

Policy Goal

Using the Internet or electronic communications to investigate buyers and traffickers is a permissible investigative technique.

The growing use of the Internet to accomplish crimes of domestic minor sex trafficking necessitates new investigative techniques and tools for law enforcement. Laws establishing a separate or enhanced penalty for using the Internet to commit an underlying offense, and the express inclusion of CSEC or sex trafficking of a minor as such an offense, are critical. Eliminating a defense based on the prohibited contact occurring online with a law enforcement officer posing as a minor rather than with an actual minor is also critical. Internet crimes against children are committed against minors of all ages, and any state law prohibiting this conduct should protect all minors under 18 from the crime.

EXAMPLES OF LEGISLATIVE SOLUTIONS

ALABAMA

Ala. Code § 13A-6-127(a)(1) (Defenses) provides, “an undercover operative or law enforcement officer[’s involvement] in the detection and investigation of an offense” is not a defense to prosecution.

GEORGIA

Ga. Code Ann. § 16-12-100.2(g) (Computer or electronic pornography and child exploitation prevention) clarifies that “[t]he sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section [Computer or electronic pornography and child exploitation prevention] shall not constitute a defense to prosecution under this Code section.”

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) states, “It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer

bulletin boards, cellular telephones, or any other electronic means, 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 . . . KRS 529.100 [Human trafficking] where that offense involves commercial sexual activity, or 530.064(1) (a) [Unlawful transaction with a minor in the first degree], or KRS Chapter 531 [Pornography].”

LOUISIANA

La. Rev. Stat. Ann. § 14:81.3(C) (Computer-aided solicitation of a minor) states, “It shall not constitute a defense to a prosecution brought pursuant to this Section [Computer-aided solicitation of a minor] that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.”

MICHIGAN

Mich. Comp. Laws § 750.145d(1)(a) (Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions) makes it illegal for a defendant to, “use the internet or a computer, [etc.] . . . for the purpose of . . . Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a [Accosting, enticing or

soliciting child for immoral purpose], 145c [child pornography] . . . in which the victim or intended victim is . . . believed by that person to be a minor.”

SOUTH DAKOTA

S.D. Codified Laws § 22-24A-5(2) (Solicitation of minor) criminalizes a person who “[k]nowingly compiles or transmits by means of computer; or prints, publishes or reproduces by other computerized means; or buys, sells, receives, exchanges, or disseminates, any notice, statement or advertisement of any minor’s [under 16] name, telephone number, place of residence, physical characteristics or other descriptive or identifying information for the purpose of soliciting a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act.” Additionally, S.D. Codified Laws § 22-24A-5 states, “The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section does not constitute a defense to a prosecution under this section.”