

UTAH

REPORT CARD | 2017





Utah criminalizes human trafficking of a child for sexual exploitation without regard to force, fraud, or coercion and has laws to prosecute demand for commercial sex acts with a minor. A protective response in lieu of prosecution is statutorily mandated for juvenile sex trafficking victims charged with a prostitution offense, resultantly creating pathways to services and justice.

Final Score

87

Final Grade

B

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

Criminalization of Domestic Minor Sex Trafficking

Utah law criminalizes human trafficking of a child for sexual exploitation without regard to force, fraud, or coercion and includes all forms of commercial sexual activity with a child. State commercial sexual exploitation of children (CSEC) laws include: “aggravated exploitation of prostitution,” “sexual abuse of a child and aggravated sexual abuse of a child,” “sexual exploitation of a minor,” “patronizing a prostitute,” “sexual solicitation,” and “sexual extortion.” While the prostitution law does not refer to the sex trafficking offense, it does identify children involved in prostitution as children qualified for a referral and services through the Division of Child and Family Services. In addition, the state racketeering and criminal gang laws include human trafficking and most CSEC laws as predicate acts.

Criminal Provisions for Demand

The state human trafficking law applies to buyers who patronize and solicit minors for sex. “Human trafficking of a child” and “aggravated human trafficking and aggravated human smuggling” are punishable by 5 years to life imprisonment and a fine up to \$10,000. The CSEC crimes of “patronizing a prostitute” and “sexual solicitation” are punishable by up to 5 years imprisonment and a fine up to \$5,000; both distinguish between purchasing or soliciting commercial sex acts with an adult versus a minor. A separate law prohibits use of the Internet or electronic communications for soliciting a minor to engage in any illegal sexual activity, although not expressly inclusive of commercial sexual activity. Mistake of age defenses are not permitted for child sex trafficking and most CSEC offenses. Though not mandatory, a court may order a convicted buyer to pay restitution to a victim, and Utah’s general forfeiture statute permits assets related to any criminal offense to be forfeited. Possessing images of child sexual exploitation (ICSE) carries penalties comparable to those for similar federal offenses. Buyers convicted under Utah’s “human trafficking of a child” law are required to register as “child abuse offenders,” and buyers convicted of certain CSEC and ICSE offenses are required to register as “sex offenders.”

Criminal Provisions for Traffickers

“Human trafficking of a child, “aggravated human trafficking,” “aggravated exploitation of prostitution,” and “aggravated sexual extortion” are punishable by 5 years to life imprisonment and a fine up to \$10,000. Traffickers convicted of “aggravated human smuggling” or “sexual exploitation of a minor” face 1–15 years imprisonment and a fine up to \$10,000, while those who cause a minor to take indecent liberties through prostitution face 15 years to life imprisonment and a fine up to \$10,000 for “aggravated sexual abuse of a child.” A separate law prohibits use of the Internet or text messages for soliciting a minor to engage in any illegal sexual activity. Although only mandatory if pecuniary damages are proven, the court may order victim restitution. Utah’s general forfeiture statute permits assets related to any criminal offense to be forfeited. Traffickers convicted under Utah’s “human trafficking of a child” law are required to register as “child abuse offenders,” and traffickers convicted of certain CSEC and ICSE offenses are required to register as “sex offenders.” Utah law expressly permits the termination of parental rights for the conviction of sex trafficking or CSEC offenses, as parental rights may be terminated for subjecting a minor to “abuse,” defined to include human trafficking of a child and sexual exploitation.

Criminal Provisions for Facilitators

Utah's human trafficking law applies to those who benefit financially from participating in the sex trafficking of a minor; a violation is punishable by 1–15 years imprisonment and a fine up to \$10,000. A facilitator who “recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation” could be convicted of “human trafficking of a child,” punishable by 5 years to life imprisonment and a fine up to \$10,000. “Aggravated exploitation of prostitution” involving a minor and “aggravated sexual extortion” are punishable by 5 years to life imprisonment

and a fine up to \$10,000, while “aiding prostitution” is punishable by up to 1 year imprisonment and a fine up to \$2,500. Distributing ICSE carries penalties comparable to those for similar federal offenses. Utah's general forfeiture statute permits assets related to any criminal offense to be forfeited. Although not mandatory, a court may order a facilitator to pay victim restitution. No specific laws in Utah criminalize sex tourism, making the state vulnerable to businesses that capitalize on commercial sex activity to sell travel.



Protective Provisions for the Child Victims

All commercially sexually exploited children are identifiable as sex trafficking victims. Sex trafficking and CSEC laws do not prohibit a defense based on the willingness of all minors to engage in commercial sex acts, but CSEC offenses of “sexual exploitation of a minor” through ICSE and “aggravated sexual abuse of a child through prostitution” provide that a minor under 14 may not consent to the offense. Prostitution laws may apply to minors under 18, and child sex trafficking victims may be arrested for offenses resulting from their victimization. However, law enforcement must refer all minors suspected of committing a prostitution offense to the Division of Child and Family Services (DCFS) for specialized services. For purposes of child welfare intervention by DCFS, an abused child is defined to include sexual exploitation, sexual abuse, and human trafficking of a child. There is no definition of “caregiver” in the child welfare statutes, but jurisdictional statutes clarify DCFS's responsibility to serve minor victims of sex trafficking and commercial sexual exploitation. Crime victims' compensation is expressly provided for child victims of ICSE and is likely available to other CSEC victims. However, several eligibility factors may prevent CSEC victims from recovering. Victims must report the crime to law enforcement and cooperate with law enforcement, and any victim who may have

been sentenced for a crime he or she was forced to commit as a part of the exploitation is ineligible for compensation. The victim-friendly trial procedure of testifying via closed circuit television is limited to victims under 14. However, the “rape-shield” law, which reduces the trauma of cross-examination for victims, is available to all victims of alleged sexual misconduct. Minors may petition for expungement of juvenile delinquency records after a waiting period, but Utah law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization. Victim restitution is mandatory when pecuniary damages have been shown. Further, child sex trafficking victims may file a civil action against the offender. Prosecutions involving aggravated sexual abuse of a child, aggravated exploitation of prostitution involving a child, and some human trafficking offenses may commence at any time, but prosecutions involving human trafficking of a child and other criminal CSEC offenses must be brought within four years. Civil actions based on child sex trafficking, aggravated human trafficking, human smuggling, and aggravated human smuggling must be brought within 10 years, but that time frame may be tolled; those based on sexual abuse may be brought at any time.



Criminal Justice Tools for Investigation and Prosecution

Training or development of training materials for law enforcement on human trafficking or domestic minor sex trafficking is not mandated or authorized by law. Single party consent to audiotaping is permitted, and wiretapping is allowed for investigations of aggravated exploitation of prostitution involving a minor. Although, wiretapping is authorized for human trafficking investigations, it is not authorized for the crime of human trafficking

of a child. No provision in Utah law expressly prohibits a defense based on the use of a law enforcement decoy posing as a minor in investigations of prostitution or sex trafficking. Relying on the enticement of a minor statute, law enforcement may utilize the Internet or electronic communications to investigate sex trafficking. Utah law requires law enforcement to 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.