

WYOMING

REPORT CARD | 2017

Wyoming's human trafficking laws include sex trafficking of minors under 18, but the definition of "commercial sexual services" requires proof of third party control. Buyers of commercial sex acts with minors may be prosecuted under Wyoming's "patronizing a victim of sexual servitude" law, but contrary to federal law, the victim must be under trafficker control.

Final Score

70.5

Final Grade

C



10

10

14.5

25

12.5

15

5

10

21.5

27.5

7

15

Criminalization of Domestic Minor Sex Trafficking

Wyoming's human trafficking laws criminalize child sex trafficking, including patronizing a minor under 18 for commercial sex, without requiring proof of force, fraud, or coercion but only in cases where the minor is under the ongoing control of a trafficker, limiting the law's practical utility and setting it apart from the federal law. State commercial sexual exploitation of children (CSEC) laws include: "promoting prostitution" and "sexual exploitation of children." The prostitution laws refer to state trafficking offenses, thereby acknowledging the intersection of prostitution with trafficking victimization. Wyoming's gang crime law includes promoting prostitution and may reach some trafficking networks.

Criminal Provisions for Demand

Following federal precedent, the state sex trafficking law could apply to buyers through the term "obtains," but the law requires trafficker involvement. "Patronizing a victim of sexual servitude" applies directly to buyers, but only reaches buyers who know that the person purchased for sex acts is a victim of sexual servitude, which in turn requires that the victim be under a third party's control; a violation is punishable by up to 3 years imprisonment and a fine up to \$5,000. Wyoming has not enacted a separate CSEC law that specifically criminalizes buying sex with a minor. Although the solicitation law does not differentiate between buying sex with an adult versus a minor, it does direct cases of trafficking to the buyer-applicable trafficking offense. No law expressly makes it a crime to use the Internet or electronic communications to solicit sex acts despite the growing shift of trafficking and CSEC to the Internet. The buyer-applicable offenses do not prohibit a mistake of age defense. Financial penalties may include fines, asset forfeiture, and restitution. Possessing images of child sexual exploitation (ICSE) carries penalties comparable to similar federal offenses. Buyers convicted of soliciting a minor for prostitution or possessing ICSE are required to register as sex offenders; however, "patronizing a victim of sexual servitude" does not require registration.

Criminal Provisions for Traffickers

"Human trafficking in the first degree," which requires intent and knowledge, is punishable by 25–50 years imprisonment and a fine up to \$10,000 when the victim is a minor. "Human trafficking in the second degree," which has a reckless disregard standard, is punishable by 2–20 years imprisonment and a fine up to \$10,000. "Sexual servitude of a minor" and "promoting prostitution" (when the victim is a minor) are punishable by up to 5 years imprisonment and a fine up to \$5,000. Under "sexual exploitation of a children," creating ICSE is punishable by 5–12 years imprisonment and a fine up to \$10,000. No law expressly makes it a crime to use the Internet or electronic communications to recruit or sell a minor for commercial sex acts. Traffickers are subject to mandatory criminal asset forfeiture for violations relating to ICSE and are required to pay restitution determined by the court only if they are deemed able to pay. Asset forfeiture also applies to human trafficking offenses. Traffickers are required to register as sex offenders if convicted of human trafficking, sexual servitude, CSEC, and ICSE offenses. Parental rights can be terminated if the parent is incarcerated for a felony conviction and determined to be unfit to have the custody and control of the child.

Criminal Provisions for Facilitators

The acts of assisting, enabling or benefitting from trafficking are not included in the human trafficking or sexual servitude of a minor laws, and no law specifically criminalizes the actions of a facilitator of child sex trafficking. A facilitator who permits a place to be used for prostitution or benefits from prostitution might be found culpable of “promoting prostitution,” which is a felony punishable by up to 3 years imprisonment and a fine up to \$3,000.

Facilitators are also subject to asset forfeiture under Wyoming’s human trafficking statutes to the extent those statutes are applicable. A facilitator is criminally liable for distributing, receiving, reproducing, or delivering ICSE, which is punishable by 5–12 years imprisonment and a fine up to \$10,000 and subjects the convicted facilitator to a mandatory criminal asset forfeiture action. No laws make sex tourism a crime in Wyoming.



Protective Provisions for the Child Victims

Not all commercially sexually exploited children are defined as juvenile sex trafficking victims because the sex trafficking law does not protect minors who are exploited by buyers without an identified trafficker or controlling third party. The sexual servitude law prohibits a defense to prosecution based on the willingness of the minor to engage in the commercial sex act, but Wyoming’s patronizing a victim of sexual servitude and CSEC laws do not. The prostitution law prohibits the criminalization of child sex trafficking victims for commercial sex acts committed as a result of their victimization. Although Wyoming law prohibits a juvenile sex trafficking victim from being charged with delinquent acts resulting from his or her victimization and mandates referral to DFS and other services as available, specialized services are not required. For purposes of child welfare intervention, a juvenile sex trafficking victim will be identified as a child in need of supervision. Further, the definition of “person responsible for a child’s welfare” will not constitute a barrier to child welfare intervention in non-familial trafficking cases because the definition includes those with “physical custody or control of the child.” While trafficking and CSEC victims are likely eligible for state crime victims’ compensation, several eligibility criteria may present barriers to

collecting an award, including requirements to provide “reasonable cooperation with law enforcement” and to file claims within one year unless good cause is shown. Victim-friendly criminal justice procedures include confidentiality of a victim’s identifying information, but the “rape shield” law, which reduces the trauma of cross-examination for the testifying victim, does not extend to testifying victims in trafficking or CSEC trials. Expungement of juvenile records for non-violent offenses is available once a child turns 18, but Wyoming law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization. Victims may receive restitution for proven economic damages and possibly future costs, but no specific civil remedy for trafficking or CSEC is authorized. Wyoming law does not have a statute of limitations for criminal offenses, so a prosecution may be brought at any time. A civil action for damages resulting from CSEC may be brought within three years of the victim’s 18th birthday if the time limit would have otherwise expired. Civil actions for sexual assault can be extended to the later of eight years after the victim’s 18th birthday or three years after the discovery of the injury.



Criminal Justice Tools for Investigation and Prosecution

Wyoming law mandates training for law enforcement on human trafficking or domestic minor sex trafficking. State law allows for single party consent to audiotaping, which provides law enforcement a tool to safely investigate; however, trafficking and CSEC offenses are not included as crimes for which a wiretapping order may be issued. Wyoming’s trafficking and CSEC laws do not prohibit a defense based on the use of a law enforcement decoy

posing as a minor to investigate the purchase and sale of sex; however, the non-CSEC offense of soliciting a child to engage in sex acts implicitly prohibits such a defense. No laws specifically authorize law enforcement to use the Internet to investigate trafficking or CSEC despite the growing use of the Internet to commit these crimes. Reporting of missing children and recovered missing children is not mandated.



The Report Card is based on the Protected Innocence Challenge Legislative Framework, an analysis of state laws performed by Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Challenge Legislative Framework Methodology, all state Report Cards, and foundational analysis and recommendations, please visit: www.sharedhope.org/reportcards.