

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

RHODE ISLAND REPORT CARD 2012

Rhode Island law makes trafficking of a minor under the age of 18 for commercial sexual exploitation a crime without requiring proof of use of force, fraud, or coercion. Penalties are substantial but convicted offenders are not required to register as sex offenders.

FINAL SCORE

68

FINAL GRADE

D



7.5
10

22
25

11.5
15

7
10

10.5
27.5

9.5
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Rhode Island's separate sex trafficking of a minor law defines a minor under the age of 18 used in a commercial sex act as a trafficking victim without requiring proof of force, fraud, or coercion used in the commission of the trafficking. CSEC laws include: exploitation for commercial or immoral purpose, employment of children for unlawful purposes, and indecent solicitation of a child. The CSEC and prostitution laws do not refer to the sex trafficking of a minor law to identify commercially sexually exploited minors as victims of sex trafficking. Rhode Island's racketeering statute includes CSEC but not trafficking offenses as predicate activity.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The state sex trafficking of a minor law applies to buyers of commercial sex from a minor by making it a crime when a person "purchases a minor for the purposes of commercial sex acts." Several CSEC laws also include the crime of buying sex with a minor, and solicitation of prostitution laws distinguish between purchasing commercial sex acts with an adult versus a minor. The indecent solicitation of a minor law includes soliciting a minor through any means, including the Internet, to engage in prostitution. The sex trafficking of a minor law does not require the prosecution to prove the defendant knew the age of the victim, eliminating any defense of age mistake. However, CSEC laws are silent on mistake of age defense. A court must order buyers convicted of sex trafficking of a minor to pay restitution to the victim, and restitution may be ordered for other CSEC victims. Buyers of sex with minors are required to register as sex offenders for convictions of CSEC offenses and possessing child pornography, but not for sex trafficking of a minor.

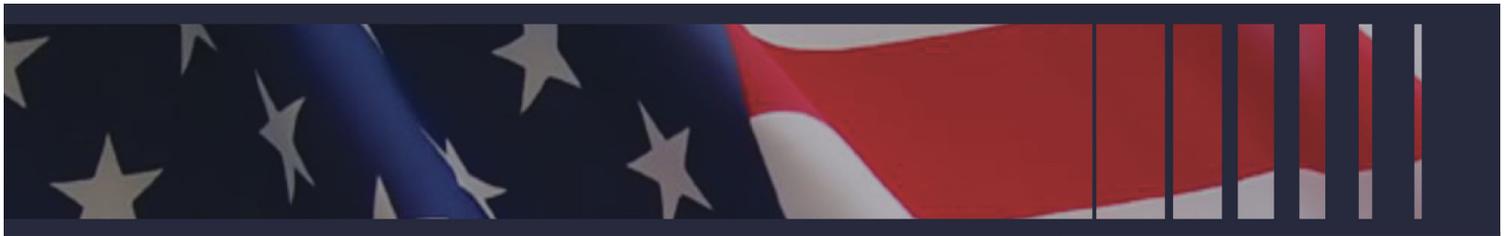
CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face prosecution under sex trafficking of a minor and CSEC laws, and could be subject to money laundering and racketeering laws. Sex trafficking of a minor is a felony punishable by imprisonment up to 40 years and/or a fine up to \$40,000 and, although not expressly through the sex trafficking of a minor law, criminal asset forfeiture through the state's general human trafficking law might apply. The CSEC offense of exploitation for commercial purposes through prostitution is punishable by imprisonment up to 20 years and/or a fine up to \$20,000. Producing child pornography carries a 15 year sentence and/or a fine up to \$15,000, while permitting a child to be used in child pornography is punishable by imprisonment up to 10 years and/or a fine up to \$10,000. Indecent solicitation of a child penalizes soliciting a minor by any means (including the Internet) to engage in prostitution, and imposes a minimum 5 year sentence. Traffickers convicted of sex trafficking of a minor are required to pay restitution to the victim. A trafficker is required to register as a sex offender for some CSEC and child pornography offenses, but not for sex trafficking of a minor. Rhode Island law does not expressly allow for the termination of parental rights based on convictions of sex trafficking of a minor or CSEC offenses, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Sex trafficking of a minor ("purchase a minor" for commercial sex acts) (§ 11-67-6)	Felony	Max. 40 years	Max. \$40,000	○
Indecent solicitation of a minor (Soliciting a minor to engage in an act of prostitution) (§ 11-37-8.8)	Felony	Max. 5 years	n/a	○
Possessing child pornography (§ 11-9-1.3)	Felony	Max. 5 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

Domestic minor sex trafficking victims are vulnerable due to gaps in the law. Sex trafficking of a minor and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults, leaving prostituted minors vulnerable to arrest and detention for prostitution, and affirmative defenses provided in the statute are limited to proving force was used to cause the prostitution. Law enforcement may take CSEC victims into custody and direct that they be treated as “neglected” children; however, a CSEC victim could also enter the juvenile justice system as a delinquent child. Abused and neglected children are defined to include those exploited through prostitution or pornography, but not sex trafficking. The definition of “person responsible for child’s welfare” who must commit the abuse or neglect in order to fall within the child protective services mandate is limited, making it unlikely that a child under a non-familial trafficker’s control would be rescued through child welfare intervention. Although CSEC offenses and sex trafficking of a minor are not specifically listed as crimes for which crime victims’ compensation is available, a CSEC victim may receive an award under the discretionary authority of the office of the general treasurer. Barriers to receiving an award include a requirement to report the crime within ten days and to file a claim within three years of injury, which may be waived if the victim was under 18 or if good cause is shown. A claim may also be denied if the victim fails to cooperate with law enforcement or if the victim’s conduct contributed to the injury. Courtroom protections are limited and the “rape shield” law which reduces the trauma of cross-examination for victims does not extend to CSEC or trafficking victims. Juvenile criminal records may be sealed upon turning 18 or completion of any sentence. A victim of sex trafficking of a minor is entitled to mandatory restitution and victims of CSEC offenses may also receive restitution. Additionally, a CSEC victim may have a civil cause of action against an offender through a general law on civil liability for criminal offenses. The civil statute of limitations for actions based on the CSEC crime of indecent solicitation of a child are extended, but criminal actions for sex trafficking of a minor, CSEC offenses and child pornography crimes are not extended and must be brought within three years.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on domestic minor sex trafficking is not mandated by law. Single party consent to audiotaping is permitted, but wiretapping is not allowed in investigations for sex trafficking of a minor or CSEC investigations. Law enforcement may use a decoy and the Internet to investigate CSEC relying on the indecent solicitation of a child statute, which includes soliciting a minor under 18 for prostitution both in person and via the Internet. Rhode Island has established a missing children’s information center and requires the reporting of missing and recovered children.

CRIMINAL PROVISIONS FOR FACILITATORS

It is a crime to benefit financially from participating in the sex trafficking of a minor, punishable by up to 40 years imprisonment and/or a fine up to \$40,000, and required restitution to the victim. A facilitator could also be subject to the state’s money laundering and racketeering laws. . Distributing child pornography is punishable by imprisonment up to 10 years and/or a fine up to \$10,000, while transporting or delivering child pornography carries a sentence up to 15 years and/or a fine up to \$5,000. No laws in Rhode Island make sex tourism a crime, providing a soft environment for businesses selling travel based on commercial sex acts.

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.

