

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

## ALASKA REPORT CARD 2012

*Alaska's laws criminalizing the purchase of sex acts with minors do not carry sufficiently high sentences, diminishing demand deterrence. Various legal protections are provided for victims of sex trafficking but critical training to identify the victims is not mandated.*

FINAL SCORE

70

FINAL GRADE

C



5

10

15.5

25

12.5

15

9

10

18

27.5

10

15



### CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Alaska's sex trafficking law makes it a crime to induce or cause anyone under 20 to engage in prostitution. The human trafficking laws go further to include exploitation through "adult entertainment," but require proof of movement into the state and proof of force, fraud, or coercion even when a minor is involved. The state has two commercial sexual exploitation of children (CSEC) laws: prostitution of a minor and unlawful exploitation of a minor. Alaska's CSEC statutes do not refer to the human trafficking statute for victim identification. Alaska has not enacted a racketeering statute, but its criminal street gang law may reach some trafficking networks.



### CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law expressly excludes buyers from its reach and the human trafficking laws likely do not apply because the offender must "compel or induce" the victim to engage in sexual conduct or the buyer must obtain a benefit from human trafficking "with reckless disregard that the benefit is a result of the trafficking." Soliciting or patronizing prostitution of a minor makes buying sex acts with a minor a Class C felony punishable by up to 5 years imprisonment and a possible fine up to \$50,000. The online enticement statute makes it a crime to use the Internet to engage a minor under 16 to produce a live or recorded sexual performance, but does not include purchasing sex acts with a minor. The prostitution statute specifically provides an affirmative defense based on mistake of age and the human trafficking and unlawful exploitation of a minor statutes are silent as to availability of this defense. Buyers who solicit or engage in prostitution with a minor face fines up to \$50,000 and mandatory criminal asset forfeiture. 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 soliciting prostitution with a minor.



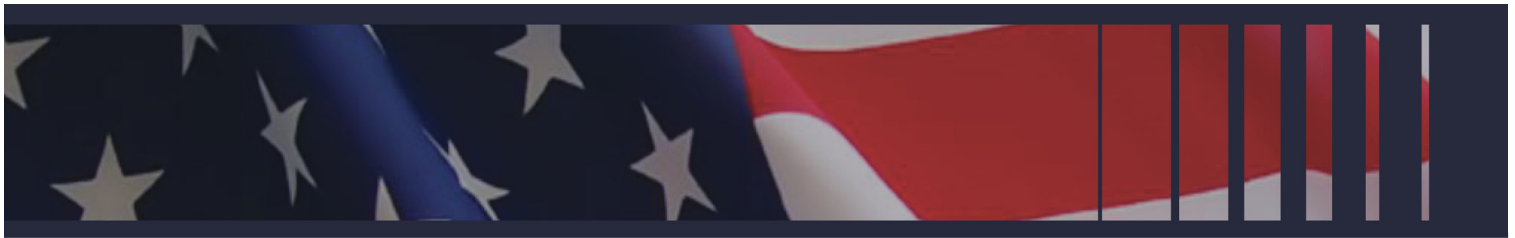
### CRIMINAL PROVISIONS FOR TRAFFICKERS

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). Sex trafficking of a minor and human trafficking 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. Traffickers face mandatory criminal asset forfeiture for sex trafficking, but not human trafficking, convictions and discretionary asset forfeiture for child pornography convictions. The crime of 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 sex trafficking of a minor and pornography offenses, but not for human trafficking. A convicted trafficker is not certain to face termination of parental rights because 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)
Soliciting or patronizing prostitution with a minor (§ 11.66.100(a))	Class C felony	Max. 5 years	Max. \$50,000	●
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	●
Online enticement of a minor (§ 11.41.452)	Class B felony	5–15 years	Max. \$100,000	●

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



## PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to some 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, sex 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 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. Corroboration of a victim’s testimony is not required in sex trafficking cases. Victims 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 PROSECUTIONS

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, but does not expressly 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 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

Alaska’s sex trafficking and human trafficking laws include the crime of benefitting from the trafficking. Sex trafficking in the second degree includes 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 face mandatory criminal asset forfeiture for sex trafficking and discretionary criminal asset forfeiture for child pornography offenses, but no asset forfeiture for benefitting from human trafficking. Facilitators must pay restitution to the victims of their crime.

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](http://www.sharedhope.org).

