

ARKANSAS

REPORT CARD | 2017

The trafficking of persons law does not require proof of force, fraud, or coercion when the victim is a minor, and buyers of sex with minors face prosecution under human trafficking and commercial sexual exploitation of children laws. Minors have some protections under the law as victims of a crime but may still be treated as delinquent as a result of being commercially sexually exploited.

Final Score

86

Final Grade

B



10

10



22

25



15

15



10

10



14.5

27.5



14.5

15

Criminalization of Domestic Minor Sex Trafficking

Arkansas's "trafficking of persons" law does not require the use of force, fraud, or coercion when the victim is a minor and provides a heightened penalty for offenses involving a minor victim. Commercial sexual exploitation of children (CSEC) laws include: "promoting prostitution in the first degree," "engaging children in sexually explicit conduct for use in visual or print medium," "transportation of minors for prohibited sexual conduct," "sexually grooming a child," "providing a means by which a minor engages in prostitution," "procuring, directing, or promoting a sexual performance by a child," and "employing or consenting to the use of a child in a sexual performance." Prostitution statutes refer to the trafficking of persons law by providing an affirmative defense to minor victims of sex trafficking. Arkansas's RICO statute does not specifically include trafficking or CSEC as predicate offenses, although they may qualify as predicate criminal offenses if violence or pecuniary gain is involved.

Criminal Provisions for Demand

The "trafficking of persons" law applies to buyers through the term "solicit" and, following federal precedent, through the term "obtain." "Patronizing a victim of human trafficking" and "transportation of minors for prohibited sexual conduct," a CSEC offense, provide additional means of prosecuting buyers. "Trafficking of persons" is punishable by up to life imprisonment, while "patronizing a victim of human trafficking" and "transportation of minors for prohibited sexual conduct" are felonies punishable by up to 30 years imprisonment and a fine up to \$15,000. The "sexual solicitation" statute does not distinguish between buying sex acts with a minor versus an adult. "Internet stalking of a child" prohibits a person over 21 from knowingly using the Internet to entice, lure, or buy information about a child 15 or younger to arrange a meeting to engage in sexual intercourse. "Computer child pornography" prohibits using the Internet to lure or entice a minor under 17 for sexual conduct. Two offenses criminalize buying and possessing images of child sexual exploitation (ICSE). Financial penalties may include fines, asset forfeiture, and restitution. Although the trafficking law expressly prohibits a defense based on age mistake, the patronizing prostitution and transportation of minors laws do not. Buyers convicted of "trafficking of persons" and most CSEC crimes must register as sex offenders.

Criminal Provisions for Traffickers

"Trafficking of persons" is a felony punishable by up to life imprisonment when the victim is a minor. "Promoting prostitution in the first degree" and "sexually grooming a child" are felonies punishable by up to 6 years imprisonment and a fine up to \$10,000. "Transportation of a minor for prohibited sexual conduct" is punishable by up to 30 years imprisonment and a fine up to \$15,000. Several laws prohibit a trafficker from creating and distributing ICSE; penalties for these offenses are comparable to those for similar federal offenses. "Internet stalking of a child" reaches traffickers 21 or older who sell information about a child 15 or younger to arrange a meeting to engage in sexual intercourse. Traffickers face mandatory criminal asset forfeiture for sex trafficking convictions, but not human trafficking convictions, and discretionary asset forfeiture for ICSE convictions. Convictions for most CSEC offenses and "trafficking of persons" require registration as a sex offender. Trafficking is included as a ground for terminating parental rights based on the definition of "sexual abuse."

Criminal Provisions for Facilitators

The trafficking law applies to those who benefit financially from participation in a trafficking venture. “Trafficking of persons” is punishable by up to life imprisonment. “Transportation of minors for prohibited sexual conduct” is punishable by up to 30 years imprisonment and a \$15,000 fine, while “promoting prostitution in the first degree” is punishable by up to 6 years imprisonment and a \$10,000 fine. A facilitator also could be subject to criminal gang and money laundering laws. Additional penalties apply to

organizations involved in human trafficking when force is used. Asset forfeiture applies to “conveyances” and “instruments” used in commission of the crime, and a court may order a facilitator to pay victim restitution. Promoting a sexual performance by a child and selling ICSE carry penalties comparable to those for similar federal offenses. Arkansas’s human trafficking law criminalizes child sex tourism by prohibiting the sale of travel services that involve trafficking-related activity.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. The “trafficking of persons” and CSEC statutes do not expressly prohibit a defense based the willingness of the minor to engage in the commercial sex act. 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. Arkansas law provides juvenile sex trafficking victims with a statutory avenue to specialized services, but does not mandate immunity for offenses committed as a result of the trafficking victimization. For the purpose of child welfare intervention, the definitions of “neglect” and “dependent juvenile” include human trafficking as does the definition of “dependent-neglected juvenile” through the definition of “sexual abuse.” While the definition of “caretaker” is too limited to allow for child welfare intervention in non-familial trafficking cases, the definition of “dependent juvenile” specifically includes juvenile sex trafficking victims regardless of the child’s relationship to the perpetrator. DMST and CSEC victims could be eligible for

Crime Victims Reparations, but face some ineligibility barriers such as requirements to report the crime within 72 hours of its occurrence and filing claims within one year, unless the victim can show good cause for the delay. The award may also be reduced for failure to cooperate with law enforcement officers. Victim-friendly court procedures are limited: one applies to children under 12 (closed circuit television testimony eligibility) and the “rape shield” law, which limits traumatizing cross-examination of testifying victims, only applies to sexual offense victims, not victims of CSEC or sex trafficking. Arkansas law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, but juvenile records may be expunged. A court may order restitution to victims for actual economic loss and the cost of necessary medical or professional services. Additionally, the statute of limitations for civil actions is tolled until a minor turns 18. The criminal statute of limitations is not eliminated for “trafficking of persons”; however, it is extended until the victim reaches 28 for many CSEC offenses.



Criminal Justice Tools for Investigation and Prosecution

Arkansas law mandates law enforcement training on human trafficking or domestic minor sex trafficking. State law allows for single party consent to audiotaping, and if done “under the color of law,” intercepting telephone, wire, landline, or wireless communications for criminal investigations is lawful. “Trafficking of persons” and CSEC statutes do not expressly permit the use of a decoy to investigate these crimes or prohibit a defense based on the use of a decoy, making investigations of non-computer based child sex trafficking difficult. However, law enforcement may uti-

lize the Internet to investigate “Internet stalking of a child” when the child is believed to be under 15 and “computer child pornography” when the child is believed to be under 17. The law requires law enforcement to immediately report missing and recovered children to the Missing Persons Information Clearinghouse within the Arkansas Crime Information Center, which provides law enforcement officers with a tool to track high-risk runaways for prevention and intervention of sex trafficking.



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.