

FLORIDA

REPORT CARD | 2018

“Human trafficking” criminalizes child sex trafficking without regard to whether force, fraud, or coercion caused the minor to engage in the commercial sex act. Florida law prohibits the criminalization of minors for prostitution offenses, and commercially sexually exploited children will have access to specialized services. Further, law enforcement officers are provided with critical investigative tools.

Final Score

94

Final Grade

A



10

10

20.5

25

15

15

6

10

27.5

27.5

15

15

Criminalization of Domestic Minor Sex Trafficking

Florida’s human trafficking law includes sex trafficking of minors without requiring proof of use of force, fraud, or coercion. Commercial sexual exploitation of children (CSEC) laws include: “lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age,” “kidnapping,” “false imprisonment,” “sexual performance by a child,” “computer pornography; traveling to meet a minor,” and selling or buying of minors.” The prostitution chapter expressly refers to the trafficking law to acknowledge the intersection of prostitution with trafficking victimization. Florida’s racketeering law includes human trafficking, and CSEC offenses as predicate acts, making it a valuable tool to dismantle sex trafficking enterprises.

Criminal Provisions for Demand

“Human trafficking” applies to buyers through the term “solicits” and, following federal precedent, through the term “obtains.” A conviction under the trafficking law is punishable by up to life imprisonment and a \$10,000–\$15,000 fine. “Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age” is punishable by up to 15 years imprisonment and a \$10,000 fine, while “computer pornography; traveling to meet minor” is punishable by up to 5 years imprisonment and a \$5,000 fine. Although the general solicitation law is age neutral, the legislature has declared its intent that conduct involving minor victims be charged under certain trafficking and CSEC offenses. Buyers using the Internet to solicit a minor to engage in prostitution, among other sexual offenses, are subject to prosecution for “computer pornography.” The trafficking law prohibits defendants from asserting a defense based on mistake of age, but state CSEC laws do not. Depending on the offense, financial penalties may include fines, asset forfeiture, and restitution. Possessing images of child sexual exploitation (ICSE) is prohibited, but penalties do not reflect the seriousness of the offense. Buyers convicted of “human trafficking,” “sexual performance by a child,” and state CSEC offenses must register as sex offenders.

Criminal Provisions for Traffickers

“Human trafficking” is punishable by up to life imprisonment and a \$10,000–\$15,000 fine. “Kidnapping” is punishable by up to life imprisonment, while “false imprisonment” is punishable by up to 30 years imprisonment. “Lewd or lascivious offenses committed upon or in the present of persons less than 16 years of age,” “computer pornography; traveling to meet minor,” and “sexual performance by a child” are punishable by up to 15 years imprisonment. Fines vary. Penalties for producing ICSE are comparable to those for similar federal offenses. Traffickers who use the Internet to lure or entice a minor to engage in prostitution, among other sexual offenses, are subject to prosecution for “computer pornography.” Registration as a sexual predator is required for human trafficking and many CSEC crimes. Financial penalties may include fines, asset forfeiture, and restitution. Traffickers convicted of “human trafficking,” “sexual performance by a child,” and state CSEC offenses must register as sex offenders. “Human trafficking” is not enumerated as a violent crime for which a trafficker’s parental rights can be terminated; however, parental rights may be terminated if a trafficker is incarcerated for an extended period or is convicted of an offense as a habitual offender for which registration as a sexual predator is required.

Criminal Provisions for Facilitators

The human trafficking law applies to facilitators who benefit financially or by receiving anything of value from human trafficking. No CSEC crimes are applicable to facilitators. Several laws make selling and promoting ICSE a crime, including acts in connection with obscene materials, punishable by up to 5 years imprisonment and a \$5,000 fine when the materials involve minors; the same penalty applies to “computer pornography”

and “transmission of pornography by electronic device or equipment” but increases to 15 years imprisonment with a \$10,000 fine if the defendant possesses 10 or more images, at least one of which depicts certain types of abuse or very young minors. Depending on the offense, financial penalties may include fines, asset forfeiture, and restitution. No laws in Florida address sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims under the core sex trafficking offense. Florida’s sex trafficking law prohibits a defense based on the willingness of the minor to engage in the commercial sex act. Prostitution laws do not apply to minors under 18. Florida law provides juvenile sex trafficking victims with several avenues to specialized services and allows delinquency adjudications to be avoided based on non-criminalization for prostitution offenses and diversion for other offenses. For purposes of child welfare intervention, child sex trafficking is included within the definition of sexual abuse. However, the definition of caregiver limits a juvenile sex trafficking victim’s access to services through the dependency process, but jurisdictional statutes provide other avenues for child sex trafficking victims to access specialized services through child welfare. Crime victims’ compensation is available to victims of crime, and ineligibility factors do not apply to victims of child sex trafficking and CSEC crimes. Victim-friendly trial procedures are available to sex trafficking victims, including an appointed guardian ad litem, the ability to testify via closed-circuit

television at the discretion of the court for victims of trafficking under 18, relocation assistance and availability of a victim’s advocate, and confidentiality protections when seeking expungement of prostitution convictions. Victims of trafficking and CSEC are protected from re-traumatizing cross examination under the “rape shield” law. Florida law allows child sex trafficking victims to petition for expungement of criminal history records without mandating a waiting period, and an expunged conviction will be deemed vacated automatically. Restitution to victims who suffer injury is mandatory, and victims may bring various civil claims for injuries arising from trafficking. Additionally, the payment of victim restitution is prioritized over existing claims to forfeited property. Prosecutions for “human trafficking” and lewd or lascivious offenses against a minor under 16 may be brought at any time, while a three or four year statute of limitations generally applies for most other felonies. For civil claims based on damages from being trafficked, a three year statute of limitations begins to run after the later of the conclusion of the criminal case, notice to the victim of ICSE, or three years after the victim turns 18.



Criminal Justice Tools for Investigation and Prosecution

Florida law authorizes training for law enforcement on human trafficking. Single party consent to audiotaping is generally permitted and specifically permitted for investigation of unlawful sexual acts with children when the child is a party to the communication. Wiretapping is allowed in investigations of “human trafficking” and ICSE, but not for prostitution offenses. Several offenses prohibit a defense based on the use of a law enforcement decoy posing as a minor to investigate commercial sexual

exploitation, but not “human trafficking.” For example, a defendant prosecuted under the law against “computer pornography” may not raise such a defense because it is enough that the defendant believed the person to be a minor, making the Internet an available tool for investigations. A statewide reporting and response system for missing children is in place and requires the reporting of missing and located children.



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.