

OREGON

REPORT CARD | 2018

Oregon's trafficking in persons applies to buyers of sex with minors without requiring proof of force, fraud, or coercion when the victim is a minor. Child sex trafficking victims may be subject to prosecution for prostitution and could face detention; alternatively, CSEC or child sex trafficking victims may be identified as abused and receive the protection and services of child welfare.

Final Score

85.5

Final Grade

B



10

10

21

25

15

15

7.5

10

17.5

27.5

14.5

15

Criminalization of Domestic Minor Sex Trafficking

Oregon's trafficking in persons statute specifically includes child sex trafficking without requiring proof of force, fraud, or coercion when the victim is a minor. Commercial sexual exploitation of children (CSEC) laws include: "purchasing sex with a minor," "compelling prostitution," and "using child in display of sexually explicit conduct." The prostitution law refers to the trafficking law, thereby acknowledging the intersection of prostitution with trafficking victimization. Oregon's racketeering law includes human trafficking and most CSEC offenses as predicate acts, allowing the law to be used to prosecute sex trafficking enterprises.

Criminal Provisions for Demand



Following federal precedent, the "trafficking in persons" law applies to buyers through the term "obtains," but only in cases where the buyer knew or recklessly disregarded the fact that the minor was under 18. "Purchasing sex with a minor," a CSEC offense, applies to buyers. "Online sexual corruption of a child" may allow for the prosecution of buyers who use the Internet to engage in illegal sex acts such as attempted purchasing or trafficking. Buyers convicted of trafficking, CSEC, or possession of images of child sexual exploitation (ICSE) are subject to discretionary criminal asset forfeiture and are required to pay restitution when economic loss can be shown. "Purchasing sex with a minor" permits an age mistake defense if the victim is 16 or older and the defendant has no prior conviction. Buyers convicted of "trafficking in persons" face up to 20 years imprisonment and a fine up to \$375,000; first time convictions for "purchasing sex with a minor" are punishable by a minimum of 30 days imprisonment and a \$10,000 fine. Buyers who possess and purchase ICSE are permitted an affirmative defense if the buyer had no reason to know that the sexually explicit conduct involved a child. Individuals convicted of "purchasing sex with a minor" (first offense) will only register as sex offenders at the court's discretion; a second conviction or any conviction for "trafficking in persons" requires registration.

Criminal Provisions for Traffickers



"Trafficking in persons," "compelling prostitution," and "distributing" ICSE are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000, while "using child in display of sexually explicit conduct" and "trafficking in persons" involving commercial sex are Class A felonies punishable by up to 20 years imprisonment and a fine up to \$375,000. "Online sexual corruption of a child" may provide a means of prosecuting traffickers who use the Internet to recruit or sell illegal sex acts with a minor. Traffickers could also face prosecution under racketeering and money laundering laws, leading to additional penalties. Traffickers convicted of "trafficking in persons" or any CSEC offense are subject to discretionary criminal asset forfeiture for both the proceeds of the crime and the instrumentalities used in the crimes and are required to make restitution to their victims when economic loss can be shown. Traffickers must register as sex offenders for convictions of "compelling prostitution," "using a child in a display of sexually explicit conduct," distributing ICSE, "luring a minor," and "trafficking in persons" involving commercial sex. Convictions for "trafficking in persons" or CSEC offenses do not expressly establish grounds for termination of parental rights, but are likely included as acts of unfitness or extreme conduct that may serve as a basis for terminating parental rights.

Criminal Provisions for Facilitators

Oregon's "trafficking in persons" law includes the crime of financially benefitting from participation in a venture that involves trafficking, or involuntary servitude. "Compelling prostitution" may apply to facilitators who aid or facilitate in the commission of prostitution of a minor. "Trafficking in persons," "compelling prostitution," and promoting and selling ICSE are Class B felonies punishable by up to 10 years imprisonment and fines up to

\$250,000. Facilitators could also face prosecution under racketeering and money laundering laws, leading to additional penalties. Facilitators convicted of "trafficking in persons" or CSEC offenses are subject to discretionary criminal asset forfeiture and shall be required to pay restitution to their victims when economic loss can be shown. No laws in Oregon address sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as sex trafficking victims. "Trafficking in persons" and CSEC offenses 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. Accordingly, juvenile sex trafficking victims could face criminalization for commercial sex acts committed as a result of their victimization. Further, Oregon law does not provide a juvenile sex trafficking victim with a statutory avenue to specialized services. However, for purposes of child welfare intervention, the definition of abuse includes a child victimized by sex trafficking, sexual exploitation, including "prostitution," a CSEC offense, and ICSE. There is likely no caregiver barrier to a minor victim receiving child welfare protection and services in non-familial cases of trafficking and exploitation. Victims of sexual exploitation may qualify for crime victims' compensation under Oregon's "Compensation of Crime Victims" statutes and are statutorily exempt from some, but not all, ineligibility criteria. Some victim-friendly trial procedures are available for CSEC victims, including allowing victims under 12 to testify via closed circuit television under specified circumstances and providing for address confidentiality for all victims of sexual offenses and hu-

man trafficking. Oregon's "rape shield" law is available to protect testifying victims in prosecutions of human trafficking and CSEC crimes. Oregon law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, and only juvenile records for prostitution offenses may be expunged without a waiting period. Victim restitution for economic damages and civil remedies are available. Prosecutions for "trafficking in persons" must be brought within three years of the crime, while prosecutions for "compelling prostitution" and "using a child in a display of sexual conduct" must be brought within six years, or if the child was under 18, the earlier of the victim turning 30 or within 12 years of the crime being reported. However, prosecutions for sexual non-CSEC offenses, including sexual abuse and rape, may be brought at any time so long as there is corroborating evidence. Civil actions by victims of trafficking must be brought within six years of the conduct giving rise to the claim, while those based on child abuse, which includes CSEC offenses, must be brought before the victim turns 40, or within five years of the victim's discovery of the "causal connection between the child abuse and the injury."



Criminal Justice Tools for Investigation and Prosecution

Training for law enforcement on domestic minor sex trafficking is expressly required by law. Single party consent for audiotaping phone calls is permitted, and wiretapping is permitted in investigations of CSEC offenses, human trafficking, and racketeering. A defense based on the use of a law enforcement decoy in an in-

vestigation for purchasing sex with a minor is prohibited, and law enforcement may use the Internet to investigate CSEC offenses. Oregon has established a statewide reporting and response system for missing persons, but does not require the 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.