

MICHIGAN

REPORT CARD | 2017

Michigan criminalizes sex trafficking of minors under age 18 without requiring force, fraud, or coercion, and buyers face penalties under both trafficking and commercial sexual exploitation of children (CSEC) laws. A protective response allows juvenile sex trafficking victims to access specialized services through child welfare, but only minors under 16 years of age will avoid delinquency proceedings based on current non-criminalization laws.

Final Score

88.5

Final Grade

B



10

10

23

25

12.5

15

9.5

10

21

27.5

12.5

15

Criminalization of Domestic Minor Sex Trafficking

Michigan's human trafficking law criminalizes sex trafficking of minors without requiring the showing of force, fraud, or coercion in the commission of the offense. Michigan's CSEC laws include: "enticing away a minor under sixteen," "child sexually abusive activity or material," and "engaging services for purpose of prostitution with a minor." The prostitution penalties statute refers to the human trafficking law by establishing a presumption that commercially sexually exploited 16 and 17 year olds are victims of trafficking. The state racketeering law includes human trafficking and CSEC offenses as predicate acts.

Criminal Provisions for Demand

The human trafficking law applies to buyers following federal precedent through the word "obtain." Buyers may also be prosecuted under the CSEC offense of "engaging services for purpose of prostitution with a minor," which distinguishes between buying sex with an adult versus a minor and provides a heightened penalty for the latter. Buyers convicted of child sex trafficking face 20 years imprisonment and a fine up to \$20,000, while convictions under CSEC offense carry a maximum sentence of 5 years imprisonment and fines up to \$10,000. The human trafficking law prohibits a mistake of age defense, but the buyer-applicable CSEC offense does not. "Use of the Internet or a computer system" criminalizes the use of the Internet to commit certain child sex offenses, including the predicate offense of "accosting, enticing, or soliciting a minor under 16 for an immoral purpose." Possessing images of child sexual exploitation (ICSE) is punishable by up to 4 years imprisonment and a fine up to \$10,000. Victim restitution is mandatory, and buyers face asset forfeiture for violations of the human trafficking law and under nuisance laws. Buyers convicted of trafficking or CSEC offenses, as well as a range of sex offenses, are required to register as sex offenders.

Criminal Provisions for Traffickers

Traffickers convicted of sex trafficking face 20 years imprisonment, increased to life imprisonment when kidnapping is involved in the offense, and a fine up to \$20,000. "Producing child sexually abusive activity or material," a CSEC offense which includes creating ICSE, is punishable by up to 20 years imprisonment and a fine up to \$100,000, while "enticing away a minor under 16" is punishable by up to 10 years imprisonment. Traffickers may also face racketeering and money laundering charges, which can lead to asset forfeiture actions. A trafficker convicted of sex trafficking must pay victim restitution; traffickers also face asset forfeiture under the human trafficking and nuisance laws for trafficking and prostitution offenses. The statute on "use of the Internet or a computer system" to commit illegal sex acts involving minors provides a means of prosecuting the growing number of traffickers who use the Internet to recruit and exploit child sex trafficking victims. Traffickers are required to register as sex offenders if convicted of sex trafficking, "soliciting a child for immoral purpose," "producing child sexually abusive activity or material," "use of the Internet or a computer system" to commit illegal sex acts involving minors, or "pandering." Convictions for sex trafficking or CSEC offenses do not establish grounds for termination of parental rights.

Criminal Provisions for Facilitators

Facilitators face criminal liability for benefitting financially from sex trafficking, a conviction of which is punishable by up to 10 years imprisonment; the penalty increases to 15 years if the minor engaged in commercial sexual activity and 20 years if serious bodily injury results. Facilitators may also face penalties under the racketeering and money laundering statutes. Promoting and distributing ICSE is punishable by imprisonment up to 7 years

and a fine up to \$50,000. Victim restitution is mandatory for a facilitator convicted of sex trafficking. Facilitators also face asset forfeiture for violations of human trafficking and racketeering laws and under nuisance laws for human trafficking and prostitution offenses. Michigan law criminalizes child sex tourism, deterring unscrupulous businesses from capitalizing on commercial sexual activity.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. The sex trafficking and CSEC laws do not prohibit a defense based on the willingness of the minor to engage in the commercial sex act. Michigan's prostitution offense only prohibits the prosecution of minors under 16 years of age. However, older minors may be directed into a diversion process. Further, Michigan law mandates referral to and provision of specialized services by DHHS. For purposes of child welfare intervention, the definition of abuse does not include child sex trafficking, but does include sexual exploitation, which in turn includes allowing a minor to engage in prostitution or sexual performance; further, a court may assert jurisdiction over a minor as "dependent" based on CSEC activity regardless of the child's relationship to the offender. While victims of sex offenses are provided exceptions to the time limits for reporting crimes and filing claims for victims' compensation, juvenile sex trafficking victims may be denied victims' compensation if they are found to

be an accomplice or criminally responsible. As a way to increase the comfort of a testifying, a separate waiting area is provided in the courtroom for child victims. The "rape shield" law, which may reduce the trauma of cross examination for testifying victims, only applies in sex offense cases, leaving testifying victims of sex trafficking cases without this protection. Michigan law allows child sex trafficking victims to vacate delinquency adjudications, but mandates a minimum 1 year waiting period; related juvenile records are effectively sealed once an adjudication has been set aside. Victim restitution is mandatory, and civil remedies are available for victims under the human trafficking law. Prosecutions for some CSEC and sex offenses must be brought within 10 years, or by the victim's 21st birthday, whichever is later. Other CSEC offenses must be brought within 25 years, and human trafficking offenses may be brought anytime if punishable by a life sentence. Civil actions must be filed within 3 years after the last violation.



Criminal Justice Tools for Investigation and Prosecution

The Michigan Human Trafficking Commission is tasked with providing training to law enforcement, prosecutors, court, social services, and other appropriate personnel. Two-party consent to audiotaping communications is generally required, but an exception exists for law enforcement that permits audiotaping and wiretapping in the performance of their duties. The CSEC and trafficking laws do not expressly prohibit a defense based on the use of a law enforcement decoy posing as a minor during an

investigation nor do they authorize the use of the Internet in the investigation of sex trafficking cases, but law enforcement may utilize these investigative tools under the statute prohibiting "use of the Internet or a computer system" to commit illegal sex acts involving minors. Michigan has established a statewide reporting and response system for missing children and 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.