

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Colorado Report Card 2016

The human trafficking of a minor for sexual servitude law criminalizes domestic minor sex trafficking without requiring proof of force, fraud, or coercion. Prostitution offenses are not limited in application to adults so minor victims face a juvenile justice system response ranging from diversion to detention.

Final Score

85

Final Grade

B



10

10



23.5

25



12.5

15



5

10



22

27.5



12

15



Criminalization of Domestic Minor Sex Trafficking

Colorado's human trafficking of a minor for sexual servitude law makes sex trafficking a minor a crime without requiring proof of force, fraud, or coercion. Colorado has several commercial sexual exploitation of children (CSEC) laws, including sexual exploitation of a child, procurement of a child for sexual exploitation, soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, and patronizing a prostituted child. The prostitution law does not refer to the human trafficking of a minor for sexual servitude law, but human trafficking victims are provided an affirmative defense. Colorado's racketeering law defines racketeering activity to include human trafficking of a minor for sexual servitude and certain CSEC offenses, allowing for the prosecution of sex trafficking enterprises.



Criminal Provisions for Demand

Following federal precedent, the human trafficking of a minor for sexual servitude law applies to buyers through the term "obtain." Additionally, buyers may be convicted of the following CSEC offenses: patronizing a prostituted child, soliciting for child prostitution, and inducement of child prostitution. Victim restitution is mandatory for buyers convicted of human trafficking of a minor for sexual servitude, and buyers convicted of CSEC offenses may be ordered to pay for the treatment of a victim under 15. Buyers face asset forfeiture under nuisance laws for human trafficking of a minor for sexual servitude, but not for soliciting and inducement of child prostitution or patronizing a prostituted child. Buyers who use the Internet to solicit a minor under 15 for sexual conduct could be prosecuted under Internet luring or Internet sexual exploitation statutes. Human trafficking of a minor for sexual servitude and buyer-applicable CSEC offenses specifically prohibit the age mistake defense and provide penalties of equal severity for exploiting minors under 18. Buyers of sex with minors must register as sex offenders if convicted of an unlawful sex offense, which is defined to include human trafficking of a minor for sexual servitude, CSEC offenses, possession of child pornography, and internet luring of a child.



Criminal Provisions for Traffickers

A trafficker convicted of human trafficking of a minor for sexual servitude faces 8–24 years imprisonment and/or a fine of \$5,000–\$1,000,000. Soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, as well as creating and distributing child pornography are all Class 3 felonies punishable by imprisonment for 4–12 years and/or fines of \$3,000–\$750,000. Pandering of a child when intimidation is used is enhanced to a Class 2 felony punishable by 8–24 years and/or a fine of \$5,000–\$1,000,000. Internet sexual exploitation of a child under 15 likely does not reach the actions of traffickers who sell or recruit commercial sex acts with minors, and Internet luring of a child under 15 applies in limited circumstances, leaving the growing trend of online recruitment and selling of children for sex largely undeterred. Traffickers convicted of human trafficking of a minor for sexual servitude are required to make restitution to their victims, but restitution for CSEC offenses is discretionary. Additionally, those convicted of human trafficking or CSEC offenses may be ordered to pay for the treatment of a victim under 15. Convicted traffickers face asset forfeiture under the public nuisance law of any real property or vehicle used in commission of human trafficking of a minor for sexual servitude, but not for CSEC offenses. Traffickers must register as sex offenders for convictions of human trafficking of a minor for sexual servitude or CSEC offenses. Grounds for termination of parental rights do not include convictions of human trafficking of a minor for sexual servitude or CSEC offenses.

Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Human trafficking of a minor for sexual servitude (§ 18-3-504(2)(a))	Class 2 felony	8-24 years	\$5,000–\$1,000,000	●
Patronizing a prostituted child (§ 18-7-406(1))	Class 3 felony	4–12 years	\$3,000–\$750,000	○
Sexual exploitation of a child; possessing child pornography (§ 18-6-403)	Class 6 felony	1–1½ years	\$1,000–\$10,000	○

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



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. Human trafficking of a minor for sexual servitude prohibits a defense based on the willingness of the minor to engage in the commercial sex act, but CSEC laws do not. Prostitution laws apply to minors under 18 and juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. As a result, a CSEC victim may enter the juvenile justice system and receive responses ranging from a diversion program to detention. However, child welfare intervention is possible as the definition of abuse includes a child who has been subjected to human trafficking and/or who has been subjected to unlawful sexual behavior, which includes human trafficking of a minor for sexual servitude and CSEC laws, and Child Protective Services are authorized to intervene when a child has been subjected to human trafficking or commercial sexual exploitation, regardless of whether the abuse was committed by a third-party. Crime victims' compensation is available for victims of CSEC offenses; however, participating in the conduct giving rise to the injury, failing to report the crime to law enforcement within 72 hours or to file a claim within one year, and a requirement to cooperate with law enforcement could prevent CSEC victims from receiving compensation. Victim-friendly trial procedures are available to human trafficking of a minor for sexual servitude and CSEC victims, including the admissibility of out of court statements into evidence, confidentiality for trafficking and CSEC victims (including those asserting an affirmative defense), permissibility of videotaped testimony by a victim-witness under 15 in lieu of trial testimony due to emotional trauma, and provision of a court advocate. The "rape shield" law, which alleviates the trauma of cross-examination by limiting the admissibility of reputation and prior sexual conduct as evidence, is expressly available to most CSEC victims, but not victims of human trafficking of a minor for sexual servitude. Juvenile records involving prostitution-related offenses will be expunged if the court finds by a preponderance of the evidence that the juvenile was a human trafficking victim or coerced to commit the offense. For purposes of restitution, "victim" is expressly defined to include victims of human trafficking of a minor for sexual servitude, and restitution is mandatory in such cases. A victim of trafficking of a minor for sexual servitude, soliciting for child prostitution, patronizing a prostituted child, or sexual exploitation may have a convicted offender pay for needed treatment if the victim is under 15. Civil remedies are available to victims of human trafficking of a minor for sexual servitude regardless of whether anyone is convicted in connection with their victimization. Criminal prosecutions for human trafficking of a minor for sexual servitude and all CSEC laws may be brought at any time while civil claims based on damages from sexual offenses against a child must be brought within six years of the child turning 18.



Criminal Justice Tools for Investigation and Prosecution

Colorado law does not mandate or authorize training for law enforcement on human trafficking or domestic minor sex trafficking. Single party consent to audiotaping is permitted, but wiretapping is not expressly permitted in investigations of human trafficking of a minor for sexual servitude or CSEC crimes. No CSEC or trafficking law expressly authorizes the use of a law enforcement decoy or the Internet in human trafficking of a minor for sexual servitude investigations, but Internet luring of a child under 15, a non-CSEC offense, permits the use of both decoys and the Internet to investigate certain CSEC offenses; accordingly, a defendant would be prohibited from asserting a defense based on the fact that an actual minor was not involved in the interaction. Colorado has established a statewide reporting and response system for missing children that requires prompt reporting of missing and located children by law enforcement.



Criminal Provisions for Facilitators

The human trafficking of a minor for sexual servitude law does not include the crime of assisting, enabling, or financially benefitting from sex trafficking. Procurement of a child for exploitation in pornography or sexual performance through transportation, keeping a place of child prostitution, promoting and selling child pornography, and soliciting for child prostitution (which includes the facilitator action of directing a person to a place for the purpose of buying sex acts with a child) are all crimes punishable as Class 3 felonies by 4–12 years imprisonment and/or fine of \$3,000– \$750,000. Facilitators could also be subject to money laundering laws leading to additional penalties. The court must consider ordering convicted facilitators to pay restitution to their victims for any conviction, and facilitators convicted of promoting or soliciting for prostitution may be ordered to pay for the treatment of victims under 15. No laws in Colorado address sex tourism.

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.