

IDAHO

REPORT CARD | 2018

Idaho's human trafficking law includes sex trafficking of minors without requiring proof of force, fraud, or coercion; buyers may be prosecuted under this law based on the inclusion of patronizing prostitution as a predicate act. However, minors may be prosecuted for prostitution offenses and face barriers to accessing victims' compensation to fund their recovery.

Final Score

76

Final Grade

C



7.5

10

21

25

15

15

5

10

15.5

27.5

12

15

Criminalization of Domestic Minor Sex Trafficking

Idaho's human trafficking law includes the sex trafficking of minors without regard to force, fraud, or coercion; however, the human trafficking law is only violated if the offender engages in human trafficking while committing another specified crime, including certain commercial sexual exploitation of a child (CSEC) offenses. CSEC crimes include: "inducing person under eighteen years of age into prostitution," "utilizing a person under eighteen years of age for prostitution," and "sexual exploitation of a child." The prostitution law does not refer to the human trafficking law to acknowledge the intersection of prostitution with trafficking victimization. Idaho's racketeering law includes human trafficking and several CSEC offenses in the definition of racketeering activity.

Criminal Provisions for Demand

The trafficking law applies to buyers who induce a minor to perform a commercial sex act in violation of state prostitution and sexual offense laws. Buyers may also be prosecuted for "utilizing a person under eighteen years of age for prostitution." "Human trafficking" is punishable by up to 25 years imprisonment, while "utilizing a person under eighteen years of age for prostitution" is punishable by up to life imprisonment and a \$50,000 fine. Idaho distinguishes soliciting sex from an adult versus a minor through a distinct offense that applies when the victim is a minor. Buyers may be prosecuted for enticing children under 16 through the Internet or communication device to engage in a sexual act. Idaho's buyer-applicable trafficking and CSEC offenses are silent on mistake of age. Buyers convicted of trafficking face mandatory victim restitution, but not asset forfeiture. Possessing images of child sexual exploitation (ICSE) carries penalties comparable to those for similar federal offenses. Buyers convicted of trafficking, CSEC, and ICSE offenses are required to register as sex offenders.

Criminal Provisions for Traffickers

Traffickers face prosecution for human trafficking when they traffic a child while violating another sexual offense, including "inducing person under eighteen years of age into prostitution," "sexual exploitation of a child," "enticing a child through the use of the internet or other communication device", and any of Idaho's prostitution-related laws. "Human trafficking" is punishable by up to 25 years imprisonment. Inducing a minor into prostitution and sexual exploitation of a child for ICSE are felonies punishable by fines up to \$50,000 and imprisonment for 2 years–life and up to 30 years, respectively. Traffickers could also be subject to money laundering, criminal gang, and racketeering laws leading to additional penalties. "Enticing a child through the use of the internet or other communication device" also provides a means of prosecuting traffickers who use the Internet to solicit a minor under the age of 16 for ICSE. Traffickers convicted under the trafficking law face mandatory restitution, while those convicted of other crimes may be ordered to make restitution. Traffickers face civil asset forfeiture if convicted of the prostitution offense of procurement or the CSEC offense of inducing persons under 18 into prostitution or if the property is deemed a moral nuisance in connection with prostitution offenses. Traffickers must register as sex offenders for convictions of "human trafficking," ICSE, and all CSEC offenses. A conviction for sexual exploitation of a child, an offense amounting to sexual abuse, allows for the termination of parental rights; however, this does not expressly include sex trafficking.

Criminal Provisions for Facilitators

“Human trafficking” does not include the crime of benefitting from or assisting and aiding human trafficking, and none of the CSEC laws apply to facilitators, though facilitators may face prosecution under prostitution-related laws that are not specific to the prostitution of children. Promoting or selling ICSE is punishable under “sexual exploitation of a child” as a felony by up to

30 years imprisonment and a fine up to \$50,000. Facilitators could also be subject to money laundering, criminal gang, and racketeering laws leading to additional penalties and will be subject to asset forfeiture if convicted under racketeering laws, or if the facilitator’s property is deemed a moral nuisance. No laws in Idaho address sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. However, victims of sex trafficking and CSEC are not fully protected as victims under Idaho’s laws. The human trafficking and CSEC laws do not prohibit a defense based on a minor’s willingness to engage in a commercial sex act. Prostitution offenses apply to minors under 18, meaning juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. Further, Idaho law does not provide juvenile sex trafficking victims with a statutory avenue to specialized services. However, a victim could receive a protective response through child welfare, as the definition of “abuse” includes “human trafficking” and the commercial sexual exploitation of a child through prostitution and ICSE regardless of the child’s relationship to the perpetrator of the abuse. Crime victims’ compensation is available for victims of CSEC offenses; however, being considered an accomplice to the crime, not fully cooperating with law enforcement, and not reporting the crime and filing a claim for compensation within specified time limits could prevent CSEC victims from receiving compensation. Victim-friendly criminal justice procedures are also limited. While

child witnesses are permitted to give testimony via an alternative method preventing interaction with the perpetrator at trial, Idaho’s “rape shield” law only applies in criminal cases of rape, leaving testifying CSEC victims unprotected from the trauma of cross-examination at trials of their traffickers. Idaho law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, and juvenile records may only be expunged after a waiting period. Criminal restitution is mandatory for victims of human trafficking and may be awarded to victims of other crimes; however, civil remedies are only available to victims of “sexual exploitation of a child” or “racketeering.” Prosecutions for human trafficking and CSEC offenses must be brought within five years of the crime. For civil actions for childhood sexual abuse, including sexual exploitation of a child, a five year statute of limitations does not begin until the earlier of the victim turning 18, or the time the victim “reasonably should have discovered” the exploitation. Civil remedies for racketeering must be brought within three years of the crime, except that the statute of limitations will toll for six years past a minor victim’s 18th birthday.



Criminal Justice Tools for Investigation and Prosecution

Idaho law encourages, but does not require, law enforcement to receive training on human trafficking. State law permits single party consent to audiotaping. Wiretapping is allowed in investigations for any crime that is dangerous to “life, limb or property” and that may be punished by imprisonment for more than one year, which includes CSEC and human trafficking offenses (but not the predicate offense of patronizing prostitution for buyers). While the sex trafficking and CSEC statutes do not prohibit a de-

fense based on the use of a law enforcement decoy posing as a minor in an investigation for the buying or selling of sex with a child, the defense is prohibited under the Internet enticement statute. Using the Internet or electronic communications is an available investigative technique. Idaho has established a state-wide reporting and response system, which requires 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.