

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

LOUISIANA REPORT CARD 2012

Louisiana's criminal laws make the actions of traffickers, buyers and facilitators subject to serious penalties, including substantial financial penalties that reach the profits that motivate these offenses. Victims of domestic minor sex trafficking face possible arrest and detention for prostitution offenses committed as a result of their exploitation in conflict with the laws that make such exploitation a crime.

FINAL SCORE

87

FINAL GRADE

B



7.5
10

24.5
25

13
15

9.5
10

20.5
27.5

12
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The crime of sex trafficking of minors under 18 does not require that force, fraud or coercion was used to cause the minor to engage in commercial sex acts. Commercial sexual exploitation of children (CSEC) laws include prostitution, prostitution with a minor under 18, enticing a minor under 21 into prostitution, computer-aided solicitation of a minor under 17, solicitation of oral or anal sex with a minor, promoting prostitution, pandering, soliciting for prostitutes, and inciting prostitution. All of Louisiana's prostitution offenses, some of which are CSEC offenses, refer to the human trafficking law in providing an affirmative defense to minor victims of sex trafficking, but do not expressly identify commercially sexually exploited minors as victims of sex trafficking. The state racketeering law includes the CSEC offense of pandering, but not human trafficking, limiting its availability for prosecution of sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The sex trafficking of a minor statute makes it a crime to purchase sex acts with minors up to 18 years of age, and CSEC laws criminalize buying and soliciting sex with a minor under 18. Computer-aided solicitation of a minor under 17 heightens penalties for buyers using electronic devices, such as the Internet or text messages to commit illegal sex acts, which may include sex trafficking. The offenses of sex trafficking of a minor, pornography involving juveniles, prostitution with a minor under 18, and solicitation of oral or anal sex with a minor expressly prohibit an age mistake defense. Buyers who commit sex trafficking of a minor or computer-aided solicitation of a minor, or possess or access child pornography via wireless router, face mandatory criminal asset forfeiture. Restitution must be ordered in any case that the victim suffers pecuniary loss. Buyers convicted of sex trafficking or most applicable CSEC offenses must register as sex offenders.

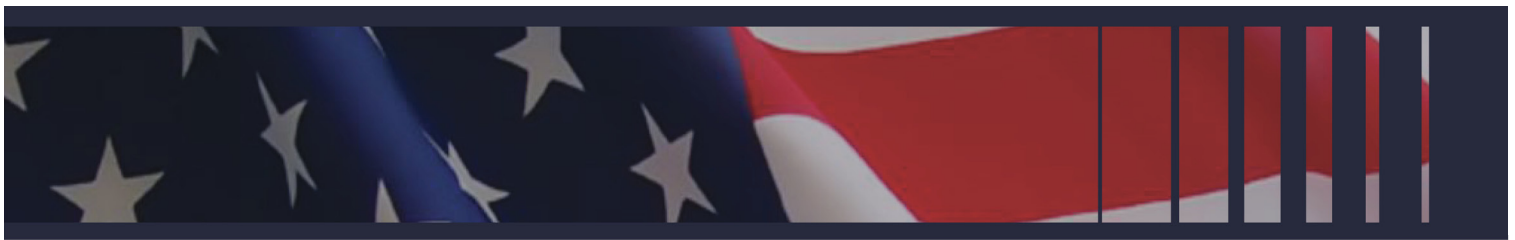
DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of a minor (§ 14:46.3)	15–50 years	Max. \$50,000	●
	25–50 years (under 14)	Max. \$75,000	
Prostitution with a minor under 18 (§ 14:82.1(A)(1))	15-50 years	Max. \$50,000	
Prostitution (§ 14:82)	15-50 years (under 18)	Max. \$50,000	
	25-50 years (under 14)	Max, \$75,000	
Solicitation of oral or anal sex with a minor (§ 14.89.2)	15-50 years (under 18)	Max. \$50,000	
	25-50 years (under 14)	Max, \$75,000	
Possession of child pornography (§ 14:81.1(A)(1))	2–10 years or 5–20 years, if victim under 13	Max. \$10,000	●

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

CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face sentences of 5–50 years imprisonment and possible maximum fines of \$10,000–\$75,000 for sex trafficking or exploiting a minor for commercial sexual purposes. Creating child pornography of minors under 17 is punishable by 10–20 years imprisonment, or 25–99 years if the minor is under 13. The computer-aided solicitation of a minor under 17 law provides additional penalties for traffickers who use the Internet to recruit minors for illegal sex acts, which may include sex trafficking. Traffickers face mandatory criminal asset forfeiture under the sex trafficking, CSEC and child pornography laws and restitution for any offense that caused a victim to suffer pecuniary loss. Traffickers must register as sex offenders if convicted of sex trafficking of minors, CSEC or child pornography. Convictions under these laws do establish grounds for termination of parental rights only if the child or another child in the household is the victim, potentially leaving some children of traffickers at risk from their trafficker-parent's actions and influence.



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking or CSEC are vulnerable due to gaps in the state laws. Sex trafficking of a minor, prostitution with a minor under 18, computer-aided solicitation of a minor under 17, solicitation of oral or anal sex with a minor and child pornography laws prohibit a defense based on consent, but other CSEC laws do not. Prostitution offenses are not limited in application to adults but minor victims of sex trafficking may assert an affirmative defense to prostitution charges, and “delinquent act” is defined to preclude delinquency charges for prostitution-related offenses against child victims of sex trafficking. However, no protective provisions requiring specialized treatment or housing are statutorily mandated. The definition of an abused child includes one exploited through prostitution or pornography and, if the abuse is perpetrated by a “caretaker,” defined as a person with legal custody of the child, the child can receive a protective response through child welfare. Victims of sex trafficking and most CSEC offenses who suffer personal injury are eligible for crime victims’ compensation. Victims are exempt from the ineligibility criteria relating to their role in the criminal activity giving rise to their injuries, but are not exempt from requirements to report the crime to law enforcement within 72 hours, to file a claim within one year or to cooperate with law enforcement. Victim-friendly criminal justice procedures are available to sex trafficking and CSEC victims under age 17 who may testify via closed circuit television. Furthermore, the “rape shield” law reduces the trauma of cross-examination for testifying victims in sex trafficking cases, and pornography victims are protected by limits on access to evidence in pornography cases. Child victims of sex trafficking may petition for expungement of juvenile records relating to prostitution offenses if no charges are pending against the petitioning minor. . Criminal restitution is available to victims who suffer pecuniary loss or incur costs related to prosecution. Prosecutions of sex trafficking and several CSEC offenses must be commenced within 30 years of the victim turning 18, while a 4 or 6 year limitation applies to prosecutions of other CSEC offenses, depending on whether the offense is punishable at hard labor. For civil claims based on damages from being trafficked, a general 10-year statute of limitations applies.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated by law. Single party consent to audiotaping is permitted, while wiretapping is permitted in investigations of sex trafficking but not CSEC offenses, leaving law enforcement without an important tool to investigate and gather evidence for prosecutions. Sex trafficking, enticing persons into prostitution, and prostitution with a minor under 18 expressly authorize the use of a decoy in sex trafficking investigations, and use of the Internet is permitted to investigate crimes of computer-aided solicitation of a minor, which could include solicitation for sex trafficking. Louisiana law establishes a statewide reporting and response system for missing children and requires the reporting of both missing and recovered children.

CRIMINAL PROVISIONS FOR FACILITATORS

Those who assist, enable, advertise or financially benefit from sex trafficking of minors face penalties as facilitators under the sex trafficking of a minor law. Facilitators also face 15–50 years imprisonment and possible fines up to \$50,000 for prostitution-related offenses involving minors under 18, or 25–50 years and possible fines up to \$75,000 when the minor is under 14.. Facilitators are subject to mandatory criminal asset forfeiture and restitution to a victim for pecuniary loss or costs related to the prosecution. Depending on the age of the victim, distributing child pornography is punishable by 5–40 years imprisonment without “parole, probation, or suspension of sentence” and a fine up to \$50,000. A potentially heightened penalty of 2–10 years imprisonment, or 25–99 years if the victim is under 13, is imposed on facilitators who use a wireless router to distribute or sell child pornography. Louisiana’s sex trafficking law makes it a crime to sell or offer to sell travel services that include or facilitate sex trafficking of children.

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.