

PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

Mississippi Report Card 2016

Mississippi's human trafficking law makes it a crime to traffic a minor under 18 for sexual purposes without regard to force, fraud, or coercion. Victims of human trafficking may not be prosecuted for prostitution offenses, and Mississippi prohibits a defense based on the willingness of the minor to engage in the commercial sex act.

Final Score

89

Final Grade

B



10

10

24.5

25

15

15

7.5

10

22

27.5

10

15

Criminalization of Domestic Minor Sex Trafficking

Mississippi's human trafficking law addresses sex trafficking and clearly defines a minor under the age of 18 used in a commercial sex act as a human trafficking victim without regard to the use of force, fraud, or coercion. Mississippi's CSEC laws include procuring the services of a prostitute, promoting prostitution, enticing a child under 14 for prostitution, and exploiting children for child pornography. The prostitution statute refers to the human trafficking statute, stating that human trafficking victims, defined to include commercially sexually exploited minors, shall not be subject to prosecution for prostitution offenses. Mississippi's racketeering law includes CSEC offenses and trafficking as predicate activity, and the criminal street gang law provides sentencing and financial penalty enhancements.

Criminal Provisions Addressing Demand

The state human trafficking law can be applied to buyers who "cause or attempt to cause" a minor to engage in a commercial sex act in a few, limited circumstances. A buyer could also be charged with the CSEC offense of procuring the services of a prostitute. Using the Internet to purchase commercial sex acts with a minor could be prosecuted under the statute on criminalizing the use of a computer for the purpose of luring or inducing a person under eighteen to engage in sexual conduct. Both the human trafficking and the procuring services of a prostitute laws expressly prohibit an age mistake defense by a buyer. Buyers are subject to asset forfeiture, civil judgments, and payment of mandatory restitution. Buyers of sex acts with minors are required to register as sex offenders for convictions of child sex trafficking and procuring services of a prostitute when the person procured is a minor.

Criminal Provisions for Traffickers

Traffickers prosecuted under the human trafficking law or for promoting prostitution, a CSEC offense, face a sentence of 5–30 years, a fine of \$50,000–\$500,000, or both. Enticing a child for prostitution is punishable by up to 10 years imprisonment and/or a fine not to exceed \$10,000. Exploitation of children for child pornography, which includes causing or soliciting a child to engage in sexual conduct for the purpose of creating child pornography, is punishable by 5–40 years imprisonment and a \$50,000–\$500,000 fine. Traffickers could also be in violation of racketeering laws and criminal street gang laws. The statute on use of a computer for the purpose of luring or inducing persons under 18 to engage in a sexual act provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts. Traffickers are subject to asset forfeiture and civil judgments; Traffickers are also required to pay restitution when convicted of trafficking. Traffickers will be required to register as sex offenders for violations of sex trafficking, enticing a child for prostitution, creating child pornography, and promoting prostitution. Grounds for termination of parental rights do not include convictions of sex trafficking or CSEC crimes.

Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Human trafficking ("cause or attempt to cause" a minor to engage in commercial sex acts) (§97-3-54.1)	Felony	5-30 years	Max. \$50,000-\$500,000	●
Procuring services of a prostitute (§ 97-29-51)	Felony	5-30 years	\$50,000-\$500,000	○
Possessing child pornography (§ 97-5-33(5))	Felony	5-40 years	\$50,000-\$500,000	○

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



Protective Provisions for the Child Victims

Not all commercially sexually exploited children are defined as juvenile sex trafficking victims, as third party control is required. Sex trafficking and CSEC laws specifically prohibit a defense based on the willingness of the minor to engage in the commercial sex act. Sex trafficking victims, including minors, may not be prosecuted for prostitution offenses committed through their trafficking. A child sex trafficking victim is included within the definition of “abused child” regardless of the child’s relationship to the offender. Additionally, law enforcement must file a report of suspected child abuse when a minor has engaged in prostitution, enabling juvenile victims to avoid a punitive response and to access services through child welfare; however, a specialized service response is not statutorily mandated. A CSEC victim could also be classified as dependent under the definition of abuse which includes exploitation through prostitution and pornography, and the definition of custodian appears broad enough to allow juvenile sex trafficking victims to receive protection through child protective services in both familial and non-familial trafficking cases. A CSEC victim may also be identified as a child in need of services. While CSEC victims would likely be eligible for crime victims’ compensation, several eligibility criteria may limit their ability to recover, including reduction if the victim is deemed responsible for the cause of the injury or did not cooperate with law enforcement and a requirement to file a claim within three years, with a possible extension of one year if good cause is shown. Certain victim-friendly trial procedures are available in limited cases. Victims under 16 may be permitted to testify through closed-circuit television, and the “rape shield” law, which limits the trauma of cross-examination for testifying victims, may be applied to victims of human trafficking, but not CSEC victims. Juveniles who incur criminal records may have first-time misdemeanor convictions expunged, juvenile records can be sealed upon reaching the age of 20, and juveniles are eligible to have records of prostitution convictions destroyed at the court’s discretion. Restitution to victims of human trafficking is mandatory and may also be awarded to victims of CSEC crimes. Civil remedies are expressly provided for human trafficking victims, but not CSEC victims unless they are also victims of racketeering. Mississippi eliminates the statute of limitations for human trafficking and most CSEC crimes, including promoting prostitution, contributing to the delinquency of a minor, and exploiting children for child pornography, but not procuring services of a prostitute when the person solicited is a minor.

Criminal Justice Tools for Investigation and Prosecution

Mississippi law does not mandate or authorize either training or development of training materials for law enforcement on human trafficking or domestic minor sex trafficking. Single party consent to audiotaping is permitted, but wiretapping is not allowed for human trafficking or CSEC investigations, denying law enforcement an important tool for investigations and evidence. Both the human trafficking and the exploitation of children laws prohibit a defense based on the use of a law enforcement decoy posing as a minor for investigative purposes, but use of the Internet is not specifically authorized. Mississippi law mandates law enforcement agencies to develop and adhere to policies requiring reporting of all missing children in align with Federal law.



Criminal Provisions for Facilitators

Under Mississippi’s human trafficking law, aiding or abetting human trafficking is punishable by 5–30 years imprisonment and a possible fine of \$50,000–\$500,000, while financially benefitting from human trafficking is punishable by up to 20 years imprisonment and a possible fine up to \$10,000. Facilitators could also be subject to racketeering and crime gang laws. Financial penalties are as high as \$1,000,000 for enterprises involved in human trafficking, and the enterprise may be restrained from any future operation in Mississippi. Selling child pornography is punishable by 5–40 years imprisonment and a fine of \$50,000–\$500,000, and promoting prostitution is punishable by 5–30 years imprisonment and a possible fine of \$50,000–\$500,000. Facilitators convicted of human trafficking face asset forfeiture, mandatory restitution, and civil judgments. No Mississippi law addresses 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.