

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

UTAH REPORT CARD 2012

Utah's human trafficking law requires force, fraud, or coercion was used in the trafficking of any age person including a minor. The state lacks laws to prosecute demand for commercial sex acts with a minor creating barriers to access to justice and leaving Utah's children vulnerable.

FINAL SCORE

60.5

FINAL GRADE

D



$\frac{7}{10}$

$\frac{9.5}{25}$

$\frac{13.5}{15}$

$\frac{6}{10}$

$\frac{12.5}{27.5}$

$\frac{12}{15}$



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Utah's human trafficking law increases the penalties when a minor is used in a commercial sex act; however, the law requires force, fraud, or coercion for any age person including a minor to be considered a sex trafficking victim. The state CSEC laws include aggravated exploitation of prostitution, aggravated sexual abuse of a child through prostitution, and sexual exploitation of a minor. Neither the CSEC laws nor the state prostitution law refer to the sex trafficking law to ensure that commercially sexually exploited minors are identified as victims of trafficking. Utah's pattern of unlawful activity law includes human trafficking and most CSEC laws as predicate acts, making this offense available for prosecution of sex trafficking enterprises.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The state human trafficking law is narrowly defined to require use of force, fraud, or coercion against the victim to cause him or her to engage in commercial sex acts, which likely excludes application to the actions of a buyer purchasing a commercial sex act. CSEC crimes do not include buying sex with a minor, and solicitation laws do not distinguish between purchasing commercial sex acts with an adult versus a minor. A separate law makes it a crime to use the Internet to solicit a minor to engage in any illegal sexual activity, which could include prostitution and therefore could reach a buyer using the Internet to solicit minors for commercial sex acts. Though not mandatory, a court may order a convicted buyer to pay restitution to a victim. A buyer is required to register as a sex offender if convicted of possessing child pornography or enticing a minor via the Internet to engage in a sex act, but is not required to register for convictions of buying commercial sex acts with a minor specifically.



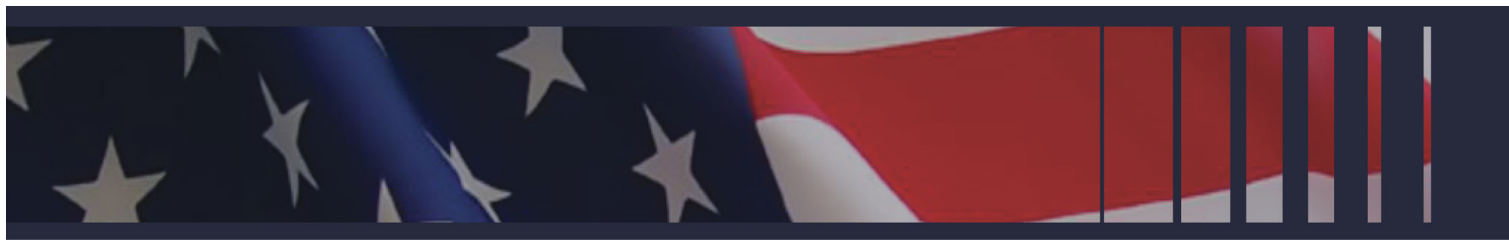
CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker of minors for commercial sexual exploitation faces prosecution under human trafficking and CSEC laws. Sex trafficking of a minor is a felony punishable by 5 years–life imprisonment and a possible fine not to exceed \$10,000. The CSEC laws of aggravated exploitation of prostitution of a minor and sexual exploitation of a minor through pornography are felonies punishable by 1–15 years imprisonment and possible fines up to \$10,000. Traffickers who “cause a minor to take indecent liberties” through prostitution can be prosecuted for aggravated sexual abuse of a child, a felony punishable by 15 years–life imprisonment and a possible fine up to \$10,000. A separate law makes it a crime to use the Internet to solicit a minor to engage in any illegal sexual activity, which could apply to traffickers who use the Internet to lure or recruit minors to engage in commercial sex acts. Although only mandatory if pecuniary damages are proven, the court may order a trafficker to pay restitution to the victim. Traffickers are only subject to asset forfeiture if also convicted of money laundering or a pattern of unlawful activity offenses. Traffickers are required to register as sex and kidnap offenders for sex trafficking, CSEC offenses and child pornography offenses. Utah law does not expressly provide for the termination of parental rights for the conviction of sex trafficking or CSEC offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostitute (\$ 76-10-1303)	Class B misdemeanor	Max. 6 months	Max. \$1,000	○
Possessing child pornography (\$ 76-5b-201(1))	2nd degree felony	1–15 years	Max. \$10,000	○

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 Utah’s laws. Sex trafficking and CSEC laws do not prohibit a defense based on consent of the minor for all minors; however, the CSEC offenses of sexual exploitation of a minor through pornography and aggravated sexual abuse of a child through prostitution provide that a minor under 14 may not consent to the offense. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking. No protective provisions are statutorily mandated specifically for victims of sex trafficking or CSEC offenses, and a victim could enter the juvenile justice system under prostitution-related charges and receive detention. If a victim is found to be an abused child—defined to include children exploited through pornography, but not expressly sex trafficking—the victim may receive a child protective response, but the absence of a definition of “caregiver” in the child protective service statutes leave it unclear whether a child controlled by a trafficker would be protected through child welfare intervention. Crime victims’ compensation is expressly provided for child victims of pornography and is likely available to other CSEC victims. However, several eligibility factors may prevent CSEC victims from recovering. Victims must report the crime to law enforcement and cooperate with law enforcement, and any victim who may have been sentenced for crimes forced to commit as a part of the exploitation is ineligible for compensation. The victim-friendly criminal justice procedure of testifying via closed circuit television is limited to victims under 14. However, the “rape-shield” law which reduces the trauma of cross-examination for victims is available to all victims of alleged sexual misconduct. Minors may petition for expungement of their juvenile criminal records after they reach 18 and one year has passed since they were released from the jurisdiction of the juvenile court, but a court can waive these requirements when it deems it appropriate. Victim restitution is mandatory when pecuniary damages have been shown and some victims, such as those who are also victims of a pattern of unlawful activity, could bring civil actions against the offenders. Prosecution of the CSEC offense of aggravated sexual abuse of a child through prostitution may be commenced at any time, but the statutes of limitations for other criminal CSEC offenses are not extended and must be brought within four years. The statute of limitations for any civil action involving a minor does not begin to run until the minor reaches 18.

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, and wiretapping is allowed for investigations of aggravated exploitation of a minor. However, wiretapping is not authorized for sex trafficking investigations. No provision in Utah law expressly authorizes the use of a decoy by law enforcement in investigations of prostitution or sex trafficking. Relying on the enticement of a minor statute, law enforcement may utilize the Internet to investigate sex trafficking. Utah law requires law enforcement to report missing and recovered children.

CRIMINAL PROVISIONS FOR FACILITATORS

Utah’s human trafficking law applies to those who benefit financially from participating in the sex trafficking of a minor and is punishable by 1–15 years imprisonment and a possible fine not to exceed \$10,000. The CSEC crime of aggravated exploitation of prostitution of a minor and distributing child pornography are both felonies applicable to facilitators punishable by 1–15 years imprisonment and a possible fine not to exceed \$10,000. A facilitator will only be subject to asset forfeiture if also convicted under Utah’s pattern of unlawful activity and money laundering laws. Although not mandatory, a court may order a facilitator to pay restitution to the victim. No specific laws in Utah criminalize sex tourism, making the state friendly for businesses that capitalize on commercial sex activity to sell travel.

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.

