

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Issue Brief

SECTION 1.4

Area of Law

Criminalization of Domestic Minor Sex Trafficking

The Policy Point

The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.

The Legislative Solution

The majority of states have a racketeering statute (also commonly called Racketeer Influenced and Corrupt Organizations (RICO) statute) that criminalizes participation in an enterprise engaged in a pattern of racketeering activity. The definition of an enterprise generally incorporates both licit and illicit organizations, including criminal street gangs. Gang trafficking is on the rise as gangs recognize the high profits, opportunities, and comparatively low risks of sex trafficking. A racketeering statute provides a tool to attack the entire trafficking organization, rather than prosecuting each individual offender in separate time consuming and costly litigations. Racketeering and gang crime statutes may also provide for additional or enhanced penalties such as longer prison sentences and financial penalties, including asset forfeiture, that reach the assets used or gained through the crime. States should amend or enact a RICO or gang crime statute to include sex trafficking and CSEC offenses as predicate acts, that may be used to prosecute all of the parties involved in a trafficking enterprise to dismantle its infrastructure.

Select Statute Highlights

The following are excerpts from racketeering statutes that include a comprehensive list of predicate acts, including sex trafficking and CSEC offenses.

Colorado

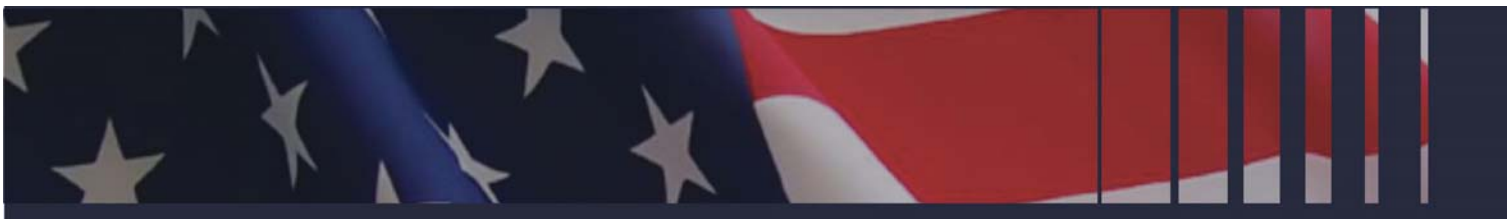
Col. Rev. Stat. § 18-17-104(3) makes it a crime for “any person employed by, or associated with, any enterprise to knowingly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Col. Rev. Stat. § 18-17-103(5) states that “racketeering activity” means “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or (b) (I) Offenses against the person, as defined in . . . 18-3-501 (trafficking in adults), 18-3-502 (trafficking in children), and 18-3-503 (coercion of involuntary servitude); (V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children); (VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of

obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child).”

Florida

Fla. Stat. Ann. § 895.03(3) makes it a crime for “any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.” Fla. Stat. Ann. § 895.02(1) defines “racketeering activity” as “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes: . . .

22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.
26. Chapter 787, relating to kidnapping or human trafficking.
28. Chapter 794, relating to sexual battery, but only if such



crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member’s own standing or position within a criminal gang.

29. Section 796.03, s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.

36. Section 827.071, relating to commercial sexual exploitation of children.

45. Chapter 874, relating to criminal gangs.”

which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor, Section 76-5b-201;

(www) distributing pornographic material, Section 76-10-1204;

(xxx) inducing acceptance of pornographic material, Section 76-10-1205;

(yyy) dealing in harmful material to a minor, Section 76-10-1206;

(zzz) distribution of pornographic films, Section 76-10-1222;

(aaaa) indecent public displays, Section 76-10-1228;

(bbbb) prostitution, Section 76-10-1302;

(cccc) aiding prostitution, Section 76-10-1304;

(dddd) exploiting prostitution, Section 76-10-1305;

(eeee) aggravated exploitation of prostitution, Section 76-10-1306

Illinois

Illinois’s “Street Gang and Racketeering Influenced and Corrupt Organizations Law” codified at 720 Ill. Comp. Stat. 5/33G-4 makes it unlawful when a person “intentionally participates in the operation or management of an enterprise, directly or indirectly, to: (1) knowingly do so, directly or indirectly, through a pattern of predicate activity.” 720 Ill. Comp. Stat. 5/33G-4(a)(1). Pursuant to Ill. Comp. Stat. 5/33G-3(e), “predicate activity” means “any act that is a Class 2 felony or higher and constitutes a violation . . . of any of the following provisions . . . (1) under the Criminal Code of 1961: 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5(b) (10) (child abduction), 10-9 (trafficking in persons, involuntary servitude, and related offenses), 11-1.20 (criminal sexual assault), 11-1.30 (aggravated criminal sexual assault), 11-1.40 (predatory criminal sexual assault of a child), 11-1.60 (aggravated criminal sexual abuse), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-18.1 (patronizing a minor engaged in prostitution; patronizing a juvenile prostitute).”

Utah

Utah Code Ann. § 76-10-1603(3) makes it unlawful for “any person employed by or associated with any enterprise to conduct or participate, whether directly or indirectly, in the conduct of that enterprise’s affairs through a pattern of unlawful activity.” Utah Code Ann. § 76-10-1602(4) states that “unlawful activity” means “to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct

Issues Briefs are derived from the 41 legal components contained in the Protected Innocence Legislative Framework, an analysis of state laws performed by Shared Hope International, under the Protected Innocence Challenge. 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.

