

PROTECTED INNOCENCE INITIATIVE

STATE ACTION . NATIONAL CHANGE.

LOUISIANA REPORT CARD

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.

FINAL SCORE

70

FINAL GRADE

C



5

7.5

20.5

25

12.5

15

9

10

15.5

27.5

7.5

15

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.

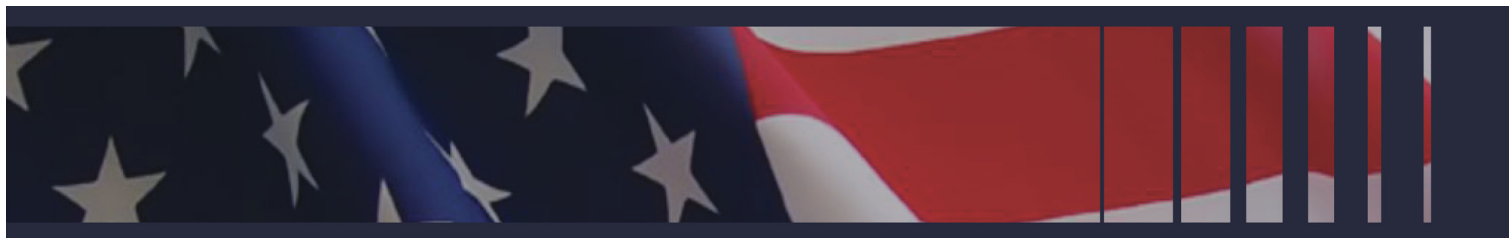
CRIMINAL PROVISIONS FOR TRAFFICKERS

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 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.



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 PROSECUTIONS

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.

The Report Card is based on the Protected Innocence Legislative Framework, an analysis of state laws performed by the American Center for Law & Justice and Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Legislative Framework Methodology, each completed Report Card, and foundational analysis and recommendations, please visit: www.sharedhope.org/reportcards.aspx.

