

SOUTH CAROLINA

REPORT CARD | 2018

South Carolina's child sex trafficking statute does not require use of force, fraud, or coercion. Additionally, child victims are not subject to prosecution for prostitution and trafficking offenses committed pursuant to their victimization; instead, survivors may access specialized services through "certified specialized service providers" and Human Trafficking Acute Crisis Care and Resource Centers.

Final Score

82

Final Grade

B



10

10



21

25



11

15



6

10



24.5

27.5



9.5

15

Criminalization of Domestic Minor Sex Trafficking

South Carolina's human trafficking statute includes sex trafficking without requiring use of force, fraud, or coercion when the victim is a minor. State commercial sexual exploitation of children (CSEC) laws include: "promoting prostitution of a minor," "participating in prostitution of a minor," first and second degree "sexual exploitation of a minor," "producing, directing or promoting sexual performance by child," "employment of person under eighteen to appear in public state of sexually explicit nudity," and "engaging child for sexual performance." The "trafficking in persons" law protects minors from prosecution on prostitution charges related to trafficking, thereby acknowledging the intersection of prostitution with trafficking victimization. The Criminal Gang Prevention Act includes human trafficking and CSEC offenses as predicate acts, making this law available to prosecute sex trafficking enterprises.

Criminal Provisions for Demand

The trafficking law applies to buyers through the term "solicits," following federal precedent, through the term "obtains," and through the phrases give or agree to give anything of value. "Trafficking in persons" is punishable by up to 30 years imprisonment. The CSEC crime of "participating in prostitution of a minor" is punishable by 2-5 years imprisonment. South Carolina's solicitation laws distinguish between soliciting commercial sex acts with an adult versus a minor. "Criminal solicitation of a minor" may provide a means of prosecuting buyers who use the Internet, but no statute specifically criminalizes using the Internet or electronic communications to purchase sex with a minor. A mistake of age defense is prohibited under several offenses, including "trafficking in persons," "second degree sexual exploitation of a minor," and "participating in prostitution of a minor." Financial penalties may include asset forfeiture and restitution. Purchasing and possessing images of child sexual exploitation (ICSE) carries penalties comparable to those for similar federal offenses. A buyer must register as a sex offender if convicted of "trafficking in persons," "participating in prostitution of a minor," or "criminal solicitation of a minor."

Criminal Provisions for Traffickers

"Trafficking in persons" is punishable by up to 30 years imprisonment. "Promoting prostitution of a minor," "first degree sexual exploitation of a minor" (which includes using or employing a minor for ICSE), and "engaging child for sexual performance" are punishable by up to 20 years imprisonment. "Criminal solicitation of a minor" is punishable by up to 10 years imprisonment; though not specific to use of the Internet or electronic communications, this offense may provide a means of prosecuting traffickers who recruit minors for illegal sex acts. Creating ICSE carries penalties comparable to those for similar federal offenses. Financial penalties may include asset forfeiture and restitution. Traffickers must register as sex offenders if convicted of "trafficking in persons" or any offense related to "obscenity, material harmful to minors, child exploitation, and child prostitution." Grounds for terminating parental rights exist when a victim is hospitalized or dies as a result of trafficking in persons or offenses related to ICSE.

Criminal Provisions for Facilitators

South Carolina's human trafficking law penalizes one "who benefits, financially or by receiving anything of value" from sex trafficking with up to 30 years imprisonment. Business owners who use their business to aid or assist sex trafficking face possible fines, up to 10 years imprisonment, and forfeiture of their business charter. Facilitators convicted of "promoting prostitution of a minor" or "first degree sexual exploitation of a minor," which includes transporting or financing the transportation of a minor

for ICSE, face 3–20 years imprisonment. Financial penalties may include asset forfeiture and restitution. "Producing, directing or promoting sexual performance by child" and distributing or transporting ICSE under "second degree sexual exploitation of a minor" are punishable by up to 10 years imprisonment, while "first degree sexual exploitation of a minor" for ICSE-related conduct is punishable by 3–20 years imprisonment. No laws in South Carolina address sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. Further, the trafficking law prohibits a defense based on a minor's willingness to engage in a commercial sex act. Although the prostitution law does not limit applicability to adults, the human trafficking statute provides that minors are not subject to prosecution for prostitution as human trafficking victims. South Carolina law provides an avenue to specialized services through "certified specialized service providers" and Human Trafficking Acute Crisis Care and Resource Centers. For purposes of child welfare intervention, the definition of "child abuse and neglect" expressly includes child sex trafficking regardless of the child's relationship to the perpetrator. The human trafficking law expressly prohibits a defendant from asserting a defense based on the willingness of a minor to engage in a commercial sex act. While the "rape shield" law is not specifically available to limit traumatizing cross-examination of CSEC

and trafficking victims, the human trafficking law bars a defense based on the victim's past sexual conduct. South Carolina 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. Restitution is mandated for human trafficking convictions. Civil actions may be filed by victims of human trafficking or sexual abuse defined to include prostitution and ICSE related offenses. A criminal case may be brought at any time, and the time for a civil action brought under the human trafficking law may be extended to 3 years after the offender completes a criminal sentence, or after the end of the trafficking, or after the victim turns 18. Additionally, the statute of limitations can be tolled based on psychological trauma if a victim could not have reasonably discovered the cause of action.



Criminal Justice Tools for Investigation and Prosecution

South Carolina law authorizes mandatory training for law enforcement officers on human trafficking. Single party consent to audiotaping is permitted, but wiretapping is not authorized for investigations related to human trafficking or CSEC. The crime of "solicitation of a minor" expressly prohibits a defense based on the use of a law enforcement decoy posing as a minor in an

investigation for purchasing sex with a minor. Law enforcement officers are not clearly authorized to use the Internet to investigate the crime of buying or selling sex with minors. Law enforcement officers must report missing children and once a child is rescued, law enforcement must confirm and delete the records unless grounds for criminal prosecution exist.



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.