

PROTECTED INNOCENCE INITIATIVE

STATE ACTION . NATIONAL CHANGE.

SOUTH CAROLINA REPORT CARD

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.

FINAL SCORE

48.5

FINAL GRADE

F



2.5

13.5

10

2.5

12.5

7.5

7.5

25

15

10

27.5

15

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 absence of sex trafficking as a form of human trafficking in the law makes application of the law to buyers of commercial sex with minors unlikely. However, the human trafficking law includes the word "obtain," and if the law included sex trafficking could be applied to buyers following federal precedent. 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 may also 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.

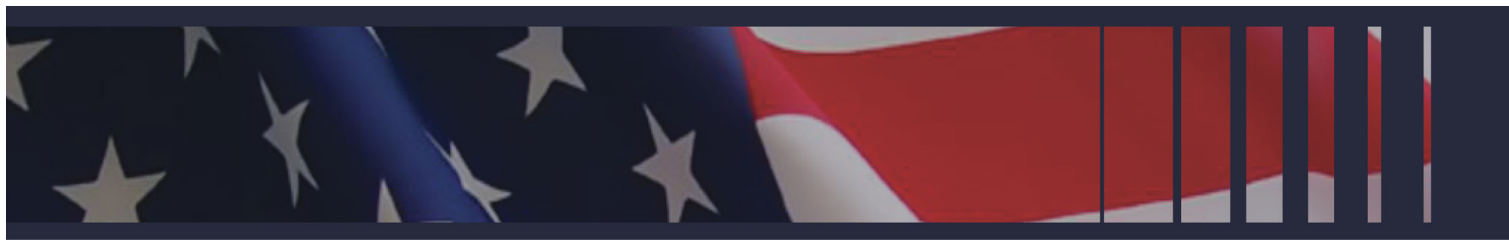
CRIMINAL PROVISIONS FOR TRAFFICKERS

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.



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 PROSECUTIONS

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 in reliance 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.

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.

