

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Ohio Report Card 2016

*Ohio's trafficking in persons law criminalizes sex trafficking of a child under 16 without requiring proof of force, fraud, or coercion, but protections are limited for older minors. Child sex trafficking victims may avoid a juvenile delinquency adjudication and access services if diverted by the court, but this response is not mandatory, leading to disparate outcomes for victims.*

Final Score

76

Final Grade

C



9.5

10

17.5

25

12

15

4.5

10

17.5

27.5

15

15



### Criminalization of Domestic Minor Sex Trafficking

The trafficking in persons law does not require proof of force, fraud, or coercion when the victim is a minor under 16, but offenses against 16 and 17 year olds must be committed by a person in a position of authority or trust or involve force, fraud, or coercion. Commercial sexual exploitation of children (CSEC) laws include compelling prostitution, promoting prostitution, endangering children, procuring, soliciting, and importuning a 16 or 17 year old trafficking victim. Compelling prostitution and promoting prostitution refer to trafficking in persons by providing enhanced penalties where an offender committed the crime in furtherance of human trafficking, but the prostitution law does not refer to the human trafficking law. Ohio's corrupt activity law includes trafficking, CSEC, and child pornography offenses as predicate acts.



### Criminal Provisions Addressing Demand

The trafficking in persons law does not apply to buyers who solicit, purchase, or engage in sex acts with a minor. Compelling prostitution and solicitation include the crime of buying sex with any minor, while importuning a 16 or 17 year old trafficking victim is restricted in application to older minors identified as trafficking victims. Buyers convicted of compelling prostitution face a fine and mandatory victim restitution and could be subject to Ohio's general criminal asset forfeiture provisions. Compelling prostitution prohibits an age mistake defense in all cases involving a minor victim, but solicitation prohibits an age mistake defense only for victims aged 15 or under. Ohio's importuning law, which prohibits use of an electronic communication device to solicit sex with a child under 16, may apply to buyers who use the Internet. Buyers of sex with minors are required to register as sex offenders if convicted of compelling prostitution of a minor, pandering obscenity involving a minor, solicitation, or pandering sexually oriented material involving a minor.



### Criminal Provisions for Traffickers

Trafficking in persons is punishable by 10–15 years imprisonment and a possible fine up to \$20,000. The penalties for compelling prostitution vary: if force, fraud, or coercion was used and the victim is under 16, 3–11 years imprisonment and a fine up to \$20,000 (2–8 years imprisonment and a \$15,000 fine if the victim was aged 16–17), otherwise 9–36 months imprisonment and a fine up to \$10,000. Promoting prostitution of a minor is a felony in the third degree punishable by 9–36 months imprisonment and a possible fine up to \$10,000, and procuring is a felony in the fourth degree punishable by 6–18 months imprisonment and a possible fine up to \$5,000. Enhanced penalties apply for traffickers convicted of compelling prostitution or promoting prostitution in furtherance of human trafficking. No statute expressly criminalizes use of the Internet to sell commercial sex acts with a minor. Traffickers convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution, additional fines credited to a victim confidential address program fund, and criminal asset forfeiture. Traffickers must register as sex offenders for convictions under most CSEC laws and for trafficking in persons. Convictions for human trafficking or CSEC offenses do not establish grounds for termination of parental rights for only one parent, but both parents' parental rights may be terminated if both parents were convicted of sex trafficking or certain CSEC offenses in connection with a child in the household.

### Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Compelling prostitution (force, fraud, or coercion, victim 16–17) (§ 2907.21(A))	Felony of the second degree	2–8 years	Max. \$15,000	●
Compelling prostitution (force, fraud, or coercion, victim under 16)	Felony of the first degree	3–11 years	Max. \$20,000	●
Compelling prostitution (no force, fraud, or coercion, minor any age)	Felony of the third degree	9–36 months	Max. \$10,000	●
Compelling prostitution in furtherance of human trafficking (§ 2929.18(B)(10)(f))			Max \$500	●
Possessing child pornography (§§ 2907.321(A)(5), 2907.322(A)(5))	Felony of the third degree	9–36 months	Max \$10,000	○
Solicitation (victim 16 or 17)	Felony of the fifth degree	6–12 months	Max \$2,500	●

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



## Protective Provisions for the Child Victims

Not all commercially sexually exploited children are identifiable as sex trafficking victims. Trafficking in persons and CSEC laws do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. 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 as a delinquent child and could face detention, however if identified as a trafficking victim, the child may be directed into a discretionary diversion process. If diverted, a juvenile victim may avoid a delinquency adjudication and access services. Since a child victim of a CSEC offense is considered by law an abused child, a victim might receive a protective response through public children's services agencies which appear to have broad enough authority to serve child sex trafficking victims in non-familial trafficking cases. Crime victims' compensation is available for victims of CSEC offenses and minor victims of human trafficking are specifically exempt from ineligibility factors, although victims of other CSEC offenses may face barriers to eligibility. Victim-friendly trial procedures are available to some CSEC victims. Children under 13 who are victims of compelling prostitution, pandering sexually oriented material involving a minor, or pandering obscenity involving a minor may give videotaped deposition testimony; in addition, general crime victims' rights prevent the release of identifying information, including the victim's address, and provide for separate waiting rooms during trial. Ohio's "rape shield" law, however, is limited to victims of rape, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination at trials of their traffickers. A juvenile's records may be expunged immediately upon successful completion of diversion or after conviction for prostitution-related offenses if shown to be the result of being a victim of human trafficking. Criminal restitution to victims of trafficking in persons, compelling prostitution and promoting prostitution is mandatory, and civil remedies are specifically available to victims of sex trafficking, but not CSEC offenses. Assets forfeited by defendants convicted under the trafficking law are deposited in a fund to be used for the sole purpose of funding treatment and rehabilitation of trafficking victims. Prosecutions for most CSEC crimes must begin within six years of the crime, except that prosecutions of trafficking in persons and compelling prostitution may be brought within twenty years of the crime. When the crime victim is a minor, the statute of limitations is tolled until the minor turns 18 or the crime is reported to law enforcement.



## Criminal Justice Tools for Investigation and Prosecution

Training for law enforcement on human trafficking is mandatory and provided by the attorney general. Single party consent to audiotaping is permitted, and wiretapping is allowed in investigations of trafficking in persons, compelling prostitution, and promoting prostitution, providing important tools for investigation and evidence for prosecutions. The offense of compelling prostitution seemingly prohibits a defense to the use of a law enforcement decoy posing as a minor in an investigation into the buying and selling of sex with a minor. No laws expressly authorize the use of the Internet in trafficking in persons investigations, but these investigative tools could be used relying on importuning, applicable to in-person and online solicitations when a person over 18 solicits a child under 13 or a person at least 20 years old solicits a person 13–16 to engage in sexual activity, which could include trafficking. Ohio has established a statewide reporting and response system for missing children and requires the reporting of missing and located children.



## Criminal Provisions for Facilitators

The trafficking in persons law does not include the crime of assisting, enabling, or financially benefitting from trafficking. A facilitator may be found guilty of compelling or promoting prostitution, procuring, and promoting or selling pornography. Punishments for compelling prostitution range from a felony of the third degree with 9–36 months imprisonment to a felony in the first degree by imprisonment for 3–11 years and a possible fine up to \$20,000 (use of force, fraud, or coercion against victim under 16). Promoting prostitution of a minor also is punishable as a felony in the third degree by 9–36 months imprisonment and a possible fine up to \$10,000, except that those who commit compelling prostitution or promoting prostitution in furtherance of human trafficking face enhanced penalties. Procuring is a felony in the fourth degree punishable by 6–18 months imprisonment and a possible fine up to \$5,000. Promoting or selling child pornography is punishable under pandering sexually oriented material involving a minor and pandering obscenity involving a minor as a felony punishable by imprisonment for 2–8 years and a possible fine up to \$15,000. Facilitators convicted of trafficking in persons, compelling prostitution, or promoting prostitution face mandatory restitution, additional fines credited to a victim confidential address program fund and could be subject to Ohio's general criminal asset forfeiture provisions. No laws in Ohio 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](http://www.sharedhope.org).