

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Louisiana Report Card 2016

Louisiana's criminal laws make the actions of traffickers, buyers and facilitators subject to serious penalties, including high fines and asset forfeiture. Child victims of sex trafficking have access to specialized services and housing but are not fully protected and face possible arrest and detention for prostitution offenses committed as a result of their exploitation.

Final Score

99.5

Final Grade

A



10

10



25

25



15

15



10

10



24.5

27.5



15

15



Criminalization of Domestic Minor Sex Trafficking

The crime of sex trafficking of minors under 21 does not require that force, fraud or coercion was used to cause the minor to engage in commercial sex acts. Several commercial sexual exploitation of children (CSEC) laws include: prostitution, prostitution with a minor under 18, enticing a minor under 21 into prostitution, promoting prostitution, pandering, soliciting for prostitutes, and purchasing commercial sexual activity. All of Louisiana's prostitution offenses refer to the human trafficking law in providing an affirmative defense to minor victims of sex trafficking. The state racketeering law includes CSEC and human trafficking offenses. Child sex trafficking is considered a crime of violence and sentences following a conviction for the offense may not be deferred or suspended.



Criminal Provisions Addressing Demand

The sex trafficking statute makes it a crime to purchase sex acts with minors up to 21 years of age, and CSEC laws criminalize buying and soliciting sex with a minor under 18. Computer-aided solicitation of a minor under 17 heightens penalties for buyers using electronic devices, such as the Internet or text messages, to commit illegal sex acts. The offenses of sex trafficking of a minor, pornography involving juveniles, prostitution with a minor under 18, and solicitation of oral or anal sex with a minor expressly prohibit an age mistake defense. Buyers who commit sex trafficking of a minor, computer-aided solicitation of a minor, soliciting for prostitutes, pandering, prostitution, or possess or access child pornography via wireless router, face mandatory criminal asset forfeiture. Buyers convicted of human trafficking and CSEC offenses are compelled to pay mandatory restitution to the victim and are subject to additional fines. Buyers convicted of sex trafficking and applicable CSEC offenses must register as sex offenders.



Criminal Provisions for Traffickers

Traffickers face sentences of 5–50 years imprisonment, mandatory restitution, and possible maximum fines of \$10,000–\$75,000 for sex trafficking or exploiting a victim under 21 years of age for commercial sexual purposes. Traffickers are ineligible to receive a suspension or deferment of a sentence for child sex trafficking. Creating child pornography of minors under 17 is punishable by 10–20 years imprisonment, or 25–99 years if the minor is under 13. The computer-aided solicitation of a minor under 17 law provides additional penalties for traffickers who use the Internet to recruit minors for illegal sex acts. Traffickers face mandatory criminal asset forfeiture under the sex trafficking, CSEC, and child pornography laws and restitution specifically for human trafficking, as well as any offense that caused a victim to suffer pecuniary loss. Traffickers must register as sex offenders if convicted of sex trafficking of minors, CSEC offenses, or child pornography. Convictions under these laws establish grounds for termination of parental rights if the child or another child in the household is the victim.

Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Sentence	Fine (possible)	Asset Forfeiture (available)
Sex trafficking of a minor (§ 14:46.3)	15–50 years	Max. \$50,000	●
	25–50 years (<14)	Max. \$75,000	
Purchase of commercial sexual activity (§ 14:82.2)	15–50 years	Max. \$50,000	●
	25–50 years (<14)	Max. \$75,000	
Soliciting for prostitutes (La. Rev. Stat. Ann. § 14:83)	15–50 years	Max. \$50,000	●
	25–50 years (<14)	Max. \$75,000	
Prostitution with a minor under 18 (§ 14:82.1(A)(1))	15–50 years	Max. \$50,000	●
Prostitution (§ 14:82)	15–50 years (<18)	Max. \$50,000	●
	25–50 years (<14)	Max. \$75,000	
Solicitation of oral or anal sex with a minor (§ 14.89.2)	15–50 years (<18)	Max. \$50,000	●
	25–50 years (<14)	Max. \$75,000	
Possession of child pornography (§ 14:81.1(A)(1))	2–10 years; 5–20 years (<13)	Max. \$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. Sex trafficking of a minor, prostitution with a minor under 18, computer-aided solicitation of a minor under 17, solicitation of oral or anal sex with a minor, enticing persons into prostitution, and child pornography laws prohibit a defense based on consent, but other 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. However, minor victims of sex trafficking may assert an affirmative defense to prostitution charges, and “delinquent act” is defined to preclude delinquency charges for prostitution-related offenses against child victims of sex trafficking. Although not mandatory, safe houses which offer specialized services for sexually exploited children are authorized to be operated by the state or contracted to non-governmental agencies. Specialized services are available through family justice centers, and services cannot be denied even if the victim has a criminal history or refused to cooperate with law enforcement. For purposes of child welfare intervention, the definition of an abused child includes one exploited through human trafficking, prostitution, commercial sexual exploitation, or pornography, and the definition of caregiver is not a barrier to child welfare services because a child in need of care is specifically defined to include juvenile sex trafficking victims regardless of the perpetrator’s relationship to the child. Victims of sex trafficking and CSEC offenses who suffer personal injury are eligible for crime victims’ compensation and are specifically exempt from ineligibility factors that might limit or preclude access to compensation. Victim-friendly criminal justice procedures are available to sex trafficking and CSEC victims under age 17 who may testify via closed circuit television, in addition to protective courtroom procedures that are available to all victims, witnesses and their families. Furthermore, the “rape shield” law reduces the trauma of cross-examination for testifying victims in sex trafficking cases, and pornography victims are protected by limits on access to evidence in pornography cases. Child victims of sex trafficking may petition for expungement of juvenile records relating to prostitution offenses if they can show by a preponderance of the evidence they were a victim of human trafficking. Victims are entitled to a civil cause of action, mandatory restitution for trafficking and CSEC offenses, and criminal restitution is available to victims who suffer pecuniary loss or incur costs related to prosecution. Prosecutions of sex trafficking and several CSEC offenses must be commenced within 30 years of the victim turning 18, while a 4 or 6 year limitation applies to prosecutions of other CSEC offenses, depending on whether the offense is punishable at hard labor. For civil claims based on damages from being trafficked, a general 10-year statute of limitations applies.



Criminal Justice Tools for Investigation and Prosecution

Training for law enforcement on human trafficking or domestic minor sex trafficking is mandated by law. Single party consent to audiotaping is permitted, and wiretapping is available for investigating trafficking and CSEC offenses. Sex trafficking, human trafficking, enticing persons into prostitution, prostitution with a minor under 18 and purchase of commercial sexual activity expressly prohibit a defense as to the use of a decoy in sex trafficking investigations, and use of the Internet is permitted to investigate crimes of computer-aided solicitation of a minor. Louisiana law establishes a statewide reporting and response system for missing children and requires the reporting of both missing and recovered children.



Criminal Provisions for Facilitators

Those who assist, enable, advertise or financially benefit from sex trafficking of minors face penalties as facilitators under the sex trafficking of a minor law. Facilitators also face 15–50 years imprisonment and possible fines up to \$50,000 for prostitution-related offenses involving minors under 21, or 25–50 years and possible fines up to \$75,000 when the minor is under 14. Facilitators convicted of human trafficking and CSEC offenses are subject to mandatory criminal asset forfeiture and restitution to a victim. Depending on the age of the victim, distributing child pornography is punishable by 5–40 years imprisonment without “parole, probation, or suspension of sentence” and a fine up to \$50,000. A potentially heightened penalty of 2–10 years imprisonment, or 25–99 years if the victim is under 13, is imposed on facilitators who use a wireless router to distribute or sell child pornography. Louisiana’s sex trafficking law makes it a crime to sell or offer to sell travel services that include or facilitate sex trafficking of 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.