

# ILLINOIS

## REPORT CARD | 2018

Illinois's human trafficking law includes sex trafficking and does not require use of force, fraud, or coercion when the victim is a minor, but convicted offenders are not required to register as sex offenders. Minors are protected from prosecution for prostitution, may be taken into protective custody, and may be referred to child welfare for services.

Final Score

82.5

Final Grade

B



10

10

20.5

25

14.5

15

7.5

10

17.5

27.5

12.5

15

## Criminalization of Domestic Minor Sex Trafficking

The trafficking in persons law includes sex trafficking of minors and does not require proof that force, fraud, or coercion was used to cause minors to engage in commercial sex acts. State commercial sexual exploitation of children (CSEC) crimes include: "solicitation of a sexual act," "promoting juvenile prostitution," "patronizing a minor engaged in prostitution," "permitting sexual abuse of a child," "grooming," and "travelling to meet a child." The prostitution law identifies minors engaged in prostitution as victims of sex trafficking who are not subject to prosecution and also refers to the trafficking law to provide an affirmative defense for adult trafficking victims. Trafficking and several CSEC laws are included as predicate activities under the racketeering law.

## Criminal Provisions for Demand

The "trafficking in persons" law applies to buyers through the term "causes" and, following federal precedent, through the term "obtains." Several CSEC laws specifically include the crime of buying sex with minors, although some permit defendants to raise a mistake of age defense. "Solicitation of a sexual act" distinguishes between soliciting sex with adults versus minors by enhancing the penalty when the person solicited is a minor. Buyers convicted under the "trafficking in persons" law face 4–15 years imprisonment, increased to 6–30 years when coercion is used or the minor is under 17, and a fine up to \$25,000, while penalties under the CSEC offenses range from 1–5 years imprisonment and a fine up to \$25,000. A buyer who uses the Internet to solicit a child under 17 years of age for an illegal sex act can be prosecuted under "grooming" and "travelling to meet a child." A buyer convicted of "patronizing a minor engaged in prostitution" or an offense involving images of child sexual exploitation (ICSE) is required to register as a sex offender; however, a conviction for child sex trafficking or solicitation of minor for illegal sex acts does not require registration. Financial penalties for child sex trafficking convictions include asset forfeiture, whereas buyers convicted of ICSE offenses face forfeiture of equipment used in the commission of the offense.

## Criminal Provisions for Traffickers

Traffickers convicted of sex trafficking face 4–15 years imprisonment, increased to 6–30 years when coercion is used or the minor is under 17, and a fine up to \$25,000. Traffickers convicted of "promoting juvenile prostitution" face 4–15 years imprisonment, increased to 6–30 years for aggravating factors, and a fine up to \$25,000. "Grooming," which is punishable by 1–3 years imprisonment and a fine up to \$25,000, can be used to prosecute traffickers who use the Internet to solicit, lure, or entice a child under 17 years of age to commit a sexual offense. Creating and distributing ICSE is punishable by 4–15 years imprisonment, increased to 6–30 years for a first offense where the victim is under age 13, and a fine of \$2,000–\$100,000. A trafficker must pay restitution to the victim, and a trafficker convicted of sex trafficking, "promoting juvenile prostitution," or ICSE faces mandatory criminal asset forfeiture. A trafficker convicted of most CSEC or ICSE offenses must register as a sex offender, but a conviction for sex trafficking does not require registration. Parental rights can be terminated when a parent is convicted of sex trafficking or allows a minor to engage in prostitution.

## Criminal Provisions for Facilitators

Facilitators are subject to prosecution for benefitting financially from “trafficking in persons,” punishable by 4–15 years imprisonment and a possible fine up to \$25,000. Facilitators may also face prosecution for “promoting juvenile prostitution,” “keeping a place of juvenile prostitution,” and “money laundering.” Convicted facilitators face mandatory restitution and mandatory

criminal asset forfeiture. Disseminating ICSE is punishable by a fine of \$1,000–\$100,000 and 4–15 years imprisonment, increased to 6–30 years imprisonment for a first offense where the child is under 13 years of age. No laws in Illinois make sex tourism a crime.



## Protective Provisions for the Child Victims

Not all commercially sexually exploited children are defined as juvenile sex trafficking victims because third party control is required to establish the offense of sex trafficking. Under the Safe Children Act, minors under 18 may not be prosecuted under the prostitution law; rather, they must be reported to child welfare, but services are not required to be specialized to the needs of these victims. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation through trafficking or prostitution, but the definition of “person responsible for the child’s welfare” likely is not broad enough to allow for child welfare involvement in non-familial trafficking cases. Trafficking victims are not specifically defined as victims for purposes of crime victims’ compensation, and child sex trafficking victims are not provided exceptions to the time limits for reporting crimes or filing claims and other ineligibility criteria. Victim-friendly criminal justice procedures include testimony by closed circuit television; however, the “rape shield” law only applies in sex offense cases, so trafficking victims may not be protected from the trauma of

cross-examination in CSEC and sex trafficking prosecutions. The trafficking law does not prohibit a defense to prosecution based on the willingness of the minor to engage in the commercial sex act, but does prohibit such a defense in civil cases. Illinois law does not provide a mechanism to vacate delinquency adjudications related to trafficking victimization, and, except under limited circumstances, juvenile records may only be expunged after a waiting period. Restitution is mandatory in any criminal sentencing, and civil remedies are available to CSEC victims for damages sustained through trafficking, “promoting juvenile prostitution,” or ICSE offenses. Illinois has eliminated the statutes of limitation for certain criminal actions involving sexual conduct with children; this includes several CSEC offenses. Prosecutions under the trafficking law must commence within 25 years of the victim turning 18. Civil actions for injuries from sexual exploitation have varying statutes of limitation but are generally tolled until the minor turns 18.



## Criminal Justice Tools for Investigation and Prosecution

Training or development of training materials for law enforcement on human trafficking or domestic minor sex trafficking is not mandated or authorized by law. Illinois permits the use of audiotaping in investigations of trafficking and CSEC offenses where the law enforcement officer is party to the communication and the use of the device is necessary for officer safety. Wiretapping is allowed in sex trafficking and certain CSEC investigations upon judicial order. Two CSEC offenses implicitly prohibit

a defense based on the use of a law enforcement decoy posing as a minor during an investigation because the offender need only believe the intended victim to be a child. Further, several offenses permit law enforcement to use the Internet to investigate buyers and traffickers. Illinois has established a statewide reporting and response system for missing children and requires the reporting of missing children and located 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).*