

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

WYOMING REPORT CARD 2012

Wyoming has not enacted a human trafficking or sex trafficking law and limited commercial sexual exploitation of children (CSEC) laws leave buyers of commercial sex with minors largely undeterred. Few protective provisions exist for domestic minor sex trafficking victims.

FINAL SCORE

32.5

FINAL GRADE

F



4.5
10

4
25

10
15

2.5
10

9
27.5

2.5
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Wyoming has not enacted a human trafficking or sex trafficking law, leaving cases of domestic minor sex trafficking to be prosecuted under CSEC laws, including promoting prostitution of minors under 18, and sexual exploitation of children. Wyoming's gang crime law includes CSEC offenses and may reach some trafficking networks.

CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand for commercial sex acts with minors in Wyoming. No CSEC offense expressly includes buying sex with a minor, leaving buyers to be prosecuted under the general solicitation of prostitution law which does not distinguish between purchasing sex acts with an adult versus a minor, and therefore provides no enhanced penalties or special provisions making the solicitation of prostitution with a minor a more serious crime. No law expressly makes it a crime to use the Internet to solicit sex acts. Buyers might be liable under the general statute criminalizing soliciting to engage in illicit sexual relations when the minor solicited is under 14. In the absence of CSEC or sex trafficking offenses, buyers might be prosecuted under general sex offenses which permit a defendant to assert a mistake of age defense when older minors are involved. Buyers convicted of soliciting an act of prostitution with a minor under the general solicitation law must register as sex offenders. A restitution order will be entered in any criminal conviction to pay a victim's proven economic damages, insofar as the offender is deemed able to pay.

CRIMINAL PROVISIONS FOR TRAFFICKERS

The state has no sex trafficking law and the CSEC statutes applicable to criminal actions of traffickers—promoting prostitution (when the victim is a minor under 18) and endangering children—do not carry sentences as high as the federal sentences of 10 years to life for child sex trafficking. Promoting prostitution when the victim is a minor under 18 is a felony punishable by up to 5 years imprisonment and/or a fine up to \$5,000. Sexual exploitation of a child through pornography is a felony punishable by 5–12 years imprisonment and/or a fine up to \$10,000. No law expressly makes it a crime to use the Internet or electronic communications to recruit or sell a minor for commercial sex acts. Traffickers convicted of promoting prostitution more than two times in three years also could be in violation of Wyoming's criminal street gang laws if acting in association with five other individuals. Traffickers are subject to mandatory criminal asset forfeiture for violations relating to child pornography, but not for other offenses, and are required to pay restitution determined by the court if they are deemed able to pay. Traffickers are required to register as sex offenders if convicted of child pornography offenses or promoting prostitution of a minor. Conviction of any offense related to domestic minor sex trafficking is not expressly included as grounds for terminating parental rights under Wyoming law, although parental rights can be terminated if the parent is incarcerated for a felony conviction and determined to be unfit to have the custody and control of the child, leaving open the possibility that a child of a convicted trafficker could be protected from the trafficker-parent.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Soliciting an act of prostitution (§ 6-4-102)	Misdemeanor	Max. 6 months	Max. \$750	○
Possessing child pornography (§ 6-4-303(b)(iv))	Felony	Max. 10 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

Victims of domestic minor sex trafficking are highly vulnerable due to gaps in the state laws. No law identifies a CSEC victim as a victim of sex trafficking. The CSEC laws do not prohibit a defense to prosecution based on consent of the minor to the prostitution. 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 CSEC victims. If an exploited child is determined to be a child in need of supervision, abused or neglected—terms that do not include commercial sexual exploitation in the definitions—the child could enter the child welfare system provided the definition of “person responsible for a child’s welfare” also includes those with “physical custody or control of the child,” a definition that could potentially include a trafficker and therefore allow for intervention. While child victims of commercial sexual exploitation are likely eligible for state crime victims’ compensation, several eligibility criteria may present barriers to collecting an award, including requirements to provide “reasonable cooperation with law enforcement” and to file claims within one year unless good cause is shown. Victim-friendly criminal justice procedures are limited based on the age of the minor or to sexual offense cases, and the “rape shield” law, which reduces the trauma of cross-examination for the testifying victim, does not extend to testifying victims in CSEC trials. Victims may receive restitution for proven economic damages and possibly future damages, but no specific civil remedy for CSEC is authorized. Wyoming law does not have a statute of limitations for criminal offenses, so a prosecution may be brought at any time. A civil action for damages resulting from CSEC may be brought within three years of the victim’s 18th birthday if the time limit would have otherwise expired. Civil actions for sexual assault can be extended to the later of eight years after the victim’s 18th birthday or three years after the discovery of the injury.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Wyoming law does not mandate training for law enforcement on human trafficking or domestic minor sex trafficking. The law allows for single party consent to audiotaping which provides law enforcement a tool to safely investigate and produce admissible evidence, but CSEC offenses are not included as crimes for which a wiretapping order may be issued. Law enforcement might be able to use decoys and the Internet to investigate crimes of soliciting a minor under 14 to engage in a sex act due to the statute’s criminalization of soliciting a “person purported to be” under 14. No law mandates the reporting of missing children, although a database of DNA samples of missing persons is created by law and the Office of the Attorney General is required to establish and operate a “clearinghouse on missing children.”



CRIMINAL PROVISIONS FOR FACILITATORS

Wyoming has not enacted a sex trafficking law which could have made it a crime to financially benefit from or aid and assist in sex trafficking, and no law specifically makes criminal the actions of a facilitator of sex trafficking of minors. A facilitator who permits a place to be used for prostitution or benefits from prostitution might be found culpable of promoting prostitution, which is a felony punishable by up to 3 years imprisonment and/or a fine up to \$3,000. A facilitator is criminally liable for distributing, receiving, reproducing, or delivering child pornography, which is a felony punishable by 5–12 years imprisonment and/or a fine up to \$10,000 and makes the convicted facilitator subject to mandatory criminal asset forfeiture action. No laws make sex tourism a crime in Wyoming.

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.