







PENNSYLVANIA

REPORT CARD | 2018

Pennsylvania law criminalizes sex trafficking without requiring use of force, fraud, or coercion when the victim is a minor, and buyers of sex with minors face penalties under the human trafficking chapter. However, state law does not eliminate a minor's criminal liability for prostitution, and minors may face barriers to accessing protection or justice.

Final Score
82
Final Grade
B

					
10	19.5	15	7	15.5	15
10	25	15	10	27.5	15

Criminalization of Domestic Minor Sex Trafficking

Pennsylvania's "trafficking in individuals" law makes it a crime to traffic a child for commercial sex acts without requiring proof of force, fraud, or coercion when the victim is a minor. State commercial sexual exploitation of children (CSEC) laws include: "prostitution and related offenses," "unlawful contact with minor," and "obscene and other sexual materials and performances." The general prostitution law does not refer to the "trafficking in individuals" law, but certain protections under the human trafficking chapter acknowledge the intersection of prostitution with trafficking victimization. The state racketeering law includes "trafficking in individuals" and CSEC violations as predicate acts.

Criminal Provisions for Demand

Following federal precedent, the trafficking law applies to buyers who "obtain" a minor for commercial sex; additionally, buyers can be charged under "patronizing a victim of sexual servitude" if the buyer knew the minor was a victim of sexual servitude. "Trafficking in individuals" is punishable by up to 20 years imprisonment and a \$25,000 fine, while "patronizing a victim of sexual servitude" is punishable by up to 10 years imprisonment and a \$25,000 fine. The CSEC crime of "unlawful contact with a minor" includes contacting a minor to engage in prostitution; a violation is punishable by up to 7 years imprisonment and a \$15,000 fine. The general solicitation law does not differentiate soliciting sex with an adult versus a minor. Using electronic communications to purchase sex with a minor is a distinct offense. A mistake of age defense may be available to buyers based on the offense charged and/or the victim's age. Depending on the offense, financial penalties include fines, asset forfeiture, and restitution. Possessing images of child sexual exploitation (ICSE) carries penalties comparable to those for similar federal offenses. Buyers convicted of "trafficking in persons," "unlawful contact with a minor," or possessing ICSE are required to register as sex offenders.

Criminal Provisions for Traffickers

When the offense involves a minor victim of sexual servitude, "trafficking in individuals" is a first degree felony punishable by up to 20 years imprisonment (or life imprisonment if the offense involved rape or kidnapping) and a \$25,000 fine. "Prostitution and related offenses," including promoting prostitution, and "unlawful contact with a minor" are felonies punishable by up to 7 years imprisonment and a \$15,000 fine. Creating ICSE is a felony punishable by up to 10 years imprisonment and a \$25,000 fine, while disseminating such images is a felony punishable by up to 7 years imprisonment and a \$15,000 fine. Using electronic communications to lure or entice a minor to engage in commercial and non-commercial sex acts is a distinct offense. Depending on the offense, financial penalties include fines, asset forfeiture, and restitution. Traffickers convicted of "trafficking in individuals," "unlawful contact with a minor," "promoting prostitution," or ICSE offenses are required to register as sex offenders. Grounds for termination of parental rights include convictions for "prostitution and related offenses" and "unlawful contact with a minor," two of Pennsylvania's CSEC offenses.

Criminal Provisions for Facilitators

“Trafficking in individuals” includes the crime of benefitting financially or receiving anything of value from human trafficking; a violation is punishable by up to 20 years imprisonment and a \$25,000 fine (or up to a \$1,000,000 fine for business entities) when a minor victim is involved. The CSEC crime of promoting prostitution of a minor applies to facilitators who lease or permit their premises to be utilized for prostitution of a minor or

who benefit from promoting prostitution of a minor; a violation is punishable by up to 7 years imprisonment and a \$15,000 fine. Facilitating ICSE by selling, distributing, or displaying ICSE is a felony punishable by up to 7 years imprisonment and a \$15,000 fine. Depending on the offense, financial penalties include fines, asset forfeiture, and restitution. No laws in Pennsylvania make sex tourism a crime.



Protective Provisions for the Child Victims

All commercially sexually exploited children are identified as juvenile sex trafficking victims. However, Pennsylvania’s “trafficking in individuals” law does 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 juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. The human trafficking chapter does provide an affirmative defense to prostitution charges, but it requires proof of compulsion or coercion. Pennsylvania law does not provide juvenile sex trafficking victims with a statutory avenue to specialized services. For purposes of child welfare intervention, sex trafficking and “sexual abuse or exploitation” are included within the definition of “child abuse.” Additionally, the definition of “perpetrator” includes anyone who engages in sex trafficking, which allows for child welfare intervention in non-familial trafficking cases. CSEC victims are likely eligible for state crime victims’ compensation, but eligibility criteria could threaten a victim’s ability to recover, including a bar to recovery for failure to cooperate with law enforcement and a reduction of an award for conduct contributing to the injury. Additionally, victims have a requirement to report the crime to law

enforcement within 72 hours, unless the victim was under 18 and the alleged offender is a person responsible for the victim’s welfare or person with whom the victim resides. Various victim-friendly trial procedures are specifically available to victims of “trafficking in individuals,” including availability of a support person during testimony, assessment of safety considerations, and confidentiality of the victim’s identity in public records. The “rape shield” law, which limits the trauma of cross-examination for victims, is available for trafficking, but not CSEC. Certain child victims under 16 in sexual offense trials may testify through closed-circuit television to limit interaction with their exploiter. Pennsylvania 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. Juvenile sex trafficking victims are entitled to mandatory restitution and are provided with civil remedies. While the statute of limitations has been extended for some CSEC crimes, it has not been extended or eliminated for prosecutions under the “trafficking in individuals” law. Civil actions based on childhood sexual abuse have been extended and must be brought before a victim reaches 30.



Criminal Justice Tools for Investigation and Prosecution

Pennsylvania law mandates training for law enforcement on human trafficking. The law requires both parties in an audiotaping to consent to the recording, although single party consent may be allowed with approval by the State or when an undercover officer records the conversation while meeting in person with the suspected offender. Wiretapping is allowed for specified offenses including “trafficking in individuals,” “prostitution and related offenses,” and “unlawful contact with a minor.” “Unlawful contact with a minor,” a CSEC offense, prohibits a defense

based on the use of a law enforcement decoy posing as a minor and permits use of the Internet in investigations; specifically, the statute includes contacting, in person or via a computer, a law enforcement officer posing as a minor to solicit prostitution or engage in other forms of sexual exploitation of children. Law enforcement officers are mandated to report missing and located children through the Commonwealth Law Enforcement Assistance Network.



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.