

# OKLAHOMA

## REPORT CARD | 2018

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. Further, juvenile sex trafficking victims are not subject to delinquency proceedings for prostitution and nonviolent misdemeanor offenses.

Final Score

90

Final Grade

A



10

10

24.5

25

15

15

7.5

10

21

27.5

12

15

## Criminalization of Domestic Minor Sex Trafficking

Oklahoma's trafficking law imposes heightened penalties when the victim is a minor regardless of whether deception, force, fraud, threat, or coercion was used. Commercial sexual exploitation of children (CSEC) laws include: "engaging in prostitution," "procuring for prostitution, lewdness or other indecent act," "inducing, keeping, detaining or restraining for prostitution," "procuring for participation in pornography," "consent to participation of minors in child pornography," "child abuse-child neglect-child sexual abuse-child sexual exploitation," and "facilitating, encouraging, offering or soliciting sexual conduct or engaging in sexual communication." The prostitution law refers to the human trafficking statute to provide an affirmative defense for victims. Oklahoma's racketeering statute includes human trafficking offenses and some CSEC offenses as predicate acts, allowing for the prosecution of sex trafficking enterprises.

## Criminal Provisions for Demand

Tracking with federal law, Oklahoma's human trafficking law applies to the purchasing of a minor by any means "for purposes of engaging the minor in a commercial sex act." The CSEC offense of "engaging in prostitution" includes the crime of buying sex with a minor under 18 years of age. Statutes on "facilitating, encouraging, offering or soliciting sexual conduct or engaging in sexual communication" and "lewd or indecent proposals or acts as to a child under 16" could provide a means of obtaining heightened penalties for buyers who use the Internet or electronic communications to commit illegal sex acts. The trafficking law prohibits an offender from asserting a mistake of age defense, but Oklahoma's CSEC laws do not contain similar prohibitions. Buyers convicted under the trafficking law face 15 years to life imprisonment and a fine up to \$250,000; they are also subject to fines and face mandatory restitution to the victim. Convictions under the CSEC offense are punishable by up to 10 years imprisonment and a \$5,000 fine. Buyers of sex with minors may be required to register as sex offenders if convicted of "human trafficking," possessing images of child sexual exploitation (ICSE), "engaging in prostitution," or another specified offense.

## Criminal Provisions for Traffickers

Traffickers face prosecution under human trafficking, CSEC, and racketeering laws, with sentences that reflect the seriousness of those offenses. Child sex trafficking is punishable by 15 years-life imprisonment and a fine up to \$250,000, while "engaging in prostitution" is punishable by up to 10 years imprisonment and a fine up to \$5,000. "Procuring for prostitution, lewdness or other indecent act" is punishable by 1-10 years imprisonment and a fine up to \$10,000. "Inducing, keeping, detaining or restraining for prostitution" is punishable by 1-25 years imprisonment and a fine of \$5,000-\$25,000. Offenses related to commercially distributing ICSE, preparing ICSE, and procuring minors for ICSE are punishable by up to 20 years imprisonment and fines up to \$25,000. "Facilitating, encouraging, offering or soliciting sexual conduct or engaging in sexual communication" and "lewd or indecent proposals or acts as to child under 16" could reach traffickers who use the Internet to recruit minors for illegal sex acts. When convicted of human trafficking, victim restitution is mandatory. Traffickers convicted of "human trafficking," "engaging in prostitution," or creating ICSE are subject to civil asset forfeiture. Traffickers must register as sex offenders if convicted of "human trafficking," CSEC, and ICSE-related offenses. Convictions for human trafficking or CSEC offenses do not result in termination of parental rights.

## Criminal Provisions for Facilitators

The human trafficking law includes the crime of financially benefitting from human trafficking. The crimes of “engaging in prostitution” and “procuring for prostitution, lewdness or other indecent act” may apply to facilitators. The former is punishable by up to 10 years imprisonment and a fine up to \$5,000, while the facilitator-applicable provision of the latter is punishable as

a misdemeanor. Victim restitution is mandatory for human trafficking convictions and may be ordered at the court’s discretion for any other offense. Facilitators convicted of human trafficking, “engaging in prostitution,” racketeering, or distributing ICSE are subject to civil asset forfeiture. No laws in Oklahoma address sex tourism.



## Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. The human trafficking law prohibits a defense based on a minor’s willingness to engage in the commercial sex act. Oklahoma law prohibits the criminalization of juvenile sex trafficking victims for prostitution and nonviolent misdemeanors. In lieu of delinquency proceedings, state law provides for a range of general services and protections. For purposes of child welfare intervention, child sex trafficking is not included within the definition of abuse or neglect, but a separate statute clarifies that child welfare may respond in trafficking cases; however, this response is limited to trafficking victims who are not released into a parent or guardian’s custody upon determination that the child would be subject to further exploitation. If identified as a victim, human trafficking and CSEC victims who are suffering from economic loss are eligible for state crime victims’ compensation; however, 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 a 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. Oklahoma 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 restitution may be awarded to other victims. Civil remedies are also provided for human trafficking victims. Prosecutions for “human trafficking” and most CSEC offenses must commence within 3 years of the crime; however, the statute of limitations is tolled for certain offenses, including “procuring for participation in pornography,” until the victim’s 45th birthday. Statutes of limitations for civil claims based on damages from being trafficked do not begin to run until the later of the victim being freed from the defendant, the victim turning 21, or the victim discovering (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 Justice Tools for Investigation and Prosecution

Law enforcement training on child 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. “Facilitating, encouraging, offering or soliciting sexual conduct or engaging in sexual communication” prohibits a defense based on the use of a law

enforcement decoy posing as a minor and allows law enforcement to use the Internet to investigate buyers and traffickers. Oklahoma has established a statewide reporting and response system for missing children and children identified as sex trafficking victims, but state law does not expressly require reporting of 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).*