

NORTH CAROLINA

REPORT CARD | 2018

North Carolina criminalizes child sex trafficking without requiring use of force, fraud, or coercion; however, benefitting financially is not included as prohibited conduct under the trafficking law. Minors do not face prosecution under the prostitution law, and North Carolina law authorizes law enforcement training on child sex trafficking.

Final Score	90
Final Grade	A

					
10	23	13	4.5	25	14.5
10	25	15	10	27.5	15

Criminalization of Domestic Minor Sex Trafficking

North Carolina's "human trafficking" law criminalizes child sex trafficking without requiring use of force, fraud, or coercion. The state commercial sexual exploitation (CSEC) laws include: "solicitation of prostitution," "patronizing a prostitute," "promoting prostitution," "sexual exploitation of a minor" in the first, second, and third degree, and "employing or permitting a minor to assist in offense under Article." The prostitution statutes refer to the "human trafficking" and "sexual servitude" statutes to acknowledge the intersection of prostitution with trafficking victimization. North Carolina's continuing criminal enterprise statute, which includes any felony as a predicate act, could be used to prosecute sex trafficking crimes committed in concert by five or more persons.

Criminal Provisions for Demand



Buyers may be prosecuted under North Carolina's "sexual servitude" and "human trafficking" laws. Three CSEC laws apply to buyers: "patronizing a prostitute," "solicitation of prostitution," and, in limited circumstances, "promoting prostitution." State law distinguishes between soliciting an adult versus a minor for a commercial sex act by enhancing the penalty for the latter. Convictions under the trafficking law are punishable by 125–157 months imprisonment, while buyers convicted of "sexual servitude" face 58–73 months imprisonment. Penalties for CSEC convictions range from 10–73 months imprisonment. "Human trafficking" and "sexual servitude" expressly prohibit a mistake of age defense in a prosecution under those statutes. No statute criminalizes the use of the Internet to purchase commercial sex acts from a minor, but the statute on "solicitation of child by computer or certain other electronic devices to commit an unlawful sex act" might apply to buyers who use the Internet. Buyers convicted of "human trafficking" or "sexual servitude" must pay victim restitution. Buyers face mandatory criminal forfeiture of assets acquired through commission of any felony and possible civil forfeiture of vehicles and other property used in connection with prostitution offenses. Convicted buyers of commercial sex acts with minors are required to register as sex offenders.

Criminal Provisions for Traffickers



A violation of North Carolina's trafficking offense is punishable by 125–157 months imprisonment. While violations of "sexual servitude," using a minor to create images of child sexual exploitation (ICSE), use of a minor in a live sexual performance for pecuniary gain, and "promoting prostitution" of a minor are felonies, the presumptive sentences of 58–73 months imprisonment do not reflect the seriousness of those offenses. The statute on "solicitation of child by computer or certain other electronic devices to commit an unlawful sex act" provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts. Traffickers face mandatory restitution, mandatory criminal forfeiture of assets acquired through commission of any felony, and civil forfeiture of real and personal property used in connection with prostitution offenses. Traffickers are required to register as sex offenders. A conviction for "human trafficking" or "sexual servitude" can serve as grounds for terminating parental rights based on the definition of "abused juveniles."



Criminal Provisions for Facilitators

The “human trafficking” law does not include the crime of assisting, enabling, or financially benefitting from human trafficking. However, the CSEC offense of “promoting prostitution” of a minor is a felony that applies to facilitators and carries a presumptive sentence of 58–73 months imprisonment. A facilitator is subject to mandatory criminal forfeiture of assets acquired through commission of any felony, civil forfeiture of real and personal property

used in connection with prostitution offenses, and some facilitators are subject to mandatory restitution. Facilitating a minor to engage in sexual conduct for ICSE is a felony punishable with a presumptive sentence of 58–73 months imprisonment. Distributing, transporting, or exhibiting ICSE is a felony punishable by a presumptive sentence of 20–25 months. No laws in North Carolina address sex tourism.

Protective Provisions for the Child Victims



All commercially sexually exploited children are defined as juvenile sex trafficking victims. North Carolina’s “human trafficking,” “involuntary servitude,” and “sexual servitude” laws expressly prohibit a defense based on the willingness of the minor to engage in the commercial sex act. Minors do not face prosecution under the prostitution law, and law enforcement must file a report of suspected child abuse, enabling many victims to avoid a punitive response and to access services; however, provision of specialized services is not statutorily mandated. For purposes of child welfare intervention, child sex trafficking is included as a form of abuse regardless of the relationship between the child and the perpetrator. While CSEC victims would likely be eligible for state crime victims’ compensation, several eligibility criteria may limit their ability to recover, including requirements to cooperate with law enforcement, to report the crime to law enforcement within 72 hours unless good cause is shown, and to file a

claim for compensation within 2 years. Victim-friendly court procedures such as the “rape shield” law, which limits traumatizing cross-examination of testifying victims, are available to victims of “sexual servitude,” but the ability to testify via closed circuit television is limited to children under 16. North Carolina law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, and juvenile records may only be expunged after a waiting period. A court must order an offender of human trafficking and CSEC offenses to pay victim restitution, and a victim may pursue civil remedies against an offender. North Carolina does not have a statute of limitations for felonies and, thus, allows a CSEC felony to be brought at any time. Additionally, the statute of limitations for CSEC victims pursuing a civil cause of action does not begin to run until the victim reaches 18.

Criminal Justice Tools for Investigation and Prosecution



The North Carolina Justice Academy is authorized to develop a protocol and training materials on human trafficking, which is made available to law enforcement. Single party consent to audiotaping is permitted. Wiretapping is allowed in CSEC and sex trafficking investigations. No law expressly prohibits an offender from raising a defense based on the use of a law enforcement decoy posing as a minor in the investigation of prostitution or sex trafficking cases, but law enforcement may utilize the Internet

to investigate buyers and traffickers relying on the crime of “solicitation of a child by computer,” which includes communicating with a person the offender believes is under 16 to meet with the offender or another person to commit an unlawful sex act. North Carolina established a statewide reporting and response system for lost, missing, or runaway children, and failure to report a missing child is a crime.

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.