

# ARIZONA

## REPORT CARD | 2017




Arizona law provides substantial penalties for sex trafficking and gives law enforcement critical investigative tools to pursue demand, but buyers of commercial sex acts may claim mistake of age in offenses against older minors, shifting the burden to prosecutors to obtain meaningful penalties. Criminal liability for prostitution has not been eliminated for minors who may face barriers to treatment and victims' compensation to fund their recovery.

Final Score

83

Final Grade

B

					
10	21	15	7.5	14.5	15
10	25	15	10	27.5	15

## Criminalization of Domestic Minor Sex Trafficking

Arizona's child sex trafficking law includes the exploitation of all minors under 18 without requiring proof of force, fraud, or coercion. Commercial sexual exploitation of children (CSEC) laws include "taking child for purpose of prostitution" and "commercial sexual exploitation of a minor." The prostitution offense acknowledges the intersection of prostitution with trafficking victimization by providing trafficking victims with an affirmative defense. The state racketeering law is available to prosecute enterprises that engage in child sex trafficking or CSEC.

## Criminal Provisions for Demand

Arizona's child sex trafficking law prohibits buyers from engaging a minor in prostitution, or, following federal precedent, obtaining a minor for commercial sex. Neither of Arizona's CSEC laws apply to buyers; however, state solicitation laws distinguish between purchasing sex acts with minors versus adults. Buyers convicted of "child sex trafficking" face .33-27 years imprisonment (depending on the prohibited conduct, the victim's age, and the buyer's knowledge) and a fine up to \$150,000. Using the Internet to initiate, solicit, or engage in sexual conduct with a minor is a separate offense. If prosecuted for "child sex trafficking," a buyer may only assert an age mistake defense if the victim is 15-17; however, a successful defense would result in a lower penalty, not acquittal. Arizona's child sex trafficking law staggers penalties based on the victim's age, providing a substantially lower penalty if the victim is 15-17 and the state cannot prove the buyer knew or should have known the minor's age. Buyers convicted of "child sex trafficking" face mandatory restitution. Buyers convicted of trafficking or possessing images of child sexual exploitation (ICSE) will be required to register as sex offenders.

## Criminal Provisions for Traffickers

The trafficker-applicable provisions of Arizona's "child sex trafficking" law are punishable as follows: 13-27 years imprisonment if the victim is under 15 or 3-24 years imprisonment if the victim is 15-17, depending on the prohibited conduct. "Taking a child for the purpose of prostitution" is a felony punishable by 1-27 years imprisonment (depending on the prohibited conduct and the victim's age), while "commercial sexual exploitation of a minor" is punishable by 3-24 years imprisonment. A fine up to \$150,000 may also be imposed for any of these felony convictions. Creating or distributing ICSE carries penalties comparable to those for similar federal offenses. "Aggravated luring a minor for sexual exploitation" and "unlawful age misrepresentation" may provide a means of prosecuting traffickers who use the Internet for sexual conduct with minors, which could include selling commercial sex acts with a minor. Any equipment used by a trafficker in the commission of "sexual exploitation of a minor" is subject to mandatory criminal asset forfeiture, and asset forfeiture is available in most felony violations. Traffickers convicted of "child sex trafficking" face mandatory restitution, and those convicted under Arizona's child sex trafficking, CSEC, or ICSE offenses will be required to register as sex offenders. "Child sex trafficking" and "commercial sexual exploitation of a minor" are included as grounds for terminating parental rights based on the definition of "abuse."

## Criminal Provisions for Facilitators

Arizona's "child sex trafficking" law prohibits assisting, enabling, or financially benefitting from child sex trafficking; a conviction of which is punishable by 13–27 years if the victim is under 15 or 3–24 years if the victim is 15–17, depending on the prohibited conduct. Facilitators may also be prosecuted under Arizona's "transporting persons for purposes of prostitution or other immoral purpose" and "keeping or residing in house of prostitution" laws, both Class 5 felonies. Facilitators convicted of "child

sex trafficking" face mandatory restitution, and any equipment used by a facilitator in the commission of "sexual exploitation of a minor" will be subject to mandatory criminal asset forfeiture. None of Arizona's laws prohibit child sex tourism. Promoting or selling images of child sexual exploitation is prohibited under Arizona's "sexual exploitation of a minor" law, which carries penalties comparable to those for similar federal offenses.



## Protective Provisions for the Child Victims

All commercially sexually exploited minors are defined as juvenile sex trafficking victims. However, Arizona's "child sex trafficking" and CSEC laws do not prohibit a defense based on the willingness of a minor to engage in a commercial sex act. Further, prostitution laws apply to minors under 18, meaning juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. Arizona law does not provide juvenile sex trafficking victims with a statutory avenue to specialized services or mandate immunity for other offenses committed as a result of the trafficking victimization. For purposes of child welfare intervention, "abuse" includes "child sex trafficking" and "commercial sexual exploitation of a minor"; however, the definition of "custodian" could present a barrier to child welfare intervention on behalf of juvenile victims in non-familial trafficking cases. Crime victims' compensation is available to child sex trafficking victims, but ineligibility criteria may bar their claims; ineligibility criteria include participating in the criminally injurious conduct, failing to report the crime within 72 hours, filing deadlines, and failing to cooperate with law enforce-

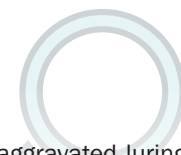
ment. Victim-friendly trial procedures include privacy of identifying information, out of court or recorded testimony if the victim is under 15, and appointment of a guardian ad litem; however, "rape shield" protections are limited to victims of sexual offenses, leaving testifying victims of "child sex trafficking" or CSEC unprotected from the trauma associated with cross-examination. Arizona law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, and juvenile records may only be destroyed after a waiting period. Restitution is mandatory for "child sex trafficking" violations and may be awarded to victims of other crimes for economic loss. Further, civil actions are authorized. Prosecutions for certain CSEC offenses can be initiated at any time, but "child sex trafficking" prosecutions must commence within 7 years. Civil actions based on child sex trafficking may be commenced within 7 years of the actual discovery of the violation, while civil actions based on certain CSEC offenses are extended for one year after the final disposition in a related criminal proceeding.



## Criminal Justice Tools for Investigation and Prosecution

Law enforcement training on human trafficking and CSEC is authorized through the Arizona Peace Officer Standards and Training Board. Single party consent to audiotaping and wiretapping are permissible investigative techniques. The "child sex trafficking" law expressly prohibits a defense to prosecution based on the grounds "that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor" for

most trafficking-related conduct. Arizona's "aggravated luring a minor for sexual exploitation" law also prohibits a defense based on the use of a law enforcement decoy posing as a minor and allows law enforcement to investigate buyers and traffickers via the Internet or electronic communications. Arizona has a state-wide reporting and response system that requires the reporting of missing and located children.



*The Report Card is based on the Protected Innocence Challenge Legislative Framework, an analysis of state laws performed by Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Challenge Legislative Framework Methodology, all state Report Cards, and foundational analysis and recommendations, please visit: [www.sharedhope.org/reportcards](http://www.sharedhope.org/reportcards).*