

ISSUE BRIEF

COMPONENT 2.8

Area of Law	Criminal Provisions Addressing Demand
The Policy Goal	Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.
The Reason	Meaningful fines, asset forfeiture, restitution, and vehicle impound fees serve as punishment and deterrence, reinforcing the reality that purchasing sex acts with minors is a heinous crime. Significant financial penalties can also be used to provide domestic minor sex trafficking victims with funding for social and restorative programs and help pay for costly investigations. To ensure that minor victims have assets to fund their recovery, financial penalties should be directed first to pay victim restitution, after which assets could be used to fund sex trafficking investigations, law enforcement training, and specialized services.

Examples of Legislative Solutions

The following states have significant fines and allow asset forfeiture.

Colorado

A buyer convicted under Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking of a minor for sexual servitude) faces fines ranging from \$5,000–\$1,000,000. Colo. Rev. Stat. Ann. §§ 18-3-504(2)(b), 18-1.3-401(1)(a)(III)(A), (1)(a)(V)(A). Buyers convicted of Colo. Rev. Stat. Ann. § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1) (Inducement of child prostitution), or § 18-7-406(1) (Patronizing a prostituted child), all Class 3 felonies, may be required to pay a fine of \$3,000–\$750,000. Colo. Rev. Stat. Ann. §§ 18-7-402(2), 18-7-405.5(2), 18-7-406(2), 18-1.3-401(1)(a)(III)(A). Pursuant to Colo. Rev. Stat. Ann. § 18-1.3-603 (Assessment of restitution – corrective orders), “For a conviction for human trafficking for . . . sexual servitude, as described in section 18-3-504, the court shall order restitution, if appropriate, pursuant to this section even if the victim is unavailable to accept payment of restitution.” Pursuant to Colo. Rev. Stat. Ann. § 18-3-414 (Payment of treatment costs for the victim or victims of a sexual offense against a child) when a victim is under the age of 15, a court may order the person convicted of an unlawful sex offense, including Colo. Rev. Stat. Ann. § 18-3-504(2) (Human trafficking of a minor for sexual servitude), § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1)

(Inducement of child prostitution), § 18-7-406(1) (Patronizing a prostituted child), or § 18-6-403(3)(b.5) (Sexual exploitation of a child), to pay for part or all of the victim’s treatment. Colo. Rev. Stat. Ann. §§ 18-3-414(1), 18-3-411(1). Colo. Rev. Stat. Ann. § 16-13-303(1)(a) (Class 1 public nuisance) states that “every building . . . shall be deemed a class 1 public nuisance when . . . [u]sed as a public or private place of prostitution.” Colo. Rev. Stat. Ann. §16-13-311(3)(a) states in part, “Property forfeited pursuant to this section or proceeds therefrom shall be distributed or applied in the following order: (I) To payment of the balances due on any liens . . . the order of their priority; (II) To compensate an innocent partial owner for the fair market value of his or her interest in the property; (III) To any person who suffers bodily injury, property damage, or property loss as a result of the conduct constituting a public nuisance that resulted in such forfeiture, if said person petitions the court therefor prior to the hearing dividing the proceeds pursuant to this section and the court finds that such person suffered said damages as a result of the subject acts that resulted in the forfeiture”

Louisiana

A conviction under La. Rev. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes) or § 14:82.1 (Prostitution; persons under eighteen; additional offenses) is punishable by a possible fine of \$50,000, or a possible fine of \$75,000 if the victim was under 14. La. Rev. Stat.

Ann. §§ 14:46.3(D)(1)(a), (b), 14:82.1(D)(1), (2), 14:83(B) (2). La. Rev. Stat. Ann. § 15:539.2 (Exploited children’s fund) states that “Any person who is convicted or pleads guilty or nolo contendere to an offense involving trafficking of children for sexual purposes...” is required to pay a fine of \$2,000 in addition to other financial penalties. Pursuant to La. Rev. Stat. Ann. § 15:539.3 (Mandatory restitution), “A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied”

Pursuant to La. Rev. Stat. Ann. § 15:539.1(E) (Forfeited property related to certain sex crimes; exempt property; allocation of forfeited property), “when the currency, instruments, securities, or other property is forfeited pursuant to the provisions of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution), the currency, instruments, securities and proceeds of the public sale or public auction shall be applied first to any restitution granted to the victim, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied”

Michigan

Buyers of sex with minors face a fine up to \$20,000 for a violation of Mich. Comp. Laws Ann. § 750.462e (Forced labor or services; prohibited conduct as relates to age of minor), \$10,000 for a violation of Mich. Comp. Laws Ann. § 750.449a(2) (Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness,

or assignation; penalty) and \$5,000–\$20,000 for a violation of Mich. Comp. Laws Ann. § 750.145d (Use of internet or computer system; prohibited communication), depending on the underlying crime. Mich. Comp. Laws Ann. §§ 750.462f(2), 750.451(4), 750.145d(2)(a)–(f).

Mich. Comp. Laws Ann. § 780.766b (Conviction of offense described in MCL 750.462a to 750.462h; restitution) states, “When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code [Human trafficking] . . . the court shall order restitution for the full amount of loss suffered by the victim.” Under Mich. Comp. Laws Ann. § 600.4702(1) (Property subject to seizure and forfeiture; exception; encumbrances; substituted proceeds of crime) the following property is subject to seizure and forfeiture: “(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime. (b) All real property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime . . . (c) In the case of a crime that is a violation . . . Michigan penal code . . . 750.462a to 750.462h [Human trafficking]. . . all property described in subdivisions (a) and (b), and all real property or personal property that performed 1 of the following functions: (i) Contributed directly and materially to the commission of the crime. (ii) Was used to conceal the crime. (iii) Was used to escape from the scene of the crime. (iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime.”

Mich. Comp. Laws Ann. § 600.3801 (Nuisance; injunction; abatement; guilt; “controlled substance” defined) states that “(1) A building, vehicle, boat, aircraft, or place is a nuisance if . . . (f) It is used for conduct prohibited by chapter LXVIIA of the Michigan Penal Code, 1931 PA 328, MCL 750.462a to 750.462h [Human trafficking]” Mich. Comp. Laws Ann. § 600.3825 (Order of abatement; execution of court order; duties of officer; use of building or place ordered closed; contempt; determination of amount due victim) states that “[i]f the court in an action under this chapter declares property to be a nuisance under section 3801(1)(f), the officer executing the order of the court shall first pay from the proceeds any amount determined by the court to be due to the victim For purposes of determining the amount due to a victim under this subsection, the court shall consider the loss suffered by the victim as a proximate result of the conduct and may use as guidance the items of loss enumerated in . . . MCL 780.766b [Conviction of offense described in MCL 750.462a to 750.462h; restitution].”

Nebraska

A first conviction for soliciting a minor for commercial sex under Neb. Rev. Stat. Ann. § 28-801.01 (Solicitation of prostitution;

penalties) carries a fine not to exceed \$10,000; however, subsequent convictions are subject to fines between \$500-10,000. While buyers do not face fines for committing the offense of Neb. Rev. Stat. Ann. § 28-831 (Human trafficking; forced labor or services; prohibited acts; penalties), buyers are subject to property forfeiture. Neb. Rev. Stat. Ann. § 25-21,302(1)(a) (Property used in commission of certain crimes; forfeiture; proceeding; confiscating authority; duties; seizure of property; proceedings; petition; Attorney General; duties; answer; hearing; disposition of proceeds) states, “In addition to any other civil or criminal penalties provided by law, any property used in the commission of a violation of . . . § 28-831 (Human trafficking; labor trafficking or sex trafficking; labor trafficking a minor or sex trafficking of a minor; prohibited acts; penalties) may be forfeited through proceedings as provided in this section.”

New Hampshire

Under N.H. Rev. Stat. Ann. § 651:2(IV)(a) (Sentences and limitations), a buyer convicted of any felony, including N.H. Rev. Stat. Ann. § 633:7 (III) (Human trafficking; Purchasing of sexual contact with a minor), § 645:2(I)(f) (Prostitution and related offenses), § 649-B:3(I)(d) (Computer pornography prohibited), and § 649-B:4(I) (Certain uses of computer services prohibited), is subject to a maximum fine of \$4,000. Convictions for any criminal offense are subject to restitution under N.H. Rev. Stat. Ann. § 651:63(I) (Restitution authorized). Offenders of N.H. Rev. Stat. Ann. § 633:7 (Trafficking in persons) are subject to asset forfeiture proceedings pursuant to N.H. Rev. Stat. Ann. § 633:8 (Forfeiture of items used in connection with trafficking in persons), which states in part, “(I) All offenses under this section shall qualify as offense for forfeiture and thereby upon petition of the attorney general, shall be subject to forfeiture of the state and said property interest shall be vested in the state” Under N.H. Rev. Stat. Ann. § 633:8 (XVI), “[A]ny forfeited money and the proceeds of any sale or public auction of forfeited items shall first be used to satisfy any order of restitution or compensation imposed by the court. Any remaining funds shall go to the victims’ assistance fund as defined in RSA 21-M:8-i.”

Oregon

A conviction under Or. Rev. Stat. § 163.266(1)(c) (Trafficking in persons) is punishable as Class A felony and includes a possible fine not to exceed \$375,000. Or. Rev. Stat. §§ 163.266(5), 161.625(1)(b). If convicted under Or. Rev. Stat. § 163.413 (Purchasing sex with a minor), a buyer is subject to a Class C or B felony, which carries a possible fine not to exceed \$125,000 or \$200,000, respectively. Or. Rev. Stat. §§ 161.605(2), (3), 161.625(1)(c), (d). However, a mandatory minimum sentence for a first conviction is a fine in the amount

of \$10,000, and the second or subsequent conviction is a fine in the amount of \$20,000. Or. Rev. Stat. § 163.413(3) (a). Buyers may also be subject to discretionary, criminal asset forfeiture. Or. Rev. Stat. § 131.553(1)(e). Where the seizing agency is the state, Or. Rev. Stat. § 131.597 provides that the property shall be distributed as follows: “to pay costs and to the victim, any amount ordered” A buyer may also be subject to restitution pursuant to Or. Rev. Stat. § 137.106 (Restitution to victims), which requires the district attorney to investigate and present to the court evidence of economic damages suffered as a result of human trafficking or CSEC offenses. The court is authorized to order restitution as part of a criminal case when the victim “suffered economic damages.” Or. Rev. Stat. § 137.106(1).