

# VERMONT

## REPORT CARD | 2018

Vermont's sex trafficking law criminalizes the trafficking of children without requiring proof of force, fraud, or coercion. The trafficking law reaches the actions of traffickers, buyers, and facilitators, but critical investigative tools for law enforcement, such as wiretapping, are not statutorily authorized. Further, training on human trafficking is not mandated, which could prevent aggressive enforcement.

Final Score

72

Final Grade

C



7.5

10

14.5

25

13.5

15

6

10

23.5

27.5

7

15

## Criminalization of Domestic Minor Sex Trafficking

Vermont's sex trafficking laws address sex trafficking of minors and clearly define a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to use of force, fraud, or coercion. Individual laws within the trafficking chapter make it a crime to solicit commercial sex acts with a trafficking victim and to facilitate sex trafficking. The state commercial sexual exploitation of children (CSEC) laws include: "use of a child in a sexual performance" and "consenting to a sexual performance." While Vermont's prostitution law does not refer to the human trafficking statute to identify commercially sexually exploited minors as victims of trafficking, the human trafficking law prevents the prosecution of minors for prostitution. Vermont does not have a racketeering statute that could be used to prosecute trafficking enterprises.

## Criminal Provisions for Demand

Vermont's sex trafficking laws make the purchase of commercial sex acts from a minor separate and distinct crimes. Following federal precedent, the human trafficking law also applies to buyers who "obtain" a minor for commercial sex. "Human trafficking" is punishable by up to life imprisonment and a fine up to \$500,000, while "aggravated human trafficking" is punishable by 20 years to life imprisonment and a fine up to \$100,000. "Solicitation," an offense within the trafficking chapter, is punishable by up to 5 years imprisonment and a fine up to \$100,000. Vermont does not have a buyer-applicable CSEC offense, and the general solicitation laws do not distinguish between soliciting commercial sex acts with an adult versus a minor, making it possible for some buyers of sex with minors to be charged with this lesser solicitation offense rather than the one found within the trafficking chapter. State law prohibits luring a child under 16 by any means, including "use of the Internet or electronic communications," to engage in a sexual act. The sex trafficking law does not prohibit an age mistake defense. Financial penalties include fines and restitution, not asset forfeiture. Possessing images of child sexual exploitation (ICSE) is prohibited, but penalties do not reflect the seriousness of the offense. Buyers convicted under state trafficking and ICSE laws are required to register as sex offenders.

## Criminal Provisions for Traffickers

"Human trafficking" is punishable by up to life imprisonment and a fine up to \$500,000, while aggravated human trafficking is punishable by 20 years to life imprisonment and a fine up to \$100,000. "Use of a child in a sexual performance" and "consenting to a sexual performance" are punishable by up to 10 years imprisonment and a fine up to \$20,000. Creating and distributing ICSE carry penalties comparable to those for similar federal offenses. State law prohibits luring a child under 16 by any means, including "use of the Internet or electronic communications," to engage in a sexual act, which could apply to traffickers who use the Internet to recruit a minor for commercial sex. Traffickers convicted of sex trafficking are required to pay victim restitution, and a court may order traffickers convicted of other crimes to pay victim restitution; however, asset forfeiture is not available. Traffickers convicted of "human trafficking" or "aggravated human trafficking," as well as those convicted of state CSEC and ICSE laws, are required to register as sex offenders. Although a conviction for "human trafficking" is not included as a ground for terminating parental rights, Vermont law allows a court to award sole parental rights to a trafficking victim who conceived a child with his or her trafficker.

## Criminal Provisions for Facilitators

The state sex trafficking law includes the crime of financially benefitting from participation in the crime of sex trafficking with knowledge that force, fraud, or coercion was used to induce a victim to perform a commercial sex act. When a minor is involved, this crime is punishable by 20 years to life imprisonment and a fine up to \$100,000. A separate law criminalizes facilitating human trafficking by allowing an owned or controlled place to be used for human trafficking; a conviction is punishable by up to 5

years imprisonment and a fine up to \$100,000. "Use of a child in a sexual performance," which includes promoting performance or ICSE through exhibiting, manufacturing, distributing, or advertising, is punishable by up to 10 years imprisonment and a fine up to \$20,000. Financial penalties include fines and restitution, but not asset forfeiture. No laws in Vermont address sex tourism, making the environment friendly for businesses who capitalize on commercial sex activity to sell travel.



## Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. The sex trafficking law prohibits a defense to prosecution based on the willingness of a minor to engage in a commercial sex act. Vermont's human trafficking law prevents minor victims from being criminalized for violating the state's prostitution law. Additionally, child sex trafficking victims who commit other offenses related to their victimization may assert an affirmative defense based on force, fraud, or coercion. Although a minor involved in prostitution or sex trafficking may be treated as a child in need of care or supervision, access to specialized services is not statutorily required. For purposes of child welfare intervention, both Vermont's human trafficking and child abuse statutes specifically identify child sex trafficking and commercial sexual exploitation victims as children requiring child welfare protection and care regardless of the child's relationship to the perpetrator of the abuse. Sex trafficking and CSEC victims are eligible for crime victims' compensation, but filing is required within the time required to bring a criminal prosecution against the offender, unless good cause is shown, and there is a bar to recovery if the victim violated a criminal law that contributed to the injury. Victim-friendly court procedures are available to sex

trafficking victims, including participation in the address confidentiality program and application of the "rape shield" law, which reduces the trauma of cross-examination for testifying victims. However, the ability to testify via closed circuit television is limited to children under 12 who are victims of certain sex offenses not including CSEC or sex trafficking. Vermont law does not provide a mechanism for minors to vacate delinquency adjudications, but juvenile records may be sealed after a waiting period. Sex trafficking victims are entitled to mandatory restitution, and CSEC victims may also request restitution. Victims are also expressly able to pursue civil remedies against their offenders. Civil actions based on sex trafficking must be brought within six years, whereas claims based on other CSEC crimes must be brought within three years. Vermont has eliminated the statute of limitations for a criminal prosecution under Vermont's "human trafficking," "aggravated human trafficking," "sexual assault," "aggravated sexual assault," and "aggravated sexual assault of a child" laws; however, other CSEC offenses must be prosecuted within six years or within 40 years after the commission of the offense where the victim was a minor at the time of the offense.



## Criminal Justice Tools for Investigation and Prosecution

Vermont law does not mandate training on human trafficking or domestic minor sex trafficking, although the Vermont center for crime victim services is authorized to have a task force that assists law enforcement in developing protocols for human trafficking that may include education. Vermont's statutes do not address whether single party or two-party consent to audiotaping is required, and the Vermont code does not address whether wiretapping is permitted for any criminal investigations, leaving law enforcement handicapped in their investigations. None of Vermont's trafficking or CSEC offenses expressly prohibit a de-

fendant from asserting a defense based on the use of a law enforcement decoy posing as a minor during an investigation, but the defense may be prohibited for the non-CSEC offense of luring a child. Law enforcement are not expressly permitted to use the Internet in the investigation of prostitution or sex trafficking cases; however, relying on the law on luring a child under 16 by any means, including the Internet, to engage in a sexual act, law enforcement may be able to use the investigative tool in limited situations. Law enforcement officers are required to report 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](http://www.sharedhope.org/reportcards).*