

# MAINE

## REPORT CARD | 2017





Maine's sex trafficking law does not require proof of force, fraud, or coercion when the victim is a minor. The state allows victims who prove compulsion to assert an affirmative defense to prostitution charges but provides low penalties for buyers and facilitators.

Final Score

60

Final Grade

D

					
7.5	15	12.5	6	11.5	7.5
10	25	15	10	27.5	15

## Criminalization of Domestic Minor Sex Trafficking

Maine's sex trafficking law does not require proof of force, fraud, or coercion when the victim is a minor. The state commercial sexual exploitation of children (CSEC) laws include: "patronizing prostitution of minor or person with mental disability," "sexual exploitation of a minor under 16 years of age through pornography," "endangering the welfare of a child," "solicitation of a child to commit a prohibited act," and "solicitation of a child to engage in prostitution." Maine's prostitution law refers to the sex trafficking law through an affirmative defense for victims of sex trafficking, but victims must prove they were compelled to commit the prostitution offense. Maine has not enacted a racketeering statute that could be used to prosecute sex trafficking enterprises.

## Criminal Provisions for Demand

Limited options exist to prosecute buyers under Maine law. The sex trafficking law does not criminalize the purchase of sex with minors. However, a CSEC law, "patronizing prostitution of a minor," includes the crime of buying sex with a minor, and another criminalizes the solicitation of a child for prostitution. State solicitation laws distinguish soliciting an adult versus a minor for commercial sex by creating distinct offenses and providing higher penalties when a minor victim is involved. However, buyers convicted of patronizing prostitution with a minor or solicitation of a child to engage in prostitution face 0–5 years imprisonment and a fine up to \$5,000, which fails to reflect the seriousness of the offense. Buyers may be prosecuted for patronizing prostitution of minor without regard to their knowledge of the minor's age, but enhanced liability applies if the offender knew the victim was under 18. Maine has no statute or heightened penalties for using the Internet to purchase commercial sex acts from a minor. Buyers could be subject to restitution for economic losses of the victim and forfeiture of all computer equipment for images of child sexual exploitation (ICSE) offenses. Buyers of sex with minors are required to register as sex offenders if convicted of "patronizing prostitution of a minor" or any offense requiring registration under the federal Adam Walsh Act.

## Criminal Provisions for Traffickers

Sex trafficking is a Class D crime punishable by up to 1 year imprisonment and a possible fine not to exceed \$2,000, while aggravated sex trafficking is a Class B crime punishable by imprisonment up to 10 years and a fine not to exceed \$20,000. "Sexual exploitation of a minor" under 16 years of age is a felony punishable by 5–10 years imprisonment and a possible fine up to \$20,000. "Endangering the welfare of a child" is a felony punishable by up to 1 year imprisonment and a possible fine not to exceed \$2,000. "Solicitation of a child to commit a prohibited act" is a Class D crime punishable by up to 1 year and a possible fine not to exceed \$2,000. A trafficker is subject to restitution, civil liability, and in cases of ICSE crimes, asset forfeiture. Traffickers convicted of "aggravated sex trafficking" must register as sex offenders, and a trafficker's parental rights may be terminated if the trafficker is convicted of "sexual exploitation of a minor," "sex trafficking" or "aggravated sex trafficking."

## Criminal Provisions for Facilitators

Facilitators who benefit from the prostitution of a minor may be guilty of “aggravated sex trafficking” and subject to imprisonment up to 10 years and a possible fine not to exceed \$20,000. Disseminating ICSE is a felony punishable by a maximum of 5 years imprisonment and a possible fine up to \$5,000. Though

not mandatory, the facilitator may be ordered to pay restitution to the victim. If convicted of an ICSE offense, a facilitator is subject to asset forfeiture; however, asset forfeiture does not apply to other facilitator crimes. No laws in Maine address sex tourism.



## Protective Provisions for the Child Victims

Maine’s sex trafficking law does not include all commercially sexually exploited children. State sex trafficking and CSEC offenses are silent regarding a defense based on the willingness of the minor to engage in the commercial sex act, and Maine law has a general consent defense to crimes. Prostitution laws apply to minors under 18; accordingly, juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. Further, Maine law lacks a statutory avenue to specialized services. For purposes of child welfare intervention, a victim may be found to be abused or neglected—defined to include “sexual exploitation,” “sex trafficking,” and “aggravated sex trafficking,” but the definitions of “custodian” and “person responsible for the child” are narrowly defined to only include persons with legal custody of the child or responsibility for the health and welfare of the child,” presenting a barrier to child welfare intervention in non-familial trafficking cases. While CSEC victims would likely be eligible for state crime victims’ compensation, several eligibility criteria may limit their

ability to recover, including a bar to recovery for contributory conduct or non-cooperation with law enforcement. Further, state law requires the crime to be reported within five days and a claim to be filed within three years unless good cause is shown. Victim-friendly court procedures may be available to CSEC victims, and the “rape shield law” includes all cases of sexual misconduct to limit traumatizing cross-examination of testifying victims. Maine law does not provide a mechanism for minors to vacate delinquency adjudications related to their trafficking victimization, and juvenile records may only be sealed after a 3 year waiting period. Restitution for economic loss is available to all CSEC victims. Civil remedies are available to sex trafficking victims. A civil cause of action for sex trafficking must be brought within 10 years of the time that the victim was freed from the trafficking situation. Criminal actions must be brought within three or six years depending on the classification of the offense, and CSEC crimes do not have extended statutes of limitations.



## Criminal Justice Tools for Investigation and Prosecution

Law enforcement training on human trafficking is not mandated or expressly authorized under Maine law. Single party consent to audiotaping is permitted; however, Maine does not authorize wiretapping for any offenses. Two CSEC offenses prohibit a defense based on the use of a law enforcement decoy posing as a

minor to investigate attempts to buy or sell commercial sex acts with a child. No law specifically authorizes use of the Internet to investigate buyers and traffickers. Maine requires a statewide reporting and response system for missing 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).*