prohibiting luring a child under 16 by any means, including the Internet, to engage in a sexual act might apply to buyers who use the Internet for this purpose. Buyers convicted under the solicitation of a sex trafficking victim law must pay victim restitution, and may also face civil liability. The sex trafficking law does not prohibit a defense of age mistake, leaving the opportunity for buyers to assert this defense. Convictions for solicitation of a sex trafficking victim do not expressly require sex offender registration; however, buyers convicted of soliciting for prostitution when the person solicited is a minor and child pornography are required to register.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a minor is punishable by 20 years–life imprisonment and/or a fine up to \$100,000. Traffickers convicted of a first offense of use of a child in a sexual performance, consenting to a sexual performance, or creating child pornography face up to 10 years imprisonment and/or a fine up to \$20,000. The law prohibiting luring a child under 16 by any means including the Internet to engage in a sexual act might apply to traffickers who use the Internet to recruit a minor for commercial sex acts. Traffickers convicted of sex trafficking are required to pay restitution to victims, and a court may order traffickers convicted of other crimes to pay victim restitution. Traffickers convicted of sex trafficking are also subject to civil liability for damages to the victims. Traffickers convicted of sex trafficking a minor, exploiting a minor to create pornography, and some CSEC offenses are required to register as sex offenders but convictions for patronizing or facilitating human trafficking or unlawful procurement do not require registration. Grounds for termination of parental rights do not include convictions of sex trafficking or CSEC, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Soliciting a sex trafficking victim (tit. 13, § 2655)	Felony	Max. 5 years	Max. \$100,000	○
Soliciting for prostitution (if minor not identified as sex trafficking victim) (tit. 13, § 2632)	Misdemeanor	Max. 1 year	Max. \$100	○
Possession of child pornography (tit. 13, § 2827)	Felony	Max. 5 years	Max. \$10,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



13.5
25



10
15



5.5
10



23
27.5



7.5
15

FINAL SCORE:

64.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

The sex trafficking law prohibits a defense to prosecution by an offender based on consent of the minor to the commercial sex acts; however, the CSEC statutes do not expressly prohibit such defense. No sex trafficking victim may be found in violation of the state's prostitution laws, and a minor under 18 is immune from prosecution for prostitution in the Superior Court. The state has specific laws allowing the state to treat a minor under 18 involved in prostitution or a minor victim of sex trafficking as a child in need of care or supervision. Additionally, sex trafficking victims who commit crimes beyond prostitution as a result of their trafficking may raise an affirmative defense that the crime was committed due to force, fraud, or coercion by the trafficker. A victim found to be abused or neglected—defined to include a child involved in prostitution, but not expressly including sex trafficking or other CSEC crimes—by “a person responsible for a child’s welfare” may receive child welfare intervention. Although not limited to those with legal custody of the child and including any “adult residing in the child’s home who serves in a parental role,” the definition may not be broad enough to include a trafficker and therefore allow for child welfare intervention. Sex trafficking and CSEC victims are eligible for crime victims’ compensation, but filing is required within the time required to bring a criminal prosecution against the offender, unless good cause is shown, and there is a bar to recovery if the victim violated a criminal law that contributed to the injury. Victim-friendly court procedures are available to sex trafficking victims, including the “rape shield” law which reduces the trauma of cross-examination for testifying victims. However, the ability to testify via closed circuit television is limited to children under 12 who are victims of certain sex offenses not including CSEC or sex trafficking. Juvenile criminal records must be sealed two years after final discharge unless “rehabilitation has not been attained” or the minor was convicted of certain other offenses. Sex trafficking victims are entitled to mandatory restitution, and CSEC victims may also request restitution. Victims are also expressly able to pursue civil remedies against their offenders. Civil action against a sex trafficking offender must be brought within six years, whereas claims based on other CSEC crimes must be brought within three years. Vermont has eliminated the statute of limitations for criminal prosecution for sex trafficking; other CSEC offenses must be prosecuted within six years.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Vermont law does not mandate training on human trafficking or domestic minor sex trafficking, although the Vermont center for crime victim services is authorized to have a task force that assists law enforcement in developing protocols for human trafficking that may include education. Vermont’s statutes do not address whether single party or two-party consent to audiotaping is required, and the Vermont code does not address whether wiretapping is permitted for any criminal investigations, leaving law enforcement handicapped in their investigations. No law expressly authorizes the use of a decoy or the Internet in the investigation of prostitution or sex trafficking cases; however, relying on the law on luring a child under 16 by any means, including the Internet, to engage in a sexual act, law enforcement may be able to use these investigative tools in limited situations. Law enforcement in Vermont is required to report missing and recovered children.



CRIMINAL PROVISIONS FOR FACILITATORS

The state sex trafficking law includes the crime of financially benefitting from participation in the crime of sex trafficking with knowledge that force, fraud, or coercion was used to induce a victim to perform a commercial sex act. When a minor is involved this crime is punishable by 20 years–life imprisonment and/or a fine up to \$100,000. A separate law criminalizes facilitating human trafficking by allowing an owned or controlled place to be used for human trafficking. A conviction is punishable by up to 5 years imprisonment and/or a fine up to \$100,000. A conviction for the crime of use of a child in a sexual performance, which includes promoting the performance, or promoting child pornography through exhibiting, manufacturing, distributing, or advertising is punishable by up to 10 years imprisonment and/or a fine up to \$20,000. Facilitators convicted under sex trafficking laws are required to pay restitution to the victim, and a court may order facilitators convicted of other crimes to pay victim restitution. Facilitators also face civil liability for their crimes. No laws in Vermont address sex tourism, making the environment friendly for businesses who capitalize on commercial sex activity to sell travel.

VIRGINIA

FINAL GRADE: F

Summary

Virginia does not have a human trafficking or sex trafficking law. The abduction law is used to prosecute cases of sex trafficking; however, minors are not considered abduction victims unless they are subject to force, intimidation or deception. Virginia also has limited options to prosecute demand and protect victims.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Virginia does not have a human trafficking or sex trafficking law. Child sex trafficking can be prosecuted under the abduction for immoral purpose which includes for the purpose of prostitution and child pornography. However, the law requires force, intimidation or deception to be used to cause the abduction, even when the victim is a minor. The state commercial sexual exploitation of children (CSEC) laws include taking indecent liberties with children and receiving money for procuring a person, but neither refer to the victims of these crimes as sex trafficking victims causing a lack of identification and potentially a barrier to services and protections for trafficking victims.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. The plain language of the definition of abduction, the statute used to prosecute sex trafficking, does not appear to apply to buyers of commercial sex with minors and other CSEC laws do not include the crime of buying sex with a minor. Certain provisions of taking indecent liberties with children could be used to apply to some buyers but they are not specific to commercial sexual exploitation. The prostitution statute does not distinguish between buying sex with an adult versus a minor. The state has enhanced penalties for using a computer to violate child pornography laws, and the statute on use of communication systems to facilitate certain offenses involving children might apply to buyers of commercial sex with minors. There is no prohibition to a defendant asserting mistake of age in a defense to prosecution under any sexual offense law. A buyer must pay restitution for any medical expenses incurred by the victim as a result of the crime. A person convicted of possession of child pornography, and any sex offenses a buyer might be convicted of, is required to register as a sex offender.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Prostitution (§ 18.2-346)	Class 1 misdemeanor	Max. 12 months	Max. \$2,500	●
Frequenting a place of prostitution (§ 18.2-347)	Class 1 misdemeanor	Max. 12 months	Max. \$2,500	●
Possession of child pornography (§ 18.2-374.1:1(A))	Class 6 felony	1–5 years (or up to 12 months in jail and/or up to \$2,500)		●



CRIMINAL PROVISIONS FOR TRAFFICKERS

The abduction law provides a sentence (20 years–life imprisonment with a suspended sentence of 40 years to attach to any sentence less than life) as high as those for federal trafficking offenses (10 years–life), but other applicable crimes do not. Taking indecent liberties with a child prohibits receiving money for a child to perform in sexually explicit material and is punishable by imprisonment of 1–10 years (or up to 12 months in jail and/or a fine up to \$2,500). Producing child pornography is a felony punishable by 5–30 years imprisonment when the victim is under 15 and 1–20 years if the victim is 15–18. Penalties for child pornography crimes are heightened when the offender is older than the victim by seven years or more. Statutes tackling the growing use of computers by traffickers include one criminalizing use of a computer to produce child pornography or promoting a child in an obscene performance and one prohibiting use of the Internet to recruit minors for illegal sex acts, which may include prostitution and pornography. Criminal street gang and racketeering laws with CSEC predicate offenses might also apply to prosecute sex trafficking. A trafficker is subject to asset forfeiture for violations of abduction and child pornography offenses, and is subject to vehicle forfeiture for violations of prostitution related offenses. Restitution for any property loss or medical expenses incurred by a victim as a result of the trafficker's crime is mandatory. A trafficker is required to register as a sex offender if convicted of child pornography offenses or abduction for immoral purposes. Grounds for termination of parental rights do not include convictions for abduction or CSEC, leaving children of traffickers vulnerable to the continuing control of their trafficker-parent.

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



2.5
7.5



3.5
25



11.5
15



3.5
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12
27.5



10.5
15

FINAL SCORE:

43.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking in Virginia continue to be vulnerable due to gaps in the laws. Abduction for immoral purposes and CSEC offenses do not prohibit a defense to prosecution based on consent of the minor, narrowing the ability to prosecute cases. The prostitution law is not limited in application to adults and does not identify a minor engaged in prostitution as a victim of sex trafficking and victims of child sex trafficking could be subject to arrest and charge for the crime committed against them. A victim of commercial sexual offenses is not defined as a child in need of services and the definition of abuse and neglect, although it includes the undefined term “sexual exploitation,” does not expressly include exploitation through abduction for immoral purposes, CSEC, or child pornography crimes. The definition of “caregiver” for the purposes of removing abused and neglected children from the home include only those with legal custody or those standing “in loco parentis” of the child, and thus is not sufficient to include a trafficker and allow for child welfare intervention. Victims of child sex trafficking are eligible for crime victims’ compensation but the program contains ineligibility criteria that could negatively affect their ability to recover compensation, including a requirement to cooperate with law enforcement and time requirements (waived for good cause). Virginia law provides several victim-friendly criminal justice provisions, including extending the “rape shield” law and the use of a two-way closed-circuit television for testifying victims of abduction for immoral purposes. The state law provides automatic expungement of juvenile records if the juvenile is 19 and five years have elapsed since the last hearing, but records will be maintained for felony offenses. Offenders for any crime must make at least partial restitution for damages or losses caused by the crime and medical costs, and victims of child pornography offenses are entitled to mandatory restitution. No civil actions specific to CSEC or abduction are authorized in the law but sexual abuse victims have a twenty year statute of limitations on civil actions for damages. Misdemeanor actions must be brought within one year but no statute of limitations exists for felonies.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Virginia law does not mandate training on domestic minor sex trafficking, but it does direct the Department of Criminal Justice Services to advise law enforcement on “the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia.” Single party consent to audio-taping is allowed by law, and wiretapping is authorized for most felony offenses related to domestic minor sex trafficking. Use of a law enforcement decoy in child sex trafficking or CSEC investigations is not specifically authorized by law; however, an investigation under use of a communications system to facilitate certain crimes involving children which could include CSEC offenses is protected from a defense that the “minor” was in fact over 15 by statutory language indicating culpability if the offender had reason to believe the person involved was less than 15. This same law can permit law enforcement to pose as a minor under 15 on the Internet to investigate CSEC cases as well. Law enforcement must report missing children into the “Missing Children Information Clearinghouse” and must notify the clearinghouse upon recovering a missing child.



CRIMINAL PROVISIONS FOR FACILITATORS

While Virginia has no human trafficking law, aiding and assisting in abduction for prostitution is included in the abduction laws and is a felony punishable by 1–10 years imprisonment. Also, aiding in the production of child pornography, including through financing, is a felony punishable by 5–30 years imprisonment when the victim is under 15 and 1–20 years imprisonment when the victim is 15–17. Heightened penalties apply when the offender is older than the minor by seven years or more. Selling and distributing child pornography is felony punishable by 5–20 years imprisonment. Intentionally operating websites that facilitate payment for access to child pornography is a felony punishable by 2–10 years imprisonment and a possible fine up to \$100,000. A facilitator may also be subject to criminal gang and racketeering laws resulting in greater penalties and civil forfeiture. No law in Virginia addresses sex tourism. Facilitators are subject to vehicle forfeiture for convictions of prostitution related offenses and asset forfeiture for child pornography offenses, but not for convictions of assisting abduction. A facilitator must pay restitution for any property loss or medical expenses incurred by a victim as a result of the facilitator’s crime.

WASHINGTON

FINAL GRADE: B

Summary

The human trafficking law does not distinguish minors under the age of 18 exploited through commercial sex acts without regard to the use of force, fraud, or coercion as victims of sex trafficking. Additionally, domestic minor sex trafficking victims do not receive the protections of the “rape shield” law or closed-circuit television testimony which could reduce trauma and encourage victims to pursue justice against their perpetrators.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Washington’s trafficking law includes exploitation for commercial sex acts, but does not identify as a sex trafficking victim a minor under 18 without regard to the use of force, fraud, or coercion. The commercial sexual exploitation of children (CSEC) laws include: commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for commercial sexual abuse of a minor, permitting commercial sexual abuse of a minor, and sexual exploitation of a minor. The CSEC laws do not refer to the trafficking statute for prosecution or victim protection; however, the law establishes a presumption that any juvenile arrested for prostitution or prostitution loitering meets the criteria for certification as a victim of a severe form of trafficking in persons and a victim of commercial sexual abuse of a minor and therefore directs the identification of these juveniles as victims of trafficking.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state trafficking law tracks the federal definition and could, following federal precedent, be applied to attempted buyers who “obtain” a person for commercial sex acts. The commercial sexual abuse of a minor statute specifically applies to buyers, and separately criminalizes paying a minor to engage in sexual conduct. Though the Internet is increasingly used by buyers, no statute expressly makes using the Internet to purchase sex acts with minors a crime. However, while the communication with a minor for immoral purposes statute, which includes communicating via electronic communications with a minor for immoral purposes, does not specifically include commercial sexual acts, it might be interpreted to apply to prosecute buyers using the Internet to solicit and purchase commercial sex acts online. While an age mistake is generally barred for CSEC offenses, the buyer may assert an age mistake defense if the buyer made an attempt to ascertain the minor’s age by actions more than relying on the oral statements of the minor or apparent age of the minor, such as requiring a driver’s license. A buyer is required to register as a sex offender for convictions of CSEC offenses and child pornography offenses, but a special allegation of sexual motivation must be made in a conviction of human trafficking to require registration.



CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker faces prosecution under trafficking and CSEC laws and may be subject to criminal profiteering laws. Trafficking and promoting commercial sexual abuse of a minor are felonies punishable by imprisonment between 93–318 months and a possible fine up to \$50,000 (\$5,000 is mandatory for promoting commercial sexual abuse of a minor convictions). When trafficking includes a sexual motivation, kidnapping, or results in a death, the crime is punishable by 123–397 months imprisonment. Sexual exploitation of a minor, which includes using a minor in child pornography or performance is a felony punishable by 31 months–10 years imprisonment and a possible fine up to \$20,000. Promoting travel for commercial sexual abuse is a felony punishable by a maximum of 12 months imprisonment and a possible fine up to \$10,000. While no statute expressly makes using the Internet to recruit a minor to engage in commercial sex acts a crime, the communication with minor for immoral purposes statute—which includes communicating via electronic communications with a minor for immoral purposes not specifically defined to include commercial sex acts—might apply. Traffickers are subject to asset and vehicle forfeiture for CSEC crimes. A trafficker may also face civil liability for trafficking convictions and may be ordered to pay victim restitution. Traffickers are required to register as sex offenders for convictions of promoting sexual abuse of a minor and child pornography related offenses, but a special allegation of sexual motivation in trafficking convictions is necessary to require registration. Convictions for trafficking or CSEC offenses do not expressly result in termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Commercial sexual abuse of a minor (§ 9.68A.100)	Class B felony	21 months–10 years	\$5,000–\$20,000	●
Possession or viewing child pornography (§ 9.68A.070)	Class B felony	12 months–102 months	Max. \$20,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



21.5
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13.5
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9.5
10



19.5
27.5



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15

FINAL SCORE:

80

PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Commercially sexually exploited children are defined as victims throughout the state laws, though not identified specifically in the trafficking law. There is no prohibition to a defense to prosecution for sex trafficking or CSEC based on consent of the minor to the commercial sex acts, potentially shifting the burden to the victim to prove no consent. The general prostitution law fails to make minors immune from prosecution and a separate juvenile prostitution law continues to hold minors accountable for prostitution if they are not found to be trafficking or commercial sexual abuse victims. Nonetheless, diversion is mandated for a juvenile's first offense and optional diversion exists for subsequent offenses. A CSEC victim is included in the definition of child in need of services, leading to a child protection response which includes crisis residential shelters and services; however, there is no guarantee they will not be detained as delinquents for prostitution or other offenses committed in the course of their exploitation. Sexual exploitation through prostitution or child pornography is a form of abuse or neglect allowing for child protective services involvement, though caregiver is defined as an adult in the home at least semi-permanently which would limit child welfare intervention to familial trafficking. Crime victims' compensation is specifically made available to victims of commercial sexual abuse of a minor, regardless of whether the victim is charged with prostitution. Additionally, the rights of child victims of criminal acts do not accrue until "the time the victim discovers or reasonably should have discovered the elements of the crime." If eligible for crime victims' compensation, a court must also order the offender to pay restitution to the victim. Some victim-friendly court procedures are in place, but closed circuit television testimony is limited to victims under ten years old and the rape shield statute, which reduces the trauma of cross-examination for testifying victims, does not apply in trafficking or CSEC cases. Criminal records of juveniles may be expunged upon application if two years have passed without incident and other conditions satisfied. Civil remedies can be asserted by victims of human trafficking. Statutes of limitations have not been eliminated for trafficking or CSEC victims. There is a three year statute of limitations on prosecutions of felonies and the time is tolled until a child reaches 18. The initiations of civil proceedings are also subject to a three year statute of limitation period.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Washington law mandated the development of model policy and training on procedures relating to identifying and responding to victims of domestic minor sex trafficking by January 2011. Single party consent to audio recordings and judicially approved wiretapping is permitted for law enforcement pursuing trafficking and CSEC investigations. No laws expressly authorize the use of a decoy in sex trafficking or CSEC investigations; however, minors may aid investigations in which they are an alleged victim and their participation is limited to telephone or electronic communications with the defendant. Additionally, law enforcement may use the Internet to investigate cases of sex trafficking. Reporting of missing children is mandated within twelve hours and law enforcement must also report when missing children are recovered.



CRIMINAL PROVISIONS FOR FACILITATORS

The state trafficking law includes financially benefitting or receiving anything of value from the trafficking; however, knowledge that force, fraud, or coercion was used is necessary. CSEC laws are also applicable to facilitators and facilitators may be subject to the criminal profiteering laws. Trafficking and promoting commercial sexual abuse of a minor are felonies punishable by imprisonment between 93–318 months and a possible fine up to \$50,000 (\$5,000 is mandatory for promoting commercial sexual abuse of a minor convictions). When trafficking includes a sexual motivation, kidnapping, or results in a death, the crime is punishable by 123–397 months imprisonment. Selling, sending, and bringing images of sexual conduct into the state are felonies generally punishable by 15–116 months imprisonment and a possible fine up to \$20,000. Facilitators are subject to asset and vehicle forfeiture for CSEC crimes. A facilitator may also face civil liability for trafficking convictions and may be ordered to pay restitution. Promoting travel for commercial sexual abuse, which specifically addresses sex tourism by including selling travel for the purpose of engaging commercial sexual abuse with a minor, is a felony punishable by a maximum of 12 months imprisonment and a possible fine up to \$10,000.

WEST VIRGINIA

FINAL GRADE: F

Summary

West Virginia does not have a human trafficking or sex trafficking law. Abduction of a minor under 16 for prostitution provides limited deterrence. However, in contrast to federal sex trafficking law, minors are not considered abduction victims unless they are subject to force, intimidation or deception. West Virginia also has limited options to prosecute demand and protect victims.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

West Virginia does not have a human trafficking or sex trafficking law, leaving these crimes to be prosecuted under any one of the commercial sexual exploitation of children (CSEC) statutes, including abduction of a minor under 16 for prostitution, detention of a minor in a place of prostitution, procuring a minor for house of prostitution, receiving support from prostitution of a minor, use of a minor to produce obscene matter, use of minors in filming sexually explicit conduct, and soliciting or enticing a minor via computer to engage in prostitution. None of these CSEC crimes refer to the victims as sex trafficking victims, preventing their identification and possibly their access to special protections and services.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. CSEC laws do not include the crime of buying sex with a minor, unless a computer is involved. The solicitation of prostitution law does not distinguish between buying sex with an adult versus a minor unless a computer was used to solicit a minor at least four years younger than the offender to engage in prostitution; however, the soliciting a minor via a computer for purposes of prostitution statute does not prohibit defense based on age mistake, leaving this defense available to buyers. West Virginia's general restitution statute permits the court to order a convicted buyer of commercial sex acts and child pornography to pay restitution for physical, psychological or pecuniary loss to victims. Buyers convicted of soliciting a minor via a computer for prostitution and of possessing child pornography are required to register as sex offenders, but those convicted of solicitation of prostitution, even when a minor is solicited, are not required to register as sex offenders.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of felony abduction of a minor under 16 for prostitution face 3–10 years imprisonment. Detaining a minor in a place of prostitution and procuring a minor for a house of prostitution are felonies punishable by 2–5 years imprisonment and/or fines up to \$5,000. Using a minor to create child pornography is a felony punishable by up to 10 years imprisonment and/or a fine up to \$10,000 and use of a minor to produce obscene matter is a felony punishable by up to 10 years imprisonment and/or a fine not to exceed \$50,000. CSEC predicate offenses could lead to organized criminal enterprise charges with additional penalties. Using a computer to entice or lure a minor at least 4 years younger than the offender to commit prostitution is a felony, addressing this growing means of trafficking. In some instances convicted traffickers may be required to pay restitution to victims for physical, psychological, or economic injury, and specific restitution for medical, psychological, or psychiatric treatment for a victim of a child pornography offense. No law subjects traffickers to asset forfeiture. Traffickers convicted of abduction for prostitution and certain other CSEC offenses are required to register as sex offenders. A conviction for CSEC does not expressly constitute grounds for the the termination of parental rights, potentially leaving children of convicted traffickers under parent-trafficker control and at risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Soliciting a minor via computer for prostitution (§ 61-3C-14b)	Felony	2–10 years	(and/or) \$5,000	○
Houses of ill fame (solicitation of prostitution) (§ 61-8-5(b))	Misdemeanor	60 days–6 months	(and) \$50–\$100	○
Possession of child pornography (§61-8C-3)	Felony	Max. 2 years	(and/or) \$2,000	○

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



2.5
7.5



4.5
25



8.5
15



2
10



11.5
27.5



9.5
15

FINAL SCORE:

38.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in West Virginia’s laws. A defendant in a CSEC case is not prohibited from raising consent of the minor as a defense. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No protective provisions are statutorily mandated specifically for sex trafficking or CSEC victims, therefore victims can enter the juvenile justice system as delinquents. However, a victim found to be abused or neglected—defined to include coercing a minor to commit sexual acts, but not expressly including CSEC or pornography offenses—might receive protection through child protective services if the definition of “custodian,” which includes those in physical possession of the child, is determined to include a trafficker, thereby permitting child welfare intervention. Crime victims’ compensation is only available to victims who suffer personal injury or death, and eligibility criteria, such as filing an application within two years and reporting the crime within 72 hours unless good cause is shown, could limit a victim’s ability to recover. Victim-friendly criminal justice procedures do not extend to all CSEC victims. Only children under 13 may testify via closed circuit television and the “rape shield” law which reduces the trauma of cross-examination for testifying victims is not applicable in CSEC trials. On the later of turning 19 or one year after the child is released from the court’s jurisdiction all juvenile records are sealed. Victims may receive restitution from their exploiter and traffickers convicted of child pornography offenses will be required to pay for medical, psychological, or psychiatric care. Civil damages are expressly available to victims of soliciting a minor via a computer, but not to other CSEC victims. Civil actions generally have a two year statute of limitations, but minors injured through tort violations must file within five years, and sexual abuse victims have 20 years. No statute of limitations exists for felony prosecutions, but misdemeanors must be brought within one year.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Law enforcement officers in West Virginia are not statutorily mandated to complete training on human trafficking or domestic minor sex trafficking; however, to the extent CSEC qualifies as a criminal enterprise, some training might be included in the required training on organized crime investigations. Single party consent to audiotaping is legal and wire-tapping may be used in abduction investigations, but not other CSEC offenses. While no specific statutory language permits the use of a decoy in CSEC or sex trafficking investigations, law enforcement officers might be able to use the Internet to investigate these cases relying on the soliciting a minor via a computer law, though a defense is possible that the officer is not, in fact, a minor. West Virginia law requires reporting and updating reports of missing children. Law enforcement must promptly enter information on missing children into the “Missing Children Information Clearinghouse” and must notify the clearinghouse upon recovering a missing child, allowing law enforcement to identify repeat runaways who are at high-risk for sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators who aid or abet the abduction of a minor under 16 for prostitution are guilty of a felony punishable by 3–10 years imprisonment. Facilitator who indirectly detain a minor in a place of prostitution commit a felony punishable by 2–5 years imprisonment and/or a fine up to \$5,000 and could be subject to organized crime laws. Facilitators who distribute child pornography face up to two years imprisonment and a mandatory fine up to \$2,000, and may be ordered to pay for a victim’s medical, psychological or psychiatric treatment. West Virginia’s general restitution statute may apply to facilitators in some instances when the victim suffers physical, psychological or economic injury. Asset forfeiture actions are not prescribed for any facilitation crimes. No law in West Virginia makes sex tourism a crime, leaving sex tour operators to operate with impunity in West Virginia.

Summary

The child sex trafficking law provides serious penalties for offenders but fails to prohibit age mistake and consent of the minor as available defenses, making prosecution more challenging. Combating the crime is made more difficult due to the lack of tools to conduct investigations and identify sex trafficking cases.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Trafficking of a child is a distinct crime in Wisconsin making the exploitation of a minor under the age of 18 in a commercial sex act or sexually explicit performance a felony offense without regard to use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include: soliciting a child for prostitution, sexual exploitation of a child for pornography, and child enticement. Wisconsin's CSEC statutes do not refer to the trafficking of a child statute for prosecution or victim protections.

§ CRIMINAL PROVISIONS ADDRESSING DEMAND

The state trafficking of a child law tracks the federal law and could be applied to buyers who “obtain” a child for commercial sex acts or sexually explicit performance, following federal precedent. The expansive CSEC laws include the crime of buying sex with a minor, and a separate solicitation law that distinguishes between the crimes of buying commercial sex acts with an adult versus with a minor under 18. The law prohibiting use of a computer to facilitate a child sex crime might apply to buyers who use the Internet for this purpose, but only when the targeted minor is under 16. The sex trafficking and CSEC laws do not prohibit a defense of age mistake, leaving the opportunity for buyers to assert this defense and making prosecutions of buyers more difficult as a result. A convicted buyer is subject to mandatory restitution to the victim. Buyers of sex with minors are required to register as sex offenders if convicted of prostitution-related offenses, possessing child pornography, or sex trafficking of a minor. These offenses are considered “serious sex offenses,” which may require lifetime supervision.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of sex trafficking of a child or exploiting a child to create pornography may be sentenced to imprisonment up to 40 years and/or fines up to \$100,000. Racketeering laws with additional penalties might also apply. Traffickers who commit CSEC crimes of soliciting a child for prostitution and child enticement face imprisonment up to 25 years and/or fines not to exceed \$100,000. Traffickers guilty of using a minor in a sexual performance or creating child pornography are subject to imprisonment up to 10 years and/or a fine up to \$10,000. Also, asset forfeiture and victim restitution may be ordered for convictions of all of these crimes. The statute penalizing use of a computer to facilitate a child sex crime provides a means of prosecuting traffickers who use the Internet to recruit minors under 16 for illegal sex acts, which may include sex trafficking—a growing trend. Sex trafficking of a minor, sexual exploitation for pornography, and all CSEC offenses are considered serious sex offenses and conviction for any one of them requires registration and lifetime supervision. Parental rights may only be terminated for convictions of sex trafficking a minor when the trafficked minor is a child of the convicted trafficker.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Soliciting a child for prostitution (§ 948.08)	Class D felony	Max. 25 years	Max. \$100,000	●
Child enticement to engage in prostitution (§ 948.07)	Class D felony	Max. 25 years	Max. \$100,000	●
Possession of child pornography (offender over 18) (§ 948.12)	Class D felony	Max. 25 years	Max. \$100,000	●
Possession of child pornography (offender under 18) (§ 948.12)	Class I felony	Max. 3½ years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5
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FINAL SCORE:

65



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking are not provided protective responses through the law. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving open the possibility of arrest and detention for prostitution instead of protection and specialized treatment. Also, there is no prohibition on a defendant raising consent of the minor to the commercial sex act as a defense to prosecution. In contrast, a victim found to be abused or neglected—defined to include being a victim of the crime of sexual performance by children, but not including human trafficking or other CSEC crimes—might receive protection through child protective services, since the definition of “caregiver” (“any person who exercised or has exercised temporary or permanent control over the child”) potentially includes a trafficker and would therefore allow child welfare intervention. Victims of sex trafficking and child enticement crimes are expressly eligible for crime victims’ compensation; however, a requirement to report the incident to law enforcement within five days of when a report could reasonably be made may be difficult to comply with and a determination that the victim was complicit in the crime or has not cooperated with law enforcement can foreclose any access to an award. Victim-friendly court procedures may be available to child victims of sex trafficking and CSEC. Victims under 16 in any case may be permitted to testify via closed-circuit television if the court determines it necessary. The “rape shield” law which reduces the trauma of cross-examination for testifying victims is available only in cases of trafficking of a child, not CSEC or sexual exploitation for pornography. A minor may petition for expungement of juvenile records at age 17. Victim restitution is a mandatory part of sentencing for CSEC and trafficking convictions and victims of child sex trafficking may bring a civil cause of action against the offender for damages within three years. Criminal proceedings for soliciting a child for prostitution and sexual exploitation of a child through pornography must begin before the victim reaches 45 years old and criminal actions for sex trafficking of a child must be brought before the victim reaches 24.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

The law in Wisconsin does not mandate training for law enforcement on human trafficking or domestic minor sex trafficking. Single party consent to audiotaping is permitted which is an important tool in child sex trafficking investigations, but wiretapping is not permitted for investigations of suspected trafficking and CSEC crimes, hindering investigations and the collection of important evidence for prosecutions. The law does not expressly authorize the use of a decoy in the investigation of child sex trafficking, but law enforcement may use the Internet to investigate the criminal use of a computer to facilitate a child sex crime, which can include trafficker and buyer communications with a minor under 16 with the intent to have sexual contact with the minor. Wisconsin has no law requiring the reporting of missing or recovered children, though a law does allow the department of justice to develop an alert network that could include this information and would serve as an important way to identify repeat runaways who are at high-risk for exploitation through CSEC and sex trafficking.



CRIMINAL PROVISIONS FOR FACILITATORS

The trafficking of a child law includes the crime of assisting, enabling, or financially benefitting from the trafficking, punishable by a maximum of 40 years imprisonment. If viewed as prostitution rather than trafficking, the crime of keeping a place of prostitution, even if the victim is a minor, may apply and is punishable by imprisonment up to six years and/or a fine not to exceed \$10,000. Crimes facilitators may be convicted of are within defined racketeering offenses which could lead to additional financial penalties. Promoting or selling child pornography is a felony punishable by imprisonment up to 40 years and/or a fine not to exceed \$100,000 when the offender is over 18, reduced to 12½ years and/or up to \$25,000 when the offender is under 18. Additionally, exhibiting or playing a recording of child pornography is a felony punishable by up to 25 years imprisonment and/or a fine up to \$100,000 when the offender is over 18, reduced to 3½ years imprisonment and/or up to \$10,000 when the offender is under 18. Also, facilitators are subject to asset forfeiture and restitution. No laws make sex tourism a crime in Wisconsin, leaving the state vulnerable to unscrupulous business using commercial sex acts to sell travel.

WYOMING

FINAL GRADE: F

Summary

Wyoming has not enacted a human trafficking or sex trafficking law and limited CSEC laws leave buyers of commercial sex with minors largely undeterred. Few protective provisions exist for domestic minor sex trafficking victims.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Wyoming has not enacted a human trafficking or sex trafficking law, leaving cases of domestic minor sex trafficking to be prosecuted under commercial sexual exploitation of children (CSEC) laws, including promoting prostitution of minors under 18, and sexual exploitation of children. The lack of a trafficking law prevents victims of these crimes from being identified as trafficking victims and can result in barriers to accessing services and justice.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand for commercial sex acts with minors in Wyoming. No CSEC offense expressly includes buying sex with a minor, leaving buyers to be prosecuted under the general solicitation of prostitution law which does not distinguish between purchasing sex acts with an adult versus a minor, and therefore provides no enhanced penalties or special provisions making the solicitation of prostitution with a minor a more serious crime. No law expressly makes it a crime to use the Internet to solicit sex acts, leaving buyers free to exploit children through the Internet, unless they can be reached through the very general statute criminalizing soliciting to engage in illicit sexual relations when the minor solicited is under 14. In the absence of CSEC or sex trafficking offenses, buyers might be prosecuted under general sex offenses which permit a defendant to assert a mistake of age defense when older minors are involved. Buyers convicted of soliciting an act of prostitution with a minor under the general solicitation law must register as sex offenders. A restitution order will be entered in any criminal conviction to pay a victim's proven economic damages, insofar as the offender is deemed able to pay.



CRIMINAL PROVISIONS FOR TRAFFICKERS

The state has no sex trafficking law and the CSEC statutes applicable to criminal actions of traffickers—promoting prostitution (when the victim is a minor under 18) and endangering children—do not carry sentences as high as the 10 years to life sentences for federal trafficking crimes. Promoting prostitution when the victim is a minor under 18 is a felony punishable by up to five years imprisonment and/or a fine up to \$5,000. Sexual exploitation of a child through pornography is a felony punishable by 5–12 years imprisonment and/or a fine up to \$10,000. No law expressly makes it a crime to use the Internet or electronic communications to recruit or sell a minor for commercial sex acts, although this might be prosecuted generally under the law on soliciting to engage in illicit sexual relations. Traffickers convicted of committing promoting prostitution more than two times in three years also could be in violation of Wyoming's criminal street gang laws if acting in association with five other individuals. Traffickers are subject to asset forfeiture for violations relating to child pornography, but not for other offenses, and are required to pay restitution determined by the court if they are deemed able to pay. Traffickers are required to register as sex offenders if convicted of child pornography offenses or promoting prostitution of a minor. Conviction of any offense related to domestic minor sex trafficking is not expressly included as grounds for terminating parental rights under Wyoming law, although parental rights can be terminated if the parent is incarcerated for a felony conviction and determined to be unfit to have the custody and control of the child, leaving open the possibility that a child of a convicted trafficker could be protected from the trafficker-parent.

DEMAND | SELECTED COMMERCIAL SEX CRIMES*

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Soliciting an act of prostitution (§ 6-4-102)	Misdemeanor	Max. 6 months	Max. \$750	○
Possessing child pornography (§ 6-4-303(b)(iv))	Felony	Max. 10 years	Max. \$10,000	●

* All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
 ** For a full discussion, see the analysis and recommendations report at <http://www.sharedhope.org/WhatWeDo/BringJustice/ReportCards.aspx>.



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7.5



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2.5
10



9
27.5



2.5
15

FINAL SCORE:

29.5



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking are highly vulnerable due to gaps in the state laws. No law identifies a CSEC victim as a victim of sex trafficking. The CSEC laws do not prohibit a defense to prosecution based on consent of the minor to the prostitution. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No protective provisions are statutorily mandated specifically for CSEC victims. If an exploited child is determined to be a child in need of supervision, abused or neglected—terms that do not include commercial sexual exploitation in the definitions—the child could enter the child welfare system provided the definition of “person responsible for a child’s welfare” also includes those with “physical custody or control of the child”, a term which could potentially include a trafficker and therefore allow for intervention. While child victims of commercial sexual exploitation are likely eligible for state crime victims’ compensation, several eligibility criteria may present barriers to collecting an award, including requirements to provide “reasonable cooperation with law enforcement” and to file claims within one year unless good cause is shown. Victim-friendly criminal justice procedures are limited based on the age of the minor or to sexual offense cases, and the “rape shield” law, which reduces the trauma of cross-examination for the testifying victim, does not extend to testifying victims in CSEC trials. Victims may receive restitution for proven economic damages and possibly future damages, but no specific civil remedy for CSEC is authorized. Wyoming law does not have a statute of limitations for criminal offenses, so a prosecution may be brought at any time. A civil action for damages resulting from CSEC may be brought within three years of the victim’s 18th birthday if the time limit would have otherwise expired. Civil actions for sexual assault can be extended to the later of eight years after the victim’s 18th birthday or three years after the discovery of the injury.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Wyoming law does not mandate training for law enforcement on human trafficking or domestic minor sex trafficking, especially as no human or sex trafficking law has been enacted in the state. The law allows for single party consent to audiotaping which provides law enforcement a tool to investigate and produce admissible evidence, but CSEC offenses are not included as crimes for which a wiretapping order may be issued. Law enforcement might be able to use decoys and the Internet to investigate crimes of soliciting a minor under 14 to engage in a sex act due to the statute’s criminalization of soliciting a “person purported to be” under 14. No law mandates the reporting of missing children, although a database of DNA samples of missing persons is created by law and a law requires the Office of the Attorney General to establish and operate a “clearinghouse on missing children.”

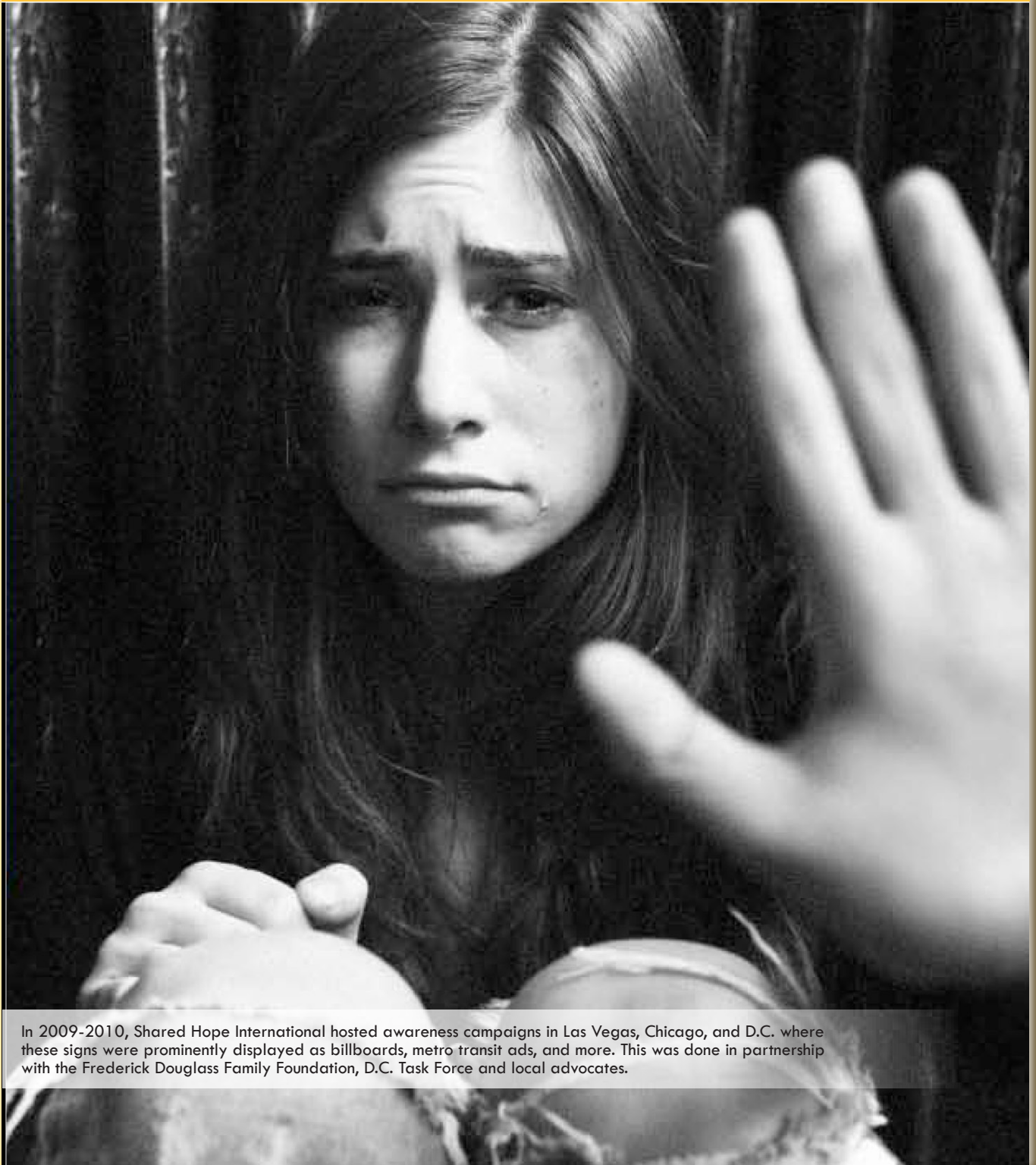


CRIMINAL PROVISIONS FOR FACILITATORS

Wyoming has not enacted a sex trafficking law which could have made it a crime to financially benefit from or aid and assist in sex trafficking, and no law specifically makes the actions of a facilitator of sex trafficking of minors a crime. A facilitator who permits a place to be used for prostitution or benefits from prostitution might be found culpable of promoting prostitution, which is a felony punishable by up to three years imprisonment and/or a fine up to \$3,000. Also, a facilitator is criminally liable for distributing, receiving, reproducing, or delivering child pornography, which is a felony punishable by 5–12 years imprisonment and/or a fine up to \$10,000 and makes the convicted facilitator subject to asset forfeiture action. No laws make sex tourism a crime in Wyoming, making the state a friendly environment for facilitators of child sex trafficking to do business.

13 YRS OLD

THAT'S THE AVERAGE AGE CHILDREN ARE FORCED
INTO PROSTITUTION



In 2009-2010, Shared Hope International hosted awareness campaigns in Las Vegas, Chicago, and D.C. where these signs were prominently displayed as billboards, metro transit ads, and more. This was done in partnership with the Frederick Douglass Family Foundation, D.C. Task Force and local advocates.

