

GEORGIA

REPORT CARD | 2018

Georgia has comprehensive human trafficking and commercial sexual exploitation of children (CSEC) laws that can be used to combat demand, but, while child sex trafficking victims may assert a defense to prostitution charges, they remain subject to arrest and adjudication for delinquent offenses committed as a result of their victimization.

Final Score

88

Final Grade

B



10

10

24.5

25

15

15

5

10

19

27.5

14.5

15

Criminalization of Domestic Minor Sex Trafficking

Georgia's human trafficking law includes sexual servitude of minors and does not require force, fraud, or coercion when minors are used in commercial sex acts. Commercial sexual exploitation of children (CSEC) laws include: "pimping," "pandering," "keeping a place of prostitution," "sexual exploitation of children," and "solicitation of sodomy." State law acknowledges the intersection of prostitution with trafficking victimization through an affirmative defense. The state racketeering law specifically includes trafficking and several CSEC offenses as racketeering activity, enabling its use as a tool against buyers, traffickers, and facilitators in certain cases.

Criminal Provisions for Demand

"Trafficking of persons for labor or sexual servitude" applies to buyers through the terms "solicits" and "patronizes" and, following federal precedent, through the term "obtains." "Pandering," a CSEC offense, applies to buyers of commercial sex with minors and differentiates between soliciting sex with adults versus minors, providing substantial penalties for soliciting sex with minors of all ages. A conviction under the trafficking law is generally punishable by up to 20 years imprisonment, while a conviction under the pandering law is punishable by up to 20 years imprisonment and a \$10,000 fine (or up to 30 years imprisonment and a \$100,000 fine if the victim is under 16). "Computer or electronic pornography and child exploitation prevention" provides a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts. A mistake of age defense is specifically prohibited in human trafficking prosecutions, but not those for "pandering." Buyers may face mandatory civil asset forfeiture, including vehicle forfeiture, if convicted of trafficking, "pandering," or possession of images of child sexual exploitation (ICSE), and the court must consider an order of victim restitution. Sex offender registration is required for sex trafficking, CSEC, and ICSE offenses.

Criminal Provisions for Traffickers

Traffickers face substantial penalties for trafficking a minor, including up to 20 years imprisonment, increased to 25-50 years imprisonment if coercion or deception is used. The CSEC crimes of "pimping," "pandering," and "keeping a place of prostitution" are punishable by up to 20 years imprisonment and a \$10,000 fine (or up to 30 years imprisonment and a \$100,000 fine if the victim is under 16). "Sexual exploitation of children" is punishable by up to 20 years imprisonment and a \$100,000 fine. Using a minor for the creation of ICSE carries penalties comparable to those for similar federal offenses. "Computer or electronic pornography and child exploitation prevention" provides a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts. Traffickers face mandatory civil asset forfeiture for convictions of human trafficking, ICSE offenses, "pimping," and other CSEC crimes. Further, the court must consider ordering a convicted trafficker to pay restitution to the victim. Traffickers convicted of sex trafficking, CSEC, and ICSE offenses must register as sex offenders. In determining whether to terminate parental rights, the court may consider the parent's role in commercially sexually exploiting a child, but trafficking convictions are not specifically provided as grounds for terminating parental rights.

Criminal Provisions for Facilitators

The state human trafficking law does not include the crime of benefitting from or assisting and aiding human trafficking—terms most applicable to facilitators. Certain CSEC and prostitution-related crimes, including “pimping” and “keeping a place of prostitution,” apply to actions of facilitators. These crimes are punishable by up to 20 years imprisonment and a \$10,000 fine (or up to 30 years imprisonment and a \$100,000 fine if the victim is

under 16). Promoting or selling ICSE carries penalties comparable to those for similar federal offenses. Facilitators are subject to mandatory civil asset forfeiture if convicted of human trafficking, ICSE offenses, “pimping,” and other CSEC crimes. Additionally, a court must consider ordering restitution to the victim. No laws in Georgia address sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are identifiable as victims of sex trafficking, as the means of force, fraud, or coercion are not required to establish the offense of trafficking, the core trafficking statute is applicable to buyers, and third party control is not required. Georgia’s CSEC laws are silent on the permissibility of a defense based on the minor’s willingness to engage in the commercial sex act, making it possible that a victim may have to prove lack of consent; however, a defense based on age of consent is specifically prohibited in a prosecution for trafficking. While trafficking victims may assert an affirmative defense to prostitution-related charges, prostitution laws apply to minors under 18, meaning child sex trafficking victims may face criminalization for commercial sex acts committed as a result of their victimization. Further, Georgia law does not provide juvenile sex trafficking victims with a statutory avenue to specialized services. For purposes of child welfare intervention, the definitions of “sexual abuse” and “sexual exploitation” include child sex trafficking, and the definition of “alleged child abuser” includes anyone who commits an act of abuse against a child

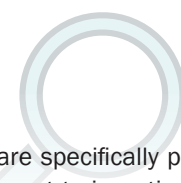
regardless of the child’s relationship to the abuser. For the purpose of crime victims’ compensation, trafficking victims are specifically included in the definition of victim and exceptions to the time limits on reporting crimes or filing claims exist for trafficking victims; however, this does not apply for CSEC offenses. Victim-friendly criminal justice procedures include a “rape shield” law that applies to trafficking victims to reduce the trauma of cross-examination for testifying victims. Georgia law allows child sex trafficking victims to petition for both expungement and vacatur of sexual crimes without a waiting period; however, victims must follow a separate process to accomplish each. Restitution is mandatory in any criminal sentencing; further, civil remedies are available to child sex trafficking victims. Prosecutions for sex trafficking and some sex offenses may be commenced at any time; otherwise, a 7 year statute of limitations applies to felonies committed against children. Civil actions for childhood sexual abuse must be commenced by the time the victim turns 23 or within 2 years of knowing the abuse resulted in injury.



Criminal Justice Tools for Investigation and Prosecution

Georgia law provides for the development of training materials on human trafficking. State law permits single party consent to audiotaping, but law enforcement must obtain a judicial order for recording conversations with a child under 18. Wiretapping is allowed for sex trafficking if consistent with federal law, which lists the relevant CSEC crimes in 18 U.S.C. § 2516, including “sex trafficking of children.” Defenses based on the use of a decoy in

the investigation of sex trafficking offenses are specifically prohibited. Law enforcement may utilize the Internet to investigate domestic minor sex trafficking relying on the crime of “computer or electronic pornography and child exploitation prevention.” Law enforcement must report missing children, but are not required to report located missing 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.