

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Rhode Island Report Card 2016

*Rhode Island law makes trafficking of a minor under the age of 18 a crime without requiring proof of force, fraud, or coercion to cause the minor to engage in commercial sex act, and the trafficking law reaches buyers of sex with minors. Penalties are substantial, but convicted offenders are not required to register as sex offenders. Minor victims face arrest and prosecution under prostitution laws.*

Final Score

69

Final Grade

D



7.5

10

21

25

12.5

15

7.5

10

11

27.5

9.5

15



### Criminalization of Domestic Minor Sex Trafficking

Rhode Island's separate sex trafficking of a minor law defines a minor under the age of 18 used in a commercial sex act as a trafficking victim without requiring proof of force, fraud, or coercion. CSEC laws include exploitation for commercial or immoral purpose, employment of children for unlawful purposes, and indecent solicitation of a child. The prostitution law does not refer to the sex trafficking of a minor law to acknowledge the intersection of prostitution with trafficking victimization. Rhode Island's racketeering statute includes CSEC offenses as predicate activity, making it available to prosecute criminal enterprises that engage in child sex trafficking.



### Criminal Provisions Addressing Demand

Tracking with federal law, Rhode Island's sex trafficking of a minor law applies to buyers who purchase commercial sex with a minor. Additionally, the CSEC law of indecent solicitation of a child criminalizes buying sex with a minor and distinguishes between the solicitation of commercial sex acts with an adult versus a minor. The indecent solicitation of a minor law includes soliciting a minor through any means, including the Internet, to engage in prostitution. The sex trafficking of a minor law expressly eliminates the need to prove that the defendant knew the age of the victim. However, CSEC laws are silent on the availability of an age mistake defense. A court must order buyers convicted of sex trafficking of a minor to pay restitution to the victim, and restitution may be ordered for other CSEC victims. Buyers of sex with minors are required to register as sex offenders for convictions of sex trafficking of a minor, CSEC offenses, and possessing child pornography.



### Criminal Provisions for Traffickers

Traffickers face prosecution under sex trafficking of a minor and CSEC laws and could be subject to money laundering and racketeering laws. Sex trafficking of a minor is a felony punishable by imprisonment up to 50 years and/or a fine up to \$40,000, and criminal asset forfeiture through the state's general human trafficking law might apply. The CSEC offense of exploitation for commercial purposes through prostitution is punishable by up to 20 years imprisonment and/or a fine up to \$20,000. Producing child pornography is punishable by up to 15 years imprisonment and/or a fine up to \$15,000, while permitting a child to be used in child pornography is punishable by up to 10 years imprisonment and/or a fine up to \$10,000. Indecent solicitation of a child criminalizes soliciting a minor by any means (including the Internet) to engage in prostitution, and imposes a minimum 5 year sentence. Traffickers convicted of sex trafficking of a minor are required to pay victim restitution. A trafficker is required to register as a sex offender for sex trafficking of a minor and some CSEC and child pornography offenses. Rhode Island law does not expressly allow for the termination of parental rights based on convictions of sex trafficking of a minor or CSEC offenses, leaving children of traffickers at potential risk.

#### Demand | Selected Commercial Sex Crimes

Crime (name of law abridged)	Classification	Sentence	Fine (and/or)	Asset Forfeiture (available)
Sex trafficking of a minor ("purchase a minor" for commercial sex acts) (§ 11-67-6)	Felony	Max. 50 years	Max. \$40,000	○
Indecent solicitation of a minor (Soliciting a minor to engage in an act of prostitution) (§ 11-37-8.8)	Felony	Max. 5 years	n/a	○
Possessing child pornography (§ 11-9-1.3)	Felony	Max. 5 years	Max. \$5,000	○

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 juvenile sex trafficking victims. However, Rhode Island's sex trafficking of a minor law does not prohibit a defense based on the willingness of the minor to engage in the commercial sex act. 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. Affirmative defenses provided in the statute are limited to proving force was used to cause the prostitution. Law enforcement may take CSEC victims into custody and direct that they be treated as "neglected" children; however, a CSEC victim could also enter the juvenile justice system as a delinquent child. Abused and neglected children are defined to include those exploited through prostitution or pornography, but not child sex trafficking. The definition of "abused and/or neglected child" requires that the perpetrator of abuse be a parent or a "person responsible for child's welfare," which is narrowly defined and limits child welfare's ability to intervene in non-familial trafficking cases. Although CSEC offenses and sex trafficking of a minor are not specifically listed as crimes for which crime victims' compensation is available, a CSEC victim may receive an award under the discretionary authority of the office of the general treasurer. Barriers to receiving an award include a requirement to report the crime within 10 days and to file a claim within 3 years of injury, which may be waived if the victim was under 18 or if good cause is shown. A claim may also be denied if the victim fails to cooperate with law enforcement or if the victim's conduct contributed to the injury. Courtroom protections are limited and the "rape shield" law, which reduces the trauma of cross-examination for victims, does not extend to CSEC or trafficking victims. Juvenile criminal records may be sealed upon turning 18 or completion of any sentence. A victim of sex trafficking of a minor is entitled to mandatory restitution, and victims of CSEC offenses may also receive restitution. Additionally, a CSEC victim may have a civil cause of action against an offender through a general law on civil liability for criminal offenses. The civil statute of limitations for actions based on the CSEC crime of indecent solicitation of a child are extended, but criminal actions for sex trafficking of a minor, other CSEC offenses, and child pornography crimes are not extended and must be brought within 3 years.



## Criminal Justice Tools for Investigation and Prosecution

Training and development of training material for law enforcement on domestic minor sex trafficking are not mandated or authorized by law. Single party consent to audiotaping is permitted, but wiretapping is not allowed in investigations for sex trafficking of a minor or CSEC investigations. The CSEC offense of indecent solicitation of a child implicitly prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor and authorizes use of the Internet to investigate CSEC. Rhode Island has established a missing children's information center and requires the reporting of missing and recovered children.



## Criminal Provisions for Facilitators

Benefitting financially from participating in the sex trafficking of a minor is punishable by up to 50 years imprisonment, a fine up to \$40,000, and required victim restitution. A facilitator could also be subject to the state's money laundering and racketeering laws. Distributing child pornography is punishable by up to 10 years imprisonment and/or a fine up to \$10,000, while transporting or delivering child pornography is punishable by up to 15 years imprisonment and/or a fine up to \$5,000. No laws in Rhode Island make sex tourism a crime, providing a soft environment for businesses selling travel based on commercial sex acts.

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).