

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Issue Brief

SECTION 3.6

Area of Law

Criminal Provisions for Traffickers

The Policy Point

Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.

The Legislative Solution

Traffickers use physical and psychological tactics to maintain control over their victims. Intentionally impregnating victims is one way traffickers ensure the victim will not leave, using the baby as a bond. Traffickers who have children with their victims might later place their own children in the sex trafficking market. Also, children of a trafficking victim are exposed to daily violence and manipulation. The victim-parent's opportunity for freedom from the control of the trafficker-parent's rights to the child, and freedom for the child from the relationship with a trafficker-parent is essential for a child's protection. State laws regarding termination of parental rights frequently identify a conviction for state or federal crimes of violence or extended incarceration as grounds for a termination petition, but clear legislative intent to include convictions for child sex trafficking or commercial sexual exploitation of children (CSEC) crimes must also constitute grounds for termination of parental rights.

Select Statute Highlights

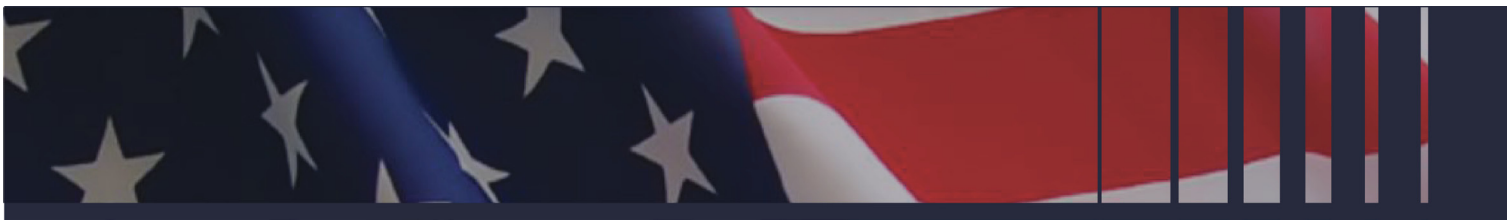
Arizona

Ariz. Rev. Stat. Ann. § 8-863 (Hearing to terminate parental rights) states, "The court may terminate the parental rights of a parent if the court finds by clear and convincing evidence one or more of the grounds prescribed in section 8-533." Ariz. Rev. Stat. Ann. § 8-533(B) (Petition; who may file; grounds) states in part, "[e]vidence sufficient to justify the termination of the parent-child relationship shall include any one of the following, and in considering any of the following grounds, the court shall also consider the best interests of the child: . . . 2. That the parent has neglected or willfully [sic] abused a child. . . ." Ariz. Rev. Stat. Ann. § 8-201(2) (a) (Definitions), defines "abuse" in relevant part as "commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, . . . or child prostitution pursuant to section 13-3212."

Florida

Parental rights may be terminated under Fla. Stat. § 39.806(1) (d)(2) (Grounds for termination of parental rights) when the parent is determined to be a sexual predator as defined in Fla. Stat. § 775.21(4), which includes convictions for the full range of sex trafficking, CSEC, and sexual offenses. Fla. Stat. § 775.21(4)(b) defines

"sexual predators" as persons convicted of "[a]ny felony violation, or any attempt thereof, of . . . s. 787.06(3)(b) . . . (g), or (h) [Human trafficking] . . . s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into prostitution; penalties]; . . . s. 847.0145 [Selling or buying of minors; penalties]; . . . and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01 [Kidnapping; kidnap-ping of child under age 13, aggravating circumstances], s. 787.02 [False imprisonment; false imprisonment of child under age 13, aggravating circumstances], or s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011 [Sexual battery], . . . ; s. 794.05 [Unlawful sexual activity with certain minors]; s. 796.03 [Procuring person under age of 18 for prostitution]; s. 796.035 [Selling or buying of minors into sex trafficking or prostitution; penalties]; s. 800.04 [Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age]; s. 825.1025 [Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person]; s. 827.071 [Sexual performance by a child; penalties]; s. 847.0133 [Protection of minors; prohibition of certain acts in connection with obscenity; penalty]; s. 847.0135 [Computer pornography; traveling to meet minor; penalties], . . . ; or a violation of a similar law of another jurisdiction;. . ."



Iowa

Iowa Code § 600A.8(10) (Grounds for termination) permits the court to order the termination of parental rights based on “clear and convincing proof” that any of the following grounds exist: “[t]he parent has been convicted of a felony offense that is a ‘sex offense against a minor’ as defined in section 692A.101 [Definitions]. . .” Pursuant to Iowa Code § 692A.101 (Definitions) “Sex offense against a minor” “means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.” Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 [and] c. Tier III offenses . . . (24) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense. . . . (26) Sexual exploitation of a minor in violation of section 728.12, subsection 1. . . . (31) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor., (32) Sex trafficking of children in violation of 18 U.S.C. § 1591.. . . (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A. . . .”

Texas

Tex. Fam. Code Ann. § 161.001(1)(L), (2) states, “The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence . . . that the parent has . . . been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following . . . Penal Code sections . . . (iv) Section 21.11 (indecentcy with a child) . . . (vi) Section 22.011 (sexual assault) . . . (viii) Section 22.021 (aggravated sexual assault) . . . (xii) Section 43.25 (sexual performance by a child); (xiii) Section 43.26 (possession or promotion of child pornography); (xiv) Section 21.02 (continuous sexual abuse of young child or children); (xv) Section 20A.02(a)(7) or (8) (trafficking of persons); and (xvi) Section 43.05(a)(2) (com-

selling prostitution) . . . and (2) that termination is in the best interest of the child.”

Wisconsin

Pursuant to Wis. Stat. § 48.415(9m), (am) (Grounds for involuntary termination of parental rights), “Grounds for termination of parental rights shall be one of the following . . . Commission of a felony against a child . . . [or] Commission of a violation of s. 948.051 (Trafficking of a child) involving any child or a violation of the law of any other state or federal law, if that violation would be a violation of s. 948.051 involving any child if committed in this state.”

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.

