

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

OKLAHOMA REPORT CARD 2015

Oklahoma's human trafficking law does not require the use of "deception, force, fraud, threat or coercion" to cause a minor under 18 to engage in commercial sex acts, and penalties reflect the seriousness of the offense. Minors exploited through prostitution are provided an affirmative defense or a presumption of coercion to identify them as human trafficking victims, but are not specifically excluded from prosecution for prostitution.

FINAL SCORE

87

FINAL GRADE

B



10
10

20.5
25

15
15

7.5
10

22
27.5

12
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Oklahoma's human trafficking law imposes heightened penalties when the victim is under 18 years of age regardless of deception, force, fraud, threat or coercion. Commercial sexual exploitation of children (CSEC) laws include: soliciting, aiding or participating in child prostitution, procuring a child for prostitution, inducing or detaining a child for prostitution, and procuring minors for participation in pornography. The prostitution law refers to the human trafficking statute to provide an affirmative defense for sex trafficking victims, helping to identify commercially sexually exploited minors as victims of trafficking. Oklahoma's racketeering statute includes human trafficking offenses and some CSEC offenses as predicate acts, allowing it to be used to prosecute sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The human trafficking law applies to purchasing of a minor by any means "for purposes of engaging the minor in a commercial sex act." The CSEC offense of soliciting child prostitution includes the crime of buying sex with a minor under 16, leaving older minors unprotected. Statutes on soliciting sexual conduct with a minor and indecent proposals to a child under 16 could provide a means of obtaining heightened penalties for buyers using the Internet or electronic communications to commit illegal sex acts. The human trafficking law and CSEC laws do not prohibit a defendant from using a mistake of age defense, making prosecution more difficult. Buyers convicted under the human trafficking law are subject to fines and face mandatory restitution to the victim; if convicted of any other offense, then victim restitution may be ordered by the court at sentencing. Buyers of sex with minors may be required to register as sex offenders if convicted of human trafficking, possession of child pornography, soliciting sexual conduct with a minor, or indecent proposals to child under 16, but not for soliciting child prostitution.

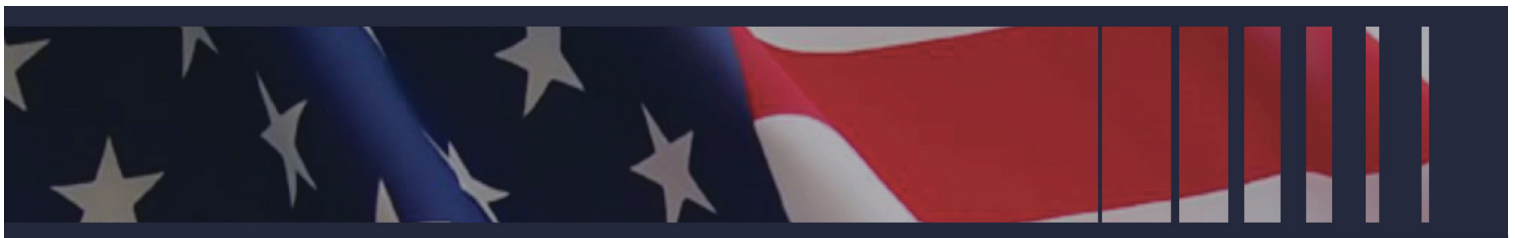
CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers face prosecution under human trafficking, CSEC, racketeering and money laundering laws, with sentences that reflect the seriousness of the offenses. Human trafficking of a minor is punishable by 15 years to life in prison, and/or a fine up to \$250,000, while participating in child prostitution is punishable by up to 10 years and a fine up to \$10,000. Procuring a child for prostitution is punishable by 1–10 years imprisonment and detaining a child for prostitution is punishable by 1–25 years imprisonment and a fine of \$5,000–\$25,000. Offenses related to commercially distributing child pornography, preparing child pornography, and procuring minors for child pornography are punishable by up to 10 years imprisonment and/or fines up to \$10,000 or \$25,000. The statutes on facilitating sexual conduct with a minor and indecent proposals to child under 16 could reach traffickers who use the Internet to recruit minors for illegal sex acts, which may include human trafficking. When convicted of human trafficking, victim restitution is mandatory. Traffickers convicted of human trafficking, participating in child prostitution, or creating child pornography are subject to civil asset forfeiture. Traffickers must register as sex offenders if convicted of human trafficking and most CSEC and child pornography-related offenses, but not for participating in child prostitution. Convictions for human trafficking or CSEC offenses do not result in termination of parental rights.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

| Crime (name of law abridged) | Classification | Sentence | Fine | Asset Forfeiture (available) |
|--|----------------|---------------|---------------|------------------------------|
| Human trafficking (tit. 21, § 748(B)) | Felony | Min. 10 years | Max. \$20,000 | ○ |
| Soliciting child prostitution (under 16) (tit. 21, § 1029) | Felony | Max. 10 years | Max. \$5,000 | ○ |
| Possessing child pornography (tit. 21, § 1024.2) | Felony | Max. 20 years | Max. \$25,000 | ● |

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



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Gaps in the law prevent full protection of CSEC victims in Oklahoma. The offenses of human trafficking, procuring a minor for participation in child pornography, and parent consenting to a child participating in child pornography prohibit a defense based on consent of the minor or their parent, but other CSEC laws do not prohibit a defense based on consent of the minor. Prostitution laws apply to minors under 18, and only minors 16 or 17 years of age are afforded a presumption of coercion; so, juvenile sex trafficking victims could face criminalization for commercial sex acts committed as a result of their victimization. However, all minors are allowed the affirmative defense of being a victim of human trafficking. Law enforcement must report suspected child trafficking victims to the Department of Human Services (DHS), and if the investigation determines that the child is a victim of trafficking, the delinquency proceeding may be dismissed and the minor must receive services through DHS, including housing in appropriate shelters, prompt medical care and a safety assessment. For purposes of child welfare intervention, a child victim of prostitution or pornography is considered an abused child and, a child may receive services when identified as abused, neglected, or designated for dependency. If identified as a victim and suffering economic loss, human trafficking and CSEC victims are eligible for state crime victims' compensation, although eligibility criteria, including a requirement that the crime be reported within 72 hours and a claim filed within one year (unless good cause is shown to extend the filing time to up to two years) could operate to deny them an award. There is also a bar to recovery if the victim participated or assisted in a criminal act and possible bar for refusal to cooperate with law enforcement. Victim-friendly court procedures are available to human trafficking victims, which prevent the release of identifying information and make victims eligible for protective orders, but the "rape shield" law, which protects testifying victims from the trauma of cross-examination, is limited to victims of sexual offenses that do not include CSEC or human trafficking. Expungement of records resulting from a charge or conviction for a prostitution-related offense committed as a result of being a human trafficking victim is available to minors. Criminal restitution is mandatory for victims of human trafficking and restitution may be awarded to other victims. Civil remedies are also provided for human trafficking victims. Prosecutions for human trafficking and CSEC offenses must begin within 3 years after the crime, while prosecutions for procuring a minor for participation in child pornography and parental consent to participation in child pornography must begin within 12 years after the crime. Statutes of limitations for civil claims based on damages from being trafficked do not begin to run until the later of the victim's freedom from the defendant, the victim's 21st birthday, or the victim discovers or reasonably should have discovered that he or she was a victim of human trafficking and that the defendant caused, was responsible for, or profited from the human trafficking.

CRIMINAL PROVISIONS FOR FACILITATORS

The human trafficking law includes the crime of financially benefitting from human trafficking. The crimes of aiding in child prostitution and procuring a child for prostitution may apply to facilitators, and facilitators could be subject to money laundering laws. CSEC crimes applicable to facilitators are punishable as felonies: a first conviction under aiding in child prostitution, if the child is under 16 years old, is punishable by up to 10 years imprisonment and a fine up to \$5,000, and a first conviction for procuring a child for prostitution is punishable as a misdemeanor, while subsequent convictions are punishable as felonies by 1-10 years imprisonment. When convicted of human trafficking, victim restitution is mandatory; if convicted of any other offense, then victim restitution may be ordered by the court at sentencing. Facilitators convicted of human trafficking, aiding in child prostitution, racketeering, and distributing child pornography are subject to civil asset forfeiture. No laws in Oklahoma address sex tourism.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Training for law enforcement on domestic minor sex trafficking is not statutorily mandated or authorized. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations for human trafficking and some CSEC offenses. The defense that a decoy was used is expressly prohibited for investigations into facilitating sexual conduct with a minor and indecent proposals to a child under 16, both of which include electronic communications and online solicitations to engage in sexual activity. Oklahoma has established a statewide reporting and response system for missing children and children identified as sex trafficking victims but does not expressly require the reporting of located children—a gap that could prevent law enforcement from proactively identifying repeat runaways at high-risk of being sex trafficked.

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.