

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

## ILLINOIS REPORT CARD 2012

Illinois's human trafficking law includes sex trafficking and does not require use of force, fraud or coercion when the victim is a minor. Minors are immune from prosecution for prostitution and may be taken into protective custody; however, some domestic minor sex trafficking victims may not access the "rape shield" law and victims' compensation program.

FINAL SCORE

82.5

FINAL GRADE

B



10

10

17

25

14

15

7

10

24.5

27.5

10

15

### CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The trafficking in persons law includes sex trafficking of minors and does not require proof that force, fraud, or coercion was used to cause minors to engage in commercial sex acts. Illinois' CSEC crimes include: solicitation of a sexual act, promoting juvenile prostitution, patronizing a minor engaged in prostitution, permitting sexual abuse of a child, grooming, and travelling to meet a minor. The CSEC statutes do not reference the human trafficking law, but the prostitution law identifies minors engaged in prostitution as possible victims of sex trafficking. Trafficking and several CSEC laws are included as predicate activities under the racketeering law.

### CRIMINAL PROVISIONS ADDRESSING DEMAND

The trafficking in persons law tracks the federal definition and could, following federal precedent, be applied to buyers who "obtain" a minor for a commercial sex act. Several CSEC laws specifically include the crime of buying sex with minors, although some permit defendants to raise a mistake of age defense. The offenses of solicitation of a sexual act and patronizing a minor engaged in prostitution distinguish between buying sex with adults versus minors. The statutes on grooming and travelling to meet a minor provide a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts, which may include trafficking offenses. A buyer convicted of patronizing a minor engaged in prostitution or pornography offenses is required to register as a sex offender; however, a conviction for sex trafficking or solicitation of a sexual act, even when a minor is involved, does not require registration. A buyer convicted under the trafficking in persons law faces mandatory criminal asset forfeiture. Buyers also face forfeiture of equipment used in child pornography offenses and vehicles used to commit trafficking and CSEC offenses.

### CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of sex trafficking face 4–15 years imprisonment, increased to 6–30 years when coercion is used or the minor is under 17. Traffickers convicted of promoting juvenile prostitution face 4–15 years imprisonment, increased to 6–30 years for aggravating factors, and a possible fine up to \$25,000. Grooming (1–3 years imprisonment) and travelling to meet a minor (2–5 years) can be used to prosecute traffickers who use the Internet to solicit minors for commercial sex acts, which may include trafficking. Creating and distributing child pornography is punishable by 4–15 years imprisonment, increased to 6–30 years for a first offense where the victim is under age 13, and a fine of \$2,000–\$100,000. A trafficker must pay restitution to the victim, and a trafficker convicted of sex trafficking, promoting juvenile prostitution or child pornography faces mandatory criminal asset forfeiture. A trafficker convicted of most CSEC or pornography offenses must register as a sex offender, but a conviction for sex trafficking does not require registration. Parental rights can be terminated when a parent is convicted of sex trafficking or allows a minor to engage in prostitution.

### DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Patronizing a minor engaged in prostitution (720 Ill. Comp. Stat. Ann. 5/11-18.1(a), (a-5))	Class 3 Felony	2–5 years, or 3–7 years if within 1000 feet of a school.	Max. \$25,000	○
Solicitation of a sexual act (720 Ill. Comp. Stat. Ann. 5/11-14.1(a))	Class 4 Felony	1–3 years	Max. \$25,000	○
Possessing child pornography (720 Ill. Comp. Stat. Ann. 5/11-20.1(a)(6) and 5/11-20.1B(a)(6))	Class 3 (ages 13-18)	2–5 years (Class 3)	\$1,000–\$100,000	●
	Class 2 (under age 13)	3–7 years (Class 2)		

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



## PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Illinois law requires a protective response for minor victims of sex trafficking. Under the Safe Children Act, minors under 18 arrested for prostitution offenses are immune from prosecution and instead are taken into protective custody. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation through trafficking or prostitution; however, abuse must be perpetrated by those with legal custody or residing in the same home as the minor limiting the number of trafficking victims who might be protected through child welfare intervention. For the purpose of crime victims' compensation, trafficking victims are not specifically included as victims and exceptions to the time limits for reporting crimes or filing claims do not apply to trafficking victims. Victim-friendly criminal justice procedures include testimony by closed circuit television; however the "rape shield" law only applies in sex offense cases so trafficking victims may not be protected from the trauma of cross-examination. The trafficking and CSEC laws do not prohibit a defense to prosecution based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent. Child sex trafficking victims arrested for prostitution may petition for expungement of juvenile records upon reaching the age of 17. Restitution is mandatory in any criminal sentencing and civil remedies are available to CSEC victims for damages sustained through trafficking, promoting juvenile prostitution, juvenile pimping or pornography offenses. Illinois has eliminated the statute of limitations for certain criminal actions involving sexual conduct with children; however, this does not apply to trafficking or CSEC offenses, which are subject to a 3-year statute of limitations with the exception that several CSEC offenses may be brought within one year after the victim turns 18. Civil actions for injuries from sexual exploitation have varying statutes of limitations but are generally tolled until the minor turns 18.



## CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated by law. Illinois law provides a specific exception to the prohibition on audio recording in investigations of trafficking and other sexual offenses against minors, but a judicial order must be obtained before such a recording may be admitted into evidence. Wiretapping also is allowed in sex trafficking investigations with a judicial order. No law expressly authorizes the use of a decoy or the Internet in the investigation of child sex trafficking cases, but several laws permit law enforcement to use these tools to investigate buyers and traffickers by allowing for the offense to be committed against one believed to be a child irrespective of the actual age of the "minor." Illinois has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



## CRIMINAL PROVISIONS FOR FACILITATORS

Facilitators are subject to prosecution for benefitting financially from trafficking in persons, punishable by 4–15 years' imprisonment and a possible fine up to \$25,000. Facilitators may also face prosecution for promoting juvenile prostitution, keeping a place of juvenile prostitution and money laundering. Convicted facilitators face mandatory restitution and mandatory criminal asset forfeiture. Disseminating child pornography is punishable by a fine of \$2,000– \$100,000 and 4–15 years imprisonment, increased to 6–30 years imprisonment for a first offense where the child is under 13 years of age. No laws in Illinois make sex tourism a 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).