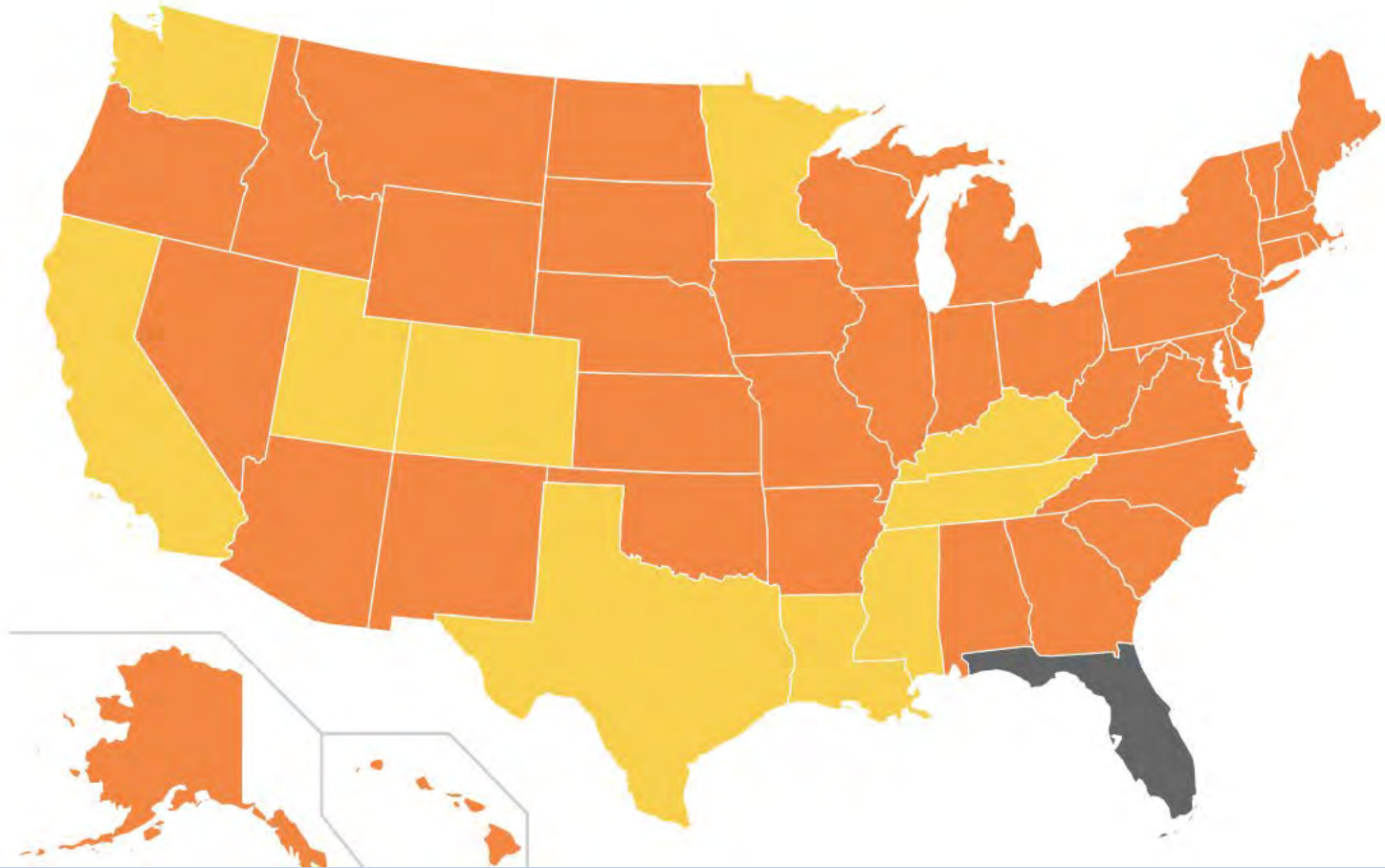









REPORT CARDS ON CHILD & YOUTH SEX TRAFFICKING



Issue		Grade	Score
	1. Criminal Provisions	F	$\frac{6}{17.5}$
	2. Identification of and Response to Victims	F	$\frac{6}{27.5}$
	3. Continuum of Care	F	$\frac{1}{15}$
	4. Access to Justice for Trafficking Survivors	F	$\frac{7.5}{15}$
	5. Tools for a Victim-Centered Criminal Justice Response	F	$\frac{4}{10}$
	6. Prevention and Training	F	$\frac{0}{15}$
EXTRA CREDIT	 Youth		0
	 Child Labor Trafficking		0
OVERALL GRADE		F	24.5
TIER III			

Criminal Law

- Statutes – General & Specific
- Criminal Rules of Procedure and Evidence
- Caselaw
- Constitutions – federal and state
 - Caselaw

Definitions

Shared Hope:

Commercial Sexual Exploitation of Children (CSEC): An array of criminal conduct involving the sexual abuse or exploitation of a person under 18 for the financial benefit of the person or the provision of anything of value, including non-monetary items, in exchange for a sexual act with or performance by a person under 18.

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Arizona Law (13-3211):

"Prostitution" means engaging in or agreeing or offering to engage in sexual conduct under a fee arrangement with any person for money or any other valuable consideration.

PG 1.2 Claim: Az's commercial sexual exploitation of children (CSEC) laws do not criminalize purchasing or soliciting commercial sex with a minor.

FALSE.

ARS 13-3212

- A1. Causing any minor to engage in prostitution.
2. Using any minor for the purposes of prostitution.
3. Permitting a minor who is under the person's custody or control to engage in prostitution.
4. Receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purpose of prostitution.
5. Receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor.
6. Financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor.
7. Transporting or financing the transportation of any minor with the intent that the minor engage in prostitution.
8. Providing a means by which a minor engages in prostitution.
9. Enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the intent to cause the minor to engage in prostitution or any sexually explicit performance.
10. Enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the knowledge that the minor will engage in prostitution or any sexually explicit performance.

ARS 13-3212

B. A person who is at least eighteen years of age commits child sex trafficking by knowingly:

1. Engaging in prostitution with a minor who is under fifteen years of age.
2. Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
3. Engaging in prostitution with a minor who is fifteen, sixteen or seventeen years of age.

See also Luring (13-3554)

- A. A person commits luring a minor for sexual exploitation by offering or soliciting sexual conduct with another person knowing or having reason to know that the other person is a minor.
- B. It is not a defense to a prosecution for a violation of this section that the other person is not a minor.
- C. Luring a minor for sexual exploitation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

PG1.3 Claim: Az's law (13-3206, taking child for purpose of prostitution) is limited to traffickers who take child from a legal guardian.

1.3.1 Recommendation: Enact a CSEC law that addresses an array of exploitive conduct engaged in by traffickers.

- This ignores 13-3212 and other laws.

PG1.4 Claim: Az law does not prohibit a mistake of age defense in prosecutions where an older minor is the victim of child sex trafficking, nor does it prohibit the defense in CSEC cases.

“A mistake of age defense is permitted when the victim is 15–17 years of age, but a successful defense will result in a lower penalty, not acquittal.”

- Traffickers: False. Knowledge of age is not a defense.
- Customers: True if state cannot prove customer knew/should have known age of V and V is 15 – 17.
 - 2021: HB2889 increased punishment.

1.6 Arizona's trafficking law does not expressly allow for business entity liability.

ARS 13-105(30): "Person" means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.

ARS 13-3211:

- "Operate and maintain" means to organize, design, perpetuate or control. Operate and maintain includes providing financial support by paying utilities, rent, maintenance costs or advertising costs, supervising activities or work schedules, and directing or furthering the aims of the enterprise.

Arizona law does not prohibit the criminalization of child sex trafficking victims for status offenses nor does it prohibit charging victims with misdemeanors or non-violent felonies committed as a result of their trafficking victimization.

- 13-412. Duress
- A. Conduct which would otherwise constitute an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct by the threat or use of immediate physical force against his person or the person of another which resulted or could result in serious physical injury which a reasonable person in the situation would not have resisted.
- B. The defense provided by subsection A is unavailable if the person intentionally, knowingly or recklessly placed himself in a situation in which it was probable that he would be subjected to duress.
- C. The defense provided by subsection A is unavailable for offenses involving homicide or serious physical injury.

2.7 Arizona law does not prohibit the criminalization of child sex trafficking victims for sex trafficking and commercial sexual exploitation offenses, including accomplice and co-conspirator liability, committed as a result of their trafficking victimization.

- Duress defense is available.

2.8 Arizona law does not provide child sex trafficking victims with an affirmative defense to violent felonies committed as a result of their trafficking victimization.

- Duress defense is available except for homicide or serious physical injury.
- 13-405. Justification; use of deadly physical force
- A. A person is justified in threatening or using deadly physical force against another:
 1. If such person would be justified in threatening or using physical force against the other under section 13-404, and
 2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force.
- B. A person has no duty to retreat before threatening or using deadly physical force pursuant to this section if the person is in a place where the person may legally be and is not engaged in an unlawful act.

2.8 Continued

- 13-411. Justification; use of force in crime prevention; applicability
- A. A person is justified in threatening or using both physical force and deadly physical force against another if and to the extent the person reasonably believes that physical force or deadly physical force is immediately necessary to prevent the other's commission of . . . kidnapping . . . manslaughter, second or first degree murder, sexual conduct with a minor, sexual assault, child molestation . . . aggravated assault under section 13-1204, subsection A, paragraphs 1 and 2.

2.8 continued

- By providing greater immunity to victims, you motivate the traffickers to pressure them to be the ones to commit the crimes.
- You make convictions for sex trafficking more difficult – V who has committed crimes has an arguable motive to claim that s/he was trafficked.

5.1.1 Recommendation: Amend state law to provide a hearsay exception that applies to non-testimonial evidence in cases involving commercial sexual exploitation of children under 18 years of age.

- ARS 13-1416 was ruled unconstitutional.
- This has constitutional implications.

5.2.1 Recommendation: Strengthen existing statutory protections to allow all commercially sexually exploited children to testify by an alternative method regardless of the child's age and the offense charged.

- This has constitutional implications.

Other Programs

- Advanced Forensic Interviewing Training
- Prosecutor now on staff of LE academy
- STRENGTH program