

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Georgia Report Card 2016

Georgia has a comprehensive human trafficking law and commercial sexual exploitation of children (CSEC) laws that can be used to combat demand. While child sex trafficking victims may assert a defense to prostitution charges, they remain subject to arrest and adjudication for delinquent offenses committed as a result of their victimization.

Final Score

88

Final Grade

B



10

10

24.5

25

15

15

5

10

19

27.5

14.5

15



### Criminalization of Domestic Minor Sex Trafficking

Georgia's human trafficking law includes sexual servitude of minors and does not require force, fraud, or coercion when minors are used in commercial sex acts. The state also has various CSEC crimes including pimping, pandering, keeping a place of prostitution, sexual exploitation of children, and solicitation of sodomy. An affirmative defense to prostitution-related offenses is specifically provided to minors who are victims of sexual servitude. The state racketeering law specifically includes trafficking and several CSEC offenses as racketeering activity, enabling its use as a tool against buyers, traffickers and facilitators in certain cases.



### Criminal Provisions Addressing Demand

The state human trafficking law applies to buyers through the word "obtain," following federal precedent. The pandering law can apply to buyers of commercial sex with minors, and differentiates between buying sex with adults versus minors, providing substantial penalties for buying sex with minors of all ages. Additionally, a buyer of sex with minors may face mandatory civil asset forfeiture, including vehicle forfeiture, for pandering and for possession of child pornography. The court must consider an order of restitution to the victim. A defense based on mistake of age of the minor victim is specifically prohibited in a human trafficking prosecution, but not for pandering. The statute on computer or electronic pornography or child exploitation provides a means of prosecuting buyers who use the Internet to solicit minors for illegal sex acts. Sex offender registration is required for sex trafficking crimes, CSEC offenses, and child pornography offenses.



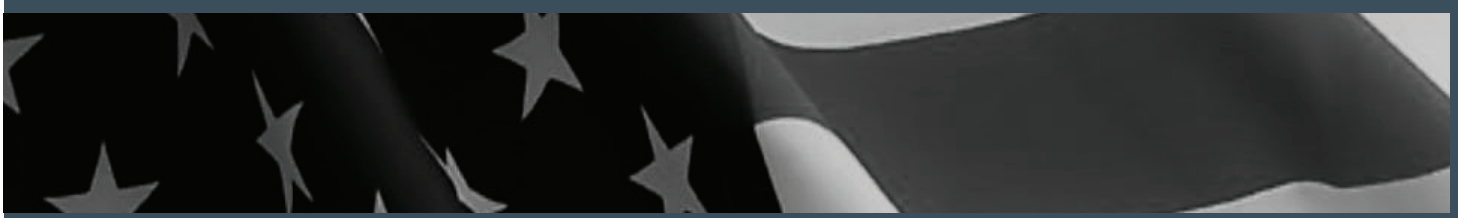
### Criminal Provisions for Traffickers

Traffickers face substantial penalties for trafficking a minor, including a fine not to exceed \$100,000 and 10–20 years imprisonment, increased to 25–50 years imprisonment when coercion or deception is used. No mistake of age defense may be raised by the trafficker. The CSEC crimes of pimping, pandering and keeping a place of prostitution, when the victim is 16 or 17, are punishable by a fine up to \$100,000 and/or 5–20 years imprisonment, increased when the victim is under 16 to 10–30 years. Traffickers who employ a minor to engage in sexual conduct for use in a visual depiction commit sexual exploitation of children and face 5–20 years imprisonment and a fine up to \$100,000. Distributing child pornography is a misdemeanor of a high and aggravated nature punishable by a fine up to \$5,000 and/or up to 12 months imprisonment. A trafficker faces mandatory civil asset forfeiture for convictions of human trafficking, child pornography crimes, pimping, and other CSEC crimes. The court must consider ordering a convicted trafficker to pay restitution to the victim. The statute on computer or electronic pornography or child exploitation provides a means of prosecuting traffickers who use the Internet to solicit minors for illegal sex acts. Traffickers convicted of sex trafficking, CSEC offenses and crimes related to child pornography are required to register as sex offenders. In determining whether to terminate parental rights, the court may consider the parent's role in commercially sexually exploiting a child, as well as a conviction and imprisonment that negatively affects the parent-child relationship, but trafficking convictions are not specifically provided as grounds for terminating parental rights.

#### Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Trafficking of persons for labor or sexual servitude (§16-5-46)	Felony	10-20 years	Max. \$100,000	●
Pandering a victim under 16 (§ 16-6-12 )	Felony	10-30 years	Max. \$100,000	●
Pandering a victim 16 or 17 (§ 16-6-12)	Felony	5-20 years	\$2,500- \$10,000	●
Possessing and purchasing child pornography (§ 16-12-100(b)(8))	Felony	5-20 years	Max. \$100,000	●

All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.



## Protective Provisions for the Child Victims

All commercially sexually exploited children are identified as victims of sex trafficking under the core sex trafficking offense because force, fraud, or coercion are not required to establish the offense of trafficking and third party control is not required. However, victims of domestic minor sex trafficking are vulnerable due to gaps in the law. CSEC laws are silent on the permissibility of a defense based on consent of the minor to the commercial sex act making it possible that a victim may have to prove a lack of consent; however, a defense based on age of consent is specifically prohibited in a prosecution for trafficking. While trafficking victims may assert an affirmative defense to prostitution-related charges, prostitution laws apply to minors under 18 and juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization. A CSEC or trafficking victim may be considered an abused child, delinquent child, deprived child, status offender, or unruly child and receive various responses ranging from a juvenile justice response to a child protective response. For purposes of child welfare intervention, the definition of abuse includes sex trafficking, sexual exploitation through prostitution and child pornography. The definition of “abuser” is not limited to a familial or legal caregiver, as a child abuser includes anyone who commits an act of abuse against a child. For the purpose of crime victims’ compensation, trafficking victims are specifically included in the definition of victim and exceptions to the time limits on reporting crimes or filing claims exist for trafficking victims, however this does not apply for CSEC offenses. Victim-friendly criminal justice procedures include a “rape shield” law that applies to trafficking victims to reduce the trauma of cross-examination for testifying victims. Georgia expressly provides human trafficking and sexual exploitation victims with expungement procedures with no waiting periods. Restitution is mandatory in any criminal sentencing; however, civil remedies are only available to CSEC victims if the offenders are also guilty of racketeering. Prosecutions for sex trafficking and some sex offenses may be commenced at any time; otherwise a seven year statute of limitations applies to felonies committed against children. Civil actions for childhood sexual abuse, which includes pandering, must be commenced by the time the victim reaches 23 or within 2 years of knowing the abuse resulted in injury.



## Criminal Justice Tools for Investigation and Prosecution

Georgia law provides for the development of training materials on human trafficking. The state law allows single party consent to audiotaping, but law enforcement must obtain a judicial order for recording conversations with a child under 18. Wiretapping is allowed for sex trafficking if consistent with federal law, which lists the relevant CSEC crimes in 18 U.S.C. § 2516, including sex trafficking of children. Defenses based on the use of a decoy in the investigation of sex trafficking offenses are specifically prohibited. However, for some CSEC related offenses, such as sexual exploitation of children, they are not expressly prohibited. Law enforcement may utilize the Internet to investigate domestic minor sex trafficking relying on the crime of computer or electronic pornography and child exploitation prevention. Law enforcement must report missing children, but are not required to report recovered children.



## Criminal Provisions for Facilitators

The state human trafficking law does not include the crime of benefiting from or assisting and aiding human trafficking—terms most applicable to facilitators. Certain CSEC and prostitution-related crimes, including pimping and keeping a place of prostitution, apply to actions of facilitators. The CSEC crimes of pimping and keeping a place of prostitution are felonies punishable by 10–30 years imprisonment and/or a fine not to exceed \$100,000 when the victim is under 16, enhanced to 5–20 years and/or up to \$100,000 when the victim is 16 or 17. Promoting or selling child pornography is punishable by 5–20 years imprisonment and a fine up to \$100,000. Facilitators are subject to mandatory civil asset forfeiture if convicted of human trafficking, child pornography offenses, pimping, and other CSEC crimes. Additionally, a court must consider ordering restitution to the victim. No laws in Georgia address sex tourism.

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).