

ISSUE BRIEF

COMPONENT 2.5

| | |
|------------------------|---|
| Area of Law | Criminal Provisions Addressing Demand |
| The Policy Goal | Using the Internet or electronic communications to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers. |
| The Reason | Buyers of commercial sex acts with minors are increasingly turning to the anonymity of the Internet to identify and solicit minors and to arrange for commercial sex acts. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites, and have netted scores of adults seeking to buy commercial sex with minors. Further, images of child sexual exploitation are widely available on the Internet, facilitated through peer-to-peer networks that webcast and sell these images and live child sexual performances. Laws prohibiting this Internet solicitation and exploitation are critical to deterring this activity and protecting children from this form of commercial sexual exploitation. |

Examples of Legislative Solutions

The following statutes are highlighted because they apply to the crime of exploitation of a minor under the age of 18, include specific language making the use of the Internet for the purposes of soliciting children for commercial sexual acts a crime, and clearly apply to purchasers and attempted purchasers of sex acts with minors.

Connecticut

Conn. Gen. Stat. § 53a-90a(a) (Enticing a minor. Penalties) prohibits using the Internet to entice a minor to commit unlawful sexual activity, specifically criminalizing the use of an “interactive computer service to knowingly persuade, induce, entice, or coerce any person (1) under eighteen years of age, or (2) who the actor reasonably believes to be under eighteen years of age, to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense.”

Illinois

Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25 (Grooming) specifically criminalizes the use of the Internet for the purposes of purchasing commercial sex acts with a child. Ill. Comp. Stat. Ann. § 720 ILCS 5/11-25(a), states, “A person commits grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or

transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act [730 ILCS 150/2, includes patronizing a minor engaged in prostitution], to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.” Grooming is a Class 4 felony punishable with 1–3 years imprisonment and a possible fine not to exceed \$25,000 for each offense or the amount specified in the offense, whichever is greater.

Kentucky

Ky. Rev. Stat. Ann. § 510.155(1) (Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities) criminalizes the “knowing[] use [of] a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation” of certain listed crimes, including human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity”

or violations of chapter 531 (relating to child pornography). Furthermore, pursuant to Ky. Rev. Stat. Ann. § 510.155(3) “[t]he solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person’s intent to commit the offense and the offense is complete at that point without regard to whether the person met or attempted to meet the minor.” This crime is a Class D felony with 1–5 years’ imprisonment and a fine of \$1,000-\$10,000 “or double [the] gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. §§ 510.155(5), 532.060(2)(d), 534.030(1).

Massachusetts

Pursuant to Mass. Gen. Laws ch. 265, § 26D(c) (Enticement of children to engage in prostitution or commercial sexual activity), “Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50 [Human trafficking – sexual servitude], 51 [Human trafficking – forced services], 52 [Human trafficking – subsequent violations of sections 50 or 51] or 53 [Human trafficking – organ trafficking] or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.”

Rhode Island

R.I. Gen. Laws § 11-37-8.8(a) (Indecent solicitation of a child) prohibits the use of the Internet by any person who “knowingly solicits another person under eighteen years of age or one whom he or she believes is a person under eighteen years of age for the purpose of engaging in prostitution or any act in violation of chapter 9 [Children], 34 [Prostitution and lewdness], or 37 [Sexual assault] of this title.” A violation is punishable by a sentence of at least 5 years imprisonment.

Virginia

Virginia law outlines a range of violations involving the use of the Internet and other electronic devices to commit a sexual offense or produce child pornography. One of these provisions is Va. Code Ann. § 18.2-374.3(E), which states, “Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity

in violation of § 18.2-355 [Taking, detaining, etc., person for prostitution, etc., or consenting thereto] or 18.2-361 [Crimes against nature; penalty], (ii) any activity in violation of § 18.2-374.1 [Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability], or (iii) a violation of § 18.2-374.1:1 [Possession, reproduction, distribution, and facilitation of child pornography; penalty] is guilty of a Class 5 felony.” This is punishable by imprisonment of 1–10 years, “or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” Va. Code Ann. § 18.2-10.

Washington

Wash. Rev. Code § 9.68A.090(2) makes it a class C felony “if [a] person communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.” “[E]lectronic communication” is defined as “transmission of information by wire, radio, optical cable, electromagnetic, or other similar means [and] includes, but is not limited to, electronic mail, internet-based communications, pager service, and electronic text messaging.” Wash. Rev. Code § 9.68A.090(3), 9.61.260.

West Virginia

W. Va. Code § 61-3C-14b (Soliciting, etc. a minor via computer; penalty) makes the use of a computer to lure or entice commercial sex acts with a minor illegal. Pursuant to W. Va. Code § 61-3C-14b, “(a) Any person over the age of eighteen, who knowingly uses [or attempts to use] a computer to solicit, entice, seduce or lure . . . a minor known or believed to be at least four years younger than the person using the computer or a person he or she believes to be such a minor, in order to engage in any illegal act proscribed by the provisions of article 8 [Crimes against chastity, morality and decency], eight-b [Sexual offenses], eight-c [Filming of sexually explicit conduct of minors], or eight-d [Child abuse] of this chapter . . . is guilty of a felony . . . [punishable by imprisonment for 2–10 years, a fine not to exceed \$5,000, or both]. (b) Any person over the age of eighteen who uses a computer in the manner proscribed by the provision of subsection (a) of this section and who additionally engages in any overt act designed to bring himself or herself into the minor’s, or the person believed to be a minor’s, physical presence with the intent to engage in any sexual activity or conduct with such minor that is prohibited by law, is guilty of a felony . . . [punishable by imprisonment for 5–30 years, a fine not to exceed \$25,000, or both].”