

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

2nd Quarter (April-June) 2012 Report

The inaugural Protected Innocence Challenge report released on December 1, 2011 revealed the gaps in America's state legislative response to domestic minor sex trafficking. The comprehensive analysis of each state's existing laws was based on six areas of law critical to protecting children from and responding to domestic minor sex trafficking. When measured against the Protected Innocence standard, only ten states' laws received grades of "B" and "C," and most received an "F." The 2011 Protected Innocence Challenge was a call for state action to bring national change. Advocates in states across the country have used the Protected Innocence tools and state legislators have responded to the challenge, pledging to fix the gaps in state legislative frameworks that allow trafficked children to remain vulnerable, unidentified and deprived of vital services and justice.

Since the release of the Protected Innocence Challenge in December 2011:*

- 40** States had legislation introduced relating to the Protected Innocence framework
- 261** Total bills introduced in the U.S. relating to domestic minor sex trafficking
- 29** States that passed legislation relating to the Protected Innocence framework

* As of June 29, 2012



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

In the second quarter of 2012 following completion of the Protected Innocence framework analysis for 2011, several bills passed which improve state human trafficking laws by distinguishing between sex trafficking of minors and adults and by eliminating the requirement of force, fraud, or coercion when the victim is a minor. **South Carolina** enacted a new human trafficking law that criminalizes sex trafficking of minors but requires the use of force. Similarly, **Alaska** passed a bill establishing a separate sex trafficking offense that does not require force, fraud or coercion when a person under the age of 20 is trafficked for prostitution and removes the requirement that victims come into the state. **Florida** passed a bill removing the requirement that a human trafficking victim be transported and the requirement of force, fraud or coercion when the victim is a minor. In other legislation, **Oklahoma** passed a bill that eliminates the requirement for force, fraud or coercion in human trafficking offenses involving a minor. Twenty-eight states now have statutes that specifically make sex trafficking a separate crime and do not require force, fraud or coercion when the victim is a minor under 18.



CRIMINAL PROVISIONS ADDRESSING DEMAND

The second quarter of 2012 marked important changes in **Iowa** and **Oklahoma's** human trafficking laws. The bills passed in these states make the state human trafficking law clearly applicable to buyers of sex with minors without relying on federal precedent by including the purchase of sex acts with minors as prohibited conduct and subjecting buyers to the same penalties applied to traffickers. Six state human trafficking laws now include as criminal conduct the purchase of commercial sex acts with a minor. Legislation in **Louisiana** substantially increases the penalties for buyers by raising fines to \$50,000, raising sentences from 15 to 50 years, and mandating a buyer's registration as a sex offender. Louisiana also expanded the applicability of its solicitation laws by raising the age of minor victims from 17 to 18.

Ohio's comprehensive trafficking bill failed to pass provisions that would extend the trafficking law to buyers of sex with minors and **Hawaii's** bill increasing financial penalties for buying commercial sex with a minor failed to pass. Bills introduced last quarter in **Kansas** and **Kentucky** that would have created an offense to criminalize buying sex with minors failed to pass in each of those states. Similarly, **New York** failed to pass a bill that would have raised the age of a minor victim of prostitution from 14 to 17 years of age, and a bill in **Maryland** that would have prohibited a defense based on mistake of age also failed to pass.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Several bills were passed in the second quarter that impact prosecution of sex traffickers by increasing both prison terms and financial penalties. **Washington** passed legislation providing for forfeiture of property acquired or maintained in commission of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree. **South Carolina, Alaska, Illinois** and **Florida** enacted or amended laws to provide for asset forfeiture in human trafficking cases. **Maryland's** asset forfeiture bill introduced last quarter failed to pass. **Illinois** enacted a racketeering law that includes human trafficking and commercial sexual exploitation of children offenses as predicate offenses, and **Utah** added human trafficking as a predicate offense under its racketeering law, expanding the range of penalties that may be applied to convicted traffickers in these states.

Louisiana passed a comprehensive bill that increases both prison sentences and fines when commercial sexual exploitation offenses involve a minor victim. **Tennessee** passed a bill that enhances the penalty for human trafficking where the victim is a minor under 15 or the offense is committed within a proscribed distance from facilities where minors may be found, including schools and libraries. Legislation passed in **Nebraska** distinguishes between pandering a minor and pandering an adult and raises the penalty when pandering involves a minor. **Ohio** and **Florida** passed legislation increasing the penalty for human trafficking from a second degree felony to a first degree felony. **Missouri** raised the penalty for abuse of a child to a class A felony when the offense involves sexual exploitation of a minor under 14.

Legislation passed in **Connecticut** criminalizes the conduct of traffickers who use online advertising services to exploit minors but does not reach online facilitators who provide the advertising space to traffickers.



CRIMINAL PROVISIONS FOR FACILITATORS

Following the passage of pioneering legislation in **Washington** that bans the advertising of commercial sex with minors through online facilitators, **Tennessee** amended its human trafficking statute to include a new offense holding online facilitators accountable for advertising commercial sexual exploitation of minors. A bill introduced in **New Jersey** also seeks to criminalize the advertising of commercial sex with minors by online facilitators, while a similar bill failed to pass in **New York**. **Louisiana** enacted a sex tourism law and added minor-specific provisions and penalty enhancements to its laws prohibiting maintaining or leasing premises where prostitution is practiced.



PROTECTIVE PROVISIONS FOR CHILD VICTIMS

Following the trend set last quarter by bills passed in **Washington** and **Florida**, several other states have passed laws enhancing protective provisions for victims of domestic minor sex trafficking. Legislation passed in **Maryland** amends the definition of a child in need of services to include minor victims of trafficking, pornography and prostitution offenses. Legislation in **Ohio** allows minor trafficking victims to be diverted and avoid a juvenile delinquency adjudication. **Ohio's** legislation also establishes a victims of human trafficking fund and directs that property forfeited in connection with trafficking offenses be paid into that fund. **Tennessee, Colorado** and **Ohio** created a civil cause of action that allows trafficking victims to sue traffickers for damages and **South Carolina's** legislation provides restitution for victims and protects victims' access to crime victims' compensation. **Washington** and **Louisiana** passed legislation providing minor sex trafficking victims with an affirmative defense to prostitution charges. **Louisiana's** legislation prevents defendants charged under sex trafficking and commercial sexual exploitation of children laws from asserting consent of the child as a defense. **Colorado, Louisiana, Ohio** and **Oregon** all passed legislation that permits expungement of prostitution records for minors. **Florida** passed legislation allowing crime victims' compensation for sexually exploited minors.

Maryland, however, failed to pass legislation that would have prohibited a defendant from asserting a defense based on a minor's "consent," and **Hawaii** failed to pass legislation that sought to make child victims immune from prosecution for prostitution charges and instead divert them into child protective custody. **New York's** bill providing a range of protections for minor trafficking victims did not pass before adjournment.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

Several states expanded the tools available to law enforcement in conducting investigations of human trafficking and commercial sexual exploitation of children. With the passage of **Louisiana's** comprehensive bill, police decoys and wiretapping are permitted to aid human trafficking investigations. **Ohio** passed legislation mandating that law enforcement receive training on human trafficking.

Visit <http://www.sharedhope.org/WhatWeDo/BringJustice/LegislationTracker.aspx> to view full bill text.