

ISSUE BRIEF

COMPONENT 2.4

Area of Law	Criminal Provisions Addressing Demand
The Policy Goal	Penalties for buyers of commercial sex acts with minors are as high as federal penalties.
The Reason	Penalties for domestic minor sex trafficking should reflect the severity of the underlying crimes of sexual exploitation. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal commercial sexual exploitation of children (CSEC) laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251(Sexual exploitation of children), 18 U.S.C. 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a buyer of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14. Federal trafficking laws have been used to prosecute individuals who have attempted to buy commercial sex acts with a minor and comparable state penalties are important to prevent disparity in the punishments of a buyer convicted under federal laws and one convicted under a state trafficking law. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for buyers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.

Examples of Legislative Solutions

The statutes below reflect penalties as high as federal penalties.

Delaware

Under Del Code Ann. tit. 11, § 787(b)(4) (Patronizing a victim of sexual servitude), which includes the crime of patronizing a minor victim of sexual servitude, is a class C felony and is punishable by a maximum prison term of 15 years. Del. Code Ann tit. 11, § 4502(b)(3).

Louisiana

A violation of La. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes), which includes the crime of buying sex with minors, “shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.” La. Stat. Ann. § 14:46.3(D)(1)(a). This penalty is enhanced when the victim is under 14 to “not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor

more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.” La. Stat. Ann. §14:46.3(D)(1)(b).

Montana

A conviction under Mont. Code Ann. § 45-5-702 (Trafficking of persons), which includes the crime of buying sex with minors, is punishable by imprisonment for not more than 50 years and a fine of not more than \$100,000. Mont. Code Ann. § 45-5-702(2)(b). A conviction under Mont. Code Ann. § 45-5-704 (Sexual servitude) or § 45-5-705 (Patronizing victim of sexual servitude) carries a 25 year jail term and a fine of not more than \$75,000. Mont. Code Ann. §§ 45-5-704(3)(b), 45-5-705(2)(b). Mont. Code. Ann. § 45-5-601(3)(a) (Prostitution) states, “If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child’s age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3) (a)(i) except as provided in 46-18-222, and during the first 25

years of imprisonment, the offender is not eligible for parole. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010."

South Carolina

A conviction under S.C. Code Ann. § 16-3-2020(A) or (B) (Trafficking in persons; penalties; defense), which criminalizes the actions of “[a] person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking . . . [or] for the purposes of sex trafficking . . . ” is punishable by a maximum 15 year prison term for a first conviction, up to 30 years for a second conviction, and up to 45 years for the third or subsequent conviction, with the possibility of an additional and consecutive 15 years if the victim is under the age of 18. S.C. Code § 16-3-2020(C)-(F).

Texas

Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons), which includes “engag[ing] in sexual conduct with a child trafficked in the manner described in Subdivision (7),” enhances the crime classification in the case of a minor being trafficked from a felony of the second degree to a felony of the first degree. Specifically, a conviction under Tex. Penal Code Ann. § 20A.02(a)(8) is punishable as a first degree felony by “imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years” and a possible fine up to \$10,000. Tex. Penal Code Ann. §§ 20A.02(b)(1), 12.32.