

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

COLORADO REPORT CARD 2013

Colorado's trafficking in children law fails to expressly identify sex trafficking as a crime. Victims who are misidentified or are deemed complicit in the prostitution may face barriers to accessing protection or justice.

FINAL SCORE

67.5

FINAL GRADE

D



5

10

20

25

12

15

4.5

10

18.5

27.5

7.5

15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Colorado's trafficking in children law does not expressly include sex trafficking, however it is defined as an unlawful sex offense for which sex offender registration is required, indicating an intention to include sex trafficking of minors. Colorado has several commercial sexual exploitation of children (CSEC) laws, including: sexual exploitation of a child, procurement of a child for sexual exploitation, soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, and patronizing a prostituted child. The prostitution law does not refer to trafficking in children to identify commercially sexually exploited minors as victims of trafficking and provides no affirmative defenses to a minor charged with the offense. Colorado's racketeering law defines racketeering activity to include trafficking in children and certain CSEC offenses, allowing its use to prosecute sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in children does not apply to buyers because it fails to expressly identify sex trafficking. Buyers may be convicted of patronizing a prostituted child, soliciting for child prostitution and inducement of child prostitution. The court must consider ordering restitution for any conviction, and buyers convicted of CSEC offenses may be ordered to pay for the treatment of a victim under 15. Mandatory civil asset forfeiture is available under nuisance laws for soliciting for and inducement of child prostitution, but not for patronizing a prostituted child. Buyers who use the Internet to effect sexual conduct with a minor under 15 and at least four years younger than the buyer could be prosecuted under Internet luring or Internet sexual exploitation statutes. Buyer-applicable CSEC offenses specifically prohibit the age mistake defense and provide penalties of equal severity for exploiting minors under 18. Buyers of sex with minors must register as sex offenders if convicted of an unlawful sex offense, defined to include trafficking in children, CSEC offenses, possession of child pornography, and Internet luring of a child.

CRIMINAL PROVISIONS FOR TRAFFICKERS

A trafficker convicted of trafficking in children faces 8–24 years imprisonment and/or a fine of \$5,000– \$1,000,000. Soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, as well as creating and distributing child pornography are all Class 3 felonies punishable by imprisonment for 4–12 years and/or fines of \$3,000– \$750,000. Pandering of a child when intimidation is used is enhanced to a Class 2 felony punishable by 8–24 years and/or a fine of \$5,000–\$1,000,000. Internet sexual exploitation of a child under 15 likely does not reach the actions of traffickers who sell or recruit commercial sex acts with minors, and Internet luring of a child under 15 applies in limited circumstances, leaving the growing trend of online recruitment and selling of children for sex largely undeterred. Traffickers convicted of trafficking in children or any CSEC offense may be required to make restitution to their victims, and those convicted of trafficking or CSEC offenses may be ordered to pay for the treatment of a victim under 15. Convicted traffickers face mandatory civil asset forfeiture under the public nuisance law of any real property or vehicle used in commission of a trafficking in children and certain CSEC offenses. Traffickers must register as sex offenders for convictions of trafficking in children or CSEC offenses. Grounds for termination of parental rights do not include convictions of trafficking in children or CSEC offenses.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Patronizing a prostituted child (\$ 18-7-406(1))	Class 3 felony	4–12 years	\$3,000– \$750,000	○
Sexual exploitation of a child; possessing child pornography (\$ 18-6-403)	Class 6 felony	1–1½ years	\$1,000– \$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

Sex trafficking and CSEC victims are not fully protected due to gaps in the law. Trafficking in children and CSEC laws do not prohibit a defense based on consent of the minor. Prostitution offenses are not limited in application to adults and do not identify a juvenile involved in prostitution as a victim of trafficking in persons. As a result, a CSEC victim may enter the juvenile justice system and receive responses ranging from a diversion program to detention. However, child welfare intervention is possible as the definition of abuse includes a child who has been subjected to unlawful sexual behavior, which includes trafficking in children and CSEC laws, and the definition of custodian includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims' compensation is available for victims of CSEC offenses; however, participating in the conduct giving rise to the injury, failing to report the crime to law enforcement within 72 hours or to file a claim within one year, and a requirement to cooperate with law enforcement could prevent CSEC victims from receiving compensation. Victim-friendly trial procedures are available to trafficking in children and CSEC victims, including the admissibility of out of court statements into evidence, permissibility of videotaped testimony by a victim-witness under 15 in lieu of trial testimony due to emotional trauma, and provision of a court advocate. The "rape shield" law, which alleviates the trauma of cross-examination by limiting the admissibility of reputation and prior sexual conduct as evidence, is available in limited cases. Juvenile records involving prostitution-related offenses will be expunged if the court finds by a preponderance of the evidence that the juvenile was a trafficking victim or coerced to commit the offense. For purposes of restitution, "victim" is expressly defined to include minor trafficking victims and the court must consider ordering convicted defendants to pay restitution to their victims. A victim under the age of 15 of trafficking in children, soliciting for child prostitution, patronizing a prostituted child, or sexual exploitation may be able to have the offender pay for needed treatment. Civil remedies are available to victims of trafficking in children regardless of whether anyone is convicted in connection with their victimization. Criminal prosecutions for trafficking in children and all CSEC laws may be brought at any time, while civil claims based on damages from sexual offenses against a child must be brought within six years of the child turning 18.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Colorado law does not mandate or authorize training on human trafficking for law enforcement. Single party consent to audiotaping is permitted, but wiretapping is not expressly permitted in investigations for trafficking in children or CSEC crimes. No laws expressly authorize the use of a decoy or the Internet in trafficking in children investigations. While Internet sexual exploitation of a child under 15 is not targeted to reach traffickers or buyers of commercial sex acts with minors, Internet luring of a child under 15 would likely permit use of the Internet to investigate certain CSEC offenses. Colorado has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.

CRIMINAL PROVISIONS FOR FACILITATORS

The trafficking in children law does not include the crime of assisting, enabling, or financially benefitting from sex trafficking. Procurement of a child for exploitation in pornography or sexual performance through transportation, keeping a place of child prostitution, promoting and selling child pornography, and soliciting for child prostitution (which includes the facilitator action of directing a person to a place for the purpose of buying sex acts with a child) are all crimes punishable as Class 3 felonies by 4–12 years imprisonment and/or fine of \$3,000–\$750,000. Facilitators could also be subject to money laundering laws leading to additional penalties. The court must consider ordering convicted facilitators to pay restitution to their victims for any conviction, and facilitators convicted of promoting or soliciting for prostitution may be ordered to pay for the treatment of victims under 15. No laws in Colorado address sex tourism.

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.

