

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

MISSISSIPPI REPORT CARD 2013

Mississippi's human trafficking law makes it a crime to traffic a minor under 18 for sexual purposes without force, fraud or coercion and can be used to prosecute demand. Victims of human trafficking are immune from prosecution for prostitution and consent of a minor is prohibited as a defense to human trafficking and CSEC offenses.

FINAL SCORE

85.5

FINAL GRADE

B



10

10

24.5

25

15

15

7.5

10

21

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 procuring the services of a prostitute, promoting prostitution, enticing a child under 14 for prostitution and exploitation of children for child pornography. The prostitution statutes refer to the human trafficking statute and identify commercially sexually exploited minors as victims of sex trafficking by making sex trafficking victims immune from prosecution for prostitution offenses. Mississippi's racketeering law includes CSEC offenses and 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. A buyer could also be charged with the CSEC offense of procuring the services of a prostitute. Using the Internet to purchase commercial sex acts with a minor could be prosecuted under the statute criminalizing 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. Human trafficking and procuring services of a prostitute law expressly prohibit an age mistake defense by a buyer. Buyers are subject to asset forfeiture, civil judgments, and payment of mandatory restitution. Buyers of sex acts with minors are required to register as sex offenders for convictions of child sex trafficking but not procuring services of a prostitute when the person procured is a minor.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers prosecuted under the human trafficking law or CSEC law of promoting prostitution face a sentence of 5–30 years, a fine of \$50,000–\$500,000, or both. Traffickers convicted of enticing a child for prostitution face up to 10 years imprisonment and/or a fine not to exceed \$10,000. 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–\$500,000 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 are subject to asset forfeiture, civil judgments, and are required to pay restitution when convicted of trafficking. Traffickers will be required to register as sex offenders for violations of sex trafficking, enticing a child for prostitution and creating child pornography, but not for promoting prostitution. 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	5-30 years	Max. \$50,000-\$500,000	●
Procuring services of a prostitute (§ 97-29-51)	Felony	5-30 years	\$50,000-\$500,000	○
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

Sex trafficking and CSEC laws specifically prohibit a defense based on consent of the minor. Sex trafficking victims, including minor victims, are immune from prosecution for prostitution offenses committed through their trafficking. Law enforcement must file a report of suspected child abuse when a minor has engaged in prostitution, enabling many victims to avoid a punitive response and to access services through child welfare, however services and housing specifically designed to meet these victims' needs are not statutorily mandated. A CSEC victim could also be classified as a dependent under the definition of abuse which includes exploitation through prostitution and pornography, and 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. A CSEC victim may also be identified as a child in need of services. 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 human trafficking but not CSEC victims. Juveniles who incur criminal records may have first-time misdemeanor convictions expunged, juvenile records can be sealed upon reaching the age of 20, and juveniles are eligible for vacatur of a prostitution conviction. Restitution to victims of human trafficking is mandatory and may also be awarded to victims of CSEC crimes. Civil remedies are expressly provided for human trafficking victims but not CSEC victims, unless they are also victims of racketeering. Mississippi eliminates the statute of limitations for human trafficking and most CSEC crimes, including promoting prostitution, contributing to the delinquency of a minor, and exploitation of children for child pornography, but not procuring services of a prostitute when the person solicited is a minor.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Mississippi law does not mandate or authorize training, or development of training materials, for law enforcement on human trafficking or domestic minor sex trafficking. Single party consent to audiotaping is permitted, but wiretapping is not allowed for human trafficking or CSEC investigations, denying law enforcement an important tool for investigations and evidence. The CSEC offense of exploitation of children for child pornography and the human trafficking law both permit use of a decoy for investigative purposes, but use of the Internet is not specifically authorized. No law requires the reporting of missing or recovered children.

CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crimes of aiding or abetting human trafficking, which carries a sentence of 5–30 years and a possible fine of \$50,000–\$500,000, and includes financially benefitting from human trafficking, which is subject to a sentence of 5–20 years and a possible fine of \$20,000–\$100,000. Facilitators could also be subject to racketeering and crime gang laws. Financial penalties are as high as \$1,000,000 for enterprises involved in human trafficking and the enterprise may be restrained from any future operation in Mississippi. Selling child pornography is punishable by 5–40 years imprisonment and a fine of \$50,000–\$500,000 and facilitators convicted of promoting prostitution face 5–30 years imprisonment and a possible fine of \$50,000–\$500,000. Facilitators convicted of human trafficking face asset forfeiture, mandatory restitution and civil judgments. No laws in Mississippi address sex tourism, leaving businesses to capitalize on CSEC as part of travel packages.

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.

