

<p>Area of Law</p>	<p>Criminal Provisions Addressing Demand</p>
<p>The Policy Point</p>	<p>Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.</p>
<p>The Legislative Solution</p>	<p>Meaningful fines, asset forfeiture, restitution, and vehicle impound fees serve as punishment and deterrence, and reinforce the reality that purchasing sex acts with minors is a heinous crime. Significant financial penalties can also be used to provide domestic minor sex trafficking victims with funding for social and restorative programs, and help pay for costly investigations. To ensure that minor victims have assets to fund their recovery, financial penalties should be directed first to pay victim restitution, after which assets could be used to fund sex trafficking investigations, law enforcement training and specialized services.</p>

Select Statute Highlights

The following states have significant fines and allow asset forfeiture.

Colorado

A buyer convicted under Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking of a minor for sexual servitude) faces fines ranging from \$5,000–\$1,000,000. Colo. Rev. Stat. Ann. §§ 18-3-504(2)(b), 18-1.3-401(1)(a)(III)(A), (1)(a)(V)(A). Buyers convicted of Colo. Rev. Stat. Ann. § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1) (Inducement of child prostitution), or § 18-7-406(1) (Patronizing a prostituted child), all Class 3 felonies, may be required to pay a fine of \$3,000–\$750,000. Colo. Rev. Stat. Ann. §§ 18-7-402(2), 18-7-405.5(2), 18-7-406(2), 18-1.3-401(1)(a)(III)(A). Pursuant to Colo. Rev. Stat. Ann. § 18-1.3-603 (Assessment of restitution – corrective orders), “For a conviction for human trafficking for . . . sexual servitude, as described in section 18-3-504, the court shall order restitution, if appropriate, pursuant to this section even if the victim is unavailable to accept payment of restitution. Pursuant to Colo. Rev. Stat. Ann. § 18-3-414 (Payment of treatment costs for the victim or victims of a sexual offense against a child) when a victim is under the age of 15, a court may order the person convicted of an unlawful sex offense, including Colo. Rev. Stat. Ann. § 18-3-504(2) (Human trafficking of a minor for sexual servitude), § 18-7-402(1)(a) (Soliciting for child prostitution), § 18-7-405.5(1) (Inducement of child prosti-

tution), § 18-7-406(1) (Patronizing a prostituted child), or § 18-6-403(3)(b.5) (Sexual exploitation of a child), to pay for part or all of the victim’s treatment. Colo. Rev. Stat. Ann. §§ 18-3-414(1), 18-3-411(1). Colo. Rev. Stat. Ann. § 16-13-303(1)(a) (Class 1 public nuisance) states that “every vehicle . . . shall be deemed a class 1 public nuisance when . . . [u]sed as a public or private place of prostitution.” Colo. Rev. Stat. Ann. §16-13-311(3) states in part, “Property forfeited under this section or proceeds therefrom shall be distributed or applied in the following order: (I) To payment of the balances due on any liens . . . the order of their priority; (II) To compensate an innocent partial owner for the fair market value of his or her interest in the property; (III) To any person who suffers bodily injury, property damage, or property loss as a result of the conduct constituting a public nuisance that resulted in such forfeiture, if said person petitions the court therefor prior to the hearing dividing the proceeds pursuant to this section and the court finds that such person suffered said damages as a result of the subject acts that resulted in the forfeiture. . . .”

Louisiana

A conviction under La. Rev. Stat. Ann. § 14:46.3(A)(1) (Trafficking of children for sexual purposes) or § 14:82.1 (Prostitution; persons under eighteen; additional offenses) is punishable by a possible fine of \$50,000, or a possible fine of \$75,000 if the victim was under 14. La. Rev. Stat. Ann. §§ 14:46.3(D)(1)(a), (b), 14:82.1(D)(1), (2), 14:83(B)(2). La. Rev. Stat. Ann. §§. La. Rev. Stat. Ann. § 15:539.2 (Exploited

children's fund) states "Any person who is convicted or pleads guilty or nolo contendere to an offense involving trafficking of children for sexual purposes..." will have to pay a fine of \$2,000 in addition to other financial penalties. Pursuant to La. Rev. Stat. Ann. § 15:539.3 (Mandatory restitution), "A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied.

Pursuant to La. Rev. Stat. Ann. § 15:539.1(E) (Forfeited property related to certain sex crimes; exempt property; allocation of forfeited property), "when the property is forfeited pursuant to the provisions of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution), the proceeds of the public sale or public auction shall be applied first to any restitution granted to the victim, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied."

Michigan

Buyers of sex with minors face a fine up to \$20,000 for a violation of Mich. Comp. Laws Ann. §750.462e (Forced labor or services; prohibited conduct as relates to age of minor), \$10,000 for a violation of Mich. Comp. Laws Ann. § 449a(2) (Engaging services for purpose of prostitution, lewdness, or assignation; engaging services with person less than 18 years of age for purpose of prostitution, lewdness, or assignation; penalty) and \$5,000–\$20,000 for a violation of Mich. Comp. Laws Ann. § 750.145d (Use of internet or computer system; prohibited communication), depending on the un-

derlying crime. Mich. Comp. Laws Ann. §§ 750.462f(2), 750.451(4), 750.145d(2)(a)–(f). Mich. Comp. Laws Ann. § 780.766b (Conviction of offense described in MCL 750.462a to 750.462h; restitution) states, "When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code [Human trafficking] . . . the court shall order restitution for the full amount of loss suffered by the victim. Under Mich. Comp. Laws Ann. § 600.4702(1) (Property subject to seizure and forfeiture; exception; encumbrances; substituted proceeds of crime) the following property is subject to seizure and forfeiture: "(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime. (b) All real property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime . . . (c) In the case of a crime that is a violation . . . Michigan penal code . . . 750.462a to 750.462h [Human trafficking]. . . all property described in subdivisions (a) and (b), and all real property or personal property that performed 1 of the following functions: (i) Contributed directly and materially to the commission of the crime. (ii) Was used to conceal the crime. (iii) Was used to escape from the scene of the crime. (iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime."

Mich. Comp. Laws Ann. § 600.3801 (Nuisance; injunction; abatement; guilt; "controlled substance" defined) states that "(1) A building, vehicle, boat, aircraft, or place is a nuisance if . . . (f) It is used for conduct prohibited by chapter LXVIIA of the Michigan Penal Code, 1931 PA 328, MCL 750.462a to 750.462h [Human trafficking]. . . ." Mich. Comp. Laws Ann. § 600.3825 (Order of abatement; execution of court order; duties of officer; use of building or place ordered closed; contempt; determination of amount due victim) states that "[i]f the court in an action under this chapter declares property to be a nuisance under section 3801(1)(f), the officer executing the order of the court shall first pay from the proceeds any amount determined by the court to be due to the victim. . . For purposes of determining the amount due to a victim under this subsection, the court shall consider the loss suffered by the victim as a proximate result of the conduct and may use as guidance the items of loss enumerated in . . . MCL 780.766b [Conviction of offense described in MCL 750.462a to 750.462h; restitution]."

Oregon

A conviction under Or. Rev. Stat. §§ 163.266(1)(b) or (c) (Trafficking in persons) is punishable as Class A felony and includes a possible fine not to exceed \$375,000. Or. Rev. Stat. §§ 163.266(5), 161.625(1)(b). If convicted under Or. Rev. Stat. § 163.413 (Purchasing sex with a minor), a buyer is subject to a Class C or B felony which carries a possible fine not

to exceed \$125,000 or \$200,000, respectively. Or. Rev. Stat. §§ 161.605(2), (3), 161.625(1)(c), (d). However, a mandatory minimum sentence for a first conviction is a fine in the amount of \$10,000, and the second or subsequent conviction is a fine in the amount of \$20,000. Or. Rev. Stat. § 163.413 (3)(a). Buyers may also be subject to discretionary, criminal asset forfeiture. Or. Rev. Stat. § 131.553(1)(e). Where the seizing agency is the state, Or. Rev. Stat. § 131.597 provides that the property shall be distributed as follows: “to pay costs and to the victim, any amount ordered. . . .” A buyer may also be subject to restitution pursuant to Or. Rev. Stat. § 137.106 (Restitution to victims), which requires the district attorney to investigate and present to the court evidence of economic damages suffered as a result of human trafficking or CSEC offenses. The court is authorized to order restitution as part of a criminal case when the victim “suffered economic damages.” Or. Rev. Stat. § 137.106(1).

Washington

Wash. Rev. Code § 9.68A.105 (Additional fee assessment) states, “(1)(a) In addition to penalties set forth in RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100 [Commercial sexual abuse of a minor]. . . or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.”

Wash. Rev. Code § 10.105.010(1) (Seizure and forfeiture) states in part, “[t]he following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. . . .” Pursuant to subsection (6), “When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may . . . retain the property or “sell that which is not required to be destroyed by law and which is not harmful to the public.” Wash. Rev. Code Ann. § 9.94A.753(7) (Restitution—application dates) states, “. . . [T]he court shall order restitution in all cases where the victim is entitled to benefits under the crime victims’ compensation act, chapter RCW 7.68 [Victims of crimes—compensation, assistance].”