

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

MISSOURI REPORT CARD 2012

Missouri makes domestic minor sex trafficking a crime for buyers, traffickers, and facilitators. Victims are not provided specific protective provisions and the state's abuse and neglect definitions fail to include commercial sexual exploitation to allow for child welfare intervention. The critical tool of wiretapping is not expressly permitted in sex trafficking investigations, handicapping law enforcement and prosecutors.

FINAL SCORE

82

FINAL GRADE

B



7.5
10

22
25

12.5
15

8.5
10

20.5
27.5

11
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Missouri has a separate law addressing sex trafficking of a child and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include: promoting prostitution of a minor under 16, patronizing prostitution, promoting online sexual solicitation, child used in sexual performance, sexual exploitation of a minor, promoting sexual performance by a child, and abuse of a child by sexual exploitation for child pornography. Other than promoting online sexual solicitation, CSEC crimes and the prostitution law do not refer to the sex trafficking of children law to identify commercially sexually exploited minors as victims of trafficking. Missouri has not enacted a racketeering or gang crime law that includes trafficking and CSEC offenses as predicate acts to prosecute sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking law can be used to prosecute buyers who cause a minor to engage in a commercial sex act. The solicitation of prostitution law distinguishes between buying commercial sex acts with adults versus minors, providing enhanced penalties for buying sex with a minor under 18. In the absence of a statute or heightened penalties for using the Internet to purchase commercial sex acts with a minor, the enticement of a child law, which includes enticing a minor under 15 via the Internet to engage in sexual conduct, might apply to buyers who use the Internet for this purpose. The sex trafficking of a child and CSEC offense of patronizing prostitution prohibit an age mistake defense, preventing buyers from using this defense. The patronizing prostitution law staggers the penalties according to age, leaving insufficient penalties for those who purchase commercial sex acts with minors 15–17 years of age. Buyers convicted of child sex trafficking must pay restitution to the victim. Buyers of sex with minors are required to register as sex offenders if convicted of sex trafficking of a child or possessing child pornography, but not CSEC offenses.

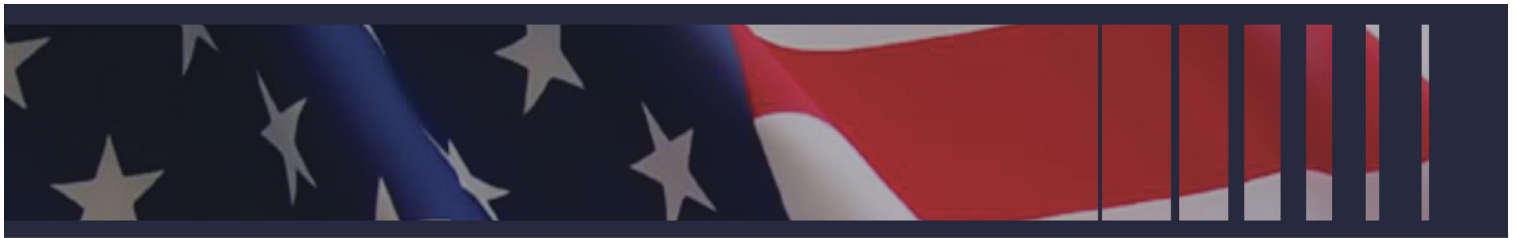
CRIMINAL PROVISIONS FOR TRAFFICKERS

Sex trafficking of a child is a felony punishable by a fine up to \$250,000 and 10 years to life imprisonment, enhanced to 25 years to life imprisonment if the victim is either under 12 or force, abduction or coercion was used. Promoting prostitution of a minor is a felony punishable by 5–15 years imprisonment. Abuse of a child by sexual exploitation for child pornography is punishable by imprisonment for 10–30 years or life. Producing a sexual performance of a child is a felony punishable by up to 7 years imprisonment and a possible fine of \$5,000 or double the defendant's gain from a commission of the offense up to \$20,000. Age misrepresentation by a trafficker on the Internet with the intent to engage in criminal sexual conduct (that could include sex trafficking) involving a minor is a felony punishable by imprisonment up to 4 years. Convicted sex traffickers must pay restitution to the victim, and may also face discretionary civil asset forfeiture. Traffickers convicted of sex trafficking of a child, CSEC offenses, and child pornography offenses must register as sex offenders. Grounds for termination of parental rights exist when a trafficker is convicted of sex trafficking of a child or certain other CSEC offenses when any child in the trafficker's family was the victim of the crime.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of children (causes minor to engage in commercial sex act) (§ 566.212)	Felony	10 years–life 25 years–life (minor under 12)	Max. \$250,000	●
Patronizing prostitution of minor 15–17 (§ 567.030)	Class A misdemeanor	Max. 1 year	Max. \$1,000	●
Patronizing prostitution of minor under 15 (§ 567.030)	Class D felony	Max. 4 years	Max. \$5,000	●
Possession of child pornography (§ 573.037)	Class C felony	Max. 7 years	Max. \$5,000	●

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



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Child sex trafficking and CSEC victims are afforded some protections under Missouri law, but gaps still exist. Missouri law expressly prohibits a defense based on consent when a sex trafficking victim is under 12; however, this defense is not prohibited for older minors. A CSEC victim charged with prostitution may assert an affirmative defense of coercion or force in committing the offense of prostitution, but prostitution laws are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. Missouri provides statutory procedures to identify human trafficking victims, and law enforcement must notify social services and juvenile justice authorities when a minor victim is identified. The state also has special technical assistance teams for cases of child exploitation and child pornography. A CSEC victim may be detained if determined delinquent or a child in need of care. The limited definitions of abuse and neglect do not include CSEC and therefore would not permit child welfare intervention even though the definition of a person “responsible for the care, custody and control” of a child is likely broad enough to allow a child controlled by a trafficker protection through child welfare. CSEC victims are eligible for crime victims’ compensation, but eligibility criteria requiring cooperation with law enforcement and reporting the incident within 48 hours may limit ability to recover. Additionally a claim must be filed within two years, and the award may be reduced if the injury arose from the consent of the victim. Victim-friendly criminal justice procedures exist, such as the “rape shield” law. Minors may have their records expunged if a petition is filed within one year of arrest. Victims of sex trafficking are entitled to mandatory restitution and civil remedies are available to victims of trafficking and CSEC offenses. Criminal statutes of limitations for sexual offenses against a minor are extended 30 years past turning 18, and eliminated when force is used in the commission of the offense. Civil statutes of limitations for actions arising out of child pornography offenses are extended until the victim reaches 31 or within three years of discovering injury was caused by the offense.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Missouri law authorizes, but does not require, training programs for law enforcement on human trafficking. Single party consent to audiotaping is permitted, but wiretapping is not permitted for investigations of suspected sex trafficking and CSEC crimes, denying law enforcement an important tool for investigation and evidence. Use of a decoy is specifically permitted within the statutes of enticement of a child (under 15 only) and sexual misconduct involving a child, but not for sex trafficking or CSEC offenses. Law enforcement may use the Internet to investigate cases of sex trafficking relying on the enticement of a child law which includes enticing a child under 15 both in person and via the Internet to engage in sexual conduct. Missouri law requires law enforcement to report missing and recovered children.

CRIMINAL PROVISIONS FOR FACILITATORS

Missouri’s sex trafficking law makes it a crime to benefit financially from sex trafficking, a felony punishable by a fine up to \$250,000 and 10 years to life imprisonment, enhanced to 25 years to life if the victim was under 12 or force, abduction or coercion was used in committing the crime. Facilitators may also be charged with the felony crimes of promoting sexual performance of a child or promoting child pornography punishable by up to 7 years imprisonment and a possible fine up to \$5,000 or double the defendant’s gain from the commission of the offense up to \$20,000. Facilitators are subject to discretionary civil asset forfeiture for these crimes. Facilitators who knowingly permit their online services to be used to post advertisements related to sex trafficking could be charged with the felony of promoting online sexual solicitation, and fined \$5,000 per day of continuing violation beginning 72 hours after notice has been provided. Facilitators convicted of sex trafficking must pay restitution to the victim. Sex tourism is a crime under promoting travel for prostitution (punishable by up to 7 years imprisonment and a possible fine not to exceed \$5,000 or double the defendant’s gain from the commission of the offense) and advertising or facilitating travel to engage in a commercial sex act (punishable by loss of business incorporation status and freezing of assets); neither statute enhances penalties if the victims are minors.

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.

