

# PROTECTED INNOCENCE INITIATIVE

STATE ACTION. NATIONAL CHANGE.

## Issue Brief

### SECTION 6.4

<b>Area of Law</b>	Criminal Justice Tools for Investigation and Prosecution
<b>The Policy Point</b>	Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.
<b>The Legislative Solution</b>	Law enforcement struggle to investigate the prostitution of children due to the inability to use a real minor as an undercover investigator and the inevitable defense to a prosecution that the “minor” solicited for prostitution was in fact an adult, undercover police officer. State laws that permit law enforcement to pose as minor decoys in investigations of domestic minor sex trafficking cases and explicitly prohibit a defense to prosecution that the decoy not, in fact, a minor are essential to impact this crime. Use of a decoy by law enforcement to investigate commercial sexual exploitation of children, especially through prostitution, is an effective way to proactively locate and investigate buyers of sex acts with children and potentially lead to identification of traffickers. Frequently encountered in statutes prohibiting the use of electronic communications to lure a child for commercial sexual exploitation, the same investigative tool is needed to investigate street prostitution and outcall services using minors in prostitution.

#### Select Statute Highlights

##### Arizona

Ariz. Rev. Stat. Ann. § 13-3212(C) (Child prostitution) provides that a person who, among other things, knowingly causes a minor to engage in prostitution, receives any benefit from prostitution of a child, or knowingly engages in prostitution with a minor under 15 years of age or with a minor known to be 15, 16, or 17 years of age is prohibited from using as a defense “that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”

##### D.C.

D.C. Code § 22-3010.02 (Arranging for a sexual contact with a real or fictitious child) allows for the prosecution of those who arrange for sexual contact with a real or fictitious child. The statute states in subsection (a), “[i]t is unlawful for a person to arrange to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least

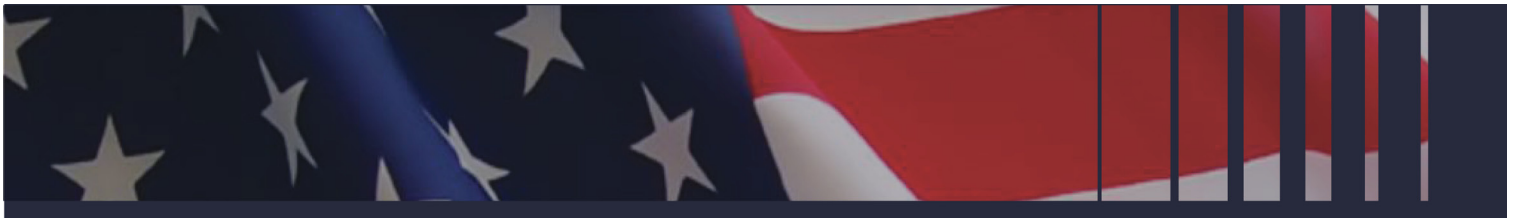
4 years younger than the person. For the purposes of this section, arranging to engage in a sexual act or sexual contact with an individual who is fictitious shall be unlawful only if the arrangement is done by or with a law enforcement officer.”

##### Maryland

Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor) provides, “A person may not, with the intent to commit a violation of . . . § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under . . . § 11-305, or § 11-306 of this article.”

##### Pennsylvania

18 Pa. Cons. Stat. § 6318 (Unlawful contact with minor) permits a law enforcement decoy to investigate situations of commercial sexual exploitation of children. 18 Pa. Cons. Stat. § 6318(a) states, “A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purpose of engaging in an activity prohibited under any of the following, and



either the person initiating the contact or the person being contacted is within this Commonwealth: . . . (3) Prostitution as defined in section 5902 (relating to prostitution and related offenses). (4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances). . . 6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).”

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).

