

ISSUE BRIEF

COMPONENT 3.3

Area of Law	Criminal Provisions for Traffickers
The Policy Goal	Using the Internet or electronic communications to lure, entice, recruit or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.
The Reason	Traffickers of commercial sex acts with minors are increasingly turning to the Internet to identify and recruit the large numbers of minors vulnerable to these cyber-predators. Also, the Internet is a lucrative venue to sell commercial sex acts, live and recorded sexual performance by minors, and images of child sexual exploitation to the growing number of buyers. Law enforcement operations across the country have revealed minors being sold for sex on the Internet, often on online classified websites. Further, images of child sexual exploitation are widely available on the Internet and live sexual performances are facilitated through peer-to-peer networks, which sell those images and webcast live child sexual performances. Laws specifically prohibiting Internet recruitment and exploitation are critical to deterring traffickers and protecting children from this form of exploitation.

Examples of Legislative Solutions

The following statutes are highlighted because they apply to all minors under the age of 18, include specific language criminalizing the use of the Internet to recruit or sell children for purposes of commercial sexual exploitation, and clearly apply to traffickers.

Florida

Under Fla. Ann. Stat. § 847.0135(2) (Computer pornography; traveling to meet minor; penalties) it is a crime if a person who: “(a) Knowingly compiles, enters into, or transmits by use of computer; . . . (c) Knowingly causes or allows to be entered into or transmitted by use of computer; or (d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any minor’s name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct” A conviction under Fla. Stat. Ann. § 847.0135(2) is punishable as a third degree felony by imprisonment up to 5 years and a possible fine not to exceed \$5,000. Fla. Stat. Ann. §§ 775.082(3)(e), 775.083(1)(c).

Illinois

720 Ill. Comp. Stat. Ann. 5/11-25(a) (Grooming) criminalizes any person who “knowingly uses a computer on-line service, Internet service, . . . [to] solicit . . . or attempt to . . . solicit . . . a child . . . to commit” any sex offense as defined in [730 Ill. Comp. Stat. Ann. 150/2]. A violation of 720 Ill. Comp. Stat. Ann. 5/11-25(a) is a Class 4 felony punishable by a sentence of 1–3 years imprisonment and a possible fine up to \$25,000.

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 . . . 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 the crime of human trafficking pursuant to Ky. Rev. Stat. Ann. § 529.100 “where that offense involves commercial sexual activity” or a violation of chapter 531 (relating to child pornography).

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] . . . 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.”

Washington

Wash. Rev. Code Ann. § 9.68A.090 (Communication with minor for immoral purposes) prohibits communication with a minor or someone one believed to be a minor for immoral purposes. Pursuant to Wash. Rev. Code Ann. § 9.68A.090(2), the penalty is increased from a gross misdemeanor to a Class C felony “[i]f the person communicates . . . for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.” Wash. Rev. Code § 9.68A.106 (Additional fee assessment – Internet advertisement) establishes an enhanced penalty for the use of Internet advertisement to facilitate the commission of a sex-trafficking crime. Section 9.68A.106(1) states, in part, “an adult offender convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.” For purposes of this section, an “‘internet advertisement’ means “a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse . . . in exchange for something of value.” Wash. Rev. Code Ann. § 9.68A.106(2).