

PROTECTED INNOCENCE INITIATIVE

STATE ACTION . NATIONAL CHANGE.

MARYLAND REPORT CARD

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.

FINAL SCORE

58.5

FINAL GRADE

F



5

7.5

16

25

10.5

15

5.5

10

10.5

27.5

11

15

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 a CSEC offense or a prostitution offense involving a minor are required to register as sex offenders.

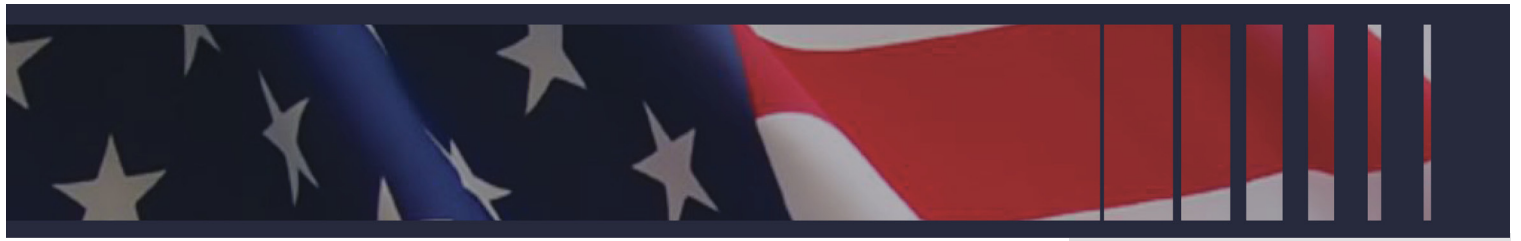
CRIMINAL PROVISIONS FOR TRAFFICKERS

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.



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 sexual abuse of a 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 PROSECUTIONS

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.

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.

