

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

WYOMING REPORT CARD 2013

Wyoming's human trafficking laws include sex trafficking of minors under 18 but the definition of "commercial sexual services" requires proof of third party control over the victim. Buyers of commercial sex acts with minors are subject to the patronizing a victim of sexual servitude law but the victim must be under trafficker control, contrary to federal law.

FINAL SCORE

70.5

FINAL GRADE

C



10

10

15.5

25

12.5

15

3.5

10

21.5

27.5

7.5

15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Wyoming's human trafficking laws make it a crime to traffic, including patronizing, a minor under 18 for commercial sex without requiring proof of force, fraud or coercion but only in cases where the minor is under the ongoing control of a trafficker/pimp, limiting the law's practical utility and setting it apart from the federal law. CSEC laws—promoting prostitution of minors under 18 and soliciting an act of prostitution—refer to the human trafficking laws helping to clarify that a minor prostituted through a relationship with a pimp is a sex trafficking victim. The sexual exploitation of children offense prohibits using a minor in pornography or sexual conduct. Wyoming's gang crime law includes promoting prostitution and may reach some trafficking networks.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The crime of patronizing a victim of sexual servitude reaches buyers who have knowledge that the person purchased for sex acts is a victim of sexual servitude, which in turn requires that the minor be in a "relationship" of control under a pimp, limiting the utility of the statute. No CSEC offense includes buying sex with a minor, although the non-commercial offense of soliciting to engage in illicit sexual relations might be used when the minor is under 14. No law expressly makes it a crime to use the Internet to solicit sex acts despite the growing shift of trafficking and CSEC to the Internet. Buyers convicted of soliciting an act of prostitution with a minor or soliciting to engage in illicit relations, but not of patronizing a victim of sexual servitude, 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.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Patronizing a victim of sexual servitude (§ 6-2-707)	Felony	Max. 3 years	Max. \$5,000	○
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.

CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers may be prosecuted under several trafficking provisions. Human trafficking in the first degree requires intent and knowledge and is punishable by 25–50 years and/or a fine of up to \$10,000 when the victim is a minor. Human trafficking in the second degree has a reckless disregard standard and is punishable by 2–20 years and/or a fine of up to \$10,000. Sexual servitude and the CSEC statute applicable to criminal actions of traffickers, promoting prostitution (when the victim is a minor under 18), are punishable by up to 5 years 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 only if they are deemed able to pay. Traffickers are required to register as sex offenders if convicted of child pornography, CSEC, human trafficking, or sexual servitude offenses. 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.



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of domestic minor sex trafficking remain vulnerable due to gaps in the state laws. The sexual servitude law prohibits a defense to prosecution based on consent of the minor to the prostitution, but the patronizing a victim of sexual servitude and CSEC laws do not. The prostitution law excludes cases of trafficking, sexual servitude of a minor, and patronizing sexual servitude from its scope but does not categorically make minors engaged in prostitution immune from prosecution, particularly those that do not identify a trafficker. Victims of child sex trafficking are deemed Children in Need of Services or neglected and referred to child welfare for services, although no specific services are established for the special needs of trafficked children. The definition of “person responsible for a child’s welfare” also includes those with “physical custody or control of the child,” potentially including a trafficker therefore allowing for child welfare intervention. While trafficking and CSEC victims 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 include critical confidentiality of identifying information of the victim, but the “rape shield” law, which reduces the trauma of cross-examination for the testifying victim, does not extend to testifying victims in trafficking or CSEC trials. Expungement of juvenile records for non-violent offenses is available once a child turns 18. Victims may receive restitution for proven economic damages and possibly future costs, but no specific civil remedy for trafficking or 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 PROVISIONS FOR FACILITATORS

The acts of assisting, enabling or benefitting from trafficking are not included in the human trafficking or sexual servitude of a minor laws, 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 subjects the convicted facilitator to mandatory criminal asset forfeiture action. No laws make sex tourism a crime in Wyoming.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Wyoming law does not mandate or authorize training or development of training materials 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, but trafficking and CSEC offenses are not included as crimes for which a wiretapping order may be issued. Law enforcement might be able to use decoys 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. However, no laws specifically make available the ability to investigate trafficking or CSEC through electronic communications despite the growing use of the Internet to commit these crimes. 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” but no law mandates the reporting of missing 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.

