

WASHINGTON

REPORT CARD | 2018

Washington's human trafficking law applies to buyers without requiring use of force, fraud, or coercion when the victim is a minor. The human trafficking law also prohibits an age mistake defense. However, minors may be prosecuted for prostitution offenses unless diverted; if diverted, child sex trafficking victims can access specialized services.

Final Score

95

Final Grade

A



10

10

24.5

25

15

15

9.5

10

23.5

27.5

12.5

15

Criminalization of Domestic Minor Sex Trafficking

Washington's human trafficking law does not require proof that force, fraud, or coercion was used when the victim is a minor. Commercial sexual exploitation of children (CSEC) laws include: "commercial sexual abuse of a minor," "promoting commercial sexual abuse of a minor," "promoting travel for commercial sexual abuse of a minor," "permitting commercial sexual abuse of a minor," "communication with a minor for immoral purposes," and "sexual exploitation of a minor." The prostitution law refers to the human trafficking law by providing victims with an affirmative defense, thus acknowledging the intersection of prostitution with trafficking victimization. Washington's criminal profiteering statute includes sex trafficking and certain CSEC offenses as predicate acts.

Criminal Provisions for Demand



Washington's human trafficking law expressly applies to a person who "obtains, buys, [or] purchases" a person for a commercial sex act. "Commercial sexual abuse of a minor" includes the crime of buying sex, differentiating the solicitation of a minor versus an adult. Trafficking in the first degree is punishable by 123–397 months imprisonment and a fine up to \$50,000, while human trafficking in the second degree is punishable by 93–318 months imprisonment and a fine up to \$50,000. "Commercial sexual abuse of a minor" is punishable by 21 months to 10 years imprisonment and a fine up to \$20,000. Using electronic communications to purchase sex acts with a minor results in an enhanced penalty for buyers. A mistake of age defense is prohibited in prosecutions for "trafficking," "communication with minor for immoral purposes," and "commercial sexual abuse of a minor." Financial penalties may include fines, asset forfeiture, and restitution. Possessing images of child sexual exploitation (ICSE) is prohibited, but penalties do not reflect the seriousness of the offense. Buyers are required to register as sex offenders for convictions of under state human trafficking, CSEC, and ICSE offenses.

Criminal Provisions for Traffickers



A trafficker faces prosecution under trafficking and CSEC laws and may be subject to criminal profiteering laws. Trafficking in the second degree and "promoting commercial sexual abuse of a minor" are felonies punishable by imprisonment between 93–318 months and a fine up to \$50,000; when trafficking includes a sexual motivation, kidnapping, or results in a death, the crime is punishable by 123–397 months imprisonment and a fine up to \$50,000. "Promoting travel for commercial sexual abuse" is a felony punishable by up to 5 years imprisonment and a fine up to \$10,000. Creating ICSE carries penalties comparable to those for similar federal offenses. "Communication with a minor for immoral purposes" enhances the penalty to a Class C felony from a misdemeanor when the Internet is used for the sale of commercial sex acts. Traffickers are subject to asset and vehicle forfeiture for trafficking and CSEC crimes. A trafficker may also be ordered to pay victim restitution. Traffickers are required to register as sex offenders for convictions of "trafficking," "promoting commercial sexual abuse of a minor," and certain other CSEC and ICSE offenses. A conviction for trafficking or "promoting commercial sexual abuse of a minor" is also grounds for terminating parental rights, which prevents traffickers from exploiting their parental rights as a form of control.

Criminal Provisions for Facilitators

The state human trafficking law includes financially benefitting or receiving anything of value from human trafficking offenses, and CSEC laws are also applicable to facilitators. Trafficking and “promoting commercial sexual abuse of a minor” are felonies punishable by imprisonment between 93–318 months and a fine up to \$50,000. When trafficking includes a sexual motivation, kidnapping, or results in a death, the crime is punishable by 123–397 months imprisonment and a fine up to \$50,000. Selling, sending, and bringing ICSE into the state are felonies

generally punishable by 15–116 months imprisonment and a fine up to \$20,000. Facilitators are subject to asset and vehicle forfeiture for trafficking and CSEC crimes. A facilitator may be ordered to pay restitution. “Promoting travel for commercial sexual abuse of a minor,” which specifically addresses child sex tourism by including selling travel for the purpose of engaging in commercial sexual abuse of a minor, is a felony punishable by up to 5 years imprisonment and a \$10,000 fine.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. Washington’s trafficking and CSEC laws prohibit a defense based on a minor’s willingness to engage in a commercial sex act. The prostitution law is age neutral and fails to specifically protect minors from being charged with prostitution. Nonetheless, diversion is mandated for a juvenile’s first prostitution offense and optional diversion exists for subsequent offenses; if diverted, a juvenile sex trafficking victim can access specialized services. Sexual exploitation through prostitution or ICSE is a form of abuse or neglect allowing for child protective services involvement, and child victims may receive child welfare services regardless of the perpetrator of abuse. Crime victims’ compensation is specifically made available to victims of “commercial sexual abuse of a minor,” regardless of whether the victim is charged with prostitution. Additionally, the rights of child victims of criminal acts do not accrue until “the time the victim

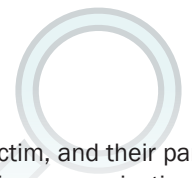
discovers or reasonably should have discovered the elements of the crime.” If eligible for crime victims’ compensation, a court must order the offender to pay restitution to the victim. Some victim-friendly court procedures are in place; for example, victims of sexual assault, including “sexual exploitation” or “commercial sexual abuse of a minor,” have the right to be accompanied by a personal representative to court proceedings, and closed-circuit television testimony is available to victims under fourteen years old. Further, the “rape shield” statute applies in trafficking and CSEC cases. Washington law allows child sex trafficking victims to immediately vacate delinquency adjudications for prostitution, but juvenile records may only be sealed after a waiting period. Civil remedies can be asserted by victims of human trafficking and certain CSEC offenses. Statutes of limitations have not been eliminated for civil or criminal actions related to Washington’s trafficking or CSEC offenses.



Criminal Justice Tools for Investigation and Prosecution

Washington mandates the creation of a statewide human trafficking training program for criminal justice personnel, including law enforcement officers. Single party consent to audiotaping and judicially approved wiretapping is permitted for law enforcement pursuing trafficking and CSEC investigations. State law implicitly prohibits a buyer’s defense to the use of a decoy in sex trafficking or CSEC investigations; however, the defense may be available under the human trafficking statute. Minors may aid in

investigations in which they are an alleged victim, and their participation is limited to telephone or electronic communications with the defendant. Additionally, law enforcement may use the Internet or electronic communications to investigate cases of sex trafficking. Reporting of missing children is mandated within six hours, and law enforcement must also report when missing or endangered children are located.



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.