

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

## OHIO REPORT CARD 2013

*Ohio's trafficking in persons law does not distinguish between sex trafficking of an adult or a child and requires the use of force, fraud, or coercion in any case. While child victims of human trafficking may not avoid a juvenile justice response, they may avoid a juvenile record and immediate expungement is available.*

FINAL SCORE

72.5

FINAL GRADE

C



8.5

10

17

25

13.5

15

4.5

10

14

27.5

15

15

### CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The trafficking in persons law requires proof of force, threat of force, or fraud even when the victim is a minor. State commercial sexual exploitation of children (CSEC) laws include: compelling prostitution, promoting prostitution, procuring, and importuning a 16 or 17 year old trafficking victim. Compelling prostitution and promoting prostitution refer to trafficking in persons by providing enhanced penalties where an offender committed the crime in furtherance of human trafficking, but the prostitution law does not refer to the human trafficking law when the person charged is a minor, potentially leading to misidentification of sex trafficking victims. Ohio's corrupt activity law includes trafficking, CSEC and child pornography offenses as predicate acts.

### CRIMINAL PROVISIONS ADDRESSING DEMAND

Trafficking in persons does not apply to buyers because soliciting, purchasing or engaging in sex acts is specifically exempted as prohibited conduct. Compelling prostitution includes the crime of buying sex with any minor, while importuning a 16 or 17 year old trafficking victim is restricted in application to older minors who are also identified as trafficking victims. Buyers convicted of compelling prostitution face mandatory restitution to the victim and could be subject to Ohio's general criminal asset forfeiture provisions. Compelling prostitution prohibits an age mistake defense. Ohio's importuning law, which prohibits use of an electronic communication device to solicit sex with a child under 16 (enhanced penalties for a child under 13), might apply to buyers who use the Internet although it does not specifically include commercial sex acts. Buyers of sex with minors are required to register as sex offenders if convicted of compelling prostitution of a minor, pandering obscenity involving a minor, or pandering sexually oriented material involving a minor.

#### DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Compelling prostitution (use of force, fraud, or coercion against victim 16–18) (§ 2907.21(A))	Felony of the second degree	2–8 years	Max. \$15,000	●
Compelling prostitution (use of force, fraud, or coercion against victim under 16)	Felony of the first degree	3–11 years	Max. \$20,000	●
Compelling prostitution (no force, fraud, or coercion, minor any age)	Felony of the third degree	9–36 months	Max. \$10,000	●
Possessing child pornography (§§ 2907.321(A)(5), 2907.322(A)(5))	Felony of the third degree	9–36 months	Max. \$10,000	○
Importuning a 16 or 17 year old trafficking victim (§ 2907.07(B)(2))	Felony of the fifth degree	6–12 months	Max. \$2,500	○

*All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.*

### CRIMINAL PROVISIONS FOR TRAFFICKERS

Trafficking in persons is punishable by imprisonment for a definite term of 10–15 years and a possible fine up to \$20,000. Compelling prostitution (use of force, fraud, or coercion against victim 16–18) is a second degree felony punishable by imprisonment for 2–8 years and possible fines up to \$15,000. Compelling prostitution (use of force, fraud, or coercion against victim under 16) is a felony in the first degree punishable by imprisonment for 3–11 years and a possible fine up to \$20,000. When no force, fraud, or coercion was used against a minor of any age, compelling prostitution is a felony in the third degree punishable by 9–36 months imprisonment and a possible fine up to \$10,000. Promoting prostitution of a minor is a felony in the third degree punishable by 9–36 months imprisonment and a possible fine up to \$10,000, and procuring is a felony in the fourth degree punishable by imprisonment for 6–18 months and a possible fine up to \$5,000. Traffickers who commit compelling prostitution or promoting prostitution in furtherance of human trafficking face enhanced penalties. No statute expressly criminalizes use of the Internet to sell commercial sex acts with a minor. Traffickers convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution and could be subject to Ohio's general criminal asset forfeiture provisions. Traffickers must register as sex offenders for convictions under most CSEC laws and for trafficking in persons. Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights.



## PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Trafficking in persons and CSEC laws do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. Prostitution offenses are not limited in application to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and provide no affirmative defenses to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system as a delinquent child and could face detention if not identified as a CSEC victim or if the child fails to successfully complete a diversion program. Since a child victim of a CSEC offense is considered by law an abused child, a victim might receive a protective response through child welfare if the definition of custodian is determined to reach traffickers in control of an abused child. Crime victims' compensation is available for victims of CSEC offenses and minor victims of human trafficking are specifically exempt from ineligibility factors, although victims of other CSEC offenses may face barriers to eligibility. Victim-friendly trial procedures are available to some CSEC victims. Children under 13 who are victims of compelling prostitution, pandering sexually oriented material involving a minor, or pandering obscenity involving a minor may give videotaped deposition testimony; in addition, general crime victims' rights prevent the release of identifying information and provide for separate waiting rooms during trial. Ohio's "rape shield" law, however, is limited to victims of rape, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. A juvenile's records may be expunged immediately upon successful completion of diversion or after conviction for prostitution-related offenses if shown to be the result of being a victim of human trafficking. Criminal restitution to victims of trafficking in persons, compelling prostitution and promoting prostitution is mandatory, and civil remedies are specifically available to victims of sex trafficking, but not CSEC offenses. Assets forfeited by defendants convicted under the trafficking law are deposited in a fund to be used for the sole purpose of funding treatment and rehabilitation of trafficking victims. Prosecutions for most CSEC crimes must begin within six years of the crime, except that prosecutions of trafficking in persons and compelling prostitution may be brought within twenty years of the crime. When the crime victim is a minor, the statute of limitations is tolled until the minor turns 18 or the crime is reported to law enforcement.

## CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on human trafficking is mandatory. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations of trafficking in persons, compelling prostitution, and promoting prostitution, providing important tools for investigation and evidence for prosecutions. No laws expressly authorize the use of a decoy or the Internet in trafficking in persons investigations, but these investigative tools could be used relying on importuning, applicable to in-person and online solicitations when a person over 18 solicits a child under 13 or a person at least 20 years old solicits a person 13–16 to engage in sexual activity, which could include trafficking. Ohio 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 persons law does not include the crime of assisting, enabling, or financially benefitting from trafficking. A facilitator may be found guilty of compelling or promoting prostitution, procuring, and promoting or selling pornography. Punishments for compelling prostitution range from a felony of the third degree with 9–36 months imprisonment to a felony in the first degree by imprisonment for 3–11 years and a possible fine up to \$20,000 (use of force, fraud, or coercion against victim under 16). Promoting prostitution of a minor also is punishable as a felony in the third degree by 9–36 months imprisonment and a possible fine up to \$10,000, except that those who commit compelling prostitution or promoting prostitution in furtherance of human trafficking face enhanced penalties. Procuring is a felony in the fourth degree punishable by 6–18 months imprisonment and a possible fine up to \$5,000. Promoting or selling child pornography is punishable under pandering sexually oriented material involving a minor and pandering obscenity involving a minor as a felony punishable by imprisonment for 2–8 years and a possible fine up to \$15,000. Facilitators convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution and could be subject to Ohio's general criminal asset forfeiture provisions. No laws in Ohio 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](http://www.sharedhope.org).

