

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

MISSISSIPPI REPORT CARD 2012

Mississippi law makes it a crime to traffick a minor under 18 for sexual purposes without force, fraud or coercion and can be used to prosecute demand. However, victims have few protective provisions and law enforcement is missing critical training and investigative tools, such as the ability to wiretap to investigate commercial sexual exploitation of children (CSEC) cases.

FINAL SCORE

66

FINAL GRADE

D



7
10

16
25

14.5
15

6
10

15
27.5

7.5
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Mississippi's human trafficking law addresses sex trafficking 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 CSEC laws include enticing a child for prostitution and exploitation of children for child pornography. CSEC and prostitution statutes do not refer to the human trafficking statute to identify commercially sexually exploited minors as victims of sex trafficking. Mississippi's racketeering law includes CSEC offenses, but not trafficking as predicate activity, and the criminal street gang law provides sentencing and financial penalty enhancements.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law can be applied to buyers who "cause or attempt to cause" a minor to engage in commercial sex acts. No CSEC laws include the crime of buying sex with a minor, though a buyer could be charged with the misdemeanor contributing to the neglect or delinquency of a child subject to a maximum of 1 year imprisonment. A buyer might be charged with solicitation of prostitution even though the statute does not distinguish between purchasing commercial sex acts with an adult versus a minor. Using the Internet to purchase commercial sex acts from a minor could be prosecuted under the statute on use of computer for the purpose of luring or inducing person under eighteen to engage in sexual conduct, although this does not expressly address commercial sexual exploitation. The human trafficking law and CSEC laws are silent on availability of an age mistake defense by a buyer. At the court's discretion, buyers may be ordered to pay restitution. Buyers of sex acts with minors are not required to register as sex offenders for convictions of child sex trafficking or prostitution-related offenses against a minor.

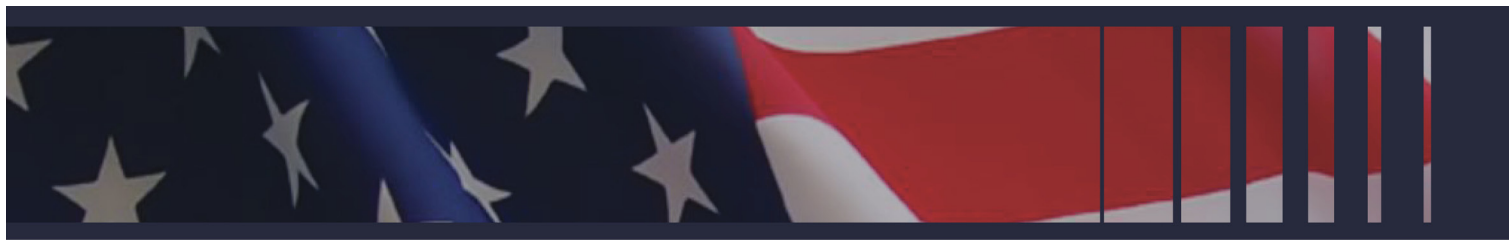
CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers prosecuted for sex trafficking under the state human trafficking law face a maximum sentence of 30 years and a possible fine up to \$10,000. Traffickers convicted of the CSEC crime of enticing a child for prostitution face up to 10 years imprisonment and/or a fine not to exceed \$1,000. Exploitation of children for child pornography, which includes causing or soliciting a child to engage in sexual conduct for the purpose of creating child pornography, is punishable by 5–40 years imprisonment and a \$50,000–\$100,000 fine. Traffickers could also be in violation of racketeering laws and criminal street gang laws. The statute on use of a computer for the purpose of luring or inducing persons under 18 to engage in a sexual act provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. Traffickers may be required to pay restitution when convicted of any crime (including CSEC crimes). Convictions for racketeering may lead to asset forfeiture. Convicted traffickers may have to register as sex offenders for violations of sex trafficking and creating child pornography. Grounds for termination of parental rights do not include convictions of sex trafficking or CSEC crimes, leaving children of traffickers at potential risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Human trafficking ("cause or attempt to cause" a minor to engage in commercial sex acts) (§97-3-54.1)	Felony	Max. 30 years	Max. \$10,000	○
Prostitution (§ 97-29-49)	Misdemeanor	Max. 6 months	\$200	○
Possessing child pornography (§ 97-5-33(5))	Felony	5-40 years	\$50,000-\$500,000	○

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



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking and CSEC in Mississippi are vulnerable due to gaps in the law. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving minors vulnerable to criminalization for the prostitution they are caused to commit through their trafficking. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor. While mandatory reporters must report to law enforcement any suspected sex crime against a minor under 16, defined to include trafficking and CSEC offenses, no specific protective provisions are statutorily mandated for CSEC victims. A CSEC victim could be classified as a dependent or a child in need of services and receive protective action; however, a CSEC victim may also be classified as delinquent and enter the juvenile justice system. A victim found to be abused or neglected might receive protection through child protective services as traffickers in control of a child may be considered to have “present care” of the child; furthermore, although it does not include human trafficking, the definition of abuse includes exploitation through prostitution and pornography. While CSEC victims would likely be eligible for crime victims’ compensation, several eligibility criteria may limit their ability to recover, including reduction if the victim is deemed responsible for the cause of the injury or did not cooperate with law enforcement, and a requirement to file a claim within three years, with a possible extension of one year if good cause is shown. Certain victim-friendly trial procedures are available in limited cases. Victims under 16 may be permitted to testify through closed-circuit television and the “rape shield” law, which limits the trauma of cross-examination for testifying victims, may be applied to victims of rape or statutory rape, but not CSEC victims. Juveniles who incur criminal records may have first-time misdemeanor convictions expunged, and juvenile records can be sealed upon reaching the age of 20. Restitution to victims of human trafficking and CSEC crimes is not mandatory; however, a court may award restitution for pecuniary damages at its discretion. Civil remedies are not expressly provided for CSEC victims, unless they are also victims of racketeering. Mississippi eliminates the statute of limitations for certain CSEC related crimes, including contributing to the delinquency of a minor and exploitation of children for child pornography, but not human trafficking.

CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of aiding or abetting human trafficking with a sentence for conviction of up to 30 years, of financially benefitting from human trafficking with a sentence of up to 20 years, and of both with a possible fine up to \$10,000. Facilitators could also be subject to racketeering and crime gang laws. If a sex trafficking case is misidentified as a case of prostitution, a facilitator who aids or abets prostitution could be punished by imprisonment up to 6 months and/or a possible fine not to exceed \$200, even when the victim is a minor. Selling child pornography is punishable by 5–40 years’ imprisonment and a fine of \$50,000-\$500,000. At a court’s discretion, facilitators may be ordered to pay restitution to a victim. No laws in Mississippi address sex tourism, leaving businesses to capitalize on CSEC as part of travel packages.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

There is no Mississippi law mandating training for law enforcement on human trafficking or domestic minor sex trafficking. Single party consent to audiotaping is permitted, but wiretapping is not allowed for CSEC investigations, denying law enforcement an important tool for investigations and evidence. The CSEC offense of exploitation of children for child pornography allows for both the use of a decoy and the Internet for investigative purposes, but these tools are not identified for sex trafficking or prostitution of minors. No law requires the reporting of missing or recovered 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.

