

# PROTECTED INNOCENCE INITIATIVE

STATE ACTION. NATIONAL CHANGE.

## Issue Brief

### SECTION 6.3

<b>Area of Law</b>	Criminal Justice Tools for Investigation and Prosecution
<b>The Policy Point</b>	Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.
<b>The Legislative Solution</b>	A serious challenge in any prosecution of domestic minor sex trafficking is producing corroborating evidence at trial. Recorded phone conversations or text messages between a victim and a buyer or trafficker are important incriminating pieces of evidence. Wiretapping is largely permitted in cases of murder, arson, terrorism and often other serious felonies involving danger to life or limb. Child sex trafficking should be recognized as a serious crime involving these dangers to a child, and therefore necessitating wiretapping as an investigative tool. States should carve out an exemption for investigations of sex trafficking cases in their wiretapping laws to allow law enforcement officers to investigate and obtain evidence to substantiate their cases against buyers and traffickers while protecting victims who have a difficult time testifying. This investigative tool will lead to more and better arrests and prosecutions, and help to alleviate reliance on the child victim-witness' testimony.

#### Select Statute Highlights

##### Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/14–2(a) (Elements of the offense; affirmative defense) makes it a crime for any person who “(1) Knowingly and intentionally uses an eavesdropping device for the purpose of hearing or recording all or any part of any conversation or intercepts, retains, or transcribes electronic communication . . .” However, Ill. Comp. Stat. Ann. § 720 ILCS 5/14–3 (Exemptions) specifically allows for court-ordered interceptions for investigations relating to a felony offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services.

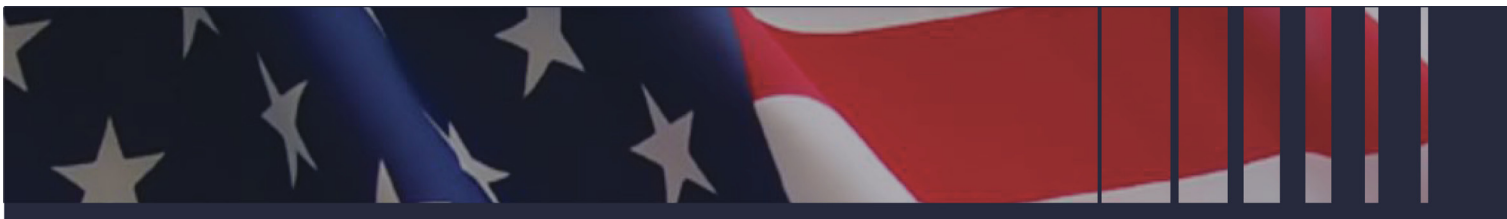
##### Maryland

Md. Code Ann. Crim. Proc. § 10-402(c)(2) (Wiretapping—unlawful interception of communications) provides in part, “(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence: “(1) Of the commission of. . . O. A Human trafficking offense under

§ 11–303 of the 10 Criminal Law Article; P. Sexual solicitation of a minor under § 3–324 of the Criminal 12 Law Article; . . . R. Sexual abuse of a minor under § 3–602 of the Criminal Law 16 Article.”

##### Pennsylvania

18 Pa. Cons. Stat. § 5708(1), (2) permits certain law enforcement officers to make a written application for “an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses,” which includes 18 Pa. Cons. Stat. § 911 (Corrupt organizations), § 3002 (Trafficking of persons), § 5902 (Prostitution and related offenses) (“where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year”), and § 6318 (Unlawful contact with minor).



## Texas

Tex. Code Crim. Proc. art. 18.20 §4 (Bases for an application for a court order to intercept wire communications) provides, “A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of . . . (1) a felony under Section . . . 43.26, Penal Code [Possession or promotion of child pornography]; . . . (4) an offense under Chapter 20A, Penal Code [Trafficking of persons]; . . .”

Issues Briefs are derived from the 40 legal components contained in the Protected Innocence Legislative Framework, an analysis of state laws performed by the American Center for Law & Justice and Shared Hope International, under the Protected Innocence Initiative. This initiative is designed to set a national standard of protection against domestic minor sex trafficking.

To access the Protected Innocence Legislative Framework Methodology, and Report Cards, foundational analysis and recommendations for each state, please visit: [www.sharedhope.org/reportcards.aspx](http://www.sharedhope.org/reportcards.aspx).

