

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Illinois Report Card 2016

Illinois's human trafficking law includes sex trafficking and does not require use of force, fraud or coercion when the victim is a minor, but convicted offenders are not required to register as sex offenders. Minors are protected from prosecution for prostitution and may be taken into protective custody.

Final Score

83.5

Final Grade

B



10

10

20.5

25

14.5

15

7.5

10

19

27.5

12

15



### Criminalization of Domestic Minor Sex Trafficking

The trafficking in persons law includes sex trafficking of minors and does not require proof that force, fraud, or coercion was used to cause minors to engage in commercial sex acts. Illinois's CSEC crimes include: solicitation of a sexual act, promoting juvenile prostitution, patronizing a minor engaged in prostitution, permitting sexual abuse of a child, grooming, and travelling to meet a minor. The prostitution law identifies minors engaged in prostitution as victims of sex trafficking who are not subject to prosecution and also refers to the trafficking law to provide an affirmative defense for adult trafficking victims. Trafficking and several CSEC laws are included as predicate activities under the racketeering law.



### Criminal Provisions Addressing Demand

The trafficking in persons law applies to buyers in a few, limited circumstances through the term "causes" and, following federal precedent, can be applied to buyers who "obtain" a minor for a commercial sex act. Several CSEC laws specifically include the crime of buying sex with minors, although some permit defendants to raise a mistake of age defense. The offenses of solicitation of a sexual act and patronizing a minor engaged in prostitution distinguish between buying sex with adults versus minors. The statutes on grooming and travelling to meet a minor provide a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts. A buyer convicted of patronizing a minor engaged in prostitution or pornography offenses is required to register as a sex offender; however, a conviction for sex trafficking or solicitation of a sexual act, even when a minor is involved, does not require registration. A buyer convicted of trafficking in persons or certain sexual offenses faces mandatory criminal asset forfeiture. Buyers also face forfeiture of equipment used in child pornography offenses and vehicles used to commit trafficking and CSEC offenses.

#### Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine	Asset Forfeiture (available)
Trafficking in persons, involuntary servitude, and related offenses (720 Ill. Comp. Stat. Ann. 5/10-9(c)-(d))	Class 1 felony	4-15 years imprisonment	Max. \$25,000	●
	Class X felony	6-30 years (when coercion is used or the minor is under 17)		
Patronizing a minor engaged in prostitution (720 Ill. Comp. Stat. Ann. 5/11-18.1(a), (a-5))	Class 3 Felony	2-5 years, or 3-7 years if within 1000 feet of a school.	Max. \$25,000	○
Solicitation of a sexual act (720 Ill. Comp. Stat. Ann. 5/11-14.1(a))	Class 4 Felony	1-3 years	Max. \$25,000	○
Possessing child pornography (720 Ill. Comp. Stat. Ann. 5/11-20.1(a)(6) and 5/11-20.1B(a)(6))	Class 3 (ages 13-18)	2-5 years	\$1,000-\$100,000	●
	Class 2 (under age 13)	3-7 years		

All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.



### Criminal Provisions for Traffickers

Traffickers convicted of sex trafficking face 4-15 years imprisonment, increased to 6-30 years when coercion is used or the minor is under 17. Traffickers convicted of promoting juvenile prostitution face 4-15 years imprisonment, increased to 6-30 years for aggravating factors, and a possible fine up to \$25,000. Grooming (1-3 years imprisonment) and travelling to meet a minor (2-5 years) can be used to prosecute traffickers who use the Internet to solicit minors for commercial sex acts. Creating and distributing child pornography is punishable by 4-15 years imprisonment, increased to 6-30 years for a first offense where the victim is under age 13, and a fine of \$2,000-\$100,000. A trafficker must pay restitution to the victim, and a trafficker convicted of sex trafficking, promoting juvenile prostitution or child pornography faces mandatory criminal asset forfeiture. A trafficker convicted of most CSEC or pornography offenses must register as a sex offender, but a conviction for sex trafficking does not require registration. Parental rights can be terminated when a parent is convicted of sex trafficking or allows a minor to engage in prostitution.



## Protective Provisions for the Child Victims

Not all commercially sexually exploited children are defined as juvenile sex trafficking victims, as third party control is required to establish the offense of sex trafficking. Under the Safe Children Act, minors under 18 may not be held criminally liable under the prostitution law and instead are to be reported to child welfare. For purposes of child welfare intervention, the definition of abuse includes sexual exploitation through trafficking or prostitution, but the definition of “person responsible for the child’s welfare” is likely not broad enough to allow for child welfare to intervene in non-familial trafficking cases. Trafficking victims are not specifically defined as victims for purposes of crime victims’ compensation, and child sex trafficking victims are not provided exceptions to the time limits for reporting crimes or filing claims and other ineligibility criteria. Victim-friendly criminal justice procedures include testimony by closed circuit television; however, the “rape shield” law only applies in sex offense cases, so trafficking victims may not be protected from the trauma of cross-examination in CSEC and sex trafficking prosecutions. The trafficking law does not prohibit a defense to prosecution based on the willingness of the minor to engage in the commercial sex act, but does prohibit such a defense in civil cases. Child sex trafficking victims arrested for prostitution are provided automatic expungement of juvenile records upon reaching the age of 18. Restitution is mandatory in any criminal sentencing, and civil remedies are available to CSEC victims for damages sustained through trafficking, promoting juvenile prostitution, juvenile pimping, or pornography offenses. Illinois has eliminated the statute of limitations for certain criminal actions involving sexual conduct with children; however, this does not apply to trafficking or most CSEC offenses, which are subject to a 3-year statute of limitations, although trafficking and some CSEC offenses may be tolled until one year after the victim turns 18. Civil actions for injuries from sexual exploitation have varying statutes of limitations but are



## Criminal Provisions for Facilitators

Facilitators are subject to prosecution for benefitting financially from trafficking in persons, punishable by 4–15 years’ imprisonment and a possible fine up to \$25,000. Facilitators may also face prosecution for promoting juvenile prostitution, keeping a place of juvenile prostitution, and laundering money. Convicted facilitators face mandatory restitution and mandatory criminal asset forfeiture. Disseminating child pornography is punishable by a fine of \$2,000–\$100,000 and 4–15 years imprisonment, increased to 6–30 years imprisonment for a first offense where the child is under 13 years of age. No laws in Illinois make sex tourism a crime.



## Criminal Justice Tools for Investigation and Prosecution

Training or development of training materials for law enforcement on human trafficking or domestic minor sex trafficking is not mandated or authorized by law. Illinois permits the use of audiotaping in investigations of trafficking and CSEC offenses where the law enforcement officer is party to the communication and the use of the device is necessary for officer safety. Wiretapping is allowed in sex trafficking and some CSEC investigations with a judicial order. No CSEC or trafficking law expressly authorizes the use of a law enforcement decoy or the use of the Internet in the investigation of child sex trafficking cases, but the non-CSEC offense of luring a minor specifically prohibits a defense to communicating electronically with a minor for an unlawful purpose based on the fact that the “minor” was a law enforcement officer; accordingly, the defendant would be prohibited from asserting a defense based on the fact that an actual minor was not involved. Illinois has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.

The Report Card is based on the Protected Innocence Legislative Framework, an analysis of state laws performed by the American Center for Law & Justice and Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Legislative Framework Methodology, each completed Report Card, and foundational analysis and recommendations, please visit: [www.sharedhope.org](http://www.sharedhope.org).