

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

OREGON REPORT CARD 2012

Oregon's trafficking in person law does not include child sex trafficking and requires the use of force. Traffickers are not required to register as sex offenders, creating vulnerability for children and insufficient protective laws may fail child victims of human trafficking.

FINAL SCORE

63.5

FINAL GRADE

D



5
10

12.5
25

13
15

4
10

17
27.5

12
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Oregon's trafficking in persons statute does not specifically include the sex trafficking of children and requires the use of force even when a minor is the victim. Oregon's commercial sexual exploitation of children (CSEC) laws include patronizing prostitution when a minor is involved, compelling prostitution of a minor, and using a child in a display of sexually explicit conduct. The CSEC and prostitution laws do not refer to trafficking in persons for prosecution or victim identification or protections. Oregon's racketeering law includes human trafficking and most CSEC offenses as predicate acts, allowing it to be used to prosecute sex trafficking enterprises.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The absence of sex trafficking as a form of human trafficking in the law makes application of the law to buyers of commercial sex with minors unlikely. However, the human trafficking law includes the word "obtain," and if the law included sex trafficking it might be applied to buyers following federal precedent. Patronizing prostitution distinguishes between buying commercial sex acts with an adult and a minor by imposing enhanced penalties on adults convicted of soliciting a minor under 18. Online sexual corruption of a child may provide a means of prosecuting buyers who use the Internet to engage in illegal sex acts, which may include soliciting commercial sex acts with a minor. Buyers convicted of trafficking in persons, patronizing prostitution, and possession of child pornography are subject to discretionary criminal asset forfeiture and may be required to pay restitution. Patronizing a prostitute prohibits a defense based on age mistake; however, an affirmative defense exists for buyers who possess and purchase child pornography if the buyer did not have reason to know that the sexually explicit conduct involved a child. Buyers of sex with minors are not required to register as sex offenders if convicted of trafficking in persons or patronizing a prostitute, even when it involves a minor.

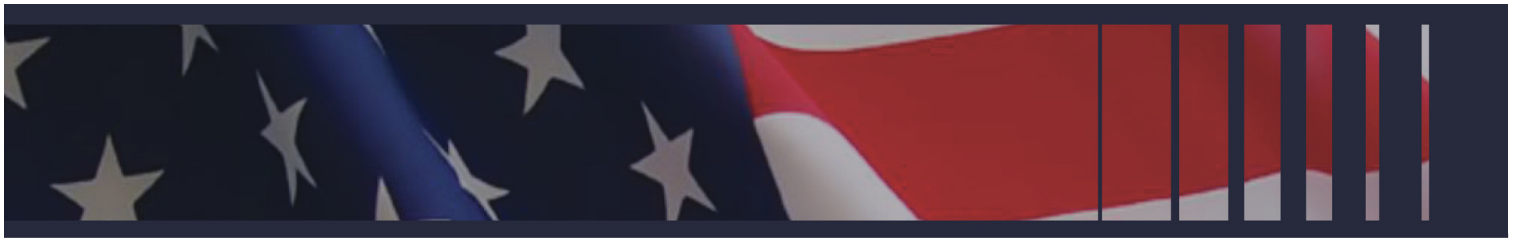
CRIMINAL PROVISIONS FOR TRAFFICKERS

Trafficking in persons, compelling prostitution, and distributing child pornography are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000, while using a child in a display of sexually explicit conduct is a Class A felony punishable by up to 20 years imprisonment and a fine up to \$375,000. Online sexual corruption of a child may provide a means of prosecuting traffickers who use the Internet to recruit or sell illegal sex acts with a minor, which may include commercial sex acts. Traffickers could also face prosecution under racketeering and money laundering laws, leading to additional penalties. Traffickers convicted of trafficking in persons or any CSEC offense are subject to discretionary criminal asset forfeiture for both the proceeds of the crime and instrumentalities used in the crimes and may be required to make restitution to their victims. Traffickers must register as sex offenders for convictions of compelling prostitution, using a child in a display of sexually explicit conduct and distributing child pornography, but not if convicted of trafficking in persons. Convictions for trafficking in persons or CSEC offenses do not establish grounds for termination of parental rights, leaving children of traffickers at potential continuing risk.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

Crime (name of law abridged)	Classification	Sentence	Fine (and)	Asset Forfeiture (available)
Patronizing prostitution (minor under 18) (§ 167.007)	Class A Misdemeanor	Max. 1 year (1st offense); 7 days- 1 year (2nd offense); 30 days - 1 year (subsequent offenses)	\$10,000 (1st offense); \$20,000 (subsequent offenses)	●
Possessing and purchasing child pornography (with knowledge) (§ 163.686)	Class C Felony	Max. 5 years	Max. \$125,000	●
Possessing and purchasing child pornography (negligently) (§ 163.687)	Class A Misdemeanor	Max. 1 year	Max. \$6,250	●

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



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of child sex trafficking and CSEC are vulnerable due to gaps in the laws of Oregon. Trafficking in persons and CSEC offenses do not prohibit a defense based on consent of the minor, leaving this an issue in a victim's pursuit of justice. Prostitution offenses are not limited to adults, do not identify a juvenile involved in prostitution as a victim of trafficking in persons, and do not provide an affirmative defense of exploitation to a minor charged with the offense. As a result, a CSEC victim may enter the juvenile justice system and could face detention. However, for purposes of child welfare intervention, the definition of abuse includes a child victimized by sexual exploitation, which includes prostitution and child pornography, and the definition of caregiver includes those without legal custody of the child, making it possible that child protective services could intervene in a case of a non-family member trafficking the minor. Crime victims' compensation is available for CSEC victims and they are expressly permitted to recover for medical expenses. However, failing to cooperate with law enforcement, report the crime within 72 hours, or file a claim within six months of the crime, absent a showing of good cause, could prevent CSEC victims from receiving compensation. CSEC victims also may be barred from recovery if the injury was substantially attributable to a wrongful act of the victim. Some victim-friendly trial procedures are available for CSEC victims, including allowing victims under 12 to testify via closed circuit television under specified circumstances and providing for address confidentiality for victims of sexual offenses and human trafficking. However, Oregon's "rape shield" law is limited to victims of non-commercial sexual offenses, leaving CSEC victim-witnesses unprotected from the trauma of cross-examination. Juvenile records for prostitution offenses committed while a minor will be expunged upon application of the minor or the court's own motion. Victim restitution for economic damages and civil remedies are available. Prosecutions for trafficking in persons must be brought within three years of the crime, while prosecutions for compelling prostitution and using a child in a display of sexual conduct must be brought within six years, or if the child was under 18, the earlier of the victim turning 30 or within 12 years of the crime being reported. Civil actions by victims of trafficking must be brought within six years of the conduct giving rise to the claim, while those based on child abuse, which includes CSEC offenses, must be brought before the victim turns 40, or within five years of the victim's discovery of the "causal connection between the child abuse and the injury.

CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Training for law enforcement on domestic minor sex trafficking is not mandated by law. Single party consent for audiotaping is permitted and wiretapping is allowed in investigations of patronizing prostitution and racketeering, as well as in the investigation of any felony under specified emergency circumstances. No laws expressly authorize the use of a decoy in investigating prostitution of children or the Internet in trafficking in persons, CSEC or child pornography investigations. Oregon has established a statewide reporting and response system for missing persons and requires the reporting of missing and located children.

CRIMINAL PROVISIONS FOR FACILITATORS

Oregon's trafficking in persons law includes the crime of financially benefitting from a venture involving subjecting another person to involuntary servitude, if there is proof of force, while compelling prostitution also applies to facilitators who aid or facilitate the commission of prostitution of a minor. Trafficking in persons, compelling prostitution, and promoting and selling child pornography are Class B felonies punishable by up to 10 years imprisonment and fines up to \$250,000. Facilitators could also face prosecution under racketeering and money laundering laws, leading to additional penalties. Facilitators convicted of trafficking in persons or CSEC offenses are subject to discretionary criminal asset forfeiture and may be required to pay restitution to their victims. No laws in Oregon address sex tourism.

The Report Card is based on the Protected Innocence Legislative Framework, an analysis of state laws performed by the American Center for Law & Justice and Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Legislative Framework Methodology, each completed Report Card, and foundational analysis and recommendations, please visit: www.sharedhope.org.

