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. 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.

Demographics | Selected Commercial Sex Crimes

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

All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.
New Jersey's human trafficking law applies to those facilitators that receive value from a 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.

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 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.

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.