

KANSAS

REPORT CARD | 2017

The human trafficking law does not require proof of force, fraud, or coercion, and a comprehensive CSEC law reaches buyers and facilitators. CSEC victims are provided a protective response through child welfare, and state law criminalizes the “promotion of travel for child exploitation.” However, children are not protected from prostitution charges.

Final Score

92

Final Grade

A



10

10

22

25

13.5

15

8.5

10

23

27.5

15

15

Criminalization of Domestic Minor Sex Trafficking

Kansas criminalizes child sex trafficking without requiring use of force, fraud, or coercion. The state’s commercial sexual exploitation of children (CSEC) laws include: “commercial sexual exploitation of a child” and “sexual exploitation of a child.” The prostitution statute refers to human trafficking as an affirmative defense to a charge of selling sexual relations. Kansas’s racketeering law includes human trafficking, “commercial sexual exploitation of a child,” and “sexual exploitation of a child” as predicate offenses, making it available as a tool to prosecute child sex trafficking crimes.

Criminal Provisions for Demand

Kansas’s human trafficking offense applies to buyers directly through the term “hires” or following federal precedent through the term “obtains.” Furthermore, buyers may be convicted under the “commercial sexual exploitation of a child” law. State law distinguishes between the solicitation of an adult versus a minor. Buyers convicted of child sex trafficking face 147–165 months imprisonment and a fine up to \$300,000, while convictions under the CSEC offense carry 38–43 months imprisonment and fine up to \$300,000; if the victim was under 14 and the offender was over 18, penalties for either of these offenses increase to imprisonment for 25 years to life and a \$500,000 fine. Using electronic communications to commit certain CSEC and trafficking offenses is a separate offense. Kansas’s human trafficking law prohibits a mistake of age defense. Both the trafficking and CSEC laws stagger penalties based on the age of the minor victim, but base penalties under the CSEC offense are not sufficiently high. Financial penalties include fines, asset forfeiture, and victim restitution. Buyers convicted of trafficking, CSEC, and images of child sexual exploitation (ICSE) offenses must register as sex offenders.

Criminal Provisions for Traffickers

Traffickers convicted of aggravated human trafficking face imprisonment of 147–165 months and a fine up to \$300,000 if the victim was between 14–17 years of age; if the victim was under 14 and the offender was over 18, penalties increase to imprisonment for 25 years to life and a \$500,000 fine. Traffickers convicted of “sexual exploitation of a child” face 55–61 months of imprisonment and a fine up to \$300,000 if the minor was between 14–17 years of age; if the victim was under 14 and the offender was over 18, penalties increase to 25 years to life imprisonment and a fine up to \$500,000. Creating and distributing ICSE are prohibited under Kansas law, but penalties are not sufficiently high. Using electronic communications to commit certain CSEC and trafficking offenses is a separate offense. Financial penalties include fines, asset forfeiture, and victim restitution. Traffickers convicted of human trafficking, CSEC, and ICSE offenses are required to register as sex offenders. Parental rights may be terminated if a parent is convicted of human trafficking, CSEC, or “a felony in which intercourse occurred.”

Criminal Provisions for Facilitators

Benefitting financially from human trafficking is a felony punishable by presumptive imprisonment of 109–123 months and a possible fine up to \$300,000; however, facilitators must have reason to know that force, fraud, or coercion will be used. Facilitators who allow owned property to be used for prostitution may be prosecuted for “commercial sexual exploitation of a child,” which is punishable by 38–43 months imprisonment if the victim

was 14–17 years of age; if the victim was under 14 and the offender was over 18, penalties increase to 25 years to life imprisonment and a fine up to \$500,000. Financial penalties include fines, asset forfeiture, and victim restitution. State law criminalizes the “promotion of travel for child exploitation.” Promoting ICSE is prohibited under Kansas law, but base penalties are not sufficiently high.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as sex trafficking victims. The human trafficking law expressly prohibits a defense based on the willingness of the minor to engage in the commercial sex act. Minors may be prosecuted under the prostitution law, but an affirmative defense is available to child sex trafficking victims. Law enforcement must refer a juvenile sex trafficking victim to DCF for assessment, and DCF must create an individualized plan for services, treatment, and placement. Placement in a staff secure facility provides a juvenile sex trafficking victim with access to service providers who are trained to meet the specialized needs of these children. For purposes of child welfare intervention, the definition of “child in need of care” specifically includes victims of sex trafficking and CSEC, thereby allowing for child welfare intervention in cases of ICSE, “prostitution,” human trafficking, and aggravated human trafficking regardless of the child’s relationship to the perpetrator of the abuse. Child sex trafficking victims are eligible for crime victims’ compensation; although state law exempts these victims from

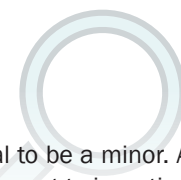
contributory misconduct hurdles and reporting requirements, filing deadlines still apply. Child sex trafficking victims are afforded many victim-friendly procedures and protections during the trial process, including “rape shield” laws, closed-circuit testimonies for victims under 13, and victim identification protections. Kansas does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, but victims of child sex trafficking and CSEC may expunge records immediately upon completion of any imposed sentence. Sex trafficking and CSEC victims are entitled to restitution and may bring civil claims. Generally, felony prosecutions must be commenced within 5 years unless certain factors are present, factors such as the victim being under 15 or the victim being prevented by a parent or legal authority from reporting the “crime. Civil claims for damages arising from human trafficking must be brought within 10 years of turning 18 or being freed from human trafficking, whichever occurs later.



Criminal Justice Tools for Investigation and Prosecution

Kansas law authorizes law enforcement training on human trafficking. Further, state law allows single party consent to audio-taping, and wiretapping is available for investigation of CSEC and sex trafficking offenses. “Sexual exploitation of a child,” a CSEC offense, prohibits a defense based on the use of a law enforcement decoy posing as a minor to investigate the crime, requiring

only that the defendant believe the individual to be a minor. Additionally, law enforcement may utilize the Internet to investigate domestic minor sex trafficking, relying on the crime of “electronic solicitation” if the underlying offense is considered an unlawful sex act. State law requires reporting of missing children 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.