

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

## IOWA REPORT CARD 2012

*The human trafficking law criminalizes commercial sexual exploitation of all minors without regard to use of force, fraud or coercion and reaches the actions of buyers, but victims of sex trafficking or CSEC may be deterred from testifying due to no "rape shield" protection.*

FINAL SCORE

69

FINAL GRADE

D



6

10

19.5

25

11

15

5.5

10

17.5

27.5

9.5

15

### CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Iowa's human trafficking law includes the sex trafficking of minors and does not require force, fraud, or coercion for minors used in commercial sex acts. The state CSEC crimes include solicitation of commercial sexual activity, sexual exploitation of a minor, enticing a minor under 16, solicitation of commercial sexual activity and pandering. The CSEC and prostitution laws do not reference the human trafficking law to identify a commercially sexually exploited minor as a victim of trafficking. Human trafficking and CSEC laws qualify as predicate acts under the state racketeering statute, but are not expressly included, potentially limiting the law's utility in prosecuting sex trafficking enterprises.

### CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law expressly includes purchasing commercial sex acts with a victim of trafficking. Buyers may also be prosecuted under the CSEC offense of solicitation of commercial sexual activity. Iowa's prostitution law does not distinguish between purchasing sex with an adult versus a minor, however solicitation of commercial sexual activity specifically criminalizes solicitation of minors. No statute expressly makes using the Internet to purchase sex acts with minors a crime. Convicted buyers face civil asset forfeiture and mandatory victim restitution when convicted of human trafficking or solicitation of commercial sexual activity. The human trafficking law prohibits a defense to prosecution based on mistake of age, but enticing a minor and lascivious acts with a child do not prohibit it. Buyers of sex with minors must register as sex offenders if convicted of human trafficking or solicitation of commercial sexual activity; however, buyers convicted under the prostitution statute, even when it involves a minor, are not required to register.

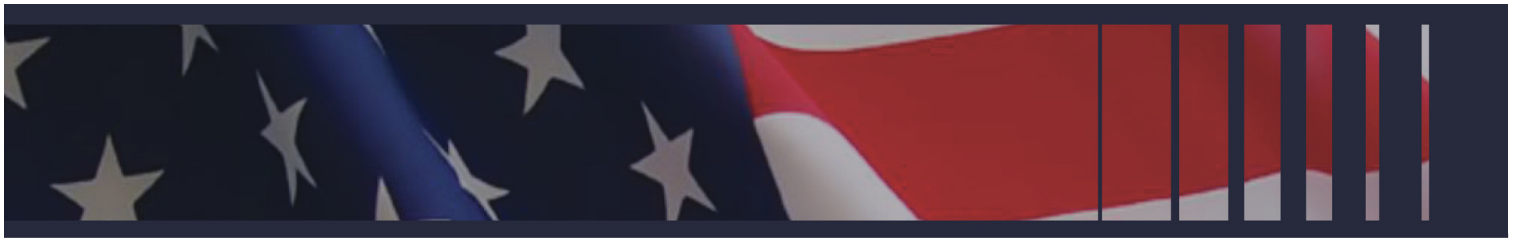
### CRIMINAL PROVISIONS FOR TRAFFICKERS

Human trafficking of a minor is punishable as a felony by up to 10 years imprisonment and a fine of \$1,000–\$10,000, or up to 25 years imprisonment if the trafficker causes or threatens serious physical injury. Sexual exploitation of a minor, pandering, and enticing a minor under 13 to participate in child pornography are Class C felonies punishable by up to 10 years imprisonment and fines of \$1,000–\$10,000, while solicitation of commercial sexual activity, enticing a minor 13–16 years old and distributing child pornography are Class D felonies punishable by up to 5 years imprisonment and fines of \$750–\$7,500. Traffickers could also be subject to racketeering and money laundering laws leading to additional penalties. No statute expressly makes using the Internet to sell or recruit commercial sex acts with minors a crime; however, enticing a minor under 16 may apply to traffickers who use the Internet to engage a child in participating in child pornography. Traffickers convicted of human trafficking or CSEC laws may face civil asset forfeiture and mandatory restitution. Traffickers must register as sex offenders for convictions of human trafficking and CSEC offenses. Grounds for termination of parental rights include convictions of human trafficking and CSEC laws.

#### DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (and)	Asset Forfeiture (available)
Human trafficking (§ 710A.2)	Class C felony	Up to 10 years and a fine of \$1,000–\$10,000		●
Solicitation of commercial sexual activity (§710A.2A)	Class D felony	Up to 5 years and a fine of \$750–\$7,500		●
Prostitution (Iowa Code § 725.1)	Aggravated misdemeanor	Max. 2 years	\$625–\$6,250	●
Possessing and purchasing child pornography (Iowa Code § 728.12(3))	Aggravated misdemeanor (first offense)	Max. 2 years	\$625–\$6,250	●

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



## PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking and CSEC are not fully protected under Iowa’s laws. Human trafficking and CSEC laws do not prohibit a defense based on consent of the minor. When charged with prostitution, trafficking victims have an affirmative defense to crimes they committed under compulsion that were directly related to their exploitation through human trafficking, yet prostitution offenses are not limited in application to adults, and a minor victim of sex trafficking who cannot prove compulsion might be arrested and charged with prostitution despite being a victim. As a result, a CSEC victim may enter the juvenile justice system and could be placed in detention. However, child welfare intervention might be possible for child victims as the definition of abuse includes commercial sexual exploitation through prostitution or child pornography, but not human trafficking, and the definition of “person responsible for the care of a child” includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims’ compensation is available for trafficking victims. While a minor trafficking victim may not be denied compensation for participating in the conduct giving rise to the injury, consent by the victim and failing to meet time limits for reporting crimes and filing claims could still lead to reduction or denial of benefits. Some victim-friendly trial procedures are available to human trafficking and CSEC victims that may encourage them to pursue justice, including the ability to testify via closed circuit television, the appointment of a guardian ad litem for a child prosecuting witness in a human trafficking case, and the protection of information about a child pornography victim under 14. However, Iowa’s “rape shield” law only applies in criminal cases of sexual abuse, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. Juvenile criminal records may be sealed once the juvenile turns 18, provided two years have elapsed since the last action in the case and that the minor has not been convicted of a felony, serious or aggravated misdemeanor, or adjudicated a delinquent for such an offense. Restitution is available to victims in any criminal sentencing; however, civil remedies are only available to CSEC victims whose offenders are guilty of racketeering or money laundering. Prosecutions for human trafficking and CSEC offenses must be brought within three years of the crime, while civil actions for childhood sexual abuse discovered after the injured person is 18 must be brought within four years of the victim’s discovery of the injury.

## CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Iowa law directs the law enforcement academy to develop and provide training on human trafficking and allows single party consent to audiotaping. Wiretapping, however, is not allowed in investigations for human trafficking or CSEC offenses, withholding an important investigative tool from law enforcement and prosecutors. Solicitation of commercial sexual activity expressly authorizes the use of a decoy to investigate solicitation of minors for prostitution, and law enforcement may use the Internet to investigate some cases of domestic minor sex trafficking relying on the crime of enticing a minor under 16 to participate in child pornography. Iowa has established a statewide reporting and response system and law enforcement must report missing and located children.

## CRIMINAL PROVISIONS FOR FACILITATORS

Iowa’s human trafficking law includes the crime of financially benefiting from human trafficking. Human trafficking of a minor is a Class C felony punishable by up to 10 years imprisonment and a fine of \$1,000–\$10,000. Promoting or selling child pornography is a Class D felony punishable by up to 5 years imprisonment and a fine of \$750–\$7,500. Facilitators could also be subject to racketeering and money laundering laws leading to additional penalties and civil liabilities. Facilitators convicted of human trafficking could be subject to civil asset forfeiture and face mandatory restitution for a victim’s pecuniary damages. No laws in Iowa 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](http://www.sharedhope.org).

