

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Issue Brief

SECTION 2.6

Area of Law	Criminal Provisions Addressing Demand
The Policy Point	No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.
The Legislative Solution	Purchasing sex acts with a minor is a crime. Permitting a defense to prosecution based on mistake of age subverts the intention of protecting children from exploitation and creates a weakness in the laws needed to deter this crime and to protect our children. State laws prohibiting a defense based on mistake of age in sex trafficking and commercial sexual exploitation of children (CSEC) laws send a clear statement to buyers that this crime will not be tolerated and firmly protects all minors from the danger of commercial sexual exploitation.

Select Statute Highlights

The following state laws contain language that expressly prohibits a defense to prosecution based on a mistake of age.

Colorado

Colo. Rev. Stat. § 18-7-407 (Criminality of conduct) states, “In any criminal prosecution under sections 18-7-402 to 18-7-407 [Soliciting for child prostitution, Pandering of a child, Procurement of a child for, Keeping a place of child prostitution, Pimping of a child, Inducement of child prostitution, Patronizing a prostituted child], it shall be no defense that the defendant did not know the child’s age or that he reasonably believed the child to be eighteen years of age or older.”

Iowa

Iowa Code § 710A.2(8) (Human trafficking) states, “[a] person’s ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.”

Louisiana

La. Stat. Ann. § 14:46.3(C)(3) (Trafficking of children for sexual purposes) states that “[l]ack of knowledge of the victim’s age shall not be a defense” to the purchase of a minor for sex acts. Similarly, La. Stat. Ann. § 14.81.1(D)(1) (Pornography involving juveniles) states, “Lack of knowledge of the juvenile’s age shall not be a defense.” La. Rev. Stat. Ann. § 14:82.1(B)(1) (Prostitution; persons under eighteen; additional offenses) states, “Lack of knowledge of

the age of the person practicing prostitution shall not be a defense.” Finally, La. Rev. Stat. Ann. § 14:89.2(D)(2) (Crime against nature by solicitation) provides, “Lack of knowledge of the age of the person being solicited shall not be a defense.”

New Jersey

N.J. Stat. Ann. §2C:34-1(a)(7) (Prostitution and related offenses) states, “It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.”

North Carolina

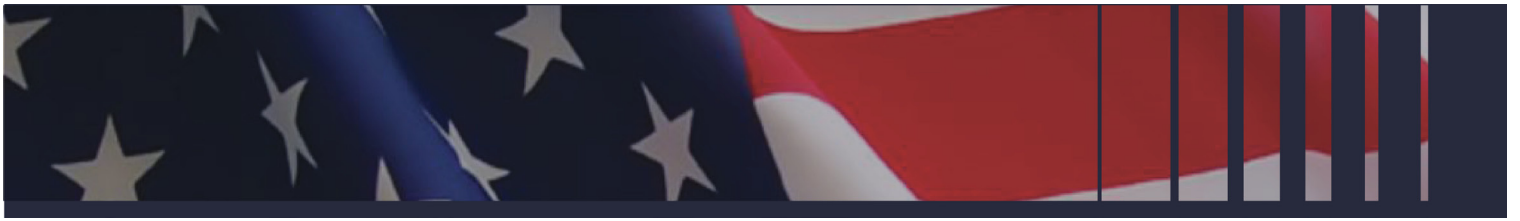
N.C. Gen. Stat. § 14-190.19(b) (Participating in prostitution of a minor) expressly states that “[m]istake of age is not a defense to a prosecution under this section.”

South Carolina

S.C. Code Ann. § 16-15-425(B) (Participating in prostitution of a minor defined) states, “Mistake of age is not a defense to a prosecution under this section.”

Texas

Tex. Penal Code Ann. § 20A.02 (Trafficking of persons) specifically eliminates a defense of mistake of age by a defendant in a trafficking of persons case, which may include some buyers. Tex. Penal Code Ann. § 20A.02(b) states in part, “[a]n offense under this section is



a felony of the first degree if: (1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense.”

Washington

Wash. Rev. Code § 9.68A.110(3) (Certain defenses barred, permitted) states that “it is not a defense that the defendant did not know the alleged victim’s age” for prosecutions under Wash. Rev. Code § 9.68A.040 (Sexual exploitation of a minor), Wash. Rev. Code § 9.68A.090 (Communication with minor for immoral purposes), Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor), Wash. Rev. Code § 9.68A.101 (Promoting commercial sexual abuse of a minor), or Wash. Rev. Code § 9.68A.102 (Promoting travel for commercial sexual abuse of a minor).

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.

