

ISSUE BRIEF

COMPONENT 3.1

Area of Law	Criminal Provisions for Traffickers
The Policy Goal	Penalties for trafficking a child for sexual exploitation are as high as federal penalties.
The Reason	<p>Commercial sexual exploitation of children and sex trafficking are egregious crimes, so penalties must reflect the severity of the offense. If convicted under the federal Trafficking Victims Protection Act (TVPA) of 2000 and associated federal CSEC laws (e.g., 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion), 18 U.S.C. § 2251A (Selling or buying of children), 18 U.S.C. § 2251(Sexual exploitation of children), 18 U.S.C. § 2423(a) (Transportation of a minor with intent for minor to engage in criminal sexual activity), 18 U.S.C. § 2422 (Coercion and enticement)), a trafficker of commercial sex acts with a minor faces a mandatory minimum sentence of 10 years to life imprisonment if the victim is between 14 and 18 years of age, or a mandatory minimum sentence of 15 years to life imprisonment if the victim is under the age of 14 or if force, fraud, or coercion were used to cause the trafficking. Federal trafficking laws are being used to secure serious sentences for traffickers, and comparable state penalties are important to prevent disparity in the punishments. Also, comparable state penalties are critical across the nation to prevent migration of the crime to those states with weaker penalties that then risk becoming havens for traffickers who seek to commit sex trafficking crimes while avoiding substantial criminal liability.</p>

Examples of Legislative Solutions

Alabama

Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree) makes it illegal for a trafficker who “knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.” A conviction under Ala. Code § 13A-6-152(a)(2) is a Class A felony punishable by a sentence of 10–99 years imprisonment and a possible fine up to \$60,000 or any amount up to double the profit or loss to the victim. Ala. Code §§ 13A-6-152(b), 13A-5-2(a), (b), 13A-5-6(a)(1), 13A-5-11(a)(1).

Florida

Under Fla. Stat. Ann. § 787.06(3)(g) (Human trafficking), a trafficker commits the life felony offense of human trafficking when he or she participates in a venture that subjects a child under 18 years of age to commercial sexual activity. A violation of Fla. Stat. Ann. § 787.06(3)(g) is a life felony, punishable

under Fla. Stat. Ann. § 775.082 for “a term of imprisonment for life.” A conviction under Fla. Stat. Ann. § 787.06(3)(f) is a first degree felony, carrying a maximum prison term of 30 years, “or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment if the victim is under 18.” Fla. Stat. Ann. § 775.082.

Iowa

Traffickers who violate Iowa Code § 710A.2 (Human trafficking), when the victim is a minor, commit a Class B or a Class C felony. Class B felonies are punishable by imprisonment up to 25 years, while Class C felonies are punishable by imprisonment up to 10 years and a fine of \$1,000–\$10,000. Iowa Code § 902.9(2), (4). To the extent that a trafficker is a habitual offender, the trafficker may receive imprisonment up to 15 years. Iowa Code § 902.9(3).

Missouri

A trafficker who violates Mo. Rev. Stat. § 566.211(3) (Sexual trafficking of a child – penalty), is guilty of “a felony punishable by imprisonment for a term of years not less than ten years

or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.” Mo. Rev. Stat. § 566.210(3) (Sexual trafficking of a child in the first degree) enhances the penalty for sex trafficking of a child under 12 years of age to “a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than twenty-five years of such sentence.”

Montana

Traffickers convicted under Mont. Code Ann. § 45-5-702 (Trafficking of persons) face imprisonment up to 50 years, a maximum fine of \$100,000, or both when the victim is a minor. A conviction for the offense of sexual servitude under Mont. Code Ann. § 45-5-704 (Sexual servitude) carries a maximum prison term of 25 years and a \$75,000 fine when the victim is a minor.

North Dakota

Convicted traffickers face a class AA felony punishable by a maximum penalty of life imprisonment if convicted of trafficking an individual under N.D. Cent. Code § 12.1-41-02 or sexual servitude under N.D. Cent. Code § 12.1-41-04 when the victim is a minor. N.D. Cent. Code §§ 12.1-41-02(3), 12.1-41-04(3), 12.1-32-01(1).

Tennessee

Tenn. Code Ann. § 39-13-309 (Trafficking for sexual servitude) is a Class B felony punishable by 8–30 years imprisonment and a possible fine not to exceed \$25,000, “except where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000’) of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony,” punishable by 15–60 years and a possible fine not to exceed \$50,000.

Virginia

A violation of Va. Code Ann. § 18.2-357.1 (Commercial sex trafficking; penalties) with a person under the age of 18 is a Class 3 felony punishable by 5–20 years imprisonment. Va. Code Ann. § 18.2-10(c). Traffickers also face Class 3 felonies for violating Va. Code Ann. § 18.2-355 (Taking, detaining, etc.,

person for prostitution, etc., or consenting thereto; human trafficking), § 18.2-356 (Receiving money for procuring person), and § 18.2-357 (Receiving money from earnings of male or female prostitute) when these offenses involve a minor victim and a Class 5 felony for violating Va. Code Ann. § 18.2-370(B) (Taking indecent liberties with children). A Class 3 felony is punishable by 5–20 years imprisonment. Va. Code Ann. § 18.2-10(c). A Class 5 felony is punishable by 1–10 years imprisonment and a possible fine up to \$2,500.

A violation of Va. Code Ann. § 18.2-48 (Abduction with intent to extort money or for immoral purpose) is a Class 2 felony punishable by 20 years to life imprisonment. Va. Code Ann. § 18.2-10(b). Va. Code Ann. § 18.2-48 also specially directs that “[i]f the sentence imposed for a violation of (ii), (iii), (iv), or (v) includes a term of confinement less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant’s life subject to revocation by the court.” Va. Code Ann. § 18.2-48.