

OHIO

REPORT CARD | 2018

Ohio's trafficking in persons law criminalizes sex trafficking of a child under 16 without requiring proof of force, fraud, or coercion, but protections are limited for older minors. Child sex trafficking victims may avoid a juvenile delinquency adjudication and access services if diverted by the court, but this response is not mandatory, leading to disparate outcomes for victims.

Final Score

79

Final Grade

C



9.5

10

18.5

25

14.5

15

4.5

10

17

27.5

15

15

Criminalization of Domestic Minor Sex Trafficking

The trafficking law does not require proof of force, fraud, or coercion when the victim is a minor under 16, but offenses against 16 and 17 year olds must be committed by a person in a position of authority or trust or involve force, fraud, or coercion. Commercial sexual exploitation of children (CSEC) laws include: "compelling prostitution," "promoting prostitution," "endangering children," "procuring," "soliciting," and "importuning." "Compelling prostitution" and "promoting prostitution" refer to "trafficking in persons" by providing enhanced penalties where an offender committed the crime in furtherance of human trafficking, but the prostitution law does not refer to the human trafficking law. Ohio's corrupt activity law includes trafficking and CSEC as predicate acts.

Criminal Provisions for Demand

The "trafficking in persons" law does not apply to buyers of commercial sex acts with minors. However, buyers face criminal liability under the CSEC offenses of "compelling prostitution," "soliciting," "importuning," and "endangering children." Penalties for buyer-applicable CSEC offenses range from 6 months to 8 years imprisonment depending on the age of the minor. The general "solicitation" statute differentiates between soliciting sex with an adult versus a minor, providing heightened penalties for the latter. "Compelling prostitution" prohibits a mistake of age defense in all cases involving a minor victim, but "solicitation" prohibits an age mistake defense only for victims aged 15 or under. Ohio's "importuning" law, which prohibits use of an electronic communication device to solicit sex with a child under 16, may apply to buyers who use the Internet. Buyers convicted of CSEC offenses face financial penalties, including fines ranging from \$2,500-\$15,000, victim restitution, and asset forfeiture. Buyers of sex with minors are required to register as sex offenders if convicted of "compelling prostitution" of a minor, "soliciting," or "pandering sexually oriented material involving a minor."

Criminal Provisions for Traffickers

"Trafficking in persons" is punishable by 10-15 years imprisonment and a fine up to \$20,000. The penalties for "compelling prostitution" vary: if force, fraud, or coercion was used and the victim is under 16, 3-11 years imprisonment and a fine up to \$20,000 (2-8 years imprisonment and a \$15,000 fine if the victim was aged 16-17), otherwise 9-36 months imprisonment and a fine up to \$10,000. "Promoting prostitution" of a minor is a felony in the third degree punishable by 9-36 months imprisonment and a fine up to \$10,000, and "procuring" is a felony in the fourth degree punishable by 6-18 months imprisonment and a fine up to \$5,000. Enhanced penalties apply for traffickers convicted of "compelling prostitution" or "promoting prostitution" in furtherance of human trafficking. Ohio law prohibits a trafficker from using the Internet to engage a minor in a sex act. Traffickers convicted of trafficking or CSEC offenses face mandatory restitution, additional fines credited to a victim address confidentiality program fund, and criminal asset forfeiture. Traffickers must register as sex offenders for convictions under most CSEC laws and for "trafficking in persons." Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights for only one parent, but both parents' parental rights may be terminated if both parents were convicted of sex trafficking or certain CSEC offenses in connection with a child in the household.

Criminal Provisions for Facilitators

The “trafficking in persons” law does not include the crime of assisting, enabling, or financially benefitting from trafficking. A facilitator may be found guilty of compelling or “promoting prostitution,” or procuring and promoting ICSE. Punishments for “compelling prostitution” range from a felony of the third degree with 9–36 months imprisonment to a felony in the first degree by imprisonment for 3–11 years and a fine up to \$20,000 (use of force, fraud, or coercion against victim under 16). “Promoting prostitution” of a minor also is punishable as a felony in the third degree by 9–36 months imprisonment and a fine up to \$10,000, except that those who commit “compelling prostitution” or “promoting prostitution” in furtherance of human trafficking face en-

hanced penalties. “Procuring” is a felony in the fourth degree punishable by 6–18 months imprisonment and a fine up to \$5,000. Promoting or selling ICSE is punishable under “pandering sexually oriented material involving a minor” and “pandering obscenity involving a minor” by imprisonment for 2–8 years and a fine up to \$15,000. Facilitators convicted of “trafficking in persons,” “compelling prostitution,” or “promoting prostitution” face mandatory restitution, additional fines credited to a victim address confidentiality program fund, and could be subject to Ohio’s general criminal asset forfeiture provisions. No laws in Ohio address sex tourism.

Protective Provisions for the Child Victims

Not all commercially sexually exploited children are identifiable as sex trafficking victims. Trafficking in persons and CSEC laws do not prohibit a defense based on the willingness of the minor to engage in the commercial sex act. Prostitution laws apply to minors under 18, meaning sex trafficking victims may face criminalization for commercial sex acts committed as a result of their victimization. A juvenile sex trafficking may be able to avoid a delinquency adjudication and access services through a discretionary diversion process, but services are not required to be specialized to the needs of these children. For purposes of child welfare intervention, the definition of abuse does not expressly include child sex trafficking; however, CSEC victims may be eligible to receive the services and protection of child welfare regardless of the child’s relationship to the perpetrator of the abuse. Crime victims’ compensation is available for victims of CSEC offenses, and minor victims of human trafficking are specifically exempt from ineligibility factors although victims of other CSEC offenses may face barriers to eligibility. Victim-friendly trial procedures are available to some CSEC victims. Children under 13 who are victims of “compelling prostitution,” “pandering sexually oriented material involving a minor,” or “pandering obscenity involving a minor” may give videotaped deposition testimony;

in addition, general crime victims’ rights prevent the release of identifying information, including the victim’s address, and provide for separate waiting rooms during trial. Ohio’s “rape shield” law, however, is limited to victims of rape, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. Ohio law allows child sex trafficking victims to expunge juvenile records for prostitution-related offenses without a waiting period, and an adjudication will be vacated automatically upon record expungement. Criminal restitution to victims of “trafficking in persons,” “compelling prostitution,” and “promoting prostitution” is mandatory, and civil remedies are specifically available to victims of sex trafficking, but not CSEC offenses. Assets forfeited by defendants convicted under the trafficking law are deposited in a fund to be used for the sole purpose of funding treatment and rehabilitation of trafficking victims. Prosecutions for most CSEC crimes must begin within 6 years of the crime, except that prosecutions of “trafficking in persons” and “compelling prostitution” may be brought within twenty years of the crime. When the victim is a minor, the statute of limitations is tolled until the minor turns 18 or the crime is reported to law enforcement.

Criminal Justice Tools for Investigation and Prosecution

Law enforcement training on human trafficking is mandatory. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations for “trafficking in persons,” “compelling prostitution,” and “promoting prostitution,” providing important tools for investigation and evidence for prosecutions. The offense of “compelling prostitution” seemingly prohibits a defense based on the use of a law enforcement decoy posing as a minor

in an investigation into the buying and selling of sex with a minor. No laws expressly authorize the use of the Internet in trafficking investigations, but these investigative tools could be used relying on “importuning,” applicable to in-person and online solicitations, which could include trafficking. Ohio has established a statewide reporting and response system for missing children and requires the reporting of missing 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.