







NEW JERSEY

REPORT CARD | 2017

New Jersey's human trafficking law does not require proof of force, fraud, or coercion when the victim is a minor. Offenders convicted of sex trafficking face serious penalties but are not required to register as sex offenders. Testifying victims are provided with the trauma reducing protection of the "rape shield" statute.

Final Score
83
Final Grade
B

					
10	22	14.5	7.5	14.5	14.5
10	25	15	10	27.5	15

Criminalization of Domestic Minor Sex Trafficking

New Jersey's human trafficking law includes sex trafficking and does not require proof of force, fraud, or coercion when the victim is a minor. Commercial sexual exploitation of children (CSEC) laws include: "endangering welfare of children" and "prostitution and relate offenses"—which includes the conduct of "promoting prostitution of a minor" and "soliciting or engaging in prostitution with a minor." The general prostitution law contains an affirmative defense that refers to the human trafficking statute, helping to acknowledge the intersection of prostitution with trafficking victimization. The state racketeering law includes human trafficking and CSEC offenses as predicate offenses, allowing this law to be used to prosecute sex trafficking enterprises.

Criminal Provisions for Demand

Following federal precedent, New Jersey's sex trafficking law applies to buyers who "obtain" a child for commercial sex acts. The CSEC offense of "prostitution and related offenses" applies to buyers and distinguishes between buying sex with an adult versus a minor by providing higher penalties for the latter. In addition to a \$25,000–\$200,000 fine, buyers convicted of child sex trafficking face 20 years to life imprisonment. Penalties under the CSEC offense range from 5–10 years imprisonment and fines between \$25,000–\$150,000. The general "luring" statute, which includes luring via electronic means to commit a criminal offense against a child, might apply to buyers who use the Internet to solicit or purchase commercial sex acts with minors. A mistake of age defense is prohibited in prosecutions for sex trafficking in the first degree and CSEC, but a rebuttable presumption is permitted in prosecutions for sex trafficking in the second degree. Buyers convicted of sex trafficking and possibly CSEC face asset and licensure forfeiture, as well as mandatory victim restitution. Penalties for possessing images of child sexual exploitation (ICSE) do not reflect the seriousness of the offense. Buyers convicted of sex trafficking or CSEC are not required to register as sex offenders.

Criminal Provisions for Traffickers

Penalties for trafficking are comparable to federal trafficking penalties (10 years–life), and traffickers are subject to asset forfeiture of any property or vehicle used in, intended to be used, or derived from the commission of an offense. Sex trafficking of a minor is punishable by 20 years–life imprisonment and a fine of \$25,000–\$200,000. Promoting "prostitution and related offenses," a CSEC offense, is punishable by 10–20 years imprisonment and a possible fine of \$200,000. "Endangering welfare of children" by creating ICSE is punishable by 5–10 years imprisonment and a possible fine up to \$150,000. No statute expressly makes using the Internet to recruit a minor for commercial sex acts a crime; however, the general "luring" statute, which includes luring via electronic means to commit a criminal offense against a child, might apply. If convicted of sex trafficking, traffickers are required to pay victim restitution, and a court may order restitution for convictions of other felonies. Sex offender registration is required for "endangering welfare of children" through creating ICSE, but not for sex trafficking or "prostitution or related offenses." Grounds for termination of parental rights do not expressly include convictions of human trafficking or CSEC crimes, but abuse, which is defined to include some forms of CSEC, is included.

Criminal Provisions for Facilitators

New Jersey's human trafficking law applies to facilitators who benefit financially from human trafficking. Under the "endangering welfare of children" statute, selling or promoting ICSE is punishable by 5–10 years imprisonment and a possible fine up to \$150,000; penalties are enhanced if the violation involved more than 1,000 images. The CSEC crime of "promoting prostitution" is applicable to some actions by facilitators and is punishable by

10–20 years imprisonment and a fine up to \$200,000. A facilitator convicted of human trafficking must pay victim restitution, and although not mandatory, a court may order a facilitator to pay restitution for convictions of other felonies. Facilitators will be required to forfeit any assets used in, intended to be used in, or derived from illegal activity. No New Jersey law criminalizes sex tourism.



Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. New Jersey's sex trafficking of a minor and CSEC offenses do not prohibit a defense to prosecution based on the willingness of the minor to engage in the commercial sex act. 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. In a delinquency proceeding, however, the court must take into consideration whether the minor was a victim of human trafficking. Juvenile sex trafficking victims face several possible responses, ranging from services to diversion, but services are not required to be specialized to the needs of these children. For purposes of child welfare intervention, child sex trafficking is not included within the definition of abuse, and the definition of caretaker is likely too narrow to allow child protective services to intervene in non-familial trafficking cases. Victims of sex trafficking are expressly eligible for crime victims' compensation; however, several ineligibility criteria may limit victims' access to compensation, limitations which include requirements to cooperate with

law enforcement, to report the crime to law enforcement within three months of reasonable discovery, and to file a claim within two years unless good cause is shown. The "rape shield" statute, which reduces the trauma of cross-examination for testifying victims, is available to sex trafficking and CSEC victims of "endangering the welfare of children" through the production of ICSE. New Jersey law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, and juvenile records may only be expunged after a waiting period. Restitution is mandatory for trafficking convictions, and may be ordered in any CSEC felony. A CSEC victim may bring a civil action for sexual abuse, and sex trafficking victims have specific civil remedies against their exploiter. Criminal actions for sex trafficking and most CSEC crimes must be brought within 5 years; however, the statute of limitations for "endangering welfare of children," which includes ICSE offenses, is extended until the victim turns 23. A civil action related to sexual abuse must be brought within 2 years after reasonable discovery.



Criminal Justice Tools for Investigation and Prosecution

Development of training materials for law enforcement on the handling, response procedures, investigation, and prosecution of human trafficking cases is required. New Jersey law allows single party consent for audiotaping, and wiretapping is available as an investigative tool in sex trafficking cases, most CSEC cases, and racketeering cases. No CSEC or trafficking statute

specifically prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor to investigate commercial sexual exploitation; however, the general "luring" statute, a non-CSEC offense, authorizes the use of decoys and the Internet for investigations. Law enforcement must report 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.