

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Missouri Report Card 2016

Missouri makes domestic minor sex trafficking a crime for buyers, traffickers, and facilitators. Victims are not provided specific protective provisions, and Missouri's abuse and neglect definitions fail to include child sex trafficking to allow for child welfare intervention. The critical tool of wiretapping is not expressly permitted in sex trafficking investigations, handicapping law enforcement and prosecutors.

Final Score

86.5

Final Grade

B



7.5

10



23

25



15

15



9.5

10



19.5

27.5



12

15



### Criminalization of Domestic Minor Sex Trafficking

Missouri has a separate law addressing sex trafficking of a child and clearly includes a minor under the age of 18 used in a commercial sex act within the definition of a human trafficking victim without regard to use of force, fraud, or coercion. Missouri's commercial sexual exploitation of children (CSEC) laws include promoting prostitution of a minor under 16, patronizing prostitution, promoting online sexual solicitation, child used in sexual performance, sexual exploitation of a minor, promoting sexual performance by a child, and abuse of a child by sexual exploitation for child pornography. The prostitution law does not refer to the sex trafficking of children law to acknowledge the intersection of prostitution with trafficking victimization. However, a victim charged with prostitution may assert an affirmative defense of coercion or force in committing the offense of prostitution. Missouri has not enacted a racketeering or gang crime law that includes trafficking offenses as predicate acts to prosecute sex trafficking enterprises.



### Criminal Provisions Addressing Demand

The state sex trafficking law can be used to prosecute buyers who cause a minor to engage in a commercial sex act. The solicitation of prostitution law distinguishes between buying commercial sex acts with adults versus minors, providing enhanced penalties for buying sex with a minor under 18. The enticement of a child law, which includes enticing a minor under 15 via the Internet to engage in sexual conduct, might apply to buyers who use the Internet for this purpose. Both the sex trafficking of a child law and the patronizing prostitution law prohibit an age mistake defense. The patronizing prostitution law staggers the penalties according to age, leaving insufficient penalties for those who purchase commercial sex acts with minors 15–17 years of age. Buyers convicted of child sex trafficking must pay restitution to the victim. Buyers of sex with minors are required to register as sex offenders if convicted of sex trafficking of a child or possessing child pornography, but not if convicted of a CSEC offense.



### Criminal Provisions for Traffickers

Sex trafficking of a child is a felony punishable by 10 years–life imprisonment and a fine up to \$250,000 ; the penalty increases to 25 years–life imprisonment if the victim is either under 12 or force, abduction, or coercion was used. Promoting prostitution of a minor is a felony punishable by 5–15 years imprisonment. Abuse of a child by sexual exploitation for child pornography is punishable by 10–30 years or life imprisonment. Producing a sexual performance of a child is a felony punishable by 3–10 years imprisonment and a possible fine of \$5,000 or double the defendant's gain from a commission of the offense up to \$20,000. Age misrepresentation by a trafficker on the Internet with the intent to engage in criminal sexual conduct involving a minor, which could include sex trafficking of a minor, is a felony punishable by imprisonment up to 4 years. Convicted sex traffickers must pay restitution to the victim; Traffickers may also face discretionary civil asset forfeiture. Traffickers convicted of sex trafficking of a child, CSEC offenses, and child pornography offenses must register as sex offenders. Grounds for termination of parental rights exist when a trafficker is convicted of sex trafficking of a child or certain CSEC offenses if any child in the trafficker's family was the victim of the crime.

#### Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of children (causes minor to engage in commercial sex act) (§ 566.212)	Felony	10 years–life 25 years–life (minor under 12)	Max. \$250,000	●
Patronizing prostitution of minor 15–17 (§ 567.030)	Class A misdemeanor	Max. 1 year	Max. \$1,000	●
Patronizing prostitution of minor under 15 (§ 567.030)	Class D felony	Max. 4 years	Max. \$5,000	●
Possession of child pornography (§ 573.037)	Class D felony	Max. 4 years	Max. \$5,000	●

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. Child sex trafficking and CSEC victims are afforded some protections under Missouri law, but gaps still exist. Missouri law expressly prohibits a defense based on the willingness of the minor to engage in the commercial sex act if the victim is under 14; this defense is not prohibited for older minors. 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. However, Missouri provides statutory procedures to identify human trafficking victims, and law enforcement must notify social services and juvenile justice authorities when a minor victim is identified. Missouri also has special technical assistance teams for cases of child exploitation and child pornography. A CSEC victim may be detained if determined delinquent or a child in need of care. The limited definitions of abuse and neglect do not include child sex trafficking and, therefore, present a barrier to child welfare intervention even though the definition of a person “responsible for the care, custody and control” of a child is likely broad enough to allow protection through child welfare in a non-familial trafficking case. CSEC victims are eligible for crime victims’ compensation, but eligibility criteria require the victim to report the incident within 48 hours and to cooperate with law enforcement. Additionally, a claim must be filed within two years, and the award may be reduced if the injury arose from the consent of the victim. Victim-friendly criminal justice procedures, such as the “rape shield” law and confidentiality laws, exist. Minors may have their records expunged if a petition is filed within one year of arrest. Victims of sex trafficking are entitled to mandatory restitution, and civil remedies are available to victims of trafficking and CSEC offenses. Criminal statutes of limitations for sexual offenses against a minor are extended 30 years past turning 18 and are eliminated when force is used in the commission of the offense. Civil statutes of limitations for actions arising out of child pornography offenses are extended until the victim reaches 31 or within three years of discovering injury was caused by the offense.



## Criminal Justice Tools for Investigation and Prosecution

Missouri law authorizes, but does not require, training programs for law enforcement on human trafficking. Single party consent to audiotaping is permitted, but wiretapping is not permitted for investigations of suspected sex trafficking and CSEC crimes, denying law enforcement an important tool investigative tool. Missouri prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor to investigate crimes involving the enticement of a child (under 15 only) and sexual misconduct involving a child, but not for sex trafficking or CSEC offenses. Law enforcement may use the Internet to investigate cases of sex trafficking relying on the enticement of a child law, which includes enticing a child under 15 both in person and via the Internet to engage in sexual conduct. Missouri law requires law enforcement to report missing and recovered children.



## Criminal Provisions for Facilitators

Missouri’s sex trafficking law makes it a crime to benefit financially from sex trafficking or to advertise the availability of a minor for commercial sexual exploitation, felonies punishable by 10 years–life imprisonment and a fine up to \$250,000; the penalty increases to 25 years–life if the victim was under 12 or force, abduction, or coercion was used in committing the crime. Facilitators may also be charged with the felony crimes of promoting sexual performance of a child or promoting child pornography, both punishable by 3–10 years imprisonment and a possible fine up to \$5,000 or double the defendant’s gain from the commission of the offense up to \$20,000. Facilitators are subject to discretionary civil asset forfeiture for these crimes. Facilitators who knowingly permit their online services to be used to post advertisements related to sex trafficking could be charged with the felony of promoting online sexual solicitation and fined \$5,000 per day of continuing violation beginning 72 hours after notice has been provided. Facilitators convicted of sex trafficking must pay restitution to the victim. Sex tourism is a crime under promoting travel for prostitution (punishable by 3–10 years imprisonment and a possible fine not to exceed \$5,000 or double the defendant’s gain from the commission of the offense) and advertising or facilitating travel to engage in a commercial sex act (punishable by loss of business incorporation status and freezing of assets); neither statute enhances penalties if the victims are minors.

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).