

# ALABAMA

## REPORT CARD | 2018

Alabama criminalizes the sex trafficking of minors, defined as individuals under 19, without requiring proof of coercion or deception. Further, a “sexually exploited child” may not be adjudicated delinquent for the crime of prostitution. However, sex trafficking victims seeking justice are not protected by a “rape shield” law and are not assured access to specialized services.

Final Score

94.5

Final Grade

A



7.5

10

25

25

15

15

10

10

22

27.5

15

15

## Criminalization of Domestic Minor Sex Trafficking

Alabama’s human trafficking law criminalizes trafficking an individual under 19 for sexual servitude without requiring proof of coercion or deception. Commercial sexual exploitation of children (CSEC) laws include “promoting prostitution; first degree,” “promoting prostitution; second degree,” “facilitating solicitation of unlawful sexual conduct with a child,” “facilitating the travel of a child for an unlawful sex act,” and “engaging in an act of prostitution with a minor.” The prostitution article refers to the human trafficking law through the definition of “sexually exploited child,” which is defined to include a child sex trafficking victim, thereby acknowledging the intersection of prostitution with trafficking victimization. Alabama has not enacted a racketeering or gang crimes law that could be used to prosecute sex trafficking enterprises.

## Criminal Provisions for Demand

The trafficking law applies to buyers who give monetary consideration to engage in sexual conduct with a minor and to those who solicit or obtain a minor for commercial sex. Buyers may also be prosecuted for “engaging in an act of prostitution with a minor,” and state law distinguishes between soliciting sex acts with minors versus adults. Buyers convicted of “human trafficking in the first degree” face 10–99 years or life imprisonment and a fine up to \$60,000, while “engaging in an act of prostitution with a minor” is punishable by 2–20 years imprisonment and a fine up to \$30,000. “Electronic solicitation of a child” and “facilitating solicitation of unlawful sexual conduct with a child” could lead to additional penalties for buyers who use the Internet to commit illegal sex acts. The buyer-applicable trafficking and CSEC provisions expressly prohibit an age mistake defense. Buyers convicted of trafficking face mandatory restitution and criminal asset forfeiture. If convicted of any other criminal offense, restitution is mandatory if the victim suffered pecuniary loss. Buyers also face criminal asset forfeiture for prostitution-related offenses and for possession of images of child sexual exploitation (ICSE). Buyers convicted under Alabama’s human trafficking and ICSE laws will be required to register as sex offenders.

## Criminal Provisions for Traffickers

“Human trafficking in the first degree” and “facilitating the travel of a child for an unlawful sex act” are felonies punishable by 10–99 years or life imprisonment and a fine up to \$60,000; “promoting prostitution in the first degree” is a felony punishable by 2–20 years imprisonment and a fine up to \$30,000, while “promoting prostitution in the second degree” and “facilitating solicitation of unlawful sexual conduct with a child” are felonies punishable by 1–10 years imprisonment and a fine up to \$15,000. Alabama law criminalizes producing, disseminating, or displaying ICSE as well as permitting or allowing a child to engage in the production of ICSE. “Electronic solicitation of a child” and “facilitating solicitation of unlawful sexual conduct with a child” could lead to additional penalties for traffickers who use the Internet. A convicted sex trafficker faces mandatory restitution and criminal asset forfeiture. Traffickers convicted of prostitution-related offenses face forfeiture of “property, proceeds, or instrumental[ities] . . . used or intended for use in the course” of the crime. Traffickers convicted under Alabama’s human trafficking, CSEC, and ICSE offenses will be required to register as sex offenders. Additionally, human trafficking and CSEC are included as grounds for terminating parental rights based on the definition of “abuse.”

## Criminal Provisions for Facilitators

Benefiting financially from human trafficking is a felony punishable by 2–20 years imprisonment and a fine up to \$30,000; “promoting prostitution in the first degree” is a felony punishable by 2–20 years imprisonment and a fine up to \$30,000, while “promoting prostitution in the second degree” and “facilitating solicitation of unlawful sexual conduct with a child” are felonies punishable by 1–10 years imprisonment and a fine up to \$15,000. “Facilitating the travel of a child for an unlawful sex act” is a felony punishable by 10–99 years or life imprisonment

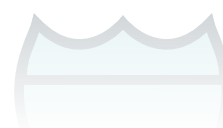
and a fine up to \$60,000. Facilitators convicted of sex trafficking are subject to criminal asset forfeiture and mandatory victim restitution, and facilitators convicted of prostitution-related offenses face forfeiture of “property, proceeds, or instrumental[ities] . . . used or intended for use in the course” of the crime. “Engaging in an act of prostitution with a minor” expressly prohibits the sale of travel services for the purpose of engaging in sexual exploitation of a minor.



## Protective Provisions for the Child Victims

Alabama’s core child sex trafficking offenses define all commercially sexually exploited children as victims of sex trafficking. The human trafficking law expressly prohibits a defense based on the willingness of the minor to engage in the commercial sex act. Additionally, Alabama law prohibits the criminalization of sexually exploited children for prostitution offenses. A juvenile sex trafficking victim should be identified as dependent or as a child in need of supervision rather than as delinquent, but Alabama law does not provide a statutory avenue to specialized services. Although child sex trafficking is not identified as a type of abuse and neglect within Alabama’s child protection statutes, the definition of “abuse” includes sexual exploitation of a child regardless of the child’s relationship to the perpetrator of the abuse. Child sex trafficking victims who suffer serious personal injury are eligible for crime victims’ compensation but face barriers to recovery if the victim is considered an accomplice to a criminal act, fails to report the crime to law enforcement within 72 hours, or fails to file a claim within one year unless good cause

is shown. Victim-friendly trial procedures, including videotaped depositions and testimony by closed circuit examination, are limited to children under 16 who are victims in criminal prosecutions for sexual offenses or sexual exploitation; if the victim is under 12, a child’s out-of-court statements may be admitted. However, testifying victims in human trafficking and CSEC prosecutions are not protected under the “rape shield” law, which reduces trauma associated with cross-examination. Alabama law does not provide a mechanism for minors to vacate delinquency adjudications related to their trafficking victimization, and delinquency records may only be sealed or destroyed under narrow circumstances. Individuals convicted of human trafficking must pay victim restitution, and civil actions are authorized. Prosecutions for Alabama’s human trafficking and CSEC laws must commence within 3 years, and civil actions must commence within 5 years of the victim being freed from human trafficking or the victim turning 18.



## Criminal Justice Tools for Investigation and Prosecution

Resources and training regarding sexually exploited children may be available to law enforcement. Single party consent to audio-taping is permitted, and wiretapping is an available investigative tool for law enforcement. Two CSEC offenses, “facilitating solicitation of unlawful sexual conduct with a child” and “facilitating the travel of a child for an unlawful sex act,” prohibit a defense to prosecution based on the use of a law enforcement decoy

posing as a minor during investigations of these crimes. Further, use of the Internet is a permissible investigative technique under Alabama’s electronic solicitation of a minor law. Alabama has established a statewide reporting and response system for missing children and requires the reporting of missing and located missing children.



*The Report Card is based on the Protected Innocence Challenge Legislative Framework, an analysis of state laws performed by Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Challenge Legislative Framework Methodology, all state Report Cards, and foundational analysis and recommendations, please visit: [www.sharedhope.org/reportcards](http://www.sharedhope.org/reportcards).*