

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

OREGON REPORT CARD 2013

Oregon's trafficking in person law includes child sex trafficking but requires the use of force, fraud or coercion for minors 15 and older. Child victims of domestic minor sex trafficking are not immune from prosecution for prostitution and could face detention.

FINAL SCORE

85

FINAL GRADE

B



9.5
10

20
25

14.5
15

7
10

19
27.5

15
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Oregon's trafficking in persons statute specifically includes the sex trafficking of children but requires the use of force, fraud or coercion when a minor victim is 15 or older. Oregon's commercial sexual exploitation of children (CSEC) laws include purchasing sex with a minor, compelling prostitution of a minor, and using a child in a display of sexually explicit conduct. The prostitution law does not refer to trafficking in persons for prosecution, victim identification, or protections, and does not provide an affirmative defense to victims. Oregon's racketeering law includes human trafficking and most CSEC offenses as predicate acts, allowing it to be used to prosecute sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law includes the word "obtain," and can be applied to buyers following federal precedent, but only in cases where the buyer knew or recklessly disregarded the fact that force, fraud or coercion was used or that the minor was under 15. Buyers of sex with minors are violating the felony CSEC crime of purchasing sex with a minor. Online sexual corruption of a child may provide a means of prosecuting buyers who use the Internet to engage in illegal sex acts, which may include attempted purchasing or trafficking. Buyers convicted of trafficking in persons, purchasing sex with a minor, and possession of child pornography are subject to discretionary criminal asset forfeiture and are required to pay restitution when economic loss can be shown. Purchasing sex with a minor prohibits a defense based on age mistake if the victim is under 16. Buyers who possess and purchase child pornography are permitted an affirmative defense if the buyer did not have reason to know that the sexually explicit conduct involved a child. First time convicted purchasers of sex with minors will only register as sex offenders at the court's discretion; a second conviction or any conviction for trafficking in persons will require registration.

CRIMINAL PROVISIONS FOR TRAFFICKERS

The human trafficking law includes the word "obtain," and can be applied to buyers following federal precedent, but only in cases where the buyer knew or recklessly disregarded the fact that force, fraud or coercion was used or that the minor was under 15. Buyers of sex with minors are violating the felony CSEC crime of purchasing sex with a minor. Online sexual corruption of a child may provide a means of prosecuting buyers who use the Internet to engage in illegal sex acts, which may include attempted purchasing or trafficking. Buyers convicted of trafficking in persons, purchasing sex with a minor, and possession of child pornography are subject to discretionary criminal asset forfeiture and are required to pay restitution when economic loss can be shown. Purchasing sex with a minor prohibits a defense based on age mistake if the victim is under 16. Buyers who possess and purchase child pornography are permitted an affirmative defense if the buyer did not have reason to know that the sexually explicit conduct involved a child. First time convicted purchasers of sex with minors will only register as sex offenders at the court's discretion; a second conviction or any conviction for trafficking in persons will require registration.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Trafficking in persons (§ 163.266(1)(b), (c))	Class A felony	Max. 20 years	Max. \$375,000	●
Purchasing sex with a minor (Enacted Senate Bill 673, Ch. 720, § 4 (uncodified))	Class C felony (1st offense)	Mandatory min. 30 days, max. 5 years and john school (1st offense)	Mandatory min. \$10,000, max. \$125,000	●
Possessing and purchasing child pornography (with knowledge) (§ 163.686)	Class C Felony	Max. 5 years	Max. \$125,000	●
Possessing and purchasing child pornography (negligently) (§ 163.687)	Class A Misdemeanor	Max. 1 year	Max. \$6,250	●

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 child sex trafficking and CSEC are vulnerable due to gaps in the laws of Oregon. Trafficking in persons and CSEC offenses 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 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 could face detention. However, for purposes of child welfare intervention, the definition of abuse includes a child victimized by sexual exploitation, which includes prostitution, other CSEC offenses, human trafficking, and child pornography, and the definition of caregiver is broader than legal custodian, 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 trafficking and CSEC victims and a victim subject to sexual exploitation is prima facie evidence of good cause for failure to notify law enforcement in a timely manner or for failure to cooperate with law enforcement removing these barriers to compensation. However, CSEC victims may be barred from recovery if the injury was substantially attributable to a wrongful act of the victim. Some victim-friendly trial procedures are available for CSEC victims, including allowing victims under 12 to testify via closed circuit television under specified circumstances and providing for address confidentiality for all victims of sexual offenses and human trafficking. Oregon’s “rape shield” law is available to protect testifying victims in prosecutions of human trafficking and CSEC crimes. Juvenile records for prostitution offenses committed while a minor will be expunged upon application of the minor or the court’s own motion. Victim restitution for economic damages and civil remedies are available. Prosecutions for trafficking in persons must be brought within three years of the crime, while prosecutions for compelling prostitution and using a child in a display of sexual conduct must be brought within six years, or if the child was under 18, the earlier of the victim turning 30 or within 12 years of the crime being reported. Civil actions by victims of trafficking must be brought within six years of the conduct giving rise to the claim, while those based on child abuse, which includes CSEC offenses, must be brought before the victim turns 40, or within five years of the victim’s discovery of the “causal connection between the child abuse and the injury.”

CRIMINAL PROVISIONS FOR FACILITATORS

Oregon’s trafficking in persons law includes the crime of financially benefitting from a venture involving subjecting another person to involuntary servitude requiring proof of knowledge or reckless disregard that force, fraud or coercion was used or the victim was under 15. Compelling prostitution may apply to facilitators who aid or facilitate in the commission of prostitution of a minor. Trafficking in persons, compelling prostitution, and promoting and selling child pornography are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000. Facilitators could also face prosecution under racketeering and money laundering laws, leading to additional penalties. Facilitators convicted of trafficking in persons or CSEC offenses are subject to discretionary criminal asset forfeiture and shall be required to pay restitution to their victims when economic loss can be shown. No laws in Oregon address sex tourism.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on domestic minor sex trafficking is expressly authorized by law. Single party consent for audiotaping is permitted and wiretapping is allowed in investigations of CSEC offenses, human trafficking, and racketeering. No laws expressly authorize the use of a decoy in investigating prostitution of children or the Internet in trafficking in persons, CSEC or child pornography investigations. Oregon has established a statewide reporting and response system for missing persons and requires the reporting of missing and located children.

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.

